

The Committee also recommended that two hours, in addition to the time already taken, may be allotted for further discussion on the Resolution regarding unemployment problem in the country, moved by Shri Shiva Chandra Jha on the 24th November, 1978.

The Committee further recommended that the House should sit up to 6.00 P.M. and beyond 6-00 P.M. as and when necessary for the transaction of Government business.

सदन की कार्यवाही ढाई बजे तक के लिए स्थगित की जाती है।

The House then adjourned for lunch at fifty-seven minutes past twelve of the clock.

The House reassembled after lunch at thirty-two minutes past two of the clock, Mr. Deputy Chairman in the Chair.

THE CONSTITUTION (AMENDMENT) BILL, 1978

(TO AMEND THE EIGHTH SCHEDULE)

श्री शिव चन्द्र झा (बिहार) : उपसभापति महोदय, मैं वास्तव में इस सदन में दरखास्त करता हूँ कि भारत के संविधान का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की मूले अनुमति दी जाय जिससे कि मैथिली जो दो करोड़ से ज्यादा लोगों की भाषा है उस को अष्टम अनुसूची में स्थान मिल सके।

The question was Put and the motion was adopted.

श्री शिव चन्द्र झा : मैं विधेयक को पुरःस्थापित करता हूँ।

THE CONSTITUTION (AMENDMENT) BILL, 1978

(to amend Articles 120, 210, etc.) SHRI MURASOLI MARAN (Tamil Nadu): Sir, I beg to move for leave

to introduce a Bill further to amend the Constitution of India.

Tin- question was put and the motion was adopted.

SHRI MURASOLI MARAN: Sir, I introduce the Bill.

THE ALIGARH MUSLIM UNIVERSITY (AMENDMENT) BILL, 19 H contd.

THE MINISTER OF EDUCATION, SOCIAL WELFARE AND CULTURE. (DR. PRATAP CHANDRA CHUN-DER): Mr. Deputy Chairman, during the last Session this Bill was moved for consideration of this House and we had some general discussion on this. Bill. I had just started to place my point of view before this august House when the House had adjourned. I shall try to do so today. Generally I try to be as brief as possible, but in view of the importance of this Bill, I would request you to give me some time to place the facts before the House so that honourable Members may consider the different aspects of the problem which is posed by this Bill. Although this Bill is very short, I would submit that it has got far-reaching consequences. In fact, it has got two parts: The first part deals with amendment of the definition of the word 'university'. In the original Act of 1920, 'university' was refined as the Aligarh Muslim University. The hon. Member who moved this Bill wants that definition to be changed so as to include these words, 'namely, "which shall be deemed to have been established at the instance of Muslims of India". Of course, there are some amendments to this clause. But we are not dealing the Bill with clause by clause. We have to discuss this in proper perspective.

The second part seeks to omit in section 5 of the principal Act clause-

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(b) of sub-section (2), which, reads as follows:

"to promote the study of the religions, civilisation and culture of India"

The implication will be that this university cannot promote the study of the religions, civilisation and culture of India. It has to be considered whether in the present situation this should be particularly from the angle of national integration. I will try to address this august House on the first point first and then on the second point.

The object for which this amendment to the definition is sought to be introduced has been mentioned by the hon. mover, namely, that the university "shall be deemed to have been established at the instance of Muslims of India" should be made explicit in the Act and as such the definition should be changed. This statement is not quite clear because in his introductory speech the hon. Member has clearly indicated that the real motive for changing the definition, as contained in the principal Act, was something else. This is what he had said and I quote:

The main thrust of this Bill, as I submitted earlier, is the minority character of the university.

So, that is the crux of the whole thing. What is meant by the minority character? That expression has not been defined anywhere. But we notice that this has become somewhat important after the adoption of our Constitution, particularly article 30 of the Constitution. I would like to read article 30(1) of the Constitution which lays down:

Right of minorities to establish and administer educational institutions.—(1) All minorities, whether

based on religion or language, shall have the right to establish and administer educational institutions of their choice.

This is indicative of the minority character, if I am not wrong in my inference. It means that the minority can establish an institution and it will have the right to administer it as well as such an educational institution will be of their own choice. The implication will be that in such an event, the Government or for that matter even this Parliament may not be in a position to interfere with the administration of that educational institution which has been established by the minority and such an institution must be of their choice. That is what is meant by the minority character.

The principal Act was passed in 1920. There were some amendments which are neither here nor there. When the Constitution was amended, we noticed that certain institutions were declared to be institutions of national importance under the Seventh Schedule of our Constitution. For instance, we have item No. 63, in the Union List, which reads as follows:

"The institutions known at the commencement of this Constitution as the Benaras Hindu University, Aligarh Muslim University and Delhi University and any other institution declared by Parliament by law to be an institution of national importance

So, the Aligarh Muslim University is one of the institutions of national importance which had been included in item 63 of the I List in the Seventh Schedule. The implication is obvious that Parliament can make any law in Aligarh Muslim University and no State Legislature can make any such law. So, if we are to say that minority institution means that Parliament cannot make any law in respect of the Aligarh Muslim University, then it will be affected by the clear provision of the Constitution.

bringing the Aligarh Muslim University along with the Banaras Hindu University and the Delhi University within the competence of Parliament because this is an institution of notional importance. That aspect, I would most respectfully submit before the honourable Members, is to be borne in mind. So, it is not simply article 30, but the specific provision mentioned in item 63 of the First List in the Seventh Schedule conferring power on Parliament to make laws in respect of the Aligarh Muslim University. Therefore if the Aligarh Muslim University is declared to be an institution of minority character attracting article 30 of the Constitution, then a clear conflict between the provision in the Seventh Schedule and article 30 is there. So, the question is whether the Aligarh Muslim University is a minority institution or not. Now, Sir, this question was raised before the Supreme Court in 1965 in the celebrated *Aziz Basha Vs. Union of India* case. Five learned Judges of the Supreme Court sat and discussed all aspects of the question. The question arose out of certain amendments brought forward by Parliament in respect of the Aligarh Muslim University Act and some citizens belonging to the minority community challenged the amendments in the Supreme Court claiming that institution to be an institution of minority character. Their contention was that Parliament could not make any law in respect of the Aligarh Muslim University and maintained that the Act which was passed in 1965 was *ultra vires* of the Constitution because this University, according to the petitioners, had been a minority institution under article 30 of the Constitution and, therefore, Parliament could not make any law. To establish this point of view, it would have been necessary to prove before the Supreme Court that this institution was established by the minority community and if it was established by the minority community, then it would have to be administered by them and no outside body or authority would be in a position to

interfere with such administration. So, we have been driven to the history of this institution to find out how this University was established and in what circumstances this University came into being. Sir, I would like to take you back to 1873 when the great educationist and one of the great sons of India, Sir Syed Ahmed Khan, conceived of a scheme for establishing a Muslim University and the Mohammedan Anglo-Oriental College was established at Aligarh. The whole idea was that the College would mainly deal with the Muslim community and the University would evolve out of this Mohammedan Anglo-Oriental College. But I am glad to point out that although this primary body was to give modern type of education to the members and the young members of the minority community, the College itself did not have any communal outlook because we are surprised to find that in the College, in the professional staff there were many teachers and professors belonging to the other communities. It is also of interest to note that the first graduate from the College had been a Hindu. I am reading from the Address of Hon. Mr. Sham who introduced the Aligarh Muslim University Bill before the then Central Legislature in 1920, and in this statement, in this report, at page 90, Mr. Shafli points out—I quote:

"The result of these profound convictions on his part was that where he secured for the Aligarh College a number of Mohammedan professors, he, at the same time, had a Theodore Beck at its head, a Theodore Morrison and an Arnold Cox,

Walter Raleigh and a Chakravarti on its staff _____"

Then, he also mentioned—I quote:

"It is, however, interesting to note that the first graduate of this Mohammedan College was a Hindu gentleman of the name of Eshri Prasad Sahib who rose to be an Execu-

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tive Engineer in the Central Provinces."

Therefore, primarily the object was to give modern education to young people of his community. But the institution which he had set up was not confined to the young people of the Muslim community; but Hindu had stayed there. Similarly, at the level of the...

SHRI B. V. ABDULLA KOYA (Kerala): That goes with all the institutions started and run by the Muslims in India.

DR. PRATAP CHANDRA CHUNDER: I congratulate the community for this. I am trying to point out this fact that this institution rises above the narrow considerations of a particular creed, and that is to be congratulated upon. So this is a fact which has to be noted.

Then, I would like you to remember the name of Theodore Beck, whom I shall mention presently. When this institution was set up, efforts were made to enlarge this institution to make this into a University. But the whole matter received a set-back in 1898 with Sir Syed Ahmad's death. After he died, his friends, including this Professor Beck who became Principal of the Aligarh College and who, incidentally, was a Quaker, a Christian, set up the Syed Memorial Fund with the object of raising this Mohammedan Anglo-Oriental College into the status of a University. Therefore, in raising the funds for the purpose of making this institution into a University, a Quaker Christian had definitely participated and had played a very important role in this matter. In March 1899, Theodore Beck, again brought out a tentative plan for a Muslim University as an enlargement of Mohammedan Anglo-Oriental College.

So, from all this you will notice, Sir, that at the initiation and also at

a later stage of development, there were members from other communities also who were involved in efforts, to enlarge this original institution into a University. However, the whole progress, was set at naught in about 1904. Although the Government of India had approved of the idea, the Indian Universities Commission turned down the proposal, and under the Act of 1904 this proposal of a denominational University almost came to an end. That was the first chapter of the story of Aligarh Muslim University.

Now, we come to the second chapter. Sir, we notice that new forces came on the scene and the Agha Khan in 1910 gave a call for certain steps to be taken for the establishment of a Muslim University and the original Syed Memorial Fund was replaced by a Muslim University Foundation Committee. The original Memorial Fund which was sponsored, among others, by this Quaker Principal Theodore Beck had been replaced by the Muslim University Foundation Committee. In April, 1911, a draft Constitution was prepared by Mr. Syed Ali Begam. But the negotiations went on with the Government. Sometimes the Government would like to consider these proposals and sometimes counter-proposals would come. Dingdong discussions went on. Ultimately, on the 26th May 1911, from a confidential demi-official note, we find that the Raja of Mahmudabad, who was a Muslim no doubt, suggested a Constitution to the Government, inter alia, with the following conditions:

- (a) Viceroy to be the Chancellor and ex-officio Head of the University with power to appoint Visitors, to inquire and to give advice to the trustees.
- (b) The Chancellor to have power of veto on all statutes and byelaws dealing with the administrative-side.
- (c) Affiliation of outside colleges and the recognition of schools to be rev

quire sanction of the Chancellor, etc. Sir, I do not want to give further details. Those will show that even in the administration of the proposed university, some outside authority, howsoever high it may be, that is the Viceroy of the day, was sought to be given such ultimate power and it was not confined to the Muslim community as such. The proposal had come from the Raja of Mehmudabad who belonged to this community itself. Sir, we find that on the 1.8th of July, 1911, the Secretary of State had mentioned:

"I approve in principle the establishment of a university at Aligarh subject to reservation of adequate control and provision of adequate funds and provided that my freedom of action is reserved, I sanction negotiations."

