

समिति (सरप्लस सेल) में पंजीकृत कर सीधी नियुक्तियां प्रदान की जाय ।

समस्त अस्थाई जनगणना कर्मचारियों को छंटनी के उपरान्त नई नियुक्ति तक बेरोजगारी भत्ता दिया जाय ।

मुझे आशा है कि केन्द्रीय सरकार 28 फरवरी, 1982 की छंटनी से पहले ही कारगर कदम उठा कर 27,200 कर्मचारियों (नौजवानों) को बेरोजगार होने से बचायेगी । धन्यवाद ।

(ix) NEED FOR ADEQUATE POWER SUPPLY FOR IRRIGATION PURPOSES IN THE COUNTRY

SHRI RAJESH PILOT (Bharatpur): I want to bring the following matter of public importance to the notice of the Government under rule 377.

Power supply in different parts of the country for irrigation purposes to the tubewells has been very meagre, and particularly nil in some parts of the country. Wherever it is being given, it is not more than 5 to 6 hours on the average and that too mostly during the night time. Watering for the wheat crop is badly required at this stage; otherwise, it will badly affect the production of wheat in the coming crop which will automatically create a national food problem. Thus, it is requested that Government at this stage must intervene and make sure that farmers get at least 8 to 10 hours of power supply for the tubewells and if possible during the day time as December is a very cold month of the year.

ALIGARH MUSLIM UNIVERSITY
(THIRD AMENDMENT) BILL

MR. CHAIRMAN: Now we take up the Aligarh Muslim University (Third Amendment) Bill. There is no time fixed for this Bill and we have to

finish it by 5 O'clock. It has to be passed....

(Interruptions)

SOME HON. MEMBERS There should be more time for this Bill, Sir, as it is an important Bill.

SHRI G. M. BANATWALLA (Pounani): Firstly there are many amendments also of a very vital nature and all those have to be discussed. Let us proceed with the Bill and then we shall see.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND WORKS AND HOUSING (SHRI BHISHMA NARAIN SINGH): (It has to go to the other House.

MR. CHARMAN: I am asking the hon. Members that while they are speaking on this Bill, they will not try to take more than the time required to discuss this Bill. They will try to be rather brief.

SHRI EBRAHIM SULAIMAN SAIT: There must be some time fixed.

SHRI INDRAJIT GUPTA: They are bringing forward this Bill at the fag end of the session. Now, the time is also restricted.

MR. CHAIRMAN: Three hours have been given. This is a very non-controversial Bill according to them. Now, the hon. Minister for Education.

THE MINISTER OF STATE IN THE MINISTRIES OF EDUCATION AND SOCIAL WELFARE (SHRIMATI SHEILA KAUL): Mr. Chairman. Sir, I beg to move:

"That the Bill further to amend the Aligarh Muslim University Act, 1920 be taken into consideration."

I seek your indulgence, Sir, and that of the House, for saying a few words before the Bill is taken up for consideration. The measure that we are going to consider is one of momentous significance. On our part, we are deeming the pledge that we have given

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to our Muslim brethren that the historical character of the Aligarh Muslim University—this was the pledge made in the election manifesto in 1980 for the minority character of the University—will be assured. I am conscious of the fact that this is a measure to which almost all shades of opinion in the House have lent their support.

The enactment of the Aligarh Muslim University Act, 1920 was an important landmark in the development of our University education. However, it was not the starting point of the history of the Aligarh Muslim University. Indeed, as far back as 1870, Sir, Saiyed Ahmed Khan realised that the backwardness of the Muslim community in India was mainly due to the neglect of modern education. He, therefore, set up a Committee to devise ways and means for the educational regeneration of the Muslims. In May 1872, a Society called the Muhammadan Anglo Oriental College Fund Committee started functioning. Under its auspices, a School was opened in May, 1873. In 1876 it became a High School, and in 1877 the Foundation Stone for the establishment of a College was laid. Sir Saiyed Ahmed Khan did not live long enough to see his dream of establishing a Muslim University come true. After his death in 1898, the idea of establishing a University, with MAO College as its nucleus, gathered strength. Muslim University Foundation Committee started collecting funds required for the University. The MAO College, Aligarh had by then become a leading centre for the education of Muslims. After a series of discussions between the Government and the Muslim University Foundation's representatives, in 1920 the Government enacted the Aligarh Muslim University Act.

