

**MUSSALMAN WAKF VALIDATING ACT. 1930**

**32 of 1930**

**[25th July, 1930]**

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"Muhammadan Law permits a perpetual bequest in the form of wakf-al-aulad, that is a bequest for the benefit of the testator's descendants. As such, it contravenes the law against perpetuities as enacted in S.14 of the Transfer of Property Act, and S.114 of the Succession Act, 1925. A doubt was cast on this doctrine by the Privy Council in several cases in which their Lordships held such bequests illegal as obnoxious to the rule against perpetuities (Abdul Fata v. Rasamaya, 22 C 619) (PC); Abdul Gafur v. Nizamuddin, ILR 19 Ind App 170; Mujibun-nissa v. Abdul Rahim, 23 A 233 (PC); Muhammad Munawar Ali v. Razia Bibi, 27 A 320 (PC). Mr. Jinnah introduced a Bill which became Act VI of 1913 restoring the validity of such wakfs. But in several cases since decided this Act is held to be inapplicable to wakfs created before its enactment (Khajeh Solehman v. Salimullah, 49 C 820, PC); Rahimunnissa v. Shaik Manik Jan, 19 CWN 76; Mahomed Bukht v. Dewan Ajman Reja, 43 C 158; Amir Bibi v. Aziz Bibi, 39 B 563). As Act 6 of 1913 was merely declaratory of the validity of such wakfs, it was understood that it would apply equally to all wakfs whether created before or since that enactment. But as the Courts have held otherwise, this Bill is framed to give that Act retrospective operation. It is apprehended that Mussalman Wakf Validating Act (6 of 1913) was not intended to introduce a change in the old law being enacted to restore the old rule. This Bill will, if passed, carry out its intention by resolving a doubt resulting from recent cases." -Gazette of

India, 1929, Pat V, p. 240. EXTRACT FROM SELECT COMMITTEE REPORT "Clause 1.- This Bill is designed to give retrospective effect to the Mussalman Wakf Validating Act, 1913, which has already been in operation without retrospective effect for seventeen years. We have decided that the retrospective effect shall not disturb titles which have already vested, either prior to 1913, or between 1913-1930. It follows that two distinct provisions are required, one to give the desired retrospective effect, and the other to save rights which have accrued prior to 1930. We have found it impossible to fit both these provisions into the Act of 1913, and we have accordingly reshaped this Bill not as an amending Bill, but as a distinct Bill to give retrospective effect to the Act of 1913, and have given it the short title of the Mussalman Wakf Validating Act, 1930. We have accordingly amended the long title and preamble. Clause 2.- We have not been able to accept the substance of this clause without modification, as its effect would have been to disturb titles which had already been acquired in good faith. On the understanding that wakfs of the class contemplated in the Act of 1913 were not valid if created before 1913. We adhere to the sound principle that retrospective legislation should, as far as possible, save vested rights, and we have introduced a proviso to this effect. Otherwise, the clause as amended by us merely declares that the Act of 1913 shall apply to wakfs created before its commencement." -Gazette of India, 1930, Part V, page 107.

**1. Short title :-**

This Act may be called the Mussalman Wakf Validating Act, 1930.

**2. Act of 1913 to apply retrospectively :-**

The Mussalman Wakf Validating Act, 1913, shall be deemed to apply to wakfs created before its commencement : Provided that nothing herein contained shall be deemed in any way to affect any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act.