

PARLIAMENT OF SINGAPORE

First Session

**REPORT OF THE SELECT COMMITTEE ON THE
ADMINISTRATION OF MUSLIM LAW BILL**

Parl. 3 of 1966

Ordered by Parliament to be printed:

31st May, 1966

The Administration of Muslim Law Bill was committed to a Select Committee by a resolution of Parliament passed on 30th December, 1965.

2. The Select Committee consisted of the following Members:-

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*Chairman*);

Inche A. Rahim Ishak, M.P., Minister of State for Education;

Inche Buang bin Omar Junid, M.P., Parliamentary Secretary to the Deputy Prime Minister;

Inche Mahmud Awang, M.P.;

Inche Mohd. Ariff bin Suradi, M.P.;

Inche Othman bin Wok, M.P., Minister for Culture and Social Affairs;

Inche Rahamat bin Kenap, M.P.;

Tuan Haji Yaacob bin Mohamed, M.P., Minister of State for the Prime Minister's Department.

3. Clerk to the Select Committee: Mr. P. C. Tan, Acting Clerk-Assistant, Parliament.

PARLIAMENT OF SINGAPORE

First Session

REPORT OF THE SELECT COMMITTEE ON THE ADMINISTRATION OF MUSLIM LAW BILL

The Select Committee to whom the Administration of Muslim Law Bill was committed have agreed to the following report:—

1. In accordance with Standing Order No. 74 (Advertisement when Bill committed to a Select Committee), an advertisement inviting the public to make written representations on the Administration of Muslim Law Bill was published in the 6th January, 1966, issue of the *Utusan Melayu*, *Berita Harian*, *Nanyang Siang Pau*, *Tamil Murasu* and *Straits Times*. Publicity to the invitation was also given in a press release and in broadcast over Radio Singapore. Written representations could be submitted in Malay, Chinese, Tamil or English, and the closing date was 24th January, 1966.

2. Consideration was given to requests for more time to make written representations, and as a consequence the date was extended from 24th January, 1966, to 28th February, 1966. Publicity to the extension in date was given in an advertisement in the 20th January, 1966, issue of the same newspapers, in a press release and in broadcast over Radio Singapore.

3. The date was subsequently further extended from 28th February, 1966, to 31st March, 1966, publicity being given to such further extension in the 19th February, 1966, issue of the same newspapers, in a press release and in broadcast over Radio Singapore.

4. In addition, representors making specific requests for yet a further extension in the date were informed that late written representations would be received up to 15th April, 1966.

5. As a measure of assistance and as a guide to representors, arrangements were made for a Malay translation of the Bill (the official text of which is in English) to be published by the Government. Printed copies of the translation were made available on 1st March, 1966.

6. Eighteen written representations were received and these are annexed to this report as Appendix II, numbered Papers S.C. (Administration of Muslim Law Bill) as hereinafter appearing:-

<i>Paper S.C.</i>	<i>Representor</i>
No. 1	Inche Mohd. Yuni bin Awi
No. 2	Inche Yaacob bin Alias
No. 3	Inche Syed Salim bin Syed Mohamed
No. 4	Mr. Nazir Mallal
No. 5	Mrs. M. Siraj, Miss Habibah Abdul Rahim and Miss Hilal Jaafar
No. 6	Mr. R. W. Bach
No. 7	South Indian Jamiathul Ulama
No. 8	Jama'at Ahmadiyyah (<i>including late additional representations</i>)
No. 9	Muslimin Trust Fund Association
No. 10	The Pakistani Association
No. 11	All-Malaya Muslim Missionary Society
No. 12	United Malays National Organisation
No. 13	Mr. Kader Jamal Mohamed
No. 14	Muslim Welfare Association
No. 15	Inche Ibrahim bin Hamzah

Late representations -

- No. 16 Masjid Abdul Hamid, Kampong Pasiran
- No. 17 Inche A. Rahman Jamaluddin AI-Jempoly
- No. 18 Pertubohan Muslimin.

7. Invitations to appear before the Select Committee were issued to the representors in Papers No. 1 to 5 and 7 to 18.

8. Oral evidence was heard from the following who accepted the invitation: —

- (1) Inche Yaacob bin Alias;
- (2) Inche Syed Salim bin Syed Mohamed;

Representing the United Malays National Organisation -

- (3) Inche Syed Ali Redha Alsagoff;
Inche Wahab Mohd. Ariff;
Inche Rahman Zain; and
Inche Jamil bin Pallal;

Representing the Muslimin Trust Fund Association-

- (4) Mr. M. J. Namazie; and
Mr. S. O. A. Alsagoff;

Representing the Muslim Welfare Association-

- (5) Mr. M. A. Majid;
Mr. Fadajiar bin Mohd. Boyee; and
Mr. Said bin Haji Mohd;
- (6) Inche Ibrahim bin Hamzah;

Representing the Jama'at Ahmadiyyah-

- (7) Alhaj Maulvi M. Siddique;
Tuan A. H. Salikin;
Tuan Hassan Alaudin;
Tuan Hassan Salleh; and
Tuan Syed Abdul Rahman;
- (8) Mrs. M. Siraj;
Miss Habibah Abdul Rahim; and
Miss Hilal Jaafar;

Representing the All-Malaya Muslim Missionary Society-

- (9) Maulvi Babu Sahib, and
Haji A. Wanjor;

Representing the South Indian Jamiathul Ulama-

- (10) Alhaj Moulvi H. M. Hidayathullah Sahib; and
Haji Moulvi K. A. Mohamed Sayed Sahib;

Representing the Pakistani Association-

- (11) Mr. M. Anwar Husain;
Mr. Sher Khan;
Mr. A. H. Saddique; and
Chowdhry Dato Gulam Kader;
- (12) Mr. Kader Jamal Mohamed;
- (13) Inche A. Abdul Rahman Jamaluddin Al-Jempoly; and

Representing the Pertubohan Muslimin-

- (14) Mr. Ibrahim bin Othman;
Mr. S. O. A. Alsagoff; and
Mr. M. Kamil Suhaimi.

9. The Attorney-General, Inche Ahmad bin Mohamed Ibrahim, and the President of the *Shariah* Court, Haji Mohamed Sanusi bin Haji Mahmood, were invited to attend meetings to assist your Committee.

10. The Attorney-General was also invited to give oral evidence.

11. The Minutes of Evidence taken are annexed to this report as Appendix III.

12. Your Committee held nine meetings.

13. The amendments to the Administration of Muslim Law Bill which your Committee recommend are incorporated in the reprint of the Bill which is annexed to this report as Appendix I.

	<i>Page</i>
Appendix I-Reprint of the Administration of Muslim Law Bill incorporating the amendments recommended by the Select Committee ...	A 1-44
Appendix II -Written representations received.....	B 1-64
Appendix III-Minutes of Evidence.....	C1-118
Appendix IV-Minutes of Proceedings of the Select Committee	D1-13

*Reprint of the Administration of Muslim Law Bill
as amended by the Select Committee*

No. of 1966.

THE ADMINISTRATION OF MUSLIM LAW
ACT, 1966.

ARRANGEMENT OF SECTIONS.

Part I.

PRELIMINARY.

Section.

- 1 ... Short title and commencement
- 2 ... Interpretation.

Part II.

MAJLIS UGAMA ISLAM.

- 3 ... Constitution of *Majlis*.
- 4 ... *Majlis* to be a corporation.
- 5 ... Powers of *Majlis*.
- 6 ... Devolution of rights, powers, duties, liabilities and property of Board
under the Muslim and Hindu Endowments Ordinance.
- 7 ... Membership.
- 8 ... Secretary.
- 9 ... Determination of appointments.
- 10 ... Cancellation of appointment.
- 11 ... Temporary appointments.
- 12 ... Appointments to be notified.
- 13 ... Strangers at meetings.
- 14 ... Chairman.
- 15 ... Quorum.
- 16 ... Use of seal.
- 17 ... Conduct of business.
- 18 ... Summoning meetings.
- 19 ... Powers of President.
- 20 ... Duties and powers of Secretary
- 21 ... Minutes.
- 22 ... Order of business and voting.
- 23 ... Certified copies of resolution.
- 24 ... Appearances by the *Majlis*.
- 25 ... Acting in emergency.
- 26 .. Delegation of powers.
- 27 ... Secrecy.
- 28 ... Members are public servants
- 29 ... *Majlis* may prescribe own procedure
- 30 ... Appointment of *Mufti*.
- 31 ... Legal Committee.
- 32 ... Rulings (*Fetua*).
- 33 ... Authorities to be followed.

Part III.
THE SHARIAH COURT.

Section.

- 34 ... Constitution of *Shariah* Court.
- 35 ... Jurisdiction.
- 36 ... Use of seal.
- 37 ... Languages and records.
- 38 ... Representation.
- 39 ... Service of summons.
- 40 ... Issue of warrant in lieu of or in addition to summons.
- 41 ... Reciprocal arrangements with States of Malaysia.
- 42 ... Evidence.
- 43 ... Powers of the Court.
- 44 ... Adjournment.
- 45 ... Time.
- 46 ... Courts to be open.
- 47 ... Divorce at wife's request.
- 48 ... *Cherai taalik*.
- 49 ... *Fasakh*.
- 50 ... Appointment of *hakam*.
- 51 ... Maintenance of wife.
- 52 ... Claims for *mas-kahwin* and *matta'ah*.
- 53 ... Enforcement of orders.
- 54 ... Presumption of death.
- 55 ... Appeal.
- 56 ... Revision.

Part IV.
FINANCIAL.

- 57 ... Establishment of General Endowment Fund.
- 58 ... *Wakaf* or *nazr*.
- 59 ... Vesting.
- 60 ... Restrictions on creation of Muslim charitable trusts.
- 61 ... Income of *wakaf* or *nazr*.
- 62 ... Property and assets of *wakaf* or *nazr'am*.
- 63 ... Construction of instruments.
- 64 ... Annual report.
- 65 ... Audit.
- 66 ... *Wakaf* and *nazr* property.
- 67 ... Estimates.
- 68 ... Expenses of the *Majlis*.
- 69 ... Bankers.
- 70 ... Collection of *zakat* and *fitrah*.
- 71 ... Rules.
- 72 ... Appeal.
- 73 ... Charitable collections.

Part V.

MOSQUES AND RELIGIOUS SCHOOLS.

Section.

- 74 ... *Majlis* to be trustee.
- 75 ... Restriction of new mosques.
- 76 ... Repairs.
- 77 ... Boundaries of *daerah masjid*.
- 78 ... Register of *pegawai masjid*.
- 79 ... Appointment of *pegawai masjid*.
- 80 ... Appointment of *jawatan kuasa daerah*.
- 81 ... Religious schools.
- 82 ... Grants to religious schools.

Part VI.

MARRIAGE AND DIVORCE.

- 83 ... Application.
- 84 ... Appointment of Registrar.
- 85 ... Appointments of *Kathis* and *Naib Kathis*.
- 86 ... Deputy Registrars.
- 87 ... Registers.
- 88 ... Betrothal.
- 89 ... Solemnization of marriage.
- 90 ... Restriction on solemnization of marriages.
- 91 ... Marriage of *janda*.
- 92 ... Place of marriage.
- 93 ... Copies to be sent to Registrar.
- 94 ... General Registers.
- 95 ... Cancellation or rectification of entries in registers or certificates.
- 96 ... Registration compulsory.
- 97 ... Registers how signed; and inquiries by the *Kathi*.
- 98 ... Refusal to register.
- 99 ... Appeal.
- 100 ... Where the Appeal Board orders registration.
- 101 ... Extended time for registration.
- 102 ... *Copy* of entry to be given to parties.
- 103 ... Legal effect of registration.

Part VII.

PROPERTY.

- 104 ... Saving.
- 105 ... Disposition by will to be in accordance with Muslim law.
- 106 ... Distribution of Muslim estates to be according to the Muslim law.
- 107 ... Petition for probate and letters of administration.
- 108 ... Proof of the Muslim law.
- 109 ... Inheritance certificate.
- 110 ... Administration of husband's estate.
- 111 ... Administration of wife's estate.
- 112 ... Wills of married women.
- 113 ... Property at marriage.

Part VII-continued.

Section.

- 114 ... Property of a Muslim married woman.
- 115 ... Right to sue and liability to be sued.
- 116 ... Liability on her own contracts.
- 117 ... Ante-nuptial debts.
- 118 ... Effect of marriage on property.
- 119 ... Household property.

Part VIII.

CONVERSIONS.

- 120 ... Register of converts.
- 121 ... Control of conversions.
- 122 ... Report of conversions.

Part IX.

OFFENCES.

- 123 ... This Part to apply only to Muslims.
- 124 ... Omission to register within prescribed time.
- 125 ... Omitting to hand over books or seals or being in possession thereof without lawful excuse.
- 126 ... Unlawful registers.
- 127 ... Unlawful solemnization of marriage and unlawful registration of marriage, divorce or revocation of divorce.
- 128 ... Cohabitation outside marriage.
- 129 ... Enticing unmarried woman from *wali*.
- 130 ... Permission to leave Singapore.
- 131 ... Non-payment of *zakat* or *fitrah*.
- 132 ... Neglect or failure to report conversion.
- 133 ... False doctrine.
- 134 ... Abetment.

Part X.

MISCELLANEOUS.

- 135 ... Registrar, *Kathi and Naib Kathi* public servants within Penal Code.
- 136 ... Witnesses.
- 137 ... Inspection and search.
- 138 ... Proof.
- 139 ... Rules.
- 140 ... Delegation.
- 141 ... Repeal.

A BILL

intituled

An Act to repeal and re-enact the law relating to Muslims and to make provision for regulating Muslim religious affairs and to constitute a Council to advise on matters relating to the Muslim religion in Singapore.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows: -

Part I.

PRELIMINARY.

- 5 **1.** This Act may be cited as the Administration of Muslim Law Act, 1966, and shall come into operation on such date as the President of Singapore may, by notification in the *Gazette*, appoint:
- 10 Provided that the President of Singapore may from time to time, by notification in the *Gazette*, appoint different dates for the coming into operation of different provisions or Parts of this Act.

Short title
and
commence-
ment.

2. In this Act, unless the context otherwise requires -

"Appeal Board" means the Appeal Board constituted under section 55 of this Act;

"court" means a court of competent jurisdiction, other than the *Shariah* Court;

5

"*daerah masjid*" means the area prescribed by the *Majlis* in accordance with section 77 of this Act within which a mosque is situated;

"*eddah*" means the period within which a divorced woman or a widow is forbidden by the Muslim law to remarry;

10

"*fitrah*" means the amount of rice or its equivalent value in money payable under the Muslim law annually by a Muslim during the month of *Ramadan* to be used for religious or charitable purposes recognized by the Muslim law;

15

"Fund" means the General Endowment Fund established under section 57 of this Act;

"General Register" means the General Register of marriages, divorces or revocations of divorce kept by the Registrar under section 94 of this Act;

20

"*janda*" means a female who has been married and whose marriage has been terminated by divorce or the death of her husband;

"*jawatan kuasa daerah*" means a Committee of a *daerah masjid* appointed under rules made under subsection (2) of section 80 of this Act;

25

"*Kathi*" means a *Kathi* appointed under section 85 of this Act;

"Legal Committee" means the Legal Committee of the *Majlis* appointed under section 31 of this Act;

30

"*Majlis*" means the *Majlis Ugama Islam, Singapura*, constituted under section 3 of this Act;

"*mas-kahwin*" means the obligatory marriage-payment due under the Muslim law by the husband to the wife at the time the marriage is solemnized, whether

35

paid in cash or in kind, or payable as a debt with or without security;

5 "mosque" means a building dedicated and used for the purpose of holding the Friday congregational prayers and other ceremonies connected with the Muslim religion;

"*Mufti*" means the person appointed to be a *Mufti* of Singapore under section 30 of this Act;

"Muslim" means a person who professes the religion of Islam;

10 "*mutawalli*" means a person appointed to manage a *wakaf* or mosque and includes a trustee;

"*Naib Kathi*" means a *Naib* or Assistant *Kathi* appointed under section 85 of this Act;

15 "*nazr*" means an expressed vow to do any act or to dedicate property for any purpose allowed by the Muslim law;

20 "*nazr 'am*" means a *nazr* intended wholly or in part for the benefit of the Muslim community generally or part thereof, as opposed to an individual or individuals;

"*pegawai masjid*" means a trustee, *mutawalli*, *Imam*, *Khatib*, *Bilal* and *Noja*, if any, for the time being of a mosque;

25 "President" means the President of the *Majlis*;

"Registrar" means a person appointed as Registrar of Muslim Marriages and Divorces under section 84 of this Act;

30 "*wakaf 'am*" means a dedication in perpetuity of the capital and income of property for religious or charitable purposes recognized by the Muslim law and the property so dedicated;

35 "*wakaf khas*" means a dedication in perpetuity of the capital of property for religious or charitable purposes recognized by the Muslim law, the income of the property being paid to persons or for purposes specified in the *wakaf*, and the property so dedicated;

40 "*wali*" means the lawful guardian according to the Muslim law for purposes of marriage of a woman who is to be married;

"*zakat*" means the charitable contribution required to be made by a Muslim in accordance with the Muslim law.

Part II.

MAJLIS UGAMA ISLAM.

Constitution of *Majlis*.

3. There shall be a *Majlis Ugama Islam, Singapura*, which shall exercise the functions conferred on it by this Act and advise the President of Singapore in matters relating to the Muslim religion in Singapore. 5

Majlis to be a corporation.

4. The *Majlis* shall be a body corporate under the name of "*Majlis Ugama Islam, Singapura*" having perpetual succession and a corporate seal, and the said seal may from time to time be broken, changed, altered and made anew as to the *Majlis* seems fit, and, until a seal is provided under this section, a stamp bearing the inscription "*Majlis Ugama Islam, Singapura*" may be used as the corporate seal. 10

Powers of *Majlis*.

5.-(1) The *Majlis* may sue and be sued in its corporate name. 15

(2) The *Majlis* may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description, and subject to any written law affecting the same may convey, assign, surrender and yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property vested in the *Majlis* upon such terms as to the *Majlis* seems fit and in accordance with the Muslim law. 20

(3) The *Majlis* shall have power to act as an executor of a will or as an administrator of the estate of a deceased Muslim or as a trustee of any trust. 25

Devolution of rights, powers, duties, liabilities and property of Board under the Muslim and Hindu Endowments Ordinance. Cap. 271.

6.-(1) All rights, powers, duties and liabilities which were, immediately before the coming into operation of this Act, vested in or imposed on the Board established by the Muslim and Hindu Endowments Ordinance, in respect of endowments in land or money given or to be given for the support of any mosque, school or other Muslim pious, religious, charitable or beneficial purposes shall, on the coming into operation of this Act, be vested in or imposed on the *Majlis*, save in so far as may be repugnant to the provisions of this Act. 30 35

(2) All property, movable or immovable, which, immediately before the coming into operation of this Act, was vested in the Board established under the Muslim and Hindu Endowments Ordinance for purposes relating to the Muslim religion or on trust for religious or charitable purposes for the benefit of persons professing the Muslim 40

religion shall, upon the coming into operation of this Act, without any conveyance, assignment or transfer whatever, vest in the *Majlis* for the like title, estate or interest and in the like tenure and for the like purposes as
5 the same was vested or held immediately before the coming into operation of this Act.

7.-(1) The *Majlis* shall consist of-

Member-
ship.

- (a) a President to be appointed by the President of Singapore;
- 10 (b) the *Mufti*;
- (c) not more than five members to be appointed by the President of Singapore on the recommendation of the Minister; and
- 15 (d) not less than seven members to be appointed by the President of Singapore, from a list of nominees to be submitted by the President of the *Majlis*.

(2) The list of nominees to be submitted by the President of the *Majlis* to the President of Singapore under the provisions of paragraph (d) of subsection (1) of this section shall
20 consist of persons nominated by such Muslim societies as are prescribed for the purpose by the *Majlis*:

Provided that for the purpose of the appointment of members to the *Majlis* first constituted under this Act nomination shall be made by such Muslim societies as are
25 prescribed by the President of the *Majlis*.

(3) Subject to the provisions of this Act and unless the contrary intention appears in the instrument of appointment, the appointment of members of the *Majlis*, other than the *Mufti*, shall be for a period of three years from the date
30 thereof.

(4) The members of the *Majlis* shall be eligible for re-appointment.

(5) No person shall be appointed a member of the *Majlis* unless he is a citizen of Singapore above the age of twenty-
35 five years and is a Muslim.

8.-(1) The Secretary of the *Majlis* shall be a Muslim public officer and shall be appointed by the Minister. Secretary

(2) The Secretary shall be entitled to attend all meetings of the *Majlis* but shall not have the right to vote.

Determina-
tion of
appoint-
ments.

9. Without prejudice to the provisions of subsection (3) of section 7 and sections 10 and 11 of this Act the appointment of any member of the *Majlis* shall determine-

- (a) upon his death;
- (b) if he shall, by writing addressed to the President of Singapore through the Secretary, resign such appointment; or ⁵
- (c) if he shall be absent from Singapore, without written permission from the President on behalf of the President of Singapore, for a period exceeding three months. ¹⁰

Cancellat-
ion of
appoint-
ment.

10. The President of Singapore may cancel the appointment of any member of the *Majlis*-

- (a) if his conduct, whether in connection with the duties of such appointment or otherwise, is in the opinion of the President of Singapore such as to bring discredit upon the *Majlis*; or ¹⁵
- (b) if for any reason he becomes unable properly to carry out the duties of his appointment; or
- (c) if he shall, without due cause to be approved by the President, absent himself from three successive meetings of the *Majlis*; or ²⁰
- (d) if the President of Singapore considers it desirable in the public interest to cancel the appointment.

Temporary
appoint-
ments.

11. In the event of the temporary absence or incapacity of any member of, or the Secretary to, the *Majlis*, the President of Singapore may appoint a person to act temporarily on his behalf. Such temporary appointment shall determine on the substantive holder giving notice to the President of resumption of the duties of his appointment. ²⁵
³⁰

Appoint-
ments to be
notified.

12. All appointments made under this Part of this Act shall be notified in the *Gazette*.

Strangers
at meetings.

13. -(1) The President may invite to any meeting of the *Majlis* any person who is not a member of the *Majlis* if the business before the meeting renders the presence of such person desirable. ³⁵

(2) Any person so invited shall be entitled to take part in the proceedings of the *Majlis*, but shall not have the right to vote.

14.-(1) The President shall preside at all meetings of the *Majlis*. Chairman.

(2) In his absence the *Majlis* may elect any other member to act as Chairman.

5 **15.-(1)** No business, save that of adjournment, shall be transacted and no resolution or action of the *Majlis* shall be valid unless at least one-third of the members shall be present at the meeting. Quorum.

(2) The *Majlis* may, subject to the provisions of subsection
10 (1) of this section, act notwithstanding any vacancy in its membership.

16.-(1) The corporate seal of the *Majlis* shall not be used except in pursuance of a resolution of the *Majlis*. Use of seal.

(2) The seal of the *Majlis* shall be affixed in the presence
15 of the Secretary and two members of the *Majlis* who shall sign as witnesses.

(3) The following documents shall be executed under the corporate seal of the *Majlis*-

- 20 (a) documents requiring registration under any written law;
- (b) documents authorizing any person to act for any particular purposes on behalf of the *Majlis*; and
- (c) such other documents or classes of documents as the Minister may from time to time direct.

25 **17. (1)** Save as by this Act expressly provided, all business of the *Majlis* shall be conducted at a meeting thereof regularly convened and by resolution of the majority of those present and entitled to vote. Conduct of business.

(2) A resolution in writing signed by all members of the
30 *Majlis* shall, unless in any special case or class of cases the President of Singapore shall otherwise direct, have the same effect as a resolution duly passed under subsection (1) of this section.

18.-(1) All meetings of the *Majlis* shall be summoned by
35 the Secretary. Summoning meetings.

(2) The President may at any time direct the Secretary to summon a meeting.

(3) Any four members of the *Majlis* may at any time in writing require the Secretary to summon a meeting of the
40 *Majlis*, but shall upon doing so inform the Secretary of the purpose for which they desire the meeting to be so summoned.

(4) The Secretary shall within seven days of receipt of a direction or requisition under subsection (2) or (3) of this section summon a meeting.

(5) At least seven days notice in writing shall be given of any meeting:

5

Provided that in an emergency the President may direct that notice be dispensed with.

(6) Any such notice may be sent by post addressed to a member at his last known place of residence and shall be deemed to have been served in the due course of post.

10

(7) No notice of meeting shall be necessary in the case of any member for the time being out of Singapore.

Powers of President.

19.-(1) The President shall have general control of all deliberations and proceedings of the *Majlis*.

(2) The President shall not absent himself from Singapore for more than fourteen consecutive days without the prior permission of the Minister.

15

Duties and powers of Secretary.

20. Subject to such directions as may be given to him by the President, the Secretary shall have charge of all correspondence and documents of the *Majlis*, including all books of account thereof and all title deeds and securities, and shall be generally responsible for the proper collection of, accounting for and disposal of all funds of the *Majlis*, and shall in all other respects carry out such duties as may be imposed upon him by this Act or allotted to him by direction of the President.

20

25

Minutes.

21.-(1) The Secretary shall keep minutes of all meetings of the *Majlis* in the national language and in English and at every meeting the minutes of the previous meeting shall be read and confirmed, subject to any amendment which may be required.

30

(2) Such minutes shall be entered in the minute book of the *Majlis* and shall include a full record of every resolution of the *Majlis*.

(3) A copy of the minutes shall be sent to the President of Singapore.

35

Order of business and voting.

22.-(1) The Chairman shall determine the order of business at any meeting.

(2) The Chairman may decide in what order members may address the meeting and may at any time require any member to cease addressing the meeting.

40

(3) The Chairman shall be entitled to vote and if upon any resolution there is equality of votes the Chairman shall have a casting vote.

(4) The proceedings of *the Majlis* shall be conducted in the national language or in English.

23. A copy of any resolution certified by the Secretary to be a true copy of such resolution shall be sufficient evidence
5 thereof and all courts shall take notice of the signature of the Secretary.

Certified
copies of
resolution.

24. The *Majlis* may appear in any court by its President or Secretary or by any person appointed for the purpose
10 either generally or in any particular case under the seal of the *Majlis*.

Appear-
ances by the
Majlis.

25. In any case of emergency the President may, after consultation with the *Mufti* and the Secretary, do or direct
to be done on behalf of the *Majlis* any act or thing which
might lawfully be done by resolution of the *Majlis*:

Acting in
emergency.

15 Provided that in any such case a meeting of the *Majlis* shall be called within one week thereafter for the purpose of ratifying and confirming the action taken and, if the *Majlis* shall decline to ratify and confirm the same, the President of Singapore may give such directions thereon as
20 he may deem fit.

26.-(1) The *Majlis* may by resolution delegate to the President or the Secretary or to any committee of the *Majlis* any part of its duties and powers, not being judicial or
25 *quasi-judicial* powers, as it may deem fit. For the purposes of this section the powers conferred on the *Majlis* by sections 32 and 33 of this Act shall be deemed to be *quasi-judicial* powers.

Delegation
of powers.

(2) It shall be the duty of every committee of the *Majlis* and of every other person or body to whom any powers of
30 the *Majlis* may be delegated to inform the *Majlis* of all acts and things done by it or him as such committee or in pursuance of such delegation.

27. The proceedings of the *Majlis* shall be secret and no member or servant thereof shall disclose or divulge to any
35 person, other than the President of Singapore or the Minister or any member of the *Majlis*, any matter which has arisen at any meeting unless he is expressly authorized to do so.

Secrecy.

28. The members of the *Majlis* shall be deemed to be
40 public servants for the purposes of the Penal Code.

Members
are public
servants.
Cap. 119.

29.-(1) The *Majlis* may, subject to the provisions of this Act, determine all questions relating to its own procedure and practice.

Majlis may
prescribe
own
procedure.

(2) All communications from the *Majlis* to the President of Singapore shall be forwarded through the Minister.

Appoint-
ment of
Mufti.

30.-(1) The President of Singapore may, after consultation with the *Majlis*, appoint a fit and proper person to be *Mufti* of Singapore. Such appointment shall be notified in the *Gazette*. 5

(2) The *Mufti* shall be *ex-officio* a member of the *Majlis*.

Legal
Committee.

31.-(1) There shall be a Legal Committee of the *Majlis*, consisting of the *Mufti*, two other fit and proper members of the *Majlis*, and not more than two other fit and proper Muslims who are not members of the *Majlis*. 10

(2) The members of the Legal Committee, other than the *Mufti*, shall be appointed by the President of Singapore on the advice of the *Majlis* for such period as he may deem fit and a notification of every such appointment shall be published in the *Gazette*. 15

(3) The *Mufti* shall be Chairman of the Legal Committee, and the President of Singapore may appoint another person recommended by the *Majlis* to be the Chairman in the absence of the *Mufti*. 20

(4) The Chairman and two other members of the Legal Committee, one of whom shall not be a member of the *Majlis*, shall form a quorum.

(5) Subject to the provisions of this Act, the Legal Committee may regulate its own procedure. 25

Cap. 119.

(6) The members of the Legal Committee shall be deemed to be public servants for the purposes of the Penal Code.

Rulings
(*Fetua*).

32.-(1) Any person may, by letter addressed to the Secretary, request the *Majlis* to issue a *fetua* or ruling on any point of the Muslim law. On receiving any such request the Secretary shall forthwith submit the same to the Chairman of the Legal Committee. 30

(2) The Legal Committee shall consider every such request and shall, unless in its opinion the question referred is frivolous or for other good reason ought not to be answered, prepare a draft ruling thereon. If such draft ruling is unanimously approved by the Legal Committee or those members thereof present and entitled to vote, the Chairman shall on behalf and in the name of the *Majlis* forthwith issue a ruling in accordance therewith. If in any such case the Legal Committee is not unanimous, the question shall be referred to the *Majlis*, which shall in like manner issue its ruling in accordance with the opinion of the majority of its members. 35 40

(3) The *Majlis* may at any time of its own motion make and publish any such ruling or determination.

(4) If in any court any question of the Muslim law falls for decision, and such court requests the opinion of the *Majlis* on such question, the question shall be referred to the Legal Committee which shall, for and on behalf and in the name of the *Majlis*, give its opinion thereon in accordance with the opinion of the majority of its members, and certify such opinion to the requesting court.

(5) For the purposes of subsection (4) of this section "court" includes the *Shariah* Court constituted under this Act.

33.-(1) Subject to the provisions of this section the *Majlis* and the Legal Committee in issuing any ruling shall ordinarily follow the tenets of the *Shafi'i* school of law: Authorities to be followed.

Provided that if the *Majlis* or the Legal Committee considers that the following of the tenets of the *Shafi'i* school of law will be opposed to the public interest the *Majlis* may follow the tenets of any of the other accepted schools of Muslim law as may be considered appropriate, but in any such ruling the provisions and principles to be followed shall be set out in full detail and with all necessary explanations.

(2) In any case where the ruling or opinion of the *Majlis* or the Legal Committee is requested in relation to the tenets of a particular school of Muslim law the *Majlis* or the Legal Committee shall give its ruling or opinion in accordance with the tenets of that particular school of Muslim law.

Part III.

THE *SHARIAH* COURT.

34. The President of Singapore may by notification in the *Gazette* constitute a *Shariah* Court for Singapore, hereinafter in this Part of this Act referred to as the "Court". Constitution of *Shariah* Court.

35.-(1) The Court shall have jurisdiction throughout Singapore and shall be presided over by a President to be appointed by the President of Singapore. Jurisdiction.

(2) The Court shall hear and determine all actions and proceedings in which all the parties are Muslims or where the parties were married under the provisions of the Muslim law and which involve disputes relating to-

(a) marriage;

(b) divorces known in the Muslim law as *fasakh*, *cherai taalik*, *kholo'* and *talak*;

- (c) betrothal, nullity of marriage or judicial separation;
- (d) the disposition or division of property on divorce; or
- (e) the payment of *mas-kahwin*, maintenance and consolatory gifts or *matta'ah*.

(3) In all questions regarding betrothal, marriage, dissolution of marriage, including *talak*, *cherai taalik*, *kholo'* and *fasakh*, nullity of marriage or judicial separation, the appointment of *hakam*, the disposition or division of property on divorce, the payment of *mas-kahwin* and consolatory gifts or *matta'ah* and the payment of maintenance on divorce the rule of decision where the parties are Muslims or were married under the provisions of the Muslim law shall, subject to the provisions of this Act, be the Muslim law, as varied where applicable by Malay custom.

Use of seal **36.**-(1) The Court shall have, and use such seal or stamp as the Minister shall approve.

(2) Every summons and other process of the Court shall issue under the seal of the Court and the signature of the presiding officer thereof.

Languages and records. **37.**-(1) The languages of the Court shall be the national language and English.

(2) All documents and written proceedings may be written or typewritten in the national language (*Jawi* or *Rumi* script).

(3) The Court shall keep and maintain full and proper records of all proceedings therein and full and proper accounts of all financial transactions of the Court.

Representation. **38.** Every party to any proceedings shall appear in person or by advocate and solicitor or by an agent, generally or specially authorized to do so by the Court.

Service of summons. **39.**-(1) Every summons to appear issued by the Court shall be served by an officer of the Court or by any other person expressly authorized by the Court to serve the same, and may be served personally at any place within Singapore.

(2) Service shall be personal, unless for special reasons the Court shall order substituted service. Substituted service shall be effected in such manner as the Court may order and shall then be as effective as personal service.

(3) Personal service shall be effected by handing to the person to be served the original or a sealed and signed copy of the summons to be served. If the person to be served refuses to accept the summons it may be brought to his notice and left near him.

(4) A person who has served any summons shall forthwith file in Court a memorandum showing the place, time and method of service.

(5) Service shall be proved where necessary by oral evidence.

40. The Court may, in any case in which it or *a Kathi* or *Naib Kathi* is empowered to issue a summons for the appearance of any person, issue, after recording its reasons in writing, a warrant for his arrest if —

Issue of
warrant in
lieu of or
in addition
to summons.

10 (a) either before the issue of the summons or after the issue of the summons but before the time fixed for his appearance the Court has reason to believe that he has absconded or will not obey the summons; or

15 (b) if at the time fixed for his appearance he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

20 **41.**-(1) Where under the provisions of any law in force in any of the States of Malaysia a *Kathi* has issued a summons requiring any person to appear before any Muslim religious court in any of the States of Malaysia, and such person is or is believed to be in Singa-
25 pore, the President of the Court may endorse the summons with his name, and such summons may then be served on such person as if it were a summons issued by the Court under the provisions of this Act.

Reciprocal
arrange-
ments with
States
of Malaysia.

30 (2) Where under the provisions of any law in force in any of the States of Malaysia a summons issued by the Court or *a Kathi* in Singapore has been endorsed by a *Kathi* in such State and served on the person summoned, such summons shall for the purposes of this Act be deemed to have been as validly served as if such service had been
35 effected in Singapore.

(3) For the purposes of subsections (1) and (2) of this section "*Kathi*" shall include a Chief *Kathi*, *Kathi Besar*, *Assistant Kathi* or *Naib Kathi*.

40 **42.**-(1) The Court shall have regard to the law of evidence for the time being in force in Singapore, and shall be guided by the principles thereof, but shall not be obliged to apply the same strictly.

Evidence.

Cap. 8. (2) The Court may administer oaths and affirmations. Evidence shall ordinarily be given on oath in a form binding upon Muslims, but the Court may on special grounds dispense with an oath and take evidence on affirmation. Such affirmation shall be in accordance with the Oaths Ordinance. 5 Whether on oath or on affirmation a witness shall be bound to state the truth.

(3) If in the opinion of the Court any witness has wilfully given false evidence in any proceedings, the Court may report the matter to the Public Prosecutor. 10

Powers of the Court.

43. The Court shall have the following powers: -

(a) to procure and receive all such evidence, written or oral, and to examine all such persons as witnesses as the Court may think it necessary or desirable to procure or examine; 15

(b) to require the evidence, whether written or oral, of any witness to be made on oath or affirmation or by statutory declaration;

(c) to summon any person to attend before the Court or to give evidence or produce any document or other thing in his possession and to examine him as a witness or require him to produce any document or other thing in his possession; 20

(d) to issue a warrant of arrest to compel the attendance of any person who, after being summoned to attend, fails to do so and who does not excuse such failure to the satisfaction of the Court and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his refusal to obey the summons; 30 and

(e) to exercise the powers of a Magistrate's Court for the purpose of giving effect to a warrant of arrest or order of imprisonment and of a court under Chapter XXXII of the Criminal Procedure Code. 35

Cap. 132.

Adjournment.

44. The Court may for sufficient reason adjourn any proceeding from time to time and from place to place. Save as aforesaid, proceedings in the Court shall be held in the court house of the Court. 40

Time.

45. The Court may fix, and may at any time extend or abridge, the time for doing any act or thing, and in default of compliance with any order so made may proceed as if the party in default had not appeared.

46. Every trial or hearing in Court shall be held in public: Courts to be open.

Provided that the Court may, if it thinks fit, order the whole or any part of any proceeding before it to be heard *in camera*.

5 **47.**-(1) A married woman may apply to the Court for a divorce in accordance with the Muslim law. Divorce at wife's request

(2) In any such case the Court shall summon the husband before the Court and enquire whether he consents to the divorce, and if the husband so consents the Court shall cause
10 the husband to pronounce a divorce and on payment of the prescribed fees cause the divorce to be registered.

(3) If the husband does not agree to divorce the wife, but the parties agree to a divorce by redemption (*kholo'*) the Court may assess the amount of payment to be made
15 by the wife in accordance with the status and means of the parties and shall thereupon cause the husband to pronounce a divorce by redemption and on payment of the amount so assessed and the prescribed fees cause the divorce to be registered.

20 (4) If the husband does not agree to divorce by *kholo'*, the Court may appoint *hakam* in accordance with section 50 of this Act.

48.-(1) A married woman may, if entitled in accordance with the Muslim law to a divorce in pursuance of the terms
25 of a written *taalik* made at or after her marriage, apply to the Court to declare that such divorce has taken place. Cherai taalik.

(2) The Court shall examine the written *taalik* and make such enquiry as appears necessary into the validity of the divorce and shall, if satisfied that the divorce is valid in
30 accordance with the Muslim law, confirm the divorce, and shall, upon payment of the prescribed fees, cause the divorce to be registered.

49.-(1) A married woman shall be entitled to apply to the Court for and obtain a decree of *fasakh* on any one or more
35 of the following grounds:- Fasakh.

- (a) that the husband has neglected or failed to provide for her maintenance for a period of three months;
- 40 (b) that the husband has been sentenced to imprisonment for a period of three years or upwards and such sentence has become final;
- (c) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;

- (d) that the husband was impotent at the time of the marriage and continues to be so;
- (e) that the husband is insane or is suffering from some chronic disease the cure of which would be lengthy or impossible and which is such as to make the continuance of the marriage relationship injurious to her; 5
- (f) that the husband treats her with cruelty, that is to say-
 - (i) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment; 10
 - (ii) associates with women of ill-repute or leads an infamous life; 15
 - (iii) attempts to force her to lead an immoral life;
 - (iv) obstructs her in the observance of her religious profession or practice;
 - (v) lives and cohabits with another woman who is not his wife; or 20
 - (vi) if he has more wives than one, does not treat her equitably in accordance with the requirements of the Muslim law; 25
- (g) on any other ground which is recognized as valid for the dissolution of marriage by *fasakh* under the Muslim law:

Provided that before passing a decree on ground (d) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent and if the husband so satisfies the Court within such period no decree shall be passed on the said ground. 30

(2) Upon receiving such application the Court shall cause a summons to be served upon the husband of the woman. 35

(3) The Court shall then record the sworn statement of the woman and at least two witnesses and may then, if satisfied, that the woman is entitled to a decree of *fasakh* in accordance with subsection (1) of this section, make a decree of *fasakh* accordingly. 40

(4) The Court making an order or decree under this section shall immediately cause such order or decree to be registered.

(5) The register shall be signed by the presiding officer of the Court, by the woman who obtains the order or decree, and at least two witnesses whose evidence has been taken by the Court.

5 **50.**-(1) Before making an order or decree for *talak*, *fasakh*, *cherai taalik* or *kholo'*, the Court may appoint in accordance with the Muslim law two arbitrators, or *hakam*, to act for the husband and wife respectively. In making such appointment the Court shall where possible give
10 preference to close relatives of the parties having knowledge of the circumstances of the case.

Appoint
ment of
hakam

(2) The Court may give directions to the *hakam* as to the conduct of the arbitration and they shall conduct it in accordance with such directions and according to the
15 Muslim law. If they are unable to agree, or if the Court is not satisfied with their conduct of the arbitration it may remove them and appoint other *hakam* in their place.

(3) The *hakam* shall endeavour to effect a reconciliation between the parties and shall report the result of their
20 arbitration to the Court.

(4) The *hakam* shall endeavour to obtain from their respective principals full authority, and may, if their authority extends so far, decree a divorce, and shall in such event report the same to the Court for registration.

25 (5) If the *hakam* are of opinion that the parties should be divorced but are unable for any reason to decree a divorce, the Court shall appoint other *hakam* and shall confer on them authority to effect a divorce and the *hakam*, if they do so, shall report the same to the Court for registration.

30 **51.**-(1) A married woman may by application to the Court obtain an order against her husband for the payment from time to time of her maintenance and the provision of necessary clothing and suitable lodging in accordance with the Muslim law.

Mainten
ante of
wife

35 (2) A woman who has been divorced may by application to the Court obtain an order against her former husband for the payment from time to time of her maintenance and the provision of necessary clothing and suitable lodging for the period of her *eddah*.

40 (3) A woman who has been divorced and who is not or has ceased to be entitled to an order for maintenance under subsection (2) of this section may apply to the Court and the Court may, if satisfied that it is just and proper so to do in

view of all the circumstances of the case, make an order against the former husband for the payment by him of such sums for such period as the Court considers fit.

Claims for
mas-kah-
win and
matta'ah.

52.-(1) The Court shall have power to inquire into and adjudicate upon claims by married women or women who have been divorced for payment of her *mas-kahwin*. 5

(2) A woman who has been divorced by her husband may apply to the Court for a consolatory gift or *matta'ah* and the Court may after hearing the parties order payment of such sum as may be just and in accordance with the Muslim law. 10

(3) In any application for divorce the Court may, at any stage of the proceedings or after a decree or order has been made, make such orders as it thinks fit with respect to-

(a) the payment of *mas-kahwin* to the wife; 15

(b) the payment of a consolatory gift or *matta'ah* to the wife; and

(c) the disposition or division of property on divorce.

(4) The procedure and forms of process in suits under this section shall be as prescribed by rules made under section 139 of this Act. 20

Enforce-
ment
of orders.

53. If any person fails or neglects to comply with an order of the Court made under section 52 of this Act the Court may for every breach of the order direct the amount or the value of the property due to be levied in the manner provided for levying fines imposed by a Magistrate's Court or may sentence him to imprisonment for a term which may extend to six months. 25

Presump-
tion of
death.

54. If the husband of any married woman has died or is believed to have died or has not been heard of over a prolonged period, in such circumstances that he might for the purpose of enabling his wife to remarry be presumed in accordance with the Muslim law to be dead, but a death certificate cannot be obtained, the Court may on the application of the wife and after such inquiry as may be proper issue in accordance with the Muslim law a certificate of presumption of the death of the husband and thereafter the wife shall be at liberty to remarry and such certificate shall be deemed to be a certificate of the death of the husband within the meaning of sub-paragraph (i) of paragraph (b) of section 91 of this Act. 30 35 40

55.-(1) An appeal shall lie to the Appeal Board herein- Appeal
after constituted from any decision of the Court -

5 (a) (i) by any person aggrieved by the decision if the
amount in issue on appeal is not less than
twenty-five dollars;

(ii) in all cases involving any decision as to personal
status, by any person aggrieved by the decision;

10 (iii) in all cases relating to maintenance of depend-
ants, by any person aggrieved by the decision:

Provided that no such appeal shall lie against
a decision by consent; and

(b) in any other case, if the Appeal Board shall give
leave to appeal.

15 (2) Every appeal and every application for leave to appeal
shall be presented within one month from the date of the
decision appealed against or against which it is desired to
appeal:

20 Provided that the Appeal Board may if it thinks fit permit
any appeal and any such application to be presented after
the expiration of that period.

(3) Notice of appeal shall be sent by the appellant to the
Appeal Board through the Secretary of the *Majlis* and to all
other persons who were parties to the proceedings in respect
of which the appeal is made.

25 (4) The President of Singapore acting on the advice of
the *Majlis* shall annually nominate at least seven Muslims to
form a panel of persons from among whom an Appeal Board
of three may be constituted from time to time by the Presi-
dent of the *Majlis*.

30 (5) On any person appealing against the decision of the
Court or applying for leave to appeal in accordance with
the provisions of subsection (1) of this section, the President
of the *Majlis* shall select three persons to form an Appeal
Board to hear such appeal or application for leave to appeal
35 and shall nominate one of such persons to preside over the
Appeal Board.

40 (6) On any appeal an Appeal Board may confirm, reverse
or vary the decision of the Court, exercise any such powers
as the Court could have exercised, make such order as the
Court ought to have made or order a retrial.

(7) The decision of the Appeal Board shall be final.

56.-(1) The President of Singapore may in his discretion call for the record of any proceedings before the Court, the Registrar, *Kathi* or *Naib Kathi* and may refer such record to the *Majlis* for its consideration.

(2) The *Majlis* may after considering the matter recommend that the decision of the Court, Registrar, *Kathi* or *Naib Kathi*, as the case may be, be reversed, altered or modified and the President of Singapore may thereupon order such decision to be reversed, altered or modified.

(3) Every decision when so altered or modified shall in its altered or modified form be held to be valid in all respects as if made by the Court, Registrar, *Kathi* or *Naib Kathi* whose decision has been revised.

Part IV

FINANCIAL.

Establishment of General Endowment Fund

57. (1) A Fund to be known as the General Endowment Fund is hereby established. Except as otherwise provided under the provisions of this Act such Fund shall consist of all money and property, movable or immovable, which by the Muslim law or under the provisions of this Act or rules made hereunder accrues or is contributed by any person to the Fund.

(2) All money and property in the Fund shall be vested in the *Majlis* which shall administer all such money and property in accordance with the rules made under this Act:

Provided that any investments of assets and funds vested in the *Majlis* may be sold, realised and disposed of, and the *Majlis* shall have power to invest from time to time in any investments authorized by any written law for the time being in force for the investment of trust funds and to transfer the same to other such investments.

(3) Subject to the provisions of this Act the *Majlis*, with the approval of the Minister, may make rules for the collection, administration and distribution of all property of the Fund.

Wakaf or nazr.

58.-(1) Where, after the coming into operation of this Act, any Muslim dies in such circumstances that, under the provisions of the Muslim law, his property would vest in, or become payable to, the *Bait-ul-Mal*, the property of such person, in pursuance of such provisions shall vest in and become payable to the *Majlis* and form part of the Fund.

(2) Notwithstanding any provision to the contrary contained in any written law or in any instrument or declaration creating, governing or affecting the same, the *Majlis* shall administer all *wakaf*, whether *wakaf 'am* or *wakaf khas*,
5 all *nazr 'am*, and all trusts of every description creating any charitable trust for the support and promotion of the Muslim religion or for the benefit of Muslims in accordance with the Muslim law to the extent of any property affected thereby and situate in Singapore.

10 (3) The provisions of section 16 of the Civil Law Ordinance shall not apply to Muslims who die intestate. Cap. 24.

(4) The trustees of the *wakaf* or *nazr 'am* appointed under the instrument creating, governing or affecting the same shall subject to the provisions of this Act manage the *wakaf*
15 or *nazr 'am* but the *Majlis* shall have power to appoint *mutawallis*, and for such purpose to remove any existing trustees, where it appears to the *Majlis* that-

- (a) any *wakaf* or *nazr 'am* has been mismanaged;
- (b) there are no trustees appointed to the management
20 of the *wakaf* or *nazr 'am*; or
- (c) it would be otherwise to the advantage of the *wakaf* or *nazr 'am* to appoint a *mutawalli*.

(5) The *Majlis* may at any time remove any *mutawalli* appointed by it and appoint another in his place.

25 **59.** All property subject to the provisions of section 58 of this Act shall if situate in Singapore vest in the *Majlis*, without any conveyance, assignment or transfer whatever, for the purpose of the *Bait-ul-Mal*, *wakaf* or *nazr 'am* affecting the same. Vesting.

30 **60.-(1)** Whether or not made by way of will or death-bed gift, no *wakaf* or *nazr* made after the coming into operation of this Act and involving more than one-third of the property of the person making the same shall be valid in respect of the excess beyond such one-third. Restrictions on creation of Muslim charitable trusts.

35 (2) Every *wakaf khas* or *nazr* made after the coming into operation of this Act shall be null and void unless-

- (a) the President of the *Majlis* shall have expressly sanctioned and validated or ratified the same in writing in accordance with the Muslim law; or
- 40 (b) it was made during a serious illness from which the maker subsequently died and was made in writing by an instrument executed by him and witnessed by two adult Muslims one of whom shall be a *Kathi* or *Naib Kathi*:

Provided that if no *Kathi* or *Naib Kathi* is available as hereinbefore described any other adult Muslim who would not have been entitled to any beneficial interests in the maker's estate had the maker died intestate shall be a competent witness. 5

(3) This section shall not operate to render valid any will, death-bed gift, *wakaf* or *nazr* which is invalid under the provisions of the Muslim law or of any written law.

Income Of
wakaf or
nazr.

61.-(1) The income of a *wakaf* or *nazr* shall be applied 10
in accordance with the lawful provisions set out in the instrument or declaration creating, governing or affecting the *wakaf* or *nazr*.

(2) Where there is no specific provision in such instrument or declaration for the expenditure of the *wakaf* or *nazr* the 15
income shall be paid to and form part of the Fund.

Property
and
assets of
wakaf or
nazr 'am.

62.-(1) Subject to the provisions of subsections (2) and 20
(3) of this section, the property and assets affected by any lawful *wakaf* or *nazr 'am* shall not form part of the Fund, but shall be applied in pursuance of such *wakaf* or 25
nazr 'am and held as segregated funds.

(2) If from lapse of time or change of circumstances it is no longer possible beneficially to carry out the exact provisions of any *wakaf* or *nazr 'am*, the *Majlis* shall prepare a 30
scheme for the application of the property and assets affected thereby in a manner as closely as may be analogous to that required by the terms of such *wakaf* or *nazr 'am* and shall apply the same accordingly 35

Provided that the *Majlis* may, with the approval in writing of the Minister, direct that such property and assets shall be 30
added to and form part of the Fund.

(3) If the terms of any *wakaf* or *nazr 'am* are such that no method of application of the property and assets affected thereby is specified, or it is uncertain in what manner the same should be applied, the *Majlis* may direct that such 35
property and assets shall be added to and form part of the Fund.

(4) All instruments creating, evidencing or affecting any *wakaf* or *nazr 'am*, together with any documents of title or 40
other securities relating thereto, shall be held and retained by the *Majlis*.

63.-(1) Where any question arises as to the validity of a Muslim charitable trust or as to the meaning or effect of any instrument or declaration creating or affecting any Muslim charitable trust, such question shall be determined in accordance with the provisions of the Muslim law.

Construc-
tion of
instru-
ments.

(2) If in the opinion of the *Majlis* the meaning or effect of any instrument or declaration creating or affecting any *wakaf* or *nazr* is obscure or uncertain, the *Majlis* may refer the same to the court for construction of the instrument or declaration, and shall act in accordance with the construction so given by the court.

(3) The court in construing the instrument or declaration shall do so in accordance with the provisions of the Muslim law and shall be at liberty to accept as proof of the Muslim law any definite statement on the Muslim law made in any of the books referred to in section 108 of this Act.

64. The *Majlis* shall cause full and true account of the Fund to be kept and shall as soon as possible after the 31st day of December of every year issue and publish in the *Gazette* a report on the activities of the *Majlis* during the preceding year, together with a balance-sheet of the Fund, as at the 31st day of December, an income and expenditure account for the year and a list of the properties and investments of the Fund showing their cost, if bought, and estimated value as at the 31st day of December.

Annual
report.

65. The said annual balance-sheet, income and expenditure account and list of investment shall prior to the issue thereof be audited and certified as correct by the Director of Audit or a public officer authorized by the Director of Audit. A copy of the auditor's certificate shall be annexed to all copies of the report and accounts as issued.

Audit.

66. As soon as possible after the 31st day of December in every year the *Majlis* shall prepare, issue and publish in the *Gazette* a list of all properties, investments and assets vested in the *Majlis* subject to any trust, *wakaf* or *nazr*, and not forming part of the Fund. Such list shall be audited in the manner set out in section 65 of this Act.

Wakaf and
nazr pro-
perty.

67.-(1) The *Majlis* shall prepare and submit to the Minister not later than the 31st day of October in each year estimates of all income and expenditure of the *Majlis*, including therein estimates of all property receivable and disposable in kind, in respect of the ensuing year. The Minister may approve such estimates or may direct that they

Estimates.

be amended. Upon such approval or amendment the said estimates shall be published in the *Gazette*.

(2) The *Majlis* may at any time submit to the Minister supplementary estimates of expenditure in respect of the current year, or, at any time prior to the 31st day of March in any year, in respect of the preceding year, and such estimates may be approved or amended, and shall be published, in like manner as the annual estimates. 5

(3) No monies shall be expended, or property disposed of in kind, save in accordance with such estimates as aforesaid and upon a voucher signed by the President. 10

Expenses of
the *Majlis*.

68. All costs, charges and expenses of administering the property and assets vested in the *Majlis*, including the cost of maintenance and repair of any immovable property, shall be paid out of the property and assets of the Fund. 15

Bankers.

69.-(1) The *Majlis* shall appoint bankers to be approved by the Minister and may operate such account or accounts as may seem proper.

(2) Payments by the *Majlis* of amounts exceeding fifty dollars shall be made by cheque. All monies received by or for the *Majlis* shall be paid into a bank account of the *Majlis* in the manner prescribed. 20

(3) Cheques drawn on any bank account of the *Majlis* shall be signed by the President or by a member of the *Majlis* authorized by the President in that behalf and by the Secretary. 25

Collection
of *zakat*
and *fitrah*.

70.-(1) The *Majlis* shall have power to collect *zakat* and *fitrah* payable in Singapore in accordance with the Muslim law:

Provided that such power shall not be exercised by the *Majlis* until a resolution to that effect has been passed by the *Majlis* and approved by the President of Singapore. 30

(2) On the publication in the *Gazette of* the resolution referred to in subsection (1) of this section and subject to the provisions of the Muslim law, it shall be obligatory on all Muslims in Singapore to pay *zakat* and *fitrah* in accordance with the provisions of this Act. 35

(3) Subject to the provisions of this Act any *zakat* or *fitrah* collected shall be disposed of by the *Majlis* in accordance with the Muslim law. 40

71.-(1) The *Majlis*, with the approval of the Minister, may make rules for and regulate all matters in connection with the collection, administration and distribution of *zakat* and *fitrah*. Rules.

- 5 (2) Without prejudice to the foregoing generality the *Majlis*, with the approval of the Minister, may make rules-
- (a) to prescribe from time to time the amount of *zakat* and *fitrah* to be paid by all Muslims in Singapore;
 - 10 (b) to provide for the method by which *zakat* and *fitrah* shall be collected;
 - (c) for the appointment of agents and officers for the collection of *zakat* and *fitrah*; and
 - 15 (d) to provide penalties for the collection or payment of *zakat* and *fitrah* by or to unauthorized persons.

72. Any person may make objection to the *Majlis* against any demand for payment by him of *zakat* and *fitrah*. The *Majlis* shall consider such objection and may order that such person shall pay the amount of *zakat* and *fitrah* demanded from him, or such lesser amount as to the *Majlis* shall seem proper or may order that such person shall not be liable in any one or more years to pay *zakat* and *fitrah* or either. Appeal.

73.-(1) The *Majlis* may collect, or may grant licences to any person or body of persons, authorizing him or them to collect, monies or other contributions for any charitable purpose for the support and promotion of the Muslim religion or for the benefit of Muslims in accordance with the Muslim law, and may by any such licence impose such terms as it may think fit. Charitable collections.

- (2) It shall be deemed to be a term of every such licence that the grantee thereof and every other person authorized thereby to collect monies or other contributions shall-
- 35 (a) issue in respect of every sum so collected a serially numbered receipt in the prescribed form;
 - (b) keep true and full accounts of all sums so collected and of the disposal thereof with all proper vouchers;
 - 40 (c) produce on demand the counterfoils of such receipts and all such accounts and vouchers for inspection and audit by the *Majlis*; and

- (d) apply and dispose of all sums so collected in accordance with the terms of such licence, or, if no method of disposal thereof be thereby expressly authorized, pay and account for the same to the *Majlis*.

5

(3) Monies collected in pursuance of this section may be applied for a specific purpose if the *Majlis* shall so direct, but shall, in default of any such direction, be added to and form part of the Fund.

(4) No person shall make or take part in any collection of money for any such purpose as aforesaid unless with the express authority of the *Majlis* or by virtue and in pursuance of such a licence as aforesaid.

10

Part V.

MOSQUES AND RELIGIOUS SCHOOLS.

15

Majlis to be trustee.

74.-(1) Notwithstanding any provision to the contrary in any written instrument, the *Majlis* shall administer all mosques in Singapore and every mosque, together with any immovable property on which it stands or appurtenant thereto and used for the purposes thereof, other than State land, shall without any conveyance, assignment or transfer whatever vest in the *Majlis* for the purposes of this Act.

20

(2) The trustees of any mosque under any written instrument shall, subject to the provisions of this Act, manage the mosque but the *Majlis* shall have power to appoint *mutawallis* and for such purpose to remove any existing trustees where it appears to the *Majlis*-

25

(a) that the mosque has been mismanaged;

(b) there are no trustees appointed for the management of the mosque; or

30

(c) it would be otherwise to the advantage of the mosque to appoint a *mutawalli*.

(3) The *Majlis* may at any time remove any *mutawalli* appointed by it and appoint another in his place.

Restriction of new mosques.

75.-(1) No person shall erect any mosque, or dedicate or otherwise apply any existing building as or for the purposes of a mosque, without the permission in writing of the *Majlis*.

35

(2) Such permission shall in no case be given unless the site of the proposed new mosque has been, or will prior to the erection or dedication thereof be, made a *wakaf*.

40

76.-(1) It shall be the duty of the trustees of a mosque to ensure that the mosque is kept in a proper state of repair and that the mosque and the compounds thereof are maintained in a proper state of cleanliness. Repairs.

5 (2) The *Majlis* may raise and apply, or authorize the raising and application by the trustees of, special funds for the purpose of such repairs and maintenance, or may authorize the payment of the cost of such repairs and maintenance from the Fund.

10 (3) It shall be the duty of the trustees promptly to inform the *Majlis* of any want of repair of the mosque, and to effect or supervise any repairs as agent for and on behalf of the *Majlis*.

15 (4) No material alteration to the structure of any mosque shall be made without the permission in writing of the *Majlis* and the *Majlis* may direct the trustees to keep any mosque for which they are responsible in a proper state of repair.

20 **77.** The *Majlis* shall have the power at any time to determine the boundaries of any *daerah masjid* and to amend or alter such boundaries. Any dispute as to the boundaries of a *daerah masjid* shall be referred to the Legal Committee for its opinion. Boundaries of daerah masjid.

25 **78.** The *Majlis* shall maintain a register showing the *pegawai masjid* of every mosque in Singapore, and it shall be the duty of every *mutawalli* promptly to inform the *Majlis* of any vancancy or change in the *pegawai masjid* relating to his mosque. Register of pegawai masjid.

30 **79. -(1)** It shall be the duty of the Legal Committee of the *Majlis* upon learning of any vacancy or impending vacancy in the office of *Imam* in any mosque in Singapore to make enquiry for possible candidates for such appointment, and, after due examination of the qualifications of such possible candidates, to submit a list of suitable candidates to the *Majlis*. Appointment of pegawai masjid.

35 (2) The *Majlis* shall after considering the list submitted by the Legal Committee and after such inquiries as it thinks fit appoint an *Imam* to fill the vacancy.

 (3) The *mutawalli* of a mosque may appoint the *Khatib*, *Bilal* or *Noja* of the mosque.

40 (4) The *pegawai masjid* of a mosque shall be deemed to be public servants for the purposes of the Penal Code. Cap. 119.

80.-(1) The *Majlis* may make rules for -

- (a) the appointment of *a jawatan kuasa daerah*;
- (b) prescribing the manner in which the members of a *jawatan kuasa daerah* shall be appointed; and
- (c) prescribing the duties and functions of *a jawatan kuasa daerah*. 5

(2) The *jawatan kuasa daerah* in conjunction with the local *pegawai masjid* shall-

- (a) be responsible for the proper conduct and good order of the mosque and all Muslim burial grounds within their *daerah masjid*; and 10
- (b) give due and prompt information to the *Majlis* of all matters arising in the *daerah masjid* and requiring the attention of the *Majlis*.

81.-(1) The control of Muslim religious schools shall be vested in the *Majlis* and the *Majlis* shall have power to register and to control the conduct of such schools and to approve the curricula of instruction in such schools. 15

(2) The *Majlis* shall have power to control the establishment of any private Muslim religious school and to refuse permission for any such school to be established and to approve any regulations made by any person in charge of such school for its administration. 20

(3) The *Majlis* shall have power to authorize any public officer to inspect any Muslim religious school in order to satisfy himself that all the requirements of the *Majlis* are being complied with. 25

(4) The *Majlis* shall have power to order any person employed or to be employed as a teacher at any private religious school to submit to a test conducted by a Board appointed by the *Majlis*. In the event of such person failing to pass the said test the *Majlis* shall have power to forbid his employment as a teacher at such school. 30

(5) The *Majlis* shall have power to order the closure of any religious school which the Board may deem unsatisfactory. 35

(6) An appeal shall lie from any act, order or direction of the *Majlis* under this section to the Minister.

82. Any grant made by the Government to Muslim religious schools shall be administered by *the Majlis* in accordance with rules made by the *Majlis* and approved by the Minister, responsible for education.

Grants to religious schools.

5

Part VI.

MARRIAGE AND DIVORCE.

83. The provisions of this Part of this Act shall apply only to marriages, one or both of the parties to which profess the Muslim religion and which are solemnized in accordance with the Muslim law.

Applica-
tion.

84. -(1) The President of Singapore may appoint either by name or office any male Muslim of good character and position and of suitable attainments to be the Registrar of Muslim Marriages.

Appoint-
ment of
Registrar.

15 (2) Such appointment shall be notified in the *Gazette*.

(3) The President of Singapore may at any time by notification in the *Gazette* cancel such appointment.

85.-(1) Subject to the provisions of section 140 of this Act, the President of Singapore may appoint suitable male Muslims of good character and position and of suitable attainments to be *Kathis* or *Naib kathis*.

Appoint-
ments of
Kathis and
Naib
Kathis.

(2) The President of Singapore may appoint two or more *Kathis* or *Naib Kathis* for the same district or place.

(3) The letter of appointment shall-

25 (a) be in such form as the President of Singapore directs;

(b) be signed by the President of Singapore; and

(c) state either-

30 (i) that the person named therein is appointed to be a *Kathi* or *Naib Kathi* for a particular district or place, of which the limits shall be strictly defined; or

35 (ii) that the person named therein is appointed to be a *Kathi* or *Naib Kathi* for particular schools of law (*Madzhabs*).

(4) The appointment of a *Kathi* or *Naib Kathi* shall be notified in the *Gazette*.

(5) The President of Singapore may at any time at his pleasure by a notification in the *Gazette* cancel such appointment.

5

(6) In the event of a *Kathi* or *Naib Kathi* temporarily leaving Singapore or being temporarily incapacitated from performing the duties of his office the President of Singapore may appoint a suitable person to officiate in his appointment.

(7) The jurisdiction, authority and powers of any *Kathi* or *Naib Kathi* shall be such as are conferred by this Act:

10

Provided that the President of Singapore may by the terms of the letter of appointment of any *Kathi* or *Naib Kathi* restrict the exercise of any powers which would otherwise be conferred on such *Kathi* or *Naib Kathi* by this Act.

15

Deputy Registrars.

86.-(1) Every *Kathi* and *Naib Kathi*-

(a) shall be a Deputy Registrar of Muslim Marriages; and

20

(b) shall use a seal bearing such inscription in the Malay language as the Registrar approves.

(2) In the event of a *Kathi* or *Naib Kathi* leaving the district within which he is appointed to act, or ceasing to hold his appointment, or dying, his books and seals of office shall forthwith be given up to or taken possession of by the Registrar.

25

Registers.

87. Every *Kathi* and *Naib Kathi* shall keep such books and registers as are prescribed.

Betrothal.

88. If any person shall, either orally or in writing, and either personally or through an intermediary, have entered into a contract of betrothal in accordance with the Muslim law, and shall subsequently refuse without lawful reason to marry the other party to such contract, such other party being willing to perform the same, the party in default shall be liable to pay to the other party the sum which it is agreed in the contract by which the marriage was arranged is to be paid by the party in breach of the contract, and, if a male, to pay as damages the amount expended in good faith in preparation for the marriage, or if a female, to return the

35

40

betrothal gifts, if any, or the value thereof and to pay as damages the amount expended in good faith in preparation for the marriage, and the same may be recovered by action in the *Shariah* Court.

5 **89.-(1)** Subject to the provisions of this Act it shall be lawful for the *wali* of the woman to be wedded to solemnize the marriage according to the Muslim law. Solemniza-
tion of
marriage.

10 (2) Subject to the provisions of this Act any *Kathi* or *Naib Kathi* may at the request of the *wali* of the woman to be wedded perform the marriage ceremony but before solemnizing such marriage he shall make full enquiry in order to satisfy himself that there is no lawful obstacle according to the Muslim law or this Act to the marriage and shall not perform the ceremony until he is so satisfied.

15 (3) Where there is no *wali* of the woman to be wedded or where a *wali* shall, on grounds which a *Kathi* does not consider satisfactory, refuse his consent to the marriage, the marriage may be solemnized by the *Kathi* but before solemnizing such marriage the *Kathi* shall make enquiry as
20 prescribed in subsection (2) of this section.

(4) For the purpose of any enquiry a *Kathi* or *Naib Kathi* may issue a summons requiring any person to appear before him to give evidence or to produce a document.

25 **90.-(1)** No marriage shall be solemnized under this Act unless all the conditions necessary for the validity thereof, in accordance with the Muslim law and the provisions of this Act, are satisfied. Restriction
on solemniza-
tion of
marriages.

30 (2) No marriage shall be solemnized under this Act if the man to be wedded is married to any person other than the other party to the intended marriage, except-

(a) by a *Kathi*; or

(b) with the written consent of a *Kathi* by the *wali* of the woman to be wedded.

35 (3) Before solemnizing a marriage or giving his written consent to the solemnization of a marriage under subsection (2) of this section the *Kathi* shall satisfy himself after inquiry that there is no lawful obstacle, according to the Muslim law or this Act to such marriage.

40 (4) No marriage shall be solemnized under this Act if at the date of the marriage either party is under the age of sixteen years:

Provided that a *Kathi* may in special circumstances solemnize the marriage of a girl who is under the age of sixteen years but has attained the age of puberty.

Marriage
of *janda*.

91. Where the woman to be wedded is a *janda*-

- (a) she shall not be married to any person other than the husband from whom she was last divorced, at any time prior to the expiration of the period of *eddah*, which shall be calculated in accordance with the Muslim law; 5
- (b) she shall not be married unless she shall previously have produced- 10
 - (i) a certificate of the death of her late husband; or
 - (ii) a certificate of divorce lawfully issued under the law for the time being in force; or 15
 - (iii) a certified copy of the entry relating to such divorce in the appropriate register of divorces; or
 - (iv) a certificate, which may upon her application be granted after the enquiry by the *Shariah* Court, to the effect that she is a *janda*; and 20
- (c) if the divorce was by three *talak*, she shall not be remarried to her previous husband, unless prior to such marriage she shall have been lawfully married to some other person and such marriage shall have been consummated and later lawfully dissolved 25

Provided however that the *Shariah* Court may, if it is satisfied that there has been any collusion between the previous husband and the said other person to whom she was married after the three *talak*, annul the re-marriage with the former husband. 30

Place of
marriage.

92. Every marriage shall be solemnized in the *daerah masjid* in which the bride ordinarily resides: 35

Provided that a *Kathi* may give permission for any such marriage to be solemnized elsewhere.

Copies to be
sent to
Registrar.

93.-(1) Every *Kathi* and *Naib Kathi* shall within one week of the date of registration of a marriage, divorce or revocation of divorce send a copy of the certificate of marriage, divorce or revocation of divorce, as the case may be, to the Registrar. 40

(2) Where the divorce or revocation of divorce dealt with in a certificate of divorce or a certificate of revocation of divorce relates to a marriage registered in Singapore the Registrar shall cause an endorsement of the divorce and of the revocation of divorce to be entered on the certificate of marriage kept in the General Register of Marriages.