From this, it will appear again that the ultimate control was to remain with the Government or the representatives of the Government. However, here again, the old secular character also was stressed by a D.O. letter to the Raja of Mehmudabad on 31st of July, 1911. It stated that the university was to be opened to non-Mohammedans as well; there should be no religious test for Professors, etc. and non-Mohammedan students should not be compelled to study Muslim theology. This is another factor to be noted. Again not only the Viceroy or the Chancellor, but the Senate also was given very great power and the Senate was to be nominated by Faculties and also by Graduates. You will remember that the non-Muslims would also be present among the Faculties and the Graduates. Therefore, it could be possible that some non-Muslims would cast votes or be elected as Members of the Senate. That was the understanding. It went on like that. But a lot of discussion continued. No final decision was taken until the Great War intervened. Before the Great War, there was a meeting of the Foundation Committee

and here the hon. Mian Mohammed Shafi had a say and, as I said, he ultimately piloted the original Aligarh Muslim Bill in 1920. There was the Young Mohammedan Liberal Party. And it is very interesting to note that the Young Mohammedan Liberal Party was very much annoyed at the slow progress of the discussion on the Aligarh Muslim University. So, they had tried to revolt and they had published some leaflet, the translation of which is given here—"Oh Mohammedans of Aligarh, wake up and know your duty." In this long leaflet, the Young Mohammedan Liberal Party stated, and I quote;

"If the Government does not accede to their request they should establish a separate university of their own for western science to be taught in Urdu and the Industrial education given to all."

I stress this point to indicate that there was a threat to set up a separate university of their own, that means, of the minorities, for western science to be taught in Urdu, and for industrial education. And there was no ban on the setting up of any university in those days. This has also been recognised in the judgment of the Supreme Court. I am reading an extract from a book which has recently been published by the Dr. Zakir Husain Centre for Educational Studies of the Jawaharlal Nehru University. The name of the book is "Development of University Education, 1916 to 1920: Selections from educational records." This is a very significant document which will indicate the trend of the discussion on the Aligarh Muslim University which was yet to come into being. And this type of discussion went on. It is interesting to note that at a certain stage, Maulana Abul Kalam Azad, then as the Editor of the 'Al-Hilal', had been involved in the debates, and there was some heated discussion for some time. There was some breach of peace on a certain occasion. However, it is also interesting to note that when the 1951 Amendment.

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If something is given certainly, it cannot be established by the Muslims of India. If something comes from some other body or party or the Government, then certainly one cannot say that it is established by the persons who are receiving a particular gift.

So, Mr. Mazhar-ul-Haq noted that the university was not given. 3 P.M. Here also we find other very important names like Maulana Mohammad Ali, Shaukat Ali and others; they were also involved at an early stage on the 10th April, 1916, a very important Resolution was passed by the Muslim University

Committee meeting at Lucknow. I "Having regard to the refusal of the Government to grant to the Mohammedans a university on any principles other than those granted to the Hindus, this meeting of the Muslim University Foundation Committee has no other alternative at present but to accepting the principle of the Hindu University Act, provided, however, that in framing the regulations the Government has due regard to the peculiar position that the Aligarh College occupies, in the scheme of the Muslim University, and that the said regulations framed according to the Act should be placed before the members of the Consultation Committee for their approval, etc. ..."

Here, again, you will find that in this solemn body, the Muslim University Committee, the complaint was that the British Indian Government had refused to grant to the Mohammedans a university. Now, if it is a grant from the British Indian Government, one cannot say again that it is established by the Muslims of India as has been suggested by some of the hon. Members in their amendments to the Bill which has just now been brought. In the mean time, as this particular extract that I have quoted, indicates, the other university, the Banaras Hindu University came into being. It is also supposed to be a denominational university that strengthened the demand of the friends of the minority community and they naturally felt their demand was strengthened because they felt that if the British Government had given or granted a university to the Hindus why should not the British Government grant a similar university to the Muslims? That strengthened their demand. So, in a demi official letter dated the 11th April 1917, from Nawab Ishak Khan, Honorary Secretary the Foundation Committee of Muslim University and Mohammadan Anglo-Oriental College to Hon. Sir E. D. Mac-Lagan, Secretary to the Government, Department of Education, we find this extract and I quote: "The

following Resolutions were passed by the Muslim University Foundation Committee at its meeting held at Aligarh on 8th April, 1917. (1) That this meeting of the Muslim University Foundation Committee hereby resolves with reference to the letter of the Government of India, Education Department, dated, Delhi 15th February, 1917, No. D.O, 66, that the Committee is prepared to accept the best university on the lines of the Hindu university." This is also a significant passage which I would like to stress. The Foundation Committee was prepared to accept the best university on the lines of the Hindu university. This is not an empty statement because I shall presently quote from the introductory speech of the hon. Member who introduced the principal Bill in 1920. This parallelism is very well brought out. Therefore, what was given by the British Government of those days had been accepted by the Muslim University Foundation Committee. It is not that Muslim community established this university as this very passage will indicate. This is the resolution of the Muslim University Foundation Committee and that clearly says and I quote "... prepared to accept the best university on the lines of the Hindu university!". So, if I accept something, certainly I do not establish it. It comes from somebody else, some authority or somebody.

"PROF. N. G. RANGA (Andhra Pradesh): Is this not too legalistic a view to take? After all, we know that the Banaras Hindu University was established by Pandit Madan Mohan Malaviya with the financial support as well as the blessings of many a Hindu Maharaja and Hindu benefactor. Actually, it was the Hindus who established it. Similarly, possibly, this Aligarh University also must have been established by many Nawabs and other people under the leadership of Sir Syed Ahmad Khan. The only thing is, they wanted recognition of the university from the Government and the Government was giving it and, therefore, it was treated as a

of granting it, sanctioning it and gifting it but it was not so, as if the British Government paid all the money for it from the Government Exchequer. It was not so. Why should we need to labour on this particular

ilistic point of somebody sanctioning, somebody else granting it and somebody establishing it. Actually, so

as I know, as far as this Banaras Hindu University is concerned, it was established by Madan Mohan Malaviyaji and all the Hindus who supported him. Surely, it was not sanctioned by the British Government of those days.

DR. PRATAP CHANDRA CHUN-' DER: I have great regard for the hon. Member, Prof. Ranga but I should submit that we are going to make a law and, therefore, we cannot do anything which is 'illegalistic'. We have to deal with 'legalistic' matters which are according to law and then come to a conclusion. We have to find out facts which had been taking place and I am placing those this august House to draw conclusions. If the hon. Member feels that it is 'illegalistic', it is simply shutting our eyes to the facts which actually took place. This is what I would like to submit. But let me resume in my own way and certainly, the hon. Members will get their opportunity to comment.

Now I would like to point out another important passage at page 81 of this book. You will notice what was the idea in this particular case. There was a press note from the Education Department on 4th May, 1920. At the end of March the hon. Education Member received a deputation from the promoters of the Aligarh Muslim University. The word 'promoters' is significant, because it does not mean that Muslims were not involved in the promotion of this university but that it was not established by them in the true sense of the term. And as I have already pointed out by reference to the circular of young Mohammedan

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Liberal Party they could have established a separate university and then they could have come before the Government for recognition of their degrees. There was no ban on that, as under the present University Grants Commission Act, no university granting a decree can be established. There was no such ban and this has been very clearly pointed out in that celebrated judgment of the Supreme Court and I shall place it very soon.

So, from all these facts we find that there were many well-known leaders from the minority community—there are great names—we are very grateful to them for the contribution they have made in the field of education and for their fight for our independence. They had come together and stressed upon the Government of the day to have a university on the same pattern as the Banaras Hindu University so that it will primarily give training in theology and in allied matters but at no point was this university to be confined to the narrow creed or the particular religious attitude debaring the students from other communities or professors from other communities.

I now place before this House some of the interesting observations of the hon. Mohammad Shafi who introduced the original Bill in 1920. In his introduction he says:

"Sir, I beg to introduce the Bill to establish and incorporate a teaching and residential Muslim University at Aligarh."

Therefore, hon. Mohammad Shafi was quite aware that what he was doing was establishing a teaching and residential Muslim university. It was not already established. But by this very Bill, this University was established and that he says at the very beginning. He then gives a history of this Mohammedan Anglo-Oriental College and various other history. He had

pointed out that this University should be of an all-India character. He says:

"Recognising the all-India character of the Banaras Hindu University and the Aligarh Muslim University, the rules framed under the Government of India Act have now proposed that these two Universities should be a Central subject and the responsibility in connection therewith henceforward rests on the shoulders of the Government of India."

Education then was a provincial subject, but because of the importance of these two Universities, Aligarh and Banaras, these were Veated as Central subjects. Then again, I quote:

"The Bill in all its essentials is founded on the Banaras Hindu University Act."

So, the parallel which I have already cited finds mention in the preliminary address or the hon. Member who was introducing the Bill.

Now, what about administration?

If it was established by the Muslims of India, then they would have free scope in administration.

This has already been indicated by me while reading article 30 of the present constitution. But in fact, this was not so from the very beginning because the hon. Mr. Mohd. Shafi says:

"A glance of sections 6(2), 17(5) and 18(5) and statutes 8(1), 10(1) and 19(1) of the Banaras Hindu University Act will make it clear to the hon. Members that the Visitor, the Lt. Governor of the United Provinces is the main agency of control in the case of the Banaras Hindu University. In the present Bill, in consonance with the central nature of this subject, much of this.

control is transferred to the Governor-General in council, an authority which under the Government of India Act will henceforward include three Indian Members."

So, this very statement of the hon. Member who was piloting the original Bill in 1920 would show that the main agency of control lay with the Governor-General in council "an authority which under the Government of India Act will henceforward include three Indian Members". These Indian Members certainly could include a Hindu also. There is no ban on that.

So, whether from the point of view of establishment or from the point of view of administration or from the point of view of the scope of the University in imparting education to students from all communities, irrespective of any particular creed, we know that this University was not linked up with a particular community exclusively and it had reached a very high stature and we are very proud of the performance of this University. I am very glad that this University has made a great mark in our country in the field of education and today, we find that there are students from almost all parts of the world, so to say, who are studying there. Even during the recent incidents in Aligarh, the teachers and students of this University have played a very significant role in maintaining peace and helping the people who have been affected in the riots. We are proud of their achievement. Now, "this is the status of the University"

Now, when in 1951, the late Maulana Abul Kalam Azad brought about this amending Bill, certain basic changes were introduced. I would not go into the details because this is not actually necessary. But the real problem came when Mr. Chagla, the then Education Minister piloted the amending Bill in 1965 and this was passed by Parliament.

SHRI BHUPESH GUPTA (West Bengal): Sir, this is a very enlightening speech. But I would like to know one thing. I am not saying what he says is absolutely irrelevant. It has its own relevance. We have been listening to many facts. He has given them as he understands them. The present Bill only says that the following words should be added:

"which shall be deemed to have been established at the instance of Muslims of India".

It says "at the instance" and not "by". Apart from the history of it, let us see what provisions are affected. Let us discuss the legality of the Bill. The Bill says: It was established at the instance of the Muslims of India. Suppose, in a particular text of a Bill it is said that it has been established at the instance of something, how does it affect the provisions?