A fact of history is something which laws cannot alter. The enactment of the 1920 Act was, in fact, the culmination of a long-cherished ideal of the Muslims of India. It was not only their dream that found expression in the establishment of the University;

they had contributed a substantial part of properties and funds which went into its making.

For a long time, the Muslims of India have been concerned that the law governing the Aligarh Muslim University does not unambiguously recognise this historical fact. There has been a unanimous demand from the Muslims of India that this historical fact should be duly recognised by suitable amendment of the A.M.U. Act. Their demand enjoys broad support all over the country. In fact, almost all the political parties in the country have supported this demand.

The amendments to the Aligarh Muslim University Act have been under discussion for quite some time. Earlier attempts of amendment viz. in 1979 were infructuous. It was against this background that we pledged our support to a measure assuring the restoration of the historical character of the university and it is this pledge that we are redeeming today.

The Aligarh Muslim University is one of our largest residential universities. It is a composite institution covering the entire gamut of education from the Nursery stage to Post-doctoral research. It has faculties in all major disciplines—Engineering, Technology, Medicine, Science, Social Sciences, and the Humanities. It has about 17,000 students on its rolls and more than 1000 teachers. It symbolises a modern system of education in all its complexity and diversity.

Having said this, I must now outline very briefly the major changes that we propose to introduce in the Aligarh Muslim University Act.

The acceptance of the historical reality that the initial establishment of the University was not by Government but by the Muslims of India is reflected in our proposal to amend the Title and Preamble to the Act.

Further, we are amending the Definition of the expression 'University' in

the Act to make it beyond any shadow of doubt that the University was the educational institution of their choice established by the Muslims of India. Having thus restored to the University its historical character, we thought it necessary to build into the Act a provision which would empower the University to promote especially the educational and cultural advancement of the Muslims of this country. In doing so, I must state categorically that the provisions of the Amending Bill do not in any manner compromise the secular character of the university. There are some other important provisions including the provision making the Court the supreme governing body which are mostly in the nature of changes in the structure, pattern of governance and composition of various authorities. These are matters of detail which will be discussed in the House.

It is my fond hope that the provisions of the Amending Bill now before the House will substantially fulfil the aspirations of our Muslim brethren. The broad measure of agreement that these proposals have from all sections of the House will, I am sure, be reflected in the later stages of consideration of these proposals.

Sir, I move.

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Aligarh Muslim University Act, 1920, be taken into consideration."

Now, Shri Somnath Chatterjee.

SHRI SOMNATH CHATTERJEE (Jadavpur): Mr. Chairman, Sir, this is the third amending Bill which has been introduced in this House in this very year, which shows that the Government is not able to make up its mind and is suffering from indecisiveness. Now the Bill has been moved and it seeks to make for reaching changes in regard to the composi-

tion and scope of this very important seat of learning namely, the Aligarh Muslim University.

We have to consider also as to what are the basic objectives behind this Bill and what will be their effect on the future of the institution. We believe that measures like these should be discussed objectively and without any passion, to see how we can achieve the true principles of the seat of learning, which were in the minds of those persons who were connected with the founding of this university.

Now, Sir, before I go into the merits of this Bill, I wish to make clear what our point of view is, on matters like these. Sir, we concede that various minorities in this country, especially the Muslims, require special facilities for their all round development including advancement in the educational field. We concede that. We feel that in the matter of education and social development, for removal of disparities among the communities, removal of inadequate representation in Government services and various other fields, the minorities including the Muslims will have to be given special consideration. So far as the educational institutions are concerned, we want that they should be free from narrow or sectarian outlook or control and that such control should not be brought into educational institutions which does not help to maintain a secular and democratic character of such institutions.