(3) Where the revocation of divorce dealt with in a certificate of revocation of divorce relates to a divorce registered in Singapore the Registrar shall cause an endorsement of the revocation of divorce to be entered on the certificate of divorce kept in the General Register of Divorces.

94.-(1) The Registrar shall cause-

General
Registers.

(a) the copies of the certificates of marriages sent to him to be bound in a General Register of Marriages;

(b) the copies of the certificates of divorces sent to him to be bound together with the certificates of divorces issued by the *Shariah* Court in a General Register of Divorces; and

(c) the copies of the certificates of revocations of divorce sent to him together with the certificates of revocation of divorce issued by the *Shariah* Court to be bound in a General Register of Revocations of Divorce.

(2) The Registrar shall keep an index of each of the General Registers kept by him.

95.-(1) If it shall appear that any entry in any General Register kept or any certificate issued under this Act has been made or issued in error or contains any error that might be corrected, the Registrar or any person affected by such error may apply to the *Shariah* Court for cancellation or rectification of such entry or certificate.

Cancellation or
rectification
of entries
in registers
or certificates.

(2) The *Shariah* Court may, after such inquiry as it thinks proper, order cancellation or rectification accordingly.

(3) Any person may be ordered to surrender any document to the Registrar for correction in consequence of any such order.

96.-(1) Nothing in this section shall be construed as preventing a *Kathi* or *Naib Kathi* at his option from solemnizing and registering a marriage at his house or office or at the house of the parties or one of the parties thereto.

Registration
compulsory.

(2) In the case of every marriage, divorce or revocation of divorce effected in Singapore and which has not been registered in accordance with subsection (1) of this section, the husband and wife shall-

- (a) attend personally within seven days of the marriage, divorce or revocation of divorce at the office of a *Kathi*; 5
- (b) furnish such particulars as are required by the *Kathi* for the due registration of such marriage, divorce or revocation of divorce; and 10
- (c) apply in the prescribed form for the registration of such marriage, divorce or revocation of divorce.

(3) A *Kathi* shall not register any divorce or revocation of divorce, unless he is satisfied after inquiry that both the parties have consented thereto. 15

(4) A *Kathi* shall not register any divorce by three *talak*.

(5) Where an application is made to a *Kathi* for the registration of a divorce by three *talak* or where on an application for the registration of a divorce or revocation of divorce the *Kathi* is not satisfied that both the parties have consented to the registration thereof, the *Kathi* shall refer the application to the *Shariah* Court and the *Shariah* Court may make such decree or order as is lawful under the Muslim law. 20

(6) Nothing in this section shall apply to a divorce effected by a decree or order of the *Shariah* Court or the Appeal Board. 2.5

Registers
how signed;
and in-
quiries by
tha *Kathi*.

97.-(1) Where a marriage has been solemnised by a *Kathi* or *Naib Kathi*, the *Kathi* or *Naib Kathi* shall register such marriage by entering the particulars thereof in the register of marriages and also in the certificate of marriage attached to the Register. 30

(2) Subject to the provisions of section 96 of this Act a *Kathi* may at any time within seven days of a marriage, which has not already been registered under the provisions of subsection (1) of this section, or of a divorce or revocation of divorce register such marriage, divorce or revocation of divorce by entering the particulars thereof in the appropriate register and also in the certificate of marriage, divorce or revocation of divorce attached to the register. 35 40

(3) The entry shall be signed by the *Kathi* or *Naib Kathi* and by such of the parties and by such number of witnesses as are prescribed.

(4) Before making any entry the *Kathi* or *Naib Kathi* shall make such inquiries as he considers necessary to satisfy himself as to the validity of the marriage, divorce or revocation of divorce.

5 (5) For the purpose of such inquiries the *Kathi* or *Naib Kathi* may issue a summons requiring any person to appear before him to give evidence or to produce a document.

(6) Every person so summoned shall be legally bound to comply with such summons.

10 **98.** -(1) Every *Kathi* or *Naib Kathi* who refuses to register a marriage and every *Kathi* who refuses to register a divorce or revocation of divorce shall record his reasons for such refusal in a book to be kept for that purpose. Refusal to register.

(2) The *Kathi* or *Naib Kathi* shall forthwith inform the Registrar and all other *Kathis* and *Naib Kathis* in Singapore in the prescribed form of his decision.

(3) Upon payment of the prescribed fee the *Kathi* or *Naib Kathi* shall give a copy of his reasons for refusal to the applicant for registration.

20 **99.** An appeal from the decision of a *Kathi* or *Naib Kathi* under this Act shall lie to the Appeal Board constituted under section 55 of this Act and the provisions of section 55 shall apply *mutatis mutandis* to appeals from the decision of a *Kathi* or *Naib Kathi* as they apply to appeals from the decision of the *Shariah* Court. Appeal.

100.-(1) If the Appeal Board on appeal orders the marriage, divorce or revocation of divorce to be registered, the necessary entries shall as soon as possible be made by the *Kathi* or *Naib Kathi*. Where the Appeal Board orders registration.

30 (2) An entry shall be made in the register showing that the marriage, divorce or revocation of divorce was registered by order of the Appeal Board on appeal, and shall be signed by the person making the entry.

35 **101.** Any marriage, divorce or revocation of divorce which has not been registered within the time prescribed by section 96 of this Act may, with the consent in writing of the Registrar, and subject to the provisions of subsections (3) to (5) inclusive of section 96 of this Act be registered by a *Kathi* within three months from the date of such marriage, divorce or revocation of divorce. Extended time for registration.

40 **102.** On the completion of the registration of any marriage, divorce or revocation of divorce, the *Kathi* or *Naib Kathi*, as the case may be, shall give to each of the parties a copy of the certificate of marriage, divorce or Copy of entry to be given to parties.

revocation of divorce duly signed and sealed with his seal of office.

Legal effect
of registra-
tion.

103. Nothing in this Act shall be construed to render valid or invalid merely by reason of its having been or not having been registered any Muslim marriage, divorce or revocation of divorce which otherwise is invalid or valid. 5

Part VII.

PROPERTY.

Saving.

104. Nothing in this Act contained shall be held to prevent any Muslim person directing by his or her will that his or her estate and effects shall be distributed according to the Muslim law. 10

Disposi-
tion by will
to be in
accordance
with Mus-
lim law.

105.-(1) Notwithstanding anything contained in the provisions of the English law or in any other written law no Muslim domiciled in Singapore shall, after the coming into operation of this Act, dispose of his property by will except in accordance with the provisions of and subject to the restrictions imposed by the school of Muslim law professed by him. 15

(2) Nothing in this section shall affect- 20

Cap. 35.

(a) the provisions of the Wills Ordinance, other than sections 3 and 5 thereof; or

Cap. 17.

(b) the provisions of the Probate and Administration Ordinance; or

(c) the will of a Muslim dying before the coming into operation of this Act. 25

Distribu-
tion of
Muslim
estates to be
according to
the Muslim
law.

106.-(1) In the case of any Muslim person domiciled in Singapore dying intestate the estate and effects shall be distributed according to the Muslim law as modified, where applicable, by Malay custom; 30

(2) The provisions of this section shall apply in cases where a person dies partly intestate as well as in cases where he dies wholly intestate.

(3) In the case of a Malay dying intestate the court may make an order for the division of the *harta sapencharian* or jointly acquired property in such proportions as to the court seems fit. 35

Petition for
probate and
letters of
administra-
tion.

107. In all applications for probate or letters of administration, the petition shall, in the case of a deceased Muslim state the school of law (*Madzhab*) which the deceased professed in addition to the particulars required by any other written law. 40

108.-(1) In deciding questions of succession and inheritance in the Muslim law the court shall be at liberty to accept as proof of the Muslim law any definite statement on the Muslim law made *in* all or any of the following books: -

Proof of the Muslim law.

(a) The English translation of the *Quran*, by A. Yusuf Ali or Marmaduke Pickthall;

(b) *Mohammedan Law*, by Syed Ameer Ali;

(c) *Minhaj et Talibin* by Nawawi, translated by E. C. Howard from the French translation of Van den Berg;

(d) *Digest of Moohummudan Law*, by Neil B. E. Baillie;

(e) *Anglo-Muhammudan Law*, by Sir Roland Knyvet Wilson, 6th Edition Revised by A. Yusuf Ali;

(f) *Outlines of Muhammadan Law*, by A. A. Fyzee;

(g) *Muhammudan Law*, by F. B. Tyabji.

(2) The Minister may on the advice of the *Majlis* by notification in the *Gazette* vary or add to the list of books set out in subsection (1) of this section.

109.-(1) If in the course of any proceedings relating to the administration or distribution of the estate of a deceased person whose estate is to be distributed according to the Muslim law any court or authority shall be under the duty of determining the persons entitled to share in such estate or the shares to which such persons are respectively entitled, the *Shariah* Court may, on a request by such court or authority or on the application of any person claiming to be a beneficiary and on payment of the prescribed fee, certify upon any set of facts found by such court or authority or on any hypothetical set of facts its opinion as to the persons who are, assuming such facts, whether as found or hypothetical, entitled to share in such estate and as to the shares to which they are respectively entitled.

Inheritance certificate.

(2) The *Shariah* Court may, before certifying its opinion, require to hear the parties on any question of law, but shall not hear evidence or make findings on any question of fact.

(3) In any case of special difficulty the *Shariah* Court may refer the question to the Legal Committee of the *Majlis* for its opinion and shall, if such opinion be given, certify in accordance therewith.

110. In granting letters of administration to the estate of a Muslim dying intestate and leaving a widow or widows, the court may if it thinks fit grant letters of administration to any other next of kin or person entitled to the estate of

Administration of husband's estate.

the deceased under the Muslim law, either to the exclusion of the widow or widows, or jointly with such widow or widows, or any one or more of such widows.

Administra-
tion
of wife's
estate.

111.-(1) When any woman, being the wife of a Muslim, dies intestate leaving property of her own and leaving male children above the age of twenty-one years- 5

(a) such male children shall be entitled to a grant of letters of administration to her estate and effects in preference to her husband;

(b) the husband shall be entitled next after such male children; 10

(c) after such male children and the husband, the daughters, father, mother, brothers, sisters, uncles, aunts, nephews, and nieces of the intestate shall be entitled in the order above set out; and 15

(d) failing all the above, the next nearest of kin according to the Muslim law shall be entitled.

(2) Preference shall be given to male over female relationship of the same degree in the above cases. 20

(3) The children of the husband by other wives shall not be considered as next of kin to the deceased intestate wife, and shall not by reason of such relationship be entitled to a grant of letters of administration to her estate and effects.

(4) Nothing herein contained shall affect the power given to the court by paragraph (d) of subsection (3) of section 18 of the Probate and Administration Ordinance. 25

Cap. 17.

Wills of
married
women.

112. Subject to the provisions of section 105 of this Act Muslim married women may, with or without the concurrence of their husbands, dispose by will of their own property. 30

Property at
marriage.

113.-(1) All the property belonging to a woman on her marriage, whether movable or immovable and however acquired, shall after marriage to a Muslim husband continue, in the absence of special written contract to the contrary, to be her own property. 35

(2) She may dispose of the same by deed or otherwise, with or without the concurrence of her husband.

114.-(1) The following shall be deemed to be the property of a Muslim married woman: -

Property of
a Muslim
married
woman.

5 (a) wages and earnings acquired or gained by her during marriage in any employment, occupation or trade carried on by her and not by her husband;

10 (b) any money or other property acquired by her during marriage through the exercise of any skill or by way of inheritance, legacy, gift, purchase or otherwise; and

(c) all savings from, and investments of, such wages, earnings and property.

(2) Her receipt alone shall be a good discharge for such wages, earnings and property.

15 (3) She may dispose of the same by deed or otherwise and without the concurrence of her husband.

115. A Muslim married woman-

Right to
sue and
liability to
be sued.

20 (a) may maintain a suit in her own name for the recovery of property of any description which is her own property;

(b) shall have in her own name the same remedies, both civil and criminal, against all persons for the protection and security of such property as if she was unmarried; and

25 (c) shall be liable to such suits, processes and orders in respect of such property as she would be liable to if she was unmarried.

116.-(1) If a Muslim married woman possesses property, and if any person enters into a contract with her with reference to such property or on the faith that her obligations arising out of such contract will be satisfied out of her own property, such person shall be entitled to sue her and to the extent of her own property to recover against her whatever he might have recovered in such suit if she had been unmarried at the date of the contract and continued unmarried at the execution of the decree.

Liability on
her own
contracts.

40 (2) The husband shall not, in the absence of special stipulations whereby he has made himself responsible as surety, guarantor, joint contractor or otherwise, be liable to be sued on such contracts.

(3) Nothing herein contained shall annul or abridge the liability of a Muslim husband for debts contracted by his wife's agency, express or implied.

(4) Such liability shall be measured according to the law for the time being in force in Singapore.

Ante-nuptial debts.

117. A Muslim husband shall not by reason only of his marriage be liable for the debts of his wife contracted before marriage, but the wife shall be liable to be sued for and shall to the extent of her own property be liable to satisfy such debts as if she had continued unmarried. 5

Effect of marriage on property,

118. No Muslim person shall by any marriage contracted in accordance with the provisions of the Muslim law acquire any interest in the property of the person whom he or she marries nor become incapable of doing any act in respect of his or her own property which he or she could have done if unmarried. 10

Household property.

119. When a Muslim husband and his wife or wives live together in the same house the household goods, vehicles and household property of every description of the husband and wife or wives, except the paraphernalia of the wife or wives, shall be held *prima facie* to belong to the husband in any question between the husband and his creditors. 15

Part VIII.

20

CONVERSIONS.

Register of converts.

120. The *Majlis* shall maintain a register of the names of all persons converted to the Muslim religion within Singapore, together with such particulars in respect of their conversion as may be prescribed by rules. 25

Control of conversions.

121. No person shall be converted to the Muslim religion otherwise than in accordance with the Muslim law and the provisions of this Act or any rules made thereunder.

Report of conversions.

122. Any Muslim who converts any person to the Muslim religion shall forthwith report such conversion to the *Majlis* with all necessary particulars. 30

Part IX.

OFFENCES.

This Part to apply only to Muslims.

123. Save as is otherwise in this Act expressly provided this Part of this Act shall only apply to Muslims. 35

Omission to register within prescribed time

124. Any person who, being required by this Act to effect the registration of any marriage, divorce or revocation of divorce omits to do so within the prescribed time shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars. 40

125. Any person who-

(a) refuses or omits to hand over any book or seal of office to the Registrar as required by this Act; or

5 (b) is found in possession of such book or seal of office without lawful excuse after such book or seal of office ought to have been made over to or taken possession of by the Registrar,

shall be guilty of an offence and shall be liable on conviction
10 to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

126. Any person other than the Registrar, a *Kathi* or a *Naib Kathi* who-

15 (a) keeps any book being or purporting to be a register of Muslim marriages, divorces or revocations of divorce; or

(b) issues to any person any document being or purporting to be a certificate of marriage, divorce
20 or revocation of divorce,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

25 **127.** Any person who-

(a) solemnizes or purports to solemnize any marriage between Muslims in contravention of the provisions of this Act; or

(b) registers any marriage, divorce or revocation of divorce effected between Muslims in contravention of the provisions of this Act,
30

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such
35 fine and imprisonment.

128.-(1) Any man who cohabits and lives with a woman, whether a Muslim or not, to whom he is not lawfully married, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars
40 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Any woman who cohabits and lives with a man, whether a Muslim or not, to whom she is not lawfully

Omitting to hand over books or seals or being in possession thereof without lawful excuse.

Unlawful registers.

Unlawful solemnization of marriage and unlawful registration of marriage, divorce or revocation of divorce.

Cohabitation outside marriage.

married shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) The court may instead of sentencing a woman under the provisions of subsection (2) of this section order that she be detained in a place of safety established under any written law for such period not exceeding one year as it may determine.

Enticing
unmarried
woman
from *wali*

129. Any person who takes or entices any unmarried woman out of the keeping of the *wali* of such unmarried woman without the consent of such *wali*, shall be guilty of an offence and shall be punished on conviction with imprisonment for a term not exceeding three years and shall also be liable to a fine.

Permis-
sion to
leave
Singapore.

130.-(1) Any man, who is not a citizen of Singapore or of Malaysia and who has married in Singapore, shall not leave Singapore without the permission of the President of the *Majlis* and the President of the *Majlis* may withhold such permission until he is satisfied that such person has made proper provision for the maintenance of his wife and children, if any.

(2) Any person who fails to comply with subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) Nothing herein shall affect the operation of any law for the time being in force relating to immigration.

Non-pay-
ment of
zakat or
fitrah.

131.(1) Whoever, being liable to pay any *zakat* and having failed to procure, in accordance with section 70 of this Act, the cancellation or modification of such liability, shall refuse or wilfully fail to pay the same, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) Whoever being liable to pay any *fitrah* and having failed to procure, in accordance with section 70 of this Act, the cancellation or modification of such liability, shall refuse or wilfully fail to pay the same, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

(3) A conviction under this section shall not operate to extinguish, the debt.

(4) Any *zakat or fitrah* due by any person or the value of the same may be recovered as if the value thereof were recoverable as a fine imposed under the provisions of this ' Act.

132. Whoever being under a duty to report to the *Majlis* a conversion to the Muslim religion under the provisions of this Act wilfully neglects or fails to do so shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Neglect or failure to report conversion.

133.-(1) Whoever shall teach or publicly expound any doctrine or perform any ceremony or act relating to the Muslim religion in any manner contrary to the Muslim law shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

False doctrine.

(2) In any prosecution for an offence under this section, where evidence is given by the President of the *Majlis* that any doctrine, ceremony or act is contrary to the Muslim law, the court shall presume that such doctrine, ceremony or act is contrary to the Muslim law.

134. Any person who attempts to commit, or abets the commission of, any offence under this Act shall be punishable with the same punishment as if he had committed the offence.

Abetment.

Part X.

MISCELLANEOUS.

135.-(1.) Every Registrar, *Kathi* and *Naib Kathi* shall be public servants within the meaning of the Penal Code.

Registrar, *Kathi* and *Naib Kathi* public servants within Penal Code. *Cap. 119.*

(2) All proceedings before the *Shariah* Court or before the Registrar or a *Kathi* or *Naib Kathi* under this Act shall be deemed to be judicial proceedings within the meaning of Chapter XI of the Penal Code.

136.-(1) Every *Kathi* and *Naib Kathi* shall have power to issue a notice or a summons to any person to appear before him and to give evidence or to produce any document in his possession.

Witnesses.

(2) Every person to whom a notice or a summons is sent or served under this section shall be legally bound to comply therewith.

(3) Every *Kathi* and *Naib Kathi* may examine on oath any person who has appeared before him in compliance with a notice or summons. 5

Inspection
and search.

137.-(1) The General Registers and general index of the Registrar shall be open to inspection upon payment of the prescribed fee by any person applying to inspect the same.

(2) The Registrar shall upon payment of the prescribed fee furnish to any person requiring the same a copy of any entry in any of the General Registers certified under his signature and seal of office. 10

Proof.

138. Any General Register and any copy of any entry therein, certified under the hand and seal of the Registrar to be a true copy or extract, shall be *prima facie* evidence in all courts and tribunals in Singapore of the dates and acts contained or set out in such General Register, copy or extract. 15

Rules.

139.-(1) The President of Singapore may make such rules as seem to him necessary or expedient for the purpose of carrying out the provisions of this Act. 20

(2) Such rules may amongst other things regulate the fees to be charged by the *Shariah* Court, and by the Registrar, *Kathis* and *Naib Kathis* and the incidence and application of such fees. 25

Delegation.

140. The President of Singapore may delegate the exercise of all or any of the powers vested in him by this Act to the President of the *Majlis*.

Repeal.
Ord. 25
of 1957.

141. The Muslims Ordinance, 1957, is hereby repealed. 30

APPENDIX II

WRITTEN REPRESENTATIONS

<i>Paper No.</i>		<i>Page</i>
1	Inche Mohd. Yuni bin Awi	B 1
2	Inche Yaacob bin Alias	B 6
3	Inche Syed Saline bin Syed Mohamed	B 8
4	Mr. Nazir Mallal	B 10
5	Mrs. M. Siraj, Miss Habibah Abdul Rahim and Miss Hilal Jaafar	B 17
6	Mr. R. W. Bach	B 18
7	South Indian Jamiathul Ulama	B 19
8	Jama'at Ahmadiyyah	B 20
9	Muslimin Trust Fund Association	B 25
10	The Pakistani Association	B 27
11	All Malaya Muslim Missionary Society	B 28
12	United Malays National Organisation	B 29
13	Mr. Kader Jamal Mohamed	B 32
14	Muslim Welfare Association	B 40
15	Inche Ibrahim bin Hamzah	B 42
16	Masjid Abdul Hamid Kampong Pasiran	B 43
17	Inche A. Rahman Jamaluddin Al-Jempoly	B 44
18	Pertubohan Muslimin	B 46

Paper S.C. (Administration of Muslim Law Bill) No. 1

MOHD. YUNI BIN AWI,
38, Lorong 21, Geylang,
Singapore 14.

3rd January, 1966.

The Honourable Mr. Speaker,
Singapore Parliament,
Parliament House,
Singapore 6

Honourable Sir,

In view of the Administration of Muslim Law Bill 1965 now being referred to a Select Committee which I understand will be headed by your honourable self, may I as a layman offer the following few points, if I may be permitted to do so, for your Select Committee's consideration and deliberation:

1. Whereas it is required under section 31 that the Legal Committee of the Majlis shall consist of persons who are fit and proper Muslims to be appointed by the President of Singapore on the advice of the Majlis, it would appear to me that this qualification of 'fit and proper Muslims' is silent with regard to the appointment of members to the Majlis with the exception of the Mufti who under section 30 (1) shall be a fit and-proper person.

2. Section 37 (1) stipulates that the languages of the Shariah Court shall be the national language and English and 37 (2) says that all documents and written proceedings may be written or typewritten in the national language (Jawi or Rumi script), but in the case of the Majlis it is not laid down whether all its deliberations shall be conducted and recorded in the national language or English or either one.

3. It is not laid down in the Bill whether the members of the Majlis shall be appointed from Singapore Citizen Muslims only or Muslims who are non-citizens but residing in Singapore.

4. The President of the Majlis, under section 22 (3), has a casting vote in the event of equality of votes. The Mufti, being a member of the Majlis shall also have a right to vote. Supposing the Mufti spoke strongly for or against an important issue and when a vote was taken it turned out to be equal. Under the circumstances who under the Muslim ruling should take precedence in deciding the issue -the President by virtue of section 22 (3) vested in him or the Mufti who should be the most eminent and versed in religious matters.

5. The Bill when enacted will be published in English, and unless it is translated into the national language, would those members of the Majlis who may not understand English be said to be competent persons to sit in the Majlis whose constitution is written in English.

6. Should some of the religious schools have to be closed down under section 83 (5) for failure to conform with the requirements of the Majlis, what would be the fate of the students of such schools should they be unable to find accommodation at other religious schools many of which have limited intake capacity.

May you have good sittings and deliberations in your Select Committee and wishing you and your Committee every success and a Happy and Prosperous Singapore.

Yours very truly, Sir,
Mohd. Yuni bin Awl.

(Additional representations)

1st February, 1966.

Further to my letter dated 3rd January, 1966 wherein I submitted certain views to the Select Committee of the above Bill and our subsequent correspondence thereto, may I be permitted to submit in addition my further views as follows:

7. Section 15 (1) allows at least one-third of the members present at a meeting to adopt a resolution or validate an action of the Majlis. This would mean that 5 members out of a possible 14 members of the Majlis (see the composition of the Majlis under section 7 (1)) are considered sufficient to decide an issue for the possible 14 members. As religious issues should be viewed with great importance, may I suggest that at least half the number of the Majlis members present at a meeting should be given the power to pass a resolution or validate an action of the Majlis, so that at least a majority number shall have deliberated and decided on an issue. Perhaps the idea of the one-third number was mooted due to an anticipated difficulty in getting a bigger number of members to be present at a meeting, but I would suggest that members who are appointed to the Majlis must be the type who understand and realise that their duty and responsibility to the Muslim public are of the paramount importance and that they should always make it a point to attend all meetings except of course when they are ill or away from the State when their absence could be excused. If this attitude should prevail, then I can envisage no difficulty for the Majlis to have a majority number attending every meeting. The provision of 10 (c) however, would not serve much purpose as a member could always absent himself for two consecutive meetings and attend the following third meeting thus getting away from the prospect of his appointment being cancelled when he fails to attend three consecutive meetings without satisfactory reasons.

8. Getting back to my point 4 in my letter dated 3rd January on the question of casting vote by the President of the Majlis, I would like to bring to the kind attention of the Select Committee the text of section 32 (4) which reads: "If in any Court any question of the Muslim law fall for decision, and such court requests the opinion of the Majlis on such question, the question shall be referred to the Legal Committee, which shall, for and on behalf and in the name of the Majlis, give its opinion thereon in accordance with the opinion of the majority of its members, and certify such opinion to the requesting court." The impression given here, to me, is that the Legal Committee is given a leeway in making deliberation and submitting its opinion on an issue referred to it by the court through the Majlis, but the Legal Committee without the necessity of having to refer its opinion on the

issue to the Majlis, could certify such opinion to the requesting court, only it is executed in the name of the Majlis. By the same token, may I suggest that in the event of an equality of votes in the taking of a decision on an issue in the Majlis, the issue should first be referred to the Legal Committee for an opinion before the President casts his decisive vote at the next Majlis meeting. In this manner the President's casting vote will have been strengthened and fortified by the Legal Committee's opinion.

9. Section 49 (1) gives a married woman an entitlement to apply to Court for and obtain a decree of fasakh on any one or more of the following grounds: -

- (a) that the husband has neglected or failed to provide for her maintenance for a period of one year;

I think the purpose of legislating Part III of this Bill is to deter indiscreet husbands from indulging in easy divorces and alleviate the suffering of married Muslim women who may suffer following such easy divorces, but it is a little difficult for me to comprehend how section 49 (1) (a) would serve this purpose as a scheming husband is free to neglect or fail to provide for his wife's maintenance for, say, a period of 10 months, and in order to get around the law, begins to provide for her maintenance for a few months after the eleventh month, and then stops again maintaining the wife. In this way, the wife could not free herself from the scheming husband and could forever be 'suspended', not knowing what her future would be. She could not apply for a decree of fasakh because the husband has kept himself within the law. Therefore in order to provide certain protection for the wife from such a scheming husband, may I suggest that some safeguard clause be considered whereby the married woman could make a report to the Court in cases where a husband has neglected or failed to provide for her maintenance for three months and the Court could summon the husband to enquire into the reasons for his negligence and failure to maintain his wife, and if found that he is financially able, he should be made to provide for her maintenance. If he is financially disable, then every three months thereafter his financial position should be re-examined, and if he is still not in a position to provide for his wife's maintenance up to the period of one year, the wife could then apply for a decree of fasakh in accordance with section 49 (1) (a).

10. Section 49 (1) (b) provides freedom for a married woman to apply and obtain a decree of fasakh from a husband who has been sentenced to imprisonment for a period of seven or more years, but not for a married woman whose husband has been sentenced to imprisonment for a lesser period, say six years. The latter married woman, without any maintenance from the imprisoned husband, may have to suffer hardship for the long period of six years. May I therefore suggest that such married woman as in the latter category be provided with monetary assistance out of the Zakat Fitrah residues, provided such married woman is actually in need of such assistance.

11. Section 49 (1) (f) (i) says that a married woman could apply for a decree of fasakh if her husband treats her with cruelty, that is to say-

- (i) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment;

Would habitual drunkenness on the part of the husband such that he makes a nuisance of himself in the house and causes embarrassment to the wife and neighbours come within the meaning of cruelty of conduct amounting to making her life miserable?

12. Section 55 states "If the husband of any married woman has died or is believed to have died or has not been heard of over a prolonged period, etc. etc.". How long is a prolonged period? Could it be said that a husband who has not been heard of over a prolonged period is in a similar position to the husband of a married woman in section 49 (1) (a) where the husband has neglected or failed to provide for the wife's maintenance for a period of one year. In the case of the married woman in section 49 (1) (a), she could apply and obtain a decree of fasakh after her husband's failure to provide maintenance for her for a period of one year; whereas the married woman in section 55, although not receiving any maintenance from her not-been-heard-of husband, could not apply for fasakh but has to wait for an indefinite period.

13. Section 52 (3) states: "A woman who has been divorced and who is not or has ceased to be entitled to an order for maintenance under subsection (2) of this section may apply to the Court and the Court may, if satisfied that it is just and proper so to do in view of all the circumstances of the case, make an order against the former husband for the payment by him of such sums for such period as the Court considers fit." In concurring with this clause of section 52, may I be permitted to quote the following views as expressed by Syed Ahmad Moinuddin Habibi, a Research Fellow in Islamic Law at the University of Singapore in an article appearing in the world *Muslim League Magazine* of September/ October 1965 issue under the heading "A Critique of the Legal Reforms in the Muslim World" on page 39: -

"At present the divorced wife in Singapore is only entitled to maintenance for the three months of iddat or waiting period and the amount of compensation (if any) or maintenance awarded is very low. Thus the wife has only to be content with the small maintenance for a short period, which may cause damage and hardship to her. Hence there is room for reform. It is suggested that where the wife has been repudiated without adequate or just cause and could show that she would suffer damage and poverty as a result, the husband should be required by the Court to award adequate compensation to the maximum extent of one year's maintenance, so long as the wife remains unmarried. This proposal, if accepted, would be an outstanding instance of legislative relief and protection for the injurious wife who is unjustifiably divorced."

14. Section 92 (4) states that no marriage shall be solemnised under this Act if at the date of the marriage either party is under the age of fifteen years with a provision that the marriage of a girl under fifteen but has attained the age of puberty may be solemnized by a Kathi in special circumstances.

Pertaining to this section, may I be allowed to quote the following views as expressed by Enche Ahmad bin Mohamed Ibrahim (our State Advocate-General, I believe) in his talk at a Lions Club Luncheon as appearing in the *World Muslim League Magazine* of November/December 1965 issue-page 63:-

"Age of Marriage:

In Singapore under the Women's Charter, 1961, the minimum age of marriage is fixed at eighteen years for both sexes with a power to the Minister to give dispensation where the girl is under eighteen years. This does not apply to Muslims. Therefore while in the case of the other races, the parties to the Marriage will normally be educated and of an age to undertake the responsibilities of marriage, in the case of Muslims it is still possible

for Malay parents to take their girls from school to get them married. Early marriages means that the girls are not quite ready for married life. They will be poorly educated and if there is any trouble between the parties, the girls will be at a disadvantage. If the marriage breaks up, she will not be able to go out and earn a living for herself. Eventually it is the children who suffer because the mother being poorly educated and improperly trained is unable to bring up the children properly and adequately according to modern standards. Muslim law does not provide for a minimum age of marriage but there is nothing in Muslim Law which prevents the Government from laying down a minimum age of marriage. Such minimum ages have been laid down in many Muslim countries and there is no reason why the Muslims. in Malaysia (Singapore - mine) should not accept such legislation."

I could not agree more with the above views for common sense will tell us that a girl of fifteen generally is too young and tender to be saddled with the responsibilities and duties of a wife and mother (possibly by the the age of sixteen). It may be so that there may be girls at fifteen who are of robust build and radiant health and capable of being a wife, but they are the exception rather than the rule, particularly among the Malays. In view of this, and Islam encourages the use of common sense, may I offer a suggestion in line with the above views of Enche Ahmad bin Mohamed Ibrahim that the marriageable age for Muslim girls be increased to sixteen years, provided that under special and extenuating circumstances a Muslim girl under this age but who has attained the age of puberty may be married off provided she is of robust build and good health and is ready for wifedom and possible early motherhood. Generally, we find a girl of fifteen nowadays is still between a small girl and a big girl in her behaviour and mannerism and oblivious to the responsibilities of a mature girl. If such a girl is married to a man who is not the tolerant and understanding type, there is every possibility of the marriage becoming stormy.

15. Section 132 (2) says "Whoever ill-treats his wife shall be guilty of an offence and on conviction shall be fined or imprisoned and section 49 (1) (f) entitles a married woman to apply to the Court to apply for a decree of fasakh if the husband treats her with cruelty, that is to say, inter alia-habitually assaults her or makes her life miserable by cruelty of conduct (in other words ill-treats his wife -my version). Let us presume that a married woman who has been ill-treated by her husband applies section 132 (a) against her husband, and on conviction, the husband is fined or sentenced to imprisonment, is this conducive to good husband-wife relationship? I doubt it because it would be only natural that the husband would feel bitter against the wife after he has served his punishment. To my feeble mind, both sections 132 (2) and 49 (1) (f) are almost similar in purpose -only one is harsher than the other.. I should think that section 49 (1) (f) *will* serve as a sufficient deterrent to a husband to commit an act of cruelty on or ill-treat his wife. The prospect of his character being exposed before the Court (public) and the shame he will suffer if he is found to be in the wrong, and the loss of his wife if she is granted a decree of fasakh against her 'cruel' husband is enough punishment for him. Therefore may I suggest that section 132 (2) be reviewed by the Select Committee with the view to recommending for its deletion.

Thanking you,

Yours faithfully,
Mohd. Yuni bin Awi.

Paper S.C. (Administration of Muslim Law Bill) No. 2

(Translation from Malay)

YAACOB BIN ALIAS,
130 Upper Serangoon Road,
Singapore 13.

11th January, 1966.

Clerk of Parliament,
Parliament House,
Empress Place,
Singapore 6.

Sir,

With reference to what is in the Muslims Act which has been compiled by the 'Majlis Ugama Islam' in Government *Gazette* No. 5 of Saturday 18th December, 1965, I am submitting a representation to the 'Majlis'.

The Majlis should issue 'fetuas' or books truly based on the teachings of Islam, that is to say, on the Quran and the valid Traditions of the Prophet, for distribution to 'Imams' of mosques throughout Singapore for use as guidance in Friday sermons.

The reason for my opinion is that most 'Imams' or 'Khatibs' deliver sermons from sermon books which are outmoded and no longer in keeping with present trends; there are some who deviate and issue 'fetuas' according to their own whims and fanciful opinions without any basis either from the Quran or the Traditions of the great Prophet Muhammad.

Because of that, the consequence is that now, society is in a frigid state, frozen by the 'Ulemas' and the 'Imam² Alsuk' (of evil connotation) who seek to further their own selfish interest; our society finds itself in a very sorry state, still shackled by decayed customs inherited from our fore-fathers and by remnants of Hindu custom which are hardly ever practised at all any more by the Hindus themselves - customs which run counter to the teachings of Islam. Examples of such customs are the 'adat nikah kahwin', 'adat berlimau', customs pertaining to child birth such as the 'melinggang perut' and the custom of 'kenduri orang mati' after the dead has been buried. Our society is further saddled by narrow outlook in matters of religion, making life burdensome for them; many are still unable to adjust themselves to the change of time, living in conditions of dire penury and destitution. Many are the widows who, on the death of their husbands, live in misery, begging on five-foot ways or becoming prostitutes; and orphans increase in number day by day. All this is due to the fact that the 'Imams' in the kampongs have been reluctant to preach thrift and call on the people to do away with unnecessary things, to stop spending money extravagantly, to do away with lavish marriage receptions and costly feasts for the dead whereby wives have to sell what few belongings they have left by their husbands or to mortgage their property and be deeply in debt. Outmoded customs such as these are contrary to the teachings of Islam, for God had never decreed such things. Nay, such things are accursed by Him. That is why we find Muslims today are more depressed and backward, their society in disorder, the

people getting poorer day by day, and the light of Islam waning. They are still practising outmoded customs, misfortune after misfortune befalling them. But this is on the behest of the 'alim ulamas' and 'Imams' in the kampongs; the people are still bound and deceived by falsehoods and sugar-coated words and influenced by the farcical teachings of those whom they believe and trust.

I have often heard the 'Imams' and 'Khatibs' in the course of delivering their sermons referring to 'sunnah' as 'bida'a' and to 'bida'a' as 'sunnah'. Thus the people are perplexed as to which one to accept. If all 'Imams' and 'Khatibs' properly seek guidance from the Quran and the Traditions, Muslims will not be tossed about in uncertainty; they will not be disunited into tribal groups or factions or racial communities; the reason for their being split derives from the 'Alim Ulama Alsuk' (of evil connotation) and 'Imams' of narrow-minded disposition.

If, in delivering sermons from the pulpit, 'Imams' would preach their advice to Muslims based on the Quran, there would surely be no disarray. The Quran uncovers secrets, ensures peace in life from this world to the hereafter. Such is the magnitude of the Quran and so overwhelming its contents that if the world would adhere to its precepts, peace and tranquility would assuredly ensue.

Islam is a religion and it also embodies a 'share'at' (the Canon law for carrying out the commandments of Allah)-an organised body of law that lays down the lines of human conduct for the people of the world. When human beings faithfully conduct themselves in accordance with the commandments of Allah, they are called the followers of Islam.

As we know, Islam lays down rules and codes of human conduct, and whensoever human beings faithfully follow the teachings of Islam as decreed by Allah, they will be in high esteem and enjoy peace and happiness, because the law of Islam enjoins human beings to attain equality, unity and brotherhood, leading to achievement of happiness.

On the other hand, great will be the sins of those who disobey the laws of Allah and fail to uphold the Quran as the cannon law of Allah, particularly of the 'Alim Ulama' who fail to come forth to enjoin the people to seek Truth as laid out in the Quran and had been there for many hundreds of years; rather the 'Alim Ulama' have kept the secrets hidden therein from the people, for their own selfish ends.

Allah has said in the 'Al-maidah' verse 45: "And if any do fail to judge by (the light of) what God hath revealed, they are (no better than) wrong-doers".

Further, Allah has said in the 'Al-maidah' verse 47: "And if any do fail to judge by (the light of) what God hath revealed, they are (no better than) those who rebel".

And Allah has again said in the 'Al-maidah' verse 44: "And if any do fail to judge by (the light of) what God hath revealed, they are (no better than) Unbelievers".

Thus God has said in the three verses above that whosoever fails to judge by what God has revealed, then those other than Muslims, whether it be from Muslim law itself, and the Muslims it will not be possible that they meet justice by themselves being excluded from Islam, that such persons are 'mortad' (apostates).

This is all for now that I am able to submit to you concerning 'Alim Ulamas' who, having nobody's care, freely give their own 'fetuas'. And I hope it will be possible for you to give weighty consideration on the matter.

That is all for now. If I am invited, I would daringly come forward to make representations on many more matters.

Thank you: if there is any inadvertence, I seek Your forgiveness in advance.

Yours faithfully,
Yaacob bin Alias.

Paper S.C. (Administration of Muslim Law Bill) No. 3

(Translation from Malay)

SYED SALIM BIN SYED MOHAMED,
Masjid Alkaff,
130 Upper Serangoon Road,
Singapore 13.

12th January, 1966.

Clerk of Parliament,
Parliament House,
Empress Place,
Singapore 6.

Sir,

With reference to the Muslims Act compiled by the 'Majlis Ugama Islam, Singapura' in the Government *Gazette* No. 5 of Saturday 18th December, 1965, I wish to submit a representation to the Majlis.

The Majlis should set up a special 'Jabatan Ugama' (Religious Department) for our Republic of Singapore.

With the existence of the 'Jabatan Ugama' the 'Jabatan Ugama Islam' (Department of the Religion of Islam) could automatically control all matters pertaining to the Muslim community throughout Singapore.

- (a) The 'Jabatan Ugama' should collect all 'Zakat Harta' (tithes on property) of all Muslim property owners.
- (b) The 'Jabatan Ugama' is entitled to distribute the collections to those entitled to receive Zakat (the eight 'Asnabs').
- (c) The 'Jabatan Ugama Islam' should be under a Ministry.
- (d) The 'Jabatan Ugama' should issue Fetuas or Books properly based on the teachings of Islam, that is to say, the Quran and the 'Hadith Nabi Mohamed' (Traditions of Prophet Muhammad) which are valid, to be given to 'Imams' of mosques throughout Singapore for use as guidance for Friday sermons.

The reason for my opinion is so that beggars at the roadsides will diminish in number with the existence of a 'Jabatan Ugama' set up by the Government. In most cases distribution of 'Zakat' is carried out in a discriminatory manner; at times some receive more and some receive less, and sometimes, those who are not entitled to receive 'Zakat' come forward to take a share; this, in my view is most improper.

With regard to the 'Fetuas' or Books needed to be used as guidance for Friday sermons, most 'Imams' or 'Khatibs' deliver their sermons by using sermon books which are outmoded and no longer in keeping with present trends; and there are some who deviate by issuing 'fetuas' according to their own whims and opinions without following leanings on the Quran and the valid Traditions of Prophet Muhammad.

Because of that, the consequence is that now, society is in a frigid state, frozen by the 'Ulemas' and the 'Imam² Alsuk' (of evil connotation) who seek to further their own selfish interest; our society finds itself in a very sorry state, still shackled by decayed customs inherited from our fore-fathers, and by remnants of Hindu custom which are hardly ever practised at all any more by the Hindus themselves - customs which run counter to the teachings of Islam. Examples of such customs are the 'adat nikah Kahwin', 'adat berlimau', customs pertaining to child-birth such as the 'melinggang perut' and the custom of 'kenduri orang mati' after burial of the dead. Our society is further saddled by narrow outlook in matters of religion, making life burdensome for them; many are still unable to adjust themselves to the change of time, living in conditions of dire penury and destitution. Many are the widows who, on the death of their husbands, live in misery by the roadside as Beggars; the number of orphans increase day by day. All this is due to the fact that the 'Imams' in the kampongs are reluctant to advise cutting down on extravagance and wasteful spending in holding lavish marriage feasts whereby wives have to sell what few belongings are left by their husbands and to mortgage their property leaving them in debt. Outmoded customs such as these are contrary to the teachings of Islam. Nor has God decreed that such things be done; in fact such things are accursed by Him. That is why we find Muslims today are more depressed and backward.

Society is in disorder; day by day the people are becoming poorer and the light of Islam is waning with the people still practising outmoded customs, and misfortune after misfortune befalling them. But this is on the behest of the 'alim ulamas' and 'Imams' in the kampongs; the people are still bound and deceived by falsehoods and sugar-coated words and influenced by the farcical teachings of those whom they believe and trust.

I have often heard the 'Imams' and 'Katibs' in the course of delivering their sermons referring to 'sunnah' as 'bida'a' and to 'bida'a' as 'sunnah'. Whereas, if all 'Imams' of today seek to be guided by the Quran and the Traditions, the Muslim community of today will not be tossed about or disunited into racial factions; for, so long as they are Muslims, they are all one, irrespective of the colour of their skin, whether black or white. The reason for their split and disunity derives from the 'Alim Ulama Alsook' (of evil connotation) and the 'Imams' of narrow-minded disposition.

If the said 'Imams' preach advice to Friday congregations during their sermons based on the Quran, the Holy Book of Allah, that would lead the people to live in happiness, prosperity and peace in this world and in the hereafter.

Allah has said in the Quran, in the chapter on 'Al-maidah' at verse 44: "And if any do fail to judge by (the light of) what God hath revealed, they are (no better than) Unbelievers".

And at verse 45: "And if any do fail to judge by (the light of) what God hath revealed, they are (no better than) wrong-doers".

And at verse 47: "And if any do fail to judge by (the light of) what God hath revealed, they are (no better than) those who rebel".

Thus God has said by the three similar verses that whosoever fails to judge by what God has sent down, then he is an Unbeliever, a Wrong-doer and a Rebel. Oh, if we regard the law other than that from Allah is better than that which is from the Muslim law itself, it is not possible to meet justice by himself being excluded from Islam - that such a person is an apostate.

This is all for now that I am able to submit to you concerning 'Alim Ulamas' who, having nobody's care, freely give their own 'fetuas'. And I hope it will be possible for you to give weighty consideration on the matter.

That is all for now. If I'm invited, I am prepared to come forward to make representations on many more matters.

Thank you, if there is any inadvertence, I seek your forgiveness in advance.

Yours faithfully,
Syed Salim.

Paper S.C. (Administration of Muslim Law Bill) No. 4

NAZIR MALLAL,
No. 11 D'Almeida Street,
Singapore I.

The Clerk of Parliament,
Parliament House,
Singapore.

26th January, 1966.

Dear Sir,

Bill No. 61
The Administration of Muslim Law Act.

I have the following representations to make in regard to the above: -

(1) Re Distribution of Estates on Intestacy or under Will. Sections 107 and 108 of the Bill

(a) Section 108 of the Bill provides that in the case of any Muslim person dying intestate his estate and effects shall be distributed according to Muslim Law.

(b) Under Sunni Muslim Law no one who is a non-Muslim can inherit.

(c) Prior to 1880 in Singapore the estate of an intestate deceased Muslim was divisible among his next-of-kin according to English Law. Then came the Mohammedan Marriage Ordinance, 1880, and under the provisions of that Ordinance the estate of an intestate deceased Muslim became divisible partly according to English Law and partly according to Muslim Law.

(d) On the 1st January, 1924 The Mohammedan Ordinance No. 26 of 1923 came into force. That Ordinance enacted that the estate of any Muslim dying intestate after 1st January, 1924 shall be administered according to Muslim Law provided that any next-of-kin who was not a Muslim shall be entitled to share in the distribution as though he were a Muslim. That Ordinance later became Chapter 46 of the Revised Edition of the Laws of Singapore.

(e) The Muslims Ordinance (Chapter 46) remained in force until 1958. It was repealed by the Muslims Ordinance (No. 25 of 1957) which came into force on 25th November, 1958. Section 42 of Ordinance No. 25 of 1957 read as follows:-

"42.-In the case of any Muslim person dying intestate after the 1st January, 1924, the estate and effects shall be administered according to the law of Islam, except in so far as such law is opposed to any local custom which prior to the 1st January, 1924, had the force of law; Provided that any of the next-of-kin who is not a Muslim shall be entitled to share in the distribution as though he were a Muslim."

(f) Then in 1960 an Ordinance known as No. 40 of 1960 was passed. It was passed without any prior publicity having been given to it. By that Ordinance the said proviso to section 42 was deleted. Although I glanced through the Bill published in the Government *Gazette* I did not notice that the said Proviso was proposed to be deleted. Nor did Mr. Namazie of this office. As a result of enactment of Ordinance No. 40 of 1960 no non-Muslim next-of-kin of a deceased Muslim dying intestate can share in his estate. Since the founding of Singapore a non-Muslim next-of-kin of a deceased Muslim could inherit, but suddenly in 1960 it was enacted that he should not.

(g) It has also to be borne in mind that until now a Muslim in Singapore could make a Will and by his Will he could bequeath to a non-Muslim relation or anyone else such part of his estate as he thought fit. But now under section 107 of the Bill now before Parliament he can only make a Will in accordance with Muslim Law. Under Muslim Law of Wills a Muslim can will away only one-third of his estate. The remaining two-thirds must go to his next-of-kin and distributed among them according to Muslim Law. It is doubtful whether under Muslim Law even the bequeathable one-third can be bequeathed to a person who is a non-Muslim since it is a principle of Muslim Law that a Muslim cannot inherit from a non-Muslim and a non-Muslim cannot inherit from a Muslim.

(h) Should sections 107 and 108 of the Bill become law the following results will ensue: -

- (i) Although a Muslim can lawfully marry a Christian or a Jewish woman, on his death testate or intestate his Christian or Jewish wife will not be able to claim a share in his estate nor his children should they be non-Muslims. In that case if there are no other kindred his whole estate will go to the Government.

- (ii) No non-Muslim owning any property is likely to embrace Islam as by doing so his non-Muslim next-of-kin will inherit nothing from his estate and the whole of his property would go to the Government.
- (iii) No non-Muslim is likely to take a Muslim into partnership with him in a mercantile firm as immediately on the Muslim partner's death his share in the business will have to be taken out and the partnership wound up, unless of course all the next-of-kin consent that the deceased's share should continue to be retained in the firm. This they will not be able to do if any of the next-of-kin are minors.

(i) In a multi-racial and multi-religious society such as we have here and where all races and religions live in peace and harmony with one another it would be inadvisable and harmful to the Community to promulgate laws which will have the effect of penalising those who do not follow Islam. Singapore, thank God, is a secular State. No attempt should be made to turn it into a Muslim theocracy. In this connection I should like to refer to the following passage which appeared in an article by our very learned Attorney-General Dr. Ahmad bin Mohamed Ibrahim published in *The Malayan Law Journal* of March 1965: -

"It is undoubtedly true that marriage with a non-Muslim is frowned upon in Muslim Law. The reasons for this as pointed out by Syed Ameer Ali are largely historical. Difference of religion implied in the earlier times hostility to the commonwealth of Islam and apostasy was regarded as tantamount to treason. In a modern society in which Muslims and non-Muslims live together in amity as fellow citizens of the State with equal rights and responsibilities, it seems fair and equitable that men and women of full age should have the right to marry and have a family without any limitation due to race, nationality or religion; and so it is provided in the Universal Declaration of Human Rights."

(k) Relevant parts of section 41 of Ordinance No. 25 of 1957 reads as follows: —

"41.-(1) Where after the commencement of this Ordinance a Muslim dies domiciled in the Colony leaving a Will and leaving any person who is, under the school of the law of Islam to which the deceased belonged at the time of his death entitled —

(a) to a share in the estate of the testator; or

(b) to take the residue or any part thereof, of the estate of the testator

then, if the court on application by or on behalf of any such person finds that the will does not make provision or sufficient provision for that person in accordance with the school of law of Islam to which the deceased belonged at the date of his death, the court shall make an order, not inconsistent with such school of law, varying the will of the testator in order that provision or sufficient provision in accordance with such school of law shall be made out of the testator's net estate for that person.

(2) In determining in what way and as from what date provision for any person ought to be made by an order under subsection (1) of this section, the court shall, as far as possible, ensure that the order does not necessitate a realisation that would be improvident having regard to the nature of the testator's estate and the interests of the heirs as a whole.

(3) An order under this section shall not be made save on an application made within six months from the date on which probate or letters of administration in regard to the testator's estate is first extracted.

(4) Where an order is made under this Ordinance, then for all purposes, including the purposes of any written law relating to estate duty, the will shall have had effect as from the testator's death, as if it had been executed with such variations as may be specified in such order."

(l) It will therefore be seen that section 41 of the Ordinance provides sufficient safeguards against the contingency of a Muslim dying leaving a will under which he has not provided for any of his next-of-kin. This Section attempts to achieve the same results as the Inheritance (Family Provision) Act, 1938 of England.

(m) Another objection to section 107 of the Bill is that it seeks to override all principles observed by International Law and comity of Nations. The wording of section 107 (1) is as follows: -

"Section 107 (1). Notwithstanding anything contained in the provisions of the English Law or in any other written law no Muslim shall, after the coming into operation of this Act, dispose of his property by Will except in accordance with the provisions of and subject to the restrictions imposed by the school of Muslim Law professed by him."

All the civilised countries of the world recognise the validity of a will as to movables if such will is valid according to the laws of the Testator's domicile or his nationality. The validity of a will as to immovables is of course governed by the *lex situs* except in certain countries such as Germany, Switzerland, Italy, Spain, Portugal and the Scandinavian States which apply the *lex domicilii* or the *lex patritae* for both movables and immovables.

By section 107 (1) it is sought to legislate for persons domiciled in or nationals of foreign countries which is absurd. Let us take a concrete example: A Muslim domiciled in Hongkong has movable property in Singapore which forms the bulk of his assets. He dies leaving a will under which he bequeaths the whole of his assets in Singapore to a friend. According to the laws of Hongkong his will is valid. According to section 107 his Will is invalid. I wonder what the Courts will hold in such a case. Section 41 of Ordinance No. 25 of 1957 quite rightly and properly dealt only with Wills of Muslims dying domiciled in Singapore.

(n) In this connection we must not forget that in this State of ours where commerce and business are the main avocation of the citizens the Muslim businessman has to compete against stiff opposition. By dint of hard work he manages to establish a business, which he wants his son or sons, who are capable of doing so, to carry on after his death. He naturally makes a will leaving the business to one or more of his capable sons excluding therefrom his son or sons who are no good and wastrels. This he has been able to do so far by making a will. Should the new bill become law as it stands immediately upon his death his business will have to be wound up and the proceeds divided among his next-of-kin. As one businessman has put it to me, "Is it worthwhile establishing a sound business and planning for the future when immediately after my death my no good 2 sons now in India will just walk in and sell up everything?" I have advised him that he could get round the difficulty by converting his business into a limited liability company which he is now proceeding to do. But I am afraid there are many others who have not yet reached his state of education and awareness. I may mention that the big Muslim

businessmen in India and Pakistan are mostly the people known as "Khojas." They still have the right by law in India to will away the whole of their property in any manner they think fit. I believe they have a similar right in Pakistan.

(o) I therefore pray that the Legislature will see fit to delete section 108 of the Bill and replace it by section 42 of Ordinance No. 25 of 1957 as it stood prior to the passing of Ordinance No. 40 of 1960 and delete section 107 of the Bill and replace it by section 41 of the same Ordinance.

(p) I also pray that section 40 (3) of Ordinance No. 25 of 1957 be retained so that a Muslim may have the right to direct by his will that his or her estate shall be administered according to the law of Islam.

(2) *Re Share for Children of a deceased son or daughter.*

(a) Under Muslim Law if a son or daughter of a Muslim Intestate predeceases him the children of such predeceased son or daughter are not entitled to share in the estate of the Muslim Intestate.

(b) This has caused, to my knowledge, considerable hardship and suffering.

(c) Section 4 of the Muslim Family Laws Ordinance 1961 of Pakistan reads as follows: —

"4.-Succession.-In the event of the death of any son or daughter of the *propositus* before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall *per stirpes*, receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive."

(d) According to a book entitled *Islamic Law in the Modern World* by Dr. J. N. D. Anderson, Professor of Oriental Laws in the University of London and published in 1959, under the laws of Egypt, the children of predeceased child receive a share in the estate of their grandfather and under the laws of Syria and Morocco the children of predeceased son only receive such share.

(e) I pray that our laws should also make provision for grandchildren on the lines of the laws of Pakistan and Egypt or on the lines of those of Syria and Morocco.

(3) *Re section 85 of the Bill:*

(a) This section reads as follows: -

"The provisions of this part of this Act shall apply only to marriages, one or both of the parties to which profess the Muslim religion and which are solemnised in accordance with Muslim Law."

(b) This section clearly envisages the registration of marriages between male Muslims and female Christians or Jews and will therefore be welcome by all right-thinking persons.

(c) It should, however, be made clear in the Act that the Kathis are authorised to solemnise marriages between male Muslims and female Christians or Jewesses, as some of the Kathis in Singapore, if I may say so without causing offence, are far from learned in the Laws of Islam and may not carry out the intention of the section, particularly so as until now no such marriages have been solemnised by Kathis in Singapore.

(4) *Re section 130 of the Bill:*

(a) This section discriminates against a section of the population of Singapore and should not be enacted, particularly so as there is no provision in our laws for the marriage of a Muslim with a non-Muslim woman who is neither a Christian nor a Jewess.

(b) In this connection I wish to bring to the notice of the Legislature the Special Marriage Act 43 of 1954 of India. Under that Act a Muslim can contract a civil marriage with any non-Muslim person and if he does so succession to his property on his death is regulated by the Indian Succession Act 39 of 1925. (See FYZEE 3rd Edition p. 97).

(c) Our political leaders exhort us everyday to do everything possible to bring the various communities inhabiting Singapore more and more together. I can think of nothing better to bring the communities together than an enactment on the lines of the Indian Special Marriage Act 43 of 1954.

(d) Another objection to section 130 of the Bill is that it seeks to interfere with the private lives of the citizens. It also reminds one of the apartheid laws of South Africa against which almost all countries of the world are protesting. It would also have the effect of putting in jeopardy perfectly respectable persons who may be lawfully married under the laws of countries other than Singapore but not lawfully married according to the Laws of Singapore.

(5) *Re section 134 of the Bill:*

This section is most objectionable as it interferes with the right of a resident of Singapore to go abroad in a hurry for business or other purposes. I fully appreciate the reasons for enacting this section, but the object can easily be achieved if it were made to apply only in a case where a dependant of the person concerned has made a prior complaint to the President of the Majlis of his or her suspicion that the person concerned is proposing to leave the country without making sufficient provision for him or her.

(6) *Re section 71 of the Bill - "Zakat."*

(a) I admit that payment of Zakat is the duty of every Muslim.

(b) In the olden days every Muslim paid Zakat. The money so collected was devoted to the defence of the State, the payment of the salaries of the officials employed in its collection and the support of indigent Muslims. No land tax was levied from the Muslims. The land tax was levied under the name of "Kharaj" on the property of Zimmis or non-Muslim subjects. (See *A Short History of the Saracens* by Ameer Ali, page 63).

(c) Where Land Tax, Income Tax, and other taxes are levied as by the State of Singapore it would be improper to levy compulsory Zakat.

(d) At present no Zakat is levied in any Muslim country, except the States of Malaya. Even in Saudi Arabia where strict Muslim Law is the law of the land no Zakat is levied. Article 6 of the Fundamental Law of the Hijaz reads as follows:-

"Legislation in the Kingdom of the Hijaz shall always conform to the Book of God, the Sunna of his Prophet and the conduct of the Prophet's Companions and pious Followers."

(e) There is considerable misunderstanding among the general body of Muslims as to what Zakat is. From the books I have consulted it appears that Zakat is payable on the following only: -

- (i) Camels, cattle, sheep and goats owned by a Muslim.
- (ii) Agricultural produce.
- (iii) Gold and silver which have been in the possession of a Muslim for a period of one year.
- (iv) Merchandize.
- (v) Treasure trove and mines.

(f) As regards Zakat payable on merchandize it would appear that the same is payable at the rate of 2½- per cent on the value of the stock-in-trade.

(g) In view of the foregoing the only Muslims who would be affected by imposition of Zakat are the Muslim traders who already have to pay their contributions to the Provident Fund, Income Tax, Pay Roll Tax and what not. Compulsory levy of Zakat is not likely to improve the economic position of the Muslim traders in Singapore.

(h) Furthermore, there is considerable difference of opinion between the Hanafi and the Shafei Schools of Law as to what property of a Muslim is subject to payment of Zakat.

(i) In the Malay States where payment of Zakat is enforced I am sorry to say that the only persons who have to pay Zakat are the padi planters and farmers, and traders. The officials and others drawing big salaries pay nothing by way of Zakat. In a report which I read a few years ago it appeared that at least in one of the States the cost of collection of Zakat exceeded the amount of Zakat collected.

(j) If the object of the imposition of Zakat is to help the poor Muslims of Singapore then I would suggest that a percentage of all income tax paid by Muslims of Singapore be diverted for the purpose.

I shall be prepared to appear before the Select Committee and give evidence if so required.

Yours faithfully,

Nazir Mallal.

Paper S.C. (Administration of Muslim Law Bill) No. 5

Mrs. M. SIRAJ,
Miss HABIBAH ABDUL RAHIM,
Miss HILAL JAAFAR,
c/o 2 Medang Road,
Singapore 15.

The Clerk,
Parliament,
Singapore.

29th January, 1966.

Dear Sir,

In response to the advertisement in the papers we are writing to give our views on the Administration of Muslim Law Bill. Generally we support the provisions of the Bill and feel that it will certainly and greatly improve the administration of Muslim law in Singapore.

We would like, however, to make a few detailed suggestions: -

(a) *Section 51:*

We feel that the provision for *nushuz* should be deleted. There is no similar provision in the enactments in the States of Malaya and disobedience of the wife is already made an offence under clause 133 of the Bill.

(b) *Section 53:*

Provision should be made, as in the States of Malaya, for the wife to get a share of the jointly acquired property as *harta sapencharian*.

(c) *Section 92 (4):*

We suggest that the minimum age of marriage should be raised to eighteen years. Fifteen years is in our opinion absurdly low for a boy and it is also equally low for a girl. According to Dr. Ahmad Ibrahim's *Status of Muslim Women in the Family Law*, the age limits provided in the Arab countries are 20 years for the male in Tunisia and 18 years in the United Arab Republic, Algeria, Jordan, Syria, Morocco and Iraq; and for the female 15 years in Morocco and Algeria, sixteen years in the United Arab Republic, 17 years in Syria, Tunisia and Jordan and 18 years in Iraq. We believe that a person is deemed under Muslim law to have attained puberty at the age of eighteen years. The recent Administration of Muslim Law Enactment of Perak provides that where a girl has no wali, she shall not be married by the Kathi unless she has attained the age of eighteen years. We are of opinion that eighteen years would be a suitable minimum age for marriage in Singapore and this is in fact provided for non-Muslims in the Women's Charter, 1961. We should like to point out that power is given to the Kathi in special case to allow a girl to marry if she has attained the age of puberty.

(d) Section 108:

Provision should be made as in the States of Malaya for the division of the jointly acquired property between the spouses as *harta sapencharian*.

Yours faithfully,
M. Siraj (Mrs.)
Habibah Abdul Rahim (Miss)
Hilal Jaafar (Miss)

Paper S.C. (Administration of Muslim Law Bill) No. 6

Mr. R. W. BACH,
84 Survey Sqn. RE.,
c /o G.P.O.,
Singapore 5.

26th February, 1966.

Dear Sirs,

Though not actually a Muslim myself I have consulted several Muslim friends of mine on the points I will raise: I am intending to become a Muslim and should like to see the new legislation *re* Muslim Law Bill.

- (1) Firstly, the legislation should provide for women's equal rights to inheritance and property.
- (2) All marriages in Singapore to be standardised as monogamous: i.e. in future marriages.
- (3) Protection for deviators and revisionists or non-practicers from Muslim zealots, i.e. police protection if this persecution results in violent acts against the deviator.
- (4) All persons over the age of twenty-one to be free to marry whom they please with no legal restraint from their parents.
- (5) Any adult Muslim (over 21) should be able to marry a non-Muslim without that partner needing to convert his/her religion to Muslim.
- (6) This would necessitate Muslims being given the right to marry under civil-law in the Registry of Marriages if they so desired.

I appreciate that some of these suggestions may be rather modern and will probably be strongly opposed by some Muslims. But, Singapore is becoming a modern, thriving industrial society in which secularism and multi-racialism will become vital to democracy and economic growth and continuity.

I am Sirs,

Your most Obedient Servant,
R. Bach.

Paper S.C. (Administration of Muslim Law Bill) No. 7

(Translation from Tamil)

SOUTH INDIAN JAMIATHUL ULAMA,
59s Bencoolen Street,
Singapore 7.

21st March, 1966.

The Clerk of Parliament,
Parliament House,
Empress Place,
Singapore 6.

Dear Sir,

In response to the announcement by our Government that the public can give their opinion on the Muslim Bill, our organisation held two emergency General Body Meetings and passed a few resolutions. We are herewith enclosing the said resolutions.

Yours faithfully,

Abdul Jaleel

South Indian Jamiathul Ulama.
Hon. Secretary.

Second Emergency Meeting of the General-Body of the
South Indian Jamiathul Ulama

The Second Emergency Meeting of the General Body was held on 13th March, 1966 at about 11 a.m., at the Bencoolen Street Jumah Mosque, under the chairmanship of the President, Alhaj, M. M. Hidayatullah Aleem Sahib, and the following resolutions were passed unanimously.

Resolutions

(1) The organisation is happy to know about the setting up of the "Majlis Ugama" under the name of Islamic Religious body. Our organisation welcomes it and gives some opinions.

(2) In order to implement the rules and duties of the Islamic Shariat, this Majlis Ugama should be started with the proper religious scholars - the Ulamas.

(3) There is no detail explanation about the collection and distribution of Zakat and Fitrah. Since the Islamic Shariat rules say that the Zakat should be distributed according to the provisions laid down in the Holy Quran, and that the money should not be spent to repair Masjids, establish factories, Madrasah schools etc., give wages or meet the burial expenses of the orphans, this emergency meeting calls upon the government to incorporate the above provisions of the Holy Quran in the rules of the "Majlis Ugama" to be set up.

(4) This emergency meeting requests the government to give representation to the Ulamas, the religious scholars among the South Indian Muslims, when the Majlis Ugama is established.

Paper S.C. (Administration of Muslim Law Bill) No. 8

JAMA'AT AHMADIYYAH
Ahmadiyya Muslim Mission,
111/116 Onan Road,
Singapore 15.

26th March, 1966.

The Clerk of Parliament,
Parliament House,
Empress Place,
Singapore 6.

Sir,

Comments on the Proposed Muslim Bill

Having read the Proposed Muslim Bill relating to the Muslim Law and in view of the Singapore Government's announcement that the Bill in question was open to comments, we the executive members of the Ahmadiyyah Muslim Movement Singapore Branch have to make the following observations in this respect:-

The Ahmadiyyah Muslim Movement is a purely Muslim Missionary Movement recognised as such by almost all the Governments of the world. We have well established branches in many of the African, American, Asian and European countries where we are treated as Muslims in all respect, but for the past few years the local Muslim authorities including the Shariah Courts and the Muslim Advisory Board have been treating it as a non-Muslim Sect. The Shariah Court has, time and again, refused to solemnise or register the marriages of the Ahmadi Muslim citizens of Singapore on an absolutely baseless ground that Ahmadies were non-Muslims.

In the previous Muslim Ordinance as well as the present proposed Muslim Bill "Muslim means a person who professes the religion of Islam". The Rules and Regulations of the Ahmadiyyah Movement, its form of initiation and membership and its vastly published literature are ample and undeniable proofs to the effect that Ahmadies profess to be Muslims, practice Islam in letter and spirit and believe in all its fundamental principles as understood and interpreted by the Holy Founder of the Ahmadiyyah Movement. He expressly declared in one of his books: -

"We are Muslims by the grace of God; Mustapha, the Holy Prophet of Arabia is our leader and guide. The wine of our spiritual knowledge is from the cup of the Book of God which is called the Quran. Every prophethood has found its culmination in that Messenger of God whose name is Mohammed. The revelation and inspiration that we receive have not been granted us independently, but it is through him that we have received this gift."

(Durrresamin Farsi Page 34)

We approached the Government several times in the past and requested immediate consideration of our case, and also requested the authorities to instruct the Shariah Court to treat us justly, regard us as Muslims and not to refuse the solemnization or registration of our marriages, but all our applications and appeals

proved of no avail and, to date, no action whatsoever has been taken by the authorities concerned. In 1964 we even submitted a passage of the Judgment given by the Singapore's Supreme Court some forty years ago together with references of several other world courts' clear cut judgments in which Ahmadies were pronounced and recognised as Muslims, but, to our knowledge the authorities did nothing regarding solemnization or registration of our marriages in the Shariah Court. The only reply we received in 1964 was that the Government was considering our case.

Ahmadi Muslims cannot possibly go to the Civil Marriage Registration Office for the registration of their marriages because Ahmadies are Muslims and only non-Muslim marriages are registered there. That it is unlawful and illegal on the part of any unauthorised individual to solemnise a marriage and on the part of a couple not to register their marriage is too obvious and goes without saying. Under the circumstances, we feel that we the Ahmadi Muslims of Singapore have been purposely placed in this embarrassing and legally perilous and hazardous situation in Singapore by the Authorities governing the Shariah Courts and the Muslim Advisory Board (which are dominated and monopolised by a majority Muslim Sect) for the sole purpose of crushing and exterminating us who are minority Muslim Sect in Singapore.

It is utterly wrong to say that Ahmadies are non-Muslim purely because the other religious leaders or Ulemas of Islam regard them as such. Only *some* Ulemas of *Rival Sects* pronounced this Fatwa against Ahmadies while others refrained and yet many others believed and treated Ahmadies as Muslims. It is a fact that no Government treats Protestants or for that matter Seventh Days Adventists and Jehovah Witnesses Sects of Christianity as non-Christians or heretics because Catholic religious leaders regard them as such. Rival Sects of a religion always pronounce each other as unbelievers and heretics but such pronouncements have never and can never be regarded as legal and binding. A person or a Community has to be regarded what it claims or professes to be.

So, in view of the foregoing, we respectfully request that as Ahmadi Muslims of Singapore profess and practice the religion of Islam they should be given the right to practice their faith without any hindrance and interference. It is a fact that despite agreeing on the fundamental and basic principles of Islam each Muslim sect prefers to run its mosques and organization independently and in accordance with its own interpretation and understanding of the teachings of Islam. In view of the complete religious freedom granted to every community or individual by the Constitution of Singapore, no one sect or for that matter the Majlis Ugama can and should have any right to thrust its will or verdict on a minority sect of Islam in Singapore. Otherwise, freedom of religion granted by the Constitution becomes meaningless. Therefore, a provision should be made in the Proposed "Muslim Bill" that if and whenever an order or a decision of the Majlis Ugama Islam is in any way against or conflicting with interpretation or established order and procedure of a minority Muslim Sect, such a sect should not be bound to abide by it. Likewise, all minority Muslim Sects should be allowed to run their mosques according to their own rules. The full and complete control of the Proposed Majlis Ugama Islam over all the mosques of Singapore and over their income, as provided in Parts 4, 5 and 9 (in particular clause 135 thereof) of the proposed Bill is therefore, absolutely impracticable, for a Majlis Ugama Islam consisting of the majority of a predominant Sect of Islam may possibly, through bias or prejudice, declare a rival sect's mosque as unlawful or demolishable and thus the minority rights may be violated or remain

at stake. No one can deny that in religious matters one thing or a certain teaching may be considered to be lawful by one Sect but may be construed to be quite the opposite according to the others.