DU. PRATAP CHANDRA CHUNDER: I was having the floor and the hon. Member came late and then he wants to intervene in this matter. If he wants to speak, certainly it is within your prerogative to allow him to speak. I hope he will allow me to complete this. Otherwise, the time of this House will be wasted. Perhaps the hon. Member has not listened to my preliminary observation. I said that although in the Statement of Objects and Reasons the matter is not made clear, the hon. Member who introduced the Bill, clearly mentioned that the minority character is the real thrust of this Bill and to the minority character I read out article 30 which means that the institution must be established by the minority concerned, and in that context I am placing all these facts. Therefore, what I was saying is not at all irrelevant. If the hon. Member had listened to my speech earlier, he would not have intervened. However, the matter is at a different stage now.

Now we come to 1965. The Supreme Court discussed all these points. One

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important point which I would like to mention before this august House is that it was contended that the Muslims in those days could not have established any university whatsoever without the intervention of the Government. As Shri Ranga was pointing out, to get the support of the Government this was done, but the Supreme Court says at page 671 of this report—this is All India Reporter 1968—I quote:

"There was no law in India which prohibited any private individual or body from establishing a university and it was, therefore, open to the private individual or body to establish a university."

And this Young Mohammedan Liberal Party which I mentioned, threatened to establish a separate, threatened like that, but that was not done.

The Supreme Court says, I quote:

"Thus in the law in India there was no prohibition against establishing universities by private individuals or bodies and if any university was so established, it must of necessity be granting degrees before it could be called a 'university'. But though such a university might be granting degrees, it did not follow that the Government of the country was bound to recognise these degrees."

That means, whether the Government will accept the degree or not that lay with the Government for final decision. But private universities could have been established. In this case, in spite of the threat of that Young Mohammedan Liberal Party no such private Muslim university had been established. On the other hand, a full-fledged university was established by the Act of the Parliament. Therefore, the Supreme Court concludes, I quote:

"Therefore, it was possible for the Muslim minority to establish a university before the Constitution came

into force, though the degrees conferred by such universities were not bound to be recognised."

Here again the Supreme Court quotes section 22 of the University Grants Commission Act, 1956, which puts a ban upon institutions conferring degrees, and earlier, the Supreme Court says, there was no such ban and having considered all these, the Supreme Court comes to the conclusion that, I quote:

"It was thus the Central Legislature which brought into existence the Aligarh University and must be held to have established it."

That is the final decision of the Supreme Court. This is the final decision of the Supreme Court. Whether by introducing the original clause, as the hon. Member is suggesting, or by having the amendments which have been suggested by some of the other hon. Members, we are going to undo the findings on facts by the Supreme Court is for this House to decide. The Supreme Court is interpreting on the basis of facts and I have given before this hon. House a series of facts to show that the University could have been established by the Muslims, but it was not so. Actually the Supreme Court has said that it was only the Act of the Central Legislature of those days which brought into existence the Aligarh University. That being a very important fact, we should note that we cannot brush away that fact simply by making some changes in the Aligarh Muslim University Act which was passed in 1920. We cannot undo the facts. Perhaps the hon. ble mover was himself in doubt; therefore, if you read the clause that he has put forth, he has indicated his doubt by saying that it is "deemed" to have been established. The words used are—"which shall be deemed to have been established . . ." Now the work "deemed" creates a legal fiction, something which is not there is supposed to be there. So what is proposed by the hon. Member is that something which is not there, which was not

established by the Muslims in taken as established at the instance of Muslims of India. I do not agree with the hon. Member. Certainly this University was established at the instance of Muslims of India and a few others like Dr. Theodore Beck and many others—even Dr. Devprasad Sarbadhikary supported the motion in the Central Legislature of those days which passed this Bill, but certainly the Muslims were the promoters. They took keen interest; it was established at their instance no doubt. But if I say that the real purpose is to give it minority character, I would respectfully submit that the whole purpose will fail. In the first place, it will go against the decision of the Supreme Court on matter of fact, not on any particular interpretation of law which is passed by Parliament. It is the interpretation of the Constitution and the Supreme Court is the final authority to give interpretation to the Constitution. On that basis, if we go beyond that then we will be undoing a fact which had taken place not in one year only but in a series of years—a number of years. For more than a quarter of a century things have continued and now after so many years to say that this was not the fact, some other thing was the fact, should not be proper for the august House to consider.

Secondly, Sir, assuming that the University was established, we have noticed that it was not administered, and that would substantiate the fact that it was not established by Muslims of India. The Visitor, or earlier the Viceroy was the ultimate authority under many of these provisions. Taking all these things together, I am to submit that this Bill does not serve any useful purpose. I have brought a Bill in the other House, a comprehensive Bill. I had discussions with about two dozen deputations, many friends from the minority community, the Vice-Chancellor, Dr. Khusro, the leaders of the Muslim University Action Committee, the President of the Aligarh

Muslim University Students' Union and other office bearers. They have all come to me. I have seriously discussed this matter with them. I feel very sorry that in 1965, the basic rights of the University had to be taken away. The University community cannot virtually manage their own affairs freely. The autonomy or the democracy which was virtually in the University community has been taken away. Therefore, I feel that it is highly necessary that the earliest it is possible for us to restore the internal autonomy of the University it would be good for the University as well as the country. So after discussion with all these friends, I have

introduced a Bill. I have introduced it in the Lok Sabha and on that basis also the Minorities Commission had

made comments. The Government has also had considered the comments of the Minorities Commission. So I may again introduce certain amendments in that Bill to make it in conformity, as far as possible, with the views of the Minorities Commission and that Bill will be taken up, I hope, in the course of this Session of Parliament in the other House. This Bill will again come here.

There is also an amendment to the definition of the University and there I have tried to give a historical interpretation in brief. And the whole idea of the hon'ble

Member has been somewhat reflected in that definition. This definition was also suggested by some of my esteemed friends from the minority community. We had some discussion and we had accepted this definition. If there is any lacuna or any improvement is possible, certainly amendments can come to the other House. Again, amendments can come before the next House also. The hon'ble Member will be brought before this House; will be ample opportunity to discuss this matter in detail then.

DR. RAFIQ ZAKARIA (Maha-rashtra):
Have you an open mind on it?

DR. PRATAP CHANDRA CHUN-DER: As I am suggesting there will be ample opportunity for discussion in this matter, because this is a comprehensive Bill which deals not only with the definition of University but also restoration of the autonomy of the University. When that Bill is pending before the Lok Sabha and is now the property of the Lok Sabha, this particular Bill is also taken up here. I may most respectfully submit that there will be confusion in the whole affair if this hon'ble House passes this Bill. Certainly, it has got every authority to do so in spite of my submission. I am making a very honest submission before this Honourable House. This Bill will again go to the Lok Sabha. In the meantime the Lok Sabha would have passed that substantive Bill dealing with the same definition. So there will be some conflict and what will ultimately be the result I do not know. It would be a sort of ding dong battle between the Lok Sabha and the Rajya Sabha and the whole issue will be confused and our real purpose of restoring substantial autonomy to the University so that the academic community could deal with the whole matter of the University will be postponed for some indefinite time. I would, therefore, most humbly request the honourable mover to consider this aspect of the matter that the real purpose will be served by giving substantial autonomy back to the University as it had exercised it since 1951 and which had been taken away later. In fact, now the real authority virtually lies with the Government and for the time being the Visitor will appoint many members to important bodies of the University generally at the recommendation made by me. Some backseat driving of the University is probably being done by me. What I want is that the academic community should get back its real autonomy. In this comprehensive Bill various other matters like some of those which have been brought out here might be considered keeping in view the Supreme Court judgment

which I have already mentioned. So I earnestly appeal to the honourable mover of the Bill to withdraw this Bill, because he is not suffering in the least, because a substantive Bill is already there and the matter can be debated once again. Amendments could be put in there. Even after the Lok Sabha does it this House certainly can put in amendment and the matter can be debated here.

There is one other point which I have already mentioned. This is a brief point but I should again say that this is rather narrowing the scope of the University. It is when the honourable mover wants to delete the portion "to promote the study of religion, civilisation and culture of India". I do not understand why he has introduced this. In the statement of Objects and Reasons he says; "Since the primary function of the University is to promote the culture"

SHRI TRILOKI SINGH (Uttar Pradesh): Will the hon'ble Minister like to teach Vedanta and idol worship in the Aligarh Muslim University and Islamic philosophy in the Hindu University? What does he mean?

DR. PRATAP CHANDRA CHUN-DER: Let me finish. I will reply to this. It says, "to promote the study of religion, civilisation and culture." Will that mean that Islam is not part of India? Is it to be believed that the great Muslim community is not the heart and soul of the Indian population? Do not the same people constitute an important element of the nation? Will this matter not go against the emotional integration of the whole people? How is it that this has been suggested? I fail to understand. I had been to Tunisia recently. It is an Arab country but it is studying Indian philosophy. I had visited their national library. Even the books of Shri Aurobindo are there. I presented a set of such books to them and they have been accepted. Here since the beginning of this University this board character of the

University is retained in spite of the fact that theology is being taught to Muslim students only. Now, the hon. Member wants that the University should not promote study of religion, civilisation and culture of India. I most respectfully say that he is a senior Member with great experience. So he should not narrow down the scope of the University.

Now, these are some of the submissions I have made and I have made this appeal to the hon. Member who has introduced this Bill. It is now up "to the House to consider what steps "to take.

Thank you.

THE VICE-CHAIRMAN (SHRI GHANSHYAMBHAI OZA) In the Chair]

SHRI SANKAR GHOSE (West Bengal): Sir, so far as this Bill is concerned, the primary question is that of the minority character of the Aligarh Muslim University. Minority character does not mean that the students will all belong to any particular community. In any university in India, the students will belong to all communities. That has nothing to do with the minority character of the University.

So far as our Constitution is concerned, it is founded on the basic concept of secularism. The concept of secularism is the concept of unity in the midst of diversity, it recognises the diversity, the various minorities their culture, their religious, their way of life. Therefore, our Constitution provided that, though essentially our country is secular, we do not believe in regimentation. It is for this reason that article 30 forms part of the Constitution.

Article 30 has nothing to do with restricting the admission of students to the universities. Article 30 has only this to say: "All minorities ----- shall have the right to establish and administer educational institutions of

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their choice." This is the cultural guarantee that we have given to the minorities.

It is a big country. In this country, there can be no unity unless there is also diversity, unless we recognise the rights of the minorities. This right is guaranteed by the Constitution. This is quite different from communalism or anything else.

Under article 30, there are not one or two, there are hundreds of educational institutions of the minorities, of the Christians, of the Muslims, of the Sikhs, of the Jains. Their minority character is recognised, preserved and guaranteed by the Constitution. Therefore, Sir, when this question is raised, it is asked, will the professors belong to different communities? They should belong to different communities. They would belong to different communities even if you want to restore the minority character of the University. It is said that the students would not belong to one community. The students would not belong to one community. They would belong to all communities even if you recognise the minority character of the University.