Sir, so far as the Aligarh Muslim University is concerned, our definite view is that this great seat of learning must provide for the promotion and advancement of Muslim culture and their education but at the same time we have to see that it maintains its essential secular character which alone can maintain its true tradition and help in the real advancement of the Muslims. Perhaps Mr. Syed Ahmed really thought that it would represent the macrocosm of a truly secular India. Now, we respect the sentiments of the

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Muslim brothers and sisters with regard to A.M.U. But I am sure that my brothers and sisters do not want to make the university, this great University, an exclusive preserve of anyone section or community which would cut at the foundation of a secular character as also democratic set up. We are committed to support all proposals for laying greater emphasis for the promotion of the educational and cultural advancement of the Muslims by this University. But our experience has been a said one in so far as the minority educational institutions are concerned. Sir, we have seen from our experience that whenever and wherever a minority character had been conceded to an institution founded or established by a minority of whatever character or religion it may be, its functions have been conducted on an undemocratic line which I sincerely believe that nobody in this House and in the country including our Muslim friends would like. Sir, what we are apprehensive of is that an educational institution should not come under the control of any coterie and that in the name of maintaining a particular character of an institution of this type, there should not be directly or indirectly any control exercised by vested interests, theologians or zamindars or people like that. There are some good reasons behind the demand which has been made to describe this institution as a minority institution. We appreciate that. But we feel that our greatest emphasis should be on the maintenance of the democratic character of the institution, where the objectives of the founders to set up the University as a great seat of learning irrespective of any particular consideration of caste, creed or community would be achieved. Therefore, we have to consider very seriously the question of insisting that as it was established by the Muslim minority, its character as a Muslim institution has to be maintained. What we are apprehensive of is that such a demand will usher in undemocratic trends

which will get held of the University and its affairs with undesirable tendencies developing in the management and administration of the University. This is our basic objective and we would like to consider the provisions in the Bill from our stand point.

There are apprehensions that the Bill, if promulgation will considerably corrode the secular character of the institution and will bring the University under the control of the communalists and vested interests. If we are proved incorrect, we shall be happy. But let us try to analyse the set up that is now being contemplated and the basis for our apprehensions.

This matter is not being considered by a Select Committee. This is a piece of legislation which should have been brought before a Select Committee. Although there is no motion, I would request the hon. Minister to consider it. In this year itself, that is 1981, three different Bills have been introduced in the House....

MR. CHAIRMAN: In the year 1980.

SHRI SOMNATH CHATTERJEE: Yes, I stand corrected. In one year, the Government has been coming to different decisions in formulating its legislative proposals. We want a University for this standing to progress further and be a much greater and better seat of learning, where the objectives would be fulfilled. It should be considered in greater depth. There is a constraint of time, and as pointed out earlier, towards the end of the session this Bill has been brought, before the House and will be steam-rolled with the majority. The question is whether there will be a proper consideration.

Kindly see what this Bills says. It seeks to restore the minority character of the University and that is also in the statement of the hon. Minister. So far as the bringing into effect of this University is concerned, it was done under a statute. Everybody knows that. The statute has been construed by the Supreme Court in the background of Article 30 of the Constitution of India.

It appears that the Supreme Court is thinking to have it considered by a larger bench, but the fact that the University was brought into existence by an Act of Parliament is a historical fact which cannot be ignored by anybody. This Bill wants to restore the minority character of the University. Undoubtedly, we appreciate the great efforts made by some of the leading Muslims, intellectuals and educationists in this country and we greatly appreciate the efforts made by them, how can you by a legislation change the history? We do not know. What I am apprehending is that by this, you are also opening the flood-gates of litigation, which we do not want. If an institution has been established in a particular manner, by retrospective legislation you cannot change its manner. The Supreme Court had held that it was set up by a statutory enactment, and that it was not established by a particular community. The word 'establishment' is now being brought in, only with a view to attract Article 30 of the Constitution, because the language used there is 'establish'.

MR. CHAIRMAN: You said that in the Statement of Objects and Reasons, the words 'restoration of minority character' were there. They are not there.

SHRI SOMNATH CHATTERJEE: The hon. Minister herself spoke of that. Her speech itself mentions it. Sir, probably you are looking at the other Bill.

MR. CHAIRMAN: I am looking at the Bill under consideration. Probably you have referred to the other Bill.

SHRI SOMNATH CHATTERJEE: May be; but the Minister herself has said that. What is being done is that the word 'establish' is being deleted from the present Act, to show that it was not established by the Statute. Can what was done in 1920 be undone in 1981 by a legislation like this? The

fact cannot be altered by a legislation like this, which is supposed to have retrospective effect.

What is the position! By omitting the word 'establish' from the existing Statute, they want to contend so.