In conclusion we earnestly hope that the Government will give due and deserving consideration to our appeals. We would further add that we are prepared to come forward to -

1. prove that we are Muslim according to the Quran and the traditions of the Holy Prophet Mohammed (s.w.) as evidenced by the vast literature that we have distributed throughout the world through our Foreign Missions;
2. answer questions and dispel doubts as to the genuineness of our claims, and beliefs; and lastly
3. produce witnesses and correspondence that had taken place between ourselves and the Shariah Court whereby we had been denied our legitimate rights as members of the Muslim community.

We beg to remain,

Sir,

The Government's loyal and obedient servants,

Ungku Haji Ismail bin Abdul Rahman,

President

A. H. Salikin,

Vice-President

Mohammed Amin Ali,

Gen. Secretary

Hamzah bin M. Said,

Financial Secretary

Alhaj M. M. Siddique,

Missionary-in-charge

(Late additional representations)

21st April, 1966

The Honourable Chairman and Members
of the Select Committee for the
"MUSLIM LAW BILL"

Through: The Clerk of the Parliament,
Parliament House,
Empress Place,
Singapore.

Dear Sirs,

Further to our interview with you yesterday, 20th April, we wish to submit the following in order to confirm what we verbally stated before you:-

You asked us whether or not we have any alternatives to suggest in place of the Sections that seem objectionable to us. We respectfully beg to affirm that as we are not well versed in law, we are not in a position to suggest alternatives in Legal

Terms. However, we shall be grateful if a section is added anywhere in the "Muslim Law Bill" to the effect that "under no circumstances the Majlis Ugama Islam will conduct its affairs or implement any section of the Bill in a manner that may in any way encroach upon the freedom of practising, preaching and propagating a doctrine, faith or religion granted to all communities and individuals by the Constitution of Singapore." We deem the inclusion of such a Section is imperative and indispensable because despite the fact that according to the definition of a Muslim given in the Muslim Ordinance of 1957 we the Ahmadi Muslim are legally to be accepted and *treated* as Muslims, the "Muslim Advisory Board" has been and still is treating us as non-Muslims, for no justification other than bias and prejudice.

It is regretted that nowhere in the Bill under consideration any assurance is given or provisions made that the freedom already enjoyed by the minority Muslim Sects will be retained and will not be encroached upon. Rather to the contrary, there are sections in the Bill that are tantamount to complete encroachment and forfeiture of religious freedom. For example Section 139 runs thus:-

1. "Whoever shall teach or preach or publicly expound any doctrine or perform any ceremony or act relating to the Muslim religion in any manner contrary to the Muslim Law shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months or to both such fine and punishment."
2. "In any prosecution for an offence under this section where evidence is given by the President of the Majlis that any doctrine, ceremony or act is contrary to the Muslim Law, the Court shall presume that such doctrine, Ceremony or act is contrary to the Muslim Law."

It is a well known and accepted fact that some Muslim denominations differ from others even in certain doctrines, ceremonies and religious acts. One ceremony, doctrine or religious act is believed to be purely Islamic by one sect or denomination of Islam but regarded to be utterly unislamic by the other. The above referred Section is therefore clearly inconsistent with the general Constitution of Singapore. May we mention just one such instance:-

We Ahmadi Muslims firmly believe, preach and propagate that (1) according to the Holy Quran and the Islamic Traditions, Christ Jesus did not ascend to heaven bodily but died a natural death like all human beings; and that (2) a true and devoted follower of the Holy Prophet Mohammed (on whom be peace and blessings of God) can attain to the rank of prophethood, only through his media, and be assigned by God to teach, preach and propagate pristine Islam to mankind as a sub-servient and follower prophet without establishing a new religion or dispensation. But the leaders of the Shaffi School of thought in Singapore unanimously and entirely disagree with us in this respect and regard such beliefs or doctrines as unislamic and heretical. They believe that no prophet can ever come after the Holy Founder of Islam (on whom be peace and blessings of God) and that Prophet Jesus was taken up to God or to heaven alive bodily some two thousand years ago and shall soon be descending from there with the self same body to compel the entire human race at the point of sword to become Muslims.

As a missionary, I am duly bound and am permitted by the Singapore Government (as are all other Ahmadi Muslims) to preach and propagate peacefully our above mentioned beliefs in Singapore. But in view of Section 139, on the mere evidence of the President of the Mailis Ugama Islam, I can be convicted and imprisoned and fined for no fault or crime of mine and for no just cause whatsoever. This is a clear illustration and manifest example of the fact that if this "Muslim Bill" is passed, as it is certain Muslim minority Sects will mercilessly suffer at the hands of their majority counterparts and will not be allowed to believe, practice, teach, preach and propagate Islam as they understand, interpret and believe.

In view of the foregoing therefore, we, respectfully beg to reiterate that if the fundamental human rights granted by the United Nations Charter and also by the General Constitution of Singapore to every Community and every individual are to be preserved and retained within the various Islamic Sections and denominations of Singapore, the "Muslim Law Bill" has to be revised and reconsidered in a just and fair manner on a non-sectarian basis that will be acceptable to all.

Thank you Sirs.

I remain,

Yours respectfully,

Alhaj M. M. Siddique.

For and on behalf of the Ahmadiyya
Muslim Community, Singapore.

Paper S.C. (Administration of Muslim Law Bill) No. 9

MUSLIMIN TRUST FUND ASSOCIATION
Charitable Islamic Institution
5 Mattar Road,
Singapore 14.

29th March, 1966.

The Clerk of the Legislative Assembly,
Assembly House,
Empress Place,
Singapore, 6.

Dear Sir,

Re: Administration of Muslim Law Bill

We have the honour to submit the following representations with regard to the above-mentioned Bill: -

1. *Clause 7 (1) (d) reads as follows:-*

"Not less than seven members to be appointed by the President of Singapore, from a list of nominees to be submitted by the President of the Majlis".

The membership of the Majlis will consists of 6 members appointed by the President of Singapore, the Mufti and 7 members from the various Muslim Societies. In effect there will be 7 officially appointed members and 7 chosen from the Societies.

We feel that this is out of harmony with the democratic bent of our Institutions. We suggest therefore that the word "seven" be deleted in the above clause 7 (1) (d) and the word "twelve" be substituted therefor.

2. *Clause 7 (2)*

As the clause stands it is possible to appoint on the Majlis more than one member from any Muslim Society prescribed for the purpose by the Majlis. We are of opinion that not more than one from any one Society should be appointed. We suggest therefore that a proviso be added as follows: -

"Provided that no Society shall have more than one nominee appointed to the Majlis".

3. The present proviso to Clause 7 (2) of the Bill places the power of selecting the prescribed Muslim Societies on the President of the Majlis for appointment to the first Majlis constituted under the Act.

We think this will not only embarrass the President of the Majlis but also create the feeling on the part of those left out that they have been discriminated against.

We suggest that the Proviso be amended to read as follows: -

"Provided also that for the purpose of appointment of members to the Majlis first constituted under this Act nomination shall be made by such Muslim Societies as are prescribed in the Schedule to this Act".

We further suggest that a schedule to the Act should set out a list of twelve Societies who will have the right to nominate members to the first constituted Majlis.

4. *Clause 9 (d)*

As no members to the Majlis will be appointed by virtue of their being members of the Parliament we are of opinion that this subclause should be deleted.

5. *Clause 11*

It appears to us that it is only in the absence or incapacity of the Mufti or the Secretary of the Majlis need a person be appointed temporarily to act. As the majority of the members will be the nominees of Societies it would be both inconvenient and difficult to appoint temporarily a member who may not have the confidence of the Society in question. We suggest therefore that the words in line 2 of clause 11 namely "any member of, or" be deleted and in place thereof the words "the Mufti or" be substituted.

6. *Clause 21 (3)*

We do not see any purpose in sending draft minutes *which* may be extensively amended before confirmation. We suggest the deletion of this subclause and the substitution of the following subclause: -

"A copy of the minutes when confirmed by the Majlis should be sent to the President of Singapore".

7. *Clause 59 (4) (c)*

The above subclause should in our opinion be deleted. Whilst we agree that if the Trust or Wakaf is mismanaged or if there are no trustees of the Wakaf or Trust, the Majlis should have power to appoint Mutawallis, we are strongly of the view that it would be wrong to provide the Majlis with the additional power of removing the Trustees and appointing others on the dubious ground that it is to the advantage of the Wakaf or Nazr'am. The phrase "to the advantage of" is wide and ambiguous. The Trustees may be arbitrarily removed and others appointed by the Majlis not for any substantial reason but merely because in the opinion of the majority of the members of the Majlis it is "of advantage" to do so, when it may well not be so.

8. *Clause 75 (2) (c)*

For the reasons outlined in paragraph 7 above we suggest that subclause 75 (2) (c) should be deleted.

9. We suggest that the following schedule be incorporated at the end of the above Bill.

THE SCHEDULE.

Names of Muslim Societies.

1. All Malaya Muslim Missionary Society.
2. United Malay National Organisation.
3. Pan Malayan Islamic Party.
4. Pergas- Persatuan Guru² Agama Singapura.

THE SCHEDULE *-continued.*

5. Muhammadiyah.
6. Muslimin Trust Fund Association.
7. Pertubohan Muslimin.
8. Persatuan Persuratan Pemuda Pemudi Melayu Singapura.
9. Muslim League.
10. Overseas Pakistan League.
11. Malay Chamber of Commerce
12. Young Women's Muslim Association.

We are prepared if invited to do so to send two delegates to appear before the Select Committee to support the above representations.

Yours faithfully,
Muslimin Trust Fund Association,
S. O. A. Alsagoff,
(Hon. Secretary).

Paper S.C. (Administration of Muslim Law Bill) No. 10

THE PAKISTANI ASSOCIATION,
11B Malacca Street,
Singapore 1.

30th March, 1966.

The Clerk,
Parliament House,
Empress Place,
Singapore 6.

Sir,

Re:- Administration of Muslim Law Act 1965

I have the pleasure to inform you that our PAKISTANI ASSOCIATION of Singapore held three (3) meetings to consider and discuss about the above Bill.

All our members have unanimously agreed that the proposed Bill is in the best interest of the Muslim Community of Singapore, and will therefore be beneficial for the Pakistanis here as well as to other Muslims.

We hereby endorse our unanimous support for the proposed Bill and pray that it will be administered in the letter and spirit behind it.

Yours faithfully,
Syed M. Hussain
Secretary General,
The Pakistani Association, Singapore.

Paper S.C. (Administration of Muslim Law Bill) No. 11

ALL MALAYA MUSLIM MISSIONARY SOCIETY

31 Lorong 12, Geylang,
Singapore 14.

30th March, 1966.

The Clerk,
Parliament House,
Empress Place,
Singapore 6.

Sir,

We highly welcome the proposed Administration of Muslim Law Act 1965 and subsequently the establishment of the Majlis Ugama Singapore to administer matter affecting the Religion of Islam.

We have considered the Act and wish to put in certain amendments which we believe, will be accepted in the spirit it is given.

Yours faithfully,

A. Wanjor.

Hon. Secretary.

Amendments as suggested in the administration of Muslim Law Act, 1965.

Page 237 Fitrah -To substitute the word "during" in place of "end" in line three

Page 242 Clause 15 Quorum-To amend *one-half* in place of *one-third* in line three.

Page 250 Section 47 (3) - To add "on payment of the amount so assessed" after the word "thereupon" in line five.

Page 250 Section 49 (a) - *Neglected or failed to provide for her maintenance* "three months" in place of "one year".

Page 250 Section 49(b) - *Imprisonment* "one year in place of "seven years".

Page 250 Section 49 (c) – Failure of marital obligation "one year" in place of "three years".

Page 252 Section 52 (2) - To add "during the period of her iddah" after the word "maintenance" in line three.

Page 252 Section 52 (3) - Suggest to delete this clause.

Reason: It is unfair to burden the former husband with extra liability, as this itself is considered to be an un-Islamic practice. Muslim affairs should be dealt with in accordance with Muslim Law and not by any other law especially in this particular case.

Page 253 Section 53 (3) (c) - Suggest to delete this clause.

Reason: The clause reads "the disposition of division of property on divorce."

This clause appears to be vague-whose property? Earning of husband or wife of both. Claims can be put only when it belongs to both. The conditions that exist in Selangor and Pahang cannot be compared with those that exist in Singapore whereas in those countries both husbands and the wives used to work on their padi fields etc.

Islamic Shariat has already made provision for the wife. On the death of the husband she will get 1/8 of the deceased Estate, therefore it sounds un-Islamic in giving her half the property on her divorce thereby depriving the shares of the children and other kith and kin.

Suggests that: -

Page 259 Section 69 (1) - All costs, charges and expenses of administering the property and assets vested in the Majlis, including the cost of maintenance and repair of any immovable property shall be paid out of property and assets of the Fund.

Suggest to have Clause (2) - The salaries and allowances of all servants of the Majlis, and the fees and allowances payable to any officer or member of the Majlis in respect of his services as such shall be a charge on the Consolidated Fund of the State.

Additional Provision: - "There shall be paid into the Fund by appropriation from the consolidated Fund of the State such annual sum as may be required by the Majlis from time to time."

Page 259 Section 71 (3) - To amend "shall" for "may" in line two.

Page 273 Section 113 (1) - To substitute the word "woman" in place of "person" in line one.

Page 274 Section 118 (3) - To add after "his wife's agency" the expression "for domestic necessities" in line three.

Paper S.C. (Administration of Muslim Law Bill) No. 12

UNITED MALAYS NATIONAL ORGANIZATION
218F Changi Road,
Singapore, 15.

The Clerk of Parliament,
Parliament House,
Singapore, 6.

31st March, 1966.

Dear Sir,

On behalf of my organisation I am directed to attach herewith UMNO's views on the Administration of Muslim Bill.

- (a) Syed Ali Redha Alsagoff
- (b) Che Rahman Zain
- (c) Che Wahab Mohd. Ariff

- (d) Che Jamil bin Pallal
- (e) Dato Syed Esa Almenoar

will appear before the Select Committee.

Kindly let us hear from you.

Yours faithfully

Dato Syed Esa Almenoar,
Secretary UMNO,
Singapore.

UMNO'S Views and Suggestions on Administration of Muslim Bill, 1965.

1. The Majlis should be absolutely independent of any Government influence. The Majlis must be clear of any political pressure. Such a Majlis will and can only be respected by the Muslims of Singapore. Hence Clause 7 (1) (c) be deleted and Clause 7 (1) (d) instead of "not less than seven" should read "not less than twelve."

2. Clause 9 (d) be deleted following from 1.

We do not consider the necessity of having Members of Parliament as members of the Majlis as the Minister concerned can express their views of the Majlis in Parliament.

3. Clause 10 (d) be deleted. Those appointed would normally be able men.

4. Clause 21 -Minutes should be kept both in English and Malay languages, at least for the moment to facilitate matters.

5. Clause 21 (3). We feel this Clause is an insult to members of Majlis and creates unnecessary work for the President. We suggest this be deleted and another Clause substituted to the effect that minutes when approved by the Majlis should be sent to the President,

6. Clause 25 be deleted as it appears to be confusing. There being no definition or explanation of "Emergency".

7. Clause 31 (1) "two other members of the Majlis" to read "Two Ulama of the Majlis". Delete the word "Members" and substitute "Ulama". We hold the view given by the Legal Committee is vital and far-reaching importance amongst the Muslims. Therefore, the members of the Legal Committee should be ulama, i.e. learned men having thorough knowledge of Arabic language and Islam because all the important authorities in Islamic Law are written in Arabic.

8. Clause 42 - There is uncertainty of what rules of Evidence to follow, whether Muslim Law of Evidence or Law of Evidence now prevailing in this country. This is vital in view of Part IX of the Bill.

9. Clause 49 (1) (a). One year is too long a time. A period of six months would be reasonable.

10. Clause 49 (1) (b). "Seven years" to read "three years".

11. Clause 49 (1) (c). "Three years" to read "one year".

12. Clause 55 be deleted. Matters of this nature require special consideration and the Legal Committee can investigate each particular case as it comes up. Further to our minds there will be very few of such cases nowadays.

13. General: Part IV of the Bill deals with "Financial". We agree there can be the establishment of General Endowment Fund. There must be separate accounts for Zakat, Zakat-Fitrah, Wakaff, Nazr'Am, Nazr Khas and Biatul-Mal Funds. Certainly money from these funds can be used only for purposes allowed by Muslim Law not for example be used for expenses for Mahkamah Shariah and the running of the Majlis as a whole.

14. Clause 59 (4) (c) be deleted as this might lead to misunderstanding. It is sufficient to have (a) and (b).

15. Clause 69 be deleted - All expenses should be home by the Government as we stated above on Muslim Principle. Government has knowledge of extra expenditure to implement terms of the Bill. The purpose of this Bill will be defeated, for it is to look after the welfare of the Muslims of Singapore. Special grants in our view should be asked for yearly for this purpose.

16. Clause 78 be deleted. We should not encourage the closing or demolishing of Mosques.

17. Clause 75 (2) (c) be deleted as this might lead to misunderstanding.

18. Clause 75 (3) is not clear at all. The words "if he fails to perform his duties" be added after the word "place".

19. Clause 82 (b) be deleted. This will bring about misunderstanding amongst us

20. Clause 87 presumes that the President is a Muslim. No provision is made if the President is a non-Muslim for appointment of Kathi or Naib Kathi. This is essential and must to our mind be specific and a Clause to such an effect is necessary for if not such appointment is not valid. We agree such powers be delegated to President Majlis. We know of Clause 146, but this is too general.

Observation

Arising from the formation of the Majlis and all other administration in connection with the Administration of Islamic Law our Organization feels strongly that Ordinances, Notices, or Rules or Regulations or whatever matter must be printed in Malay so that it could be easily understood by the Muslim public.

Paper S.C. (Administration of Muslim Law Bill) No. 13

KADER JAMAL MOHAMED

168 Anson Road,
Singapore 2.

30th March, 1966.

The Clerk of Parliament,
Parliament House,
Singapore.

Sir,

Bill on Administration of Muslim Law

At the time the above bill was gazetted the public was invited to write in to express how it felt about the provisions in the bill.

Accordingly herewith I submit my suggestions. And I hope they are constructive and are along the lines expected from the public.

As you would note I have not addressed my remarks to anybody. In that I did not aim to be rude; it is the result of my ignorance of the proper procedure, which I ought to have learned at least by enquiry. I apologise for this. Of course I need not add that for the same reason I am unaware of any particular and prescribed form of making representations on such legislative matters as this.

Being a layman, I have been dogged with the fear of anything inappropriate creeping in even inadvertently; and therefore I have been delaying submission of these suggestions. However, it is; and at best, this is the evidence of my zeal being unmatched by my sketchy knowledge in these matters. Nevertheless, at least to justify submitting the same, I must add that my remarks are not altogether amiss or improper in the context of conditions in Singapore.

I have some vague idea of the time limit for submitting these suggestions; and I hope I have not exceeded the period of grace so allowed. And in case I am late in submitting this, at least, it could be taken into account for what it is worth in the name of *good* government.

I rest assured of your good offices in placing this before the proper authorities and also in assuring them of my respect and good faith.

Thank you.

Yours faithfully,

K. J. Mohamed

Suggested modifications on Bill on Administration of Muslim Law

Since this bill is intended to legalise administration of Muslim Law in Singapore, I hope it is relevant and appropriate to borrow the following quotation from page 51 of *Muhammadan Law* - Fyzee 3rd edition, to show the unbounded admiration for Islamic law of Count Leon Ostrog:

"Considered from the point of view of its logical structure, the system (Islamic law) is one of rare perfection, and to this day it commands the admiration of the student. Once the dogma of the revelation to the Prophet is admitted as postulate, it is difficult to find a flaw in the long series of deductions, so unimpeachable do they appear from the point of view of Formal Logic and of the rules of Arabic Grammar. If the contents of that logical fabric are examined, some theories command not only admiration but surprise. Those Eastern thinkers of the ninth century laid down, on the basis of their theology, the principle of the Rights of Man, in those very terms, comprehending the rights of individual liberty, and of inviolability of person and property; described the supreme power in Islam, or Califate, as based on a contract, implying conditions of capacity and performance, and subject to cancellation if the conditions under the contract were not fulfilled; elaborated a Law of War of which the humane, chivalrous prescriptions would have put to the blush certain belligerents in the Great War; expounded a doctrine of toleration of non-Moslem creeds so liberal that our West had to wait a thousand years before seeing equivalent principles adopted ..."

And it is all or part of so honestly commended a system of law that this bill aims to legalise in the Republic of Singapore.

Throughout the fourteen centuries of its existence the Islamic precept has evolved through the thick and thin of war, of over-lordship of alien faiths, catastrophic divisions and disagreements within and among those professing Islam to this high organisation of lucidity of intention and practical application that such impartial scholars of Ostrog's eminence are honestly moved to admire and commend. Such a highly evolved and organised law is to be administered in Singapore by fourteen laymen apparently chosen for no scholarship in the law they are to administer - save in the case of the proposed Mufti - but by reason of loyalty to the party in power and patronage of the President of a Majlis of indeterminate credential - who himself is a nominee.

And therefore, at first perusal the law may not be administered with adequate wisdom and genuine proficiency. The government, it must be accepted, professes to establish the administration of Muslim Law in the most congenial and useful fashion modern trends in secular law would allow and also as is, perhaps, feasible, in affording the minorities their natural rights of expression and belief.

Bill on Administration of Muslim Law

There is not even one department of Muslim susceptibility that the Muslim Law does not provide for. But this bill does not offer to legalise all aspects of Muslim law for the simple reason of the government being Republican, secular and therefore non-Muslim. So only such aspects of the Islamic system is aimed to be legalised as are compatible in a secular society. It is therefore necessary, and I submit, that scope and aim of the bill be widened to include relief from Income Tax Ordinance in so far as religious tithes and provision of Zakat are concerned. These levies be made compulsory and such payments be declared deductible under the Income Tax Ordinance. I base this submission on the maxim that no person ought to suffer under the secular law by reason of his pious profession of religion.

In the main there is not one section of the bill which cannot be at a later stage either modified or altogether repealed or otherwise replaced. Therefore, I contend that, the most important matter is the establishment and proper constitution of the Majlis. My representation shall therefore be confined to this part of the bill.

Now I refer to the whole of section 7 and paragraph (d) of section 9 and also to section 30. These sections jointly and severally concern with the voting members of the Majlis who are all nominees. And there are four types of membership in general: in the first instance an appointee of the President of Singapore as the President of the Majlis; in the second instance an appointment by the President of Singapore after due consultation with the Majlis as the Mufti; in the third instance nominees of the Minister, five in number, who would be members of Parliament; and in the fourth instance at least seven members from the list of nominees of the President of the Majlis which nominees will in turn be nominated by such societies as are approved by the President of the Majlis. Thus there will be at least fourteen voting members in the Majlis, thirteen of whom, though eligible for re-appointment, will in the first instance serve on the Majlis for three years.

The first anomaly to my mind appears to be the initial appointment of the Mufti. From what is envisaged in the bill the first meeting of the Majlis would be to select one or more persons for submission, to the President of Singapore if that is what is intended by the President of Singapore consulting the Majlis on the appointing of the Mufti, for appointment. Thus at least thirteen members will constitute the first Majlis. I would urge that section 30 be modified so as to enable the President of the Republic of Singapore to appoint the Mufti by selection by the Public Service Commission, the office being advertised outside Singapore that the appointee will really be the fit and proper person qualified to be Mufti.

Next it is not clear to my mind whether in the light of Islamic polity it is either advisable or feasible to have a president for the Majlis to supersede the office of Mufti. This office of Mufti has been always a very important one in the administration of Muslim Law throughout the ages.

"New sets of facts constantly arose in life, and they had to be mastered and moulded with the traditional tools provided by legal science. This activity was carried out by the muftis. A mufti is a specialist on law who can give authoritative opinion on points of doctrine; his considered legal opinion is called fatwa." Schacht, *Islamic law* page 73.

Again, to emphasise the importance of the office of Mufti I would ask leave to quote at length from page 74 of the above authority: "The practical importance of the sacred Law to the pious Muslim is much greater than that of any secular legal system for the ordinary law-abiding citizen. It comes into play not only when he has to go to the courts; it tells him what his religious duties are, what makes him ritually clean or unclean, what he may eat or drink, how to dress and how to treat his family, and generally what he may with good conscience regard as lawful acts and possessions. There was thus a constant need of specialist guidance on these questions.

"From the start the function of the mufti was essentially private; his authority was based on his reputation as a scholar, his opinion had no official sanction, and a layman might resort to any scholar he knew and in whom he had confidence. In order, however, to provide the general public, and also government officials, with authoritative opinions on problems of religious law, Islamic governments from some date after the final establishment of the schools of law have appointed scholars of recognised standing as official muftis. (The chief mufti of a country is often called Shaik al-Islam). But their appointment by the government does not add to the intrinsic value of their opinions, they have no monopoly of giving fatwas, and the

practice of consulting private scholars of high reputation has never ceased. A Kadi, too, may consult a scholar when he is in doubt, and official muftis are often attached to kadis tribunals ...

"The doctrinal development of Islamic law owes much to the activity of the muftis. Their fatwas were often collected in separate works . . . As soon as a decision reached by a mufti on a new kind of problem had been recognised by the common opinion of the scholars as correct, it was incorporated in the hand-books of the school. On the other hand, the judgments given by the kadis had no comparable influence on the development of Islamic law after the end of its formative period ..."

The office of the Mufti is, therefore, a very important one. Now due to changed circumstances this office has become a specialised one needing particular and wide scholarship of Muslim tenets. There must of necessity be some pronounced distinction between the office of the president of the Majlis and that of the Mufti as contained in this bill. I am submitting that this distinction be abolished and that both the offices be coalesced and the Mufti be appointed to have over all charge of the Majlis or alternately, all the functions of the president of the Majlis envisaged in this bill be invested in the office of the Mufti. For the credentials of the president of the Majlis is in no way implied in any form beyond by imputation of the various function of being president. This in itself does not in any way bestow on him anymore merit to supersede the office of the Mufti. Is it impossible or undesirable to have one person to be president and Mufti - a person in whom administrative ability and religious scholarship could very well be combined? If such a person be appointed to head the Majlis, it is my submission that, then all sensibilities of the Muslim community could be respected.

It is so laid down in the bill that not more than five members are to be appointed to the Majlis on the recommendation of the Minister, by implication and meaning of paragraph (d) of section 9 these members in turn will be members of Parliament. This is perhaps to have some form of tangible liaison with Parliament and *vice-versa*; and is desirable. But if the representation I make here is acceptable, or is sensible, and notwithstanding the same, members of parliament, for some reason I cannot think of, need be also members of, the Majlis then I would urge that my remarks should not cause the number of members of parliament on the Majlis to be reduced. For the bill only has provision for fourteen voting members on the Majlis.

Whereas at least in theory there is the possibility of election to parliament of individuals as independents, I do not foresee there being at least five independents elected to parliament and are Muslims. Subsection (5) of section 7 is mandatory in that only Muslims can be members of the proposed Majlis! Therefore if Muslim members of parliament in sufficient number and worthy of appointment to the Majlis are to be independents then it is next to impossible this happening in Singapore at any time in our history, unless of course come fantastic mode of election to Parliament is devised.

I do not favour nominated members of parliament being again nominated to the Majlis; I am not aware if there will be nominated members to parliament in response to representations made to the Constitutional Commission by minorities of Singapore.

Therefore the next possibility - will it ever come about? - is that of a political party magnanimously nominating, disregarding all other pressing demands of the time and policy, and thereafter by its unstinted backing, getting at least five Muslims-forget their ethnic extraction! - returned to parliament. Even this remote possibility is full of pitfalls. As things are in Singapore - this state of affairs may and on account of political expediency this ought to continue-with our cadre system in certain political parties it may not be easily possible to get five sufficiently qualified Muslims elected to parliament on any party ticket. And if that party is the more successful one, then, after assigning of portfolios and other offices politics command and also after satisfying, if this should happen in Singapore, communal and clique demands in the assignation of ministership and other accoutrements of party government, will there be left sufficient Muslims in parliament to serve on the Majlis?

I must juxtapose that in Singapore the cry is well nigh high that our future can only be secure in a non-communal, non-racial, non-communist, social republic. And therefore I cannot contemplate nomination by political parties to contest and win seats in parliament to satisfy the need to appointment to a corporate body that is constitutionally established by act of parliament to serve the exclusive purpose of one religious society whether in the majority or minority.

Returning to the topic of Muslim members of parliament if that not unusual instance of several political parties getting five or more Muslims elected to parliament is considered it may also be found to be inadvisable from practical aspects. For there are political parties and political philosophies which deride religion. And in view of that the practical aspects will be significantly irksome. With the political schema of a party being left, far left, right, far right, reactionary or anti-revolutionary or any other shade in between, so will correspondingly be the religious enthusiasm and enlightenment of a M.P. There have been judicial pronouncement that a communist cannot simultaneously be also a Christian; and by analogy I would say the same of a Muslim.

Such person when elected to parliament will have to reflect the party theme and attitude to proceedings of the parliament or be expelled from the party to be followed by loss of membership of parliament. It cannot be assured that there may not, in the future, arise any topic determination of which along Islamic precept may conflict with the party ideology or expediency. And would the Muslim member off that party be audacious enough to transgress upon the party's political canon?

Thus it is that it becomes necessary to devise some other tangible form of representation to parliament to enable nomination to the Majlis and thereby afford mutual liaison.

The next category of members of the Majlis are appointees from a list of nominees submitted by the president of the Majlis. These are to be not less than seven and in turn will be nominees of such Muslim societies as are prescribed by the president of the Majlis.

This is theoretically ideal. But in practice may found to be lacking. It is generally accepted, this is particularly so in Muslim societies, that one society is intolerant of another due to profession of religious precept variant with that

of the first. And necessarily the president of the Majlis will have to belong to one of these societies or alternately subscribe to some particular aspect or tenet of school or branch thereof; thus resulting in disapproving some section of a school or society. It can thus happen that representation on the Majlis will not be as it should be.

To avoid all these I would urge that the President of Singapore directly appoint from the Muslim community not less than seven members to the Majlis as are fit and proper.

Another more rewarding, if more cumbersome, way is to list all schools of thought and precept and persuasion within the Islamic society of Singapore and then to appoint members to the Majlis from them and in proportion to their number in society. This will afford representation on the Majlis to all shade of Muslim religious schools, whether orthodox or heterodox. It is desirable that secular law does not sanctify any school of Muslim precept more than others.

As regards the Majlis itself I would submit its functions in general terms like the parliament in that the general body approves all the different subjects within the province of the Majlis on the recommendation after deliberations in committee either *ad hoc* or permanent within the corporate body. Thus a committee is appointed each for finance, legal and other functions of the Majlis, so much so due to composition of the Majlis along the lines I indicated above, a committee could function within the Majlis for each group of slightly varying religious persuasion; I have in mind the two broad divisions of Shia and Sunni and all the different schools within them and their local variations if any.

I would suggest in the light of the foregoing is it at all necessary to confine voting membership to fourteen? It should be examined to see if it is not advisable to increase the membership to suit the demand when all the Muslim societies are listed.

Now I would request to be allowed to comment on one other aspect of the function of the Majlis. I refer to section 33 and subsection (3) of section 35.

I would suggest that it is not fair on the general body of Muslims to imply reliance almost, though altogether not, exclusively on one school of Muslim Law. I am aware of section 33 subsection (2). Nevertheless I feel that subsection (1) of the same section is the operative code.

On that note I would submit the following: by section 35 subsection (3) of the bill the administration of Muslim Law is to be varied by Malay Custom. Within narrow limits Islamic Polity has allowed certain local custom to exist and be given the weight of law. This taken individually will be found to affect only a certain small minority of the Muslim society of the country concerned. This local custom never encompassed the whole nation of any appreciable strength. The Republic of Singapore is physically too small, and therefore the Muslim population likewise is too small, to allow the variation due to Malay Custom to supersede Muslim Law, particularly so because of the various ethnic extraction of the Muslims. It is undesirable and inadvisable to allow this very limited refinement in so mixed a society.

If the Malay Custom is not bestowed the weight of law are the Malays likely to suffer in their profession of Islam? Is there not any remedy in the annals of Islamic Jurisprudence, which has evolved to present day state of high organisation, which will adequately serve the Malay section of the Muslim community in Singapore as a substitute for a local custom?

For a custom to be deemed express law it needs to be ancient, certain and invariable. And if the Malay Custom can conform to these conditions - it is only my presumption and therefore can be wrong - it can serve against the interests of women. Islam, by its many pronouncements, has elevated the status of women; and therefore, I would urge that notwithstanding my objections if the Malay Custom be given the weight of law then it should be to the advantage of the women. Further I would suggest that the application of the Malay Custom be exclusive to the Malays in the dispensation of Islamic justice.

Subsection (1) of section 33 ought to be considered and accepted as the operative code of the bill. The Muslim Law is the personal law of the Muslim; as evidenced by quotations above and therefore I suggest the restrictive aspect of the subsection be altogether removed. It is my belief that subsection (1) is limiting even though the next paragraph appears to give free choice. This is the question that is posed in my mind: If, the second paragraph really and effectually affords the Muslim free choice why is there mention of the Shaffi school in particular in the first paragraph? Where is the need of mentioning any school at all?

"The individual Muslim may join the school of his choice or change his allegiance without any formality; he may even, for the sake of convenience or for any reason of his own, with regard to any individual act or transaction adopt the doctrine of a school other than that which he habitually follows ... If he does this, however, he ought to follow the doctrine of the chosen school in all respects until the act's completion, and ought not to combine the doctrine of more than one school ..." Schacht, *Muslim Law*, page 68 foot note.

Therefore it must be obvious that since no grouping into any school within Islam was envisaged from early times -the first school or in fact all the schools were founded after the second century of Hijra - we, in Singapore, need not lay any particular emphasis in our proposed bill on any individual school. We ought to leave the choice of the school of law - in a legal contest - to the parties, the defendant being given the right to nominate the law to be applied. In this regard I would suggest reference be made to Fyzee, *Muhammadan Law*, page 76 in particular.

There is one reason I would advance why no mention of any particular school be made in section 33. An examination of the geographical distribution of the various schools would convince us that the Hanafi school is widespread and that the Shaffi school predominates in South East Asia. This is no criterion for the imposition of Shaffi Law in Singapore. There is however a precedent in Egypt where though the people are of Shaffi persuasion the law enforced is that of the Hanafi school. Besides, "Shaffi doctrines are definitely less favourable to women than either the Hanafi or the Maliki. With a very keen dialectic and somewhat more academic tone (as having had much less to do with practical problems of government), the school is uncompromising in its attitude to custom. Custom has had its revenge; and where Shaffi doctrines predominate a large and flourishing body of custom exists alongside the law." *Muhammadan Law*, Fitzgerald. 1931 edition page 16.

The above quotation explains the existence of Malay Custom; and also adds weight to my argument, for adoption of Shaffi doctrines more or less renders it obligatory to permit the customs as well. The only departure of Shaffi from this rigidity of attitude in so far as women are concerned is the concession he makes - it so appears as a concession even though his ruling is backed by tradition - by declaring the "arrears of unpaid maintenance are a debt for which the wife can sue, and continued inability or failure to pay maintenance is ground for dissolution of marriage". Fitzgerald page 95. This is a digression!

Therefore I would urge that section 33 be modified to exclude mention of any particular preference of school of Muslim doctrine; and also section 35 subsection (3) be so modified along the lines I have indicated above.

The secular law should not endeavour to inhibit the free expression or growth of religious doctrines. Since it gives liberty to religious laws and seeks to legalise their practice and applicability I would suggest the simultaneous existence of more than one school of law is necessary for the unfettered profession of the religion. More over the Prophet has said "Diversity of opinion among my people is a mercy from God"; also "my community will not agree on an error".

Whereas it would be undesirable to attempt to give new interpretations to Muslim Law, it can, within the guiding four bases of Quran, Sunna, Ijma, and Qiyas, be applied to the demands of modern conditions. In this regard I borrow the following quotation from Khadduri, War and peace in Islam, page 268: "It is an accepted fact that the terms of the law vary with the change of time". *The Majalla*, Article 39.

The points I have attempted to make are: in the first place, the Majlis as envisaged is not in the light of Muslim tradition properly organised in that the Mufti in whom all the authority of Muslim Law should by right vest has not been given his rightful precedence; the president of the Majlis -appointed for three years-is vested with all the powers of the Majlis, as it were. In the second instance, by reason of Singapore's geographical compactness and in view of the Muslim community being the minority, the selection or nomination of members of the Majlis be on a different theme or principle than designated in the bill. In the third instance, I have requested that no school of Muslim Law be given special or privileged mention in the bill or weight of law over and above the other schools; it is desirable that all shades of Muslim thought be allowed to function and prosper without mutual prejudice: also the custom of any society within the Muslim community be not visited upon any other section professing or owing allegiance to another or an opposed school of Muslim Law.

Paper S.C. (Administration of Muslim Law Bill) No. 14

MUSLIM WELFARE ASSOCIATION
139 Rangoon Road,
Singapore. 8

30th March, 1966.

The Chairman,
The Select Committee of the Singapore Legislative Assembly
on THE ADMINISTRATION OF MUSLIM LAW ACT, 1965.
(Bill No. 61), presented and read a first time on the 13th December, 1965

Through: The Clerk of the Legislative Assembly,
Assembly House,
Singapore, 6.

Sir,

COMMENTS TO THE NEW BILL No. 61 as Published in the Bills
Supplement No. 5, dated 18th December, 1965

We take the opportunity and liberty to put forward our humble comments on this important enforcement of MUSLIM LAW by the P.A.P. Government with the fervent and sincere hope and belief that these will be given full consideration for the benefit and well-being of the Muslims of multi-races, more particularly to the Malays and locally domiciled Muslims of various Islamic sects, so as to bring peace, harmony and prosperity to the newly Independent State of Singapore under the P.A.P. Government.

2. Singapore now constituted by the Ruling P.A.P. Government as a Republic and according to its Constitution published in the REPRINT OF THE CONSTITUTION OF SINGAPORE on the 25th March, 1965 is a REPUBLIC and its President has been elected by the Parliament. His Excellency the President though a Muslim cannot declare himself as the Defender of Islam and Singapore as a Sovereign Muslim State and Islam as a State Religion. Islam is a Divine Religion and its Teaching are to be regulated and guided by the Holy Quaran and Hadis (Traditions of the Holy Prophet Muhammad, May Peace of Allah be on his soul). We highly appreciate the intention and effort of the P.A.P. Government to help the Muslims of Singapore to be regulated by the present new Enactment as clearly defined in the above Bill. Now the important and most vital question is how far the State can go to make the Muslim to follow and obey to the teaching of the Holy Quaran? We as law-abiding citizens of the Independent State of Singapore cannot make the secular P.A.P. Government to be criticised by the People of the World to make Muslim Laws to punish the unwilling and unhappy Muslims of the State of Singapore by legislation for their failure to pay "*FITRAH and ZAKAT*". It is the duty of the Muslims in Singapore as "*True Believers*" to observe and follow our Religion to the best of our ability and faith by adequate education, persuasion and economic up-lift of the Masses. We are not in favour of Criminal Prosecution of any kind for Non-Payment of "*Fitrah and Zakat*".

PART II

MAJLIS UGAMA ISLAM MUST BE AN ELECTED BODY AND
NOT NOMINATED

Membership- 7. 14 (fourteen) members to be elected by secret ballots of regular Mosque/Surau attendants of all such prayer places in Singapore by asking the Imams and those Mosques/Suraus to register such records under proper supervision of Mosques/Suraus Committees for such purposes.

7 (seven) members to be elected from the Delegates of the Registered Muslim Religious/Literary/Educational/Welfare and Trust/Economic/Political Bodies.

2 (two) Muslim Religious Women to be elected by Muslim Religious and Educational bodies.

3 (three) Muslim Religious men to be elected by Muslim Ulamas and Religious Institutions.

The President should be elected by the Members by Secret Ballot among them. A Mufti to be appointed by the Majlis Ugama Islam.

The "MAJLIS UGAMA ISLAM" under no circumstances should be made of nominated body as defined in the Bill. It must be Elected by true believers by secret ballots. There should not be any weak or narrow minded persons. No Government Officials to be in the said body as members. Those who are guilty of not observing religion in true spirit in daily life or guilty of misappropriating of trust/Association Funds and or guilty of adultery or guilty of immoral conduct are to be barred from membership of the "MAJLIS UGAMA ISLAM". No objection in Government Officials as Liaison Officers/observers in the "MAJLIS UGAMA ISLAM".

19. (2) The President of the "MAJLIS UGAMA ISLAM" should come under the President of the State and not under the Minister. He should have direct access and dealing with the President of the State in all matters concerning "MAJLIS UGAMA ISLAM".

72. The "MAJLIS UGAMA ISLAM" should try and make every legitimate effort to see that a fair percentage of INCOME-TAX Collections of Muslims are refunded to the "MAJLIS UGAMA ISLAM" for the benefit and well-being of Muslims. Muslims are not very rich and economically healthy and therefore additional Tax as Zakat will not bring happy Result.

The most important duty of the "MAJLIS UGAMA ISLAM" should be to take interests for the Economic Up-lift of Muslims of all classes and more particularly the less fortunates for their well-being and improved standard of living as useful and law-abiding citizens of Singapore. "MAJLIS UGAMA ISLAM" will serve no purpose if it fails or ignore to look into Economic Up-lift of Muslims of Singapore. Religion has no meaning if it cannot find ways and means to bring enlightenment and happiness to its followers and to live as human being with human rights and dignity. It will undoubtedly fail its duty if it fails to undertake and discharge its duty as "MAJLIS UGAMA ISLAM" for the Muslims of Singapore in this changing world, if it does not appreciate the Economic life of Singapore and helps to re-shape the destiny of Economically backward Muslims.

"POVERTY is the root of all evils" and the "MAJLIS UGAMA ISLAM" must find a Solution with determination and courage by sincere and honest ways and means. Good Muslims are asset to human civilisation and it will give a good dividend to Singapore if the "MAJLIS UGAMA ISLAM" can give lead to Muslims of Singapore. We are quite confident that Muslims of Singapore will welcome the "MAJLIS UGAMA ISLAM" if it can be constituted as stated above by Elected persons and serve Muslims and Singapore with their honesty and sincerity.

It is a well-known fact that Roman Catholics of Singapore are controlled by the Pope from Vatican. Similarly the Anglicans are by the Archduke of Canterbury and Baptist and others of the Christian faith from the West and these outside Guidance is helping the Singapore Christians in every field of life. Under these circumstances, we plead that the Singapore Government will be graciously kind enough to allow the Singapore Muslims to be under the Yang di-Pertuan Agong of

Malaysia in Kuala Lumpur and through the President of the State of Singapore. Malays are Shaffi sect will be greatly benefited from such link and guidance.

We will be very grateful to the Honourable Members of the Select Committee if the undersigned is given an opportunity to clarify many points in the proposed Bill and also make further submission and clarification on this vital matter and bill.

We have the honour to be,
Sir,
Your obedient servants,
On behalf of the Muslim Welfare Association.
M. A. Majid,
President.

Paper S.C. (Administration of Muslim Law Bill) No. 15

(Translation from Malay)

IBRAHIM BIN HAMZAH,
1358 Woodlands Road. 15 ¾ m.s.,
Singapore 25.

30th March, 1966.

Clerk of the Parliament of Singapore,
Parliament House,
Empress Place,
Singapore 6.

Sir,

*Amendments and additions to the
Administration of Muslim Law Act, Singapore, 1965.*

Attached herewith I submit my views on the subject of amendments and additions to the Administration of Muslim Law Act, Singapore, 1965.

I trust that my views will receive due consideration by you and the public.

I am prepared to appear before the Select Committee as and when required.
Thank you.

Yours faithfully,
Ibrahim bin Hamzah.

Administration of Muslim Law Act Singapore, 1965

Amendments and additions to the Administration of Muslim Law Act, Singapore, 1965, are as follows: -

PART II: -Clause 5 (2), to add between the phrases "of every description" and "and subject to any written law" as follows -

"and promote or co-operate directly or indirectly, associating or becoming a member or leading in any Body or League which expounds the policy of raising the standard of living of Malays in particular and Muslims in general, in the sphere, primarily, of economics, and, in other fields."

PART III: -Clause 35 (2) to add at the end of the sub-clause or to form a separate sub-clause-

"the Court may hear and determine all cases and act on any non-Muslim whether a male or a female, in accordance with the powers of this Act under PART IX OFFENCES, Clause 130 (1) and (2) in connection with —

- (a) Cohabitation,
- (b) A baby born because of (a) above,
- (c) Payment of expenses or liability for expenses for the baby in consequence of (a) and (b) above,
- (d) Determining a baby's Religion.

PART IV:-Clause 58, to add as sub-clause (4) the following -

"A Monetary Fund of not less than \$200,000 a year shall be entrusted or be made the capital or be invested in commerce or industry whether directly or indirectly, associating or becoming a member or leading, whether small or big, whether separately or jointly in the state or outside the state with the object and purpose of raising the standard of living of Malays and Muslims."

PART IX: -Clause 130 -To add at the end of each sentence of sub-clause (1) and (2) OR separately-

"Any man or woman who is a non-Muslim who cohabits with a Muslim man or woman who is not his or her lawful wife or husband, it shall also be an offence under the general Civil Law, and the man or woman may be sentenced and fined under the powers of the Civil Law at present in force."

It is hoped that the amendments and additions mentioned above could get public support and be accepted unanimously. That is all, thank you.

Paper S.C. (Administration of Muslim Law Bill) No. 16.

(Late representation)

(Translation from Malay)

MASJID ABDUL HAMID
Kampong Pasiran,
Gentle Road,
Singapore, 11.

29th March, 1966.

Clerk of Council,
Parliament House,
Singapore, 6.

Sir,

Subject: Administration of Muslim Law Bill 1965

With reference to the above, we are directed by members of the Committee of Masjid Abdul Hamid, Kampong Pasiran, to write to you regarding the decision of the meeting of the Committee of the said Mosque which was held on 13th February; 1966, and to submit our suggestions relating to the Administration of Muslim Law Bill.

Hereunder we give our suggested amendments:

Part II: 7 (1) (d): not less than 7 members to be appointed by the President of the Republic of Singapore, according to the list of names submitted by the President of the Majlis.

Our amendment: Part II: 7-(1) (d): not less than 10 members elected by the Muslims in the Republic of Singapore.

Part V MOSQUES AND RELIGIOUS SCHOOLS: 75 (1): notwithstanding any provision to the contrary in any written instrument, the Majlis shall be the sole trustee for all mosques in Singapore and every mosque together with the land on which it stands and used for the purposes thereof except State land, shall vest in the Majlis, for the purposes of this Act, without any conveyance, assignment or transfer whatever.

Amendment: Part V MOSQUES AND RELIGIOUS SCHOOLS: 75 (1) The Majlis shall be the trustee for mosques which are handed over voluntarily by the mosque trustee to the Majlis. The Majlis shall not administer mosques which are not handed over to the Majlis voluntarily and whose administration is functioning well and properly.

78. For sufficient reason, the Majlis may close or demolish any mosque and may, where a mosque has been demolished and it is not the intention to erect another mosque on the site, for other religious purposes, sell and dispose of such site but the proceeds shall be earmarked for erection, repair of mosques, and for no other purposes.

Amendment: The Majlis may demolish any mosque but to build it again on the old site. The Majlis shall not close any mosque without having justifiable reasons.

Those are the amendments we suggest; we hope they will receive your attention.

Yours faithfully,

..... ?
(Hon. Secretary)

Paper S.C. (Administration of Muslim Law Bill) No. 17.

(Late representations)

(Translation from Malay)

A. RAHMAN JAMALUDDIN AL-JEMPOLY,
39 Lengkong Tiga,
Singapore, 14.

5th April, 1966.

The Clerk of Parliament,
Parliament House,
Empress Place,
Singapore, 6.
Sir,

I forward herewith my objections and comments on the Administration of Muslim Law Bill of Singapore 1965, as hereunder:

1. *Part IV-FINANCE*

Collection
of Zakat
and
fitrah

71.-(1) The Majlis shall have power to collect Zakat and fitrah payable in Singapore in accordance with Muslim law. Provided that

such power shall not be exercised by the Majlis until a resolution to that effect has been passed by the Majlis and approved by the President of Singapore.

This cannot be brought into being in Singapore ...*

2. *Part VI- MARRIAGE AND DIVORCE*

Restric-
tion on
solemn-
ization of
marriages.

92.-(1) Under this Act no marriage shall be solemnized unless all the conditions necessary for the validity thereof are satisfied in accordance with Muslim law.

(2) Under this Act no marriage shall be solemnized if the man to be wedded is married in accordance with Muslim law to any person other than (the other party to (?)) the intended marriage, except -

(a) by a Kathi; or

(b) with the written consent of a Kathi by the wali of the woman to be wedded.

This law ought not to be brought into being because it alters the Muslim law...*

3.

Registra-
tion
compulsory.

98.-(4) A Kathi shall not register any divorce by three talak.

This ought not to be brought into being ... *

4.

Register
how
signed;
and
inquires
by the
kathi.

99.-(1) Where a marriage has been solemnized by a Kathi or Naib Kathi, the Kathi or Naib Kathi shall, within seven days after the marriage ...

This ought not to be brought into being because it becomes an open door for bribery and corruption.

5. *Part VII -PROPERTY*

Proof
of the
Muslim
law.

110.-(1) In deciding questions of succession and inheritance in the Muslim law the court shall be at liberty to accept as proof of the Muslim law any definite statement on the Muslim law made in all or any of the following books: -

(a) The English translation of the *Quran*, by A. Yusuf Ali or Marmaduke Pickthall.

(b) *Mohamman Law*, by Syed Ameer Ali.

(c) *Minhaj Talibin*, by Nawawi, translated by E. C. Howard from the French translation of Van Berg.

(d) *Digest of Moohummudan Law*, by Neil B. E. Baillie.

(e) *Anglo-Muhammadan Law*, by Sir Roland Knyvet Wilson, 6th Edition, Revised by A. Yusuf Ali.

(f) *Outlines of Muhammadan Law*, by A. A. Fyzee.

(g) *Muhammadan Law*, by F. B. Tyabji.

This cannot be brought into being because it falls into the position of an advertisement to force Muslims in Singapore to forsake the University of Agar and Darul 'Uloom of Mecca; ...*

... * indicates parts of representations rejected by the Select Committee as being irrelevant.

6. *Part IX- OFFENCES*

Religious
lecture.

138.-(1) No person who is not ordinarily resident in Singapore or Malaysia shall give any lecture or talk dealing with the Muslim religion at any place to which the public or a class of the public have access, unless he has obtained the written permission of the Majlis.

It is not good for this to be brought into being because it regards the Majlis as having the characteristics of cowardice, timidity and ineptitude in safeguarding truth; in fact it is outside of Democracy.

This is all and I am prepared to give clarifications.

Yours faithfully,

A. Rahman Jamaluddin Al-Jempoly.

Paper S.C. (Administration of Muslim Law Bill) No. 18
Late representations

PERTUBOHAN MUSLIMIN
c/o 5 Mattar Road,
Singapore 14.

14th April, 1965

The Clerk of Parliament,
Parliament House.
Empress Place,
Singapore 6.

Dear Sir,

Re Administration of Muslim Law Bill

We would like to express our gratitude to the Government of the Republic of Singapore for taking a keen interest in the affairs of the Muslims as evidenced by the introduction of the abovementioned Bill.

In reply to the invitation from the Government we have reviewed and studied the Bill, but in doing so we always put the following as our guides:-

1. Our religion (Islam), and its spirit, and
2. the general welfare of the Muslims.

Under the first guide we would restrict ourselves to see that the Bill will not contradict our religion and we would urge that it should serve Islam better than any other ordinance already in existence. Under the second guide we would support any provision which we felt would be of benefit to the Muslims at large and would oppose that which we considered detrimental even though from its facial appearance it may look beneficial.

It should be noted that we particularly oppose those provisions which tend to discriminate the Muslims and put them under less favourable position than the non-Muslims and accordingly we would suggest their deletion or amendments.

In view of the intricacies of the matter and in view of the shortage of time we were unable to study the Bill and thoroughly as we would like. Therefore in sending this Bill we reserve our opinion with regards to the section which we do not mention in our memorandum.

The following are the result of our study forwarded to you with a hope that our suggestion will be considered in the Select Committee with an open mind.

Section 5 (2)

We suggest that the words "charge, mortgage" which occur in the fifth line should be deleted.

Reasons: These words i.e. charge and mortgage must under the Singapore Law necessarily carry interest. Interest is forbidden in Islam. Though we have some forms of mortgage in Islam which do not carry interest we fear that if these words are put in, the Majlis may deal with interests. The Majlis, if in need of money may resort to the Government for loan free of interest.

Section 5 (3)

We suggest that the word "shall have power to" in the first line should be deleted and the word "may" should be substituted therefor.

Reasons: The word "may indicates more precisely that this provision is discretionary.

Section 7 (1) (d)

We suggest that the words "not less than seven" should be deleted and the word "twelve" should be substituted therefor. We also suggest the following Proviso should be added after the word "Majlis" at the end of the clause.

"Provided that such nominees are selected from persons nominated by such Muslim Religious Societies as are prescribed for the purpose by the Majlis and provided that a Muslim Religious Society shall not have more than one member to be appointed in the Majlis and provided that for the purpose of the appointment of members to the Majlis first constituted under this Act nomination shall be made by such Muslim Religious Societies as are prescribed by the President of the Majlis."

Reasons:

1. Looking at section 7 (1) we find that in effect there are seven members appointed by the Government i.e. the President of the Majlis the Mufti and the five members in 7 (1) (c) and seven members are appointed from the list submitted by the President of the Majlis therefore we feel that to be in harmony with the democratic bent more members should be appointed from non-Government agents.

2. We would prefer that as many Muslim Religious Societies as possible have representatives in the Majlis to show that the Majlis really reflects the public opinion of the Muslims in Singapore. This is the reason why we put the Proviso clause so that at least there are 12 Muslim Religious Societies represented in the Majlis.

Section 7 (2)

This section should be deleted.

Reasons: We have put forward the Proviso clause at the end of subsection 7 (1) (d) above. Subsection 7 (2) become irrelevant.

We suggest further that if a member of the Majlis vacates his seat other member should be appointed from the Society whose member has vacated the seat.

Section 9 (d)

This subsection should be deleted.

Reasons: We feel that the Majlis should be purely Islamic and should not be coloured by politic. We see no reason why there should be a member of Parliament in the Majlis. Looking at section 7 (1) (c) we feel that the Government should be given the freehand to choose any person suitable to be appointed a member. If the Government feels that persons who do not join any Organisation should be included in the membership of the Majlis, the Government is free to do so whether they are members of the Parliament or not.

Section 11

We suggest that the words "any member of" in the second line should be deleted and the words "the Mufti" should be substituted therefor.

Reasons: The member as we know is a representative of a Society. To appoint a member for temporary period in the absence or incapacity of the existing member must necessarily require the confidence of the Society whose member is absent or incapacitated. This may involve complicated procedure. Therefore we feel it is relevant only when the Secretary or the Mufti becomes incapacitated or absent temporarily that another person should be appointed to act in his place.

Section 21 (3)

We suggest that this subsection should be deleted and in its place the following may be written:

"A copy of the minutes when confirmed by the Majlis should be sent to the President of Singapore."

Reasons: We do not see any reason why draft minutes should be sent to the President bearing in mind that draft minutes may be extensively amended. This subsection if not deleted will cause unnecessary hardship and waste of time.

Section 25

We suggest that the first paragraph of the section should be reworded as follows: —

In any case of emergency the President with the approval of at least one third of the members do or direct to be done on behalf of the Majlis any Act or thing which might lawfully be done by resolution of the Majlis.

Reasons: To safeguard against mockery and abuse.

Section 31 (1)

This subsection should be reworded as follows:-

"There shall be a Legal Committee of the Majlis consisting of the Mufti, two ulama members of the Majlis, and not more than two other ulama who are not members of the Majlis."

Reasons: As only the ulamas are the scholars learned in Muslim Law it is important that all the members of the Legal Committee should be ulamas. We do not like to see any unfit person to be bulldozed in the Legal Committee.

Section 32 (2)

We suggest that the following words which start at the ninth line should be deleted "the question shall be referred to the Majlis which shall in like manner issue its ruling in accordance with the opinion of majority of its members." We suggest the following should be substituted therefor "the opinions of the members of the Legal Committee shall be published."

Reasons: There is no majority rule in Shariah.

If we leave the subsection as it is the provision looks very absurd. As we note the Legal Committee is a highly specialised body and more qualified to determine and discuss the point of Muslim Law than the Majlis itself. It is rather curious that a question which cannot be determined by the Legal Committee should be referred to the Majlis which is of lower qualifications.

Section 32 (4)

We suggest that the words at the end of this subsection beginning with "for" at the middle of the fourth line should be deleted and the whole subsection after modification should read as follows:-

"If in any Court any question of the Muslim Law falls for decision and such Court requests the opinion of the Majlis on such question the question shall be referred to the Legal Committee which shall for and on behalf and in the name of the Majlis give its opinion if it is unanimous, and the opinion of its members if the Legal Committee is not unanimous, and certify such opinion or opinions to the requesting Court."

Reasons: The same reason as given for section 32 (2) above.

Section 35 (1)

We feel that the President of the Shariah Court should be a person other than the Registrar of Muslim marriages. He should also be a person other than the Registrar of Court. The reason is obvious.

The Court is not, as it is, a Court of criminal jurisdiction. Summons may be prepared by an officer of the Court who is more often than not the Registrar himself. In practice such summons may come under heavy criticisms for being bad at law etc. It is quite obvious how will the position be of a lawyer who is confronted with such a situation.

It seems to be the practice that some laymen may get or seek advice from the Registrar of the Court. This is rather embarrassing when the matter should go to the Court where the presiding Judge is the Registrar himself.

This subsection after amendment will thus read:

"The court shall have jurisdiction throughout Singapore and shall be presided by such male Muslim as the President of Singapore may appoint, provided that such male Muslim shall not be the Registrar of Muslim marriages nor shall he be the Registrar of the Court."

Section 35 (2)

This subsection may remedy the questions where the parties are married under Muslim Law even though one of them is not a Muslim e.g. where the husband is a Muslim and the wife is a Kitabiah.

Persons who are married under the civil law or under the provisions of their religious law may seek divorce etc. in the High Court. But if one of them becomes a Muslim he or she cannot seek dissolution of his or her marriage in the High

Court nor in the Shariah Court on the ground of conversion, whereas under the law of God the couple should be separated and the marriage be annulled, otherwise he or she will commit sin.

We suggest therefore that this convert should be allowed to seek help from Shariah Court for that dissolution. Subsection 35 (2) (b) should be amended as follows: —

"(b) divorces known in the Muslim Law as fasakh, cherai, taalik, kholo' *farak* and talak,"

and the first paragraph of subsection 35 (2) should also read

"The Court shall hear and determine all actions and proceedings in which *one of the parties* is a Muslim and which involves dispute relating to"

Note:

We would like *NUSHUZ* to be cancelled from section 35 (2) and from this Act altogether because we feel that Nushuz may be abused as it has always been, resulting in injustice and other undesirable consequences. A man who finds his wife intolerable should release the wife instead of seeking revenge under the cloak of religion. Nushuz is therefore unnecessary, a part from the fact that the religious basis for its existence is questionable!

It is our considered opinion that the Shariah Court should have the power to determine the question of the maintenance of wife and children and the custody of children.

The present practice is that the maintenance of wife and children is triable before a Magistrate who is not a Muslim and perhaps ignorant of the Muslim Law. It is feasible that such question should be determined only by a Court with the qualification i.e. the Shariah Court. Muslim Law in this respect should be respected and therefore the provisions of Women Charter where an illegitimate child can seek maintenance from the father should not be applied on Muslims.

At present it is only the High Court which can hear the question of custody of children. This involves expenses. Since Muslims are usually poor we suggest that they should be allowed to go to the Shariah Court for that purpose.

For the above reasons we suggest the following amendments: -

Section 35 (2) (c) The words "or judicial separation" should be deleted.

Section 35 (2) (e) The words "of wife and children" should be added after the word "maintenance".

Section 35 (3) should read:-

"In all question regarding betrothal, marriage, dissolution of marriage, including talak, cherai, taalik, kholo', *farak*, and fasakh, nullity of marriage, the appointment of hakam the disposition or division of property on divorce, the payment of maskahwin and consolatory gifts or mutta'ah on divorce, *custody of children*, and *maintenance of wife and children* the rule of decision where *one of the parties is a Muslim* shall, subject to the provisions of this Act, be Muslim Law."

Please note particularly the fact that the words "as varied by Malay Customs" are deleted, since such customs may be contrary to Islam which we cannot sanction.

Section 46

It is noted that the Shariah Court is dealing mainly with matters relating to private relationship which usually provoke obscenity and scandal. Dirty behaviour, quarrels and perhaps blackmailing should not become in practice the delight for public consumption. These are matters which require to be put in secrecy for the dignity of religion and the dignity of Muslims. It is rather unfortunate if a well known and respected Ulama or other highly respectable Muslim has to be ridiculed in public just because he wants to divorce his wife or his wife is not satisfied with him and thus seeking a divorce from him.

The evils of English Law and its scandals should therefore be cast away from our Muslim Society which stands on purity and dignified religion.

On the above grounds we feel that this subsection should be deleted and instead a new wording should be substituted to the effect that as a rule *hearing should be in camera*.

Section 51

This section should be deleted.

Reasons: See note on section 35 (2) (b) above.

Section 58 (2)

This section allows the Majlis to invest in investments allowed under written law for trust funds. Such investments necessarily carry interests which are abhorred by Islam. We therefore cannot sanction this section and suggest that Majlis may be allowed only to make investments which are allowed by Islam.

For the above reasons the Proviso clause in the above section should be amended to read as follows: -

"Provided that any investments of assets and funds vested in the Majlis may be sold, realised, and disposed of and the Majlis shall have power to invest from time to time in any investments *authorised by Muslim Law* and to transfer the same to other such investments."

Note particularly the deletion of the words "any written law for time being in force for the investment of trust fund."

Section 59 (2), (3), (4) and (5) and section 60

We strongly oppose these sections and therefore suggest that they should be deleted.

Reasons: Though the idea behind these sections is to see the proper management of wakaff; we fear that they will bring more disgrace than good.

These sections presuppose the fact that the Muslims are in general incompetent and dishonest. At the time when all non-muslims in Singapore are allowed freehands to manage trust properties whether for religious purposes or otherwise the muslims are tied up. We fail to see the difference in the treatments between Muslim and non-muslims, and of course we loathe the implication and to be branded as untrustworthy.

The law of Singapore is very adequate to remedy the question of mismanagement of trust funds.

There is penal law for breach of trust etc. and there are provisions under Singapore Law for displacement of unworthy trustees.

The Majlis may of course on receiving any complaint make a report to the police for investigations in matters where mismanagement is suspected, or to act as plaintiff in the Court against a wrong trustee.

We do not oppose if it is enacted a law which requires the trustees to submit accounts yearly to the Majlis.

Apart from the above reasons these sections will definitely discourage Muslims from creating trusts for the purpose of Muslim religion. It should be noted that the Muslims are highly required by their religion to create trusts. We therefore cannot associate ourself in matters which are contrary to our religion.

If it is agreeable, we would suggest that the following provision may be adopted in place of the deleted provisions.

"The Majlis may require the trustees of any wakaff am or nazr am or any trust of every description creating any charitable trust for the support and promotion of Islam or for the benefit of Muslims in accordance with the Muslim Law to submit accounts to the Majlis annually. If the Majlis considers it proper or it receive any complaint against any trustee for mismanagement of wakaff am or nazr am or any trust of every description creating any charitable trust for the support or promotion of Islam or for the benefit of the Muslims in accordance with the Muslim Law it may report the matter to the Attorney General and/or act as plaintiff in a Court of Law for remedies."

Section 61 (3)

We suggest the deletion of the words "or of any written law".

Reasons: Wakaff etc. which is valid under Muslim Law may be invalid under other law. Since this touches some essence of religion of God we would prefer the other law not to interfere with our religion.

Section 62 (2)

The words "and form part of the fund" should be deleted and be substituted with "charitable purposes authorised by Islamic Law".

This subsection will thus read:

"Where there is no specific provisions in such instrument or declaration for the expenditure of the wakaff or nazr the income shall be paid to charitable purposes authorised by Islamic Law."

The amendment is more in line with the Islamic principle. See also our opposition to sections 59 and 60.

Section 63 (1)

This should be deleted for being unnecessary of the parts of section 59 and the whole of section 60 are deleted for reasons already explained.

Section 63 (2)

This subsection should be amended to read as follows:-

"if for lapse of time or change of circumstances it is no longer possible beneficially to carry out the exact provisions of any wakaff or nazr am, the trustees shall report the matter to the Majlis and the *Majlis shall enquiries and investigations to be made and if satisfied shall prepare a* scheme for the application of the property and assets affected thereby in a manner as closely as

may be analogous to that required by the terms of such wakaff or nazr am and shall apply the same accordingly."

Note: The words underlined which are added by us and also the deletion of the Proviso clause.

The reason is obvious and needs no explanation.

Section 63 (3)

The words "added and form part of the fund" should be deleted and the words "paid to charitable purposes authorised by Islamic Law" should be substituted therefor.

The reason is as above.

Section 63 (4)

Our objection to Majlis taking over all wakaff etc. effect this subsection. We therefore suggests that this subsection should be deleted.

Section 64 (2)

This subsection should be deleted.

Reasons: These subsection are unnecessary since it is provided by the state law that any one can go to Court for direction.

.Section 64 (3)

This subsection should be deleted.

Reasons:

- (1) We do not recognise the prescribed books as authority.
- (2) Let the Judge be free to follow the usual procedure of the Court.

Section 69

The Government has undertaken to spend money to carry out this Bill. Please refer page 281 of the draft Bill under the heading "Expenditure of Public money".

We hope that the Government therefore will shoulder some expenses for running the Majlis especially in connection with the salaries of the officers and servants of the Majlis. It is not fair to use the income of the fund which consists of the wakaff properties for paying the salaries which may absorb all or major part of the income thus leaving nothing or very little to be paid for the real charitable purposes. The Government should not shrink on hearing this suggestion for we understand it is the undertaking of the Government to promote the welfare of the minority which is here the Muslims and we believe this Draft Bill is prepared for the same purpose.

For the above reasons we suggest the amendment of this section to read as follows:-

All costs, charges and expenses of administering the property and assets vested in the Majlis including the cost of maintenance and repair of any immovable property shall be paid out of the property and assets of the fund and the salaries and allowances of all servants of the Majlis and the fees and allowances payable to any officer or member of the Majlis in respect of his services as such shall be paid by the Government."

Note: The words underlined which are added by us.

Section 71 (3)

The word "may" which occur at the second line should be substituted with the word "shall".

Reasons: This provision should be mandatory instead of discretionary only.

Section 72

1. The words "with the approval of the Minister" appearing in the first line of subsection (1) and in the second line in subsection (2) should be deleted.

Reasons: We do not see any purpose for such requirement. Furthermore it is our considered opinion that the Majlis should be given freehands to run its business within the Law.

2. With regard to subsection 72 (2) (d) we suggest that it should be deleted.

Reasons: It is not fair to punish people for receiving zakat or paying zakat to them without authority.

It should be noted that in general the public especially the poor people are ignorant of Law.

We do not object of course if a clause is enacted to punish a man who refuses to pay zakat or fitrah to the Majlis after being demanded, provided that payment to other than the Majlis shall not be a defence.

A man who falsely impersonates himself as the servant of the Majlis for the purpose of collecting zakat fitrah may also be punished.

Other poors who receive zakat and fitrah should not be punished. Let the money etc. paid to them be considered as mere gift.

The payer may be punished in the form of making further payment to Majlis as if he has never paid any zakat or fitrah to anybody i.e. without deduction etc.

Section 73

The last two lines of this section should be deleted.

Reasons: It is contrary to natural justice that the plaintiff or prosecutor is himself a Judge in the same matter in which he is interested.

The decision of the Majlis should therefore be appealable to the Court to insure justice.

Section 74

We suggest for its deletion.