Minority character means two things; the right to establish and the right to administer or the right to manage. These are guaranteed by the Constitution. Our founding fathers debated over it.

Sir, the Minister has said that there is a judgement of the Supreme Court. Does the House want to set aside the findings of the Supreme Court, he asked. Sir, I wish the Minister, who has delivered a very learned speech on the subject, had told us, enlightened the House, as to what the jurists of India, independent people, have said after the Supreme Court judgement? What did they say? Sir, I will not quote any politician. I will not quote any partisan person. I will quote the independent jurists of India.

[Shri Sankar Ghose]

Sir, one well known jurist Seervai has written a book on the Constitution of India. He has dealt with the Supreme Court judgement in detail. What does he say? Sir, he has said two things. One is that the evidence before the Supreme Court was overwhelming and the Supreme Court accepted that evidence, that this University was founded by the Muslims.

The question is asked: Why can't you go to the Supreme Court? I will deal with that also. Sir, the Supreme Court accepted that it was founded by the Muslims. What did the Supreme Court do? It proceed on certain legal aspects of the question. The Education Minister talks of granting a university. Universities are not given, they are not granted, they grow, they are built up.

Sir, you remember how it was founded. Syed Ahmed Khan did for the Muslims of India what Mohan Boy did earlier for the majority community. He wanted that we must synthesise modern ideas with our culture and, therefore, he wanted the spread of English education without any surrender of the basic Islamic culture as Earn Mohan Roy also wanted English education to be integrated while preserving the basic culture of the country

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So, far as the contribution for this university is concerned, how did it come? It is known that for 20 years or more Syed Ahmed collected funds. He said that he went to every person. He said that their faces looked like begging bowls. Some of their friends knew, as soon as they approached, that they would ask for subscription for the college which would ultimately become a university. Sir, on one occasion some of his friends wanted to give a dinner party to Syed Ahmed Khan. A large number of people contributed Rs. 20 each and they collected Rs. 300, and on knowing it Syed Ahmed Khan said, "You want to throw a party for me. Give me these Rs. 300, I will contribute Rs. 20, and

Rs. 320 I will give to the fund. There will be no party."

Sir, therefore, when this University was founded, it was founded by the promoters. They were promoters of a particular community. The contribution was not only from the Muslims. The Hindus also contributed to it. Hindu Professors and students were there.

The Banaras Hindu University was founded in 1915, and this University was founded in 1920, five years later. The Government stipulated that it would not recognise the Banaras Hindu University unless they brought Rs. 50 lakhs. Pandit Malviya and others collected Rs. 50 lakhs and founded the magnificent structure of the Banaras Hindu University and the Government wanted the promoters of the Aligarh Muslim University to bring Rs. 30 lakhs. They brought Rs. 30 lakhs and that magnificent structure of the Aligarh Muslim University was founded with a contribution of Rs. 30 lakhs. The Government said that it would pay Rs. 1 lakh each university.

Sir, then independence came. The provision in the constitution is that if you take Government grant, there cannot be any provision for compulsory education in a particular region or, for exclusion of the students of any particular community. So far as the charters or the constitution of the Banaras Hindu University and the Aligarh Muslim University are concerned, they were brought in tune with the provisions of our Constitution.

When this question arose before the Supreme Court, they found the fact that the Muslims founded it. But they thought that so far as the degree are concerned, the degree could not be recognised and the Muslims could not get into the public service unless the Aligarh Muslim University degrees were recognised by the Government. Therefore, recognition by the Government was necessary. Sir, the test of a university is whether its degrees are recognised for public services or not. The Supreme Court went into only

one ground. They said that because they wanted recognition of their degrees, it could not be established without that recognition being given by the Government.

Sir, on that the jurists of India have said that the judgement went on a technical legalistic grounds which are not correct. The jurists of India have said two things. I am reading from the Constitution of India, second edition, volume I by Seervai. In that they say two things. Firstly they say on the factual position. It is page 614.

"It is submitted that the above history leads only to one conclusion, University was established by Hindus for Hindus, though it was open to non-Hindus to join the University. Similarly, the Aligarh Muslim University was established by Muslims for Muslims, though non-Muslims could be admitted."

This is the factual position. Therefore, the establishment of the minority character is there.

Then so far as the legal provision is concerned, the Supreme Court said that because the degree has to be recognised by the Government, therefore, that recognition will mean 'establishment'. So far as the jurists of India are concerned, they say that it is a wrong approach and that that approach must be nullified. The Steel Minister is here and says. "Why do you go to the Supreme Court?" In the Supreme Court such questions came up. Now, if a decision of the Supreme Court can be changed, it can be changed in two ways. For instance, the decision of the Supreme Court in the case of United Motors was changed by their decision in the case of Bengal Immunity. The decision of the Supreme Court in Golak Nath's case was changed by their decision in Kesavananda Bharati's case. But sometimes if some decision of the Supreme Court is not in accordance with the intention of Parliament, Parliament can say "We want to change it". There are many validation Acts which Parliament has passed. When

the Supreme Court said that a certain legislation was void or ultra vires, Parliament has passed validation laws. When they were challenged in the Supreme Court, the Supreme Court said "No, Parliament has power to pass validation Acts".

Therefore, so far as the decision of the Supreme Court is concerned, on which the Education Minister replies and says "It is an absolute bar; so, you cannot pass a Bill to over-rule the Supreme Court decision", there is one passage from Mr. Seervai's book which I shall read. Mr. Seervai says: —

"It is submitted that this decision is clearly wrong and productive of grave public mischief and should be over-ruled."

This is the observation of one of the most eminent jurists of India: It is productive of public mischief, it is entirely wrong; it must be overruled.

How is it to be overruled? It can be overruled in two ways. By validation Acts, the Parliament can overrule it. And the Supreme Court can also overrule the decision as it overruled its decision in United Motors' case by its decision in Bengal Immunity's case and its decision in Golak Nath's case by its decision in Kesavananda Bharati's case. Similarly it can be done here.

Restoration of the minority character does not mean that you should provide that all the students will belong to the minority community or that all the professors will belong to the minority community. No, that is not the object. It is to ensure that the right which has been guaranteed by the Constitution in article 30 is preserved.

THE MINISTER OF STEEL AND MINES (SHRI B. L. PATNAIK): What precisely is that right?

SHRI SANKAR GHOSE: The precise right is the right of establishing and managing an institution. That right belongs to the minorities. Therefore . . .

DR. RAFIQ ZAKARIA: It is guaranteed in articles 29 and 30.

SHRI SANKAR GHOSE: The Education Minister has referred to the Seventh Schedule and Entry 63 in the Union List and has said; "Oh,, the Aligarh Muslim University, the Banaras Hindu University and the Delhi University are in the Seventh Schedule. Parliament only can legislate about them, you cannot pass this law-" But this is not the true meaning. The ^position is this. If any legislation takes place because of the Seventh Schedule. . .

SHRI BIPINPAL DAS (Assam): One point. The Aligarh Muslim University is of national importance. That does not qualify the minority character of it.

SHRI SANKAR GHOSE: The glory of the nation resides in all the people of this country, including all the minorities.

That is what Tagore said.

ई भारतेर महामानवेर सगरतीरे शक
हन दल पाठान भोगल एक देहे होलो लीन ।

'In this vast sea-shore of humanity, which is India, people of all religions, all cultures, all races, have come and they have mingled. They are part of one, part of Mother India.' Many streams of thought, many rivers of culture, have joined together and made this great, big ocean, which is our country."

Therefore, the minority character is our richness. We do not believe in regimentation.

Now, here the Education Minister says, "No, look: at the Seventh Schedule. You cannot touch it. It says that the Aligarh Muslim University, the Banaras Hindu University and the Delhi University are institutions of national importance." I say that though they have a minority character, the nation is greatly interested in these institutions and, therefore, if

any legislation has to be passed, no State will pass it, it will be passed by the highest legislative authority in this country, that is, by Parliament. That is the meaning.

You know, various industries are put in the list of industries of national importance. Parliament can say, these are industries of national importance in which States cannot legislate. For example, sugar. The States cannot legislate. Parliament alone can legislate. But that does not mean that Parliament's legislation can violate the other provisions of the Constitution. If Parliament passes a law on sugar, then Article 19, Article 14, those Articles remain. Similarly, if Parliament today passes a law, as it is entitled to under the Seventh Schedule, then Article 30 does not disappear. Therefore, if you suggest that because of the Seventh Schedule you cannot restore the minority character, no, that is not what is intended by our Constitution.

Our Constitution is a document which has reconciled and harmonised the various aspirations of the nation. Therefore, the minority character has been recognised in the Preamble, our secular character has been recognised^ our secularism believes in this diversity, and therefore, the minority character.

The Education Minister said there is a bar of the Constitution under the Seventh Schedule. No, Seventh Schedule is no bar. Seventh Schedule only says that any law which Parliament passes under the Seventh Schedule must also comply with Article 30. It provides that so far as Aligarh University, Banaras University, Delhi University, are concerned, these are our national heritage. Only the highest legislative body in the country will legislate about those institutions. That is one thing.

Secondly, the Education Minister says there is a finding of fact by the Supreme Court. So far as finding of fact is concerned, even Seervai point-

ed out, it has been overwhelmingly proved that it was established by the Muslims of India; the Supreme Court only went into a particular question. I read again another passage from Seervai where he says, "Justice Das, the Chief Justice, observed that an institution established and managed by a community did not lose its character as a minority institution because other members were admitted to it". The Supreme Court accepted that position.

Only legally they took a particular view of the law which was wrong, as Seervai said, and was contrary to the previous decisions of the Supreme Court. Take the Kerala judgment where the question of the right of the various minorities in Kerala came up. The Supreme Court held that the minorities have this right. This proposition was accepted.

After the University Grants Commission Act of 1956 no university can be founded without the sanction of the Central Government. If you want to establish a university today, you cannot do it without their sanction. You have to go to the Central Government. The Education Minister said because I have to pass the Act or make the grant, you cannot establish. No, this will make nonsense of the previous decisions. The jurists have said in a strong language that the Supreme Court judgment is entirely wrong ...
(*Interruption*)

If you give this interpretation to Article 30, then no minority community can found a university today and Article 30 becomes nugatory, because if they want to found a university, under the University Grants Commission Act, they must go to the Central Government. They will sanction it. Therefore, what the Education Minister says goes contrary to Article 30.

So far as the recognition of a university is concerned Seervai also said that the only way you can found a university is this, and the definition of

'university' as given by Halsbury is a university which is recognised by the sovereign power, and the sovereign power being in Parliament or the Government, they can recognise it, and therefore, you have to go to the Government for the recognition. Therefore, only the legal sanction the Government gives, but they are not establishing it.

Syed Ahmed Khan said, "Even in a marriage ceremony in my house, I will invite people, but I won't feed them; the money I intend to spend on the occasion, I shall put in the fund for these colleges." And when he went to any function, he said, I have brought this money, I am putting it into that fund. He said; "My friends are meeting me, but as soon as they see me, they look at my face as a begging bowl. Thank God, at least I am not begging for myself, but I am begging for a noble cause". Now this is what was done. Aligarh Muslim University is not just any university. Banaras Hindu University is not just any university. There is lot of sentiment attached to these universities. There is what is called the Muslim renaissance. And Syed Ahmad Khan kindled the first light of that renaissance. It is, therefore, associated with that renaissance.