As I said, we appreciate the sentiments. But the question is, can it be achieved? "It has been established by a particular community. Therefore, Article 30 can be attracted"—that is the argument. The Minister herself has apprehended it—and she has been advised, I take it—i.e. that it seeks the restoration of minority character. So, my question is whether you can restore a character which was not there at the beginning, because we have to consider the statutory enactment which brought it into existence.

Maybe this is done with a view to persuading the Supreme Court to come to a decision. We cannot visualize what the Supreme Court will do. But the statutory provision is being changed, in order to pave the way for the Supreme Court to come to a decision.

There is also a change in the definition. The definition of the word 'university' is now being changed. How can a fact be altered by a change in the definition? According to the proposed amendment, "University" means an educational institution of their choice, established by the Muslims of India which originated as the Muhammadan Anglo-Oriental College Aligarh and which was subsequently incorporated as the Aligarh Muslim University.' Therefore, they now, by an amendment, want to make the University of a different origin from what was done when the law was enacted. Whether it will serve the purpose or not, we have grave doubts subject to what we have said about the consequence of it.

As I said, now the definition is intended to correspond to the language of Article 30 of the Constitution by

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deleting the word 'established' from the preamble of the present Act, and now they bring in the definition to conform to Article 30 of the Constitution. As soon as it is done, then Article 30 comes into being. Now what will be the consequence? Then how long will this Parliament has the power to legislate with regard to this University? If the object is subverted by this amendment, I have grave doubts whether something which had been established in 1920 in a particular manner or not, can be undone by this type of legislation. Assuming it can be done what is the immediate consequence? Will this Parliament have any power to legislate with regard to terms and conditions of the employment of the persons working there or even with regard to the teachers or even with regard to the future management and administration, because the law at present is that once the minority character is established within the meaning of Article 30, then your hands are off; nothing can be done. When we say our experience is very sad, I can tell you about every type of minority institution, whether it is a Hindu minority institution or of Jains. Sometimes even Hindus are becoming a minority. They say, Vaishnavs are in minority. Ramakrishna Mission is a minority institution. Article 26 is being attracted. Then Christian institutions are there; then Muslim institutions are there; then Jain institutions are there I can assure my hon. friends—I am sure all of them are aware—that here there is no difference and no discrimination. Once this control is conceded under Article 30 or under Article 26 of the Constitution, we find there is no protection for the employees. No standard of teaching is being maintained, although recently Justice Krishna Iyer has been trying to bring some sort of order into Article 30 institutions. By Article 30 institutions you understand what I mean. In some judgments it has been held that if Government's money is given, grant

is given, the Government can put some control, some check and at least ask for necessary information about the utilisation of the fund. They can have a say in the appointment of the Principal, some sort of very nominal say will be there.

I know of a Christian Missionary Institution in West Bengal, in Howrah, where the teachers have been appointed who are not even graduates. Teachers with Master Degrees, with B.T. and B. Ed. degrees, those who have not danced to the tune of the sisters, the Principal, who belong to the Missionary Group, have lost their jobs. I went to the court to plead for them. The answer is, it does not matter if you have been dismissed without any show cause, it does not matter if you have been dismissed arbitrarily; we cannot do anything because it is under Article 30 of the Constitution. Umpteen cases we can cite. Even colleges sponsored by government which are being run with the help of some of these bodies are held to be beyond the pale of the legislative or executive control. About the teaching standard, about the terms and conditions of employment, about the protection of the teaching and non-teaching staff, nothing can be done. Well, the hon. Minister says, it is within their party manifesto. Therefore, whatever may be the experience in this country, whatever may be the experience of the ordinary people, well, it has to be adopted! We say, these are our reservations. Can we not maintain the Aligarh Muslim University as one of our proud possessions as a great seat of learning and at the same time maintain its democratic character, its secular character? Can we not utilise it for advancement of Muslim culture in education without affecting its democratic base or secular base? According to us, it can be done given the administrative will, given the political will. Therefore, if you kindly see the position now you will find that changes have been made; and the court is now

becoming the supreme body of the university, replacing the Executive Council. It is being given powers of veto over existing statutes, to determine the panel of candidates for the office of the Vice-Chancellor, to elect persons to serve on the authorities of the university, to elect not less than six members of the Executive Council and so on. I warn the Minister that this law will be unworkable. I do not want to say it now, but if you apply your mind you will find that it will be totally unworkable law. What is the composition? The composition is very important. Why is the court being made the supreme governing body of 179 persons?