Reasons:

1. This section is unnecessary in view of the already existing law for permit from the police.
2. This section makes it compulsory to get permit from the Majlis in addition to police permit and thereby put the Muslims under more restrictions than their counter-parts the non-muslims.

Except sections 77 (1), 77 (2) and 84 (1) we object all the provisions of Part V (Mosques and Religious Schools).

General Reasons:

1. See the reason given for section 59 regarding zakat.
2. We fear the abuse of power and the provisions being used for purposes other than genuinely Islamic but under the name of Islam.

3. Such provision have never been imposed in respect on Churches, Temples etc. and we see no reason why Muslim religious schools and places of worship should be discriminated.
4. We would prefer the Mosques etc. being subject to the general law of the State i.e. among other things the school to be subject to school ordinance and fitness of Mosque to building Department's regulation.

SCHOOLS:

Reasons:

1. Reason above given.
2. If the Majlis is to take care of the schools as well it has to have a special Department called School Department with special budget and educationist specialist.

Where is the budget and where are the staff? The Majlis is certainly less efficient than the Ministry of Education.

It is more economical and of more advantages that the religious schools should be under the Education Ministry as they are. The Ministry may employ one or more religious scholars for purposes of religious schools.

Religious schools in the states of Malaya have been all along been under the Religious Department, or Majlis Ugama. We do not see any difference between the religious schools in Singapore and those in Malaya except that those with more finance will get better teachers and better equipment and thus better standard.

The question is therefore finance, and the Government can do this without the Majlis and can do better.

As it is the Government is at difficulty to find suitable staff for the Shariah Court. The Government will find it more difficult for Department of school and for Department of Mosque.

We do not like to see unqualified and half cooked staffs who will reck everything, apart from the fact that these Departments are unnecessary.

DAERAH MASJID:

We do not see any valid purpose for this provision, apart from the implication that the Muslims in Singapore in general are either criminals or morally disgraceful.

We do not like to see the abuse which may result in spying behind the back doors of every kitchen. This is clearly against the principle of Islam and may also create bad feelings and disunity.

We feel the police and the Vigilante Corps are more than sufficient to see to the good behaviour of the Citizens including the Muslims.

MOSQUES: (Please also see the reasons above).

We would welcome if the Majlis will act as an advisory body to the mosques and if the Majlis will act to assist the mosques with funds or staffs if the Majlis assistance is invited. This provision would turn *inter-alia* the mosque into places for, professional etc. which is degrading the dignity of the house of God.

Mosques should be left purely under voluntary organisations where the sole aim is religion and God.

PART VI MARRIAGES AND DIVORCES:

Section 94. We suggest its deletion.

Reasons: It creates unnecessary restriction apart from the fact that we oppose the concept of Daerah Masjid.

Please refer our reasons on the subject in Part V.

Section 98 (1)

We suggest the following words "or at any other suitable place" should be added at the end of subsection (1).

Reasons: We do not want any unnecessary restriction.

Section 98 subsection 2, 3 and 5 should be deleted.

Reasons: Restriction on Islam. They are against Islam.

PART VII PROPERTIES:

Section 107 (1) (c)

We suggest the following words should be added at the end.

"If the property has been disposed of as prescribed by the Will".

Reasons: If the property has not been disposed off, the beneficiary entitled under intestacy should be given their rights.

We allow the Will to be effective where the property has been disposed because of the difficulty which will arise if the beneficiary insists on his rights under intestacy.

Section 121

1. This section is ambiguous and might create injustice against a Muslim woman.

2. This section will force a Muslim wife in every action against the husband to come to Court to claim her properties. As we know a respectable Muslim woman is not encouraged by our religion to appear in public.

We therefore suggest the wordings of the section to be amended as follows:-

"When a Muslim husband and his wife or wives live together in the same house the vehicle household goods of every description except sewing equipments, cosmetic, jewelleries and goods of a female nature shall be held *prima facie* to belong to the husband in any question between the husband and his creditors."

CONVERSION:

Sections 123, 124 and 127 should be deleted.

Reasons: The idea of keeping record or the registrar of the converts might be a good idea but section 123 does not have any meaning because there is no conversion unless it is according to the Muslim law, and the ceremony is simple i.e. just to say the Shahadat, therefore we cannot see but this section 123 is irrelevant.

As regards to the obligation of a person who converts another person to make a report under threat of punishment (see sections 124 and 127) though it might help to keep a record, this section is very unhealthy because a person who is doing his religious obligation but does not know the law will be unnecessarily

become a criminal, a situation which is abhorred and cruel. Similar requisition is not imposed on non-muslims therefore, any person is free to convert and to help the conversion of other people into his religion whether the religion is Christianity, Buddhism, Hinduism etc. Why therefore a Muslim should not be free to do so. It is in keeping with our democracy and freedom of belief and religion that these sections should be deleted so that they may not be wrongly interpreted and might not cause in practice to curtailment the freedom of professing Muslim religion.

Section 125 should be deleted.

Reasons: By having this section we feel that injustice may occur. In reading the amendments made hereinafter it is invited to have in mind the deletion of this section 125.

Section 130 should be deleted.

Reasons: This section if passed will create embarrassments. As it is if a Muslim man cohabits a muslim woman both parties shall be liable to punishment. This is quite fair because under the law of Islam they both commit a serious offence. But if one party is a Muslim and the other is non-muslim, the Muslim commits an offence while the non-muslim who is essentially the ingredient of the offence a partner and associate and perhaps the "principal offender" will go scot free. The Muslim will be a criminal from non-eligibility to hold most of the Government posts and some political posts to fine and imprisonment. While his/her partner is regarded clean and perhaps may attend the Court and laugh at the mockery of the "donkey" which is called law.

This is clearly a form of injustice and will certainly raise a situation of dissatisfaction among the Muslims who would insist that the partner shall also be punished. In our multi-racial society such dissatisfaction is very unhealthy and if prolonged it is afraid, will cause unnecessary disturbances.

The impact might be lessened if the offence is trialable only before the Shariah Court because there it might be argued that the non-Muslim cannot be punished due to the fact that Shariah Court has no power or no jurisdiction over a non-Muslim. Somewhat similar position is adopted in the States of Malaya but it drew criticism from all corners and was found to be unsatisfactory. So we see there are 2 solutions in this matter.

1. The non-muslim should also be punished because he/she is also a partner and associate in the crime. Though cohabitation is perhaps immoral to all societies and religions and hence the above solution cannot be argued as imposing Muslim Law over non-muslim because apart from the reason of immorality the law is the law of the State this solution might not be acceptable to some quarters. Therefore the best solution in our view is to delete this section.

This section is perhaps directed to the Muslim who cohabits with the non-muslim. At present it seems correct that the occasion of illegal cohabitation between the Muslims where both parties are Muslims, is practically nil. Therefore the section is unnecessary. The only prevailing situation now is when one party is a muslim and the other is non-muslim. We have seen the unhealthiness of punishing the muslim and not his partners. The Muslim who cohabits with non-Muslim are generally those whose faith in the Muslim religion is very weak or whose Islam is only in the name. This punishment will not cure them. On the contrary it might

induce them to declare that they are non-Muslim so as to put them out of the pre-view of the offence. It might be noted that a muslim can apostate and his apostacy is accepted only by his/her declaration that he/she is not a Muslim. Therefore we can see from here that this section will do no good to all but will be a farce and a mockery.

Section 131

This section should be deleted.

Reasons: This section punishes only a Muslim who entices away unmarried woman, but does not punish a non-muslim who does the same. This is rather a scandal. We would agree to this section only if a non-muslim is equally punishable. We do not see any valid reason for this discrimination.

Section 132

This section should be deleted.

Reasons:

1. This section is absurd and unnecessary.
2. There is enough remedy under penal code and the wife can also get rid of the cruel husband under the machinery of fasakh.
3. Ill treatment is a term which has a varied meaning and may be interpreted very widely. We fear that this section apart from creating unnecessary crime may be abused as to put the Muslim husband under perpetual threat and under the thumb of the wife, a position which is against the spirit of Islam.

Section 133

This should be deleted.

Reasons:

1. It is absurd and unnecessary.
2. The husband has the remedy of talak.
3. It is no use and wasting of everything to try to force people, either husband or wife, to resume cohabitation when his or her mind is against it. No happiness can be achieved both by the guilty and the innocent parties to resume marital life under force. Therefore the only remedy is to dissolve that marriage. This is the law of God, and no human being should try to alter it.

Section 136 subsection 4 is ambiguous and therefore should be deleted.

Subsection I should be modified as follows with the words underlined added therein.

"Whoever being liable to pay zakat and having failed to procure, in accordance with section 73 of this Act, the cancellation of such liability, and the Majlis has demanded him to pay the zakat, shall refuse or wilfully fail to pay the same within one month from the date of the notice of demand unless the time is extended by the Majlis shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment."

Subsection 2 should be modified in a similar manner as subsection 1 above.

Reasons: The reason for the above is to protest the zakat payer against the arbitrary action of the Majlis and injustice.

Section 138 and 139 should be deleted.

Though "somewhat" similar provisions are found in some of Muslim Ordinances in the States of Malaya these two sections may if abused curtail. The freedom of religion, though it might be intended *bonafide* to safeguard the Islamic religion. Apart from the police permit for giving lecturers. We see no reason why another permit should be required. We do not find that any lecturer of religion other than Muslim religion is forced to submit to such a scrutiny or rare obsticale. It should be noted that Islam has many sects where one sect usually think that the teaching of the other sect is false or contrary to Islam. Secondly Muslim law is a living law and suit every locality and circumstances. This section might be abused either intentionally or unintentionally. Thus a sect which is favourable to the Majlis may persecute another sect. This also may discourage any ulama from Ijtihad for fear of being accused of advocating false teaching and fear for being convicted, whereas his idea might be very useful to the society. It should be noted that in Singapore throughout history no such provision are in force and the people remain Muslims and there are many sects who are happy without any interference by any authority.

Further this Proviso are rather curious since a Muslim non-resident must require a permit when he talks on Islam but a non-muslim non-resident can speak on Islam without such permit.

Section 134

PERMISSION TO HUSBAND TO LEAVE SINGAPORE: should be deleted.

REASONS:

The idea might be good but we feel that this section is full of injustice. This section is perhaps directed to some people from outside Malaysia and Singapore who came here and got married. The idea is to guarantee the maintenance of wife and children. But through close scrutiny this law is absurd because the man who is still in love with his wife and intends to come back to Singapore or to bring the wife and children to his country of origin later must have the feeling of responsibility and will necessarily arrange for the maintenance of the wife and children. But a person who intends to leave the wife and children for good he is the person who neglects to arrange for the maintenance of them. Now this law will not be operative against the husband unless he has actually left the country. Even if you are liable to fine or imprisonment for not getting the permit you can just ignore this provision if you have no intention at all to come back, because the authority usually cannot get hold of you if you are outside its jurisdiction. Therefore this law is unpracticable, and seems to be directed in the reverse i.e. Puts obsticales to a good man. Further if you read the section carefully it says that a man (who is not a Citizen of Singapore or Malaysia and who is married in Singapore shall not leave Singapore without the permission of the President of the Majlis and the President of the Majlis may withhold such permission until he is satisfied that such person has made proper provision for the maintenance of his wife and children, if any. This in practice will be troublesome and is in actual fact a curtailment of the freedom of movement. What is the position if he is working in Johore or the nature of his working requires him to go to the States of Malaya several times.

Apart from the above argument this law seems to show or create an impression that a Muslim husband is less responsible than the non-muslim husband. This picture is naturally detested and objected by Muslims. Secondly the similar provision has no application to non-muslim whereas the responsibility to maintain the wives and children are equal under the law whether you are muslims or non-muslims.

As a conclusion we consider that this law is full of injustice and stupidity and should be deleted.

Section 135

This section also should be deleted because a man who is a good Muslim who wants to perform his religious duty i.e. build a mosque is somewhat hindered by this section and may suddenly find himself under a law regarded as a criminal instead of a pious person. It should be noted that under Muslim Law it is believed that building Mosques is one of the religious performances which gives everlasting reward in the Hereafter which is sought by good Muslims, and this section in practice may stop them to get such reward. Further there is no law in our country to require a person who wants to dedicate a certain building for religious purposes like temples or churches to get permit apart from ordinary building permit etc. Therefore why should it be required in respect of a mosque.

SPECIAL SUGGESTION:

1. In view of the right of the Majlis under section 56 (1) to make the properties of a deceased Muslim who has left no beneficiary we consider it logical that a provision should be created to the effect that it is the duty of the Majlis to pay up the legitimate debts of a deceased Muslim who left no property.

2. As the idea of producing this Bill especially the formation of the Majlis is to promote the welfare of the Muslims at large we consider it legitimate to suggest that it is now the time for the Government to support the years long and such talked of scheme for the compulsory monthly donations of say \$1 per person from every employed Muslim. A provision should therefore be created to make the Majlis the agency for collecting such donations.

This donation will have tremendous advantage to the Muslim society in Singapore so as to bring them to the level of non-Muslims.

3. We would suggest that the word "Islam" should be used for "Muslim Law" and "Muslim Religion" for the word Muslim Law and Muslim Religion are not quite correct and rather corrupt.

Yours faithfully,
PERTUBOHAN MUSLIMIN,

S. O.A. Alsagoff

(Hon. Secretary)

(Late additional representations)

29th April, 1966.

The Clerk of Parliament,
Parliament House,
Empress Place,
Singapore, 6.

Dear Sir,

Re: Administration of Muslim Law Bill

I have pleasure in sending herewith* the Definition of Ulama as requested by you in connection with the above.

Please also note that in our Memorandum page (10) sections 98 subsection 2, 3 and 5 should be deleted, should read section 98 subsection 3, 4 and 5 should be deleted.

Thanking you.

Yours faithfully,
PERTUBOHAN MUSLIMIN,
S. O. A. Alsagoff,
Hon. Secretary.

**Definition of Ulama*

The proposed Legal Committee of the Majlis mentioned in section 31 of the Draft Bill is understood to be responsible to give opinions and rulings in matters touching the Muslim religion. Please see section 32. Such duty or function of a Mufti or Mujtahid as known generally by the Muslim scholars. The scholars of the Islamic science called Usul Fiqh are very much interested in studying the qualifications and requirements for these Mufties or Mujtahids for this Mufti has very important duty to discharge. He is the one who will expose the principles of religion which are clear and which are not clear based on the set rules laid down in Usul Fiqh and his knowledge of Koran and Hadith. There are many new problems which arise through human experience which had never been dealt with earlier by the Doctors of Islamic Religion. These problems have to be solved by these Mufties based on the spirit of Islam if the clear texts of the Koran etc. are absent. This is perhaps one of the meanings of the saying of the Prophet, "The Ulama are the successors of the prophets".

For the guidance of the members of the Select Committee we attach herewith some extracts of passages dealing with the qualifications of the Mufti or Mujtahid.

Our definition for the "Ulama" of the Legal Committee is based on the above understanding and guided by the opinions of the scholars of the Usul fiqh concerning the Mufti, though it will be noticed that, fully aware of the difficulty of finding the "qualified men," we choose only the minimum requirements. It might be safe to say that holders of the first degrees of the religious faculties of the Muslim universities such as Azhar and perhaps also the holders of the *higher* certificates of the Muslim College Kiang are qualified under our definition. Our definition also will not prevent persons without university degrees from being qualified so long as they meet the requirements under the definition.

We consider that a person who does not answer to the requirements recommended in our definition is unfit to sit in the Legal Committee as the requirements recommended are the minimum.

The definition of "Ulama" proposed for section 31 is as follows:

He is fit and proper male Muslim who is learned in the Arabic language and well versed in Koran, Hadith, Ijma", Kias, Usuluddin, Usul Fiqh, Fiqh and Mustalah Hadith.

- Note:-1.* The fit and proper will give wide direction to the President. This qualification might cover the question of moral which is the first qualification for a Mufti under Usul Fiqh (see the attached extract under the term of "Adil"), wide experience and general ability.
2. *Language Koran Hadith* are specifically mentioned in all the extracts attached.
 3. The other requirements are understood from the explanations of the authors.

*Sharhil Warakat by
Jalaluddin Al Mahalli
Pages 22/23*

Translated from Arabic Text

'... among the requirements for a Mufti (Mujtahid) are that he must be learned in Fiqh i.e. he must know its basis and its branches, he must know the fiqh of his own school of law and the fiqh of other schools of law, conversant with the problems dealt in the fiqh, its basis and its branches and the different opinions of the fuqahak (jurists) ...

'... He must be well equipped with the tools of Ijtihad and conversant with the sciences which will enable him to deduce the provisions of the religion. He must know the grammar and the language (i.e. Arabic). He must know biographies of the people who related the prophets traditions so that he will only rely on the informations of the reliable people and will pay no attention to the informations brought by the people who are less reliable according to the science of Mustalahul Hadith. He must know the interpretation of the meaning of al-Koran on matters concerning the provisions of Religion and the prophet's traditions concerning them ... He must know theology and usul fiqh.

*Usulul Fiqh by Muhammad Khudri Bek
3rd Edition, 1938, Cairo, pp. 358-360 (Arabic)*

There are two requirements for a Mujtahid.

1. He must be Adil (Just). The requirement is obligatory if his opinion is for other than himself ...
2. He must know all the sciences of the religion ... and the sources is the Koran, the traditions, Ijma' and Kias.

The Koran is the source of the religion. He must know it. It is sufficient for him to know the texts concerning the provisions of the religion. It is not necessary for him to know the Koran by heart, it is enough if he know where to find the texts concerned.

Regarding the traditions, he must know the hadith (sayings of the Prophet) which touches the provisions of the religion. It is not necessary for him to know it by heart. It is sufficient for him to have a book containing all the sayings concerning the provisions of the religion and knows how to find them whenever required ...

There are four science which will enable him to develop the religion.

1. His knowledge as the religious proofs and evidence and their requirements. He should know that these proofs are of three categories. They are proofs coming from rational thinking, strictly religious which accord to religion are *ipso facto* proofs and positive proofs which are language expressions.

2. His knowledge of the language (Arabic) and the grammar to enable him to understand the sayings of the Arabs and their customs, He must be able to understand the implied and the expressed meanings, the obvious and the shortened form, the real and the hidden meaning, the general and the special . . . It is not necessary that he should be an expert of the language like Khalil (one of the fathers of this science) ... It is sufficient if he has attained that standard which enables him to understand the sayings of the Prophet and the meaning of Koran.

3. His knowledge of those texts of the Koran and hadith which qualify other texts and which texts are qualified ...

4. His knowledge of the histories of each of the saying of the Prophet and his ability to differentiate the traditions that should be relied upon and those which should not . . . It is enough for him to rely on the works of the authorities like Al-Bukari and Muslim ...

Al-Mustasfa by *Abi Hamid Muhammad bin Muhammad Al-Ghazali*
First Edition, 1939, Cairo, pp. 101-103
The Mujtahid

There are two requirements for him.

1. He must be learned in the *sciences* of the religion.
2. He must be Adil avoiding all the religious injunctions ... He who is not adil i.e. who commits the sins cannot be followed of his opinions ...

If it is asked when does he become learned in the sciences of religion and what are the details of the knowledges which are required to enable him to become Mujtahid, our reply is that he is only able to give religious opinions (Fatwa) if he knows the laws which produces the provisions of the religion and the methods of how these provisions are produced and for these he must know the Koran, the Hadith (traditions) the Ijma' and the rational thinking.

' . . . As for the Koran it is not required that he should know the whole book. It is sufficient that he knows only those texts which concern the principles of religion. These texts are about 500 only. It is not required that he should know them by heart, it is enough that he knows where to find them whenever required ...

' . . . As for the traditions he should know those which touch the provisions of religion ... It is not necessary that he should know them by heart ... It is enough for him to have the authoritative books containing these hadith like Sunan Abi Daud ...

...There should be 4 branches of knowledge to enable him to develop the religion ...

1. . . . Knowledge of the position of the religious proofs and the requirements for these proofs ...
 2. ... Knowledge of grammar and language (Arabic) so that he is able to understand the sayings of the Arabic. This is required to enable him to understand the Hadith and the Koran ...
 3. . . . Knowledge of the qualifying and the qualified texts of Koran and Hadith ...
 4. . . . Knowledge of the history of the sayings of the Prophets so as to enable him to recognise the reliable and the unreliable sayings ...
-

APPENDIX III

MINUTES OF EVIDENCE

<i>Representors</i>	<i>Pages</i>	<i>Columns</i>
Inche Yaacob bin Alias ...	C 1-3	1-6
Inche Syed Salim bin Syed Mohamed ...	C 3- 7	5-14
<i>Representing the United Malays National Organisation:</i>		
Tuan Syed Ali Redha Alsagoff, Head, Religious Section	C 8-20 and C50-68	15-40 and 99-136
Inche Abdul Wahab bin Mohd. Ariff. Secretary, Religious Section		
Inche Abdul Rahman bin Mohd. Zain, Member of Committee, Religious Section		
Inche Jamil bin Pallal, Member of Committee, Religious Section		
<i>Representing the Muslimin Trust Fund Association:</i>		
Mr. Mohammad Javad Namazie, President	C21-31	41-62
Mr. Syed Omar Abdul Rahman Alsagoff, Secretary		
Inche Ahmad bin Mohd. Ibrahim (Attorney-General)	C31-37	61-74
<i>Representing the Muslim Welfare Association:</i>		
Mr. Mirza Abdul Majid, President	C38-45	75-90
Inche Fadjar bin Mohd. Boyee, Committee Member		
Inche Said bin Haji Mohd., Committee Member		
Inche Ibrahim bin Hamzah	C46-49	91-98
<i>Representing the Jama'at Ahmadiyyah (Ahmadiyyah Muslim Mission):</i>		
Alhaj Maulvi M. Siddique, Missionary-in-charge	C69-75	137-150
Tuan A. H. Salikin, Vice-President		
Tuan Hassan Alaudin, Executive Committee Member		
Tuan Hassan Salleh, Executive Committee Member		
Tuan Syed Abdul Rahman, Executive Committee Member		
Mrs. M. Siraj, Miss Habibah Abdul Rahim and Miss Hilal Jaafar	C76-79	151-158
<i>Representing the All-Malaya Muslim Missionary Society:</i>		
Maulvi Babu Sahib, Committee member	C80-82	159-164
Haji A. Wanjor, Hon. Secretary		

<i>Representors</i>	<i>Pages</i>	<i>Columns</i>
<i>Representing the South Indian Jamiathul Ulama:</i>		
Alhaj Moulvi M. M. Hidayathullah Sahib, President of the Association Haji Moulvi K. A. Mohamed Sayed Sahib, Assistant Secretary	C83	165-6
<i>Representing the Pakistani Association:</i>		
Mr. Mohamed Anwar Husain, President of the Association Mr. Sher Khan, Vice-President Mr. Ahmad H. Saddique, Treasurer Chowdhry Dato Ghulam Kader, Committee Member	C84-89	167-178
Mr. Kader Jamal Mohamed ...	C90-98	179- 96
Inche A. Abdul Rahman Jamaluddin Al-Jempoly	C99-105	197-210
<i>Representing the Pertubohan Muslimin:</i>		
Mr. Ibrahim bin Othman, President Mr. S. O. A. Alsagoff, Hon. Secretary Mr. M. Kamil Suhaimi, Committee Member	C105-118	209-236

MINUTES OF EVIDENCE

WEDNESDAY, 6TH APRIL, 1966

PRESENT:

Mr. SPEAKER (*in the Chair*)

Inche A. Rahim Ishak.
Inche Buang bin Omar Junid.
Inche Mahmud Awang.

Inche Mohd. Ariff bin Suradi.
Inche Othman bin Wok.
Inche Rahamat bin Kenap.

ABSENT:

Tuan Haji Yaacob bin Mohamed.

The Attorney-General (Inche Ahmad bin Ibrahim) was in attendance.

Inche Yaacob bin Alias, 130 Upper Serangoon Road, Singapore, 13, was examined.

Inche Ismail bin Alang, Simultaneous Interpreter of Parliament, and Inche Osman Gani, part-time Simultaneous Interpreter of Parliament, assisted in the interpretation.

1

6 APRIL 1966

2

Chairman

1. Just for the record, could you give your full name and address? — (*Inche Yaacob bin Alias*) My name is Yaacob bin Alias. My address is 87 Paya Lebar Road, Singapore, 14.

2. The Committee have received your representation* dated 11th January, 1966, and have read your representation? — Yes.

3. Before I ask Members of the Committee to ask you any questions which they may feel they want to ask you on your representation, is there anything which you would like to say on your representation either by way of clarification or addition or explanation? — If you have understood me, as

explained in my representation, then there is nothing further for me to clarify.

4. Very well. Am I to understand Inche Yaacob, that you are generally in agreement with the Bill now before the Select Committee? — Which Bill?

5. This Bill [*Indicating*]. You are generally in agreement with the provisions of the Bill? — Do you mean all or particular parts of the Bill?

6. Perhaps if I say, if you are in agreement with the Bill generally but you do not accept certain parts of it, then you might indicate which part you do not accept or would like further clarification on? — Yes, there are parts of the Bill with which I am not in complete agreement, and that is the

*Appendix II, pp. B6-8.

reason why I have put certain suggestions in my representations.

7. Now, which are the parts of the Bill which you find yourself not able to agree upon? Inche Yaacob, as I understand from your representations, I got the impression that you agreed with most of the provisions but that you were worried about the *fetuas*, i.e., the rulings which the *Majlis Ugama* was going to propound? — Yes. The purpose of my representation is to explain my own personal views in my capacity as the *Imam* of Masjid Alkali. That is the reason why I dealt with matters of *khutbah* or sermons in my representation.

8. Yes. In fact, the main purport of your representation is that the sermons should be based on the teachings of the Koran? — Yes.

9. And that the rulings of the *Majlis* in the form of *fetuas* should also be based on the teachings of the Koran? — Yes.

10. Is that not the main purport of your representation to the Select Committee? — Yes. It is in respect of performance of religious duties, *ibadat*.

Chairman] Thank you very much. Any questions?

Inche Mahmud Awang] No comments.

Inche Rahamat Kenap] No.

Inche Mohd. Ariff] No questions.

Inche Rahim Ishak

11. Inche Yaacob, can you please indicate which particular part of the Administration of Muslim Law Bill you think is not acceptable to you? — Mr. Speaker. Sir, with regard to the question raised by the Hon. Minister, it is not that I disagree, but concerning the matter of *fetuas*, it should be based on the rulings of the four schools of law, because the rulings of the four *Imams* are the opinions of learned

people from the four schools of law. But the basic source of authority is the word of God, the word of Allah, the Traditions of the Holy Prophet, and the words of the Companions of the Holy Prophet. The rulings should spring from three sources. They are the Koran, the Traditions of the Prophet, and the *Ijma* or the Consensus of opinion of the Companions of the Prophet. It is only by these means that one can ensure the correctness of one's *fetua*.

Chairman

12. In other words, Inche Yaacob, your view is that when the *Majlis* are called upon to issue a *fetua*, they must have consideration of these three items set out by you before they do so? — It is not necessarily so. First, they must have recourse to the Koran and, failing that, they must refer to the Traditions and, failing that, to *Ijma* or Consensus.

13. If that position is maintained by the Bill, you have no further complaints against it? — Quite so, Sir.

Chairman] Any other questions?

Inche Rahim Ishak] Can I ask a question?

Chairman] Yes.

Inche Rahim Ishak

14. Inche Yaacob, do you agree on the matter of *fitrah* if it is carried out by the *Majlis* who will appoint collectors, and then it is for the *Majlis* to decide on the manner in which the *fitrah* is to be made use of? — Yes. I am fully in agreement with that, I think it is a very good thing for the *Majlis* to do so.

Chairman) Inche Buang, any questions?

Inche Buang] No.

Chairman] Mr. Minister?

Inche Othman Wok] I have no questions.

MINUTES OF EVIDENCE

5

6 APRIL 1966

6

Chairman

15. Thank you very much for having come and assisted the Committee, Inche Yaacob? — I too return the compliment, Sir.

(The witness withdrew).

Chairman] Zakat Harta is, in fact, collected by the Council, is it not?

Inche Othman Wok] Yes.

Chairman] And distributed by the Council also?

Inche Othman Wok] Yes.

Inche Syed Salim bin Syed Mohamed, of No. 130 Pheng Gek Avenue, Singapore, was examined.

Chairman

16. Good afternoon. Could you give your name and address for the record, please? — *(Inche Syed Salim bin Syed Mohamed)* Syed Salim bin Syed Mohamed of No. 130 Pheng Gek Avenue, Singapore, 13.

17. We have received your representation* sent to us on the 12th of January and we have read it. Before we ask you any questions on your representation, is there anything that you would like to say about it or add to it? — I have read the Malay version of the Bill which is issued in a *Gazette* and I am very satisfied with what Government intends to do.

18. Splendid. Do you wish to say anything further in addition to your representation? — There are only two matters as I have set out in my representation: one is the establishment of a *Jabatan Ugama* (Religious Department) for Singapore under the supervision of a particular Ministry, as in the various States of Johore, Negri Sembilan, and so on. They have their Religious Departments. We have no such Department as yet in Singapore. No such *Jabatan Ugama* (Religious Department) has been set up in Singapore.

19. Would you not consider the *Majlis Ugama Islam* as envisaged by the Bill to be an adequate substitute for the Department? — After a

Religious Department has been set up, then people who are truly conversant with Islamic affairs can be appointed to look after Islamic religious matters in the State. After such a Religious Department has been set up, then it would be possible to control Muslims who are now separated in various organisations such as Jamiah and what have you. We have, at the moment, bodies like Jabatan Ugama U.M.N.O., PERGAS and many others with various nomenclatures being set up comprising Muslims, each going their own separate way for their own selfish purposes rather than for the benefit of Islam. When a Religious Department has been set up, then it would be possible to have full control of all the various bodies and prevent them from going their separate ways and doing things as they please. And we have a state of affairs whereby these organisations collect *zakat*, for instance, and make use of *zakat* collections for distribution to whomsoever they like, rather than for the benefit of Islam. If we do have such a Religious Department, then the collection of *zakat* and *fitrah* could be so supervised as to benefit the poor Muslims according to what is proper. Then the institution of *zakat* and *fitrah* could become an institution for Muslim welfare. We Muslims do have such an institution for welfare as is the case with the Government. We do not wish to have a state of affairs whereby the *amil*s (collectors) for *zakat* and *fitrah* are

* Appendix II, pp. B8-10.

appointed in an arbitrary manner by these organisations and the collections being improperly utilised. It is right *that the amils as collectors for zakat and fitrah are paid as employees, but it is not right for Imams to receive the collections* because, in most cases, they are rich. They have no right; they cannot receive the collections as of right, because they have property and money. This is not my own view, This is derived from the Koran wherein it is said that *those who can benefit from zakat and fitrah are the poor and the indigent.* The Koran is the embodiment of the Divine Word and it does set out eight categories of people who can receive collections from *zakat* and *fitrah*. And now if I may embark on another subject?

20. Do we understand your evidence to be that you want an organisation or a system created whereby all these abuses would be prevented, stopped and looked after? That is your main evidence up to now, is it not?— I feel that it is most important that the Government should be able to control all these various organisations and appoint a particular Minister to be in charge of this particular Department to see that *the collection and distribution of zakat* are properly carried out so that people with money and property would not benefit from the collection. When we do have such an organisation, then it will be beneficial to the Government, the Muslims and to the State, because then people will be duly appointed to carry out things which are strictly proper.

21. Is that not exactly what this Bill seeks to do? — Yes. I feel that it is only, now when the Government is attempting to bring out this Bill that I find a suitable opportunity to express my strong feelings on this matter.

22. It seems to me that the only point of difference between you and the Bill is that you think that this should be done by a Department of the

Government as such, whereas the Bill puts it in the hands of the *Majlis Ugama Islam which is a statutory body* composed of private individuals and not a Government Department? — Yes.

23. Now, would you agree with me that in the peculiar circumstances of Singapore this is the best scheme for remedying the defects and abuses which you have been suggesting to the Select Committee, because this vests the control of Muslim religious affairs in the hands of Muslim religious leaders? Is that not a more acceptable position to the Muslims rather than put religious affairs in the hands of a Government Department? — Yes. What I mean to say is that it is right that there should be a Religious Department to be staffed by Muslims themselves.

24. This is the intention here, is it not? The *Majlis* will be composed entirely of Muslims - the people who *collect zakat, the people who distribute zakat, and the people who administer* the Bill, will all be Muslims? — What I mean, Mr. Speaker, is that there should be a body set up by the Government; *whether it is to be the Majlis or the Religious Department* is immaterial.

25. Yes. But so long as a Department, composed of fit and proper Muslims, is in charge of all religious affairs relating to Muslims in Singapore, and that organisation or body is put under the control of the Minister, that would meet your point, would it not? — Yes.

26. Thank you very much. Now, what is the next point that you wish to go on to? — *The other matter* to which I wish to refer is mosques. We find that the *imams* in the various mosques hold different views. To my mind, this is the cause of Muslims being at variance with one another,

27. Now, subject to what the Attorney-General has to say, I think these are matters which are controllable under the Ordinance itself. That is the very purpose for which this Bill is to be enacted - to be able to rectify the deficiencies which now exist. The *Majlis* would be the trustee of all these mosques in Singapore. It will have the power to remove unsatisfactory *imams* and put new *imams* in their place? — Yes, such as those who hold orthodox views which are outmoded.

28. Well, the *Majlis* will look after all this generally? — I fully understand the contents of the Bill, but it appears to me that this has long been in coming. I think perhaps the Attorney-General will bear me out that this Bill was mooted in 1963, if I am not mistaken.

29. I think the only excuse that Parliament can give is that this is such an important Bill that everybody has to be consulted, and every aspect has to be looked into. I think possibly now we are in a position to proceed with the Bill. Now, do you wish to go on to any other point? — May I?

30. Yes, please? — If and when the organisation is set up, let those people who are to be appointed be those who are really conversant with Islamic affairs.

31. That is the expectation of the Bill, yes? - But nothing has been done up to now.

32. It is going to be done very soon, I hope? - Well, the matter has been postponed several times. First, it was to be 24th January, then it was extended to the 28th February. And on the 28th February, there was a statement issued by Government that the closing date was to be the 31st March.

33. Tuan Syed Salim, I want to make it quite clear to you that it is not the Government that has been post-

poning the closing dates of representations on this Bill. The Select Committee itself has been postponing the dates. The Government is not responsible at all?

— I am not blaming the Government. It is the Muslim organisations which have been lackadaisical in this matter. I myself have submitted my representation early enough - on the 12th January.

34. Tuan Syed Salim, the position of the Select Committee is this: the Select Committee feels that this is a very, very important Bill. Therefore, it would like to carry with it all shades of Muslim opinion in Singapore. So if we give you the impression that we are delaying it a bit too long from your point of view, the reason is that the Select Committee does not want to make a mistake. It would rather delay the Bill than make a mistake. So because of that, the Bill has been postponed time after time. If the Select Committee has the blessings of all shades of opinion when the Bill becomes law, then the administration of that law will become simple? — Yes.

Chairman] Now, that, as far as I think your representation takes us, seems to cover all the points that you have made. Would any Member of the Committee like to ask Tuan Syed Salim any questions?

Inche Mahmud Awang

35. Mr. Speaker, Tuan Syed Salim has read or studied either the English or the Malay version of the Bill. I would like to know from him whether or not he is in agreement or satisfied with clause 72 as drafted? — Sir, I am. As I have said earlier on, I am in full agreement with the clause mentioned.

Inche Rahamat Kenap] No questions.

Inche Mohd. Ariff] From what I have heard from Tuan Syed Salim, he is in general agreement with the Bill except that he wishes to inform this Committee

that a Religious Department should be set up under a particular Ministry. Is that not so?

Chairman] I think the witness has gone further than that. He has suggested somebody that will look after all religious affairs and be responsible to the Minister.

Attorney-General] A Religious Department or *Majlis*.

Chairman

36. Yes. Some body which will take overall control of Muslim affairs here and be responsible to the Minister? — *A Majlis* or a Department under a Ministry.

Inche Mohd. Ariff

37. Tuan Syed Salim's purpose is to prevent a particular body from abusing the Muslim law. Is Tuan Syed Salim not aware that any Government department must be staffed by Government servants? — I appreciate that upon the setting up of the Department, that Department will have to be staffed by Government servants.

38. If a Department is set up under a Ministry, a staff of Government servants will carry out or implement the policies of the Government of the day. In effect, this means that if the P.A.P. Government is in power, then the staff will carry out the policies of the P.A.P. Government. And then if another Government succeeds the P.A.P. Government, then it may be that the policies of that Government may change. Is it not better that a *Majlis* which is an independent body be set up, as envisaged in this Bill? — We should not be concerned with which Government should come to power because once the Department is set up, the staff must carry out the policies of the Government. Take the case of the Housing Board flats which have been

built. It does not mean that if another Government comes to power, it will demolish those flats.

Inche Mohd. Ariff] My point is that if a Department is set up, it means that the Government has direct control; but if, as the Bill has suggested, a *Majlis* is set up, the position will be different.

Chairman] I think the witness should not be pressed further into what he has already accepted. I think he has accepted the position that so long as it is one body controlling the whole of Muslim religious affairs and that body comes directly under the control of the Minister, he is quite happy with that situation.

Inche Mohd. Ariff] I merely wish to brine out the distinction between a Department set up under a Ministry and a *Majlis* as envisaged in this Bill.

Chairman] The Member will forgive me. He is going into fine constitutional points which the witness may not be able to appreciate and he might befog him!

Inche Buang

39. Tuan Syed Salim has suggested just now the setting up of a Religious Department and that collectors be appointed for the collection of *zakat* and *fitrah*. I want to know whether the distribution of *zakat* and *fitrah* should be confined only to poor and indigent Muslims? — The distribution of *zakat* and *fitrah* should be extended to all races, so that they can understand the religion of Islam well and in that way both the State and the people will benefit..

Attorney-General] I think it should be given not only to the poor and indigent but to the eight groups mentioned in this Paper.

MINUTES OF EVIDENCE

13

6 APRIL 1966

14

Chairman

40. Yes'? — In accordance with the eight *Asnafs*.

Inche Othman Wok

41. The eight categories? — The eight categories.

Inche Buang] I merely wish to satisfy myself whether Tuan Syed Salim has in mind that the distribution should be to the eight categories. Since he has given an affirmative reply, I am quite happy.

Chairman] Mr. Minister?

Inche Othman Wok] I have no other questions.

Chairman

42. It only remains for me to thank you, Tuan Syed Salim, for having come here and assisted the Committee. Thank you very much? — Will I be called again?

43. Not as far as I know. But should any necessity arise, I am sure you will assist the Committee? — I am prepared to put forward my views and fully co-operate with the Committee.

Chairman] Thank you very much.

(The witness withdrew)

MINUTES OF EVIDENCE

FRIDAY, 15TH APRIL, 1966

PRESENT:

Mr. SPEAKER (*in the Chair*)

Inche A. Rahim Ishak.
Inche Buang bin Omar Junid.
Inche Mahmud Awang.

Inche Mohd. Ariff bin Suradi.
Inche Othman bin Wok.
Inche Rahamat bin Kenap.

ABSENT:

Tuan Haji Yaacob bin Mohamed.

The Attorney-General (Inche Ahmad bin Ibrahim) and the President of the *Shariah* Court (Tuan Haji Mohamed Sanusi) were in attendance.

The following representatives of the United Malays National Organisation were examined:

Tuan Syed Ali Redha Alsagoff	- Head, Religious Section.
Inche Abdul Wahab bin Mohd. Ariff	- Secretary, Religious Section.
Inche Abdul Rahman bin Mohd. Zain	- Member of Committee, Religious Section.
Inche Jamil bin Pallal	- Member of Committee, Religious Section.

Inche Ismail bin Alang, Simultaneous Interpreter of Parliament, and Inche Osman Gani, part-time Simultaneous Interpreter of Parliament, assisted in the interpretation.

15

15 APRIL 1966

16

Chairman

44. Good afternoon, gentlemen. For the record, could each of you give your name and address and the office you hold in U.M.N.O.? — (*Tuan Syed Ali Redha Alsagoff*) My name is Syed Ali Redha Alsagoff. I am the Religious Officer of the Singapore U.M.N.O. and my address is 96B, Room 4, Market Street.

45. Tuan Syed, you are the head of the Religious Section of U.M.N.O.? That is correct, is it not? — Yes, I am. At times I am called the head of the Religious Department of U.M.N.O. and at other times, I am the Religious Officer of U.M.N.O. (*Inche Abdul*

Wahab bin Mohd. Ariff) I am Abdul Wahab bin Mohd. Ariff. I am the Secretary of the Religious Department of U.M.N.O. (Singapore). My address is No. 1, Mattar Road, Singapore, 14. (*Inche Tamil bin Pallal*) I am Jamil bin Pallal. My address is 102-5, Race Course Quarters, Bukit Timah. (*Inche Abdul Rahman bin Mohd. Zain*) I am Abdul Rahman bin Mohd. Zain. I am a Committee Member of the Religious Department of U.M.N.O. of Singapore. My address is 159B Jalan Ladang.

46. Thank you very much. Gentlemen, we have had your Paper* with us for some time and we have read it. What I propose to do is to take the Paper paragraph by paragraph as you have

* Appendix II, pp. 29-31

yourselves set it out. I understand that Tuan Syed Ali Redha Alsagoff will act as the spokesman for the delegation here this afternoon, but that should not prevent any other member from speaking if he should so desire? — (*Tuan Syed Ali Redha Alsagoff*) I am happy to hear that.

47. If any of you gentlemen wish to smoke, you are at liberty to do so. Paragraph 1 is your representation on clause 7 (1):

'The Majlis should be absolutely independent of any Government influence. The Majlis must be clear of any political pressure ...'

I think you will find that all Members of the Committee will agree with you on that - I think I speak for all Members of the Committee on that. Your paragraph 1 reads on:

'Such a Majlis will and can only be respected by the Muslims of Singapore. Hence Clause 7 (1) (c) be deleted and Clause 7 (1) (d) instead of "not less than seven" should read "not less than twelve."

In other words, what you want is that the clause covering the members to be appointed by the President should be deleted and the membership of the *Majlis* should be kept to the same number, but under paragraph (d), it should be increased to twelve. That is your representation, is it not? - Yes. Can I say something?

48. Yes, of course? — Mr. Speaker, Sir, first of all, I would like to say that when the idea of setting up a *Majlis Ugama Islam* for Singapore was mooted, I had the pleasure of following its progress, together with the Hon. the Attorney-General. At first, in 1957, the Muslims of Singapore were able to have a *Mahkamah Syariah* set up and the progress towards a *Majlis Ugama Islam* was pursued step by step. The first step was the setting up of the *Mahkamah Syariah* of Singapore which was, I think, very much desired by the Muslims of Singapore. The second step was to set

up the *Majlis Ugama Islam* of Singapore. This was the general feeling of all sections of the Muslim community, irrespective of political beliefs. In 1960 the Government introduced a Bill intituled the Administration of Muslim Law Bill, 1960. If we refer to the Bill, which was drawn up by the present Attorney-General - and this was put to the Muslim Advisory Board - we

see in clause 7:

'7.-(1) The *Majlis* shall consist of -

(a) a President to be appointed by the

Yang di-Pertuan Negara;

(b) the *Mufti*

(c) not more than two *Muslim* members, if any, of the Legislative Assembly to be appointed by the Yang di-Pertuan Negara on the recommendation of the Minister; and

(d) not less than ten members to be appointed by the Yang di-Pertuan Negara.'

Mr. Speaker and hon. Members, as far as I can gather, the intention of clause 7 (1) (c) then was that there were not to be more than two Muslim members from two Parties, one from the P.A.P. and the other from U.M.N.O. The purpose of clause 7 (1) (c) then was that there were available a Muslim member from the P.A.P. and a Muslim member from U.M.N.O. to sit on the *Majlis Ugama Islam*. However, U.M.N.O. then did not agree with the idea of having members of the *Majlis* coming from Assemblymen, because it was sufficient for the Minister to be there to answer matters which might arise in the Legislative Assembly. With the advent of Malaysia in 1963, the matter was revived and in 1964 the Government requested the various Muslim organisations to give their opinions through the Muslim Advisory Council. In a memorandum dated August 1964, U.M.N.O. again brought up the matter of not having two Members from the Legislative Assembly to sit in the *Majlis Ugama Islam*. While welcoming the idea of the

Majlis Ugama Islam and while agreeing to the Bill in principle, U.M.N.O.'s stand has consistently been to oppose the appointment of Members of the Legislative Assembly (or Parliament) to be members of the *Majlis*. This is all the more so when the number of members has been changed from two to five as at present. And if I may add, Sir, in clause 7 (1) (d), the number was changed from ten to seven. If I may proceed a little bit more, Sir, with the President of the *Majlis* who will be a Government officer, and the *Mufti* who will also be a Government officer —

Chairman] No, no. I think you have got it all wrong. They would not be Government officers.

Attorney-General] They would not be Government officers.

Chairman

49. They would not be Government officers? — The President of the *Majlis* will be appointed by the President of Singapore and the *Mufti* will be an officer who will be paid by the Government of Singapore, and to that extent, they will be under the Government of Singapore.

50. Carry on? — With what has already been stated and with the number in paragraph (d) reduced from ten to seven, U.M.N.O. is of the opinion that this state of affairs will not go towards ensuring the independence of the *Majlis*. The *Majlis* is for the benefit of Muslims, and it is to be run by Muslims for all sections of the Muslim community.

51. You are not suggesting that non-Muslims might be appointed to this Committee, are you? — No.

52. Now, if I have understood the points you are trying to make, Tuan Syed, you are opposed to Members of Parliament being appointed to the *Majlis*? — We oppose —

53. Wait a minute. I follow the point. But if the person were appointed under clause 7 (1) (d) and if he is a Member of Parliament, would you object? — If under clause 7 (1) (d) the names of nominees are submitted by any Muslim organisation whose opinion is that they are fit and proper persons, then such persons are nominated or elected as Muslims and not in their capacity as Members of Parliament.

54. I follow that? — For the record — to keep our intentions on record — may I quote an example? Suppose Tuan Haji Yaacob, who is active in the Muslim community, is nominated to be a member of the *Majlis Ugama Islam* in his capacity as someone who is active in Muslim affairs, and not in his capacity as a Member of Parliament or a member of the Parti Tindakan Raayat, then we say there should be no obstacle to his appointment as a member of the *Majlis* under clause 7 (1) (d).

55. Let me see if I have understood your position. Your position is that if a Muslim member is appointed under clause 7 (1) (c), he should not be a Member of Parliament. If a Muslim member is appointed under clause 7 (1) (c), then such an appointee should not be a Member of Parliament? — We from U.M.N.O. are entirely opposed to clause 7 (1) (c).

56. I am not saying U.M.N.O. should not oppose it. I am trying to understand your reason for opposing it. As I understand it, your reason for opposing clause 7 (1) (c) is that they are going to be Members of Parliament and, therefore, you oppose it. Have I understood you correctly? — In our opinion, clause 7 (1) (c) should be deleted.

57. I see. You do not want any members to be appointed to the *Majlis* on the recommendation of the Minister. Is that your stand? — Yes.

58. I see. Whether he is a Member of Parliament or whether he is not a Member of Parliament, you want that clause out completely? — Yes.

59. Right. I think we have understood that. So far as clause 7 (1) (d) is concerned, any member appointed under that, even if he is a Member of Parliament, is acceptable to you? — If he happens to be a Member of Parliament, yes.

60. In fact, under clause 7 (1) (d), being a Member of Parliament should not be a disqualification. That is the point? — Yes.

61. And the five members that go out under clause 7 (1) (c) should be added to clause 7 (1) (d)? — Yes.

62. Right. You are not objecting to clause 7 (1) (a) or 7 (1) (b)? — No.

63. Thank you. We will go on to the next clause. Do you want to say anything further, Tuan Syed, on paragraph 1? — I merely wish to say that, in the opinion of U.M.N.O., this is the only way whereby the *Majlis Ugama Islam* will get the respect and esteem of the Muslim community.

64. And you fear that if clause 7 (1) (c) were retained, the Minister might make political appointments to the *Majlis Ugama Islam*? — Yes.

Chairman) Thank you. Inche Mohd. Ariff, would you like to ask the witness any question?

Inche Mohd. Ariff] No.

Inche Mahmud Awang] We have heard the points and arguments submitted by U.M.N.O. concerning clause 7 (1) (c). I wish to know this. If a person is not active in any organisation, and he is a Muslim who is well versed and in possession of academic Muslim religious qualifications, in that event, can the Prime Minister recommend his appointment under clause 7 (1) (c)?

Chairman

65. Forget the Prime Minister. Say the Minister? — Mr. Speaker, in answer, if there is such a person and we have amongst us two gentlemen, Tuan Haji Sanusi and Inche Ahmad Ibrahim who are active in the religious movements and organisations in Singapore, they cannot keep themselves away from such movements; they are always active. Therefore, this question will not and does not arise.

66. I think the point of the Member's question is this. If you strike out clause 7 (1) (c) and make clause 7 (1) (d) read, "not less than twelve members to be appointed by the President of Singapore, from a list of nominees to be submitted by the President of the *Majlis*." Now, if you read sub-clause (2):

The list of nominees to be submitted by the President of the *Majlis* to the President of Singapore under the provisions of paragraph (d) of subsection (1) of this section shall consist of persons nominated by such Muslim societies as are prescribed for the purpose by the *Majlis*.

The Member's question is this, that if you do not allow clause 7 (1) (c) to operate, then it becomes a closed shop and the *Majlis* is going to control, by controlling the societies, the persons to be nominated by these societies. The question is: Is that desirable from the point of view of the Muslim religion and Muslim society? I think that is the point of the question? — Mr. Speaker, the position is as I have said just now. If there is such a person as referred to by the hon. Member (*Inche Mahmud Awang*), then I think that person must inevitably take an active part in the religious movement of Islam because, according to the traditions, he cannot divorce himself from such religious activities, and if he does so with his qualified academic religious qualifications, then I say he is not fit to sit on the *Majlis* and it is better for us to nominate an ordinary worker who has

the inclination to work for the benefit of the Muslim community.

Chairman] I think the answer of the witness means this. That if there were such a Muslim in Singapore, then Muslim tradition is such that he is bound to be a member of the Muslim society. I think that is the answer, is it not, Tuan Syed?

Tuan Syed Redha indicated assent.

Inche Mahmud Awang] Mr. Speaker, what I want to submit or stress is the independence of the *Majlis* and the progress or the advancement of the *Majlis Ugama Islam*.

Chairman] Inche Mahmud Awang, please do not make a speech. Just ask questions. Please ask questions. You will make all the speeches afterwards. At the moment, please ask the witness questions arising out of his answers, questions you feel you should ask. Just confine yourself to questions. We will get on faster.

Inche Mahmud Awang

67. I wish to ask another question, Mr. Speaker. If a person is active in a Muslim organisation and he is a Muslim, and he is not well versed in that he has no paper or academic qualifications, although he prays five times a day and he knows the simple Muslim tenets, such as, for instance, that it is a sin to drink liquor, can such a person be nominated under clause 7 (1) (c) in accordance with a majority vote? - Firstly, Mr. Speaker, I wish to correct. It is on the record that I never said that if a Muslim is not active or does not take part in any Muslim body or organisation, then he is not a Muslim. That I never said. That can be verified or checked from the recording. Although I am ignorant, I think my ignorance will not go to such an extent as to express such an opinion or point of view, except that if he does not take an active part in any Muslim organisa-

tion, then he should not and he is not fit to be a member of this *Majlis Ugama Islam*. There is a distinction between the two statements, Mr. Speaker, Sir.

Inche Mahmud Awang] I wish to know what is the meaning of the term "that man if he is not qualified", whereas, in fact, in other quarters, he is considered or deemed to be qualified?

Chairman

68. May I explain the witness's position? He did not say that such a Muslim is not a good Muslim. All he said is that although he may be a good Muslim, he may not be a fit and proper person to sit on the *Majlis Ugama*; just as you might have a good citizen but that good citizen need not necessarily be a proper man to be put on a Board or something like that, because he is not interested in that type of work. I think that is the witness's position, Am I right? — Yes.

Chairman] Any further questions?

Inche Mahmud Awang] No.

Chairman] Inche Rahamat Kenap?

Inche Rahamat Kenap] Am I right. Mr. Speaker, in understanding that Tuan Syed Ali Redha, the leader of the delegation, said that if a Muslim is a Member of Parliament, he cannot be nominated to sit on the *Majlis*?

Chairman] No. I do not think so. I think what the witness said is that if he is appointed under clause 7 (1) (d), it does not matter whether he is a Member of Parliament. But what he objects to in clause 7 (1) (c) is not because he is a Member of Parliament, but that he does not want the Minister to recommend. Whether he is a Member of Parliament or not does not count at all. What the witness objects to is "on the recommendation of the Minister". There is no question of a Member of Parliament being involved in this final suggestion.

Inche Rahamat Kenap] Earlier on, Tuan Syed Ali Redha said that a Member of Parliament cannot be nominated it, the *Majlis* as a Member of Parliament but that he can be nominated to the *Majlis* in his capacity not as a Member of Parliament but as a member of the Muslim organisation he represents, and he cited the case of Tuan Haji Yaacob. Does he still hold that view?

Chairman

69. I think the final position of the witness is this, that he objects to clause 7 (1) (c) because the recommendations are being made by the Minister. The nominee may be a lawyer, he may be a Member of Parliament, he may be an accountant, he may be anything. But if the Minister recommends him, then he is out. He does not want it. Am I right? Tuan Syed, may I put this question to you? Supposing the Committee agrees to the deletion of clause 9 (d)*, would you agree to clause 7 (1) (c) standing? — No. I was referring to clause 7 (1) (c) in relation to clause 9 (d). Were it not for clause 9 (d), I would have dwelt on clause 7 (1) (c) without mentioning Members of Parliament.

70. You are opposed in any event to clause 7 (1) (c)? — Yes.

Chairman] I think that is the witness's position. He objects to clause 7 (1) (c) not because he may be a Member of Parliament but because he is being appointed by the President on the recommendation of the Minister. He thinks that such a recommendation could lead to political interference in a religious organisation. That is the witness's point. Rightly or wrongly, that is his point.

Inche Rahamat Kenap] Am I to understand that U.M.N.O.'s suggestion is to delete clause 7 (1) (c) instead of wanting to retain clause 7 (1) (d)?

Chairman] That is correct - not only to retain clause 7 (1) (d), but to increase the membership from seven to twelve.

Inche Rahamat Kenap] That means that U.M.N.O. agrees to clause 7 (1) (d) as its final decision?

Chairman

71. Yes. I think they agree to clause 7 (1) (a), 7 (1) (b) and they have agreed to clause 7 (1) (d) provided "seven" reads "twelve". Is that not so? — Yes.

Inche Rahamat Kenap] Although there may not be any U.M.N.O. members nominated under clause 7 (1) (d) — that is the decision of U.M.N.O. which is final.

Chairman

72. In fact, U.M.N.O. do not want any U.M.N.O. members or P.A.P. members or any other political party members. That is the point, is it not? — Mr. Speaker, the question of whether there are U.M.N.O. members or not does not arise. As I quoted an example just now, if Tuan Haji Yaacob is nominated by a Muslim organisation because he is active, he will sit on the *Majlis* not in his capacity as a Member of Parliament or as a member of the P.A.P. Likewise the same criterion applies to U.M.N.O. members, if they are elected to the *Majlis*, not because they are U.M.N.O. members.

Inche Rahamat Kenap] Thank you.

* Clause 9 (d) reads as follows:

'Without prejudice to the provisions of subsection (3) of section 7 and sections 10 and 11 of this Act the appointment of any member of the Mailis shall determine -...

(d) if he has been appointed under paragraph (c) of subsection (1) of section 7 of this Act on ceasing to be a Member of Parliament.'

Inche Buang

73. Mr. Speaker, I want to ask Tuan Syed Ali Redha whether he objects if a qualified Muslim well versed in Islamic laws is nominated by a Muslim organisation although he is not active. For instance, he may not get enough publicity in the newspapers like Mr. Mallal, and he is nominated to sit on the *Majlis*, does Tuan Syed Ali Redha object to his nomination? — Which Mallal?

Chairman

74. Names should be left out? — I do not like to refer to any particular Mallal.

Chairman] Let us drop the "Mallal" and just say any Muslim.

Inche Buang

75. I withdraw the name "Mallal". I will say any Muslim? — Mr. Speaker, if a Muslim is active in any Muslim organisation, I am sure that that organisation will appreciate his services. If he is not nominated this year, he may be nominated next year. So that the question of the organisation's appreciation of his services must come up in due course. Publicity should not be the yardstick by which a man is judged to be active in a Muslim organisation.

76. My question is this. If I understand Tuan Syed Ali Redha, he said that a person must be nominated by his organisation. What happens if another organisation nominates a person from a different organisation? — I think we will agree to that, because such a nomination will be made under clause 7 (1) (d). The question of one organisation nominating a member of another organisation does not arise.

77. Mr. Speaker, I wish to thank Tuan Syed Ali Redha for his clarification. The position is clear to me now? — I reciprocate.

Inche Rahim Ishak

78. Mr. Speaker, as far as I know, there is one Muslim organisation by the name of P.A.S. or P.M.I.P. If a member of P.A.S. is nominated to the *Majlis* — and this P.M.I.P. is active in politics — and he does not fit in any organisation, does the witness object to such a nomination? — As I said just now, if a person is nominated irrespective of whether he is a member of the P.M.I.P. or P.A.P., that is acceptable to us because such a nomination is made under clause 7 (1) (d). If, on the other hand, the right to nominate comes under clause 7 (2), then it is left to the President of the *Majlis*.

Inche Rahim Ishak] Mr. Speaker, does it mean that organisations under clause 7 (2) include political parties?

Chairman] No. Let me explain the way this thing will work. Under clause 7 (2) correct me if I am wrong, Mr. Attorney-General - what is going to happen is "nominated by such Muslim societies as are prescribed for the purpose by the *Majlis*". Now, I take it that the *Majlis* will prescribe, have a register of Muslim societies, and these Muslim societies will nominate persons. And a list of these nominated persons will be submitted to the President of the Republic. It is from this list, so submitted, that appointments will be made under clause 7 (1) (d). Is that the position, Mr. Attorney-General?

Attorney-General] The question still arises whether a political party can be included in that list.

Chairman

79. I thought that the witness's position was "political parties as such". What is the answer? — Our view is that it is a question which arises from the question posed last. If a political party has a religious section, then that religious section should be given the

same right as other Muslim organisations. However, if that political party has no religious section, then such right should not be given to that political party.

Inche Rahim Ishak

80. Mr. Speaker, if a political party has its religious section, it is still a political organisation. Take the P.M.I.P. It is a political party. Although it has a religious section, the whole of the party takes the form of a political party. So that we cannot resolve clause 7 (2) so long as such a state of affairs prevails? — Mr. Speaker, we are happy with clause 7 (2). Hence we have not brought in amendments. However, when asked, we reply.

Chairman

81. Mr. Minister, I think the witness's position is this. He is quite happy with clause 7 (2) as it stands. The question of whether Muslim societies would include P.A.S. or any other political party as such is a matter on which he prefers not to express an opinion. It is a matter of law — ? — I have expressed my opinion.

82. But finally it is a matter of law - whether the P.A.P. is a Muslim society within the meaning of that clause, or U.M.N.O. is a Muslim society within the meaning of that clause, or the Alliance is a Muslim society within the meaning of that clause. He is quite happy to leave it to a legal interpretation. I do not think we can take it any further. Any other questions? — No.

83. That brings us to the end of that point. There is just one final question, Tuan Syed Ali. Assuming the Select Committee agrees to clause 7 (1) (c) going out in its entirety - that is, assuming for purposes of argument - do you still want the Majlis to be composed of 14 persons? — Yes, 14 is just right.

84. Now, can we come to paragraph 2 of your memorandum? Clause 9 (d) — I think that follows on your representation on clause 7 (1) (c), does it not? — Quite right.

Attorney-General] It is a drafting amendment.

Chairman

85. I do not think we need waste any time on that? — Yes.

86. Clause 10 (d):

'The President of Singapore may cancel the appointment of any member of the *Majlis* if the President of Singapore considers it desirable in the public interest to cancel the appointment.'

Your representation reads:

'Those appointed would normally be able men.'

Do you not think it is possible, from the point of view of the efficient working of the *Majlis*, that a person at the time of appointment may be a fit and proper person, but that during the course of his tenure there, he might do something or say something which might become unacceptable to the Muslim community? And if you do not have such a clause, i.e. clause 10 (d), you will have these people stuck on your hands and you will not know what to do. This, I think, is the reason behind it - "desirable in the public interest to cancel the appointment". Now, supposing a member of the *Majlis* behaves in a manner which is unacceptable to the Muslim society in some way - supposing that happens - and he becomes an embarrassment to the *Majlis*, what happens?

— Mr. Speaker, all the members to be appointed to the *Majlis* are fit and proper persons. That being the case, we feel it is not necessary that there be a clause that could be misused. In Islam, Sir - we have with us here two learned Muslims in the persons of Tuan Haji Sanusi and Che' Ahmad Ibrahim, the Attorney-General - there is a principle that to prevent a harm is preferable to

bringing about something that is desirable.

87. So you think that, on the whole, clause 10 (d) should go out? — Yes.

88. And you cannot think of any occasion where, without clause 10 (d), the situation might become undesirable? — To our mind, paragraphs (a), (b) and (c) are quite adequate.

89. You think that the phrase: 'in the opinion of the President of Singapore such as to bring discredit upon the *Majlis*' equates to:

'the President of Singapore considers it desirable in the public interest to cancel the appointment'.

Do you think it equates to that? — Mr. Speaker, Sir, our President is a person who is placed highest in our esteem and is most respected by the people. We should see to it that the name of the President is not in any way involved in anything which he might do which might be derogatory to that esteem.

90. Are you suggesting that that power should be given to somebody else and not to the President? — Is it necessary? Because I have overheard the term "traitor" mentioned just now. But that is a thing which very rarely happens. And the principle is that a thing which rarely happens should not be a criterion. So I say that the President's name should be safeguarded.

91. May I put this question to you quite frankly? Under clause 10 (a), Tuan Syed Ali Redha, if a member of the *Majlis* brings discredit upon it, so that only it is involved in that conduct of his. You see, it is like the case of a lawyer. If he behaves unprofessionally, he brings discredit on his profession. But if he does something else outside his profession, the Bar Committee is not involved in that conduct. Do you follow that point? — Yes.

92. What clause 10 (d) seeks to do — I think; I do not know - is this: clause 10 (a) governs conduct in reference to the *Majlis*; clause 10 (d) governs conduct in reference to the whole of the State of Singapore. This is as I understand the difference between paragraphs (a) and (d). Now if the member's conduct is compatible with clause 10 (a) but incompatible with clause 10 (d), i.e. to the State, what then? What I am trying to say is: you might have a good Hindu, you might have a good Muslim, you might have a good Christian, and yet any of these people might be a bad citizen. What happens then? — You will forgive me if I say that "public interest" is a term that could be used with very wide interpretation.

93. I accept that. Let me put this simple question to you. He is a good member of the *Majlis*; he is respected by the *Majlis* and is a perfectly good Muslim. There is nothing wrong with his religious beliefs or his Islamic behaviour. But he has certain political views which he is entitled to hold. But these views bring him into headlong collision with the State as such, and he is convinced that the State should be upset by some revolutionary process which is not acceptable to the democratic system here. If he openly advocates such a system and, having openly advocated it, he does something in furtherance of his advocacy, is he still to be allowed to continue in the *Majlis Ugama Islam*? — Such a man who carries out activities which are unconstitutional will be dealt with not by the *Majlis* but by the Special Branch.

Chairman] Exactly, he may be convicted. But you still wish him to be a member of the *Majlis* because there is no way of getting rid of him? Am I right, Mr. Attorney-General?

Attorney-General] That is the point.

Chairman

94. You think it could come under paragraph (c)? — In the eventuality stated just now arising, even though my colleagues are of the opinion that the person should be removed from his membership by virtue of clause 10 (c), nevertheless, because we have come here with an open mind, and as you think that paragraph (d) is absolutely necessary in the public interest — "public interest" being a term that could be open to various interpretations — I say the President's good name should still be safeguarded and that the matter be taken out of his hands and put in those of the *Majlis*.

95. They should be the arbiters of what "public interest" is. That is the point, is it? They should decide? But what about paragraphs (a), (b) and (c)? All that power should be taken away from the President? — Paragraphs (a), (b) and (c) are all right.

96. I see. Paragraphs (a), (b) and (c) remain with the President, but in the case of paragraph (d), if there is a question of removal on the ground of public interest, that should be left to the *Majlis*? — Yes.

97. And if that is altered in that way, you have no objection to clause 10 (d) in the amended form? Is that the position? — In view of what you have explained.

98. "Public interest" is a legal term which has legal decisions on it. The courts have from time to time said what "public interest" is. It is not a matter of personal opinion. I think it is based on certain accepted legal principles. You will never find any definition of "public interest" in any Ordinance, because there are court decisions which say what "public interest" is? — This is one of the ways.

Chairman] Anyway, I think the Committee understands your point of view.

Inche Mohd. Ariff] I understand the reason why U.M.N.O. wants this paragraph deleted is that it fears that the President of Singapore would misuse that power. Is that correct?

Chairman] I do not think the witness said that. He said that if the Committee feels that this is necessary, then the President of the Republic should not be saddled with this burden. I think that is the evidence of the witness.

Inche Mohd. Ariff

99. If I remember correctly, earlier on the witness said that the President of the Republic of Singapore acts on the advice of the Singapore Government and, therefore, he fears that this power here might be misused. Is that correct?

— I was then speaking in relation to "public interest", and I was anxious that the President of the Republic of Singapore should not be involved in the matter of public interest, which is open to wide interpretation.

100. So that if the power to remove a member of the *Majlis* is given to the *Majlis*, the U.M.N.O. delegation would be happy? — On the advice of the Chairman of this Select Committee that this clause is necessary, we accept that with good heart.

101. Would not then the *Majlis Ugama Islam* be involved? Whereas earlier the witness stated that he did not want the good name of the President to be involved, now he is suggesting something which might involve the *Majlis Ugama Islam*? Would it not be better that this be left to the President who is the constitutional Head of the State? — My anxiety was not to involve the good name of the President. If it is the *Majlis*, it is quite all right because the *Majlis* bears collective responsibility.

Inche Mahmud Awang

[02. I wish to thank the delegation for their concern for the good name of the President. Now, coming to the question of fit and proper persons being appointed members of the *Majlis*, this is a matter of individual conduct. A person ten years earlier may be a fit and proper person to be a member of the *Majlis*. But subsequently he may lend himself to corruption and he may be involved in corruption and, therefore, in the public interest, he should be removed from the *Majlis*. So is it not proper then that clause 10 (d) be retained so that the President of Singapore can remove him, in the public interest, from the *Majlis*? — Mr. Speaker, Sir, I wish to thank the hon. Member in return for having thanked me for my concern for the good name of the President, and also in regard to the matter that he referred to in 1964. I say this because the matter has been referred to by him. However, coming to the matter which has been mentioned by the hon. Member just now, I say that in matters of corruption, clause 28 is there and I think it is sufficient to deal with such cases of corruption as the Member has raised just now.

Chairman] Now, might I straightaway say that Members of the Committee could usefully leave the function of thanking the witnesses to the Chairman? The Chairman will do that adequately. So if Members will refrain from doing so, I think we will get on much faster with the evidence before us. Another matter is, I am going to be quite strict. I do not want any speeches, just plain straight questions, and I shall enforce it rigorously. Let us get on with it. *Inche Mahmud Awang*?

Inche Mahmud Awang) I feel clause 28 has relevance to clause 10. In clause 10, it is the President who has the power.

Chairman] Any further questions?

Inche Mahmud Awang] No.

Chairman] *Inche Rahamat Kenap*?

Inche Rahamat Kenap] Yes, Mr. Speaker, Sir. Just now the witness, Tuan Syed Ali Redha, stated that he highly respects the office of the President. But *why* then does he want to belittle or narrow the power of the President so that his power is to be given to the *Majlis*, as though he is belittling the President?

Chairman] No, no, no. I think the witness's answer is that it is such a difficult decision to make that he does not want the Head of State to get involved in such a decision. And he has suggested a solution and I think we must leave it there. We cannot take it any further. Have you any other questions?

Inche Rahamat Kenap] The responsibility of the President is a heavy one. Now, why should the power be given over to the *Majlis*? I quote an example, Mr. Speaker, Sir. In 1964 something happened whereby the President's authority was ignored. The *Majlis* was not in existence then, but there was a Muslim Advisory Board. That body could not do much. So I say that the power of the President is a heavy responsibility.

Chairman] I think possibly we are at cross-purposes here. The Member has not understood what the witness said. I think the witness's position is this. that the exercise of clause 10 (d) is such a heavy responsibility, which has political connotations to it in the public interest, that he feels the Head of State should be left out of that decision, and it is a fair stand. Whether the Member agrees with it or not is another matter. That is the witness's stand and it is a fair stand. I do not think we can take it any further.