It is about Aligarh Muslim University that we are talking. There was a debate on Aligarh some time back. We know the situation there. We know there was an attack on the concept of secularism in Aligarh. I want to tell the hon. Minister that these are not party matters and these are not partisan matters. Please do not bring in the administrative approach when we discuss Aligarh. There is lot of Muslim sentiment attached to the university. It is not a communal question. We talk of Mizos and Nagas. We are not talking of religious rights here. We give certain rights to the minorities in this country.

[Shri Sankar Ghose]

India has survived all these centuries because of our policy of live and let live. India's culture has survived all these centuries because we have allowed cultural and educational rights to the minorities. What is now sought to be restored is not the right of having students of a particular community in the university. What is sought to be restored, is not the right of having Professors of a particular community there. Anybody can be student there or a Professor there. And it is a matter of pride to all of us that the first product of the Aligarh Muslim University was a Hindu. Syed Ahmad Khan was a true Indian. He was a great Indian. He said that Muslims and Hindus were the two eyes of India and these words are matters of pride for us.

But ultimately, if we want to guarantee the rights of the minorities, can we deprive them of their educational and cultural rights?

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): How are they deprived of their educational and cultural rights? Explain that.

SHRI SANKAR GHOSE: I will explain. The founding fathers—much wiser people than we—said that our secularism does not mean that we should deprive the minority of their cultural and educational rights. This is one ingredient of article 30 of our Constitution which says that the minorities shall have the right to establish and manage their own educational institutions...

SHRI BIJU PATNAIK: Are they not allowed to manage them now?

SHRI SANKAR GHOSE: No. That is the issue.

SHRI BIJU PATNAIK; please explain then.

SHRI SANKAR GHOSE: You have raised this question. Our founding fathers said that our secularism can be strengthened by giving the rights to the minorities as laid down in article 30 of our Constitution. There are

Parsis, Sikhs, Muslims, Buddhists, etc. in different parts of India. Now what has happened? Because of a technical interpretation something is sought to be done. Seervai has said that factual evidence was overwhelming, but there was the condition that the sanction of the Central Government has to be obtained. Now, how can they establish their own educational institution?

DR. RAFIQ ZAKARIA; They have deprived the university of articles 29 as well as 30...

(Interruptions)

SHRI SANKAR GHOSE; So far as the expression "establish" is concerned, Seervai has said that the word "establish" means to bring it into existence. Now what has happened to the funds of the Anglo Oriental Mohammedan College which preceded the Aligarh Muslim University? The Aligarh Muslim University Act of 1920 provided that all the properties of that College would go to this University. All the properties of that college went to the university. All the funds of the college went to the university. They brought thirty lakhs of rupees and that has the condition. The Government said, "We will not recognise it unless you give it." They brought thirty lakhs of rupees. They brought that money, they brought their property and they brought everything and the Government had to give that recognition to that. So, that is how it was established. When Prof. Ranga mentioned about the legislative point of view, the Education Minister said that that was the law. Yes, that is the law. But law is not divorced from life. Law is not something which prevents the people of India from expressing their aspirations properly. Therefore, the jurists have said and are saying that this judgement is productive of much public mischief.

SHRI BIJU PATNAIK: Then who is managing it?

SHRI SANKAR GHOSE: So far as the management is concerned, under

article 30, if you know that the minorities are given the right to manage their own institutions... (*Interruptions*)

SHRI TRILOKI SINGH: It is a body nominated by the Government.

SHRI BIJU PATNAIK: I wanted to know who is managing it. (*Interruptions*)

SHRI SANKAR GHOSE: To restore the minority character to it is necessary. But minority character is not divorced from the main thing. . . (*Interruptions*)

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): Sir, I would like to know whether the Brahmins in this country form a minority or the majority. Will he say whether they are a minority community or the majority community in this country

(*Interruptions*)

DR. RAFIQ ZAKARIA: We would welcome them as minorities.

SHRI B. SATYANARAYAN REDDY: Then all are minorities and there is no majority at all in this country. There are no majority community in this country and all are minorities.

SHRI HAREKRUSHNA MALLICK (Orissa): There are many kinds of minorities in the country. (*Interruptions*) Wherever we go, there are minorities. As Mr. Kamraj said, whether we are minorities or we belong to the majority community, we are all Indians and we will have to be true Indians. (*Interruptions*) So, Sir, . . .

THE VICE-CHAIRMAN (SHRI GHANSHYAMBHAI OZA): Please resume your seat.

SHRI HAREKRUSHNA MALLICK . . . the word "minorities" should be removed from the dictionary.

DR. V. P. DUTT (Nominated): Sir, is he questioning the Constitution of India? I say this because this Constitution of India provides for the minorities. So, is he questioning the Constitution of India? (*Interruptions*).

THE VICE-CHAIRMAN (SHRI GHANSHYAMBHAI OZA): That is all right. Let Mr. Ghose proceed.

SHRI SANKAR GHOSE: So far as the minority character is concerned, our secularism will take care of it and our secularism can only survive when we give them the educational and cultural rights. And, Sir, the Education Minister has said that the basic character has to be revived and he wants to revive it. What is to be revived? What is to be revived is the spirit of Shri Syed Ahmed Khan, what is to be revived is that minority character, and what is to be revived is that particular character and if that character is revived, then full democracy will be revived.

SHRI BIJU PATNAIK: Please define that character. Just a minute, Sir. Mr. Ghose, please define that character. What do you want actually?

SHRI SANKAR GHOSE-. Yes, I will define it. So far as the management is concerned, once that minority character is replaced...

(*Interruptions*) SHRI BIJU PATNAIK: Tell me precisely what you want.

SHRI SANKAR GHOSE: I want this: In the case of the Sikhs or the Buddhists or the Jains, if they found their own institutions, the management of those institutions should be with them. You cannot say that they will take students only from their own respective communities. No. Students will come from any religious group and professors will come from any religious community. And what will be taught will be the spirit of our Indian nationalism. But, so far as the management is concerned, that is what our founding-fathers have given in Article 30. In Kerala, the Christians have this right and in Punjab the Akalis have this right. So also the Parsis have this right and the Buddhists have this right. What we say is this: "Please don't destroy that right."

SHRI B. SATYANARAYAN: REDDY: All are Indians and there are no Hindus. All are Indians. There are no Hindus or any other groups. (*Interruptions*)

DR. RAFIQ ZAKARIA: Mr. Patnaik, we would like to have the benefits arising out of articles 29 and 30 of the Constitution, and that for which the Aligarh Muslim University stands and nothing else. That is the minority character.

SHRI BIJU PATNAIK: That means so many things to so many people. Precisely tell me what it is.

SHRI SANKAR GHOSE: Precisely it is this: Take the educational and cultural rights of the minority communities. You go to the Supreme Court. The Supreme Court says that so far as the management right is concerned, with the management you cannot interfere. You cannot interfere with the management. That is all.

SHRI BIJU PATNAIK: That is all?

SHRI SANKAR GHOSE: Yes. No institution will say that students of a particular community will not be taken. No. They must take students of all the communities and teachers they must take from all the communities.

SHRI BIJU PATNAIK: How can you enforce that? How can you force them to do this?

SHRI SANKAR GHOSE: They will do it and that is the spirit of India. But if you do not want to take students or teachers from all the communities, that is a different matter. But the spirit of India is this and that is why the first graduate of the Aligarh Muslim University was a Hindu. That is the spirit of Shri Syed Ahmed Khan and that is the spirit of Shri Raja Rammohan Roy.

SHRI BIJU PATNAIK: That is all right

SHRI SANKAR GHOSE: Therefore, this is the small right that is claimed. That is all and nothing else. Now, it is said...

(*Interruptions*).

DR. RAFIQ ZAKARIA: Give us what is given in article 30. Give that to us.

SHRI SANKAR GHOSE: I, therefore, say that the Seventh Schedule is not standing in the way, and that the Supreme Court judgment is not standing in the way.

4 P.M.

SHRI BIJU PATNAIK: I am sorry because I am interfering unnecessarily, because it is not my portfolio. But I have listened to my hon. friend as a member of the Government and also I tried to understand. I am, however, sorry to say I have not been able to understand him, I cannot say anything about others. Please be precise about what you ask. You say that the management should be left with the minority communities. Is it Shias, Sunis, this body or that body? Be precise, so that we can understand. And also tell me, why didn't Pt. Nehru or Maulana Abdul Kalam Azad or Indira Gandhi do it?

SHRI SANKAR GHOSE: Pt. Nehru or Maulana Abdul Kalam Azad did not do it. The position is this. Let me make this clear. The trouble had arisen not because of 1951 Act, but the trouble had arisen because of Aziz Pasha's case—only one case. Pt. Nehru, Maulana Asad or anybody else supported it. I will read from Mr. Seervai's book.

SHRI BIJU PATNAIK: Why do you quote Seervai? We want to know what Sankar Ghose wants to say.

SHRI SANKAR GHOSE: He says:

"These words show the spirit in which the Supreme Court has enforced the cultural and educational

rights embodied in Arts. 29 and 30, with the »ine exception of the Aligarh M""*!im University case..."

So far ab the Education Minister is concerned, he is a very learned professor. He has given a very learned discourse. But the point is a very limited one. Please concede this point.

SHRI BIJU PATNAIK: I have not understood it...

(Interruptions)

THE VICE-CHAIRMAN (SHRI GHANSHYAMBHAI OZA): The discussion is confined to the provisions of the Bill as introduced by my hon. friend. What are the repercussions, he has tried to explain. The hon. Minister has also quoted from the judgment of the Supreme Court-*(Interruptions)*,

DR. RAFIQ ZAKARIA; Mr. Patnaik is a reasonable man, and...

SHRI BIJU PATNAIK: That is why I wan^d to undertand.

SHRI SANKAR GHOSE: If you permit me, I will tell you a story...

(Interruptions)

SHRI BIJU PATNAIK: Tell me why Pt. Nehru or Maulana Azad or Shri Govind Ballabh Pant or Mrs. Indira Gavdhi did not co it? Let me understand this...

(Interruptions)

SHRI TRILOKI SINGH: Sir, with your permission, for the information of my friend Mr. Patnaik, Pt. Nehru, Maulana Azad and Govind Ballabh Pant had died long before 1965. I am quoting from the Supreme Court in the St. Xavier's College judgment over this minority right. What does the Supreme Court say:

"Without affiliation or recognition there can be no real or meaningful exercise of the right to establish and administer educational institutions unde, article 31."

I leave it at that.

DR. RAFIQ ZAKARIA: You read that article.

SHRI TRILOKI SINGH: It says:

"All minorities, whether based on religion or iai.guage shall have the right to establish and administer educational institutions of their choice."

DR. RAFIQ ZAKARIA: That is all. Nehru at that time did not come into the picture, because it is the Supreme Court which has given a wrong judgment and created the problem for you and for us. That is the whole thing.

SHRI SANKAR GHOSE: Sir, so far as the Steel Minister is concerned, he says that he does not understand it.