MR. CHAIRMAN: The number is 169. It is a big list.

SHRI SOMNATH CHATTERJEE: I stand corrected. Somebody, did it for me; I should have done it myself.

MR. CHAIRMAN: It is more democratic and more representative.

SHRI SOMNATH CHATTERJEE: There are different views on that, 70 members would directly represent Muslim bodies which include 25 representatives of the Old Boys' Association. What is this Association? According to our information, it is almost a defunct body, controlled by a handful of persons. How the election of its representatives will be done, we do not know. We understand its membership will hardly exceed 1000. In its 60 years of existence, there is an Old Boys' Association having about a thousand members. It is not an operating, or functioning body. It will have 25 representatives as against the present representation of 15. Then, 5 representatives of the All-India Muslim Education Conference. Whether it is a functioning body or not, there is a good deal of doubt. The present representation is 2; it is becoming 5. Who is constituting this Conference?

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Who is electing the members of this Conference? They, on their part, are electing 5 members. What is the process of election, nobody knows. Then, 15 representatives of Muslim culture to be elected by the court. See the incongruity. The court has to elect 15 representatives of Muslim culture. Unless they are elected, the court is not constituted. How will the court elect these members? How will the representatives of Muslim culture be selected? What will be the method of election? What will be the electorate?

MR. CHAIRMAN: It will be provided in the statute, it says.

SHRI SOMNATH CHATTERJEE: An important matter like this is left to the guidelines to be decided by the court. The court will decide what will be its composition. 6 representatives of Muslim colleges of oriental learning to be elected by the court. Here only the representatives of Muslim theological schools are expected to be elected. Chairman of Wakfs Boards to be elected by the court, who have nothing to do with educational institutions as such. Their object is completely different, namely, to run the Wakf Boards. How are they required to be appointed here?

MR. CHAIRMAN: Some of the schools and colleges are also under Wakf Boards.

SHRI SOMNATH CHATTERJEE: Everything can be connected to education. Even lack of education can be connected to education. Five persons are to be elected from the Muslim Educational Cultural Society by the court. At present, there is no representation. Therefore, everything is being left to the Court which cannot be constituted unless this election takes place. How the election will take place unless the

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Court is constituted, I do not know. There will be 10 representatives of donors, who have donated Rs. 10,000 or more. We know wherefrom these donations have come. Apart from this, new Bill also denies representation to the liberal and progressive section within the University by abolishing the very important principle proportional representation for election to the Court. Then we find that there will be ten elected representatives of the teachers and five non-teaching staff.

MR. CHAIRMAN: It is given in the Bill. You have taken nearly half-an-hour time. If you go on reading the Bill, then there will be no end to it.

SHRI SOMNATH CHATTERJEE: I am not reading the Bill. I am pointing out how the Court is being constituted. No body can accuse my Party of supporting any communal organisation. We are expressing our apprehension. I have prefaced my speech by saying that this protection has to be given. I have said that they require advancement and special support. But we are saying that these are not the ways. Can we bring about a democratic character and secular character like that? Is it your intention? The hon. Minister before ending her speech has said that these measures are intended to maintain the basic secular character. Therefore, we are trying to point out that these are the things which are raising certain misgivings in the minds of a large section of the people.

There is a provision for an honorary treasurer to be elected by the court. No qualification has been prescribed. He will be in complete charge of the financial and accounts matters of the University. Then see how the executive council is being diluted. Since you are showing

signs of impatience, what I want to say is that our apprehension is that this great institution in the name of their election manifesto is being brought into a situation where there will be serious inroads into its democratic and secular functioning. As a result, not only the interest of the University as a whole will suffer but also the interest of the students, teachers, non-teaching staff, everything will be under serious strain and stress. By merely granting a minority character you cannot solve the problems. You are creating more problems. Already there is a demand for an Aligarh Hindu University. Now another community is trying to make its presence felt. Already there is a move to establish an Aligarh Hindu University. A large area of land has already been donated for this purpose. Now every community is going to have its own university and to bring it within Article 30 of the Constitution so that it can be free from all controls. If the objective of the hon. Minister is fulfilled, then primarily she will have no power over this University. She will have to watch from a distance what is happening there. Therefore, we very seriously request that this Bill should be considered in greater depth, the difficulties and the different view points should be considered and it should not be hurried through. Merely saying that you are fulfilling or complying with the election pledge given in the manifesto will not do, because so many pledges have been given namely that prices will be reduced, jobs will be provided and so on and so forth, but nothing has been done. Therefore, suddenly the election manifesto being put on a high pedestal is not appreciated by people. So, let this matter be considered very seriously, let the different view points be taken into account and let nothing be done which will affect the democratic set up of this institution.