Inche Rahamat Kenap] The safeguarding of public interest is a matter that involves very great responsibility, and now that great responsibility is to be taken away from the President and transferred to the *Majlis*. This is as though it is belittling the power of the President.

Chairman

103. Now, supposing I give the Member the assurance that the witness is not trying to belittle anyone. I do not think he is trying to belittle or in any way cast aspersions on the dignity or authority of the President. I think what he wants to say is that he feels so much for the position of the President that the President should not be put in a position where so many accusations might be levelled against him that he has acted unfairly. That is the stand of the witness, and I think it is a fair stand which one can understand even if one does not agree with it. I do not think any further questions on it are going to take us any further. The Member may agree with it or he may disagree with it. But I do not see how we can press him into saying, "Why do you think this? Why do you not think that? I mean that does not add to the evidence one way or the other?" —Mr. Speaker, Sir, if I may answer? Although I am not here as a member of the Muslim Advisory Board, yet in the incident that was referred to that happened in 1964, the Muslim Advisory Board, whose President is the learned Inche Ahmad Ibrahim here, was not involved nor was U.M.N.O. So I wonder why it is that we should mix things up, and if I may further ask, are we here to be engaged in a political forum?

Inche Rahim Ishak] Mr. Speaker, since a matter of principle has been touched upon, I would now like to speak on a matter of principle which is very important. In clause 10 (d), if a person has run foul of the law, then, in the public interest, is the question of his staying or going out of the *Majlis* to

be decided upon by the *Majlis*? Here then is a matter of principle. To my mind, it is inadvisable.

Chairman

104. Perhaps Tuan Syed Ali, you would like to say something on that? —Sir, as a means whereby we could resolve the matter, I am prepared to respect the point of view of the hon-Member even though I do not completely agree with him. There is no merit in referring to incidents in 1964. For instance, in our considered opinion, it is best that the dignity of the President be not involved in matters where he may be open to public accusations. Therefore, it is our considered opinion that the President, who should be highly respected, should not be open to such accusations. It is for that reason that we suggested what we did. However, we agree with your suggestion on the matter of clause 10 (d).

Inche Othman Wok] May I interject for a moment? If I am not mistaken - correct me if I am wrong - as I walked in just now, Tuan Syed Ali Redha mentioned that if the Committee feel that this clause 10 (d) is important, we can leave it there.

Chairman] That is correct. I think the witness has more or less understood the point the Committee made to him, and I do not think we can take the matter any further by getting into an argument with the witnesses over questions of principle. The witness has taken a principle on which he bases his contentions.

The Members take their stand on a certain other principle. At the moment, it appears that the two principles are in conflict. This is not the place to resolve it. The time to resolve it is when the witnesses have gone and when we are considering the Bill clause by clause. Then we can have an argument. This point of view is put. That other point of view is put. And then we can resolve it.

But to get into an argument with a witness over questions of principle is interminable. We can never sort it out, because if we are trying to convince the witnesses that their principle is wrong and our principle is right, then we will be here till doomsday!

Inche Rahim Ishak] If such is the case, then I do not see any point in furthering this conflict.

Chairman

105. So far as I am concerned - and I say this in all honesty-I do not think we can take this evidence any further because the witnesses have made their position quite clear. So far as I am concerned, that is the position which I understand and which I may not agree with. And I think the witnesses also understand the point of some Members of the Committee who at the moment cannot agree with it. So I think we will leave it at that and get on to the next item on the agenda. It is now ten to live. Would Members like to break for a cup of tea? Perhaps in the meantime the witnesses could retire and have a cup of tea and then we will let them know what the position is? — Mr. Speaker, we have not been informed exactly as to the time that we have to be here. Unfortunately, I have to leave this meeting at a quarter past five for another engagement. Therefore, I would earnestly request that some other time be set so that we could be informed as to what length of time we will be engaged or our presence will be needed.

Chairman] Gentlemen, is tomorrow morning suitable? I am most anxious to

complete this evidence tomorrow morning, otherwise it is going to interfere with our programme of work. I am sorry to impose this on you. Members of the Committee understand why I am pressing on with it because so many of us will not be here.

Inche Othman Wok

106. Mr. Speaker, five of us will not be able to come here tomorrow morning because we are going to the range tomorrow? — Our side also, because most of us are working. As for me, it is all right; I am a free man.

Chairman

107. Is Monday morning any good to you? — Afternoon.

108. In the afternoon, we already have a Select Committee meeting on the Bill. May I leave it with you any time next week in the morning, say at ten o'clock, and then we can go on to one o'clock? — Inche Othman suggests Wednesday morning.

109. Wednesday morning at ten up to one o'clock? — Yes. Mr. Speaker, for the record, to clarify my agreement with clause 10 (d), I agree to clause 10 (d) on your advice that it is necessary. but on condition that the power be given over to the *Majlis*.

110. Thank you very much, gentlemen, for having spent so much of your time with us. So we will meet again at ten o'clock on Wednesday morning, the 20th of this month? — I thank you in return.

(The witnesses withdrew.)

MINUTES OF EVIDENCE

MONDAY, 18TH APRIL, 1966

PRESENT:

MR. *SPEAKER* (in the Chair)

Inche Buang bin Omar Junid.
Inche Mahmud Awang.

Inche Othman bin Wok.
Inche Rahamat bin Kenap.
Tuan Haji Yaacob bin Mohamed.

ABSENT:

Inche A. Rahim Ishak.

Inche Mohd. Ariff bin Suradi.

The Attorney-General (Inche Ahmad bin Ibrahim) and the President of the *Shariah* Court (Tuan Haji Mohamed Sanusi) were in attendance.

The following representatives of the Muslimin Trust Fund Association were examined:

Mr. Mohammad Javad Namazie - President.

Mr. Syed Omar Abdul Rahman Alsagoff - Secretary.

Inche Ismail bin Alang, Simultaneous Interpreter of Parliament, and Inche Osman Gani, part-time Simultaneous Interpreter of Parliament, assisted in the interpretation.

41

18 APRIL 1966

42

Chairman

111. Good afternoon. Just for the record, could you give us your full name? — (*Mr. Mohammad Javad Namazie*) My name is Mohammad Javad Namazie.

112. And your address? — My address is 11 D'Almeida Street, Singapore.

113. And your office and association, Mr. Namazie? — The name of the Association is Muslimin Trust Fund Association. I am the President of the Association.

114. Thank you very much. Mr. Alsagoff? — (*Mr. Syed Omar Abdul Rahman Alsagoff*) My full name is Syed

Omar Abdul Rahman Alsagoff. I am the Secretary of the Association. My address is 16 Nassim Road, Singapore, 10.

115. Who will act as your spokesman? — Mr. Namazie.

116. Mr. Namazie will act as the spokesman. But there is nothing to prevent Mr. Alsagoff from coming in should he so desire? — Thank you.

117. Of course, both of you understand that anything that you say will be taken down and published in the report. If you feel like smoking, there is no regulation against it? — (*Mr. Namazie*) Thank you.

|18. We have read the representation* of the Muslimin Trust Fund Association. Unless there is anything you wish to add further to your representation, we would like to examine you on the representation you have made? - No, Sir. This is the considered view of the Association.

|19. Can we then start off with clause 7? Do I understand that you feel that the *Majlis* should consist of 19 members? You accept that position? — Yes.

|20. And you accept the position that the President of the *Majlis* should be appointed by the President of Singapore? — Yes.

|21. And you accept the position that the *Mufti* should also be a member of the *Majlis* and be appointed by the President? — Yes.

|22. So that is acceptable? — That is so.

|23. So what is probably not acceptable is clause 7 (1) (c)? — No, Sir, not clause 7 (1) (c). Clause 7 (1) (c) is acceptable.

|24. That is acceptable? — Yes. That is acceptable.

|25. So you want — ? — Clause 7 (1) (d) to be changed by just the deletion of the word "seven" and the insertion of the word "twelve".

|26. So that the membership of the *Majlis* would then be nineteen members. So you want it to be 19 members? — Yes.

|27. Of these members, the President of the *Majlis* will be nominated by the President of the Republic, the *Mufti* nominated by the President of the Republic, and clause 7 (1) (d) will be further — ? — There will be seven official members, so to speak, and 12 chosen from the associations.

|28. I see. You are also making the point that no society should have more

than one nominee appointed to the *Majlis*? — Yes. It should not have more than one nominee.

|29. I am not saying that that is not a desirable thing, but in the existing state of affairs in Singapore, do you think it is a practical solution of the problem?

— For one thing, Sir, there are large numbers of societies and probably people are in more than one society, and, secondly, it would not be fair - it is possible as the Bill is now - for the Government to appoint three or four from one society.

|30. Yes, that is possible. Some of these societies are more active and some are less active. I think one must accept that position. Some have a stronger membership and some have a weaker membership. In the present state of Singapore, where say a society might have three or four persons fit and proper to be nominated to the *Majlis Ugama*, is it desirable that their services be not availed of because of this proviso? — (Mr. Alsagoff) Not so, because you can do the appointments under clause 7 (1) (c). (Mr. Namazie) As I said before, the desirable members may be in more than one society, so that you have that sort of safeguard. Then the other point is that you want to have as wide a representation as possible. And thirdly, Sir, I think after the first constitution of the *Majlis*, future appointments will be by the *Majlis* prescribing societies for purposes of nomination.

|31. That is right? — So that they will be able to decide whether the society represents sufficiently large numbers of Muslims in Singapore to warrant a representative nominee.

|32. So your Association feels then that if a second member of a particular society should be appointed, then that could be done under clause 7 (1) (c)? - Yes. In clause 7 (1) (c), the field is wide. It is left to the —

*Appendix II, pp. 25-27.

133. Very well. I will recapitulate what I have said. The position is then that your Association agrees to clause 7 (1) (a). It agrees to clause 7 (1) (b). It agrees to clause 7 (1) (c). And it agrees to clause 7 (1) (d) with "seven" being amended to "twelve", so that the total membership of the *Majlis* on your suggestion will be 12 and 5 = 17, and the *Mufti* = 18, and the Chairman = 19. And you are also suggesting that under clause 7 (1) (d) one association should only have one nominee and no other. That is correct, is it not, Mr. Namazie? — Yes, except that paragraph (c) says not more than 5 members.

134. So that if a desirable second member in your Association is to be appointed, you think that the Minister might recommend him to the President under clause 7 (1) (c). And further, you think that a Schedule would be desirable to clause 7? — Yes. The reason is as set out in paragraph 3 of the representations. At the moment, the President of the *Majlis* will choose at his will the societies which will send nominees. We think that it will embarrass him. It will create perhaps discontent. It is better to have a Schedule and put down the societies which will be called upon to send nominees.

135. And your Association is suggesting that the Schedule should consist of 12 societies? — Yes.

136. Now, how have your Association selected these 12 societies? — We have tried to get as representative a number as possible. It is our suggestion. It is a tentative suggestion.

137. If you will kindly look at page 2 of your representations, under the Schedule, you have got the names of Muslim societies. Would you consider the United Malay National Organisation, the Pan Malayan Islamic Party and the Overseas Pakistan League as Muslim societies for the purposes of this Bill? — U.M.N.O. represents a large body of Muslims in Singapore, and since this

Bill not only deals with the Muslim religion but also deals with - it is a wide-ranging Bill - you have mosques, you have got all sorts of things. It should have as large a representation of Muslims as possible. U.M.N.O., I understand, has a Religious Branch which deals with religious affairs.

138. Yes, I see? — If I may make another point, that all these bodies, I think, have provisions whereby the membership is confined to Muslims.

Inche Othman Wok

139. Is it not a fact that quite a number of U.M.N.O. members are also represented in other Muslim organisations? — That is the point I made, Sir, that if you have, let us say, two members you wish to appoint, one in U.M.N.O. and the other one is in another party, then you can very well appoint one from U.M.N.O. and the other from the other party.

140. Because if U.M.N.O. and the Pan Malayan Islamic Party which are political parties want to be represented, then the P.A.P. may also want to be represented because there is a Muslim Department in it? — Well, the trouble is this, Sir. These 12 bodies consist of all Muslim members. Now I would imagine that the P.A.P. has Muslim members, but it has no religious objectives. There would be no objection to a Muslim from the P.A.P. being appointed, but you have that provision in clause 7 (1) (c).

Chairman

141. Now, representations have been made to the Select Committee that it might be undesirable for political parties to be represented in the *Majlis Ugama*. Do you think that it is too outrageous a suggestion? — Well, the difficulty is this. I have been on the Muslim Advisory Board for many years. The basis on which we want people on the Board - and it will be the same in the *Majlis* - is a racial basis. We want Muslims

from various races. We want Muslims of various schools of law, and it is not easy - you have got to choose not only Malays and members of the various races, but you also have to choose members of various schools of law.

142. I think the Select Committee understand that. What they would like to hear from you is this. As you have already indicated to the Committee, members of U.M. N.O. are also members of other Muslim societies; members of the P.A.P. are also members of other Muslim societies, which are purely religious. Members of the P.M.I.P. are also members of other religious societies.

Members of the Overseas Pakistan League are also members of religious societies. Now if there is a fair representation of political membership in the religious societies as such, would it not be desirable to strike out the names of the societies which are primarily political and only secondarily religious, if I may put it that way? And that in the place of political parties which are primarily political, two, three or four other names of religious societies could be substituted?— The difficulty here is that you either confine yourself to religious societies - and there are very few whose objects are purely religious, and even there, the line between religious and other matters is very narrow - or you choose those societies which are primarily religious and secondarily political. To my mind, it is going to be a very difficult task. If you confine yourself to purely religious bodies, then you do not make the *Majlis* representative and it will not be the effective body that one would like to see it to be. It seems to me, Sir, that unless the object of any particular body excludes religion, it should be taken into account in deciding whether or not that body should be on the Schedule. In my opinion, unless the object of a particular body excludes religion, i.e. if the objects are purely political, completely political, then it should be excluded.

143. Mr. Namazie, it may be that there may be borderline cases where it is difficult to distinguish where the thing ends and starts. But I suggest to you that there are certain societies which are primarily political? — It is difficult to say because all Muslim societies have political, religious, economic and social objectives.

144. Shall I make it easier-any party that contests the national elections? - Well, to the extent that it contests, it is acting in its political field.

145. Yes, any society which has also religion amongst its objectives, but if it contests the election, then it should be excluded from the Schedule. If that is put to you, what will your answer be? - My answer will be that you will cut the field down by excluding two or three societies. For instance, you will exclude U.M.N.O.

146. One does not want to exclude U.M.N.O. - the religious side of it. The religious side of U.M.N.O. could equally be fulfilled by the members joining other Muslim societies in Singapore, as you have previously indicated. The object of this Bill is to try to bring all religious groups into an association to look after religious affairs in Singapore under the *Majlis Ugama*. That is the purpose of the Bill, as I understand it? — Of course, it is not my object here to plead for U.M.N.O. or for any other political bodies.

147. No, we appreciate that? — But I imagine the fear is somewhat far-fetched because the *Majlis Ugama* has certain functions to perform, and whether you come from a body whose activities are political or not, I see no possibility of any politics being part of the *Majlis's* work. The functions are clearly set out.

Chairman] I know. You take a society like the People's Action Party. It must be registered as a political party - am I right, Mr. Attorney-General?

Attorney-General] Yes.

Chairman] And U.M.N.O. is registered as a political party because, as a political party, they have certain commitments by way of accounts - this that and the other - which I think a religious society as such would not have. Am I right, Mr. Attorney-General?

Attorney-General] They have a certain amount of freedom.

Chairman

148. They have a certain amount of freedom. The political parties have more freedom than other societies. If I suggest to you that such parties be excluded from the Schedule — ? — You mean parties which have more freedom be excluded from the Schedule?

149. Parties which are registered as political parties? — I do not see the underlying principle.

150. The underlying principle, quite frankly, is that the point was expressed in this Committee by witnesses that they would like to keep political parties out of this *Majlis*? — I understand the purpose - to ask the association to nominate an individual and that party is not a member of the *Majlis*. It is the individual. The individual comes in as a Muslim by virtue of his being a Muslim, and by virtue of the fact that the association thinks that he will be able to represent the Muslim religious point of view of its members, he is chosen or he is selected or at least he is nominated.

151. May I approach it from another point of view, Mr. Namazie? Supposing we excluded the United Malay National Organisation, the Pan Malayan Islamic Party, the People's Action Party and other political parties from the Schedule, would the representation on the *Majlis Ugama* be any weaker for it? - It is difficult to say for this reason, that probably a fair number of members of the United

Malay National Organisation who are on the religious side are also members of the All Malaya Muslim Missionary Society. It is very difficult to say whether they will not come in. A member of U.M.N.O. may not come in as a nominee of the All Malaya Muslim Missionary Society.

152. Would the effect of omitting U.M.N.O., the Pan Malayan Islamic Party and the P.A.P. from the Schedule be, in actual practice, that the purely religious-minded members of these three groups would leave these political associations and join other religious groups? Would that be a good thing? — It would. The purpose of the Bill is not to force members into any particular society.

153. No, that is not the purpose of the Bill? — As I see it - this is speaking for myself - as far as my Association is concerned, politics is not part of our work. It does not matter what views the individual may have. I would repeat that the *Majlis* has certain functions to perform and those functions are not political at all. The fear that this body will be used for political purposes is far-fetched.

154. While accepting your proposition that they go in as Muslims and, therefore, their objective is the Muslim religion, but if the basic recruitment is political, is it not likely to have some political taint which might be undesirable? I do not say that it will be, but if it is important to keep it free of politics, then one should try to eliminate even the mere possibility of it? — My answer would be that the basis is not political. Let us take the flagrant case of U.M.N.O. It has been put here not because of its political activities but because side by side with it there is religious activity too, and in any event, it is representative of a body which has a large number of Muslims. Of course, that would apply to the P.A.P. too. There are quite a number of Muslims in the P.A.P. If you think that you could

say that only the Muslim religious part of the P.A.P. should be entitled to submit a nominee, there will be no objection at all to my mind. I would like to mention that the Society I represent now - the Muslimin Trust Fund Association - comes under the Companies Ordinance. It is limited by guarantee and, therefore, it is not a registered society.

155. Yes. There is also outside the Schedule which you have mentioned, Mr. Namazie, a number of Muslim associations which you have not mentioned? - There is a large number, but we thought that these are the major ones.

156. What in your opinion would be the reaction if these societies were left out of the Schedule? - There are twelve societies that will nominate. So other than those twelve, all will be left out,

157. I know. But if you do not put them in a Schedule, at least there is a chance of rotating and alternating — ? — This is only for the first constituted -

158. This is not intended for ever? - If you will look at the proviso to clause 7 which reads:

'Provided that for the purpose of the appointment of members to the *Majlis* first constituted

159. I see - for the first one. So after the first one, the Schedule will cease to operate? — The Schedule will cease —

'... nominated by such Muslim societies as are prescribed for the purpose by the *Majlis*:' -

That is clause 7 (2). Mr. Speaker, Sir.

160. This is merely to prevent the President of the *Majlis* from being embarrassed? — And also there might be discontentment among the societies — "Why have I been left out?" Or, "Why should the President arbitrarily choose the *Majlis*?"

Chairman] Tuan Haji Yaacob, any questions?

Tuan Haji Yaacob

161. Mr. Speaker, I wish to ask the witnesses this. Perhaps they will agree with me when I say that there are organisations or bodies which are active and inactive, weak and strong, and that the membership of these organisations ranges from, say, 1,000 members to only 20? — Yes.

162. If it is so with the associations listed in the Schedule, is it not likely that the Muslims in Singapore will be divided among themselves? — I do not quite follow. The Schedule that we have suggested is for the first appointment. Instead of the *Majlis* appointing or picking out 12 associations, we have said that it is better that a Schedule should be set out. But in the case of future appointments, the *Majlis* itself will decide which society should be sitting on it.

163. Is it not good, for instance, if it is left to the President to announce the number of societies? — Do you mean the President of the *Majlis*?

164. The President of the *Majlis*? - (Mr. Alsagoff) I think, Mr. Speaker, we have made this suggestion because this Bill only mentions Muslim societies. What we are afraid of is that later on, because of the words "Muslim societies", it can include *sepak raga* groups, football groups, or anything, as long as it is a Muslim society. Therefore, we have made this suggestion to confine the definition. That is the object.

Chairman

165. Well, based on Mr. Namazie's argument, if it embraces *sepak raga* groups, they must be allowed in? — (Mr. Namazie) If part of their work is religious.

Chairman] Yes. *Sepak raga* is a very good occupation, a very helpful occupation! Perhaps one might consider it more helpful than politics!

Tuan Haji Yaacob] Mr. Speaker, to the best of my knowledge, when we held the convention of Muslims, there were present over 70 Islamic bodies. Therefore, are we to select only 12 bodies, which means that we are discriminating against or leaving out 58 other bodies?

Chairman

166. Does the Member mean that the Select Committee will get into a great deal of trouble? — (*Mr. Alsagoff*) Mr. Speaker, in reply to Tuan Haji Yaacob, some of the associations present at the Convention were Muslim Death Benefit Associations, *sepak raga* groups, school management committees, and so on. I think if we allow them to be included, it will be more of a *rojak* later on! (*Mr. Namazie*) The point is simple, Sir. You can have any 12 societies, but it is better that this point should be decided and set out in the beginning rather than letting an individual or an arbitrary person select later on.

167. I suppose the arbitrary selection will be confined to the President and later to the society? — We are not concerned with —

168. I mean, the arbitrariness must exist at some point or the other? — Well, except that the *Majlis* will look into the list and decide whether it is proper - the later appointment, I mean.

169. I think Mr. Namazie's point is: to save the President the embarrassment of having himself to nominate 12 members, he suggests that Parliament should undertake that job for the President. That is your point? — Yes, that is my point.

Tuan Haji Yaacob

170. If we should leave the selection to the Select Committee or Parliament, that would not prevent Parliament from being open to criticism. For instance, of the 12 names in the Schedule suggested, the Malay Chamber of Commerce does not engage in religious

activities or Muslim beliefs; neither is the Overseas Pakistan League. And I know of one Jamiatul Ulama which is a religious body and which has organised a Koran Convention. It is not included in this Schedule. So it is extremely difficult for us to decide which Muslim bodies should be included in it? — (*Mr. Alsagoff*) Mr. Speaker, the reason why the Association includes the Malay Chamber of Commerce is that it has something to do with the business side of the *zakat*. That is the reason why it is included.

171. To the best of my knowledge, I know that most members of the Malay Chamber of Commerce have joined other Muslim religious organisations. One of the witnesses here is a former President of the Malay Chamber of Commerce? - Mr. Speaker, not only I myself but many others, I believe, who are members of Muslim organisations also belong to six, seven or eight other organisations.

Inche Othman Wok] If that is the case, is it not desirable to leave out the Schedule and let the bodies themselves nominate?

Chairman

172. I think Mr. Namazie's point is that the first nomination is by the President of the *Majlis*. The suggestion is that he be relieved of that anxiety and be assisted by a Schedule. I think that is the proposition, is it not? — (*Mr. Namazie*) That is so.

Tuan Haji Yaacob] I think it is a detailed question which should be left to the President of the *Majlis* who can convene a meeting of Muslim societies. And then it is up to the Muslim societies themselves at that meeting to nominate or recommend their nominees.

Chairman] I do not know if we can take this any further. I think Mr. Namazie has made the point. He has agreed with the whole setup, but what he says is that the President should be

relieved of the embarrassment of nominating the first membership to the *Majlis*, and there may be other difficulties. It is now up to the Select Committee to consider the proposition and to come to some conclusion. And I do not think we can take the matter much further. If Members are agreed on that, then I will go on to the next point. Is that agreed?

Hon. Members] Yes.

Chairman] Now, we go on to clause 9 (d)*, Mr. Namazie, on page 2 of your representations. I think that is an error, is it not, Mr. Attorney-General?

Attorney-General] That is a drafting error:

Chairman

173. Yes, that is a drafting error, and it *will* go out? — Yes.

174. Now, clause 11 - **you are** suggesting that in line 2, "any member of, or" be deleted? — Yes.

175. You are not suggesting that there be a replacement if a member goes on leave or if he becomes incapacitated? — There is a quorum, Sir, and the *Majlis* can carry on. Otherwise, I do not see how you can appoint temporary members. Do you go back to the particular Association whose nominees are absent?

176. But in the event of the Select Committee thinking that there should be a replacement for these members, would your Association object to the President of Singapore so appointing? - No, not the President. We would not object. But I imagine that if, let us say a nominee of X Association is going away, and it is intended to replace him, then the President will appoint another member from the X Association.

177. Yes. But you do not think it is desirable? - It is unlikely if it is agreed that there will be 19 members. And if one or two are away temporarily, it seems hardly necessary.

Chairman] And possibly on the basis of 19, it may become unnecessary.

Attorney-General] It is suggested that the quorum be half.

Chairman

178. Yes, that is the point. So if the number had been smaller - supposing it had been a membership of eight or something like that - **then** a replacement might have been necessary? — it might have been necessary. And you will have to go back to the Association and ask for a nomination and the name of the nominee will be submitted. Then the President will appoint. (Mr. *Alsagoff*) Or, Mr. Speaker, we can have an alternate member who shall act in the absence of the original member.

179. Very well. Now, clause 21 (3). You do not like this? — It seems unnecessary, Sir, as usually some amendments are made when the draft minutes come up for confirmation.

180. How soon will they be confirmed? The next meeting might not be held for two months? — Looking at the Bill, the *Majlis has, I imagine, got* to meet quite frequently

181. I appreciate that. But if the *Majlis* does not meet for two months? I take it this *Majlis* would do its work. As soon as the *Majlis* has decided on certain things, action will be taken by the Secretary long before the minutes are approved at the next meeting. And if the next meeting is not held for another two or three months, and that could possibly happen because there is

*Clause 9 (d) reads as follows:

'Without prejudice to the provisions of subsection (3) of section 7 and sections 10 and 11 of this Act the appointment of any member of the *majlis* shall determine-
(d) if he has been appointed under paragraph (c) of subsection (1) of section 7 of this Act on ceasing to be a Member of Parliament'

nothing in the Bill here to say how often a meeting must take place! So by the time the minutes get to the President of Singapore, a whole lot of things might have been done on the minutes themselves? — Yes, that is so. But those things could still be done between the time the minutes reach the President and —

Chairman] At least the President would know from the draft minutes what is going on. I take it that must be the idea behind it -

Inche Othman Wok] Yes.

Chairman] — for the President to be kept informed of every decision which the *Majlis* takes.

Inche Othman Wok

182. Yes. And also for Government to act quickly on any of the decisions? - We have no strong views on that. We thought it a matter of convenience.

Chairman

183. Now, clause 59 (4) (c). This is an existing clause in the Muslim and Hindu Endowments Ordinance, I am told? - That is so.

184. And I am instructed by the learned Attorney-General that this clause has been found very helpful in sorting out certain problems. Although it happens very infrequently- it does happen infrequently, but on the one or two occasions when it did happen, had it not been for this clause a solution might not have been readily found. Have I overstated the case? — (*Attorney-General*) No. (*Mr. Namazie*) There is a difference between the Muslim and Hindu Endowments Board and the *Majlis*.

185. Apparently it was this clause which was used to serve a Muslim property, was it not? — (*Attorney-General*) A Muslim mosque.

186. A Muslim mosque? — Coronation Road Mosque. (*Mr. Namazie*) This Bill gives other powers. (*Attorney-General*) It is the same clause. Clause 75 (2) (c). The same words, and you also object. (*Mr. Namazie*) Yes, we object to that because it can be manipulated. (*Attorney-General*) Can I put the case?

187. Yes, do, Mr. Attorney-General? — In the case of the Coronation Road Mosque, there were two pieces of land, both endowed for the Mosque. But there were two separate trustees, and these two trustees could not agree. If we did not have paragraph (c) in the Muslim and Hindu Endowments Ordinance, we could not have acted under paragraph (a) or (b), because one set of trustees wanted to enlarge the Mosque. There were trustees for both pieces of land. It was to the advantage of the Mosque that it should be enlarged so that both pieces of land could be used for the Mosque. And the Muslim and Hindu Endowments Board were able to step in, remove the trustees and appoint a new committee of management and the Mosque has been enlarged. (*Mr. Namazie*) One other way of meeting the problem is that one party could have gone to the court to decide. The danger is that if the *Majlis* thinks it is to its advantage - we are giving considerable powers to the *Majlis*. We are allowing it to remove trustees or *mutawallis* for mismanagement, which is quite in order, in my opinion; and also if there are no trustees, they should have the right to appoint. But to go further and say that if they think - which may be so or not - it is to the advantage — (*Attorney-General*) That is the existing law now. (*Mr. Namazie*) In the Muslim Advisory Board or in the Muslim and Hindu Endowments Board, that is so. (*Attorney-General*) It is a combined Muslim and Hindu Board. (*Mr. Namazie*) Yes, I know it is a combined Muslim and Hindu Endowments Board. But there is a difference. There, before the Muslim and Hindu Endowments

Board takes over, there is a report to the Governor-in-Council or the Cabinet. (Attorney-General) Minister. (Mr. Namazie) Minister. It used to be the Governor-in-Council, and the decision was taken by him. But here the *Majlis* is not only, so to speak, the judge but also a party.

188. So your Association's objection to clause 59 (4) (c) is that it gives too much power to the *Majlis* without any restriction on that power, and the objective aimed for under clause 59 (4) (c) could quite easily be obtained under the existing machinery of the law? — (Attorney-General) No more now. It would be repealed. (Mr. Namazie) It would be repealed, but then under this the *Majlis* becomes the trustee. It is a sort of common trustee. (Attorney-General) You are seeking to remove an innocent trustee. (Mr. Namazie) Yes. I say it is necessary because you are giving the *Majlis* considerable powers. You are, in fact, saying. "Look, property will vest in you by clause 60 which comes later." (Attorney-General) The purpose is conveyancing. You do not have to apply to court from time to time. (Mr. Namazie) Yes, we are doing that. If you do not include this, then at least the *mutawallis* may feel that they are all right, the trustees will continue. It is only in the case of mismanagement that you will step in. But if you have that, you are putting them completely at the mercy of the *Majlis*.

189. So that your objection to clause 59 (4) (c) is that this puts the trustees of mosques completely at the mercy of the *Majlis*? — It deals with *wakaf*.

190. *Wakaf* — completely at the mercy of the *Majlis*? — *Majlis*, and they will decide whether it is to their advantage or not.

191. Your view is that, in the event of something in the nature of what the learned Attorney-General has said happening, then the normal law of the land would be able to assist the parties to the dispute? — I do not know exactly

what the position would be because the property would be vested in the *Majlis*.

192. The two sets of trustees? — The property would be vested in the *Majlis* and then, if there are two sets of trustees, certainly somebody has to decide which set should be the legal set. (Attorney-General) No. The trustees are two — each of one piece of land. There are two pieces of land, both endowed in the mosque, side by side. One has one set of trustees and the other has one set. How do you deal with that if they cannot agree? (Mr. Namazie) There are two mosques. (Attorney-General) No. One mosque. Both the pieces of land are for one mosque, the two adjoining it.

193. One mosque is situated on two pieces of land? Partly on one —

194. Partly on one and partly on the other? — It is a real, factual case. (Mr. Alsagoff) But under clause 60 the whole thing is vested in the *Majlis*. (Attorney-General) You cannot remove the trustees. (Mr. Namazie) You could remove them by this.

195. That is the point you are trying to make, Mr. Namazie, to the advantage — ? — Yes, whether the Muslim and Hindu Endowments Board exists or not. They would apply to court under the Trustees Ordinance.

196. That is your point? — Yes.

197. The point is that the learned Attorney-General has said that where there are two pieces of land adjoining each other and there is one mosque on those two pieces of land, then unless we have clause 59 (4) (c) it will not be possible to do anything for the furtherance of that mosque. Mr. Namazie said no, he did not agree. In that event, you can go to the court and ask one set of the trustees to be removed. And because of that, Mr. Namazie said clause 59 (4) (c) is not necessary. Have I overstated it? — That is so. It is a case

that has been put now. And the problem could not have arisen if there was no mismanagement. (*Attorney-General*)

It would be difficult to prove mismanagement.

198. Very often it is not a question of mismanagement. It is a question of disagreement. Sometimes it may not be mismanagement? — It was not mismanagement?

199. Each one holding the point of view that he was doing the right thing? — (*Mr. Namazie*) Somebody must have been carrying on the work. (*Attorney-General*) There was a mosque. Only they wanted to build a new mosque.

Chairman] That is the position. Now, is there anything that Members would

like to ask Mr. Namazie on clause 59 (4) (c)?

Hon. Members indicated dissent.

Chairman

200. If we may come to clause 75 (2) (c) - it is the same problem? — (*Mr. NamaZie*) The same.

201. I think we have discussed it. It is identical. That brings us too the end of the evidence. It remains for me to thank you, Mr. Namazie and Mr. Alsagoff, for having come and assisted the Committee. We will now consider your evidence in relation to all the other evidence and come to certain decisions? - Thank you very much.

(The witnesses withdrew.)

Inche Ahmad bin Mohd. Ibrahim (*Attorney-General*) was examined.

Chairman

202. For the record, Mr. Attorney-General, your name? — (*Inche Ahmad bin Mohd. Ibrahim*) Ahmad bin Mohd. Ibrahim, Attorney-General, Singapore.

203. Inche Ahmad, one* of the representations that have come in to the Select Committee needs your assistance, because it involves a difficult matter of law which, as Members of the Committee, we would not be able to deal with unless we have got expert advice on it. In this respect, you could possibly assist us. To begin with, it concerns clauses 107 and 108. The representation on clauses 107 and 108 is as follows:

Should Sections 107 and 108 of the Bill become law the following results will ensue: -

- (i) Although a Muslim can lawfully marry a Christian or a Jewish

woman, on his death testate or intestate his Christian or Jewish wife will not be able to claim a share in his estate nor his children should they be non-Muslims. In that case if there are no other kindred his whole estate will go to the Government.

- (ii) No non-Muslim owning any property is likely to embrace Islam as by doing so his non-Muslim next-of-kin will inherit nothing from his estate and the whole of his property would go to the Government.
- (iii) No non-Muslim is likely to take a Muslim into partnership with him in a mercantile firm as immediately on the Muslim partner's death his share in the business will have to be taken out and the partnership wound up, unless of course all the next-of-kin consent that the deceased's share should continue to be retained in the firm. This they will not be able to do if any of the next-of-kin are minors.

*Appendix, II, pp. B10-16.

Now, in the opinion of this representor, these are the consequences that will naturally flow from the enactment of clauses 107 and 108. Do you agree, Mr.

Attorney - General — I think Mr. Nazir Malay's objection to this can be expressed shortly by saying that non-Muslims will not be able to inherit from Muslims. With that aspect of the law, I agree. That would be the result of the Bill. But my own comment on this is that it must be remembered that a Muslim has no power to exclude any heir by his will. Take an extreme case; a non-Muslim father might, by will, exclude his son, who has become a Muslim, from a share in the estate; a Muslim father would not, otherwise apart from the law, have power to, make such a will. The exclusion of the non-Muslim son in such a case arises from the law. A Muslim father can still, if he wishes to do so, make a will of up to one-third of his property in favour of a non-Muslim son. It is in that respect that Mr. Nazir Mallal is not quite correct in saying that a Muslim cannot bequeath up to one-third of his property to a non-Muslim. I have looked up Nawawi's Minhaj et Talibin and he makes it clear that a legacy may be left to a non-Muslim. I have another authority, Fyzee, who says that a bequest can be made by Muslims in favour of any person, the religion being immaterial.

Inche Othman Wok

204. Supposing a Muslim father marries a non-Muslim with offspring, and he does not leave a will, what about the children and the wife? — The offspring, if they are Muslims, will get a share.

205. If they are not? — If they are non-Muslims, they will not get a share.

Chairman

206.. And the wife also will not get? - The wife will not.

207. But if he leaves a will, she may get a part? - Yes, up to one-third. I might add that this is the position in all the States of Malaya.

208. So I think the translation to Members of the Committee is that Mr. Mallal in his representation said that if clauses 107 and 108 become law, then if any Muslim marries a non-Muslim, his children or his wife will not be able to inherit any part of his property. The answer which the learned Attorney-General gave was that up to a point Mr. Mallal was right. If a Muslim in those circumstances dies intestate, then his non-Muslim wife or his non-Muslim children do not get any part of his estate. But what a Muslim in such circumstances could do, and which the Muslim law permits him to do, is to make a will under which he can give up to one-third of his property. And he can will away one-third of his property in those circumstances to his wife and children. But the rest of his two-thirds must go to Muslims under the Muslim law. The second effect which the representor said would ensue if clauses 107 and 108 were enacted, is that no non-Muslim owning any property is likely to become a Muslim. Well, this is not a matter of law, of course, but this is what he says. It is his opinion on what the effect of this Bill will be? — I can reply to that. A non-Muslim who becomes a Muslim would normally marry a Muslim woman.

209. That is the answer. And the third thing which he said is likely to happen is that no non-Muslim, if clauses 107 and 108 were enacted, is likely to take a Muslim into partnership with him because, immediately on the Muslim partner's death, his share in the business will have to be taken out and the partnership wound up, unless all the next-of-kin consent that the deceased's share should continue to be retained in the firm. And this, the representor says, they will not be able to do

if any of the next-of-kin are minors. Do you agree with that, Mr. Attorney-General? — With due respect, I do not see how the fact that the partners are Muslims or non-Muslims has anything to do with the general partnership law.

210. The learned Attorney-General does not agree with that. So we do not have to go into that any more. The other point which I wish to put to you, Mr. Attorney-General, is another suggestion by the representor. On page 4, paragraph (o):

'I therefore pray that the Legislature will see fit to delete Section 108 of the Bill and replace it by Section 42 of Ordinance No. 25 of 1957 as it stood prior to the passing of Ordinance No. 40 of 1960 and delete Section 107 of the Bill and replace it by Section 41 of the same Ordinance.'

Perhaps for the record, I should read out these sections so that one would get a clear understanding. Section 42 which the representor referred to reads as follows:

'In the case of any Muslim person dying intestate after the 1st January, 1924, the estate and effects shall be administered according to the law of Islam, except in so far as such law is opposed to any local custom which prior to the 1st January, 1924, had the force of law.'

Section 41 reads as follows:

'41.-(1) Where after the commencement of this Ordinance a Muslim dies domiciled in the Colony leaving a will and leaving any person who is, under the school of the law of Islam to which the deceased belonged at the time of his death, entitled -

- (a) to a share in the estate of the testator; or
- (b) to take the residue or any part thereof, of the estate of the testator

then, if the court on application by or on behalf of any such person finds that the will does not make provision or sufficient provision for that person in accordance with the school of law of Islam to which the deceased belonged at the date of his death, the court shall make an order, not inconsistent with such school of law, varying the will of the testator in order that provision or sufficient provision in accordance with such school of law shall be made out of the testator's net estate for that person.

(2) In determining in what way and as from what date provision for any person ought to be made by an order under subsection (1) of this section, the court shall, as far as possible, ensure that the order does not necessitate a realisation that would be improvident having regard to the nature of the testator's estate and the interests of the heirs as a whole.

(3) An order under this section shall not be made save on an application made within six months from the date on which probate or letters of administration in regard to the testator's estate is first extracted.

(4) Where an order is made under this Ordinance, then for all purposes, including the purposes of any written law relating to estate duty, the will shall have effect, and shall be deemed to have had effect as from the testator's death, as if it had been executed with such variations as may be specified in such order.

(5) A certified copy of every order made under this section shall be sent to the probate registry for entry and filing and a memorandum of the order shall be endorsed on or permanently annexed to the probate of the will of the testator or the letters of administration with the will annexed, as the case may be.

(6) For the purposes of this section:-

- (a) "net estate" means all the property of which a testator had power of disposal as beneficial owner at the time of his death less the amount of his funeral, testamentary and administration expenses, debts and liabilities and estate duty payable out of his estate on his death;
- (b) "heirs" includes the sharers and residuaries of the estate of a deceased person, according to the law of Islam;
- (c) "residue" means that portion of the estate (if any) which is left over after the sharers according to the law of Islam have received the shares to which they are respectively entitled; and a "residuary" means a person entitled to take the residue or any part thereof;
- (d) "share" means the definite fraction of the estate allotted to a person under the provisions contained in the law of Islam and "sharer" means a person who is entitled to such a share.'

What do you say to that, Mr. Attorney-General? - Speaking at this stage, as a Muslim, I would say that we would be going backward instead of going forward, which means, in effect, we will not be following the Muslim law.

211. I see. I think that answers that. So the answer then to Members of the Committee is that the learned Attorney-General thinks that, in so far as the Muslim law is concerned, this suggestion will be going backwards and not going forwards. Correct? — Yes.

212. The other matter which the representor says:

'I also pray that Section 40 (3) of Ordinance No. 25 of 1957 be retained so that a Muslim may have the right to direct by his will that his or her estate shall be administered according to the law of Islam.'

Section 40 (3) referred to by the representor reads as follows:

'Nothing in this Ordinance contained shall be held to prevent any Muslim person directing by his or her will that his or her estate and effects shall be administered according to the law of Islam.

Mr. Attorney-General? — I do not think that it is necessary now. Such a will can still be made. It would comply

213. It would still comply with Muslim law? - There is no necessity to enact it.

214. Yes. The mere fact that a man can dispose of his property according to Muslim law would carry this right too? — Yes.

215. So the answer of the learned Attorney-General is that he sees no reason for section 40 (3) to be retained, because the position which Mr. Mallal thinks under this section would ensue will still ensue under the proposed Bill? - It will only be necessary if his amendments are adopted.

216. Now, the next point is "Re Share for Children of a deceased son or daughter."? - I think there is one earlier point, the question of domicile, page 3.

217. On page 3, paragraphs — ? - The last two paragraphs.

218. The last two paragraphs read as follows:

'All the civilised countries of the world recognise the validity of a will as to movables if such will is valid according to the laws of the Testator's domicile or his nationality. The validity of a will as to immovables is of course governed by the *lex situs* except in certain countries such as Germany, Switzerland, Italy, Spain, Portugal and the Scandinavian States which apply the *lex domicilii* or the *lex patriae* for both movables and immovables.

By Section 107 (1) it is sought to legislate for persons domiciled in or nationals of foreign countries which is absurd. Let us take a concrete example: A Muslim domiciled in Hongkong has movable property in Singapore which forms the bulk of his assets. He dies leaving a will under which he bequeaths the whole of his assets in Singapore to a friend. According to the laws of Hongkong his will is valid. According to Section 107 his Will is invalid. I wonder what the Courts will hold in such a case. Section 41 of Ordinance No. 25 of 1957 quite rightly and properly dealt only with Wills of Muslims dying domiciled in Singapore.'

What is your answer to that, Mr. Attorney-General? — I think that would result again even if we do not set it out expressly in the Bill under private international law. But I have no objection to Mr. Nazir Mallal's suggestion.

219. So you think he could be accommodated? Would that necessitate some amendments? — Yes.

220. You think that could be looked after if the Committee so desires? — Yes, so that we confine sections 107 and 108 to a Muslim who dies domiciled in Singapore.

221. So then we come on to page 4. He makes the point that:

'Under Muslim Law if a son or daughter of a Muslim Intestate predeceases him the

children of such predeceased son or daughter are not entitled to share in the estate of the Muslim Intestate.'

Is that correct under Muslim law? — The position under Muslim law is correct.

222. It is correct. He says that that is undesirable and something should be done to rectify that position. What say you to that? — This is a matter for the Select Committee. I would myself support it but I would not recommend the Pakistani —

223. Just some other solution to incorporate this — ? — Because the Pakistani solution has caused more trouble than good. I might shortly mention the solution which has been adopted in Arab countries, and that is to bequeath a gift of up to one-third of the property to the grandchild.

224. Anyway, this is a matter which the Select Committee may consider in its deliberations on the Bill. May we go on to the next point that the representor made—that is on clause 85 of the Bill? The representor's comment on this is:

'This Section clearly envisages the registration of marriages between male Muslims and female Christians or Jews and will therefore be welcome by all right-thinking persons.'

Is that a correct assumption, Mr. Attorney-General? — "This Section clearly envisages the registration of marriages between male Muslims and female Christians or Jews ..."—yes, that is correct.

225. What the representor wants is this. Apparently, some *Kathis* in Singapore do not understand the position and they might get difficult over it and cause embarrassment to couples, and he is wondering whether something could be put in the Bill which would clearly lay it down? — The position is that the *Kathis* are not allowed to solemnise marriages between a Muslim party and a non-Muslim party. Both parties must

be Muslims. The only solution, it appears to me, is to amend the Women's Charter in order to allow a marriage between a Muslim and a non-Muslim to be registered in a civil register. That was possible before 1961. It was removed in 1961.

226. So that if this representation makes an impression on the Select Committee, your suggestion is that it should be done in the way that you have suggested? — The reason is that if we bring it into this Bill and want to follow the Muslim law, the only marriage that will be allowed is between a Muslim and a Christian or a Jew, and not, for example, between a Muslim and a Chinese who is neither a Christian nor a Jew. In fact, even that is not certain, because a recent decision of the *Shariah* Court held that the marriage between a Muslim and a Christian is not valid.

227. So that your suggestion, Mr. Attorney-General, is that if this is to be given effect to, it should be through an amendment to the Women's Charter which will go to Parliament simultaneously with this Bill? — Yes.

228. The next clause which the representor is interested in is clause 130 of the Bill. He says:

'This Section discriminates against a section of the population of Singapore and should not be enacted, particularly so as there is no provision in our laws for the marriage of a Muslim with a non-Muslim woman who is neither a Christian nor a Jewess.'

So if your suggestion is agreed to by the Select Committee, a large portion of his representation will lose its point? — Yes, because they will then be allowed to marry.

229. The other point which the representor makes is on clause 134 of the Bill, that is, in connection with permission to leave Singapore:

'Any man, who is not a citizen of Singapore or of Malaysia and who has married in Singapore, shall not leave Singapore without

the permission of the President of the *Majlis*.
...

The representor says he understands the purpose of this clause, but he suggests that the objective of the clause could be achieved where this is only enforced in cases where there has been a complaint of not being properly maintained either by a wife or a member of the family. So, in effect, the representor's suggestion is that clause 134 should only apply where there is a complaint pending at the time that the person wishes to leave Singapore? — Mr. Mallal's objection to this clause is only one of procedure. Whether it would be possible to wait till a complaint is lodged and whether the woman concerned would know of the husband leaving are questions we have to consider. But I would suggest to the Select Committee to look carefully at this clause of the Bill, because I know that the Immigration Department has also raised objections to it, because they say that in certain cases a person will be required by the law to leave, and this will prevent it.

230. So this is a matter which you suggest the Select Committee might look into with some care? — Yes.

231. The last matter on which representation was made by the representor is clause 71 of the Bill in connection with *zakat*. The point briefly that the representor makes is:

'No land tax was levied from the Muslims.

The land tax was levied under the name of "Kharaj" on the property of Zimmis or non-Muslim subjects.'

He also says:

'There is considerable misunderstanding among the general body of Muslims as to what *Zakat* is. From the books I have consulted it appears that *Zakat* is payable on the following only:-

- (i) Camels, cattle, sheep and goats owned by a Muslim.
- (ii) Agricultural produce.
- (iii) Gold and silver which have been in the possession of a Muslim for a period of one year.

(iv) Merchandise.

(v) Treasure trove and mines.

As regards *Zakat* payable on merchandise it would appear that the same is payable at the rate of 2½ per cent on the value of the stock-in-trade.'

Before we proceed further, is the learned Attorney - General's appreciation the same as the representor's? - I would not say that I agree entirely.

232. But by and large? — Approximately correct. Except it is not true to say that there is considerable misunderstanding among the general body of Muslims as to what *zakat* is.

233. The representor's suggestion is:

'In view of the foregoing the only Muslims who would be affected by imposition of *Zakat* are the Muslim traders who already have to pay their contributions to the Provident Fund, Income Tax, Pay Roll Tax and what not. Compulsory levy of *Zakat* is not likely to improve the economic position of the Muslim traders in Singapore.'

His contention is that if this is imposed, the persons who will suffer most are the Muslim traders. That is the gist of his representation. And he makes a

suggestion:

'If the object of the imposition of *Zakat* is to help the poor Muslims of Singapore then I would suggest that a percentage of all income tax paid by Muslims of Singapore be diverted for the purpose.'

So that the effect of his suggestion is that there will be no imposition of *zakat* under the Administration of Muslim Muslim Law Ordinance, but that there will be an appropriate amendment to the Income Tax Ordinance which will effect this. I do not think that is a matter for any comment. That is a matter for the Select Committee to consider? — Yes.

234. I think what the Select Committee want your advice on is this — whether his statement on the law of *zakat*, as he understands it, is as nearly correct as it should be? — I should like to correct a few things. He says:

'At present no *Zakat* is levied in any Muslim country, except the States of Malaya.

Even in Saudi Arabia where strict Muslim Law is the law of the land no Zakat is levied!.

That is quite wrong. In fact, I have a recent publication from Saudi Arabia which deals with the collection of *zakat*.

235. I think the point Mr. Mallal is trying to make is this: that the way *zakat* operates under Muslim law is such that certain people who have certain types of wealth are not affected, but others who have other types of wealth are affected, and therefore there might be some form of discrimination amongst the Muslims themselves. I think that is the point Mr. Mallal is trying to make? - The other point that I would like to make is that Mr. Mallal is only dealing with one kind of *zakat* — what we call *zakat-mal*. But what I think the Muslims in Singapore are more concerned with in this particular country is *zakat fitrah*, which is paid once every year just before the end of the feast of *Ramadan*.

236. A *zakat* which should be paid by everybody? - It is paid by everyone.

237. He might be a farmer, he might be a trader, he might be a professional man — ? — And the rate is about a dollar per person.

238. He might be a clerk; in fact, he might be anything? — Yes, except when he is very poor.

239. So it is a thing which affects everybody? — Yes. And the other point I would like to make is that this *zakat fitrah* is, in fact, being collected. It is being collected even by political bodies like U.M.N.O. and by the All Malaya Muslim Missionary Society. At the moment, the collection is not properly done. What we propose in this Bill is that it should be properly collected and properly managed.

240. Well, thank you very much, Mr. Attorney-General. I think you have been of very great assistance to the Select Committee? — Thank you.

(The witness withdrew.)

The following representatives of the Muslim Welfare Association were examined:

Mr. Mirza Abdul Majid	-President
Inche Fadjar bin Mohd. Boyee	-Committee Member
Inche Said bin Haji Mohd.	-Committee Member

Chairman

241. Good afternoon, gentlemen. Mr. Majid, for the record, will you give us your full name and address, please?

— (*Mr. Mirza Abdul Majid*) Mirza Abdul Majid. My address is 137/139 Rangoon Road, Singapore, 8.

242. You are the President of the Muslim Welfare Association? — Yes.

243. You have two observers? — They are Committee members.

244. Your name, please? — (*Inche Fadjar bin Mohd. Boyee*) Fadjar bin Mohd. Boyee. My address is 145 Race Course Road, Singapore, 8.

245. And you are a Committee member of the Muslim Welfare Association? — Yes.

246. And your colleague? — (*Inche Said bin Haji Mohd.*) Said bin Haji Mohd., 161 Lorong Engku Aman, Singapore.

247. You are a Committee Member of the Muslim Welfare Association? — Yes.

248. Who will be the spokesman? — (*Mr. Majid*) I will.

249. If any of you gentlemen wish to smoke, you may do so? — (*Inche Fadjar*) Thank you.

250. Mr. Majid, we have read the representation* which you have made on the Bill now before the Select Committee. I will ask you a few questions arising out of your representation, and if after I have asked the questions, Members of the Select Committee still wish to ask further questions, they may ask

you. But if they feel that I have asked you all the questions that do matter, then they may not ask you any question. On page 1 of your representation, towards the end, Mr. Majid, you say:

'We are not in favour of Criminal Prosecution of any kind for Non-Payment of "*Fitrah and Zakat*".'

Could you tell the Select Committee how best the payment of this *fitrah* and *zakat*, as the case may be, be enforced? — (*Mr. Majid*) My answer is that by educating our Muslim people, I believe over 90 per cent of the Muslims in Singapore are paying *fitrah*.

251. At the moment? — At the moment. What it looks like is this. They pay to their nearest kith and kin this *fitrah*. So I do not think prosecution in court will be fair because nowhere have they this law, in the Muslim State of Pakistan. I can mention this because it is the country of my birth. I have their constitution here. I know it is just in Singapore that we have this. I have consulted. It has not been imposed yet in Muslim countries. We know in some States in the Federation, yes. They are the Religious Department. They are trying to collect.

252. The view of your Association is that as matters stand in Singapore, it would not be desirable to prosecute people for non-payment of *fitrah* or *zakat*? — About this *zakat*, it is a tax -an income tax. We have got in force income tax. Every class of people, all religious people, who have incomes of a certain amount, must pay. And that is up to date.

*Appendix, II, pp. B40-42.

253. You must pay to the collector of income tax? — Income tax. But it looks like a double tax.

254. But *zakat* will be paid to the *Majlis*? — What I say is that a man is paying income tax already to an authority - the Inland Revenue Department.

255. Your Association says that only *fitrah* should be paid? — *Fitrah* — voluntary. I have pleaded here — I am not coming here to argue anything - our Association is pleading to the hon. Members of Parliament and the Select Committee here, with Mr. Speaker as Chairman. We are pleading that Singapore should not set an example to the non-Muslims that Islamic contributions are collected by law. The Government is enforcing Islamic law, you know.

256. I follow? — You seem to follow. In that way, I think it is a bad example.

257. So the stand of your Muslim Welfare Association is that if there is to be any collection of *zakat* or *fitrah*, then it must be on a voluntary basis, but that the *Majlis* should be given the power to collect this *zakat* or *fitrah* if people are so willing? — Yes.

258. That is your stand? — Yes.

259. I think we understand that. But that the *Majlis Ugama* would be the sole collecting authority? — No. That is, I have no objection about it.

260. As I understand it, Mr. Majid -correct me if I am wrong-there are various organisations which now collect *fitrah*. But what this Bill is seeking to do would be to replace those organisations with one organisation. That is the *Majlis Ugama*. But you say the *Majlis Ugama* should not compulsorily collect but should only collect from those Muslims who voluntarily pay it? -Yes. And no organisation except it. Among the relations, about

whom I have spoken, people who are giving to their kith and kin, if somebody individually gives to his relations, well he can. But no other organisation except the *Majlis Ugama*.

261. Yes. I think we understand that. Your next point is on clause 7 of the Bill which is the composition and membership of the *Majlis Ugama*. Your Association has agreed that the total membership of the *Majlis* should be 14. Are you agreed on that? — I agree with 14. But what I have said —

262. We will take it step by step. You are agreed that it should be 14? — Not more than.

263. Not more than 14? — About 14, I think.

264. How many do you suggest? — Fourteen and seven is 21-

265. I beg your pardon. You suggest that the membership of the *Majlis Ugama* should consist of 14 plus 7 equals 21; plus 2, which is 23; plus 3, 26? — 26

266. And with the President and the *Mufti* = 28. And you say that this *Majlis* composed of 28 persons should be an elected body and in no way should be nominated. That is your stand, is it? — Yes.

267. And you have provided procedures here for the election of all members? — Yes.

268. Your Association does not think that, as an ultimate step, possibly you get everybody to agree that members should be elected; but as the first step, would your Association agree that it should be partly elected and partly nominated? — Why I say this is because we are now having an elected Government here. All machinery in democratic countries - Singapore is a democratic country - should function in a democratic way. So then there will be encouragement. It will be difficult if we start in a small way. I think it will work better from the very beginning.

269. Very well. Now, you also suggest that there should be two Muslim religious women to be elected by Muslim religious and educational bodies. Which Muslim religious and educational bodies have your Association in mind? - We are part and parcel of the whole community. I am not going to indicate this body — well, it will be known to all the Muslim organisations and to the Government also. At the moment, there are various bodies. Some bodies are co-operative with one another, some bodies are rivals with one another. This is an important Bill and the body is going to serve the common purpose of the Muslims and, at the same time, bring credit to the citizens of Singapore and to the Government. All religious bodies which are really useful will be asked to send their delegates. These delegates will choose. Not the Association will choose straight, no. These delegates will come together from all organisations and the number required will be selected from these delegates with the knowledge of the Government.

270. So your scheme is, if I understand you correctly, that all the Muslim religious bodies in Singapore will send delegates to a convention and this convention will then proceed to elect the 26 members? — I have classified four categories, Sir. First, I say about the mosques and *suraus* where mostly weekly prayers are said. So I have suggested, as vast numbers will be praying in the mosques and *suraus*, that they are to select 14 members, and then the associations 7 members. And those associations - I would say, sports bodies, cultural bodies - they are not religious at all. Only the bodies which are dealing with religion and other aspects are to be given a chance, because this is a religious matter. We are now in a modern world, we have the Women's Charter, and Muslim women may not come within this selection of 21 people. So we want specially two ladies to come into the *Majlis*.

271. Yes. Do you think, Mr. Majid, that this proposition of two Muslim religious women will be acceptable to the Muslims in Singapore? — Of course, we must accept. Is not Mrs. Indira Gandhi the Indian Prime Minister?

272. I am just asking you, that is all. I am not disputing with you? — We must accept.

273. You must accept. It is not a question of we must accept. Will it be acceptable to the Muslims of Singapore? - I think it will be acceptable unless the people want some other form, you know.

274. Yes. So then briefly your suggestion is that 14 members must be elected from the worshippers at the mosques and the *suraus*? — Yes.

275. The second group of 7 persons will come from the delegates whom you have been talking about and they will elect seven members? - Yes. Seven members from the associations, registered bodies.

276. And then two Muslim women? - Two Muslim women. There are some Muslim organisations, and also in Ipoh Lane there is a *madrasah*. There are Muslim institutions. From those institutions, I mean.

277. Very well, and then — ? — *Ulamas* also - there are institutions and also religious bodies in Singapore among the Muslims, particularly religious people. From those bodies, three.

278. So then that brings you to 14 plus 7 = 21, plus 2 = 23, plus 3 = 26. And then you go on to say that the President should be elected by members by secret ballot from among them. That means to say the 26, people will meet and elect one from among them so that there is one President and 25 members? — Yes.

279. And then the *Mufti* — ? — The *Mufti*; then the question is this, you know. As the *Mufti* will be in the executive body, that body will decide. Well, the most helpful man from the religious aspect, about world affairs, everything, the best man will be selected or engaged from outside. I do not want to say that the *Mufti* should be among the Board members.

280. So you think that the *Mufti* should be appointed by the *Majlis Ugama* but he need not be a member of the *Majlis Ugama*? — Yes.

Chairman] So that brings us to 26 and 1 = 27. You said 28 previously, Mr. Majid.

Inche Othman Wok] We thought.

Chairman

281. Oh, we thought. So it could be 26 or it could be 27. That is the position, is it not? — Yes. That is the position.

282. Right. Thank you very much. Now, you further made the point that 'the President of the "MAJLIS UGAMA ISLAM" should come under the President of the State and not under the Minister. He should have direct access and dealing with the President of the State in all matters concerning "MAJLIS UGAMA ISLAM".' Now, why do you say that, Mr. Majid? — Because you know, Sir, we have a democratically elected Government. Our President at the moment is elected by, Members of Parliament. It is a political appointment. But Islam is a universal divine religion. We do not want that religion to come under political -

283. Under political control? — Yes.

284. So your idea of suggesting that the President of the *Majlis Ugama* should not be under the Minister but under the President is that the *Majlis Ugama* should be free of any sort of political control? — Yes.

285. Then why do you suggest political bodies in your composition of membership for election to the *Majlis Ugama*? — No. I did not say that.

286. You say "7 members to be elected from the Delegates of the Registered Muslim Religious /Literary/ Educational/ Welfare and Trust/Economic/Political Bodies"? - No. Political bodies, they have got religious sections. In every political body, if I am not mistaken, it has a religious body to deal with religion.

287. I see. Only those political bodies which have a religious section should be invited? — Yes. But the political bodies should not have the monopoly to have their members or delegates on the Board. They have got one voice just like another association, not more.

288. Yes. The next point you make is:

' The "MAJLIS UGAMA ISLAM" should try and make every legitimate effort to see that a fair percentage of INCOME-TAX Collections of Muslims are refunded to the "MAJLIS UGAMA ISLAM" for the benefit and well-being of Muslims. Muslims are not very rich and economically healthy and therefore additional Tax as Zakat will not bring happy Result.'

Are you saying then that from the income tax collection levied on Muslims, a certain percentage of that should be given to the *Majlis Ugama Islam*? — Yes.

289. And the *Majlis Ugama Islam* will then spend it according to what the Bill says they should spend? — Yes.

290. But you are not suggesting that the *Majlis Ugama Islam* should be given authority to collect *zakat*? — Then it will function and do a good job. Naturally the Muslims of that body will form a conference or a convention, you know, and then all the Muslim bodies will encourage them and see that more money is collected, because without money, nothing can be done. But at this

early stage, I do not want the law to be enforced in such a way that a collection is made - double taxation.

291. Now, do I understand your position correctly? You say that a percentage of any income tax collections from Muslims in Singapore, to be agreed upon, should be handed over to the *Majlis Ugama Islam*? — Yes.

292. You also say that *fitrah* - *it* should be on a voluntary basis - should also be collected only by the *Majlis Ugama Islam*? — Yes.

293. The third point, I understand, is that *zakat* is slightly different from *fitrah*. Now do you also wish the *Majlis Ugama Islam* to be in a position to collect *zakat* on a voluntary basis? — On a voluntary basis, yes. I have no objection, because I know the *Majlis Ugama* cannot do anything without money. They must have money.

294. Yes. The next point we come to is a point of principle:

"The most important duty of the "MAJLIS UGAMA ISLAM" should be to take interests for the Economic Up-lift of Muslims..."

Now, if you are going to get the *Majlis Ugama* involved in the economic uplift, are you not departing from the terms of the Bill? You see, the Bill says "An Act to repeal and re-enact the law relating to Muslims and to make provision for regulating Muslim religious affairs [I think the operative words are "regulating Muslim religious affairs"] and to constitute a Council to advise on matters relating to the Muslim religion in Singapore." Now, if you want the Select Committee to take in this point, then the long title of the Bill will have to be amended to read "to make provision for regulating Muslim religious affairs and to constitute a Council to advise on matters relating to Muslim welfare in Singapore."? — I think there is no harm, Sir.

295. There is no harm, is there? — No harm. Because it is a good cause. The Board is coming to help a Muslim to be a good Muslim.

296. You think they should also be given authority to look after economic uplift? - Yes. It is most important.

297. Very well. Now the other point you make is:

'Under these circumstances, we plead that the Singapore Government will be graciously kind enough to allow the Singapore Muslims to be under the Yang di-Pertuan Agong of Malaysia in Kuala Lumpur and through the President of the State of Singapore.'

Now, do you think that under the existing constitutional setup, that is a practical proposition? - I mention again Sir, because the Christian religion of all denominations is controlled from outside. For example, you know, the Roman Catholics come under the Vatican.

298. May I stop you there? The Vatican is a non-political organisation. It is purely — ? I said Agong and not the Government of the Federation. I did not mention the Government of the Federation.

299. But the Agong, whether we like it or not, is the political Head of the State? — What I say is this. I think we have got many things in common with the Federation, though Singapore is independent. We have got a common currency even today. Postal communications are combined. Many things are combined. What I say is that it should be done with the knowledge of the President of Singapore. If you want to bring up the backward people, the depressed people, there must be encouragement. If the Agong is accepted, I think we can get a million or two through him, because money is very important. If the Agong is accepted as a Patron, Sir, because in many voluntary organisations, patronage is required. So we require the Agong not for any other purpose except to be the Patron. Then I think we can get about a million or two at least.

Inche Othman Wok

300. Supposing the Muslims say that they want the King of Kuwait? — I have no objection. I approve that, because that is a very rich country. If the Government of Singapore can get the King of Kuwait, it is all right, but not Saudi Arabia.

301. Or Saudi Arabia, for instance?
- No, because scholarship even is not accepted.

Chairman

302. Do you think that the Agong will contribute some *fitrah* and *zakat* to the *Majlis Ugama*? — We want to consider the Agong as a Patron so that we can get some money. That will be a good thing for the Muslims and that will be a lead by which the Government in other sections will also benefit.

303. As I understand it, you are suggesting that the Select Committee might consider — ? — To consider. I am not going to say that it must. I am pleading. It is a good thing if you can get such a facility.

304. It will be to the financial advantage — ? - Yes, financial in many respects. Then I think that most of the people who voluntarily pay *zakat* and *fitrah* will pay voluntarily one hundred per cent.

Chairman] Tuan Haji Yaacob, any questions?

Tuan Haji Yaacob

305. Mr. Speaker, just now Mr. Majid said that in his representation he wanted the Government to be governed according to the Constitution, but then later on, he requested that the Agong be made the Patron, and he quoted the Roman Catholics as an example. So is that not contradictory? — It is not contradictory. The Church of England is controlled by the Queen and Archbishop of Canterbury. Islam is a divine religion, as Christianity claims that it is

also a divine religion. We want to get the benefit. We are not concerned with the political aspect but with the religious aspect. This Bill is introduced by the Government to help the Muslims for the benefit of the Muslims. I say that it will be a good thing if the Government is gracious enough to consider it in that way.

Chairman

306. But if the Select Committee, for some reason or other, does not agree with you, Mr. Majid, you will not consider that this Bill is not a good Bill. This is not a very important part of your representation, is it? — At present, it will achieve very good result if it is accepted, can be given a trial, because it is not mandatory - if it can be given consideration and a trial. At any time, if we find that the Agong is going to extend his patronage to other religions, well, the Board can stop, and we can say that we do not want, because we are free people. Give us a chance and trial.

Tuan Haji Yaacob] No more questions.

Inche Rahamat Kenap] No.

Inche Mahmud Awang

307. Mr. Speaker, on the subject of *zakat* and *fitrah*, I wish to know from the witnesses what is the ruling or *fatwa* in Islam if Muslims do not pay *fitrah* and *zakat harta*? And how do the Islamic Governments in the world administer the laws of Islam so that Islamic interests can be protected both in this world and in the world hereafter? — What I say is this. In the last 200 years, the Muslims have become backward. We were advanced, but we have become backward in education and economic development of the community. This responsibility of *zakat* and *fitrah* will contribute to it. Most of the Muslims - I am talking about Singapore and with my 41 years of experience I can say - mostly the Malays are —

Chairman

308. I think what the Member wanted to know was, how do other Muslim countries in the world enforce or see to it that *fitrah* and *zakat* are collected? I think that is all he wanted to know? — I can say that in Pakistan and India, no such law has yet been passed.

Chairman] That is the answer.

Inche Mahmud Awang

309. Concerning membership, the witness's Association has suggested that "fourteen members to be elected by secret ballots of regular Mosque/*Surau* attendants". In this way, there is the possibility that the persons who are not well versed and conversant with the Islamic laws will be nominated or elected? — I do not think so, because those people who are going regularly to the mosques for prayers are the most suitable men to choose, because those *surau*s and mosques will make some provision as to who are to be elected for the posts. There will be certain qualifications. Nobody will be picked blindly. There will be regulations and everything will be adopted by the Board and they will be directly carried out according to the directions.

Inche Mahmud Awang] No more questions.

Inche Buang] No.

Inche Othman Wok

310. No questions? — Sir, I have left out one very important clause, clause 131.

(*Copy containing two additional sub-clauses to existing clause 131 handed in.*)

Chairman

311. You suggest, Mr. Majid, that there should be two additional sub-clauses to the existing clause 131. This will appear as clause 131 (2) and 131 (3)*? — Yes. I would like to emphasise the importance of these additional sub-clauses.

312. What is it you wish to say?

— According to Islam, adultery is a very serious offence and the adulterer is punished with death by 101 stones. Unfortunately, as it is a very rigorous punishment and there is no escape from death, no Muslim government in the world today is administering the Muslim law 100 per cent. That is one of the defects of the Criminal Procedure Code, because if a thief steals, his hands are cut off. It is a very rigorous punishment. Our modern society is a free society, and if we want to protect our future mothers, we must do something. At least for decency and morality, it should be embodied in the Muslim law. Then it will be a thing for the Muslims to be proud of and will save them from degeneration, indecency and immorality. I have a lot of experience and I think the learned Attorney-General here knows many things. Even within the last 48 hours I received a reply from him to a certain unfortunate father on this subject.

313. Let us not stray from the point. Your point, Mr. Majid, is that you wish certain sub-clauses to be added to the existing clause 131, and you have submitted to the Select Committee the terms

*Proposed' clause 131 (2) and 131 (3) read as follows:

"Keeping Company of an Unmarried woman of any age of any Muslim Sect.