DR. SARUP SINGH (Haryana): Sir, I do not speak as a lawyer. In fact, I have not read the Supreme Court judgment, though I have heard about it. I speak as a teacher and as one who has known Aligarh University all these years. In 1949 and later on in 1951 when the Act was. passed, Maulana Azad was the Minister for Education. When Dr. Zakir Hussain took over as the Vice-Chancellor, it was the time when the university had been damaged very seriously both physically and emotionally. Pandit Jawaharlal Nehru approached Dr. Zakir Hussain and requested him to take over as Vice-Chancellor so that the University might be rehabilitated. What were the objectives before Dr. Zakir Huseain? Firstly, the confidence of the community should be restored and the second objective, which follows from the first, was that the Aligarh University should be able to play its rightful role in the mainstream of the country, not only the academic mainstream, but even otherwise. In fact, the Aligarh University did flourish and the Aligarh University became, academically

[Dr. Sarup Singh] speaking, one of the most outstanding universities in the country. Sir, I am surprised when such a senior man as Shri Triloki Singh says that he wants to take away that expression "the culture, the civilisation and the religion of India" and wants to replace it by the "study of the culture and religion of Islam". He says that he has mentioned it because he is afraid that you might start teaching Muslim children idol worship.

SHRI TRILOKI SINGH: Sir, the hon. Member does not know that this was introduced in 1972.

DR. SARUP SINGH: Frankly I do not know, I am the most ignorant of the Members. But I know one thing. I know about Aligarh University. I know what the teachers are thinking there, what the students are thinking there, what the Vice-Chancellor is thinking and what the , educated sections in the Muslim community are thinking. Let me tell you what they are thinking. They do want the freedom to administer that university. This freedom was taken away I do not know when. I presume it was in 1965.

DR. RAFIQ ZAKARIA: In 1974.

DR. SARUP SINGH: In 1974 it was taken away completely because then you had to have nominated bodies in the universities. They were nominated by the Government of India and in that sense it came directly under the control of the Government of India. But how did it happen? Three universities out of the centrally-administered universities had serious trouble. Visva Bharati had serious trouble. What the Gov-

the Constitution of the Visva Bharati university and they had a nominated Executive Council. The Aligarh University also had trouble and there too the Constitution was suspended. Now, the suspension of the Constitution means that automatically the Visitor, on the advice, I presume, of the Minister of Education, nominates the

bodies. All that the Minister of Education is trying to do in the Bill which he is going to bring before this House and which has already been presented in the other House is to restore the democratic character and the autonomy of the university and that would be restored when the Bill is passed by the House. However, as long as the Bill is not passed, the nominated bodies can continue and one can say that in a sense it is the Government of India which is administering that university. Once he restores the rights, then it should be administered by the people. Mr. Ghose raised a point which has a little implication for me as a teacher. The point that he has raised is that the Government should give the minority community the right to administer the university. Now, administering the university means three things, according to me. Firstly, what kind of court you will have and what kind of Executive Council you will have in the university?

And also, if I may say GO, what kind of Academic Council you will have because these are the three bodies that control the University, that is, the executive council, the court and the academic council. At present, the Vice-Chancellor is appointed by the Visitor. This procedure, I presume, has been followed since 1951. Before that, I do not know what the position was. In the case of these three Universities—the Aligarh Muslim University, the Banaras Hindu University and the Delhi University—the procedure has been that the Executive Council, on the retirement of one Vice-Chancellor, nominates two members on a committee which is a selection committee and the third member is nominated by the Government of India. These three then give a panel of names. This is the procedure at present. I do not know what was happening then, and Dr. Chunder would actually know better because I have not read the history of the Aligarh Muslim University as he has done. So the Visitor selects one of those

name, submitted to him. In the Bill which Dr. Chunder is bringing before us soon, there is one very radical change. That change has been brought about after a lot of discussion that has taken place between him and some of the representatives of the minority community, including the representatives of the Aligarh Muslim University. In Delhi, the system is very simple. The Executive Council nominates two persons, the Visitor nominates one, and these three gentlemen sit together and prepare a panel. That panel goes to the Visitor and the Visitor selects one name out of that panel. If he does not find any suitable name, they .-. and prepare a second panel. And if the second panel also is not acceptable to him, they continue preparing the panels, till he accepts one. In other words, the control of the Government of India is as far as Delhi University is concerned because the Vice-Chancellor cannot be appointed except on the recommendation of the Minister of Education or the Visitor, that is, the President of India. In the case of Aligarh, there is a difference. The difference is that the names of that selection committee are not really being submitted by the Executive Council. The Executive Council submits, I presume, five names to the Court. The Court will select three names out of those five. They shall sit together and prepare a panel. And that panel would come to the Government of India. If the Government of India does not accept that panel, they will prepare a second panel. If the Government of India does not accept even the second panel, then I presume—and Dr. Chunder knows this—that the Government of India will have no right to intervene. In other words, in the case of the Aligarh Muslim University, it is possible under the new Bill which is coming before us that the community will administer that university. They will . . . appoint the Vice-Chancellor. In the court, I do not know whether there will be any non-Muslims. But let me say this also. My friend, Mr. Ghose, raised a very important point.

He said the Hindu students will be there, others will be there, and teachers will also be there. If that is so, then, there is a logic of events. In a University how does one become a member of the court? There are various categories of people who will become the members of the court. Some are representatives of the donors. These, I presume, will all be Muslims because the Muslims donated a lot of money to this University. I am told that there is a list of donors which list was knocked out in 1974, but which has now been brought in again. In other words, Dr. Chunder is trying to restore the old character of the University which will give real power to the university community and to the Muslim community. All right, that is one category of people. Then there are some representatives of the Departments, some representatives including Principals of the various colleges there. But it is possible that non-Muslims will also get in because in the university community, we are not going to make a distinction. Once you appoint a man whether he is a Hindu or a Christian or a Muslim, automatically he is entitled to be elected to any post. Now the court will become more powerful.

SHRI TRILOKI SINGH: Why not talk on the Bill under discussion?

DR. SARUP SINGH: What I am paying is that in a sense the minority character of the University is being restored, that this is not being abolished, and I will tell you the advantages of such a situation. In fact, the Aligarh University people, if you talk to them you will discover except in the case of some individuals, the majority of them feel that the University should have the real power; but technically the Act of the Aligarh University should resemble the Act of the Delhi University and that of the Banaras Hindu University; except, as I said, in the matter of appointment of the Vice-Chancellor and the powers of the court. Now, this is one thing.

Secondly, as to what you should !
teach them, the University should be

[Dr. Sarup Singh] absolutely free. In fact, let me tell you that you can do anything under the sun and the Government does not come into the picture. It depends, upon your teachers, the kind of syllabus that you want, the kind of attitudes that you want to acquire and that you want your students to acquire and so on. Our syllabus is very much antiquated. It needs to be changed in every university and the Aligarh University has been doing a lot of good work on this. And, let me tell my friend, Mr. Triloki Singh, that the Aligarh University today has the most outstanding staff in the Department of History, the researches that they have done are not only in the field of Medieval India but also in Modern India and even in Hindu India, i.e., Ancient India. Therefore, the Aligarh University has functioned as an outstanding national institution and is doing outstanding work. Let us not limit their activities. We should leave them free. They should be free to do what they like, and so on and so forth.

Sir, one or two things more I will say and then I will finish.

DR. RAFIQ ZAKARIA: Then it will be like all the other universities. What is the difference?

DR. SARUP SINGH: No, Sir. It will not be like other universities. (*Interruptions*). No please.

SHRI BIJU PATNAHC; Do you want everything to become small?

DR. SARUP SINGH: It will not be like other universities in one small matter, though it is a vital matter, i.e., the administration. In administration the control will be complete. However, in academic and other matters they will naturally have the same kinds of procedures for appointment, for admission etc.

Sir, one thing more I would like to say. I have heard it said by a lot of people that what happens unfortunately in our country is that quite often Muslim students suffer and the Muslim teachers suffer because in many universities there is discrimina-

tion against them. I am glad to say that Delhi is not one of these universities. But there are universities in the country where in the engineering colleges in the medical colleges, Muslim students can get rarely a chance for admission. However, in Delhi University we have taken a decision, which has now been taken by the Aligarh University i.e., if the University has a school, the university is perfectly competent to say that so many seats in the Engineering college and so many seats in the Medical College, shall be reserved for the students who pass out of the school run by the Aligarh University. We did that in the Delhi University. We reserve seats for our own students who pass from the Delhi Higher Secondary Board for the Medical college; not for the Engineering College, because our students can compete anywhere. But the Aligarh University students should not be allowed to suffer. It is true that every student has the right to join. But if we have an open competition, it is quite possible that Muslim children will suffer. So, it is very vital that the Muslim University should be given the right to reserve seats for its students, which, I am told, is possible under the new Bill, that is being brought forth.

Therefore, Sir, what I am pleading for is that for all practical purposes, all the privileges that accrue to a university as a minority institution should be available to the Muslim University. However, it will not be described as a minority Institution.

DR. RAFIQ ZAKARIA: Why fight shy of describing it so?

DR. SARUP SINGH: Sir, let me tell you what happens when you describe an institution as a minority institution. This has been said to me by a lot of young Muslim boys in 1978. I resigned my membership of the Union Public Service Commission on the 14th. On the 13th was the first day on which the I.A.S. interviews took place and I was present in the interview. An outstanding boy came from

the Aligarh University on that day for interview. And he stood first in the country in the I.A.S. examination. I am glad to say it. Now, I asked him a question. He got his education at the Indian Institute of Business Management and I asked him whether during his stay there for two years, he ever suffered from the kind of consciousness that he belonged to a minority community and whether there was any discrimination. The boy said: No. In fact he went further by saying that unfortunately in some places one gets such a feel: The boy said that his father decided that he should go outside Aligarh and get education there so that the kind of composite culture of which we are all so proud, he is able to share. Let us not think of the Muslims as separate. They need protection; they need support. And I have a feeling of indignation when they receive the slightest indignity in any part of India. Let me tell you, I do not speak as a politician. That has not been my field throughout my career. If you tell the Aligarh University students: All right, you are the students of a minority institution; consequently you are the protected kind of people; consequently you have some privileges and that you might not be able to compete with everybody, I say that the Muslims can compete with anybody. They are very intelligent and bright but they are conscious of this thing and they suffer from this feeling. Let there be no disability in them. In fact, ultimately, what we are discussing is our national failure that we have not been able to give confidence to the Muslims and other minority communities all these years. It is the failure of all political parties, not of one and it is because of this failure that this question has arisen, otherwise the Aligarh University was blossoming. Then came the crisis there, the conflict between two groups and when that crisis came, the Government of India intervened and took away their powers.

Sir, in spirit, I am with my friends there. In spirit I am with them but

in letter, I plead, let us not use these words. Give them all the powers and all the facilities but do not use the words. By using these words, you are creating unnecessary complications. They will not benefit from this. What is worse, ultimately some kinds of elements come in. In each community today, unreasonable elements are coming on top. Reasonable elements should be brought on top so that the country may go forward. Otherwise, if you do things which encourage only certain kind of elements, that does not help anybody either amongst the Hindus or the Muslims or others. I plead, therefore, as a teacher who has known Aligarh University since 1949, if not earlier, and I say that the Bill that Dr. Chunder is going to bring forward to this House very soon is a very good Bill and that should be supported. Let us not add words that Shri Triloki Singh wants to be added. I say all this in humility and respectfully and it gives me no pleasure to disagree with anybody.