SHRI H. K. L. BHAGAT: (East Delhi): Mr. Chairman, my colleague

Shri Somnath Chatterjee, is a very capable advocate. I belong to the same tribe.¹ There is a tendency among the people belonging to this profession to be legalistic.

SHRI SOMNATH CHATTERJEE:
The legalistic part of my argument was a very small one.

SHRI H. K. L. BHAGAT: I am coming to the other part also. As he himself said, it was very small part of his speech. In the beginning I must say that it is very natural for us, advocates, to be legalistic; and we are needed by society. I mean no reflection on our profession. We belong to a very noble, good profession, which is needed sometimes to clarify issues. But sometimes, we confuse the issues. We are capable enough to argue on both sides. I do not mean.... (Interruptions) What I would respectfully submit is that today he has been a bit too much legalistic and then he came to the democratic part, other things and so on and so forth. He belongs to a party, whose profession or pretension is the path of revolution, which wants to be in tune with the aspirations of the people, which wants to remain with the people. According to him, his party is not a communal party and it wants to do justice to the minorities.

While listening to him, taking all his points, the effect of the Supreme Court judgment, whether you have power to give it retrospective effect, the doubt whether it may be quashed, basically, the overall effect on me was that he was a bit too legalistic. At the same time, in the other part, he talked of democracy. What is democracy? The basic tenet or current of democracy is that it should be in tune with the aspirations of the people, the thinking of the people. At the same time, since he knew that he has difficult case to argue, since he has to reconcile his party viewpoint with the aspirations of the minority

community, he hedged it in with so many if's and but's.

With all respect to the Supreme Court, I would say that we can discuss the decision of the Supreme Court in Parliament. I do not want to say much on this point. My learned colleague, a very capable advocate who is to follow me, Shri Gadgil, may dwell at length on this point. But I would say in passing that my feeling is that the judgment that was given by the Supreme Court previously, to which he referred, which was in 1967 and reported in 1968, that judgment—not in my opinion, because I am a small man in the legal profession—in the opinion of some very important legal luminaries, was not correct legally, as it was based on one decision of the English court where the function of the University is to confer degrees. The University is not meant merely to confer degree; it is meant to promote certain basic values. There lies the difference between our laws and the English laws. Therefore, personally I am of the opinion, even though I am not a legal luminary, that the Bill that has been brought before the House by the Government does not conflict with the decision of the Supreme Court.

15 hrs.

Secondly, it is absolutely within the powers of Parliament to pass a Bill which has even retrospective effect, if it affects the individual rights of the people. I can cite innumerable judgments of the Supreme Court, at least half a dozen of them I can cite, but I leave it to my other colleagues who might go into the details. But as far as individual rights are concerned, well, you cannot undo those individual rights by a legislation which has a retrospective effect, but in a matter like this, there is absolutely no bar and certainly Parliament has the power even to nullify the facts of a particular judgment. It may say 'Why not alter them on a reasonable basis?' So, without going into it, much, I would

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say that I do not agree with the Judgment of the Supreme Court and I feel that this Bill does not come in conflict with the Judgment of the Supreme Court. The definition of the University which has been given there is taken care of.

SHRI SOMNATH CHATTERJEE: Sir, I have said, it will be hit by the judgment of the Supreme Court. I say, what will be the effect of a retrospective statement of position?

SHRI H.K.L. BHAGAT: Even accepting his clarification as it is, I mean to say that Parliament is within its full right to pass a law and therefore, about the definition of the University which has been given, I mean, the new definition, I personally feel that that is taken care of.

About this Bill my learned friend said three Bills were brought in during one year, in 1980. Well, he knows more than me the history of this problem, how it has arisen from time to time and the history is very important. Certainly it is not trying to alter history, but it is trying to recognise history and the condition of that history is very important. This University had a history, a very long glorious history. May be here and there, there were controversies about the Aligarh Muslim University, may be there are things on which one may have one opinion or the other, but the basic fact remains that it is a very crucial time.