131 (2) Whoever keeps company of an unmarried woman of any age of any Muslim Sect without the consent of Wali shall be guilty of a criminal offence and shall be punished under the Criminal Procedure Code.

131 (3) Whoever shelters a running unmarried woman of any age and of any Muslim Sect and tries to marry such woman against the wishes of the Wali shall be guilty of a criminal offence and shall be punished under the Criminal Procedure Code."

MINUTES OF EVIDENCE

89

18 APRIL 1966

90

of that draft. No doubt, the Select Committee will consider it very carefully and give it all their attention? — That is right.

314. We will certainly do that. Well, thank you very much, Mr. Majid, for coming here this afternoon and assisting

us in our deliberations? — It is my duty, Sir.

315. These two additional sub-clauses will be incorporated in the Report? — Yes.

Chairman] Thank you very much.

(The witnesses withdrew.)

Inche Ibrahim bin Hamzah, of No. 1358 Woodlands Road, Singapore, was examined.

Chairman

316. Good afternoon. First of all, let me convey my apologies and those of the Select Committee for having kept you waiting? — (*Inche Ibrahim bin Hamzah*) That is all right.

317. Unfortunately, the last representation took a little longer than we expected, hence the delay. Can I have you full name, please, for the record? — *Ibrahim bin Hamzah*.

318. Your address? — 1358 Woodlands Road.

319. Now, we have received your representation*, *Inche Ibrahim*, and Members of the Select Committee have read it with care. I propose to ask you a few questions on your representation, and thereafter, if there is anything that is not clear to Members of the Select Committee, each of them will ask you questions if they so desire. Whatever evidence you give will appear in the record and will be published in the Official Report. A copy of the Minutes of these proceedings will be sent to you. Now, if you wish to smoke, *Inche Ibrahim*, you may do so. Your first representation is on clause 5 (2)† of the Bill. The purpose of that representation is to enlarge the scope of the powers of the *Majlis*. You will appreciate that this Bill is only designed to regulate Muslim religious affairs and to constitute a Council to advise on matters relating to Muslim religion in Singapore. That is the purpose of the Bill. It seems to me that the suggestion you make to amend

clause 5 (2) would be to enlarge the scope of the Bill and take it beyond its present scope. You talk about:

'... "the policy of raising the standard of living of Malays in particular and Muslims in general, in the sphere, primarily, of economics, and, in other fields."'

In view of the scope of the Bill, do you still think that this suggestion of yours should be pursued? — Quite so, Mr. Speaker, in view of the backwardness of the Malays economically, I still wish that my suggestion should become part and parcel of this Bill.

320. In other words, what you are suggesting is that the scope of the Bill should be enlarged to take in your suggestion for clause 5 (2)? — Yes.

Chairman] The witness makes the point that clause 5 (2) should be amended in such a way that it will enable the *Majlis* to:

'expound the policy of raising the standard of living of Malays in particular and Muslims in general, in the sphere, primarily, of economics, and, in other fields.'

"and if my suggestion to amend clause 5 (2) goes beyond the scope of the Bill, then the scope of the Bill should be enlarged." Now, we come to clause

35 (2). You are suggesting, *Inche Ibrahim*, in your representation on clause 35 (2), that the jurisdiction of the *Shariah* Court should be extended — that is correct, is it not, Mr. Attorney-General?

*Appendix II, pp. B42-43.

†Clause 5 (2) reads as follows:-

'(2)The *Majlis* may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description, and subject to any written law affecting the same may convey, assign, surrender and yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property vested in the *Majlis* upon such terms as to the *Majlis* seems fit and in accordance with the Muslim law.'

Attorney-General] Yes.

Chairman

321. You are suggesting, Inche Ibrahim, that the jurisdiction of the Shariah Court should be extended to cover the items set out in your representation? — Yes.

322. You will appreciate, Inche Ibrahim that the scope of this Bill is only related to Muslims and does not cover non-Muslims — Mr. Attorney-General, correct me if I am wrong - not to non-Muslims; that is the scope of the Bill. Now, the suggestion set out by you in this representation, Inche Ibrahim, would appear to me to go beyond the scope of Muslims and to take in non-Muslims as well. Therefore, if this suggestion of yours is to be given effect to, then again the scope of the Bill would have to be enlarged to take in non-Muslims as well. In view of what I have said, do you still suggest that clause 35 (2) should be amended in the way that you suggest it should? — Yes, I do wish my amendments to remain because they concern the position of Muslims and non-Muslims.

323. I see. So you would suggest that the scope of the Bill be enlarged then? — Yes.

324. Now, we come to clause 58. You are suggesting, in your representation on this matter, that:

"A monetary Fund of not less than \$200,000 a year shall be entrusted or be made the capital or be invested in commerce or industry, whether directly or indirectly, associating or becoming a member or leading, whether small or big, whether separately or jointly in the state or outside the state with the object and purpose of raising the standard of living of Malays and Muslims".

That is correct, is it not? — Yes.

325. Now, where do you suggest that this \$200,000 should come from? — The *Majlis* should be able to accumulate this \$200,000 per year. If it is unable to do so in the first year, it can carry forward to the second year. And again

if the second year is unsuccessful, again it could be carried on to the third year. This amendment of mine is related to my amendment to clause 5 (2).

326. Yes, that seems clear. There are two points I want to be clear about. You say, "not less than \$200,000 a year". Supposing we establish the *Majlis* in 1966; does it mean that in 1967 a fund of not less than \$200,000 should be created? And in 1968 another \$200,000; 1969, another \$200,000, and so on and so forth? Is that what you intend? — By "\$200,000 a year", I mean that the amount may exceed \$500,000 or maybe \$1 million-large sums of money can be invested in industry and commerce, and other economic spheres.

327. Right. Do you know that the money which the *Majlis Ugama Islam* would have would really come from *fitrah* and *zakat*? That would be the main sources of income. Do you appreciate that? — Yes.

328. Do you think the *Majlis* would get \$200,000 every year on those two items alone? — If I could explain in this way, Mr. Speaker. If on the establishment of the *Majlis* in 1966, or in 1967, a sum of \$200,000 could not be accumulated, then it could be put forward to the succeeding years.

329. I see. Once the money has been put aside for this monetary fund, as we call it, then, on your suggestion, it can only be used for the purpose of raising the standard of living of Malays and Muslims? — I feel that this is the only means by which the economic conditions of the Malays can be uplifted. If it can be implemented, it is well and good.

330. I accept that. But what I was trying to make you understand is that, if the clause is phrased in the way that you want it phrased, then it could well

be that once this money has been allocated to the monetary fund, none of it can be used for a religious purpose. Do you wish that result to ensue? — We should not mix religion with the question of raising the standard of living.

331. I do not think you have understood me. I am in sympathy with what you say. I know exactly what you want to say. But if you do it in the way that you suggest should be done, and if certain monies have been allocated to this monetary fund as such, then we cannot use that money for a religious purpose. The *Majlis* wants to build a mosque, for instance, and it may not be able to use the money to build it. That will be the result of your suggestion as it stands? — I stated earlier that the committee of the *Majlis* should be able to act. If it deems that it is necessary to do anything for religious purposes, then it shall so act. But what I say is that if it is possible for the *Majlis* to have the power to do other things for the purpose - to use from whatever is the balance - then they should so act.

332. Would not the best way of achieving your objective be to leave the general endowment fund as it now stands and leave the *Majlis* the discretion either to spend it on religion or on the economic purpose which you think it wants to achieve, rather than create a separate fund which will tie the hands of the *Majlis*? — If this suggestion is embodied, then the future *Majlis* would know along what line to act.

333. I see. Very well. We will now come to your clause 130. Your clause 130 raises the same point that was raised under clause 35 (2). The same principle is involved. So you would say then that the scope of the Bill should be enlarged and that this clause should be taken into the Bill? — Yes.

Chairman] Tuan Haji Yaacob?

Tuan Haji Yaacob

334. Are you aware, Inche Ibrahim, that the Bill before us is a Bill for the administration of Muslim law? — Yes.

335. If that is so, would it not be better for you to have submitted your suggestions to the Constitutional Commission rather than this Select Committee? — I beg your pardon?

336. Would it not be better for you to have forwarded your suggestions to the Constitutional Commission whose purpose is to safeguard the interests of minorities? — I am aware that a number of political organisations have submitted representations to the Constitutional Commission for the purpose of safeguarding minority interests. But I notice that matters of economic upliftment have not been forwarded. I have read the papers and I see that people are invited to give their views and opinions to this Committee, particularly in regard to the establishment of, if I am not mistaken, the Collection for Pilgrim Fund. It is for that purpose. It is on that account that I felt urged to forward my recommendations to this Committee.

337. The Chairman has explained to you that the source of the fund for the *Majlis* is *zakat* and *fitrah*. Do you agree with that? — Yes.

338. Do you agree with me that the collection from *zakat* and *fitrah* should be distributed to the *asnaf* who are eligible? — Yes.

339. Where then would the amount of \$200,000 come from to the *Majlis*? The \$200,000 a year which you stated? — I have stated earlier, even though the law is such, that the committee of the *Majlis* should act if it thinks necessary.

340. I agree. But what is the source whereby the *Majlis* would be able to get the amount? — From the *zakat* and *fitrah*.

MINUTES OF EVIDENCE

97

18 APRIL 1966

98

341. But that collection cannot be used other than for the purposes of the eight *A snaf*? — I understand the money would be paid to the eight *A snaf* who are eligible. But my point is, if it is possible to set aside that sum of money, then it should be done.

342. That would be tantamount to asking the *Majlis* to go against the Muslim law? - It would not be going outside the Muslim law, because whatever money that could be set aside, say, \$120,000 or \$500,000, the share could be given to the Malays in their capacity as what I would term "underwriter". -

343. But according to, Muslim law, the collection should be distributed within the year and not be carried forward to the following year. Is it not so? — If that cannot be done and if you are to

take the narrow view, then there is precious little that could be done under Muslim law.

Chairman] Inche Rahamat Kenap?

Inche Rahamat Kenap] No questions.

Chairman] Inche Mahmud Awang'?

Inche Mahmud Awang] No.

Chairman] Inche Buang?

Inche Buang] No.

Chairman] Mr. Minister?

Inche Othman Wok] No questions.

Chairman.

344. Well, thank you very much for having come and assisted the Committee? — Thank you.

(The witness withdrew).

MINUTES OF EVIDENCE

WEDNESDAY, 20TH APRIL, 1966

(10 a.m.)

PRESENT:

Mr. SPEAKER (*in the Chair*)

Inche Buang bin Omar Junid.
Inche Mahmud Awang.
Inche Mohd. Ariff bin Suradi.

Inche Othman bin Wok.
Inche Rahamat bin Kenap.
Tuan Haji Yaacob bin Mohamed.

ABSENT:

Inche A. Rahim Ishak (on leave).

The Attorney-General (Inche Ahmad bin Ibrahim) was in attendance.

The following representatives of the United Malays National Organisation were further examined:

Tuan Syed Ali Redha Alsagoff	- Head, Religious Section.
Inche Abdul Wahab bin Mohd. Ariff	- Secretary, Religious Section.
Inche Abdul Rahman bin Mohd. Zain	- Member of Committee, Religious Section.
Inche Jamil bin Pallal	- Member of Committee, Religious Section.

Inche Ismail bin Alang, Simultaneous Interpreter of Parliament and Inche Osman Gani, part-time Simultaneous Interpreter of Parliament, assisted in the interpretation.

99

20 APRIL 1966

100

Chairman

345. Good morning, gentlemen. We are as we were on the last occasion when we took evidence. I think it is Tuan Syed Ali Redha Alsagoff, Inche Abdul Wahab bin Mohd. Ariff, Inche Abdul Rahman bin Mohd. Zain and Inche Jamil bin Pallal? — (*Tuan Syed Ali Redha Alsagoff*) Yes.

346. Gentlemen, when we broke off on the last occasion, I think we had

completed our discussion on clause 10 (d)? — Yes.

347. We were about to commence discussions on clause 21 when we adjourned. Is that correct? — Yes.

348. On clause 21, you are suggesting:

'Minutes should be kept both in English and Malay languages ...'.

You do understand, of course, that the matter of keeping minutes is entirely for

the *Majlis*. They may keep it in any language they desire. I think they are given a great deal of latitude in this matter. That seems to be the intent of the clause. If the *Majlis* want to keep it in English or any language they choose - Malay or Arabic - I think it is up to them. That is as I read the clause. Or do you want it written into the clause? — "The Secretary shall keep minutes of all meetings of the *Majlis* ...".

349. You want that written in? — Yes. The purport of our suggestion to have "in English and Malay" written in is that it will become mandatory for the minutes to be kept in these languages.

350. Going on to clause 21 (3), you feel that the minutes should be sent only to the President of Singapore after they have been approved? — Yes.

351. You do not think that the minutes should be sent to him in draft form? — Yes.

352. Do you not think that there might be a time lag between the draft minutes and the minutes being confirmed? — The *Majlis* is a body that has administrative powers. It will be necessary for the *Majlis* to have monthly meetings. Our view is that the minutes should first be approved by the *Majlis* before they are sent up to the President.

353. I just want to clear up that point. Do you know that under the Bill, there is no obligation on the *Majlis* to meet every month? - No obligation.

354. They need not meet every month. They may meet three times a month and not meet for the next six months? - Mr. Speaker, there is that possibility as you suggest. But there is also the possibility that they might meet twice a month.

355. Yes, that is accepted. But why I mention that, Tuan Syed, is this: the minutes of one meeting can only be approved at the next meeting. So if you hold meetings three times a month, and then after the third meeting, you do not hold a meeting for six months, then the minutes of the third meeting are only confirmed after six months. So you are suggesting that it would not matter if the President of the Republic did not sight the minutes until after six months? - Our view is that it would be better for the minutes to be approved by the *Majlis* first before sending them to the President. For instance, members of the *Majlis* may wish to bring in amendments in regard to certain matters before the *Majlis*, and it would be better for the members to have their full say about the amendments and to have them regularised and the minutes passed before they are sent to the President.

356. Would you say then that — ? — To be more precise, so as to enable a member to correct mistakes made by him in the minutes.

357. But you appreciate, Tuan Syed, that in those circumstances, before the minutes are confirmed, action could be taken on decisions made by the *Majlis*? You follow what I mean, do you not? Supposing the *Majlis* meet on the 1st March. They say certain things should be done on the following day or within a week. Now, action is taken. Those minutes are not confirmed till one month later. You are suggesting then that, in those circumstances, it does not really matter whether the President of the Republic should sight those minutes as soon as possible? — In our opinion, Mr. Speaker, it would be better for the President to have sight of matters which need no further amendments or alterations.

358. Very well. Now you suggest that the whole of clause 25* should be deleted? — Yes.

359. And your reason for saying that it should be deleted is because of your difficulty in understanding what "emergency" could mean? — Yes.

360. Now, supposing an adequate definition of "emergency" could be given, would you be willing to allow this clause to stand in? — Yes.

361. I think you must give the word "emergency" its normal meaning which you and I understand. There is no meaning to it in the Bill itself. So we must understand "emergency" to mean exactly what you understand by "emergency", what I understand by "emergency", and what everybody else understands by "emergency". In this case, "emergency" means, I suppose - correct me if I am wrong, Mr. Attorney-General - if something happens [Inter-*ruption*] — The suggestion is made that if the word "emergency" is dropped out, and "urgency" is used, would you accept that? If it is made clear what "emergency" means, then you are quite happy to accept? — Mr. Speaker, I must admit my limited understanding of the English word. Therefore, my delegation will be quite satisfied to accept the advice as to the difference between the words "emergency" and "urgency"; if the definition of the word "emergency" is set out in the definition part of the Bill, we will accept. Mr. Speaker, Sir, I have a request from my colleagues - that whatever you say be rendered in the national language.

362. I am so sorry. I was forgetting that there are other members too. I apologise. Now, "emergency" means "Sudden juncture demanding immediate action". That is the dictionary meaning of "emergency" as set out in the *Concise Oxford Dictionary*. In other words, a sudden occurrence which demands immediate action. Supposing something urgent happens in Singapore and it is necessary to act, and if you do not have time to get the *Majlis* together, then some action has to be taken which might save a deteriorating situation. I think that in those circumstances this clause would come into operation. Supposing there is a riot in Singapore and there is no time to give the necessary notice of meeting to get a few people together, well, under those circumstances, this clause will come into operation? I think that would be the kind of occasion where the President would use it? — Mr. Speaker, Sir, if the word "emergency" is clearly defined and if a "riot", for instance, is included in the definition, we will be quite happy. But our fear is that if a situation arises, short of an "emergency" or a "riot", for which the full membership of the *Majlis* could be summoned, yet the full membership may not be summoned on the pretext that an emergency has arisen. That is our fear.

363. Your fear then, Tuan Syed, is that the word "emergency" might be given a very flexible meaning? — Yes.

364. The next point is clause 31 (1). You are suggesting that the phrase "two other members of the *Majlis*" be deleted

*Clause 25 reads as follows:

'In any case of emergency the President may, after consultation with the *Multi* and the Secretary, do or direct to be done on behalf of the *Majlis* any act or thing which might lawfully be done by resolution of the *Majlis*:'

Provided that in any such case a meeting of the *Majlis* shall be called within one week, thereafter for the purpose of ratifying and confirming the action taken and, if the *Majlis* shall decline to ratify and confirm the same, the President of Singapore may give such directions thereon as he may deem fit.'

and "two Ulama of the *Majlis*" be substituted. And you say:

'We hold the view given by the Legal Committee is vital and far-reaching importance amongst the Muslims. Therefore, the members of the Legal Committee should be ulamas, i.e. learned men having thorough knowledge of Arabic language and Islam because all the important authorities in Islamic law are written in Arabic.'

That is your representation on clause 31

(1)? - Yes.

365. Is it not possible for Muslims to be learned in the Muslim religion, Muslim law, without knowing Arabic?

— The possibility is very slight and remote. There are only special cases.

366. Now, while not disagreeing with you, Tuan Syed - that is an opinion which you are entitled to hold - would not the same position be reached under the existing clause 31 if the *Majlis* so decides it? Do you follow me, Tuan Syed? - We are of the opinion that when the term "*ulama*" is used, it gives a positive and concrete meaning or connotation. I do not mean that a *ulama* is a person who must wear a white cap or a turban. That is not our concept of a *ulama*, because the *ulama*, in giving *fetua* (or, in the English language, rulings), should be placed above criticism. That is they should be acceptable to all sections of the Muslim community and not be such that may divide the Muslim community.

367. Has a *ulama* got a special meaning for a Muslim when you say, "He is a *ulama*."? Do people understand a certain thing by the statement, "He is a *ulama*."? Or if we are going to use the word "*ulama*" in clause 31, should we define "*ulama*" in the definition clause? — If the term "*ulama*" can be given a definition in the Bill, we would be all the more happy.

368. Assuming that the Select Committee is thinking of using "*ulama*" in clause 31, what definition would you

suggest we give to "*ulama*" in the definition clause? — We have written here "learned men having thorough knowledge of Arabic language and Islam". We can add, for example, "scholars or learned men having thorough knowledge of Arabic language and Islam".

369. So a knowledge of Arabic language would be part of the definition of *ulama*? — Yes.

370. Would that not operate to keep out certain learned men who possibly have learnt about Islam through other languages? Is that not possible? — As I said just now, in our country such a state of affairs seldom exists. There may be one or two special cases.

371. So that as far as your committee is concerned, there may be. By and large, all the people whom you can readily think of are people who also know Arabic? — Yes.

372. Could we go on to clause 42? I do not think, Tuan Syed, there is any uncertainty as to what rules of evidence are referred to in clause 42. It says:

'The Court shall have regard to the law of evidence for the time being in force in Singapore.'

which, I take it, Mr. Attorney-General, must mean the law of evidence that applies in Singapore. But all that clause 42 enables the *Shariah* Court to do is that it will not be bound to apply the law of evidence as strictly as other courts will be bound to apply it. But if it follows any law of evidence, it must follow the law of evidence as applies to Singapore. I think that is what that clause means. And so far as Part IX of the Bill is concerned, to which you refer in your representation, the Evidence Ordinance which will be strictly followed will be the Evidence Act of Singapore? — The Evidence Act of Singapore. (*Inche Rahman Zain*) Mr. Speaker and Members of the Committee, actually on this question, we from U.M.N.O. feel uncertain about clause 42.

Ordinarily, evidence is taken from the accused verbally. In other words, verbal evidence can be taken. It is acceptable. But according to the law of Islam, if, for example, a man has committed adultery, then at least two witnesses who actually saw the act of adultery being committed are required. Hence our fear of this clause, because it is related to the other clauses dealing with punishment for such an offence.

373. I think clause 42 deals with the *Shariah* Court whereas - Mr. Attorney-General, correct me if I am wrong - the offences which will be punishable under Part IX will not be triable by the *Shariah* Court. They will be triable in the Magistrate's Court or in the High Court, as the case may be. That is the position so far as clause 42 is concerned? — (*Tuan Syed Ali*) If clause 42 deals with the *Shariah* Court only and is not related to Part IX, then there is a difference between evidence according to the law of Islam and evidence according to the law of the State. Now the matter is clear.

374. Thank you. Now we come on to clause 49. Your first comment on clause 49 is under sub-clause (1) (a) which says:

'that the husband has neglected or failed to provide for her maintenance for a period of one year;'

You suggest that a period of one year is too long a time and that six months would be reasonable. Another representation to the Select Committee has suggested that it be reduced to three months. I understand from the learned Attorney-General that the position in India and Pakistan is the same as that suggested in the Bill, namely, one year. As you know, this question of period is very much a matter of opinion. And in view of what I have said to you just now, do you still have any very strong views about the reduction in time? — First, *fasakh* is intended to give an opportunity to the wife, because there

are certain rights which have been given to the husband. Therefore, we think that one year is too long a period. I do not know - just now you cited India and Pakistan - but I wish to hear from our learned Attorney-General what is the position obtaining in other Islamic countries, for instance, the U.A.R. We Muslims here are free to determine what is suitable to us. The question of time arises from the environmental community. I prefer to take a liberal view and, as I said just now, we have heard about India and Pakistan, and if we can hear from other Islamic countries like the U.A.R. and taking into consideration our own Islamic community, perhaps we can then be able to arrive at a suitable time or period.

Chairman] Mr. Attorney-General?

Attorney-General] In the United Arab Republic, they follow the minority *Shafei* and the *Maliki* view. The law in the United Arab Republic does not provide any period in order to give the wife the right to apply for divorce on the ground of failure to maintain. But if the wife makes an application to the Court, the Court will, on the application of the husband, give him a period within which to show whether he is willing and able to maintain a wife. The period, following the *Maliki* law, has been fixed in the United Arab Republic at one month.

Chairman

375. There you are, Tuan Syed Ali. There is just one point which I think I should mention to the Committee. I think, in all these matters, you do not want to make the period too short, because you want to give the husband and wife a chance to live their lives together. If you make the period too short, it may be that the wife in a bit of temper might go and do something which she might later regret. This is the point which you must keep in your mind

before you fix the period of time. If you think that one year is too long, I think this consideration should be in your mind when you fix the time? — I thank the Attorney-General for what he has said and I have also borne in mind the advice of the Chairman not to fix too short a period to enable a reconciliation. One year is too long a period and six months is suitable. If the wife still wants her husband, she will know how to decide. Six months is suitable, in our opinion. Representation has been made to the effect that three months can be a suitable period, but this I feel is too short a period. Therefore, I suggest that six months is a good compromise.

Tuan Haji Yaacob

376. Mr. Speaker, in Singapore there is a marriage condition called the *taalik*. So that is sufficient. There is no need for this clause? — There is a big difference between *taalik* and *fasakh*. *Taalik* means that if a husband fails to provide monetary maintenance or conjugal needs, then the wife can ask for a divorce. But *fasakh* is entirely different from *talak* - *talak* through *taalik*.

377. What I mean is that if the wife wants to divorce her husband, then she can have recourse to this one? — Mr. Speaker, *talak* through *taalik* is the wife's right and it is different from *fasakh*. So we cannot deny something which is present in the law of Islam.

Chairman] Can the wife not avail herself of the procedure suggested by —

Attorney-General] The answer is that *taalik* is not compulsory. This will apply where there is no *taalik*.

Chairman

378. I see? — *Taalik* is carried out with both parties' consent, whereas *fasakh* is the wife's right.

379. On clause 49 (1) (b), your Committee is suggesting that the seven-year period set out there be reduced to three years. Tuan Syed Ali, if you will look at clause 49 (1) (c), would you not get the same result under clause 49 (1) (b) which you hope to get by reducing it to three years? — I do not quite understand.

380. You are suggesting that in clause 49 (1) (b) the period be reduced to three years on the basis that you do not want a woman to wait too long. Is that correct? — Yes. I am given to understand that usually the punishment in respect of serious criminal offences is three years and above, whereas criminal offences of a less serious nature carry punishment of less than three years. That is why three years is used as a dividing line between the two.

381. So you say that any Muslim woman whose husband has been sentenced to three years and above should be entitled to obtain a decree of *fasakh* straightaway? — Yes, if she cannot wait.

382. Of course, it is her business if she wants to wait for the next 30 or 40 years. But on such a sentence, if she feels that he is no' good, then straightaway she can apply for a decree of *fasakh* — that is what you want, is it not? — Yes.

383. That is up to her, because she is the one who moves in the matter? — Yes.

384. Clause 41 (1) (c) - you wish that the period be reduced to one year? — Mr. Speaker, with the medical progress made at present, I feel that one year is quite sufficient time within which the husband could seek medical advice.

Chairman] Another representor has also suggested one year, and I am

informed by the learned Attorney-General that the period of three years prevails in Pakistan and in India.

Attorney-General] In the U.A.R., it is one year.

Chairman] I take it the basis of giving three years is to give the husband an opportunity to be cured!

Attorney-General] This is really desertion.

Chairman

385. Anyway, there it is. You suggest that one year is enough? — &.

Chairman] Very well. I do not think we can take it very much further. That deals with the whole of clause 49 as far as we are concerned. The next clause is clause 55*. You suggest, Tuan Syed Ali, that this clause be deleted in its entirety. I myself am not very clear about the effect of this clause. Perhaps, Mr. Attorney-General, if you could assist us by telling us exactly where this clause is intended to come in.

Attorney-General] If we do not have this clause, then the ordinary English Law of Evidence will apply on presumption of death. This is to enable the Muslim law to apply on presumption of death.

Chairman] That is the point. Now, this presumption of death. I suppose, is necessary sometimes in succession to property and things like that?

Attorney-General] Yes, but the main purpose here is for divorce, to enable the woman to remarry.

Chairman

386. There it is. The learned Attorney-General has said that if you did not have this clause and if the woman wanted to divorce her husband on presumption of death, then she would have, without this clause, to rely on the law that applies in Singapore. But with this clause in, she would then rely on Muslim law? — Mr. Speaker, our suggestion is that this clause is not to be deleted entirely, but that matters arising therefrom should be referred to the Legal Committee. The purport of our representation is that this clause be deleted but that matters which might arise and which would need this clause should be referred to the Legal Committee for them to decide on the merits of the individual circumstances.

Chairman] But there is nothing in this clause to prevent that happening. *The Shariah* Court could still refer to -

Attorney-General] Clause 32 (4).

Chairman

387. Thank you. Under clause 32 (4)? — There is an element of time involved here, Mr. Speaker. For instance, in the U.A.R. it is up to the *Kathi* to ascertain the whereabouts if the man is presumed to be no longer in existence in the particular place. Mr. Speaker, this is a matter which refers to presumption of death. As I understand it, in the U.A.R., if the person is last known to have been at a particular address, then it is for the *Kathi* to ascertain that fact.

* Clause 55 reads as follows:

'If the husband of any married woman has died or is believed to have died or has not been heard of over a prolonged period, in such circumstances that he might for the purpose of enabling his wife to remarry be presumed in accordance with the Muslim law to be dead, but a death certificate cannot be obtained, the Court may on the application of the wife and after such inquiry as may be proper issue in accordance with the Muslim law a certificate of presumption of the death of the husband and thereafter the wife shall be at liberty to remarry and such certificate shall be deemed to be a certificate of the death of the husband within the meaning of sub-paragraph (i) of paragraph (b) of section 93 of this Act.'

Attorney-General] We are doing exactly the same here. So why should there be objection?

Chairman] Instead of the Legal Committee.

Attorney-General] It is the *Shariah* Court which takes the place of the *Kathi*.

Chairman

388. Yes? - The clause that the Attorney-General has referred to is clause 32 (4). That is very general. Does it apply to clause 55?

389. I would say, Tuan Syed Ali, that under clause 32 (4), the Court is empowered, if it so desires, to refer any matters concerning Muslim law to the *Majlis*. And then the *Majlis*, under sub-clause (4), will have to refer it to the Legal Committee. And then the Legal Committee will advise the Court direct. That is the procedure laid down? — One question, Mr. Speaker. Is it obligatory on the part of the Court to ask for a ruling?

390. No, it is not obligatory. As the Bill stands now, it is not obligatory on the *Shariah* Court to consult anybody. The *Shariah* Court need only consult, as laid down here, if it feels that it wants advice? - It is because the time is not specified.

Chairman] I do not follow, Tuan Syed Ali. What do you mean by "time"?

Attorney-General] Prolonged period.

Chairman] Where is that?

Attorney-General] In clause 55.

Chairman

391. Sorry, I beg your pardon. Yes, I see it - "over a prolonged period"? — (*Attorney-General*) But according to the law of Islam, it depends on the circumstances. (*Tuan Syed Ali*) Now that Mr. Speaker has followed our

argument, the question centres on "period. Who decides on the "prolonged period"?"

Chairman] Tuan Syed Ali, I do not know Muslim law. But this is what I think will happen. Under Muslim law it appears to be that there are probably judicial decisions on what is "over a prolonged period". Probably there are decisions to which the *Shariah* Court can refer, and they will be guided by those decisions. And on those decisions, they will come to the conclusion whether clause 55 operates or not. Am I right, Mr. Attorney-General?

Attorney-General] Yes.

Chairman

392. That is right. I think it will happen. Do not think of it in terms of under English law "over a prolonged period". I think under Muslim law there must be some decision which lays down a ruling or comes to some understanding of what is the meaning of "over a prolonged period"? — (*Attorney-General*) I can give one example, which is given in the Muslim law books. For example, people go to war. Then the period will be until all the people have come back from the war. So you cannot fix the period. (*Tuan Syed Ali*) It is because of the absence of any clear-cut period being stated in the clause that we suggest that a decision on this matter of prolonged period, depending on the set of circumstances, should be taken by the Legal Committee. Whereas here it is the *Shariah* Court that does that. Therein lies the difference between our representation and the Bill before us.

393. Tuan Syed Ali, you must not forget that so far as matters of fact are concerned, the *Majlis* and the Legal Committee cannot come into the picture. That is a matter entirely for the *Shariah* Court. If the *Shariah* Court has ascertained the facts, and on the facts the

Shariah Court is not quite clear as to what the application of the law should be, then it will refer those facts to the Legal Committee, and on those facts which have been found by the *Shariah* Court, the *fetua* will be issued. That is the position as I understand it? — (Attorney-General) Yes. (Tuan Syed Ali) What I have come to understand now from your explanation and those of Inche Ahmad is that, although it is the *Shariah* Court that decides on the case arising out of the set of circumstances, yet there is no obstacle whatever - there is nothing to prevent the *Shariah* Court from seeking *fetua* from the Legal Committee.

394. That is correct, Mr. Attorney-General? — (Attorney-General) Yes. (Tuan Syed Ali) We are happy with that statement.

395. Thank you. We come now to paragraph 13 of your representation. It deals with Part IV of the Bill. You say:

'We agree there can be the establishment of General Endowment Fund. There must be separate accounts for Zakat, Zakat-Fitrah, Wakaff, Nazr'Am, Nazr Khas and Biatul-Mal Funds.'

This, I suggest, is merely an accounting process which no doubt the person who keeps the accounts will keep under separate heads. Or are you saying that the Bill itself should say? — It is not merely a matter of accounting, but a matter of principle is involved.

396. Tuan Syed Ali, I have not come to that yet. I am trying to take it step by step. You agree with the establishment of a general endowment fund? — Yes.

397. And you now say there must be "separate accounts for Zakat, Zakat-Fitrah, Wakaff, Nazr'Am, Nazr Khas and Biatul-Mal Funds"? — Yes.

398. All I said was that the Secretary, who is accountable to the *Majlis*, will collect these monies and keep them

under separate heads of accounts? — Yes.

399. Now this is the point of your representation:

Certainly money from these funds can be used only for purposes allowed by Muslim Law not for example be used for expenses for Mahkamah *Shariah* and the running of the *Majlis* as a whole.'

I think, in the first instance, I should tell you that the expenses in connection with the *Shariah* Court will not come out of this fund. That is a commitment of the Government. But your further statement, "and the running of the *Majlis* as a whole". Of that I am not sure. If you will look at clause 69, Tuan Syed Ali:

'All costs, charges and expenses of administering the property and assets vested in the *Majlis*, including the cost of maintenance and repair of any immovable property, the salaries and allowances of all servants of the *Majlis*, and the fees and allowances payable to any officer or member of the *Majlis* in respect of his services as such, shall be paid out of the property and assets of the Fund

In effect then, Tuan Syed Ali, your representation at paragraphs 13 and 15 can be taken, together, can it not? — Yes.

400. That would seem to be the position. Under clause 69, it would appear that the expenses of running the *Majlis* would be payable out of the General Endowment Fund. That would include any fees payable to any officer or member of the *Majlis*, any allowances payable to any officer or member of the *Majlis* in respect of his services as such. For instance, if the *Majlis* says, "We shall pay each member of the *Majlis* \$10 for attending a meeting," then that money would be payable out of this fund. Or if it says, "Ask somebody to do a certain thing for the *Majlis* and we will pay him a token fee of \$2 for that service." Then that would also be payable, under clause 69, out of the fund. The other charges could be: if the *Majlis* owns a house and it has to repair the roof leaks and put in a new

drain; then the Housing authority serves a notice on the *Majlis* to carry out certain repairs and it does that, then all that would be charged to this fund. Under clause 69, only sums of money which are strictly attributable to the efficient running of the *Majlis* are payable, and no other expenses can be charged to the fund. For instance, you have to keep minute books. Then you buy the minute books. That is chargeable. You buy ink. These are the items which would be chargeable to the fund?

— Sir; I am indebted to you for your explanation. Earlier on we have stated that we are not opposed to the establishment of the General Endowment Fund. What we disagree with is clause 69, where the money from the fund is used as stated in clause 69. That is why we have suggested that special grants should be asked for yearly for this purpose.

Chairman] So that your representation in paragraph 15 in effect is this, that the items of expenditure properly chargeable under clause 69 should be voted for by Government as a special grant to the *Majlis*. And clause 69 should be suitably amended to meet the representation.

Inche Othman Wok

401. Mr. Speaker, can I ask Tuan Syed Ali whether he knows of any other country, for instance, in the States of Malaya, where a special grant is being provided by the Government to run the *Majlis Ugama*? — Yes, Mr. Speaker, Sir, the State nearest to us, Johore. Every item of expenditure in respect of the running of the Religious Department of Johore is borne by the Government. There is a special vote set aside by the Government for the running of that.

Chairman] It is called the Religious Affairs Department, is it?

Inche Othman Wok] Mr. Speaker, there is no *Majlis Ugama* in Johore but there is a Religious Department.

Chairman] What the Minister is saying is this, there the Government runs the religious affairs of the country. Whereas in Singapore, the setup is going to be that the *Majlis Ugama* will be completely responsible for religious affairs without interference from the Government. That is the point, is it not, Mr. Minister?

Inche Othman Wok] Yes.

Chairman] May I further add that possibly in Johore it is possible to do that because it is an Islamic State? Whereas in Singapore it may not be possible to do it because we are a secular State. This is a constitutional matter on which there may be some difficulties.

Tuan Haji Yaacob

402. These laws are derived from the laws of the States of Selangor, Pahang and Penang? — Mr. Speaker, Sir, regarding what the Minister has said just now that there is no *Majlis Ugama* in Johore but a State Religious Department, I am quite positive that there is a *Majlis Ugama* there and I have read about it in the newspapers to the effect that the *Majlis Ugama* has held meetings. Mr. Speaker, concerning the point you raised when you, referred to the Constitution that Johore is an Islamic State and that Singapore is a secular State, that is a matter of fact. I cannot dispute that. Can we not bring this matter under section 89 (2) of the Singapore Constitution wherein it is stipulated that the Singapore Government has the responsibility to promote the interests of the Malays in the economic, religious, language and other fields. We can include clause 69 under this heading and not talk in terms of a secular State or an Islamic State.

Chairman

403. I think, to keep the record straight, possibly I should read out the provisions of section 89 of the Constitution. Section 89 (1):

'It shall be the responsibility of the Government constantly to care for the interests of the racial and religious minorities in Singapore.'

It is a general statement affecting all racial and religious minorities. Subsection (2):

'The Government shall exercise its functions in such manner as to recognise the special position of the Malays, who are the indigenous people of Singapore, and accordingly it shall be the responsibility of the Government to protect, safeguard, support, foster and promote their political, educational, religious, economic, social and cultural interests and the Malay language.'

- For the record, Mr. Speaker, Sir, that is what I meant exactly when I referred to the word "religion".

404. No doubt the Select Committee will take into consideration your representations on this. But I must point out to you, Tuan Syed Ali, that this Bill does not look after the Malays in Singapore. It looks after all the Muslims in Singapore, and the Muslims may include Indians, Pakistanis, Arabs, Indonesians and Europeans. So it really goes very much beyond the ambit of section 89 of the Singapore Constitution as I see it. I do not know how the Select Committee will view it. But as I see it, it would take in Muslims irrespective of race or nationality? - Mr. Speaker, I admit that not all Muslims are Malays, but the majority of the Muslims in Singapore are Malays who form about 85 per cent. It can safely be said that all Malays are of Muslim faith.

Chairman] Very well. Thank you very much. No doubt, the Select Committee will give very careful consideration to your —

Attorney-General] Can I ask one question, Mr. Speaker?

Chairman] Yes.

Attorney-General] Clause 69 deals with two parts. The second part is the part we are talking about. The first part "administering the property and assets", does the witness suggest that they should be —

Chairman

405. Yes. I am sorry. I should have added that paragraph. For instance, the *Majlis* might have a vacant piece of land, or they might have a piece of land and a house. Now, they have to keep it in repair. They have to keep the vacant land possibly clear of *lalang*, and all sorts of expenses might arise. In respect of these two particular items, does your Committee still say that they should be met by a fund from the Government? — Mr. Speaker, our view is that if the piece of land or house is owned by the *wakaf*, the expenditure must be met by the *wakaf* and not from the Government special grant. If the *Majlis* acquire a piece of land through purchase, then they are responsible for meeting the charges themselves and not from the Government special vote.

406. So that you do not object to the first part? — Yes.

407. What your Committee objects to is that "the salaries and allowances of all servants of the *Majlis*, and the fees and allowances payable to any officer or member of the *Majlis* in respect of his services as such, shall be paid out of the . . . Fund."? — The running of the *Majlis* as a whole.

Tuan Haji Yaacob

408. Not including officers of the *wakaf*? — As I said earlier on, if it is *wakaf*, then money can be spent from that *wakaf*.

Attorney-General] The other point I would like to make is that under clause 59 (1) and (3) of the Bill, the *Majlis* is already getting revenue which now goes

to the Government on the death of a Muslim intestate. Under our present law, the whole of his property will go to the Government, but under this Bill, it will go to the *Majlis*. Surely this money can be used for administrative expenses.

Chairman

409. The Attorney-General is saying that under the existing law, if any Muslim dies intestate and has no person to succeed to his estate under the Muslim law, then the whole of his property goes to the Government; but that under clause 59 (3) which is before the Select Committee, in all those cases where the Government would inherit, the General Endowment Fund would inherit? - Mr. Speaker, I agree with what the Attorney-General has said regarding *Bait-ul-Mal*. But one point I do not agree with is that money from the *Bait-ul-Mal* is to be used for the administration of the *Majlis*. Hence in our representation we say that the *Bait-ul-Mal* must have a separate account for the administration of the *Bait-ul-Mal* and the money from the *Bait-ul-Mal* can be used according to the Islamic law for that purpose alone. Concerning the administration expenses as set out in clause 69, it must come from the special grant.

Chairman] Mr. Attorney-General, *Bait-ul-Mal* equates to intestacy, does it not?

Attorney-General] *Bait-ul-Mal* really means the treasury of the Muslims and the money which is paid into it should belong to the Muslim public.

Tuan Haji Yaacob

410. If I am not mistaken, the position that obtains in Kelantan is that an officer of the *Bait-ul-Mal* will be paid from the *Bait-ul-Mal*. Similarly, a *zakat* officer is paid from the *zakat*? — That is our submission. Concerning clause 69, we ask that it be charged to a special grant.

Chairman

411. I think the witness's position is clear. All administrative expenses of the *Majlis* are to be met by a special grant from the Government, and clause 69 is to be suitably amended to meet that representation. That deals with paragraphs 13 and 15 of your representation, Tuan Syed Ali. We now come to paragraph 14 of your representation which deals with clause 59 (4) (c)*. You suggest that clause 59 (4) (c) should be deleted. A previous representor has also suggested the deletion of that clause. I am instructed that this follows the provisions of section 4 of the Muslim and Hindu Endowments Board Ordinance. The particular provision was found very useful in the case of the Coronation Road Mosque where there were two pieces of land adjoining one to the other-one in the name of some trustees, and the other in the name of other trustees. The two groups of trustees could not agree, and so a mosque could not be built. The Board, under this Ordinance, was able to step in and appoint trustees and build a mosque. It is admitted that these occasions do occur very rarely. But it will be appreciated that if that section had not been present in that Ordinance,

*Clause 59 (4) (c) reads as follows:

'The trustees of the *wakaf*, or *nazr'am* appointed under the instrument creating, governing or affecting the same shall subject to the provisions of this Act manage the *wakaf* or *nazr'am* but the *Majlis* shall have power to appoint *mutawallis*, and for such purpose to remove any existing trustees, where it appears to the *Majlis* that -

(c) it would be otherwise to the advantage of the *wakaf* or *nazr'am* to appoint a *mutawalli*.'

this particular matter might not have been solved. That is why this clause has been inserted here? — Mr. Speaker, I am aware of the Coronation Road affair which you mentioned. In fact, I was the first to ask the Attorney-General and other members of the Muslim Advisory Board to intervene when the matter was reported to me in 1958. I am of the opinion that this can be resolved under clause 59 (4) (a) for the reason that if the plots of land are *wakaf* land and the recalcitrant party is adamant, then it comes under the terms of "mismanagement", which means that he has failed to discharge the object of the *wakaf*. Therefore, he can be removed under paragraph (a) without recourse to paragraph (c); otherwise the advantage would be too flexible.

412. You do not like flexibility?
- Yes. We do not wish anything that is flexible to be inserted in the Bill.

Chairman] There is just one last point before we go on to the next matter. Very often in a matter like this Coronation Road Mosque, possibly it might not have been mismanagement. It might have been just one group of trustees thinking, "This is the best way to do it," and another group of trustees thinking, "We think this is the best way to do it." Both sides may be right. Who knows who is right until somebody says, "You do that." That may not be mismanagement.

Attorney-General] Those were the facts.

Chairman

413. Is it not so, Tuan Syed Ali? You might get a set of circumstances where the facts do not point to mismanagement? — Mr. Speaker, the problem now is two pieces of land both of which are for the purpose of enlarging a mosque. So in the case of the

party which has not discharged its obligation, to my mind, action can be taken under paragraph (a), because it has defaulted and it is the recalcitrant party.

Tuan Haji Yaacob

414. There is no problem if, in the case of the matter referred to, the object is one, that is to say, special *wakaf*. But if it is for *wakaf umum* or general *wakaf*, it means that other than a mosque it can be used for other religious purposes like constructing a religious school; then we are faced with a problem. One set of trustees will insist that it should be for a mosque, whilst the other set will insist on a religious school. And because of the argument, nothing can be done. In that event, which clause shall we have recourse to? — Mr. Speaker, the hypothesis does not arise. If the land is made *wakaf*, for general welfare purposes, then it is left to the trustee under Islamic law to administer it as such. The decision of the trustee, according to the law of Islam, must be respected. Mr. Speaker, I feel that should the translation be a little less full than what I have to say and appears in the record as such, may I say —

Chairman

415. Perhaps if the interpreter takes it sentence by sentence, then he can translate more fully? — What was said by Tuan Haji Yaacob will not arise. If there is a piece of *wakaf* land, which is stated in the *wakaf* to be for the purpose of general welfare, the donor of that *wakaf* will surely make it clear in his will that his trustee will be given the power to decide on what general purpose the *wakaf* will be used for. Then it falls on the trustee to decide whether it is to be used for a mosque - or *madrasah* or any other thing. Let us say, for instance, a person

sets aside a piece of land for *wakaf* and appoints Tuan Haji Yaacob as a trustee. This is for the purpose of general welfare, and power is given to Tuan Haji Yaacob. The *Majlis* must, of necessity, respect the decision of Tuan Haji Yaacob as a trustee because, according to Muslim law, the desire and condition of the donor must be respected. So the matter does not arise, Mr. Speaker.

Tuan Haji Yaacob

416. I respect what the witness has said earlier. That is why it is important to have this sub-clause, because if there should be a difference of opinion between the two sets of trustees as a result of which the land lies vacant without it being possible to build a mosque or any other thing on it, then the will of the deceased remains ineffective? — No, Mr. Speaker, it does not arise because we must respect the testator's will. In the first instance quoted by Tuan Haji Yaacob, one person was the trustee. Now there are two trustees.

417. No, Mr. Speaker. Two trustees in respect of two pieces of land? — Then how is that related? Let us then decide which particular instance we are dealing with?

Inche Othman Wok] Let me put it this way, Mr Speaker?

Chairman] Yes.

Inche Othman Wok

418. Suppose a deceased leaves his piece of land to two persons for general welfare purposes. Now, these two persons cannot agree - whether to build schools or whether to build mosques or *suraus*, or whatever they are. Now, how can we act to settle this if we do not have this sub-clause? — That is a matter that must come back to the will of the testator.

Chairman] I think, Tuan Syed Ali, the position is this, as I understand the question. Where the trustees are given a discretion by the testator either to build a mosque, or a religious school, or some other thing, and one trustee says, "I want to build a mosque," and the other trustee says, "I want to build a school," and we have a third trustee who says, "I want something else," each one of which is in compliance with the testator's wishes, because the will is framed in general terms, the question is: in those circumstances, what is going to happen if each of them honestly believes that what he says is the best way of carrying out the testator's wishes? We get three good men, each one holding a perfectly respectable view, but because it is so respectable, nothing is done. So the point is: if we have such a clause, then we might be able to resolve this problem.

Inche Othman Wok

419. That is what I meant? — It is a matter which is not in conflict with the wishes of the testator.

Chairman

420. Is it possible to make a will under Muslim law? — (*Attorney-General*) Yes. (*Tuan Syed Ali Redha*) In this matter there is no question of going back to the wish of the testator. This matter that involves a majority decision.

421. I agree with you. This is a matter which involves the discretion of the trustees themselves? — Three of them - each of them has a different view?

422. That is right. Three of them - each of them has a different view? — Then in that event we refer the matter to the *Majlis Fetua*, the Legal Committee, because it is not in conflict with the wish of the testator.

Tuan Haji Yaacob

423. If the Legal Committee arrives at a decision that all three of them are correct, but in the general interest, can it decide on removing the trustees under this clause? - The question then to be resolved is, of the three decisions, which is correct; which is the most commendable, in the opinion of the Legal Committee? Rather than if the Legal Committee finds that all the three are correct, how can it remove the trustees from their position? That will be illogical.

424. The position is this. If both of them are at loggerheads with each other - one wants to build a mosque and the other wants to build a school - because of their difference of opinion, neither the mosque nor the school can be built? - I am quite conversant with wills. I myself have seen a number of wills. But I can say that very rarely has there been a will with such wide loopholes present. Usually the will will state that in case of three trustees, the majority decision is to stand, and in the case of two trustees, then the decision of the senior of the two will prevail.

Inche Othman Wok

425. I agree with what Tuan Syed Ali has said. But if such a case comes up and it cannot be resolved, is there any harm for the *mutawalli* to be appointed to step in and try to resolve the problem? - My answer to that is, what harm is there if in the event of such a matter arising, it is to be referred to the Legal Committee?

426. If the Legal Committee then suggests a *mutawalli* to be appointed, what then? - The purpose of referring the matter to the Legal Committee is to decide on which of the choices is to stand, whether a mosque or a school. That is all. It is not to resolve the matter whether to dismiss the trustees or appoint a *mutawalli*.

Chairman

427. I think the stand of the delegation appears to be that clause 59 (4) (c) is so widely framed that it will catch a whole lot of other things besides the particular instance cited by the Minister, and the delegation's view is that, because of that, they are not in favour of this particular sub-clause and that it should be struck off. That, in effect, is the delegation's view. In brief, that is it, is it not? — Yes.

Chairman] I do not think we could usefully take it further. We will now come on to paragraph 16, which relates to clause 78*. Your statement says:

'We should not encourage the closing or demolishing of Mosques.'

It seems to me that the operative words here are:

'The *Majlis* may for good and sufficient reason in accordance with the Muslim law...'

Only if the Muslim law permits it. That is as I read it, Mr. Attorney-General?

Attorney-General] Yes.

Chairman

428. Does Muslim law permit the demolition of a mosque at any time?

— (*Attorney-General*) I think so. (*Tuan Syed Ali*) I do not think a mosque

* Clause 78 reads as follows:

The *Majlis* may for good and sufficient reason in accordance with the Muslim law close or demolish any mosque and may, where any mosque has been demolished and it is not intended to build another mosque on the same site and it is in the opinion of the *Ma'Vis* no longer possible to use such site for other religious purposes, sell and dispose of such site, but the proceeds of any such sale shall be earmarked for the erection, maintenance or repair of mosques, and for no other purposes.

has ever been demolished. (*Attorney-General*) The *Majlis Ugama Islam* - anyway, the Muslim Advisory Board before the war agreed to the demolition of the Tanah Merah Mosque and its rebuilding on another site. (*Tuan Syed Ali*) The purpose of our representation on this matter is based on the principle that to prevent what is harmful is preferable to the attainment of what is beneficial. Let me be frank. Our fear is that there are some mosques which are not on *wakaf* land. There are mosques which now stand on land where the lease has expired after 99 years, and now they are paying Temporary Occupation Licence fees. In these areas there are no urban development schemes being carried out. With an urban development scheme in the vicinity of the mosque concerned, there may not be many Muslims living there. However, it does not mean that we must envisage that the mosque should be re-sited. I am confident that if the present Government continues to be in power, it will not take such action, or even if an Alliance Government is in power. But can we guarantee forever that the present Government will continue, or will there be an Alliance Government? It is that possibility that we envisage that we must tighten up things. Take, for instance, the *Masjid* at Omar Road. The Minister knows that the lease there has expired and the Havelock Road area is undergoing urban redevelopment. A nominal fee is being paid. Government has the right at all times to acquire the land and to demolish the mosque. As I have said just now, I am confident that if the present Government continues in power or if there is an Alliance government, that possibility will not arise. But we must consider the possibility of another government coming to power. Therefore, our delegation is of the opinion that, as the principle goes, the prevention of what is harmful is preferable to the achievement of what is beneficial. Hence, we must secure the door tightly so that

the existing mosque can remain even though there are not many Malays living around there. Like the mosque at Omar Road, there is a regular congregation on Fridays, although for the daily prayers, the congregation is rather small.

Chairman] May we then go on to the next item?

Inche Buang

429. Mr. Speaker, I would like to ask a question. If there is a *surau* made of planks and timber and zinc roof on State land, and if the precincts or the vicinity is required for development, should the *surau* be allowed to remain there? — Mr. Speaker, in reply to Inche Buang, clause 78 applies to mosques only and the *suraus* do not apply.

Inche Buang] Mr. Speaker, the reason why I asked is to avoid the possibility of misunderstanding by the Muslims, because they may take it that a *surau* and a mosque are the same thing, a place of worship. So it means that a *surau* can be demolished.

Tuan Haji Yaacob

430. Mr. Speaker, my point of view still rests on that operative expression, "in accordance with the Muslim law". Take, for instance, the mosque at Java Road. In the Crawford area, an urban development scheme is in progress and the construction of multi-storey flats — 12 storeys or 14 storeys - is going on, so that the mosque building should be suitably built because of these multi-storey buildings. And if there is no clause to enable us to resite the mosque, then we are in a dilemma? — Mr. Speaker, if I understand Tuan Haji Yaacob correctly, if the purpose is to beautify the mosque so that it can be suitable to fit in with the skyscrapers around the vicinity, then I have no objection. But if it is a question of resiting the mosque, then I think we should not encourage that, because it is the same

case as for the Omar Road Mosque and also the Java Road Mosque.

Tuan Haji Yaacob] Mr. Speaker, the words "to encourage"; we should not encourage but, on the other hand, it can be done.

Chairman

431. I think the witness's evidence, Tuan Haji Yaacob, is that if it is for the purpose of improvements, he is in total agreement with you. But where it comes to a question of removing a mosque to another site, he does not agree with that proposition. Am I right, Tuan Syed Ali? — Yes.

432. You do not agree with that at all. May I ask you, Tuan Syed Ali, supposing this clause went out, supposing this Select Committee agreed to delete it, and a certain mosque had fallen into very bad disrepair. Nobody was looking after it properly, but only the shell of the building was remaining. Is it possible without this clause to do something with that building under Muslim law? — Under this Bill, all mosques are the responsibility of the *Majlis*. Therefore, the Chairman's fear does not arise, because the *Majlis* will look after all the mosques.

433. And there are no mosques at the moment which are in such a state of disrepair? That is the point, you see? — When once this Bill becomes law, the *Majlis* can take over such mosques and can do what it deems necessary.

434. Yes. I accept that. But supposing at the moment of takeover — say the moment of takeover is 1st January, 1967, let us say that — there are five mosques which are completely and utterly in a state of disrepair and that particular area is sufficiently served

by other mosques. And the *Majlis Ugama* thinks that there is no point in repairing them because the needs of the area are sufficiently served: In those circumstances, could not those mosques be closed? And if you, agree with me that they should be closed, then this is the clause which will do it. Without this clause, they might not be able to do it. They must rebuild? — Take, for instance, in Kampong Java, there may be five or six mosques. We cannot close one mosque just because there are four or five mosques in that vicinity.

435. I think your position then, Tuan Syed Ali, is "Once a mosque, always a mosque." Briefly that is your evidence? — Yes.

436. I do not think we can take it any further, can we? So we might leave it at that. That deals with clause 78. Clause 75 (2) (c), Tuan Syed Ali, is the same as clause 59 (4) (c)? — Yes.

437. So we do not have to consider the points again. What you said in the previous clause applies to this? — Yes:

438. Clause 75 (3)*, you suggest, should be amended to read:

'The *Majlis* may at any time remove any *mutawalli* appointed by it and appoint another in his place if he fails to perform his duties.'
You think the operation of that clause should be limited to this particular matter and should not be widened? — Yes.

439. In other words, you make the same point all over again. You do not want it to be too flexible? — Yes.

440. Right, I think. your point is understood. Clause 82 (2) (b) reads: "be responsible for the good conduct of the Muslim residents... in matters relating to the Muslim religion."

* "Clause 75 (3) reads as follows:

"The *Majlis* may at any time remove any *mutawalli* appointed by it and appoint another in his place."

You say:

'This will bring about misunderstanding amongst us.'

Yes, I think the point is taken. I think the Select Committee understand what your meaning is on that. Unless Members of the Select Committee wish to ask any further questions on that, we can go on to the next one? — I think that is quite clear.

441. May we go on to clause 87 then? You say:

'Clause 87 presumes that the President is a Muslim. No provision is made if the President is a non-Muslim for appointment of *Kathi* or *Naib Kathi*. This is essential and must to our mind be specific and a Clause to such an effect is necessary for if not such appointment is not valid. We agree such powers be delegated to President *Majlis*. We know of Clause 146, but this is too general.'

You do not think that clause 146 will help you, in the situation that you envisage? — Our point is that the appointments of *Kathis* should be clearly set out so that the validity or otherwise of the appointments will not be questioned and that there will be nothing controversial about them, because there are matters of marriage, for instance, involved in the appointments of *Kathis*. As the Attorney-General very well knows, clause 146 is put in as a result of discussions raised by me in the Muslim Advisory Board. As he and Tuan Haji Yaacob will remember, in 1960, the question of *Wali-ul 'Amr* was raised and it was one of the reasons why this Bill was delayed until now. With Malaysia, the question of *wali-ul 'Amr* did not arise. Then the Yang di-Pertuan Agong was the *Wali-ul 'Amr*. The position now is that we have a President who is a Muslim and the question again

does not arise. But there is no guarantee that a future President may not be a non-Muslim. Therefore, we do not want any loophole in the Bill.

Attorney-General] Would the witness be satisfied if we put clause 146 as a sub-clause of clause 87?

Chairman] Tuan Syed Ali, you are aware of clause 146, are you not? It reads:

'The President of Singapore may delegate the exercise of all or any of the powers vested in him by this Act to the President of the *Majlis*.'

The suggestion is that that clause be inserted as a sub-clause to clause 87. In other words, transfer the whole of clause 146.

Attorney-General] Repeat it.

Chairman

442. Repeat it? — If it is repeated, then it will resolve the problem regarding the appointments of *Kathis*.

Attorney-General] What about the device - "Subject to clause 146, the President of Singapore may appoint ..."?

Chairman

443. That is only a matter of drafting? — If the intention is that the matter of the appointment of *Kathis* will be safeguarded by the addition of clause 146, we are satisfied.

444. If we can make it doubly sure, why not? — I am happy to hear the suggestion, because the Attorney-General well knows that I have raised this matter a number of times.

445. I think that brings us to the end of your observations. There is a last observation* which no doubt the Committee will take note of. It does not really concern the Select Committee

* The last observation reads as follows:

'Arising from the formation of the Majlis and all other administration in connection with the Administration of Islamic Law our Organization feels strongly that Ordinances, Notices, or Rules or Regulations or whatever matter must be printed in Malay so that it could be easily understood by the Muslim public.'

on this Bill. It is a matter of Government policy with which this particular Bill cannot concern itself. But no doubt the Select Committee will take note of it. I am afraid I cannot hear representations on it because it is entirely outside the scope of this Bill? — I do not know who the Minister responsible will be. I hope that he will be a Muslim. If this observation is outside the scope of the Select Committee, I hope that this matter will receive the attention of the Government.

Inche Othman Wok

446. I am sure the Minister concerned will look into this matter? — If I may be permitted to say a few words on the matter of the Malay translation of the Bill?

Chairman] It does not really concern the Select Committee. This was a matter on which I think the Government assisted members of the Muslim public. May I suggest, Tuan Syed Ali, that any representations of that nature be made direct to the Minister in charge of this Bill in his capacity as the Minister, not as a Member of the Select Committee?

Inche Othman Wok] Can I clarify the position?

Chairman] Yes, you can, Mr. Minister.

Inche Othman Wok] May I assure Tuan Syed Ali and his colleagues that as soon as all the amendments have been made, we will produce a complete Bill with a better translation?

Chairman

447. This is good already, but the Minister will produce one that is better? - This is not good. But I welcome the assurance of the Minister.

448. It remains for me to thank you, members of the U.M.N.O. delegation, for having come here and given us so much of your time on the second day. Thank you very much. Your evidence has been of very great help to the Committee? - My colleagues and I wish to thank you and Members of the Committee, the Attorney-General, the reporting staff and the interpreters.

(The witnesses withdrew.)

MINUTES OF EVIDENCE

WEDNESDAY, 20TH APRIL, 1966

(2.30 p.m.)

PRESENT:

Mr. SPEAKER (*in the Chair*)

Inche Buang bin Omar Junid.
Inche Mahmud Awang.
Inche Othman bin Wok.

Inche Rahamat bin Kenap.
Tuan Haji Yaacob bin Mohamed.

ABSENT:

Inche A. Rahim Ishak (on leave).

Inche Mohd. Ariff bin Suradi.

The Attorney-General (Inche Ahmad bin Ibrahim) was in attendance.

The following representatives of the Jama'at Ahmadiyyah (Ahmadiyyah Muslim Mission), 111/116 Onan Road, Singapore, 15, were examined:

Alhaj Maulvi M. Siddique	- Missionary-in-charge.
Tuan A. H. Salikin	- Vice-President.
Tuan Hassan Alaudin	- Executive Committee Member.
Tuan Hassan Salleh	- Executive Committee Member.
Tuan Syed Abdul Rahman	- Executive Committee Member.

Inche Ismail bin Alang, Simultaneous Interpreter of Parliament, and Inche Osman Gani, part-time Simultaneous Interpreter of Parliament, assisted in the interpretation.

137

20 APRIL 1966

138

Chairman

449. Good afternoon, gentlemen. Please sit down. For the record, can I have your names, addresses, and the positions you hold in the Society? — (*Alhaj M. Siddique*) Alhaj M. Siddique, Missionary-in-charge of the Jama'at Ahmadiyyah.

450. Your full name, please? — Alhaj M. Siddique.

451. And your address? — 111 Onan Road, Singapore, 15.

452. And in the Society, you are — ? — I am the Missionary-in-charge.

453. And the gentleman on your left? — (*Tuan Abdul Hamid Salikin*) Abdul Hamid Salikin. No. 3, Jalan Labu Manis, Singapore, 19. Vice-President. (*Tuan Hassan Salleh*) Hassan Salleh. 124A Durham Estate, off Owen Road, Singapore. Committee member in Ahmadiyyah. (*Tuan Hassan Alaudin*) Hassan Alaudin. 12A Lorong 6. Committee member. (*Tuan Syed Abdul Rahman*) Syed Abdul Rahman, Block

F, No. 7 King George Avenue. Committee member.

454. Who is going to act as spokesman of the Society? — (*Tuan Abdul Hamid Salikin*) The Missionary-in-charge.

455. Now, that does not mean to say that any one, of you may not speak if you so desire at any given moment? — Thank you.

456. And if any of you gentlemen wish to smoke, you may do so. Now, Mr. Siddique, is that the proper form of address? — (*Alhaj M. Siddique*) Yes.

457. We have read your representation* to us. May I quite frankly at the outset say that to me it seems that your only representation is that members of your Society should be treated as Muslims, and that there is some difficulty about your being treated as such? — Yes.

458. Now, might I at the outset say that it is no function of this Select Committee to make any statement on whether your Society is a Muslim society or any other society is a Muslim society? That is not part of our functions. We are merely here to go into the merits or demerits of the Bill and report the same to Parliament after we have heard evidence. But you may inform the Select Committee of your views, so that it will be on the record and no doubt the appropriate authorities will look into it at the appropriate time. So that if there is anything further you wish to add to your representation, please do so now?

— In our view, there are certain clauses in the proposed Administration of Muslim Law Bill by which we feel the rights of the minority Muslim sects will not be preserved as they should be. For example, there is one clause in which it is said that the *Majlis Ugama Islam* should have full control over all the mosques in Singapore. Now, for example,

our mosque is run by our Executive Committee under the directions of our international Head and *imam*, who lives in Pakistan. In our religious matters, we abide by his instructions and directions. The majority of members of the *Majlis Ugama Islam* will evidently be people of the *Shafei* school of thought, and they will evidently control or look after the mosques according to the *Shafei fiqhah*, whereas there are certain minority Muslim groups or sects in Singapore who do not belong to the *Shafei* sect. (*Tuan Abdul Hamid Salikin*) *Shafei* school of thought. (*Alhaj M. Siddique*) *Shafei* school of thought. They would like to run their mosques and their communities according to their interpretation and their understanding of Islam, and according to their school of thought. So we wonder how the *Majlis Ugama Islam* of one school of thought can control those minorities which do not agree with the *Shafei* school of thought.

459. As I understand the Bill, Mr. Siddique, there is nothing to say that the *Majlis* will only be composed of one sect of Muslims. It seems to me that under the Bill many schools of Muslim thought would be represented on the *Majlis*. That is as I read the Bill? — I quite follow you, Sir, but whatever the case, whether minorities are represented by members or not, the majority of the *Majlis Ugama* will certainly be members of the *Shafei* school of thought.

460. The *Shafei* school of thought? — Yes. And if the *Majlis* are going to decide certain matters through votes, then the majority votes will act. That will mean that practically the *Shafei* school of thought will be practised. In case there is one member of the *Ahmadiyyah* and one member of the *Shiat*, but there are ten members of the *Shafei* school of thought, then evidently they will have the majority. The Bill empowers the *Majlis Ugama Islam* to

* Appendix II, pp. B20-22.

close down a mosque or even to demolish it in case they feel that that mosque is not run according to the teachings of Islam. Our *Ahmadi* school of thought is not generally recognised by the *Kathis* or religious leaders of the other four sects. It is a new school of thought which I feel the majority of members of the *Majlis Ugama Islam* may not even understand.

461. In other words, what you are saying, Mr. Siddique, is that because in Singapore the *Shafeis* are in a great majority, the other schools of thought will be at a disadvantage in the *Majlis Ugama*? Is that what you are saying? — Yes. And that clause should be amended in such a way that the other schools of thought, the minority sects, may be able to practise their religion freely without any hindrance whatsoever. Otherwise, I feel that we would not be able to practise. For example, this existing Administration of Muslim Law Bill gives power to the *Majlis Ugama Islam* to control all Muslim mosques. I feel it is impracticable. For example, in Christianity, there are Catholics, Protestants, Seventh Day Adventists, Jehovah. Now one single committee cannot be formed to control all of them. It is impossible, although the religion is one.

462. Could you suggest some way then by which you think the minority interests could be protected? — I feel that the mosques of the various sects and their incomes and their organisations should not be controlled in the way in which the Bill is meant to control them. I have given an example of Catholics and Christians. Although they agree on Christian fundamentals, yet their differences are so wide that one single body cannot control them all. There should be some relaxation in the Bill by which the minority Muslim groups should be able to run their mosques and their societies as they like, and they should utilise their *zakat* and

fitrah and their incomes according to the rules and regulations set by their own sects.

Chairman] It seems to me that under the scheme in the Bill, your fears, Mr. Siddique, are somewhat unfounded. Am I right, Mr. Attorney-General? Management will still be in the hands of the trustees?

Attorney-General] Unless they have mismanaged it.

Chairman

463. Unless they have mismanaged it. It seems to me that the scheme of the Bill is that the property will vest in the *Majlis* by operation of law. But the management will remain in the hands of those now managing it, unless they are mismanaging it now, in the opinion of the *Majlis*, or will mismanage it in the future. Until such time occurs, the management will continue to be in the hands of the existing managers, if I may put it that way. That is the scheme of the Bill? — But I think it is provided in the Bill that the trustees of the mosques and the *mutawallis* will be appointed by the *Majlis Ugama Islam*, which means that, for example, the Executive Committee of the Ahmadiyyah community will have no right to appoint trustees and *mutawallis* and so on.

464. Clause 75 (2), is that the clause: 'The trustees of any mosque under any written instrument shall, subject to the provisions of this Act, manage the mosque...'. Manage the mosque? — I am referring to another clause. I am sorry I have not got any copy of the Bill. [*Bill handed to witness.*] There is another clause in which it is said that the *Majlis Ugama Islam* will have —

465. Clause 75 (2) is what I am quoting from, Mr. Siddique? — Yes.

466. Page 26? — It says:

'The *Majlis* may at any time remove any *mutawalli* appointed by it and appoint another in his place.'

Why should the *Majlis* have any right to appoint any *mutawalli* or remove him?

467. You are reading from where?
— Clause 75 (3).

Attorney-General] Clause 75 (3). If the trustees have been removed.

Chairman

468. If the trustees have been removed. You see, Mr. Siddique,

'The trustees of any mosque under any written instrument shall, subject to the provision of this Act, manage the mosque...'

Correct? So you will be allowed to continue to manage the mosque. But the *Majlis* shall have power to appoint *mutawallis* and for such purpose to remove any existing trustees—now the *Majlis* cannot appoint as and how they like. They cannot remove as and how they like. They can only remove where it appears to them -

(a) that the mosque has been mismanaged;

(b) there are no trustees appointed for the management of the mosque; or

(c) it would be otherwise to the advantage of the mosque to appoint a *mutawalli*.'

Only under these circumstances can the existing trustees be removed and new trustees put in. It is not a wide sweeping clause? — But, Sir, what will be the criterion for judging whether a mosque is mismanaged or properly managed? According to the *Ahmadiyyah* point of view, it may be managed rightly. But according to the *Majlis Ugama Islam*, there may be mismanagement. What will be the position in that case?

469. I cannot get involved in such abstruse arguments. All I understand is that if a mosque has been mismanaged according — ? What is meant by "mismanaged"?

470. I suppose what Islamic lawyers would understand by mismanagement of a mosque. That is what is meant by mismanagement? - The interpretation of Islamic laws differs. One Islamic law is interpreted differently by one sect and interpreted differently by another sect.