SHRI BHUPESH GUPTA: Sir, I rise to support this Bill. I was listening to the speech by the hon. Education Minister. He gave us the background, the history, his interpretation of law and generally his views on the subject so that this Bill is not passed.

Sir, we are not passing the speeches here, the speech of Mr. Ghose or the speech of our friend, Shri Triloki Singh. We are called upon to give our opinion on the provisions of the Bill. I was wondering, however excellent and enlightening all that might be what he had said, as far as the Bill is concerned, it remains simple that the fact should be recognised. Now, in the text of the Bill, it is said: "...deemed to have been established by the Muslims, at the instance of the Muslims."

What crime we commit either against law or against the Constitution or against whatever we stand for if we acknowledge in the text of this

[Shri Bhupesh Gupta] Bill, this Bill I am talking about, this simple fact? Whenever the Aligarh University issue comes up, it does appear that there is a lot of discussion, some scholarly, others not so scholarly, so much so that even Mr. Biju Patnaik participated in the discussion over a matter concerning the University. He has many qualifications. But law is not his special qualification, neither the affairs of the University. But he participated against an eminent lawyer sitting here. He even gave legal arguments. Well, I do not know when he will be claiming his Ph. D. in all these subjects on which he has spoken. Let us not go into it.

Our friend here has spoken as a teacher and he has spoken with considerable restraint from his own experience. I respect his point of view. I may or may not agree with that point of view. Sir, our hon. Education Minister must have been bulkily briefed and he has also done his job. Now, you may say whether it is relevant or not. If you stretch it too far, it is relevant. This is because the name of Aligarh is there. Anything about Aligarh you can talk about. I will talk about the Aligarh riots then. I will mention what happened there. Now, everything can come in. So, it is not necessary to oppose this thing, or to ask him to withdraw it.

SHRI BIJU PATNAIK: I hear Mr. Bhupesh Gupta wants to confer Ph. D. on me.

SHRI PILOO MODY (Gujarat): Mr. Patnaik has come here to take his Ph. D.

SHRI BHUPESH GUPTA: Mr. Pilloo Mody, I saw your photograph in the 'Statesman' today. How are you here? Still I cannot understand. I was a little worried when I saw the photograph. I know Mr. Homi Mody had no twins. Then, I discovered that they were two Australian brothers.

Now, what is the harm, we ask the hon. Minister, if we pass this Bill?

We also say that this has been established at the instance of Muslims. Can it be denied? Basically, taking all the facts together, can it be denied? I never heard in this House anybody denying this fact. A great name is associated with this University. Sentiments, for years and years, have been associated with this University. We have known it rising, contributing to Indian culture and education in all walks of life and we have acknowledged the special nature of contribution it has made. What is the harm in acknowledging this fact? But, Sir, the trouble is this. Nowadays, you do not hear this.

In old days, I heard this Indianisation of Muslim theory on the part of those who have now gone over to those benches. Then, we heard different things. Everyday, Aligarh University had been attacked in one way or another. But Sir, the fact is denied. When we say the minority character of the Aligarh University, its Islamic culture and its contribution to the texture of Indian culture as a whole should be preserved, respected, maintained and encouraged, well, we are speaking not for the minority community only, but we are speaking for the composite culture of India. Sir, this aspect is forgotten. Various aspects, many streams came into a confluence in our national life and national culture. Who can deny it? Who can deny that in the field of education, the Islamic culture and whatever is associated with it had made a contribution? And the Aligarh University is a symbol of it historically established, a symbol of it in the emotions of our people, a symbol of it in the cultural life of our country, a symbol which cannot be ignored if we talk about national integration, national unity. That is how we should view this matter and come to our conclusion.

Now, Sir, everybody knows that any student can go to the Aligarh University, can stay there, there is no restriction because the Constitution gives

other protections against discrimination and so on. That is not the point as to who will manage it, who will have the say in the affairs of the University. Sir, today we are discussing it at a time when certain forces want to take away even whatever is recognised about the Aligarh University. It goes to the credit of the Aligarh Muslim University that in the recent October-November riots the University was completely free from it. That shows the secularism of the University. Secularism is maintained despite the fact that members of the minority community were butchered by the PAC and the RSS people. Even so, the University maintained its secular character and stood by the ideals. There was no incident, no communal rancour, not even slogan-shouting within the University campus on the part of the members of the minority community, whether they be teachers or students. Therefore, Sir, respect that also.

Today we have read in various reports, the demand was that the Aligarh Bill must not come, the demand was that the status must not be given, whatever you have given them. Are we to ignore that? Are we to ignore this pressure which has come when everybody knows in the corridors of political power that the RSS has become an important factor? Well, I will say certain unpleasant things and, I will say since history has been spoken, let us speak the history of today and tomorrow. Today who can deny that these people who have been hostile to the Aligarh University, to its minority character, to its Islamic character, its tradition, its ways of life, within the broader context of the Indian life, are today politically important by a mischance to history? That has to be remembered. I cannot think of the question of Aligarh University status in future by just discounting these facts of our public and national life, namely that the force is there which is linked up with the corridors of power, which is against the Aligarh University being given its due place

in recognition. Can I ignore it? You are talking of the Supreme Court judgement. Well, I will not dilate on it. Here we are passing a law and if the Supreme Court judgement comes against it, the judgement will change. We are not making a change in the Constitution at the moment. We are only enacting a law, an ordinary legislation. After that that law will prevail unless it is shown that it is contrary to the Constitution. Nobody has suggested that what has been suggested in the Bill is contrary to the Constitution. Let us pass it. Once we pass it, all other judgements will have to fall in line with it. That is quite clear. Therefore, I would not go into the Supreme Court judgement, or what the Judges have said when Justices say so many things. One Judge says one thing and the other Judge says another thing, then there is the minority judgement, the majority judgement and the judgements are reversed and so on, modified; all that we know. We want to know whether this University must be guaranteed its minority character or not. That is what we want to know, especially in a menacing situation like the one through which we are passing. This is the issue.

Then, Sir, there is the question of the management, the Visitor. Well, my friend has said that the Visitor appoints all that, but he did not say who that visitor is.

SHRI BIJU PATNAIK: The President of India.

SHRI BHUPESH GUPTA: The President of India, and who does the President of India generally become? Who chooses him, who votes for him? On whose advice the President Acts? That also should be known. Recently we have seen the President of India—I am sorry to say—associating himself with the so-called All-India Educational Conference, or something like that, of children. And we saw here a clean RSS demonstration—RSS bosses, RSS dummy-guns, RSS uniforms, RSS boys. RSS slogans. Well, Sir, here in Delhi, 15,000 of them

[Shri Bhupesh Gupta] came, according to their claim, and then the President addressed them. Mr. Sanjiva Reddy—he is a secular man, but perhaps the Central Government did not ask him not to address because the power of the Central Government depends on the pleasure of the RSS to a great extent now.

SHRI BIJU PATNAIK; Are you suggesting that the President of secular India can be ordered about by Government? This is not a Communist Government, you know.

SHRI BHUPESH GUPTA; Sir, the President of India is a secular man. Apart from that, he is my friend, a good friend, a secular man, I repeat. But your Government, what it is. I don't know. What it is, I do not know. I think an expert international team will be required to define the character of this Government—whether it is a man, woman or a eunuch, or whether it is a conglomerate, a public limited company or a partnership or a coalition. Nobody knows.

SHRI BIJU PATNAIK; Why should you know? Why should it be told to you?

SHRI BHUPESH GUPTA; Nobody knows. But one thing is clear: Bala-saheb Deoras is the most important man today. He is neither in the Government nor in the House. That is what is worrying us, not the other facts. Therefore, I say that this should also be taken into account.

Now you accept the minority character, as it is accepted by us. We all accept the minority character of the University. It has been accepted by all secular forces. Now Jawaharlal Nehru's name has been brought in. Other names have been brought in. Well, we also know what they spoke about that University and the contribution of its culture. They said very good things. Mention those things also.

SHRI BIJU PATNAIK; We also say the same thing.

SHRI BHUPESH GUPTA; That Jawaharlal's daughter has made it possible for you to sit there. Jawaharlal Nehru would not have made it possible for you to sit there. But that is a story apart.

SHRI BIJU PATNAIK; Really? Thank you very much.

SHRI BHUPESH GUPTA; These are irrelevant. We all have accepted that it has a special distinctive character, minority character. Its Islamic culture, of which projection has been made in the educational field and in the broader cultural life of our country, has never been disputed by anyone, except some people whom you know.

SHRI BIJU PATNAIK; Who?

SHRI BHUPESH GUPTA; We want to recognise it. We want to give facts much force by law. The established fact is sought to be given an additional recognition and what is implicit is sought to be made explicit. That is what the purpose of the Bill is. Nothing is lost by it. Hon'ble Minister's Bill is not disturbed by it. We can make changes when they bring that Bill. But I have my doubt when they will bring that Bill.

SHRI BIJU PATNAIK; It is in the Lok Sabha.

SHRI BHUPESH GUPTA; Yes, it is there in the Lok Sabha. But many things get stuck up. Sir, I do not know when that Bill will come because there are forces at work which do not even like that Bill. That is why I say I have my doubts. But then I need not stress that point. Since the Bill is there, let it come. We shall make suggestions to that Bill also. Let this Bill come. Suppose it is passed here. It will then go there. There the hon'ble Minister can himself include this particular amendment in the amending Bill himself and the matter is over. He need not move it nor shall we insist that since we passed the Bill here that also must be passed. Let the essence of the amendment be included in a suitable form. What is the difficulty in that? Therefore, why raise a bogey?

You say some complication, no complication whatsoever. We can pass the Bill. It can rest in the Lok Sabha. It can pass immediately. Meanwhile they can go on with this Bill if they so wish. But we would like the mover of the official Bill to take note of this Bill and also of what we are saying.

Sir, I do not wish to say very much on the subject. I have said enough. Only I had been reminded of many of the old things. I am grateful to our friend, the Education Minister. I felt that I was in a post-graduate lecture where a good professor, well-equipped for the particular lecture, was delivering it. I congratulate him for that. But the trouble is that the lecture is a brief, prepared according to a certain position that the Government wants to take, the position being that this Bill should be rejected. With that spirit the lecture has been delivered. That spoiled the lecture itself; otherwise individually very, very good points have been made. I will read it again and assimilate the knowledge that he has been imparting. But ours is a simple thing. Recognise it. The Muslim minority character has to be recognised. Let it be in their hands. Only they will have the management. What is wrong there? Suppose tomorrow a wrong type of government comes in. They can do a lot of mischief. Therefore, some kind of recognition is essential. That point should be remembered because there is an offensive from the other side.

Sir, I hope the House will consider it. Actually there is nothing wrong in that Bill. All these things have been brought in. We could discuss them sometime later on. This is only a definition virtually. Although it is in the form of a provision, it is not even a provision. It says: "The University which shall be deemed to have been established at the instance of the Muslims of India". It is an elaboration of the definition, nothing else. What is the Bill in your hand, Mr. Biju Patnaik?

1507 RS—7.

SHRI BIJU PATNAIK; Hindi as the national language.

SHRI BHUPESH GUPTA: I am happy Mr. Biju Patnaik is taking interest in University education. I hope it will do him some good. It is good, Mr. Biju Patnaik, that you are taking interest in education and culture in university.

SHRI BIJU PATNAIK: Unfortunately Mr. Bhupesh Gupta does not know that I founded five universities. Therefore, what is your definition of character?

SHRI BHUPESH GUPTA; I know that. The trouble with you is when you interrupt you do not even stand up.

SHRI BIJU PATNAIK; I have been asked to be educated by all these great educationists. The Government has brought forward a Bill in the Lok Sabha. After it is passed, naturally it will come here. I do not understand why this urgency of this non-official Bill in this manner? I have been trying to understand both inside the Cabinet and outside what is the exact meaning of character. But nobody seems to be able to explain. We have been saying "minority character", "minority character" almost like the gospel, of the Bible. But there is no explanation.

SHRI BHUPESH GUPTA: Mr. Biju Patnaik is having great difficulty in understanding the definition of character. He may have it. But I do not have such difficulty.

SHRI BIJU PATNAIK: Is that the only explanation that Mr. Bhupesh Gupta can give? You are like a parrot going on uttering "minority character", "minority character", I ask! Does it mean "management"? He will certainly say "Yes". Then have it in the Bill. What is the problem?

SHRI BHUPESH GUPTA; I sympathise with him. He is angry. I concede that he will not understand

[Shri Bhupesh Gupta] the definition of character. But I cannot explain it. I concede that point. Rest I can say— Character we may Or may not possess, we leave it here. Sir, it is said a Bill is there in the other House. What does it matter? We can pass a Private Member's Bill. Government is there. Government is not inhibited in passing that Bill. They can pass that Bill tomorrow. We are not asking them to withdraw that Bill.

SHRI BIJU PATNAIK: The Business Advisory Committee . . .

SHRI BHUPESH GUPTA; We are not doing all that. In this Bill the Private Members of the House intend to express themselves and enact a law filling up a lacuna, a gap, in the existing provision, which, we hope, when the other Bill comes, will be taken into account. Sir, therefore, I think Mr. Biju Patnaik is needlessly troubling himself over the fate of the other Bill. We say the other Bill is not at all affected by it unless the Government wants to accept our thing, and they should accept our thing. Only then will we make a contribution. Otherwise, they can go their own way. We can give our own amendments. Therefore, I say that this Bill deserves to be supported. Sir, this is my last warning. I think with the menace that is going on in the country, the fears and suspicions in the minds of the minority communities are just and legitimate. If today we hesitate to categorically reaffirm our acceptance of their special rights of particular types—their cultural heritage, cultural contributions, the character of their institutions, their right to run them—naturally within the overall context of our life—we shall be doing a disservice to the cause of unity and integration of the country. This Bill, if anything, contributes to the cause of national integration and national unity and will, at the same time, reaffirm what we have always on the secular side stood for. Sir, the Aligarh Muslim University deserves

our congratulations and support, our help—moral, political and legislative. Let us give them what is their due.

SHRI BIJU PATNAIK; May I ask one question from the able parliamentarian, because this is a matter which is being discussed? It is his view that if certain funds are given to any institution—minority or majority, I am not bothered about— from the Consolidated Fund of India, by the very definition of minority character, are we to understand that Parliament at no time will have any say in regard to the proper utilisation of funds?

SHRI TRILOKI SINGH: It will have.

SHRI BIJU PATNAIK: Then you are defeating the very purpose for which you are arguing. I would like to be clarified on that point very categorically.

SHRI BHUPESH GUPTA; Sir, Parliament is not giving away its powers of legislation. Have we any reasons to think that we are going to give funds in the hands of those who will defalcate?

SOME HON. MEMBERS: No.

SHRI BHUPESH GUPTA; Then, why raise this question now?

SHRI BIJU PATNAIK; It is for the simple reason that from the arguments of Mr. Ghose and others, I thought the moment you say 'minority character', all hands off—Parliament, Government, nobody can say anything.

SHRI SANKAR GHOSE: No, I have said about the Seventh Schedule. Parliament alone can legislate. (Interruptions)

THE VICE-CHAIRMAN (SHRI GHANSHYAMBHAI OZA); We are not in any way amending the Constitution. Seventh Schedule, item 63, is there. We are not amending it. We are not touching it.

SHRI TRILOKI SINGH: If you permit me, I would like to enlighten Mr. Biju Patnaik. This is what I find in the Constitution: I am reading for his benefit:

"The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language."

SHRI BIJU PATNAIK: You have not made it clear. You said that the State would not discriminate. This, I understand. Will the State have any authority to investigate into its funds?

SHRI TRILOKI SINGH: It will have.

SHRI BIJU PATNAIK: No.

SHRI KHURSHED ALAM KHAN (Delhi): The annual accounts and the audited report will be placed before Parliament. That will be verified by the Minister if you ask him.

SHRI B. V. ABDULLA KOYA: Mr. Vice-Chairman, Sir, I take this opportunity to congratulate the Hon. Member, Shri Triloki Singh, who has always been a friend of the Muslim minority community, for bringing the timely and useful Aligarh Muslim University (Amendment) Bill, 1977.

The Bill of 1972, as everybody knows tried to rectify an important omission of not saying that the Aligarh Muslim University was established by the Muslims of India. This is evidently against history and fact. The University, as everybody knows, was originated as the Mohammadan Anglo-Oriental College, Aligarh, and it was subsequently incorporated as the Aligarh Muslim University having the Muslim minority character. The original Bill, I mean the original Bill of 1972, was passed in a hurry, and the Muslims all over India un-animously demanded that an amendment as the present one should be

incorporated. Therefore, Sir, I wholeheartedly support the Bill along with the amendments moved by my friends like Shri Syed Ahmad Hashmi and others.

SHRI HAREKRUSHNA MALLICK: Sir, because this is a question of the minority community and religion and language is being referred to, I just remind the esteemed House, this esteemed body, that I rise as a Indian and speak the language of heart. So, I may not be misunderstood by this section or that section that I make reference from any sectarian point of view.

Here I remind the Hon. Member who has brought this Bill that he himself has referred to the Act of 1920. Well, we are now in 1978. I am not referring to the painful division of this country in 1947. Therefore, what that happened in 1920 has to be re-viewed today in the changed context of things. Those elders of this country, of this Indian sub-continent, decided to divide this country on the basis of two religions. Well, after the recent Bangla Desh war, they were ashamed. I do not know whether they are in heaven or the hell; may be some of them are still living in this country and abroad. So, I very painfully remind all of us here that 1920 may be remembered and 1978 may also be remembered. Now we are decades apart.

Those educationists who wanted to bring about some cultural or educational upliftment of a section, started naming that body right at the beginning as the Mohammedan Anglo-Oriental College and later as the Aligarh Muslim University. These three words actually mean this. The word 'Aligarh' is there because it is situated in Aligarh. Again because some Muslims started establishing it for them, by them or of them, whatever might be their attitude, the word 'Muslim' is there. The word 'university' in our language means 'vishva. Vidyalyaya' which pervades throughout

[Shri Harekrushha Mallick] the universe. Every university is a body that covers the whole world that we think about. Therefore, every university respects the other universities and, therefore, every university has its own autonomy as regards its internal affairs, its curriculum, its degrees, its uniform and so on and so forth. So, from these points of view, these three words—Aligarh, Muslim, University—existed. Then, I am sure, nobody, no Hindu or no non-Muslim objected as to why there should be a university called 'Aligarh Muslim University'. Of course, thereafter another university came into being in this country, namely, the Banaras Hindu University. Well, as we were passing through the phase of foreign yoke, some of the educationists, thinkers and freedom fighters also started educating our people in very many spheres, like national schools, Shantiniketan, Gujarat Vidyapeeth and so on and so forth, to prepare warriors of a new type to face all consequences, to prepare warriors to struggle for our freedom. Therefore, as Gandhiji pointed out, anybody might start fighting the Britishers from any side. Well, some body might just put on a piece of khadi; somebody might start working for untouchability, somebody might work for women's welfare; and some body may even spare some of his valuable time to serve leprosy patients. It was only to demonstrate that before we were free, we must prepare this nation to struggle and demonstrate our vigilance in all plat forms, so that we could have a multi-faceted freedom where—in the language of Tagore, whom many hon. Members have quoted and whom I also quote now—"the mind is without fear and every head is held high". And Gandhiji's dear prayer was "Lead, Kindly Light" because one step was enough for him. Now, we had no idea at that time, in 1920, as to when this country would be free—"free" means Muslims would be free, Hindus would be free, Sikhs would be free, all people, cutting across caste, colour,

sex, creed, would be free. But unfortunately this freedom was vivisected and it was tainted with blood. And in the language of Shakespeare, those brothers and sisters proposed that they were to "incarnadine" their own hands by vivisection of this country. Well, they are now to be ashamed wherever they are—So, referring to that sentiment only, I again quote the hon. Members who are senior to me in age and experience; they have themselves said that India has been a place of confluence of cultures. When so many rivers and rivulets, the Ganga, the Padma and so on, are flowing into the Bay of Bengal, can we think as to which water is from the Ganga, which water is from the Padma, which water is from the Brahmaputra, which water is from the Gomati and the Jamuna? Therefore, after saying that we are already in such a confluence, of totality and merger, to think that we are Muslims, and among Muslims, we are *gole topi, lamba topi*, Shias, Sunnis, Khojas, or that we are Hindus and Christians, is all a vain clamour. It only shows that actually we have not emerged as Indians. Well, I recall a statement of late lamented Mr. Kamaraj. He said, "Who is a minority? Wherever I go, I find Hindus, Muslims, Christians, Oriyas, Telugus and Tamils. I find very few Indians. I now observe that it is the real Indians who are in a minority." So I really applaud such a remark of a very great son of India, who has really thought of the future generations to come. Also another freedom-fighter, Janab Asaf Ali, said in a convocation of the Utkal University, "Life is in vain if we do not create a better future tomorrow for ourselves and for our children to come". Therefore, I remind the hon. Member who has tabled this Bill: never be motivated for culture or education or for anything which indirectly hints only at politics and, if I am permitted to say, dirty politics. It will foment only communalism when actually we have ushered in secularism. In 1947 those brothers who chose to go to Pakistan had actu-

ally accepted only Islam. They did not stay with us here because they were not prepared to accept secularism. Those brothers and 5 P.M. sister_s of any religion, any language, any caste, any colour, any creed, came and settled here. They have accented secularism for generations to come . . .

THE VICE-CHAIRMAN (SHRI GHANSHYAMBHAI OZA): The hon-

ourable Member may resume his speech on the next occasion.

The House stands adjourned to meet at 11.00 A.M. on Monday, the 4th December, 1978.

The House then adjourned at one minute past five of the clock till eleven of the clock on Monday, the 4th December, 1978.