471. I see. What would you suggest then? Are you in agreement with the purpose of this Bill, or do you think the existing persons should be allowed to carry on? - We feel that the control of the *Majlis Ugama Islam* should be just in principle, and they should not be given so much power as to close down or demolish a mosque. It is quite possible that when there are so many religious sects, rival sects especially, through prejudice and bias, a majority sect may try to crush a minority sect by just this sort of action. The possibility is there.

472. I understand. Supposing clause 78, which deals with closure or demolition of mosques, were removed from the Bill, would you still object to the Bill? - I would not have any objection to this part of the Bill.

473. What I am putting to you, Mr. Siddique, is this. Suppose clause 78 were removed and clause 75 (2) kept in its entirety, would that meet your — ? - You mean if clause 78 is removed?

474. Removed entirely? — Permit me to say that we have objection to the *Majlis Ugama* controlling the mosques. I have given an example, how a Catholic —

475. I appreciate that. We understand that? - How a Catholic *Majlis* can control a Protestant church. That is my objection. It may be that the Protestant church is represented by one or two members. But there are ten Catholic members, and they are controlling Protestant churches. It is impossible. Likewise, in Islamic religion also,

fundamentally we agree. But it seems impossible that all the mosques should be controlled by one single *Majlis*.

476. Your suggestion, Mr. Siddique, is this. Assuming that under clause 75 (1) all the property of the Muslim mosques vests in the *Majlis* then the management of the mosques should be according to the tenets of each of the followers. And in so far as those tenets are held, the *Majlis* should not interfere? — Yes.

477. That is your point? — Yes.

478. If that is maintained by the Bill, you will be quite happy? — We do not agree to the property of the mosque being surrendered to the *Majlis*.

479. So you do not agree to clause 75 (1) either? — No. I do not agree.

480. You do not agree to vesting it in the *Majlis Ugama*? — No, I do not agree.

481. You think it should continue to be vested in the persons in whom it is now vested? — Yes. We think so because we feel that it is impracticable. And we have given the example of another universal religion.

Chairman] Before you go on, does it really matter in whom the property vests? Is it not really a technicality?

Attorney-General] It is a conveyancing device.

Chairman

482. It is a conveyancing device, yes. A religious trust. It is vested in the trustees. The trustees cannot do anything with it. They cannot sell it. They cannot do anything except for purposes of the trust. But it is the management side that is important really. From your point of view, the management side; not the vesting of the property. Now, if the management is assured of being allowed to carry on in the way you have suggested, why do you object to the vesting, which is a mere formality really? —

We object, Sir, because our mosque and its property, for example, was provided and bought by our Head Office in Pakistan. They control it. They have the full right to do or what not to do with it. If it is vested in another body called the *Majlis Ugama Islam*, we feel that it would not work.

483. Very well then. Is there any other point on which you would like to say something? — We have put forward our case on the question of marriages. Unfortunately, we have not been treated as Muslims for the past six or seven years and we have much difficulty in registering our marriages. Whenever we go to the *Shariah* Court for registration or solemnisation of our marriages, it says that we are non-Muslims. Whereas in the present proposed Muslim Bill as well as in the previous Bill, it is clearly stated that anyone who professes to be a Muslim and practises the religion of Islam is a Muslim. Yet, because we are a minority in this country and the majority monopolises the, whole *Shariah* Court, the *Shariah* Court simply refuses.

484. Very well. Any other points? — And we cannot go to the Civil Marriage Registry because we are Muslims. So as a result of this difficulty, we have lost some of our members. We have appealed to the Government several times, but nothing has been done so far.

485. Yes. Any other point on which you wish to make representation? — In regard to finance, we would like to know what is meant by the *Majlis Ugama* having control over *zakat* and *fitrah*. Does it mean that it will have to be utilised and spent according to instructions and orders of the *Majlis Ugama Islam*, or will the mosque trustees or the executive committee of the minority sect itself have any say in it?

486. I do not know. I am not a lawyer presiding over these deliberations I am afraid I cannot give you a legal

opinion on it. I am merely the Chairman of this Committee, but, Mr. Attorney-General, would you like to answer that?

— (*Attorney-General*) It will be disposed of in accordance with Muslim law.

487. That is what I thought. Everything will be dealt with according to Muslim law. That will be disposed of according to the trust instrument? — (*Mr. Siddique*) What about *zakat*?

488. Well, it will be distributed according to Muslim law? — It will be distributed according to Muslim law. When there were no Muslim sects, when the Muslim religion was not divided into sects, it was a different matter. But when the Islamic religion has been divided into various sects, it is only the heads, the topmost heads, the international heads of those sects which have the right to control *zakat* and *fitrah*, not one head or *Majlis* of one particular sect. But in the case of this Bill, the *Majlis Ugama Islam* will have full control of the income of even the minority sects which do not agree with them. Whether the minority sects are represented by their members in the *Majlis Ugama Islam* or not, it is a fact that the majority of the *Majlis Ugama* members will be *Shafei* members.

489. Are you saying that each sect has a different way of disposing of *zakat* and *fitrah*? — Yes.

Attorney-General] Not the orthodox sects.

Chairman

490. Very well. Any other point? — Regarding the distribution of *zakat* and *fitrah*, there is practically no difference between our way of distribution and the others. But what we object is that, on the one hand, the majority sect that dominates in this country wholly opposes and objects to our

way of interpretation of Islamic teachings and, on the other hand, we shall be bound by this law to be under their full control in every respect, even in finance. We fear that through prejudice and bias, we may be persecuted in the future, and our rights may not be preserved, as they have not been preserved for the past five or ten years. A clear example which I have given you is that for the past five or ten years we have been persecuted especially in regard to the registration of marriages. It is such an illogical unreasonable refusal on the part of the *Shariah* Court that we feel no rational person will tolerate it. We know we have no voice. We are a minority.

491. Does that bring to an end your representation on what you want to say? — Well, that is all.

Inche Othman Wok] Just one question, Mr. Speaker. Is this Mission happy if the provisions of this Bill do not include them?

Chairman

492. If you are exempted, Mr. Siddique. Say there is an exemption clause exempting your sect? — (*Tuan A. H. Salikin*) I would like to have an explanation from the Minister about the exemption. What does he mean by exempting us from the Bill?

493. For instance, what that would mean would be this. That, for instance, your property would remain vested in you and that you would continue to manage your mosque without anybody interfering. The normal law of the land might interfere with you and that sort of thing. But the *Majlis Ugama* will not have any control or say over you or your affairs or your mosque? — May I add a little bit? Does it mean that we have to have our own *Kathi*, an *Imam*, because once we are exempted from the

Majlis Ugama it means that we are outside the pale of Islam, even though we say *LAILA ILLILLA MOHAMAD RASOLULLA*?

494. Those are questions on which neither I nor the Committee can decide?

— (Mr. Siddique) Sir, we would not like to be exempted from the provisions of this Bill.

495. You would not like? — We would not like. By exemption, it would practically mean that we are not regarded as Muslims.

496. Yes, I appreciate that? — Since we are Muslims, the Bill should be constituted in a way that all Muslim minorities, including ourselves, should be embraced.

497. Your representation, briefly, is that you support the Bill in its wider scope, but you feel that it should not divest the properties now vested in trustees and take it away from them. And provided also that the management of the *Majlis* is carried on in such a way that it allows room for minority groups to administer their own affairs in their own way, you will be quite happy with that? — Yes. We would not like to be exempted from the pro-

visions of the Bill. I do not understand what the Minister means by exemption. But if the definition of "Muslim" is retained in the Bill, our exemption will be impossible.

498. I think the Committee has accepted the position that you do not want to be exempted. There is no question about that? — I am just explaining that, according to the Bill, a Muslim is he who professes to be a Muslim. Since we profess to be Muslims, nobody can exempt us from the Bill.

499. Mr. Siddique, this Committee cannot express any view whether you are a Muslim or not a Muslim, and if you come as a Muslim and make representations to our Committee, we will accept them as such. Then the Select Committee will consider your representations on their merits in so far as the Bill is concerned, and naturally they will amend or not amend as the case may be. That, I take it, brings to an end your representations. Thank you very much for having come here and assisted the Committee? — I hope it is clear that we would not like to be exempted.

500. Oh, yes. That is very clear. Thank you? — Thank you.

(The witnesses withdrew.)

The following representatives were examined: -

Mrs. M . Siraj, 2 Medang Road, Singapore, 15.

Miss Habibah Abdul Rahim, 5 Jalan Jumat, Singapore, 14.

Miss Hilal Jaafar, 77 Lorong Marzuki, Singapore.

Chairman

501. Good afternoon. I hope we have not kept you waiting too long. I apologise. We have kept you waiting for 15 minutes? — (*Mrs. M. Siraj*) That is all right.

502. For the record, can we have your full names and addresses? — I am Mrs. M. Siraj of No. 2, Medang Road, Singapore, 15. (*Miss Habibah Abdul Rahim*) I am Miss Habibah Abdul Rahim of No. 5, Jalan Jumat, Singapore, 14. (*Miss Hilal jaafar*) I am Miss Hilal Jaafar of No. 77, Lorong Marzuki, Singapore.

503. We have your representation* with us. We have studied it. Who is going to act as spokesman? Mrs. Siraj, are you going to do it? — (*Mrs. Siraj*) Yes.

504. If any of you wish to add a word in here or there, you are not precluded from doing so. On clause 51, you are suggesting that the provision with regard to *nushuz* should be deleted? — Yes.

505. And you say:

'There is no similar provision in the enactments in the States of Malaya and disobedience of the wife is already made an offence under clause 133 of the Bill'.

You are not objecting to clause 133 of the Bill, are you, Mrs. Siraj? Clause 133 seems to be even more difficult than this. You are not objecting to clause 133? — No.

506. But you are objecting to clause 51. You think that it should go out? — Yes.

Chairman] Mr. Minister, would you like to ask any questions on this?

Inche Othman Wok] No.

Chairman

507. On clause 53, you say:

'Provision should be made, as in the States of Malaya, for the wife to get a share of the jointly acquired property as *harta sapencharian*'.

What exactly is *harta sapencharian*?

— The property acquired during marriage.

508. I see - from the time of marriage? — Yes, from the time of marriage, during marriage. And we feel that, on divorce, usually the wife is given only \$10 or \$20. That is not fair. And then she is thrown out of the matrimonial home and does not get anything. But what is acquired during the marriage life - I think it is fair - should be divided into two.

509. Would *harta sapencharian* include the joint earnings of the husband and wife? — Yes, jointly acquired.

510. Joint earnings of the husband and wife? — Yes, of the husband and wife.

Inche Othman Wok

511. Supposing the wife does not work, what happens then? The husband alone earns? - If the wife does not work, she still does the work in the house and you must know that she is there the whole day looking after the whole family.

*Appendix II, pp. B17-18.

Chairman

512. It is a joint venture! The husband goes out to work while the wife stays in and works? — Usually Malay families cannot afford to keep a servant, and even in those families where they keep a servant, the wife has to run the home. We do double work as a wife and as a woman. Can I add one thing more?

513. Yes, do? — Recently in Selangor, there was a divorce case, Robert versus Umi Kalthom. Before that, the husband had bought property and he had put in \$40,000 and the wife had given only \$10,000 or \$1,000 - something like that. Then when the divorce case went on, the house was in the name of the wife. And so she claimed that it was a gift to her. And the husband could not get anything. But, of course, the husband brought the matter to Court and he brought up this *harta sapencharian*. The Court awarded him half the property. So if we bring this up, the men will also gain, not only the women.

514. You think that they should be grateful for this? — Do you not agree that women suffer more than men?

515. I entirely agree, yes. So your suggestion, Mrs. Siraj, is that clause 53 (3) be suitably amended to bring in your suggestion. That is the proposition, is it not? — Yes.

516. And you are further suggesting that clause 108 should also be suitably amended to bring in your suggestion under clause 53? — That is on the death. According to the law, the wife gets one-eighth of the property when there are children and one-quarter when there are no children. I think that is not fair because she should either get half or the whole of whatever property was acquired during the marriage.

517. Are you suggesting that clause 108 should be amended? — Yes.

518. To bring in this idea of *harta sapencharian*? — Yes.

519. Now, your last submission is on clause 92 (4) which deals with the age of marriage? — We think that fifteen is really too young.

520. Fifteen is too young, you think, and you are suggesting eighteen. Can you give any particular reason why you suggest eighteen and not sixteen or seventeen? — I think we suggest this because we see how well the Women's Charter has worked.

521. So you want to follow the Women's Charter? — Yes.

522. But is it not true that in most Islamic countries, the marrying age is a little less than — ? — Yes, younger - that is right. But what we feel is that in so many cases where girls have been married at such a young age, they suffer so much that by the time they are twenty, they have three or four children and some of them get so fed up with marriage life. They were not well educated and they were not prepared for marriage. Usually they come back with a burden. Knowing that the Malay community is economically very backward, we suggest that the girls should at least be given a chance. So that when she is either divorced or on the death of her husband, she can earn a living instead of depending on somebody or being thrown out into the streets.

523. That is one point of view, Mrs. Siraj, which one can appreciate first. The other point of view is this. From fifteen to eighteen - for three years the girl remains a parental responsibility. How do you think Muslim fathers' will react to the suggestion that a girl will have to remain in the home for another three years? — She should not remain in the home. I think my two colleagues can tell you, because they are teachers from secondary schools. They can give you views on these girls.

524. I am merely putting the point of view and asking, what do you think of that point of view? — My colleagues can tell you something about this.

525. Would you like to? — (*Miss Habibah*) At fifteen, a girl will only be in Secondary II at the most. So that will give them a better chance to prolong their education. Should any circumstances arise later on, they will then be able to fend for themselves - if you give them that chance. Anyway, if it would be beneficial to the child - supposing she were to marry someone wealthy, it would benefit her as well as her parents. (*Mrs. Siraj*) It is also the parents' duty to look after them. If something were to happen, they could always get the special permission of the Minister to marry under the Women's Charter.

Attorney-General] I think that is the point - special exemption.

Chairman

526. That is the point? — That is what we want. The Minister could give special permission for the marriage.

527. You want a similar clause put in here? — Yes.

Attorney-General] It is here at the top of page 32 of the Bill.

Chairman

528. Yes, that is right. We have it. The Bill has the same provisions. So you think that so long as the proviso is there, in exceptional cases, it could be availed of? — Yes. It must follow exactly like the Women's Charter where we have investigations into cases, and not just anybody can come up and say, "Oh, my daughter must get married. I am dying," or things like that. We must follow exactly the Women's Charter where we have investigations into cases.

And then it is properly done. Otherwise, it is no use having that. The making of laws is one thing. Seeing that they are administered is another thing.

529. There is just one final question, Mrs. Siraj. How far would extending the age to eighteen as a marriage age for girls be acceptable to Muslim law as such? — I know that some members of the Muslim community will revolt at this idea.

Attorney-General] It has been accepted in Iraq.

Chairman

530. So the answer is that it has been accepted in certain Muslim countries? - Yes, it has been accepted in so many Muslim countries. Of course, seventeen, sixteen, in other Muslim countries.

531. And the tendency is for the age limit to go up? — But no Muslim country has fixed the age at fifteen. That is ridiculous. But 16, 17, 18 —

532. Are you saying that fifteen is very low even for a Muslim country? - Of course, it is very low.

Chairman] I have no further questions to ask.

Inche Buang] I agree with the witness's point of view. But there are cases where girls at the age of 14 or 15 are given away in marriage by parents who have too many children. This is done for economic reasons. So if we are to set out the age of marriage at 17 or 18 years, what would be the position when perhaps the parents may not be able to provide education for the girl?

Chairman

533. Mrs. Siraj, what is your answer to that? - We agree that there are lots of very poor Malay families with so many children, who have no family planning advice. That is why we want this provision whereby the Minister can

give special rights. The other case that I can cite is that of my tailor's daughter. He has got 12 children, and the eldest girl is 15 years old. Despite my telling him not to get the girl married, he got her married. Barely one year passed when she became pregnant and there was trouble and she was sent back to her father's home. And now, after the baby was born, there is no maintenance; nothing is given. This case has been going on and on; no divorce, and nothing has been done. So much so that the father's burden is not only that of his daughter but also of a grandchild.

Inche Buang

534. But formerly there was no provision as tight as that envisaged in this Bill, which makes it difficult for the husband to act as in this case? — Can I state one thing?

Chairman

535. Yes? — The man will say that he is jobless even if he is brought to the Maintenance Court. Therefore, no maintenance is given to the wife and child. What happens then? There are many such cases. If a man is earning only \$80 or \$100 a month, the most that he can give is about \$10 or \$20 to the child. That is all.

Inche Buang] Mr. Speaker, this question of becoming unemployed is difficult

for us to consider, because it makes no difference whether a girl gets married at 17 or 18 years of age. If, after six months of marriage, the husband becomes unemployed, that is something we cannot do anything about, because it is more or less a normal occurrence.

Chairman

536. I think the witness's stand is that if you raise the marriage age, at least the girl is more self-reliant. If she gets into that kind of difficulty, at least she can have something to do. I think that is the stand, is it not? — Yes.

537. Whereas if the girl is 15 years old, she is of an age where she has not learnt to attune herself to the rest of the world. I think that is your stand? — Yes.

538. I do not think we can take that any further, Mrs. Siraj? — No. But I would like to say that we are very grateful to the Singapore Government for presenting a wonderful Bill like this which will be of so much benefit to the Muslim community. And to the person who drafted it goes our admiration and congratulations!

539. Are you talking about the Select Committee or the Government? Anyway, thank you very much, Mrs. Siraj? — Thank you very much.

(The witnesses withdrew.)

The following representatives of the All-Malaya Muslim Missionary Society, 31 Lorong 12, Geylang, Singapore, 14, were examined: -

Maulvi Babu Sahib, Committee member.

Haji A. Wanjor, Hon. Secretary.

Chairman

540. Good afternoon, gentlemen. Can I have your full names for the record? — (*Maulvi M. H. Babu Sahib*) Maulvi M. H. Babu Sahib.

541. You are a Committee member of the Society? — Yes.

542. And your address? — 306 North Bridge Road.

543. And the other gentleman? — (*Haji Wanjor b. Abu Bakar*) Haji Wanjor bin Abu Bakar.

544. And you are the Hon. Secretary of the Society? — Yes. And my address is No. 129 Lorong L, Telok Kurau.

545. Thank you very much. Now, we have your Society's representation* dated the 30th March, 1966. You have suggested certain amendments to the definition of "*fitrah*", to clauses 15, 47, 49, and 52 (2); all of which are noted? — Yes.

546. May we come to clause 52 (3)? You say that clause 52 (3) should be deleted, and you give your reasons for it:

'It is unfair to burden the former husband with extra liability, as this itself is considered to be an un-Islamic practice. Muslim affairs should be dealt with in accordance with Muslim law and not by any other law especially in this particular case.'

That is your representation? — Yes, that is correct.

547. So your suggestion then is that clause 52 (3) is not in accordance with Muslim law? — Yes.

548. And therefore, it should not find a place in the Bill? — Yes.

549. Very well, I think that is understood. Now, clause 53 (3) (c), you suggest that this clause should be deleted? — Yes, the division of property.

550. Are you against any division of property on divorce? — Yes. I have given the reason here to show that if the property is earned by both parties. If there is any documentary proof to this effect, then the wife has every right to claim in Court. But simply because she is his wife, she cannot ask for a division of property at the time of divorce, that will be indirectly encouraging everybody whose husband may be a rich man, to ask for a divorce. On getting a divorce by hook or by crook, she will utilise this clause to get some property out of it. That we do not want to encourage.

551. You think it might be — ? — Misused.

552. Yes, misused. I follow the point? — That can be fought out in a court of law, in case she is entitled to a part of the property. But it should not be put into the law whereby she may engage a lawyer to fight out the case; in whatever way she may be divorced, even if she is divorced because of her own fault - she may be unfaithful - once she is divorced, having this law in force, she has the right to claim and get a lawyer to fight out the case for a division of the property.

* Appendix II, pp. B28-29.

553. I think the point is understood. Yes, thank you very much. Now, clause 69† - I see that your Society is not in agreement with clause 69? — Yes. With regard to the maintenance of mosques or *wakaf*, we do not mind if such expenses come from the mosques themselves. What we suggest is that the payment to the servants or clerks as salaries should not come out from the *zakat* and *fitrah* money.

554. Where should it come from then? — If you form the *Majlis*, you have to pay so many people in the form of salaries. But we do not want the money to be taken from any other *wakaf* or from the *zakat* or *fitrah* money, because the *zakat* and *fitrah* fund is meant to be divided among the eight categories. It should not be used to pay for salaries or expenses like that. Islam does not allow other than those belonging to the eight categories to come and take the money. So we thought, as a matter of fact, that Government should subsidise for payments to servants, and such other expenses, where certain funds are allotted for them, as is being done now in the *Shariah* Court where Government pays for their salaries.

555. So your Society's suggestion is that in the way that the *Shariah* Court is maintained by the Government, the administrative expenses of the *Majlis* should be borne by the Government? — Yes.

556. I think that is understood, yes. And I think you are also suggesting an additional provision to clause 69 to the effect that:

"There shall be paid into the Fund by appropriation from the consolidated Fund of the State such annual sum as may be required by the *Majlis* from time to time."

Now, is this intended to cover the cost of the administration? — Yes.

557. But as it is worded there, it might be for more than that? -More than that, yes, it might be. We cannot anticipate. Something more might come up!

558. So you are suggesting, Mr. Wanjor, that — ? — We do not know. Anyway, in an office there are many kinds of expenses. So we cannot tell how much.

559. So you are anticipating more now, are you not? The amount is increasing? — Yes.

560. I suppose the way this will work is that the *Majlis* will suggest to Government what payments should be made for the following year, and that will be entered in its budget. That amount will be paid to the *Majlis*, and they will administer that sum. That is how you think it should work? — Yes. That is what they do even in the Federation, I suppose.

561. Now, clause 71 (3)*. You are suggesting "shall" for "may"? — Yes. This is only "shall", I suppose, for must.

562. You think it would be better if the expression "shall" were used? — Yes.

563. The point is noted. To substitute the word "woman" in place of "person" in line one in clause 113. That is a drafting amendment? — (Attorney-General) We can accept it.

† Clause 69 reads as follows:

'All costs, charges and expenses of administering the property and assets vested in the *Majlis*, including the cost of maintenance and repair of any immovable property, the salaries and allowances of all servants of the *Majlis*, and the fees and allowances payable to any officer or member of the *Majlis* in respect of his services as such, shall be paid out of the property and assets of the Fund.'

*Clause 71 (3) reads as follows:

'Subject to the provisions of this Act any *zakat* or *fitrah* collected may be disposed of by the *Majlis* in accordance with the *Muslim* law.'

(*Haji A. Wanjor*) "When any person. .". We think it is "woman" instead of "person". (*Attorney-General*) Are you suggesting any other person can be a wife? (*Haji A. Wanjor*) "Woman" is more specific.

564. Now clause 118 (3)? — His wife's agency.

565. To add after "his wife's agency" the expression "for domestic necessities" in line 3. Is that not rather narrowing the field of liability? — Yes. What we are afraid of is that a wife may go out and incur anything that she likes which is not exactly necessary for domestic purposes, and the husband gets into trouble. That is what we expect and such things should not happen. Should there be a domestic need, the husband is liable for payment.

566. What do you understand by "domestic necessities"? — She may

have incurred anything concerning the family needs. She may have taken from the shops necessary provisions and what-not.

567. Clothes and shoes? — Yes.

568. Diamonds? — No, no. That is not domestic.

569. That is also a necessity for a woman? Jewellery - adornment? — We say in particular "domestic purposes" not for the woman but for the family.

570. Anyway, you think it should be narrowed down to what is really necessary for a happy home? — (*Maulvi Babu Sahib*) Family necessities.

571. Thank you very much. The points are understood. Thank you very much, gentlemen, for having come and assisted the Select Committee in its deliberations? — Thank you.

(*The witnesses withdrew*)

The following representatives of the South Indian Jamiathul Ulama were examined:

Alhaj Moulvi M. M. Hidayathullah Sahib - President of the Association.
Haji Moulvi K. A. Mohamed Sayed Sahib - Assistant Secretary.

Mr. S. Narayanan, Simultaneous Interpreter of Parliament, assisted in the interpretation.

Chairman

572. Good afternoon. Just for the record, may we have your names, please? — (Alhaj Moulvi M. M. Hidayathullah Sahib) Hidayathullah.

573. Your full name is Alhaj Moulvi M. M. Hidayathullah Sahib? — Yes.

574. What is your address? — 110 North Bridge Road.

575. You are the President of the Association? — Yes.

576. And your name, please? — (Haji Moulvi K. A. Mohamed Sayed Sahib) Moulvi Mohamed Sayed Sahib.

577. What is your address? — 265 Serangoon Road.

578. You are the Assistant Secretary of the Association? — Yes.

579. We have your representation* which was sent to us off the 21st of March. You made two points. You say that the *Majlis Ugama* should be started with proper religious scholars, or *Ulamas*? — Yes.

580. What do you mean by "proper religious scholars"? — The present trustees of certain mosques are people who usually do not go to the mosques and do not know much about them.

581. I think we are on a different point. The point I asked you is this. You made representation to the effect that the *Majlis Ugama* should have

proper religious scholars as members of the *Majlis*? — In India and other places, this *Majlis Ugama* was started by people who are scholars or graduates of religious schools. In case where such qualified persons are not available, then we should get people who usually or often go to the mosques and who know something about the religion.

582. Would you say that they should also be versed in the Arabic language? — Not necessary.

583. You are not suggesting that they should know that. You are suggesting that without being versed in the Arabic language they could still be *Ulamas*? — Though they may not know much about the Arabic language, if they know more about religion, they can still be useful in the *Majlis*.

584. I think the point is understood. The other point you are making is that *zakat* and *fitrah* should be dispensed by the *Majlis* according to Islamic law, and it should not be spent on the administration of the *Majlis*. I think that is another point you made? — Yes.

585. I think the Select Committee understand that representation. Others have also made similar representations on that particular point? — Yes.

586. Those are all the representations you have made. Thank you very much for having come here this afternoon and assisted the Select Committee on this Bill? — Thank you.

(The witnesses withdrew.)

*Appendix II, p. B19.

The following representatives of the Pakistani Association were examined:

Mr. Mohamed	Anwar Husain	-President of the Association.
Mr. Sher Khan		-Vice-President.
Mr. Ahmad H. Saddique		-Treasurer.
Dato Chowdhry Ghulam Kader		-Committee Member.

Chairman

587. Good afternoon. For the record, gentlemen, could each of you give me your name, your address and the position you hold in the Association? — (*Mr. Mohamed Anwar Husain*) My name is Mohamed Anwar Husain. I am the President of the Pakistani Association. My address is 11B Malacca Street. (*Mr. Sher Khan*) My name is Sher Khan. I am the Vice-President of the Singapore Pakistani Association. My address is 47, Lorong Melayu. (*Mr. A. H. Saddique*) I am the Treasurer of the Pakistani Association. My address is No. 3 Barker Road, Singapore. (*Dato Chowdhry Ghulam Kader*) My name is Dato Chowdhry Ghulam Kader. My address is 27 Coleman Street.

588. And your position in the Association? - Just say, a member of the Association.

589. A member of the Association. Now we have got your most excellent memorandum* which we have read with great interest. I see you are supporting the Bill as a whole. You are not suggesting any amendments to the Bill, or any additions, deletions, alterations? You think the Bill as it now stands will serve the purpose? — (*Mr. Anwar Husain*) Yes. So far as the present Bill is concerned, we fully agree with it. We endorse it because it is in the interest of the Muslim community here. We think it has been drafted by some very competent people, so there is no need to be against it. But in the body of the Bill there are certain things which we would

like to suggest to be modified, if possible.

590. Yes. What are those suggestions? Could you quote the clause number, please? — Clause 7 (1) (c):

The *Majlis* shall consist of not more than five members to be appointed by the President of Singapore on the recommendation of the Minister;.

Now, so far as these people are concerned, we think they will be from the Government side on the recommendation of the Minister concerned. But in paragraph (d) we have got certain objections to the people who will be nominated by the President of the *Majlis*. What would be the position of these people? How will they be nominated? How will they be representing the whole Muslim sections in Singapore, because there are so many sections of Muslims here? We want all the people to be represented by these seven persons. Either the membership should be increased, or all the 12 persons be nominated or elected in order to give full representation to all the Muslims in Singapore. As for us, we are a very small minority of Pakistanis here. Is there any possibility of getting our representation on this body?

591. Well, that would be a matter for the *Majlis Ugama*, would it not, when it comes into operation as to how they set about this business? — We do not know how this thing is going to take place.

* Appendix II, p. B27.

592. You are suggesting that the number "seven" should be increased to some other number? — Yes. So that all the Muslim sections of Singapore should get representation there.

593. Are you satisfied with the number on the *Majlis*? — In my opinion, I think all the 12 members should be taken from the Muslim sections of Singapore.

594. You are suggesting that clause 7 (1) (c) should be altered then? — I think so.

595. Are you suggesting that clause 7 (1) (c) be deleted and that clause 7 (1) (d) be "not less than twelve members to be appointed"? — Because there is no need for the Government people to represent the Muslims. This will be a religious body. It should have full representation from the Muslims of Singapore. Instead of having five members nominated by the Minister, why not we have 12, or more than that, giving full representation to all the Muslims in Singapore?

596. Very well. I think the point is understood. Any other matters? — Clause 33 (1):

'33. - (1) Subject to the provision of this section the *Majlis* and the Legal Committee in issuing any ruling shall ordinarily follow the tenets of the *Shafi'i* school of law.'

Now, the *Shafi'i* school of law is just one of the Muslim schools of law. There are three others, like *Hanafi*, *Maliki*, and *Hanbali*. The North Indian Muslims and Pakistanis, they are all *Hanafis*. Why should only the *Shafi'i* school of law be applicable to all the Muslims here? There are so many other sections here as well. This Legal Committee

should have somebody to give rulings on other schools of thought as well.

597. So your suggestion then is that the various schools of thought should be applied to the followers of those schools of thought. — That is your suggestion? — Yes. Or the people of the various schools of thought should get a ruling according to their school of thought.

598. What about sub-clause (2)*? — I have seen that sub-clause (2). What would be the procedure of this Legal Committee, because the *Mufti* will be a *shafi'i* from the *shafi'i* school of thought? Who is going to give a ruling for the other schools of thought, like *Hanafi*, *Hanbali*, and *Maliki*? There are quite a number of *Hanafis* here. Most of the Pakistanis, about 100 per cent, are *Hanafis*.

599. Mr. Husain, are you suggesting that an expert in the *Shafi'i* school of thought would not be competent to express an opinion on the *Hanafi* school of thought? I do not know? — He need not be well versed in the *Hanafi* school of law.

600. He could be, but he need not? — Yes. Because in regard to our marriages and all our laws rulings are given by the *Hanafi Mufti* here which we have got at present. There should be something to safeguard the rights of the *Hanafi* people, because there are certain minor differences. But there are in marriages, divorces and other matters, and they should be given rulings to by some *Hanafi Kathi*. So we must have some representation on this Legal Committee by a *Hanafi Kathi* or by somebody who should look after the interest of the *Hanafis* too.

*Clause 33 (2) reads as follows: -

'In any case where the ruling or opinion of the *Majlis* or the Legal Committee is requested in relation to the tenets of a particular school of Muslim law the *Majlis* or the Legal Committee shall give its ruling or opinion in accordance with the tenets of that particular school of Muslim law.'

601. So your suggestion then, Mr. Husain, is that the Legal Committee should be so composed that it would be competent to give rulings on the *Shafi'i* school of thought, the *Hanafi* school of thought, the *Sunni* school of thought and the other schools of thought. That is your point? — Yes, Sir.

602. Very well. Any other point? — One more, on clause 37 (2):

'All documents and written proceedings may be written or, typewritten in the national language (*Jawi* or *Rumi* script).'

The Malay language is going to be the official language. I do not know when it will be in this place, but it will take some time. Our present generation is not very well versed in this language. So I think the documents should be in Malay as well as in English too, so that we can understand them.

Attorney-General] It just says "may". It does not say "must".

Chairman] If you look at clause 37 (1), Mr. Husain:

'The languages of the Court shall be the national language and English.'

Then, "All documents and written proceedings may be written or typewritten in the national language"; that does not exclude English, and reading it in conjunction with clause 37 (1) —

Attorney-General] English is an official language.

Chairman

603. You see, Mr. Husain, under the Constitution, English is an official language. It is the administrative language also? — What is the need then to put down this clause here and say that the documents and written proceedings would be just in the —

604. I think it may be permissive to allow it to be in either *Jawi* or *Rumi*? — (*Attorney-General*) If there is not such a clause, everything must be in English. (*Mr. Husain*) So both the

languages will be used, English as well as Malay?

605. I think that is all right. If you fear that sub-clause (2) is going to exclude English, I do not think that fear is justified? — (*Attorney-General*) All the forms are in English and Malay. (*Mr. Husain*) But it says all documents will be in the Malay language. (*Attorney-General*) It says "may", not "must". (*Mr. Husain*) All right, sorry.

606. Anything else? — On clause 52 (3):

'A woman who has been divorced and who is not or has ceased to be entitled to an order for maintenance under subsection (2) of this section may apply to the Court and the Court may, if satisfied that it is just and proper so to do in view of all the circumstances of the case, make an order against the former husband for the payment by him of such sums for such period as the Court considers fit.' Now, according to the Koranic law, there are certain specifications about this maintenance that a woman after divorce is entitled to get only after a period of *iddah* (the period of mourning). How is it that they are going to allow her to claim this maintenance up to any desired time she goes on asking for it?

607. You think clause 52 (3) should be suitably amended? — Yes, according to Koranic law, up to *iddah* time only. Otherwise it will go on —

608. The point has been raised before, too. It has been taken up? — Sorry, I did not know about it. Then on clause 71 (1):

'The *Majlis* shall have power to collect *zakat* and *fitrah* payable in Singapore in accordance with the Muslim law.'

Now, this *zakat* is definitely an income tax on Muslims in an Islamic State, so the Government should not have power to realise it; and if they have the power to realise it, then they should exempt Muslims from paying income tax to them or equal deductions therefrom. Because this is an income tax and

the Government can have power only under those circumstances when they should exempt Muslims from paying income tax. *Fitrah* is optional. It is not compulsory. But *zakat* is an obligatory matter and can be taken by force or under the law only in a Muslim State where the citizens do not have to pay income tax.

609. Is the payment of *zakat* not limited to certain types of property? — Yes. But any Muslim who has got \$40 is liable to pay \$1 towards *zakat*, that means 2½ per cent. So I raise the objection that the Government should not have the power to realise this *zakat*, and if they want to take it by force or under the law, then they should exempt Muslims from paying income tax or equal deductions therefrom, because in an Islamic State, this is income tax on the Muslims.

610. *Zakat* is a form of income tax, in your view? — Yes, definitely. *Fitrah* is an optional matter.

611. Therefore, you feel that if *zakat* is collected under clause 71, then some compensation should ensue under the Income Tax Ordinance to provide relief? — Why should we pay double tax?

Tuan Haji Yaacob

612. I wish to ask the witness, does it mean that by paying income tax, a Muslim is absolved from having to pay *zakat*? — So far as the Muslim community is concerned, a Muslim is governed by Muslim law, according to the *Koran* whether he is living in a non-Muslim State or a Muslim State; but if he is paying *zakat*, then he should not pay any other taxes in the form of income tax.

613. I have read *afetua* issued by the Azhar University that *zakat* is a different matter from income tax. It does not mean that if a Muslim pays *zakat*, he is exempted from paying

income tax. Because *zakat* is from capital, whereas income tax is from income? — *Zakat* is also from income, because if you have property worth a million dollars and it is not meant for business purposes, you are exempted from paying any *zakat* on that, according to Muslim law. You should pay *zakat* only on those goods from which you get profit.

Chairman

614. I think the point, Mr. Husain, is this. Is not *zakat* nearer to capital tax than income tax? — No. It is nearer to income tax.

615. If you have merchandise, and whether you have sold it or not, you have to pay *zakat* on it. Right? — No, no.

616. You do not have to, is it? — Nothing to do with that.

617. Supposing you have a hundred thousand dollars worth of goods in your store and you do not want to sell them, do you have to pay *zakat* on them? — No.

618. I see. So when do you pay *zakat* on that merchandise? — Every year, on whatever goods you have got, and they might be required to have some sort of accounts and pay according to that. 2½ per cent on the value of your goods, or cash which you have earned during the past one year.

619. Which you have earned? — Yes.

620. I see. In effect, it is an income tax? — (*Attorney-General*) The witness is not correct.

621. The point you are making, Mr. Husain, is that if a person is called upon to pay *zakat*, you are suggesting that he should find corresponding relief under the Income Tax Ordinance? — (*Mr. Husain*) Yes.

622. Any other point? — I think I have one more. It is the same thing here, clause 71 (2):

'On the publication in *the Gazette* of the resolution referred to in subsection (1) of this section and subject to the provisions of the Muslim law, it shall be obligatory on all Muslims in Singapore to pay *zakat* and *fitrah* in accordance with the provisions of this Act'

This clarifies that it is going to be obligatory. So that when it becomes obligatory - because I think it is my opinion that not even ten per cent Muslims are paying *zakat* - then everybody will have to pay. So we must get exemption from paying income tax.

623. Yes? — Another point is on clause 132 (2) which reads:

'Whoever ill-treats his wife shall be *guilty* of an offence and shall be liable on conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.'

The word "ill-treatment" is a very wide and vague term. It should be defined because, according to the *Koran*, if a woman is not giving satisfaction to her husband, he should chastise her. He can put her case to arbitration and then can beat her even. And even then if she is not going to live in accordance with his wishes, he should separate from her and let her go with respect and honour. How are we to define this term? Supposing my wife goes tomorrow to Court and says, "My husband is ill-treating me," and the Court takes her evidence to be correct and puts me in gaol for six months or fines me \$500, that is not justified and not according to the *Koran*. "Ill-treatment" should be specifically explained, because, according to the *Koran*, there is no such thing. "Ill-treatment" must be defined very clearly and specifically, because our society is such that we still do not have these things, as a woman can go to Court and straightaway take divorce proceedings or sue the husband. These

things are not very clear to me. What does "ill-treatment" mean?

624. So you are saying that the Select Committee should take a second look at this clause? — Yes, they must clarify it, otherwise the womenfolk will get the upper hand -

625. You do not think it is a good thing? — Yes, we might get into trouble.

626. Is there any other point? — Clause 138 (1) reads:

'No person, who is not ordinarily resident in Singapore or Malaysia, shall give any lecture or talk dealing with the Muslim religion at any place to which the public or a class of the public have access, unless he has obtained the written permission of the *Majlis*.'

This will greatly hinder the preaching and publicity of Islam, because Islam is not politics or anything as such. It is simply a religion of the Muslims. Sometimes we get people from abroad who come and give lectures here. If we have to go through these formalities, a lot of inconvenience will be caused to people who have to get permission from the *Majlis*. So this clause should not be in, because it is meant for political activities. There should be no hindrance to Muslim lecturers coming here, but they should not talk on politics. Up to now, there is no such hindrance against any other religion. Why should this be for the Muslims alone, that no religious talks can be given without the permission of the *Majlis*?

627. So you are suggesting that this is discrimination against the Muslims? — Yes.

628. The point is understood? — It should be eliminated.

629. Any other point? — The last one - clause 92 (4) which reads:

'No marriage shall be solemnized under this Act if at the date of the marriage either party is under the age of fifteen years.'

MINUTES OF EVIDENCE

177

20 APRIL 1966

178

I think this is not correct, because Islam says that after reaching the age of puberty, a girl can be married. It comes even at 12, 13 or 14 years.

630. I believe there are certain laws now in Pakistan, the United Arab Republic, Algeria — ? — We are local Pakistanis here.

Inche Othman Wok] But there is a proviso there.

Chairman

631. There is a proviso to this which reads:

'Provided that a Kathi may in special circumstances solemnize the marriage of a girl

who is under the age of fifteen years but has attained the age of puberty.'

So there is a saving clause to it? —
On the same page, Sir?

632. On the next page. I do not know whether it is the next page on your copy of the Bill? — "Provided that a *Kathi* may in special circumstances solemnize the marriage of a girl who is under the age of fifteen years but has attained the age of puberty."

633. Is that all right? — Yes.

634. Thank you very much, gentlemen, for having come to assist the Committee. Good afternoon? — Thank you.

(The witnesses withdrew.)

Mr. Kader Jamal Mohamed, 168 Anson Road, Singapore, 2, was examined.

Chairman

635. Please sit down. Could you give your full name and address for the record? — (*Mr. Kader Jamal Mohamed*) My name is Kader Jamal Mohamed and my address is 168 Anson Road.

636. We have your representation* sent to us on 30th March. We have studied it. I propose to ask you a few questions just to clear one or two points, and then possibly the other Members of the Select Committee may or may not want to ask you questions. The first point you are making on the Bill - that is on page 2 of your representation - is that if religious tithes and *zakat* are collected under this Bill, then there should be corresponding relief from income tax. I think the point is understood? — Yes.

637. This point has also been made by other representors. On page 3, you say:

'... the most important matter is the establishment and proper constitution of the *Majlis*. My representation shall therefore be confined to this part of the bill.'

Shall we look at clause 7 then? Do you agree with clause 7 (1) (a), Mr. Kader? — Yes.

638. That "a President to be appointed by the President of Singapore". You accept that? — Yes.

639. Paragraph 7 (1) (b) reads, "The *Majlis* shall consist of the *Mufti*,". And now we will look at clause 30 which reads:

'(I) The President of Singapore may, after consultation with the *Majlis*, appoint a fit and proper person to be *Mufti* of Singapore. Such appointment shall be notified in the *Gazette*.

(2) The *Mufti* shall be *ex-officio* a member of the *Majlis*.'

You are suggesting that the President still appoints on the recommendation of the Public Service Commission after this has been advertised not only in Singapore but outside Singapore? — No, that is not exactly what I mean. What I mean to say is that the *Mufti* should head the *Majlis*.

640. We will come to that later on. The question is, how is the *Mufti* to be appointed? Let us deal with that first. Under the Bill, he will be appointed by the President after consultation with the *Majlis*. Do you accept that? — No, that is why I am suggesting that the *Mufti*, by virtue of his knowledge of Islamic law and jurisprudence, should be a man who can give a *fatua*.

641. Yes, I do not think anybody will object to that? — Therefore, in case we cannot get a suitable man in Singapore, that post could be advertised outside Singapore.

Chairman] Is that not a matter of procedure really?

Attorney-General] That would result. Every Government servant

Chairman

642. Yes, every Government servant is appointed on the recommendation of the Public Service Commission? — I may be wrong there. As I have said, my knowledge of these things —

643. Supposing we tell you that under clause 30, the procedure would be for the Public Service Commission and the *Majlis* to look into the matter and recommend to the president? — Yes. But why I said it was that it is stated here - on the advice of the *Majlis*.

* Appendix II, pp. B32-39.

644. It does not say "advice" - it says "after consultation"? — "after consultation" - yes. Presumably, they would advise.

645. Oh yes, "after consultation". It means that the President must consult the *Majlis* and the Public Service Commission, and then he appoints? — Being a layman, I was unaware of the fact that the Public Service Commission would come in.

646. They do come in? — In that case, —

647. You are quite happy about it? — Yes.

648. The other point you make is that the status of the *Mufti* is not being looked after under the Bill. That is another point you make, that the *Mufti*, being such a learned man, should not be under the President. Is that the point you are making? — Yes. Actually we are trying to assist the administration of Muslim law. When we appoint a *Mufti*, normally he should be a person who is authoritative, by virtue of his knowledge, his learning, to give *afetua* and therefore he ought to head the *Majlis*.

649. So you think the *Mufti* should be the Chairman of the *Majlis*? — Yes.

650. So you really do not agree with clause 7 (1) (a) then? — If the President can be the *Mufti*, then I have no objection.

651. You are suggesting that the *Mufti* should be the Chairman and he should be appointed under clause 30? — Yes.

652. Other than that, have you any comments on clause 7? We should straightaway inform you that clause 9 (d) is a drafting error and that will go out. I think that will resolve some of your troubles. So that under clause 7

(1) (c), the five members to be appointed by the President of Singapore on the recommendation of the Minister need not be Members of Parliament. On that basis, would clause 7 (1) (d) be acceptable to you? — Yes.

653. The other point you are making is about the *Shafi'i* school of law, that there should be scope in the Bill to see that the other schools of law will also be looked after, and the needs of those following those schools of law should also be looked after. That is the point you are making? — Yes, there is something more actually. For the Muslims, the schools of law are not distinct in the sense that they are not water-tight. I can say that there is no formality whatsoever for a person to change from one school to the other. And, therefore, there is no point in limiting the Bill to one school of law.

654. But supposing a Muslim is a follower of the *Shafi'i* school of law and some matter arises which concerns him, then what should the law applicable to him be? It will be the *Shafi'i* school of law, will it not? — I have suggested that in a legal contest the defendant be given the choice of choosing the school. If there is a case in the *Shariah* Court, for instance, involving a point of law or a different school, and the plaintiff belongs to the *Shafi'i* school and the defendant belongs to the *Hanafi* school, the defendant should be given a choice of being tried under the *Hanafi* tenets.

Attorney-General] He is not given a choice, but if he belongs to the *Hanafi* school, it is the *Hanafi* law.

Chairman

655. That will be covered by clause 33. Are you worried about clause 33 (1)? I think you have commented on clause 33 (1) which reads:

' Subject to the provisions of this section the *Majlis* and the Legal Committee in issuing any ruling shall ordinarily follow the tenets of the *Shafi'i* school of law:'.
 You will notice that it says "shall ordinarily follow". The operative words there are "ordinarily follow". Sub-clause (2) reads:

'In any case where the ruling or opinion of the *Majlis* or the Legal Committee is requested in relation to the tenets of a particular school of Muslim law the *Majlis* or the Legal Committee shall give its ruling or opinion in accordance with the tenets of that particular school of Muslim law:'.
 Does that not solve your problem? — It is actually the first part of clause 33. The *Shafi'i* school is mentioned in particular - that is the operative clause. That is the impression I get.

656. No, no. You see, "Subject to the provisions of this section ..." takes in subsection (2). The Legal Committee may only issue a ruling under the *Shafi'i* school of law if sub-clause (2) is excluded? - Yes, but in my submission I also made reference to clause 35 (3).

Chairman] Clause 35 (3) deals with something else, does it not?

Inche Othman Wok] It deals with betrothals, marriages, etc. in Malay custom.

Chairman

657. Could we deal with this first, otherwise we will be in danger of getting confused? Now, clause 33 does not exclude any other school of law, because clause 33 (1) is subject to clause 33 (2). So if your fear is that *a fetua must be* issued against a person following the tenets of the *Hanafi* school of law based on the *Shafi'i* school of law, then I think your fears are not well grounded? — No. You see, actually the question that arises in my mind is one to which I seek an answer. Why should the *Shafi'i* school be mentioned at all? (*Attorney-General*) Because the majority of the

Muslims are *Shafi'i's*. (*Mr. Kader*) Yes. But in Egypt, for instance, the majority of the people there are *Shafi'i's*, but the operative law is *Hanafi*. (*Attorney-General*) Because it is the Government. Actually over there the *Hanafis* are almost as many. (*Mr. Kader*) If I can digress. If you go for a *Haj* pilgrimage, according to the *Shafi'i* law, if a man touches a woman, the ritual of ablution is lost. But according to the *Hanafi* law, it is not (*Attorney-General*) But the *Shafi'i* can follow for this purpose the *Hanafi* ruling by *taqlid*. (*Mr. Kader*) My point is, I believe that the schools are not watertight as such.

658. What is your fear? I have not properly understood your fear. And if we cannot understand it, we cannot provide you with an answer. What is your worry over this? — Personally I am a *Shafi'i*. There are certain laws. For instance, I have quoted here that even in the case of *fasakh*, the *Shafi'i* is the only school which allows that a woman can resort to *fasakh* where the husband fails to provide. And he is discriminated against in the sense that she can accumulate the maintenance sum, which no other school does. But, at the same time, the other point - well, I have lost the point there.

659. You mean the other schools do not carry that privilege, shall I say, for a married woman? — No. At the same time, there is another point. For instance, a *wali* which a subsequent clause deals with. According to *Hanafi* law, a woman need not have a *wali*, or a guardian. A person who has reached puberty need not have a guardian. She can marry of her own free will.

660. But if that were so, and I dare say it is so, then all these things would be looked after by clause 33 (2), would it not? If *a fetua* was called for in respect of a woman professing the *Hanafi* faith and following the *Hanafi* tenets, then she would want the *fetua* to come under clause 32 (2), would she not?

— (Attorney-General) The *Shariah* Court is applying the *Hanafi* law in many instances. (Mr. Kader) But ordinarily we would not need a *fetua*, would we? (Attorney-General) No, it is because we have no *Mufti*. (Mr. Kader) No, even otherwise. Because the law has been there for 14 centuries and the law is more or less comprehensive. The law pertaining to this matter is almost comprehensive. And, therefore, we would not need a *fetua* for day-to-day affairs.

661. Yes, I expect so. It is only where the schools are silent or its construction may be difficult that a *fetua* is necessary? — Yes.

662. But the point we are trying to get across to you, Mr. Kader, is that merely because the *Shafi'i* school is mentioned in subsection (1), it does not necessarily follow that the tenets of the other schools of law are going to be or trampled on. That is the point? — I would hope so.

663. That is well provided for in clause 33 (2). Mr. Attorney-General, I hope I am not overstating? — (Attorney-General) Correct. (Mr. Kader) You see, our public being what it is, is it necessary to emphasise the *Shafi'i* law? (Attorney-General) Otherwise you cannot get a *fetua*. If you mention the *Hanafis*, then you will have the same objection. You must mention a school of law for a *fetua*. (Mr. Kader) Yes. But clause 2 does not mention any school at all, and that is the one that is going — . (Attorney-General) Clause 2 depends on the parties. If a *Hanafi* asks for it, we go according to the *Hanafi* law. If a *Maliki* asks for it, we go according to the *Maliki* law. (Mr. Kader) I mean this Bill ordinarily should also apply to other sects, and if there is what you call the orthodox and the heterodox — (Attorney-General) There are no sects in Islam. There are schools of law. (Mr. Kader) Like, for instance, *Sunni* and *Shiah*. (Attorney-

General) Yes, *Shiah*. They would come under sub-clause (2), if you want a *fetua* under the *Shiah* school of law. (Mr. Kader) I am not speaking about *fetuas* actually. I am speaking about matters — (Attorney-General) For example, if a case goes to the *Shariah* Court, the President would try to apply the *Shiah* law.

Chairman] I take it, Mr. Attorney-General, that the litigant himself can ask the President that he wishes to be governed by the *Hanafi* school of law?

Attorney-General] Yes, that is so.

Chairman] And if he so expresses his desire, he will do so. And if the *Shariah* Court can pronounce straightaway, they will pronounce; if they cannot, then they will ask the *Majlis* to pronounce.

Attorney-General] Actually we have a special *Hanafi Kathi*; we have no *Shiah Kathis*. The *Shiahs*, for purposes of marriage, follow the *Hanafis*. They are prepared to follow the *Hanafis*.

Chairman

664. So if your fears are that the various tenets might not be looked after properly as they should be, Mr. Kader, I think those fears are baseless because clause 33 looks after all of them. Now, the other point you are trying to make, Mr. Kader, was in connection with — I thought you were saying something about Malay customs? — (Mr. Kader) Yes. Clause 35 (3).

665. I think the point you are trying to make is: if Malay custom is in conflict with Muslim law, is it not? — No.

666. I do not quite follow the point? — Personally, I do not know much about Malay customs, as such, bearing on Islamic law. Muslim jurisprudence gives local customs the weight of law when a custom has been pretty old and

so on, and certain things like that. If a Malay custom comes up to that requirement, then it gets the weight of law. (*Attorney-General*) Yes, that is what the Bill says. (*Mr. Kader*) But my point is that it should not be to the disadvantage of the woman.

667. I am told that according to Malay custom, a Malay woman is well treated. Is that not so - the Malay 'adat' is more favourable to a Malay woman than most other 'adats'? — That is right.

Chairman] So if you are afraid that the introduction of the phrase "Malay custom" is going to work to the detriment of a Muslim woman, there again I think your fears are not grounded properly. Mr. Attorney-General, have I stated it correctly? These are difficult abstruse matters on which I would rather not overstate.

Attorney-General] Yes.

Chairman

668. We had three Muslim ladies here who seemed to think that it is all right. That, I think, covers all your representations, does it not? — Yes.

669. Is there any other point that is troubling you? - Yes, actually there is one point that is a bit of a bother.

670. Perhaps if you mention it, Mr. Attorney-General might be able to resolve it for you? - Yes. It is clause 134.

Attorney-General] "Permission to leave Singapore."

Chairman

671. We will look into this matter. As it stands now, you think it might operate unfairly? — No.

672. So you think it is a good thing? — Yes.

673. Well, other representors have said that possibly the scope is too wide? — No. Could I add?

674. Yes? - All I want is something else to be added. From my own experience, there have been people with many children. For instance, there was a man who has 10 children. He absconded. The 10 children are stranded. I do not know whether they are starving, but probably the Social Welfare Department will come to their aid. There is another case of a man who has 2 or 3 children. He may be a citizen of Singapore, but he is leaving today, and may not come back. And I know of another person who has left. He took the money and he just left. He has got children between the ages of 4 and 14. They are all stranded. What I mean to say is that this clause should bring in people who are citizens - even citizens should be treated like non-citizens - who have got families outside Singapore, i.e. in their countries of origin. It is only fair. These people come here to live. They marry, they procreate, they leave their children, and they abscond.

Attorney-General] Mr. Kader's point is that the words "who is not a citizen of Singapore" should be removed.

Chairman

675. So you are suggesting "any man"? - Any man who has a wife outside the Republic.

676. You see, if you include the words, "any citizen of Singapore", it is going to be very difficult, is it not? He might want to go out on business? — Yes. But, you see, as for income tax, there is a law which says that if a man goes without getting clearance, the employer is liable.

677. There you can always get hold of the poor employer. Whom are you going to get hold of here? — The employer.

Inche Othman Wok

678. If he is his own employer?
— Then we can get him to pay into a fund similar to the Central Provident Fund for the benefit of his local children.

Chairman

679. Are you suggesting then, Mr. Kader, that it should include a citizen of Singapore who is leaving for London on state business? — No, no. What I mean is a man who has a wife outside, i.e. in his country of origin.

680. But if he is a citizen of Singapore? — Yes.

681. How are you going to ascertain all these things, whether he has a wife outside, or a wife inside? Are they not difficult administrative matters? And how do we know that a citizen of Singapore is married in Pakistan, India, New York, or Delhi? — I believe if you refer to the Central Provident Fund entry, it is all given there.

682. About his wife all over the place? — No. Where a person has a wife, her name and how many children he has got.

683. Anyway, the Select Committee will look into the problem of clause 134. The fact that it is in shows that the problem is there and the question is — ? — It is a serious problem in every case that I know. These are cases which even today are happening.

684. Very well then. Any other matter, Mr. Kader? — Clause 131*.

685. Yes? — As I have mentioned earlier, a *Hanafi* woman need not have a *wali*. And would the male

who marries her be penalised under this clause?

686. You say a *Hanafi* woman, a woman following the *Hanafi* tenets, on reaching the age of puberty, does not have a *wali*? — Need not.

687. Need not. But could she have a *wali*? — That is what I said. I mean, like having somebody to give her away.

Chairman] I do not know. A *Hanafi* Muslim lady —

Attorney-General] A *Hanafi* woman who has reached the age of puberty does not need a *wali*.

Chairman] Supposing she has a father living, what then?

Attorney-General] The father is the *wali*.

Chairman] I think although the law says she need not have a *wali*. —

Attorney-General] She need not get consent, but she has a *wali*.

Chairman

688. This clause merely says that if a woman who is a *Hanafi* and who has attained puberty is staying with her father, and if somebody entices her, he has had it. That is what it says? — Exactly.

689. And the fact that she is a *Hanafi* and need not have a *wali*, I think, is not material? — It should be. (*Attorney-General*) That is what the law says. (*Mr. Kader*) The intention should be taken into account. If the man really wants to marry her, it should be all right.

* Clause 131 reads as follows:

'Any person who takes or entices any unmarried woman out of the keeping of the *wali* of such unmarried woman without the consent of such *wali*, shall be guilty of an offence and shall be punished on conviction with imprisonment for a term not exceeding three years and shall also be liable to a fine.'

690. That is another matter. That is a matter for the family to decide. But the intention of this clause is that any woman in the keeping of a *wali* should not be enticed and taken away. But after the enticement, whether they want to get married or not, is entirely their matter? - Now my first query about the *Shaffi* law, that comes in now.

691. How does that come in? — Because a *Hanafi* woman does not need a *wali*, but you are applying *Shafi'i* law to her. (*Attorney-General*) The *Hanafi* law is that you do not need the consent of the *wali* for the marriage. But if she still has a *wali* and suppose she marries a man who is below her social standing, then the *wali* can have the marriage annulled, according to *Hanafi* law. (*Mr. Kader*) Yes, according to Bukhari: "The father has no greater right than another to give in marriage without the consent —".

692. Just a minute. Let us not get involved in marriages. Let us stick to clause 131. If we get involved in marriages, we will be here for a long time. Clause 131 merely talks about enticing out of the keeping of the *wali*. Now, a *Hanafi* woman need not have a *wali* on the attainment of puberty. But that does not mean to say that she could not have a *wali*. All this clause says is that if she has a *wali* and somebody takes her out of the keeping of the *wali*, then he is prosecuted. That is all the clause says? — As you said earlier, you put it in the correct form at first. You said that if a *Hanafi* woman goes out against the *wali*, then she has had it and the man who accompanies her has had it.

Chairman] It has nothing to do with the woman. A person who takes her out or entices her shall be guilty, so far as clause 131 is concerned. She may go with him willingly. But if he takes her out without the consent of the *wali*, he has had it. She is not prosecuted, at

least under clause 131, anyway. Am I right, Mr. Attorney-General?

Attorney-General] Yes.

Chairman

693. But if there are cases where a *Hanafi* woman who has attained puberty has no *wali* at the time of the indictment, Mr. Kader, it may be a good defence to clause 131. Do you follow what I mean? — Yes. But it is not obligatory to have a *wali* for a *Hanafi* woman.

Attorney-General] I think the witness is mistaken. A *Hanafi* woman always has a *wali*. But she does not need the consent of the *wali*. It is a different thing.

Chairman

694. That is right. Every Muslim woman has a *wali*. According to a certain school of thought, a *Hanafi* woman need not get the consent of a *wali* before marriage. But in the other schools of thought she has to get the consent before marriage. But the mere fact that there are differences in the obtaining of consent does not mean that the *wali* does not exist. The *wali* is there all the time? — Until how old?

695. 15? — Up till 15.

Attorney-General] For a *Shafi'i*, always.

Chairman

696. Always? — What was said just now is covered by clause 91 (3):

'Where there is no *wali* of the woman to be wedded or where a *wali* shall, on grounds which ... and so on.

697. Do not confuse with this clause. Clause 91 deals with marriage and consent. Clause 131 deals with enticement. They are two separate matters. Do not confuse the ideas set out in clause 91 with the ideas set out in clause 131.

When you mix the two, you get into trouble? — In my mind, it is not confusion. What I mean is this: The provision of a *wali* is given under clause 91 (3); and if there is no *wali* what to do. Here we are concerned with a person belonging to the *Hanafi* school, for instance.

698. Yes? — If he to use this word here - entices, he has had it.

699. Will you say that again? — A man belonging to the *Hanafi* school or professes to follow the *Hanafi* school, if he takes a girl from what we call this *wali* — she need not have a *wali* because she has come of age. And, therefore, she is not obliged to have a *wali*.

700. Therefore, what follows? — The man has had it, under clause 131.

701. Yes, that is what I am saying? — Yes. But that is what I say. It should be prevented.

Inche Othman Wok

702. That means, no action should be taken against the man? — Yes.

Chairman

703. Why? — Because, in fact, he is not transgressing the Muslim law.

704. You mean that under the Muslim law a Muslim could take out a *Hanafi* girl who has attained puberty and get away with it? Is that what you are saying? — Yes.

Chairman] I do not know. Is that correct, Mr. Attorney-General?

Attorney-General] It is against the decision of the High Court in Singapore.

705. I do not think so. What is your worry, Mr. Kader? — The Attorney-General said there is a decision in the Singapore High Court.

706. What is that you want protected or prevented? Are you suggesting that clause 131 goes too far? — Yes.

707. You think clause 131 should not be there? — (*Attorney-General*) It only applies to *Shafi'i*s. (*Mr. Kader*) It should only apply in instances where a man entices a woman for improper purposes.

Chairman] I see.

Inche Othman Wok

708. If he entices her with good intentions? - **Good intentions** - he should be allowed to marry her.

Chairman

709. That makes it too easy, does it not? This is the problem, Mr. Kader. I have a daughter. Say somebody wants to marry her. I am not consenting. So all the man does is that he takes her away from my custody and then he marries her. Simple, is it not? — What do you mean by "takes her away"?

710. She runs after him. Is that a good thing from the social point of view? — I mean in certain instances, it is

711. I do not know. It is a matter of opinion. As a father, I would object. I think up to a certain age I would like to give my consent for my daughter's marriage. I may be old-fashioned. But that is how it is? — Now, clause 56 (7).

712. Now you are running all over the Bill all over again. If you go on like this indefinitely - what is it now? — Clause 56. It is about the decision of the Appeal Board.

MINUTES OF EVIDENCE

195

20 APRIL 1966

196

713. It says: "The decision of the Appeal Board shall be final."? — Yes. Can we give it the same weight as section 43 of the Industrial Relations Ordinance where a decision of the Arbitration Court cannot be questioned or challenged in any Court? Why I say this is that there can arise instances where, out of vindictiveness, cases could be prolonged. After the *Shariah* Court, I would think that there is nothing to stop a party from going to a civil court.

714. What is your suggestion? You want the decision of the Appeal Board not to be final? — To be final, and not to be challenged in any court.

715. Well, the Select Committee will consider your representation on that. Is there any other suggestion? — No.

716. Nothing more? Thank you very much? — Thank you.

(The witness withdrew.)

MINUTES OF EVIDENCE

FRIDAY, 22ND APRIL, 1966

PRESENT:

Mr. SPEAKER (*in the Chair*)

Inche Buang bin Omar Junid.
Inche Mohd. Ariff bin Suradi.
Inche Othman bin Wok.

Inche Rahamat bin Kenap.
Tuan Haji Yaacob bin Mohamed.

ABSENT:

Inche A. Rahim Ishak (on leave).

Inche Mahmud Awang.

The Attorney-General (Inche Ahmad bin Ibrahim) and the President of the Shariah Court (Tuan Haji Mohamed Sanusi) were in attendance.

Inche Ismail bin Alang (Simultaneous Interpreter of Parliament) and Inche Osman Gani (part-time Simultaneous Interpreter of Parliament) assisted in the interpretation.

Inche A. Abdul Rahman Jamaluddin Al-Jempoly, of No. 39 Lengkong Tiga, Singapore, 14, was examined.

197

22 APRIL 1966

198

Chairman

717. Good afternoon. Could you please give us your name and address for the record? — (*Inche A. Abdul Rahman Jamaluddin Al-Jempoly*) My name is A. Abdul Rahman Jamaluddin Al-Jempoly of 39, Lengkong Tiga, Singapore, 14.

718. We have received your representation* dated 5th of April, 1966. Certain parts of your representation have been deleted on the basis that they are not relevant. We will now deal with your first representation on clause 71 † of the Bill which deals with the collection of *zakat* and *fitrah*. You have expressed the view that this cannot be brought

*Appendix II, pp. B44 - 6.

† Clause 71 reads as follows:

71.-(1)The *Majlis* shall have power to collect *zakat* and *fitrah* payable in Singapore in accordance with the Muslim law:

Provided that such power shall not be exercised by the *Majlis* until a resolution to that effect has been passed by the *Majlis* and approved by the President of Singapore.

(2) On the publication in the *Gazette* of the resolution referred to in subsection (1) of this section and subject to the provisions of the Muslim law, it shall be obligatory on all Muslims in Singapore to pay *zakat* and *fitrah* in accordance with the provisions of this Act.

(3)Subject to the provisions of this Act any *zakat* or *fitrah* collected may be disposed of by the *Majlis* in accordance with the Muslim law.'. .

into being in Singapore. But I understand that *zakat* and *fitrah* are now being collected in Singapore and that at the moment, several persons are collecting *zakat* and *fitrah*. One of the purposes of the Bill is to centralise the collection of *zakat* and to improve the collection and distribution of these two items. In view of this, do you have anything further to say on clause 71? — Yes, Sir. Singapore is an independent country. Therefore, the people should be looked after on an equal basis. With the collection of *zakat* by virtue of this Bill, the Muslims of Singapore will be oppressed again and again, more than the non-Muslims.

719. For the reason that the Muslims will be called upon to pay income tax in addition to paying *zakat*? Is that the point? — Yes, I am about to embark on that point.

720. Let us get on to that quickly? — This country has already got income tax which affects all citizens. But where the Muslims are concerned, they are again being taxed by the collection of *zakat*. This means that the Muslims are being oppressed economically. After having paid income tax, there is no need to pay *zakat* again.

721. So the point you are making is that if income tax is collected — ? — If you take *zakat*, that means you are taking twice.

722. What about other Muslim countries? Do they not collect income tax and *zakat*? — Autocracy is another matter.

723. No, just answer the question. Are there people in other Muslim countries who pay income tax and also pay *zakat*? — They do not collect *zakat*.

724. The answer is "No" then? — In the Federation, there is aristocracy.

725. It may be "artistocracy", but they are still independent, are they not? — I must answer the question. In the Federation which is an independent country, have they got income tax? — Yes.

726. Do the Muslims then pay income tax? — Yes.

727. Do they pay *fitrah*? — Yes. Islam does not permit, but the Sultans ignore.

728. I think the point you are making, Mr. Al-Jempoly, is that it is not a question of whether it is democracy or autocracy or dictatorship. But you said an independent country. Well, Malaysia is independent? — Independent, but not democratic.

729. That is another matter surely. It may be a dictatorship. It may be a democracy. It may be an autocracy. It may be an oligarchy. It may be anything, but it is still an independent country? — But this country is a democracy.

730. So your representation is that any country that is democratic should not impose upon Muslims the collection of *zakat* and *fitrah* if they pay income tax. That is your representation, is it not? — Yes, but it is the responsibility of the Raja.

731. We are not talking about the Raja. We are talking about democracy? — I know that.

732. I think we have gone away from the Federation now? — My representation is that in a democratic country, Muslims who pay income tax should not be burdened with payment of *zakat* and *fitrah*.

733. That is correct. I think we understand that. Now we come to your second representation in connection with clause 92 which deals with "Restriction on solemnization of marriages"? — Yes.

734. And your representation on that is that this clause should be deleted, I take it, because it alters, what you say, the existing Muslim law? — Yes.

735. Could you please tell the Select Committee what in your opinion is contrary to Muslim law? — In Islamic law, God has bestowed power on fathers, grandfathers and relatives to solemnize the marriage of a female to any male who agrees irrespective of whether he is wedded already and has three wives and 100 slaves. The right of this guardianship or *wali* cannot be amended by anybody. Therefore, sub-clause (2) of clause 92 is in conflict with sub-clause (1). The existence of this clause means, in effect, that the *Majlis* and the Government have altered or amended Islamic law.

736. Are you saying that clause 92 (1) is in conflict with Islamic law? Shall we take it clause by clause? — Yes.

737. Are you aware of the contents of clause 92 (1)? — Yes. But why do you wash out these conditions?

738. *No.* We will take it clause by clause. I will put the clause to you and then you tell the Select Committee which portion of it is in conflict with Muslim law, Clause 92 (1) reads:

'No marriage shall be solemnized under this Act unless all the conditions necessary for the validity thereof, in accordance with the Muslim law and the provisions of this Act, are satisfied.'

It seems to me to be all right. Which portion of it conflicts with Muslim law? — Yes.

739. We now come to clause 92 (2). Can you tell the Select Committee where this is in conflict with Muslim law? — It is in this part — *"No marriage shall be solemnized under this Act if the man to be wedded is married ..."*.

740. I see. So what you are objecting to is that the Islamic law allows a person to marry how many times? — Four times.

741. And you think that sub-clause (2) puts a restriction on that Islamic right? — It changes the right.

742. And therefore you object to that clause. That is your representation? — Yes.

743. I think the Select Committee understand that. We go on to clause 98 (4) which reads:

'A kathi shall not register any divorce by three talak.'

And you say:

'This ought not to be brought into being.' In other words, you are suggesting that this clause be deleted? — Yes.

744. And your reason for it also is that it does not follow Islamic law? — Yes.

745. I think the Select Committee understand that. Can we go on to clause 99? You say:

'This ought not to be brought into being because it becomes an open door for bribery and corruption.'

That is correct, is it not? — Yes.

746. Can you explain to the Select Committee how, you think, this could happen under this clause? — Yes. Let us say a person wants to embark on a journey to Indonesia or any other country. He wishes to marry a girl, and he goes to a *Kathi* for the marriage to be solemnized. But when it comes to registration, the *Kathi* can say, "Wait for a week." If this man is keen to get on his way the following day, then the *Kathi* says, "If you can pay me \$15 I can advance the date of registration." This is a corrupt way.

Attorney-General] The witness is talking of an earlier version of the Bill. The present Bill says that it must be given at once.

Chairman] Perhaps we had better read this clause to him.

Attorney-General] Yes.

Chairman

747. Now, this is the present clause which is before the Select Committee. Clause 99 (I) reads as follows: -

'Where a marriage has been solemnised by a *Kathi* or *Naib Kathi*, the *Kathi* or *Naib Kathi* shall register such marriage by entering the particulars thereof in the register of marriages and also in the certificate of marriage attached to the Register.'

So it appears that registration should take place immediately after the marriage? — That is what I wish, Sir.

748. Fortunately, your wish coincides with the clause in the Bill as it stands. Possibly something went wrong in the translation? — I have referred to the Malay version of this Bill.

Tuan Haji Yaacob] I think the witness is slightly incorrect, because in the Malay version, it does say "must be within seven days".

Chairman

749. Which is not present in the English text? - Yes. I was reading the Malay version.

750. So could we go on to your next representation then, which is on clause 110*? — Yes.

Chairman] Clause 110 sets out a list of the authorities which could be consulted on matters relating to Muslim law.

Attorney-General] By the High Court and not by the *Shariah* Court.

Chairman

751. Do you understand that, Mr. Al-Jempoly? — Yes.

752. Now, in the *Shariah Court*, this clause does not apply, so that this — ? - Even though this would apply only to the High Court, yet these are matters for Muslims. And even if a person knows no English, he has a right to be judged in the High Court, where he is more conversant with Muslim law.

Attorney-General] The witness still does not quite see the position. This is not the Muslim Court at all.

Chairman] Yes. But before I can come to it, he keeps on running away with his evidence! I was going to explain to him that a great portion of the administration of this Bill will be entrusted to the *Shariah Court*. Mr.

*Clause 110 reads as follows:-

'110.- (1) In deciding questions of succession and inheritance in the Muslim law the court shall be at liberty to accept as proof of the Muslim law any definite statement on the Muslim law made in all or any of the following books:-

- (a) The English translation of the *Quran*, by A. Yusuf Ali or Marmaduke Pickthall;
- (b) *Mohammedan Law*, by Syed Ameer Ali;
- (c) *Minhaj et Talibin* by Nawawi, translated by E. C. Howard from the French translation of Van den Berg;
- (d) *Digest of Moohummudan Law*, by Niel B. E. Baillie;
- (e) *Anglo-Muhammadian Law*, by Sir Roland Knyvet Wilson, 6th Edition Revised by A. Yusuf Ali;
- (f) *Outlines of Muhammadan Law*, by A. A. Fyzee;
- (g) *Muhammadian Law*, by F. B. Tyabji.

(2) The Minister may on the advice of the *Majlis* by notification in the *Gazette* vary or add to the list of books set out in subsection (1) of this section.'

Attorney-General, stop me wherever I go wrong.

Attorney-General] Yes.

Chairman] The administration of this Muslim Bill will be entrusted to the *Shariah* Court, and the *Shariah* Court will administer Muslim law according to accepted practice. And naturally they will take into account what you have set out as your objection, Mr. Al-Jempoly - they will not "forsake the University of Azhar and Darul 'Ulum of Mecca". Now, sometimes an occasion may arise when it may be necessary to refer a matter concerning property to the High Court. What this clause says is that it enables the High Court to look at any of these books or all of them to come to certain conclusions on what Muslim law is [*Interruption by Witness*]. Wait a minute, let me finish; you will have your chance to speak afterwards, Mr. Al-Jempoly. But this clause does not prevent a learned gentleman from the University of Azhar from giving evidence to the High Court. Mr. Attorney-General, what is Darul 'Ulum?

Attorney-General] It is a school.

Tuan Haji Sanusi] In Mecca.

Chairman

753. And it will also not prevent anybody who has graduated from Darul 'Ulum of Mecca from appearing in the Court and giving his views on how the point should be decided according to Muslim law. So this is only a guide to the High Court as to the books it may look at, but it does not prevent the High Court from calling professors from the University of Azhar or any other institution of high Muslim learning. That is the position as I understand it? — Yes, I understand. But what I do not agree with is if -

754. Let us take it step by step, shall we? Can you speak slowly, sentence by sentence, so that we could

translate it for the record? — I appreciate that. That is why I object, because the Court will have the right to pass judgment by seeking guidance from any of these authorities which are acknowledged by the Bill. If there is anything in the books contrary to what is contained in other books, then the judgment will be challenged.

Chairman] All right. Let us then examine the books which you are objecting to. Now, the books set out here are the English translation of the *Quran* by A. Yusuf Ali or by Mr. Marmaduke Pickthall. That is purely a translation of the Koran. There are no comments on it - just a translation of the Koran in English. And the next one is "*Mohammedan Law*", by Syed Ameer Ali. He is also, I take it, a learned man - an *ulama*, is it?

Attorney-General] He is an Indian Muslim.

Chairman

755. Yes, he is also an Indian Muslim, acknowledged to be quite an authority on Muslim law. The third book is *Minhaj et Talibin* by Nawawi, which was originally written in Arabic and translated from the French translation into English by E. C. Howard. The next book is the *Digest of Moohum-mudan Law*, possibly by an Englishman. The next book is *Anglo-Muhammadan Law* by an Englishman but revised by a Muslim scholar, which means that the Muslim scholar has accepted what this gentleman has written. The next one is *Outlines of Muhammadan Law* by A. A. Fyzee, another Muslim learned man. The last book is *Muhammadan Law* by F. B. Tyabji. All these books are either by Muslims or translated from the original, the original translated into English. There are only two books which I think were written by English gentlemen. In view of this, Mr. Al-Jempoly, do you still hold violent objection to this clause? — I still

oppose, Sir, because I do not want the authorities to be set out so that the court must refer only to these books.

756. This clause does not prevent them from doing it. It would not prevent the High Court from looking at any authority either in Arabic or any other language on which anything on Muslim law is written? — Although that is so, yet these authorities are set out and that might result in disputes in the future.

Chairman] Very well. Any questions, gentlemen, on this point?

Tuan Haji Yaacob

757. I would like to ask the witness if he can indicate to the Select Committee, authorities other than these in the English language which could be used? — I would like the Court to depend on all Muslim books.

Chairman

758. If we told you that this clause does not prevent the Court from so doing, what would you say? — Although I agree with what you said, the Bill has already accepted only these books.

759. I do not know, Mr. Attorney-General. I do not think so. I think it merely provides the Court with a guide because this is such an abstruse subject? — (*Attorney-General*) Perhaps we can put him one question. There are many translations of the Koran by non-Muslims. Would the witness like the Court to look at them? (*Mr. Al-Jempoly*) The Court can use any number of books, any books; but to specify particular books, that I do not agree.

760. Very well. I do not think we could take you much further, Mr. Al-Jempoly. I think we have understood your point. Your evidence is that you think the Court should be allowed to look at every book that relates to

Muslim law, and the fact that these are tabulated here might operate against that proposition of yours. That is your evidence, is it? — Yes.

761. Your last representation is on clause 138. That is the question of religious lectures not being able to be given in Singapore by a person who is not ordinarily a resident here unless he has obtained the written permission of the *Majlis*? — Yes.

762. You are objecting to that clause? You think it should be deleted? — Yes.

763. Why do you say it is a bad clause and should be deleted? — This law, to my mind, would regard the Singapore Government and the *Majlis* as cowards.

764. That they are afraid of something, is it? — They are afraid of their own shadows.

765. So you think anybody should be able to come into Singapore and give a religious lecture without the permission of the *Majlis Ugama*? — Yes.

766. We have heard of cases of people who have come to Singapore, given lectures, collected money for their own purposes, and then disappeared? — Yes.

767. You think that is a good thing? — Yes, it is good. There was an incident before where we had religious people from elsewhere who came here and gave a lecture. A good number of Muslim religious men were present at that lecture, including Tuan Sanusi here. But then we got the Governor to send the man away.

768. I think you made a further point. You say this would be discriminating against the Muslims whereas Christians and other religious bodies are allowed to lecture without permission. There is a restriction on Muslim freedom, and you say this is a

MINUTES OF EVIDENCE

209

22 APRIL 1966

210

discrimination against the Muslims and you object to it also on that basis. I think you made that point? - Yes.

769. I think the points are understood. Thank you very much for having come here and assisted the Select Committee? - Thank you.

(The witness withdrew.)

The following representatives of the Pertubohan Muslimin, c/o No. 5 Mattar Road, Singapore, 14, were examined:

Mr. Ibrahim bin Othman	- President.
Mr. S. O. A. Alsagoff	- Hon. Secretary.
Mr. M. Kamil Suhaimi	- Committee Member.

Chairman

770. Good afternoon, gentlemen. Can you let us have your names, please, just for the record? - *(Mr. Ibrahim bin Othman)* My name is Ibrahim bin Othman of 59H Jalan Batu, Singapore, 15.

771. And your position in the Society? — I am the President.

772. Mr. Syed Alsagoff, your full name, please? - *(Mr. S. O. A. Alsagoff)* Syed Omar Abdul Rahman Alsagoff of No. 16 Nassim Road, Singapore. I am the Secretary of the Association.

773. Mr. Suhaimi, your full name, please? - *(Mr. M. Kamil Suhaimi)* Mohamed Kamil Suhaimi of No. 1 Jalan Madrasah, Singapore.

774. You are a Committee member? - Yes.

775. Thank you very much. Who is going to act as your spokesman? — *(Mr. Ibrahim Othman)*, Mr. Kamil Suhaimi.

776. Mr. Suhaimi, you are going to act as the spokesman, are you? - *(Mr. Suhaimi)* Yes.

777. I think we are having for the first time a spokesman sitting in the rear. But that does not prevent any one

of you from taking part in the discussions, should any of you think you want to say something. Each one of you can do so. And if any one of you wants to smoke, he may do so, because there is no restriction against smoking. Now, gentlemen, we have your representation* dated the 14th of May. We think it is a very full and thorough representation in respect of the matters on which you seek to present your views to the Select Committee. So far as I am concerned, I think it has been so well presented that very little purpose can be served by going into it in detail all over again. For myself, I would like to ask you a few questions on a number of matters on which I am not quite clear. And perhaps after that, Members of the Select Committee may also clear points on which they are not certain. The first point on which I would like some clear views is clause 5 (2). The Society objects to the two words "charge, mortgage" on the basis that interest is forbidden in Islam. Would it be also undesirable, from your point of view, if the *Majlis* were allowed to invest their funds in, say, stocks and shares? - We go on the basis of interest ourselves. It is well known that Islam is not happy with dealings on interest. So we feel that as the *Majlis* are supposed to uphold the principles of Islam or be the guardian of Islam, it will not be very healthy for them to deal with interest.

* Appendix II, pp. B46-60.

778. What struck me, Mr. Suhaimi, was that if you buy stocks and shares, that is an investment. Any dividends paid on that investment is not contrary to Islamic law, I take it. Is it contrary to Islamic law? — I think that depends on the — (*Mr. Alsagoff*) I feel that if the rate is fixed, it is an interest. If the rate is not fixed, it may be flexible from time to time.

779. I see. If somebody else fixes the rate of interest, then it may not be against Muslim law? — For instance, on stocks and shares, a company may pay 10 per cent dividend a year, 5 per cent for the next year, and maybe 20 per cent for another few years.

780. So because the mortgage fixes the rate of interest on the mortgage document, that is objectionable? — Yes.

Tuan Haji Yaacob

781. Mr. Speaker, I would like to ask the witnesses whether they can find "mortgage" and "charge" in Islam? — (*Mr. Ibrahim Othman*) Mr. Speaker, in Islam, there are such things as "charge" and "mortgage", but in the present era, can we practise "charge" and "mortgage" in accordance with Islam? Therefore, my organisation objects to these words "charge" and "mortgage".

782. Mr. Speaker, is this point not cleared by the last two lines of sub-clause (2) which reads:

'... upon such terms as to the *Majlis* seems fit and in accordance with the Muslim law.'

If, in the opinion of the *Majlis*, it is interest, then they will not act to the contrary? — (*Mr. Suhaimi*) In my view, the words "charge" and "mortgage" are already in the Bill. In Singapore mortgage must necessarily carry interest. It seems that "mortgage" is understood to carry interest, and the one which is found in Islam is the one which has no interest. So nowadays to,

say, mortgage a house without interest is quite impracticable. And, secondly, if we put the word "mortgage" here, it might be understood that the law allows the *Majlis* to deal with interest, and the word in accordance with Islam is for other purposes.

Chairman

783. Could it be possible in Islamic law to have a mortgage? — It is a kind of pledge.

784. Is it possible? — It is possible but it must not be —

785. It is possible, and could we not bring this within the ambit of and in accordance with Muslim law? — We understand the implication of the thing, but we are afraid that putting the word "mortgage" there might give rise to the belief by the *Majlis* that they can deal with mortgage even though it is with interest.

Tuan Haji Yaacob

786. Supposing the *Majlis* is in need of money. It has a piece of land and it wants to mortgage it to a Muslim. Could that not be done and not be contrary to the law of Islam? — The question, as we have already stressed, is that we fear, and my friend has already stated just now, that mortgage nowadays without interest is quite impracticable. Secondly, the *Majlis*, if in need of money, may borrow it from the Government without interest and without necessarily mortgaging the property or to put it (it is mostly *wakaf* property) up for security.

Chairman

787. Is it wrong for a Muslim to mortgage his property at all? — (*Attorney-General*) In the Malay States, we have *jual janji*. (*Mr. Alsagoff*) Mr. Speaker, *jual janji* is slightly different. Instead of mortgaging the land, you sell it to another person with the option to

purchase at a later date at an agreed fixed amount. That is permissible in Islam. (*Attorney-General*) In English Law, it is mortgage.

788. It is a different form of words then? — (*Attorney-General*) It is without interest, but the mortgagee is allowed to go into possession and take the profits.

789. So that if a gentleman owning a rubber estate mortgages it to Mr. X, then Mr. X goes into possession of it. He taps the rubber and enjoys the profits so long, as the mortgage lasts. That is in compliance with Islamic law? — (*Mr. Suhaimi*) I think it is possible.

790. That is possible. But if he takes 6 per cent interest or 1 per cent interest, even that, shall we say, is contrary to Islamic law? And your fears are that the words "charge" and "mortgage" might give the *Majlis* the impression that they could do that and you do not want them to have the impression? — If the Committee could use another word which does not give any picture of interest, we do not mind.

791. There is no objection to building a house and letting it out and taking rent? — (*Mr. Alsagoff*) That is an investment.

792. It is a question of a fixed rate of interest on property which is mortgaged. Very well. And your suggestion is that, unless the Select Committee can think of a suitable form of words, the words "charge" and "mortgage" should be omitted from the Bill? — But on this point again, Mr. Speaker, the word "mortgage" - the *Majlis* can mortgage and charge; is it all the property under their hands or only property belonging to them? It is not very clearly defined. (*Attorney-General*) It says "may" and not "must". (*Mr. Alsagoff*) No. Supposing there is a certain *wakaf* which is

vested in the *Majlis* for raising money for the use of the *Majlis*, can they mortgage that particular *wakaf*? It is not very clear in this Bill.

793. Well, we will take that point into consideration. Now we come to clause 5 (3)*. You say "shall have power to" should be deleted and "may" should be substituted. This is merely a clause which confers the power but it does not mean to say that the *Majlis* must act. It merely says they shall have the power. But whether they act or not is a matter at their discretion. I think in these cases more normally - Mr. Attorney-General, correct me if I am wrong - it is usual to have the word "have" rather than "may" because it is the power which is given to the *Majlis*. I think in this case "have" is probably a better word to use. Now, 7 (1) (a), I take it your representation briefly on this is that you accept clause 7 (1) (a)? — (*Mr. Suhaimi*) We have put forward in our letter that we reserve our opinion on anything which we do not mention.

794. I thought you had no comments on clause 7 (1) (a) and it is on clause 7 (1) (d) on which you are mainly commenting. You think that the number in paragraph (d) should be increased to 12, do you not? - We think so because we like more representation from the public.

795. You think that the number should be 12? — Twelve or more, but we think that 12 is right.

796. And you feel that it is the societies that should appoint the persons. Is that correct? — Yes.

797. And if there is a vacancy, too, I think you have said somewhere else that it is the society that should fill it rather than somebody else? — Yes.

*Clause 5 (3) reads as follows:-

'The *Majlis* shall have power to act as an executor of a will or as an administrator of the estate of a deceased Muslim or as a trustee of any trust.'

798. That is understood. That is on clause 11. The next representation on the minutes we understand. You have some objection to "Acting in emergency" - clause 25. Do you think that your proposition is a practical one? Assuming that an emergency has occurred, do you think that it will be possible to round up a third of the members? And if you make the Committee larger, it makes it even more difficult. Assuming that the Committee is 6, a third may be easy to get; but if you make it 20 or 25, a third may be much more difficult? - Our proposition is about 12.

799. You say:

'In any case of emergency the President with the approval of at least one third of the members ...'

In other words, on your suggestion of 19, it will be seven members. Do you think it is a practical proposition? — It is very practical.

800. Rome is burning, you know? — Because the *Majlis* are not the Government. They only deal with certain matters.

801. I know. But how do you get them? An emergency has occurred. People cannot be found. It is very difficult to find them. There may be a curfew on. I do not know, but these are possibilities which I am putting to you? - Say during a curfew, it is very easy, because it is only 7 persons.

802. Send a chap round with a car and pull them all in, is it? — We have telephones and the Police can call them around. Singapore is very small. It is not like Malaysia or England.

803. What are your reasons for objecting to clause 25? You do not want to give the President this power. Normally in any association, as far as I can see, in an emergency the President acts. In an emergency, the President of any club or association is given wide powers? — (Mr. Alsagoff) Yes. If the President has acted in consultation with

the Secretary and the *Mufti*, the members have no right to object later on. If they object, then the Head of State will fight. So the power of the members will be deprived. If you will notice further - whatever action is done by them is subject to ratification of the *Majlis*. If the *Majlis* fail to ratify, the President of the State may direct whether it is to be ratified or not. So we think that whatever is done under this should be supported by at least one-third of the *Majlis*.

804. And if we cannot get one-third, then nothing is to be done, is that it?

— Yes, but three is definitely official. The *Mufti*, the President and the Secretary, and another four.

Inche Othman Wok

805. Supposing you cannot get the other four? — If it is an emergency and there is a curfew on, everybody will be in the house.

806. Supposing we cannot get another four, what do you intend to do? — Out of the 19 minus 3, out of the 16, can we not get 4?

807. But supposing it happens. It can happen? — It is not likely.

Chairman

808. That is your opinion? — Yes.

809. That is a matter of opinion. Supposing the Select Committee think that it is possible, what then? You are just expressing an opinion, saying that it is not possible. Supposing Members of the Committee are of the view that it could happen? — (Mr. Suhaimi) It is up to them.

810. All right. Thank you very much. On clause 31, what I — and I think also Members of the Select Committee - would like your assistance on is, when is a person an *ulama*? You mention the word "*ulama*" all the time

and this has been mentioned in many representations. The Select Committee will be obliged if you can give a definition of "*ulama*" so that, based on that definition, we can build up some sort of a system. Who is an *ulama*? — We cannot give a strict definition of "*ulama*", now. But it is accepted by Muslims that *ulamas* are Muslim scholars learned in Muslim jurisprudence and religion.

811. So the first thing is that before you can be an *ulama*, you must be a Muslim? — Yes.

812. You must be a scholar? — Yes.

813. Must you know any languages? — He must be learned in Arabic.

814. So you must know Arabic? — Yes.

815. So you must be a Muslim, you must know Arabic, and you must be learned in the Muslim laws and Muslim religion? — Yes.

816. We can decide on the first one. He must be a Muslim - that is simple. He knows Arabic - that is comparatively simple. How does one say that he is learned in Muslim matters? Who is, to be the judge of that? — If we cannot, have persons with those three qualifications, then the well-known people can be accepted as *ulamas*.

817. But who accepts them? This is the point, is it not? You may accept them, but your neighbour might not accept them? — We go by the majority who will accept them as *ulamas*.

818. This is a point of difficulty which faces the Committee? — If we go by the modern concept, it is safer to have people who have, say, certificates from Muslim Universities.

819. That is simple. I accept that. He may be from the Azhar University in Cairo. He has his proper qualifications. Nobody will dispute that. Everybody accepts that. Supposing he is not

a University graduate, but he is an Arabic scholar and, by studying hard on his own and in conference and talking with others, he has become learned in the Muslim religion? — Then he might be accepted as an *ulama*. You have to have examinations.

820. What I am getting at is that it is a matter of opinion, is it not? It is somebody's opinion which another person might not accept? — Yes.

821. But in any case, he must be learned in Arabic? — He must be.

822. We had a representation which said that he need not be learned in Arabic. I think that is correct? — The reason for calling a person an *ulama* is that he must be able to understand Arabic thoroughly so that he can understand the meaning of *Al-Koran* and the *Hadith* which are the authorities of Islamic law and all the authoritative books which are in Arabic.

Chairman] Your view has been supported by some representors and there have been others who have also said that there should be *ulamas* in the Committee. But when I asked whether they should be learned in the Arabic language, they said, "No, they need not be." So there seems to be some divergence of opinion.

Tuan Haji Yaacob] I would like to pose this question to the witnesses. If a member of the *Majlis* refuses to identify himself as an *ulama*, what then? Take, for instance, this case. The witness, Mr Suhaimi, is a graduate of Azhar University. Does he call himself an *ulama*?

Chairman

823. The answer might well be that out of sheer modesty, he might not want to call himself an *ulama* and yet he really may be so? — I think it is a question of fact and not a question of opinion. For instance, I am a Malay, but I do not want to call myself a Malay,

but every description of the constitution points to it that I am a Malay. And if I were to say that I am an Indian, I do not think that my saying so can hold good.

Chairman] I do not think the example is an apt one, because the fact of the matter is that you are a Malay. Whether you call yourself an Indian or not, the fact of the matter is that you are a Malay. But the question is, "Who is an *ulama*?" It seems to be a matter of opinion.

Tuan Haji Mohamed Sanusi] It is really like an empty vessel that makes the most sound!

Chairman

824. This is one of the difficulties of the Select Committee. People have said that there must be so many *ulamas* on the Legal Committee. All right, we say that there will be so many *ulamas* on it, but how do we give effect to that particular clause? — (*Mr. Alsagoff*) Another solution is that if we cannot find two from the *Majlis*, we can leave it open.

Tuan Haji Yaacob

825. I think we are agreed that two members of the Legal Committee should be people who are well versed in Muslim law. But if there are two such members in the *Majlis* who are not prepared to call themselves *ulamas*, what then? — (*Mr. Ibrahim Othman*) Mr. Speaker, the question of whether or not a person wishes to acknowledge himself as an *ulama* does not arise at all, because it is up to the community at large to acknowledge him as an *ulama*. Take, for example, the President of the Mahkamah Shariah, even if he is reluctant to regard himself as an *ulama*, but when questions of religion are put to him, he is obliged to perform the duties of an *ulama*. In other words, it is up to the community at large; if it accepts a

person as an *ulama*, he is an *ulama* notwithstanding the fact that he refuses to regard himself as one.

Chairman

826. Is it then a sort of title which is conferred by the Muslim community? If a man is learned in Muslim affairs and the Muslim religion, then everybody calls him an *ulama*. Is that how it works out? — The answer is yes. Because of his being well versed and a scholar in religion, he gets the title of *ulama*.

827. In other words, it is not a title that is conferred by anybody or any institution. It is just an acknowledgment by the public at large that he is a learned man? — (*Mr. Suhaimi*) Actually, if I may add, the word "*ulama*" is a Malay word. It comes from the Arabic word '*alim*', meaning a learned man. So we put this here just to show that we want people of this calibre. Whatever words we may use, say, "an expert in Islamic law" or "learned in Islamic law", we feel that "*ulama*" is much more appropriate, because it is better known to the people, at least by Muslim Malays.

Attorney-General] Would the words "fit and proper person" satisfy the witness?

Chairman

828. Yes, I was coming to that. Clause 31 (1), Mr. Suhaimi, uses the phrase "two other fit and proper Muslims". You do not think that that adequately carries the idea of *ulama*? — That is a little bit looser than the word "*ulama*", because -

829. You will understand the difficulty of the Select Committee. We cannot put in there "not more than two *ulamas*". It will become very difficult to interpret? - We do not know the difficulty of the Select Committee.

830. Unless we define "*ulama*" in the defining clause, it will be very difficult to put it in the clause? — Then we should have a definition of such a word.

831. All right, then, could you submit to the Select Committee a definition of "*ulama*"? — We have no mandate to give a definition. (*Attorney-General*) The University of Azhar gives the degree of "*alimiya*", which is M.A. But if we confine people to that, we will only get two or three people. As far as I know, there is only one such person in Singapore, and how are we going to get four such people? (*Mr. Suhaimi*) That is not difficult. As we have said just now, if we go by qualifications, say, university qualifications, we have purposely not put that in because we do not want to make it difficult. But we have put in the *ulamas*; in other words, just to show that at least these people are first learned in the Arabic language plus learned in all branches of the Islamic religion.

Inche Othman Wok

832. Mr. Speaker, he may be learned, but if he were not able, there is a problem there, is there not? — (*Mr. Alsagoff*) If he is not able, he is not learned. (*Mr. Suhaimi*) If he has the ability, he can learn.

833. I mean the ability to carry out his work? - (*Attorney-General*) The University of Azhar is also changing, so that a scientist may also be called an '*alim*'. (*Mr. Alsagoff*) In that case, we can confine it to those coming from Darul 'Ulum or Azhar.

Chairman] I think we understand your point, Mr. Alsagoff, and I think you understand some of the difficulties.

Tuan Haji Yaacob

834. What does the witness say if, instead of "*ulama*", it is specified "two persons who are learned in Islamic law"? — Of all four schools or only of one school?

Chairman

835. Well, I do not know what that means, but Islamic law would — ? — (*Attorney-General*) Would you say that an *ulama* must know all the four schools? (*Mr. Alsagoff*) At least we have got some cases being referred by this. It may be from other sides. It may be *Shafei*, it may be *Hanafi*, it may be *Maliki*, it may be *Hanbali*. So if we confine it only to *Shafei*, the other person will be unjustly treated. (*Mr. Suhaimi*) If we say "learned in Islamic law", that again is quite loose. First, it is not necessary that this man knows Arabic. He may know the law, but Islam is not only a law as it is understood in the English language. Islam comprises the whole institution of the religion. Like this, say, "mortgage", "mosque", "prayer" and other things. So, as I have already stated, it is necessary that these people know the essence of the principles of jurisprudence or theology. Then they can be described as *ulamas*. We do not have any other word for that.

836. I see. Now, it seems to me that where a word is so difficult of definition and on a subject with so many variations and interpretations, and depending on what you want persons to achieve and to do for the purposes for which we intend them, would you not leave it to the *Majlis* to choose them? We take it that any reasonable *Majlis* which looks after the religious affairs of the Muslims in Singapore would see to it that the proper people get on to the committee? Would that not be a more practical way of doing it, rather than insisting on qualifications and definitions and, therefore, making it almost impossible for the appointments to be made? — Yes, from a practical point.

837. We must assume, as a base without which we cannot function, that the *Majlis* will only act in the best interests of Islam. If we do not assume that, then this whole Bill is not possible.

It falls to the ground. If you are going to suspect the *bonafides* of the *Majlis*, and if you are going to say that they are incompetent, then this whole Bill is unworkable? — The point is this: we have some examples which have already been put - I hope this is not slanderous - when the Malay section of Radio Singapura have a religious talk on religious jurisprudence, and when people ask for opinions, there is one man there to give opinions according to Islam. So he is called the *Mufti* or *Mufti* Radio. Some of his opinions are fantastic, so much so that we may say that he is not qualified at all to give opinions as a *Mufti* over the radio. So if we do not put safeguards in the Bill, then - if I may use the word which may not be tasty - quacks will be put in the Committee.

838. That is the point we were making to you. Somebody has thought that this Radio *Ulama* is an expert. But you do not agree. You may be right. He may be right. I do not know. Nobody knows. It is a matter of opinion? — (*Mr. Alsagoff*) Yes, but -

839. Wait a minute. When we get a society of 20 persons sitting down and deliberating and picking 2 persons, do you think they would not arrive at some form of selection which meets the needs of the community as a whole? I mean, you must assume that they are 20 reasonable men dedicated to the advancement of Islam. You must assume that. If you think that all of them are rogues and are trying to feather their own nests, then this whole Bill falls to the ground. It cannot operate. We must start from a base in which we have confidence. Unless you have confidence in the *Majlis* itself, this whole Bill cannot function? — (*Mr. Suhaimi*) You will notice in our representation that we do not say that, but we have that feeling. We do not like to say that we oppose the existence of the *Majlis*.

Chairman] Could you suggest some amendment to "fit and proper Muslims"? There may be an answer there, you know. He must be "fit". I think you will agree that the word "fit" must be there - "fit" includes fit for the purposes for which he is appointed.

Attorney-General] Qualified.

Chairman

840. That is what it means? — (*Mr. Alsagoff*) Could we suggest something, Mr. Speaker, that at least he should hold a Muslim college degree?

841. No. I think that is going to be very difficult? - Well, we have plenty in Malaya. We have 300 or 400 qualified people there. (*Attorney-General*) Well, he might be a graduate of an Indonesian college. Are we prepared to accept that? (*Mr. Alsagoff*) Maybe from some other

Chairman

842. All right, we will leave the problem as it is now. We are meeting again on the 20th May and possibly if you gentlemen can think of something suitable, could you write to Parliament by next week? We will treat it as an additional representation. It may not be easy to think of something suitable straightaway, but you understand our difficulties. If you put the word "*ulamas*" here, it is going to create even more confusion rather than solving the problem. So we have to use a form of words which take in what you are suggesting and yet make it possible to — ? — (*Mr. Suhaimi*) Incorporate.

843. Yes. And if you do that, I think the Select Committee will be very glad. Do you think you can do it by the end of the month? — At the end of this month?

844. Yes. Now, we go on to clause 35. You suggest that:

'... the President of the Shariah Court should be a person other than the Registrar of Muslim marriages.'

We will consider that in our deliberations? — Yes.

Attorney-General] I am not quite clear about these summonses. The *Shariah* Court is involved. Why should it be?

Chairman] Where is that?

Inche Othman Wok] Clause 35 (1).

Chairman) Yes. Paragraph 2 of your representation, Mr. Suhaimi, reads:

'The Court is not, as it is, a Court of criminal jurisdiction. Summons may be prepared by an officer of the Court who is more often than not the Registrar himself. In practice such summonses may come under heavy criticisms for being bad at law etc. It is quite obvious how will the position be of a lawyer who is confronted with such a situation.'

Well, what is the fear there, Mr. Suhaimi?

Attorney-General] Is there any case?

Chairman

845. Is there any case which has happened which has brought about this situation? Has any case been put out on the basis that the summons — ? — (*Attorney-General*) The summons is usually prepared by the parties, and the parties suffer if there is any mistake. Why should the *Shariah* Court suffer? If you say that the charge is bad, you cannot criticise the Court. (*Mr. Suhaimi*) It might be prepared by an officer of the *Shariah* Court. But there is provision, I think, for that. And we may go there and say that the charge is —

Chairman] Is it obligatory for the *Shariah* Court to prepare the summons?

Attorney-General] No.

Chairman] It may be that someone working there might help a friend of

his. So that is a personal matter which has nothing to do with the *Shariah* Court as an institution.

Attorney-General] I am only trying to help. I would like to hear of any actual case.

Chairman

846. Clause 46, Mr. Suhaimi, you are suggesting that every trial or hearing in the *Shariah* Court shall be held *in camera*. Is that suggested in your evidence? The Court has power in suitable cases to order a hearing *in camera*. The general principle of law is that everything must be open. Only in certain cases could they be held *in camera*. We cannot reverse the principle and say that everything must be held *in camera*. Only in certain cases would they be held *in camera*. It would not be acceptable as a legal principle? — (*Mr. Sukaimi*) Sometimes these matters of divorces and marriages are dealt with by the *Shariah* Court. And these people might just blurt out things which are unhealthy - and we have seen some of them in the newspapers.

847. The point is that other people are behaving like that. That is also part of justice? — (*Attorney-General*) No one should be above the law. (*Mr. Suhaimi*) The point is that the allegation might be true or it might not be. But the damage is already done.

848. Well, it happens every day, does it not, in the Courts? Somebody accuses me of being a blackguard. It may be true or it may not be true. But it is all brought up in the court? — That is the trouble. (*Mr. Alsagoff*) But this is confined to the relationship between husband and wife.

Attorney-General] In the High Court it is the same.

Chairman

849. Divorce cases, it is the same thing? - But in the High Court, you

have to prove that a non-Muslim has committed adultery before you can get a divorce. But in the case of a Muslim, it is not necessarily the case.

Inche Othman Wok

850. Why do we not just leave it to the judgment and discretion of the President of the *Shariah* Court? — (*Tuan Haji Mohamed Sanusi*) During my time, nothing of that sort has happened, because I use my own discretion. I do not like to ask questions which are not necessary. So this thing may not come out? (*Mr. Alsagoff*) But this is true maybe during your time. But you are not going to be the President of the *Shariah* Court all the time. Later on another President may think otherwise. Why should we give him permission?

Inche Othman Wok] That is what I say. Why not leave it to the judgment and discretion of the President?

Chairman

851. Very well. We will leave it at that. Your view, Mr. Alsagoff, is that the whole thing should be *in camera*, is it? — Yes.

852. Right. Clause 69 - "Expenses of the *Majlis*". You say that the officers and any fees and allowances paid to servants should not be paid out of the General Endowment Fund. That is your stand. And how is it to be paid then? — (*Mr. Suhaimi*) We prefer that the Government should share in the burden of the *Majlis*.

853. That is a question I would like to put to you. As a matter of principle, do you think the Government should be called upon to pay particular religious groups out of public revenue? This is a point of principle which I think any government would have to consider before it accedes to your request? — I think that is what the Government has undertaken in the Explanatory Statement of the Bill.

Chairman] I think that is the *Shariah* Court.

Attorney-General] Yes, that is for the *Shariah* Court.

Chairman

854. *Shariah* Court. That is an institution of courts of justice and that is a matter for the Government. This is the proposition, is this not, Mr. Suhaimi? Instead of individuals administering the Muslim religion as it now stands — Government is not interfering in the administration of religion - it puts administration into one body elected by the Muslim people in general and they manage the affairs of the Muslim religion which is now being managed by persons or groups of persons. So it is really the Muslims looking after their own affairs. In that set of circumstances, you are saying that the Government should contribute to the administrative expenses of a private society. Would that be acceptable as a principle of general law for the Government? — That we do not know. I am not the Government.

855. It seems to me that it is a principle which it is very difficult for the Government to accept unless they also agree that they will pay for the Hindus, they will pay for the Christians, and they will pay for the Buddhists. All sorts of religious groups will then come along and say, "We also want to be treated similarly."? — The point is that mostly the money is from the *wakaf*, and perhaps it will not be enough if it is used to pay for the salaries of the staff, which seem to be many, because they are trying to do many things under this Bill.

Chairman] Mr. Suhaimi, you think that the - *Mutawalli* is it?

Attorney-General] *Bait-ul-Mal*.

Chairman

856. Will they all be paid under the *wakaf* itself? — (Mr. Alsagoff) Yes.

857. They will all be paid under the *wakaf* itself. So there is no problem whatsoever? — No, the point is this. *Wakaf*, they get preference over the *Mutawallis*, as the case may be. But only the trustees or *Mutawallis* can draw a certain percentage as their service. That is the difference. But now who is going to pay for the cost of administering the *Majlis*? If, let us say, the money comes from *zakat* or *fitrah*, under Muslim law, *zakat* and *fitrah*, there are eight groups of people who can receive the money. (Attorney-General) What about *Bait-ul-Mal*? (Mr. Alsagoff) *Bait-ul-Mal*, in case somebody who has no *wali* dies. In that case you do not have much. Very few Muslims — (Attorney-General) Suppose we have money? (Mr. Alsagoff) Suppose we have money? Very little. Not enough. Only one year's expenses are covered. After that we do not have the money any more. Let us argue from the practical point of view.

858. Your proposition is that any administrative expenses which cannot be properly charged to any of this *fitrah* or *zakat* should be borne by a separate fund which will be voted for by the Government. That is your proposition? — Yes.

859. And what is your answer to this proposition which I put to you, to which I think you must give a reasonable answer before Government can consider your proposition? — Since the Government is prepared to introduce the Bill, surely it is also prepared to foot the bill.

860. This is a Bill which is being introduced by the Government at the behest of the Muslim community. Supposing Government takes this attitude. This is a Muslim Bill. The Muslim community of Singapore want this Bill and Government will do everything in

its power to make it possible for them to carry on. But thereafter it is their business, their responsibility. Supposing Government takes that attitude. Would that be an incorrect attitude? Supposing Government's position is that this is a Muslim matter. The Muslims want it this way, and Government lends its offices in giving them legislative sanction for all this. But it is really a Muslim matter. They will look after it, they will administer it, and they will be responsible for it? — (Mr. Suhaimi) In our view, if the Government is not going to shoulder some of the burden of the expenses, the money might not be there, and then it is useless to have a *Majlis*, because the money, say, from the *wakaf*, is to pay for things which are for a certain purpose. A big sum of money may be used up for administrative expenses, instead of its going into the proper channels. (Mr. Alsagoff) I can cite one case. Take the *Majlis Ugama* of Perak, The expenses are more than the *zakat* they collect.

861. In Perak? — Yes. But since Perak is a Muslim State, I suppose the Government foots the bill. (Mr. Suhaimi) This is only what I understand. I heard that in Johore also without money from the Government allocated to the Religious Department or *Jabatan Ugama*, they find it difficult to pay for the work done by them. (Mr. Alsagoff) Another point is that the *Bait-ul-Mal*, the money that is supposed to be inherited by the *Majlis*, is, most of it, capital money. It only comes once. Not every now and then. So when you have used up the capital, there is no more money forthcoming; unless somebody dies without disposing of his property by will or so, then the *Majlis* will step in.

862. Very well? — (Mr. Ibrahim bin Othman) Mr. Speaker, I would like to add why our Association wishes the Government to make subsidies in the administration of the *Majlis*. It is because ultimately money from the *Bait-ul-Mal* will be used up. In that eventuality the administration of the *Majlis* may

not function properly, resulting in the Muslims of Singapore criticising, not the *Majlis*, but the Government. So before anything of that nature happens, we would like the Government to subsidise the *Majlis* in its proper administration.

863. There is another possibility which has just occurred to me. The various Muslim associations in Singapore could contribute something to the *Majlis Ugama*. That is just a possibility which has occurred to me. I do not know whether that has occurred to you? — (Mr. Suhaimi) The point is that we know most of them are poor.

864. Most of them are poor. There are some rich Muslims in Singapore? — (Mr. Alsagoff) Yes, but some of them may feel, "Why should we contribute to the Government functions?"

865. Are you suggesting that the Government is administering this Bill? - Not necessarily. But since it is appointed; all of them are nominated.

866. Very well? — There is one point regarding the charge and mortgage of any property vested in the *Majlis* which I have brought up.

867. That subject is closed? — No, that is the *Majlis* — whether the *wakaf* property could be charged and mortgaged by the *Majlis*.

868. This is now closed. We have dealt with clause 5 already. Now, there are certain clauses under Part IX - "Offences", which you have suggested should be cancelled. For instance, under Part IX you say clause 125* should be deleted. Why do you say that, since the Bill only applies to Muslims or it is intended to apply only to Muslims? Why do you want to strike out clause 125? Is there any particular reason why? — (Mr. Suhaimi) We suggest the deletion of clause 125 because we

look at the coming clauses, like, for instance, in clause 130 - cohabitation.

869. Then you would suggest that these matters be dealt with under the Penal Code? That is the solution, is it? On the basis of your suggestion, all these offences should be dealt with under the Penal Code? - Penal Code, yes.

870. That is a rational suggestion which I can understand. But as this is a Muslim Bill and is intended to apply only to Muslims, then clause 125, it seems to me, is necessary? — It depends on the clauses put forward later.

871. It seems to me that clause 125 has got to be there. But if you want certain other clauses exempted from the operation of clause 125, I suppose you have to say something about it? — If some of the clauses later are deleted, then perhaps clause 125 -

872. Mr. Suhaimi, clause 126 obviously cannot affect a non-Muslim. Is that not so? — Yes.

873. There are certain clauses here - clause 128, for instance - which obviously cannot affect a non-Muslim but on clause 130 there may be difference of views. So if you accept that, you can go on from there and ask for clause 130 to be deleted. Deletion will mean that everybody escapes the net? — Yes.

874. I see. Clause 131 should be similarly deleted. Clause 132 should be deleted - "Desertion of wife". Clause 133 - "Disobedience of wife". You say that clause 134 should be preserved? Correct? - Should be deleted.

875. So clause 134 should be deleted. And clause 135 also should be deleted. Clause 136 (4) is to be deleted, you say? — Yes.

*Clause 125 reads as follows:-

'Save as is otherwise in this Act expressly provided this Part of this Act shall only apply to Muslims.'

876. Sub-clauses (1), (2) and (3) are to be kept? — On those we do not comment.

877. Sub-clause (1) should be modified as you suggest? — Yes.

878. And, sub-clause (2) should be modified in a similar manner as sub-clause (1). But sub-clause (4) should be deleted? — Yes.

879. Clause 137 is to be kept, is it? — That is to be deleted under conversion.

880. Clause 137 is then to be deleted. Clause 138 should be deleted. Clause 139? — Should be deleted.

881. Clause 140 is to be deleted. In fact, the whole Part IX should be deleted? — (*Attorney-General*) No, except the first four clauses. (*Mr. Suhaimi*) Except one or two clauses.

Chairman] Except clauses 126, 127, 128, 129 and parts of clause 136. The rest should be deleted. Now I think that covers all the points I wish to ask. Any other Member wishes to ask any question?

Attorney-General] May I ask one question? Under Muslim law, is it permissible to punish a non-Muslim for contravention of the Muslim law?

Chairman

882. You understand the question, gentlemen? Under Muslim law, is it possible to punish a non-Muslim for contravention of the Muslim law? — In what sense? In Islamic law, theft is also not permissible. A non-Muslim who commits theft will be punished also. (*Attorney-General*) No. Take the offence of *zinah*. Is it possible to punish a non-Muslim under Muslim law? (*Mr. Suhaimi*) If you make it the law of the State. (*Attorney-General*) No, no. I am asking under Muslim law.

883. Under Muslim law. That is the question. Under Muslim law, would it be possible to punish a non-Muslim for the offence of *zinah*? — (*Mr. Suhaimi*) If a non-Muslim commits *zinah* with another non-Muslim, then, of course, the Muslim law does not care. (*Attorney-General*) So the answer is no. (*Mr. Suhaimi*) Of course, no.

884. No, no, no. If a non-Muslim commits *zinah* with another non-Muslim, that is what he said? — (*Attorney-General*) Perhaps he can clarify. If a non-Muslim commits *zinah* with a non-Muslim, then Muslim law cannot punish. But if a non-Muslim commits *zinah* with a Muslim, can the Muslim law punish the non-Muslim? (*Mr. Suhaimi*) If he procures or causes, he should be punished. (*Attorney-General*) It is not "should", but what I am asking is, does Muslim law — ? (*Mr. Suhaimi*) I think, yes. (*Mr. Alsagoff*) But under Muslim law, before you can accuse a person of *zinah*, you must be sure that he was caught in the act.

885. Supposing it has been proved that a non-Muslim has committed *zinah* with a Muslim - that is a fact which can be proved - does the Muslim law, as Muslim law in itself, without taking into consideration other legislation, punish a non-Muslim? — (*Attorney-General*) Do you know of a case where the Prophet punished a few for committing *zinah* but only because Jewish law also punishes? Do you know that?

Chairman] Mr. Minister, do you wish to ask any questions? -

Inche Othman Wok

886. Yes. Only one question on page 16 of the representation, Mr. Speaker - "Special Suggestion". Why is it the duty of the *Majlis* to pay the legitimate debts of a deceased Muslim who left no property, and what do "legitimate debts" mean? — (*Mr. Alsagoff*) It is very

simple. If you expect to get all the benefits, you should also pay the liabilities. You see, a Muslim in the grave could not discharge his debts unless somebody pays.

887. Suppose he signs a promissory note for \$5,000 and he passes away, then what happens? — We have to check whether legally he owes —

888. Suppose it is legally done with a promissory note, signed and attested - paragraph 1? — If it is with interest, it is contradictory to Muslim law.

Chairman

889. I am glad you have pointed it out, Mr. Minister. This escaped my attention. Mr. Alsagoff, you have been making the point all along that the *Majlis* has not got enough money to administer itself and now you are suggesting - in the same memorandum, mind you - that the *Majlis* should pay the legitimate debts of a deceased Muslim. It seems to me that both are completely and utterly incompatible. I am glad you have mentioned this, Mr. Minister. It escaped my attention? — (*Mr. Suhaimi*) Looking only at the logic where a deceased Muslim died without beneficiaries to his estate, then the *Majlis* will take all the money or the property of the deceased Muslim. (*Attorney-General*) It is true in that respect. If a man dies without heirs and if he has debts, surely the debts should be paid first under English law and under Muslim law.

890. The debts are cleared first. Then the balance of the property goes to the estate? — (*Mr. Suhaimi*) That is the case where the deceased is solvent.

But since we give the *Majlis* the benefit of the estate of any deceased Muslim who has no beneficiaries, it might be logical for the *Majlis* to pay the debts of any Muslim who has no one to pay the debts incurred by him, because under the Muslim religion, a person is bound to pay his debts. It is a religious obligation. If he is in debt, he has to pay. And that is why we have a creditor as one of the claimants in the *zakat*. One of the eight persons who can claim from *zakat* is the creditor for legitimate debts. So it is quite logical if you want to put it that way.

891. Well, Mr. Suhaimi, I do not know whether it is quite logical. I am not versed in Muslim law. But looking at it from a practical point of view, we know that this fund has only got *zakat* and *firah* in it, and possibly a bit of *Bait-ul-Mal*. And if all of you say that it is not going to be enough to administer the property as such, then where are you going to find the money to pay on behalf of all these impoverished debtors? I am not worried about the intricacies of Muslim law? — (*Attorney-General*) It encourages Muslims to sign promissory notes.

Chairman] I think so. Any other questions which any other Member wishes to ask?

Inche Othman Wok] I have no other questions, Mr. Speaker.

Chairman

892. Well, it only remains for me to thank the members of your Society, Mr. Suhaimi, for having come here this evening and assisted the Select Committee in its deliberations, and you will assist us further if you could please send us what you consider is a suitable amendment* to clause 31 (1). Thank you very much, gentlemen? — Thank you.

(*The witnesses withdrew.*)

* Appendix II, pp. B61-64.

**MINUTES OF PROCEEDINGS OF THE SELECT COMMITTEE OF THE
ADMINISTRATION OF MUSLIM LAW BILL**

1st Meeting

WEDNESDAY, 16TH FEBRUARY, 1966
3.30 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).
Inche A. Rahim Ishak, M.P.
Inche Buang bin Omar Junid, M.P.
Inche Mahmud Awang, M.P.
Inche Mohd. Ariff bin Suradi, M.P.
Inche Othman bin Wok, M.P.
Inche Rahamat bin Kenap, M.P.
Tuan Haji Yaacob bin Mohamed, M.P.

1. Written representations received, as contained in Papers S.C. (Administration of Muslim Law Bill) Nos. 1, 2, 3, 4 and 5, were considered.

2. The Committee deliberated and took note that printed copies of a Malay translation of the Bill will shortly be available.

3. Agreed, that the date for the submission of written representations be further extended, to 31st March, 1966.

4. Agreed, that the Attorney-General and the President of the Shariah Court be invited to attend meetings to assist the Committee.

Adjourned to a date and time to
be fixed by the Chairman.

2nd Meeting

WEDNESDAY, 6TH APRIL, 1966
3.00 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).
Inche A. Rahim Ishak, M.P.
Inche Buang bin Omar Junid, M.P.
Inche Mahmud Awang, M.P.
Inche Mohd. Ariff bin Suradi, M.P.
Inche Othman bin Wok, M.P.
Inche Rahamat bin Kenap, M.P.

ABSENT:

Tuan Haji Yaacob bin Mohamed, M.P.

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).

1. Written representations received, as contained in Papers S.C. (Administration of Muslim Law Bill) Nos. 6 to 15 inclusive, were considered.

Agreed, that all representors, except in respect of Paper No. 6, be invited to appear before the Committee to give evidence in person.

2. The Committee deliberated.

Note taken, that printed copies of a Malay translation of the Bill were put on sale by Government Printer on 1st March, 1966.

3. Requests received from the Singapore Muslim Law Review Council, Inche Abdul Rahman Jamaluddin Al-Jempoly and the Pertubohan Muslimin, for a further extension of the date for the submission of written representations, were considered.

Agreed, that it is not practicable for a further extension of such date to be made.

Agreed further, that where a specific request is made for an extension of date, the Committee would be prepared to receive late representations up to 15th April, 1966.

4. Note taken, that an invitation to appear before the Committee this day, which had been sent to Inche Mohd. Yuni bin Awi (Paper No. 1), has not been taken up.

5. Inche Yaacob bin Alias was examined in respect of Paper No. 2.

6. Inche Syed Salim bin Syed Mohamed was examined in respect of Paper No. 3.

Adjourned to 2.30 p.m., Friday,
15th April, 1966.

3rd Meeting

FRIDAY, 15TH APRIL, 1966
2.30 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).

Inche A. Rahim Ishak, M.P.

Inche Buang bin Omar Junid, M.P.

Inche Mahmud Awang, M.P.

Inche Mohd. Ariff bin Suradi, M.P.

Inche Othman bin Wok, M.P.

Inche Rahamat bin Kenap, M.P.

ABSENT:

Tuan Haji Yaacob bin Mohamed, M.P.

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).

The President, Shariah Court (Haji Mohamed Sanusi bin Haji Mahmood).

1. Written representations received, as contained in Papers S.C. (Administration of Muslim Law Bill) Nos. 16 and 18, were considered.

2. Written representations received from Inche A. Rahman Jamaluddin Al-Jempoly were considered.

Agreed, that parts thereof which are irrelevant be rejected and that the rest be accepted as Paper No. 17.

3. Note taken, that an invitation to appear before the Committee this day, which had been sent to Mr. Nazir Mallal (Paper No. 4), has not been taken up.

4. Agreed, that the Attorney-General be examined.

5. The following witnesses representing the United Malays National Organisation were examined in respect of Paper No. 12 -

(1) Inche Syed Ali Redha Alsagoff, Head, Religious Section, UMNO;

(2) Inche Wahab Mohd. Ariff, Secretary, Religious Section;

(3) Inche Rahman Zain, Member of Committee, Religious Section; and

(4) Inche Jamil bin Pallal, Member of Committee, Religious Section.

To be further examined on Wednesday, 20th April, 1966, at 10 a.m.

Adjourned to 2.30 p.m., Monday,
18th April, 1966.

4th Meeting

MONDAY, 18TH APRIL, 1966

2.30 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).

Inche Buang bin Omar Junid, M.P.

Inche Mahmud Awang, M.P.

Inche Othman bin Wok, M.P.

Inche Rahamat bin Kenap, M.P.

Tuan Haji Yaacob bin Mohamed, M.P.

ABSENT:

Inche A. Rahim Ishak, M.P. (*on leave of absence*).

Inche Mohd. Ariff bin Suradi, M.P.

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).

The President, Shariah Court (Haji Mohamed Sanusi bin Haji Mahmood).

1. The following witnesses representing the Muslimin Trust Fund Association were examined in respect of Paper No. 9 -

- (1) Mr. M. J. Namazie, President of the Association; and
- (2) Mr. S. O. A. Alsagoff, Honorary Secretary.

2. The Attorney-General, Inche Ahmad bin Mohamed Ibrahim, was examined.

3. The following witnesses representing the Muslim Welfare Association were examined in respect of Paper No. 14 -

- (1) Mr. M. A. Majid, President of the Association;
- (2) Mr. Fadajiar bin Mohd. Boyee, Committee Member; and
- (3) Mr. Said bin Haji Mohd., Committee Member.

4. Mr. Ibrahim bin Hamzah was examined in respect of Paper No. 15.

Adjourned to 10 a.m., Wednesday,
20th April, 1966

5th Meeting

WEDNESDAY, 20TH APRIL, 1966

10 a.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).
Inche Buang bin Omar Junid, M.P.
Inche Mahmud Awang, M.P.
Inche Mohd. Ariff bin Suradi, M.P.
Inche Othman bin Wok, M.P.
Inche Rahamat bin Kenap, M.P.
Tuan Haji Yaacob bin Mohamed, M.P.

ABSENT:

Inche A. Rahim Ishak, M.P. (*on leave of absence*).

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).

The following witnesses representing the United Malays National Organisation were further examined in respect of Paper No. 12 -

- (1) Inche Syed Ali Redha Alsagoff, Head, Religious Section, UMNO;
- (2) Inche Wahab Mohd. Ariff, Secretary, Religious Section;
- (3) Inche Rahman Zain, Member of Committee, Religious Section; and
- (4) Inche Jamil bin Pallal, Member of Committee, Religious Section.

Adjourned to 2.30 p.m., Wednesday,
20th April, 1966.

6th Meeting

WEDNESDAY, 20TH APRIL, 1966

2.30 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).

Inche Buang bin Omar Junid, M.P.

Inche Mahmud Awang, M.P.

Inche Othman bin Wok, M.P.

Inche Rahamat bin Kenap, M.P.

Tuan Haji Yaacob bin Mohamed, M.P.

ABSENT:

Inche A. Rahim Ishak, M.P. (*on leave of absence*).

Inche Mohd. Ariff bin Suradi, M.P.

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).

1. The following witnesses representing the Jama'at Ahmadiyyah were examined in respect of Paper No. 8 -

- (1) Alhaj Maulvi M. Siddique, missionary in-charge of the Ahmadiyyah Muslim Mission, Singapore;
- (2) Tuan A. H. Salikin, Vice-President of the Mission;
- (3) Tuan Hassan Alaudin, Executive Committee member;
- (4) Tuan Hassan Salleh, Executive Committee member; and
- (5) Tuan Syed Abdul Rahman, Executive Committee member.

2. Mrs. M. Siraj, Miss Habibah Abdul Rahim and Miss Hilal Jaafar were examined in respect of Paper No. 5

3. The following witnesses representing the All-Malaya Missionary Society were examined in respect of Paper No. 11 -

- (1) Maulvi Babu Sahib, Committee member of the Society; and
- (2) Haji A. Wanjor, Honorary Secretary.

4. The following witnesses representing the South Indian Jamiathul Ulama were examined in respect of Paper No. 7 -

- (1) Alhaj Moulvi M. M. Hidayathullah Sahib, President of the Association; and
- (2) Haji Moulvi K. A. Mohamed Sayed Sahib, Assistant Secretary.

5. The following witnesses representing the Pakistani Association were examined in respect of Paper No. 10 -

- (1) Mr. M. Anwar Husain, President of the Association;
- (2) Mr. Sher Khan, Vice-President;
- (3) Mr. A. H. Saddique, Treasurer; and
- (4) Chowdhry Dato Ghulam Kader, Committee member.

6. Mr. Kader Jamal Mohamed was examined in respect of Paper No. 13.

Adjourned to 2.30 p.m., Friday,
22nd April, 1966.

7th Meeting

FRIDAY, 22ND APRIL, 1966

2.30 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).
Inche Buang bin Omar Junid, M.P.
Inche Mohd. Ariff bin Suradi, M.P.
Inche Othman bin Wok, M.P.
Inche Rahamat bin Kenap, M.P.
Tuan Haji Yaacob bin Mohamed, M.P.

ABSENT:

Inche Mahmud Awang, M.P.
Inche A. Rahim Ishak, M.P. (*on leave of absence*).

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).
The President, Shariah Court (Haji Mohamed Sanusi bin Haji Mahmood).

1. Note taken, that an invitation to appear before the Committee this day, which had sent to the Masjid Abdul Hamid Kampong Pasiran (Paper No. 16), has not been taken up.

2. Inche A. Abdul Rahman Jamaluddin Al-Jempoly was examined in respect of Paper No. 17.

3. The following witnesses representing the Pertubohan Muslimin were examined in respect of Paper No. 18 -

- (1) Mr. Ibrahim bin Othman, President of the Pertubohan Muslimin;
- (2) Mr. S. O. A. Alsagoff, Hon. Secretary; and
- (3) Mr. M. Kamil Suhaimi, Committee member.

4. The Committee deliberated.

Adjourned to 10.00 a.m., Friday,
20th May, 1966.

8th Meeting

FRIDAY, 20TH MAY, 1966

10.00 a.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).

Inche A. Rahim Ishak, M.P.

Inche Buang bin Omar Junid. M.P.

Inche Mahmud Awang, M.P.

Inche Mohd. Ariff bin Suradi, M.P.

Inche Rahamat bin Kenap, M.P.

Tuan Haji Yaacob bin Mohamed, M.P.

ABSENT:

Inche Othman bin Wok, M.P. (*on leave of absence*).

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim).

The President, Shariah Court (Haji Mohamed Sanusi bin Haji Mahmood).

1. Late written additional representations received, as contained in Papers S.C. (Administration of Muslim Law Bill) Nos. 8 and 18, were considered.

2. The Bill considered, clause by clause.
Clause 1 agreed to (correction made, in page 1, line 6, by leaving out "1965" and inserting "1966").

Clause 2:

Amendments made-

- (1) in page 2, line 14, by leaving out "at the end of" and inserting "during";
- (2) in page 3, line 4, after "Friday", by inserting "congregational"; and

(3) in page 3, by leaving out lines 41 and 42 and inserting -

" "zakat" means the charitable contribution required to be made by
a Muslim in accordance with the Muslim law." - (Inche A. Rahim Ishak).

Clause 2, as amended, agreed to.

Clauses 3 to 6 inclusive agreed to.

Clause 7:

Amendment made, in page 5, line 34, after "is" where it firstly occurs, by
inserting "a citizen of Singapore". - (Inche A. Rahim Ishak).

Clause 7, as amended, agreed to.

Clause 8 agreed to.

Clause 9:

Amendments made-

(1) in page 6, line 7, at end, by adding "or";

(2) in page 6, line 11, by leaving out "; or" and inserting a full-stop; and

(3) in page 6, by leaving out lines 12 to 14 inclusive. - (Inche A. Rahim Ishak).

Clause 9, as amended, agreed to.

Clauses 10 to 20 inclusive agreed to.

Clause 21:

Amendments made-

(1) in page 8, line 28, after "*Majlis*", by inserting "in the national language
and in English"; and

(2) in page 8, by leaving out lines 34 to 38 inclusive and inserting -

"(3) A copy of the minutes shall be sent to the President of
Singapore." - (Inche A. Rahim Ishak).

Clause 21, as amended, agreed to.

Clause 22:

Amendment made, in page 9, after line 3, by adding -

"(4) The proceedings of the *Majlis* shall be conducted in the national
language or in English." - (Inche A. Rahim Ishak).

Clause 22, as amended, agreed to.

Clauses 23 to 30 inclusive agreed to.

Clause 31:

Amendment made, in page 10, line 9, after "other", by inserting "fit and
proper". - (Inche A. Rahim Ishak).

Clause 31, as amended, agreed to.

Clause 32:

Amendment made, in page 11, after line 9, be adding -

"(5) For the purposes of subsection (4) of this section "court" includes the *Shariah* Court constituted under this Act." - (Inche A. Rahim Ishak).

Clause 32, as amended, agreed to.

Clauses 33 and 34 agreed to.

Clause 35:

Amendments made -

- (1) in page 11, lines 31 to 33, be leaving out "the Registrar or such other male Muslim as the President of Singapore may appoint" and inserting "a President to be appointed by the President of Singapore";
- (2) in page 11, lines 40 and 41, be leaving out ", and recalcitrancy or *nushuz*";
- (3) in page 12, line 8, be leaving out "*nushuz*,"; and
- (4) in page 12, line 14, after "varied", be inserting "where applicable". -(Inche A. Rahim Ishak).

Clause 35, as amended, agreed to.

Clauses 36 to 46 inclusive agreed to.

Clause 47:

Amendment made, in page 15, line 17, after "the", be inserting "amount so assessed and the". - (Inche A. Rahim Ishak).

Clause 47, as amended, agreed to.

Clause 48 agreed to.

Clause 49:

Amendments made -

- (1) in page 15, line 36, be leaving out "one year" and inserting "three months";
- (2) in page 15, line 38, be leaving out "seven" and inserting "three"; and
- (3) in page 16, be leaving out line 2 and inserting-
"some chronic disease the cure of which would be lengthy or impossible and which is such as to make the continuance of the marriage relationship injurious to her;". - (Inche A. Rahim Ishak).

Clause 49, as amended, agreed to.

Clause 50:

Amendment made, in page 17, line 2, be leaving out ", *kholo'* or *nushuz*" and inserting "or *kholo'* ". - (Inche A. Rahim Ishak).

Clause 50, as amended, agreed to.

Clause 51 disagreed to (corrections made to the numbering of clauses consequent on the deletion of clause 51).

Clause 52:

Amendment made, in page 17, lines 38 and 39, by leaving out "in accordance with the Muslim law" and inserting "for the period of her *eddah*". - (Inche A. Rahim Ishak).

Clause 52, as amended, agreed to.

Clause 53:

Amendment proposed, in page 18, line 18, after "property", to insert ", including the *harta sapencharian* or jointly acquired property,". - (Inche A. Rahim Ishak).

Amendment negatived.

Clause 53 agreed to.

Clauses 54 to 68 inclusive agreed to.

Clause 69:

Amendment made, in page 24, by leaving out from "property," in line 14 to "shall" in line 17.-(Inche A. Rahim Ishak).

Clause 69, as amended, agreed to.

Clause 70 agreed to.

Clause 71:

Amendment made, in page 24, line 42, by leaving out "may" and inserting "shall". -(Inche A. Rahim Ishak).

Clause 71, as amended, agreed to.

Clause 72, agreed to.

Clause 73:

Amendment made, in page 25, by leaving out lines 24 and 25. - (Inche A. Rahim Ishak).

Clause 73, as amended, agreed to.

Clauses 74 to 77 inclusive agreed to.

Clause 78 disagreed to (corrections made to the numbering of clauses consequent on the deletion of clause 78).

Clauses 79 to 81 inclusive agreed to.

Clause 82:

Amendments made-

(1) in page 28, line 18, at end, by adding "and"; and

(2) in page 28, by leaving out lines 19 to 21 inclusive. - (Inche A. Rahim Ishak).

Correction made, in page 28, line 22, by re-lettering paragraph (c) as paragraph (b).

Clause 82, as amended, agreed to.

Clause 83 agreed to.

Clause 84:

Amendment made (with the consent of the Speaker and the assent of Members present under S.O. 32), in page 29, by leaving out lines 13 to 15 inclusive.
- (Inche A. Rahim Ishak).

Correction made, in page 29, line 9, by leaving out "-(1)".

Clause 84, as amended, agreed to.

Clauses 85 and 86 agreed to.

Clause 87:

Amendments made -

- (1) in page 29, line 29, by leaving out "The" and inserting "Subject to the provisions of section 146 of this Act, the";
- (2) in page 29, line 35, by leaving out "Minister" and inserting "President of Singapore"; and
- (3) in page 29, line 36, by leaving out "Minister" and inserting "President of Singapore". - (Inche A. Rahim Ishak).

Clause 87, as amended, agreed to.

Clauses 88 to 91 inclusive agreed to.

Clause 92:

Amendment proposed, in page 31, line 41, to leave out "fifteen" and insert "eighteen".-(Inche A. Rahim Ishak).

Question proposed, "That the word proposed to be left out, be left out";
debate arising.

Debate to be resumed.

Adjourned to 3.00 p.m. on
Friday, 20th May, 1966.

9th Meeting

FRIDAY, 20TH MAY, 1966

3.00 p.m.

PRESENT:

Mr. Speaker (Mr. A. P. Rajah, M.P.) (*in the Chair*).
Inche A. Rahim Ishak, M.P.
Inche Buang bin Omar Junid, M.P.
Inche Mahmud Awang, M.P.
Inche Mohd. Ariff bin Suradi, M.P.
Inche Rahamat bin Kenap, M.P.
Tuan Haji Yaacob bin Mohamed, M.P.

ABSENT:

Inche Othman bin Wok, M.P. (*on leave of absence*).

IN ATTENDANCE:

The Attorney-General (Inche Ahmad bin Mohamed Ibrahim),
The President, Shariah Court (Haji Mohamed Sanusi bin Haji Mahmood).

1. The Bill further considered, clause by clause.

Clause 92:

Amendment proposed, in page 31, line 41, to leave out "fifteen" and insert "eighteen". - (Inche A. Rahim Ishak).

Question again proposed, "That the word proposed to be left out, be left out"; debate resumed.

Amendment, by leave, withdrawn.

Amendments made (under S.O. 32) -

- (1) in page 31, line 41, by leaving out "fifteen" and inserting "sixteen"; and
- (2) in page 32, line 3, by leaving out "fifteen" and inserting "sixteen". - (Inche A. Rahim Ishak).

Clause 92, as amended, agreed to.

Clauses 93 to 105 agreed to.

Clause 106:

Amendment made, in page 36, lines 9 to 11, by leaving out subclause (1). - (Inche A. Rahim Ishak).

Corrections made -

- (1) in page 36, line 12, by leaving out "(2)"; and
- (2) in the Marginal Note, by leaving out "Modification of law of property" and inserting "Saving".

Clause 106, as amended, agreed to.

Clause 107:

Amendment made, in page 36, line 18, after "Muslim", by inserting "domiciled in Singapore". - (Inche A. Rahim Ishak).

Clause 107, as amended, agreed to.

Clause 108:

Amendments made -

- (1) in page 36, line 29, after "person", by inserting "domiciled in Singapore",
- (2) in page 36, line 31, after "law", by inserting "as modified, where applicable, by Malay custom"; and
- (3) in page 36, after line 34, by adding-

"(3) In the case of a Malay dying intestate the court may make an order for the division of the *harta sapencharian* or jointly acquired property in such proportions as to the court seems fit." - (Inche A. Rahim Ishak).

Clause 108, as amended, agreed to.

Clauses 109 to 112 inclusive agreed to.

Clause 113:

Amendment made, in page 38, line 4, by leaving out "person" and inserting "woman". - (Inche A. Rahim Ishak).

Clause 113, as amended, agreed to.

Clause 114 agreed to (correction made, in page 38, lines 28 and 29, by leaving out "Ordinance" and inserting "Act").

Clauses 115 to 126 inclusive agreed to.

Clause 127 agreed to (correction made, in page 41, lines 3 and 4, by leaving out "Ordinance" and inserting "Act").

Clauses 128 to 131 inclusive agreed to.

Clauses 132 and 133 disagreed to (corrections made to the numbering of clauses consequent on the deletion of clauses 132 and 133).

Clause 134:

Amendment made (under S.O. 32), in page 43, after line 8, by adding-

"(3) Nothing herein shall affect the operation of any law for the time being in force relating to immigration." - (Inche A. Rahim Ishak).

Clause 134, as amended, agreed to.

Clause 135 disagreed to (corrections made to the numbering of clauses consequent on the deletion of clause 135).

Clause 136 agreed to (corrections made, in page 43, lines 18 and 26, by leaving out "73" and inserting "71").

Clause 137 agreed to.

Clause 138 disagreed to (corrections made to the numbering of clauses consequent on the deletion of clause 138).

Clauses 139 to 147 inclusive agreed to.

3. Bill to be reported.

REPORT

4. The Chairman's report brought up and read the first time.

5. Resolved, "That the Chairman's report be read a second time paragraph by paragraph."

Paragraphs 1 to 13 inclusive read and agreed to.

6. Resolved, "That this report be the report of the Select Committee of Parliament."

7. Agreed, that the Chairman do present the report upon printed copies thereof being made available for distribution to Members.

8. Inche A. Rahim Ishak thanked the Chairman, who suitably replied.

Printed by Lim Bian Han, Government Printer, Singapore
To be purchased from the Government Publications Bureau
Fullerton Building (Ground Floor), Singapore

Price: \$3