The late Sir Syed Ahmed Khan did a single service not only to the community, but to the whole of India by starting this college, and later on this college was converted into a university. It is a basic fact that this was started. Hindus had also contributed to it financially and otherwise, while largely it was done by the Muslims. The idea was that Muslim should advance, they should get education, and so on and so forth. I think that is a glorious contribution to the cause of the country. I do not believe that anything done for the advancement of

Muslims does not advance the country.

15.03 hrs.

[SHRI HARINATHA MISRA in the Chair]

I believe that anything done for the advancement of any section in the country, as long as it does not harm others, does advance the country and this University did advance the national interests of the country and it is a good chapter, it has done greater service it has produced great sons and daughters who, in various fields, have served the country, and therefore, by this Bill recognising that history, we are trying to bring this Bill in a manner which does not clash with the Supreme Court. It is a good thing that the Government gave thought to it, once, twice and thrice, discussed it with the representatives of the community, with the teachers, the University, the Vice-Chancellors and others, public opinion, enlightened Muslim public opinion and others. I think the Government did well in doing this exercise with care and caution. I wish to congratulate the Government and the Education Minister for having brought this Bill and I feel this is completely important. It is in the mind of millions of people in this country and there is no reason why we should delay. I feel that this Bill should be passed.

Now my friend says, 'Well, this is undemocratic, and this will have so many repercussions.' I do not wish at this stage to join issue with him and start acrimony in this debate because I feel that this House should welcome a Bill of this kind. Some may say it does not go far enough, some may say it does go a bit far, but the basic reason why the Bill is brought, I think, is that there is unanimity in this House to bring this Bill and pass this Bill, and it should be passed here.

As I said, I do not wish to bring any acrimony into this debate. Leaving aside this Aligarh Muslim University, I can tell you several instances in Delhi itself, and I can quote several instances in your Bengal itself where

First Class first have been ignored and Second Class preferred. Why? That is human failure or mistake or manipulation. In Delhi, I know a case where some of our own people were manipulated by others. The first class persons were ignored against other persons.

SHRI SOMNATH CHATTERJEE: Do you support that?

SHRI H.K.L. BHAGAT: I do not. Inevitably this is wrong and totally wrong. By that you are casting aspersions. After all, who are going to do it? Who are going to do it. That is a human failure. I do not support that. I dislike that merit should be ignored. We must give education. What happen in your rule, I would not say. What I wish to say is may be here and there, it happens in a case or so. There is no reason for us to condemn the Bill as a whole. But your apprehension, with due respect has not very well been founded. He has said that the court is being given a very big power. The Minister has said that the court is being given full power. It is because the people wanted it and we wish to give power to the court and it is being done deliberately to give power to the court. That was the demand time and again. The composition of the court has also been changed as also the powers of the court. The most important thing is that is mentioned specially that the university will work for educational and cultural advancement of the Muslims. What is wrong? Absolutely nothing is wrong. In one sentence he said that in this Muslims would come. I feel Muslims will come and I feel Muslims should come. In my opinion, in the court, there will be more than 3/4th. Nothing wrong in it.

SHRI SOMNATH CHATTERJEE: May I ask his indulgence for a second? This is a matter where there may be misunderstanding. I would earnestly request my hon. friend, for whom I have great regard, not to put things in my mouth. I have not objected to Muslim representation, but to the nature of representations like 'old

boys' etc. Sir, I never said and I never objected to Muslim majority at the court.

SHRI H.K.L. BHAGAT: Of course, I accept your clarification. It might be your difficulty or confusion.

SHRI SOMNATH CHATTERJEE: But I would earnestly request Mr. Bhagat not to put things in my mouth. I never opposed the court.

MR. CHAIRMAN: I think, now he stands corrected.

SHRI H.K.L. BHAGAT: I was making my respectful submission and reference to my very capable friend because I respect him and his views. He feels that I am not quoting him correctly. Therefore, I would not mention this.

It is good that the composition of the court has been enlarged. It is good, I feel, that the old boys have been given greater representation. I feel it is good that the number of Muslim organisations and other people have been given large representation. It is good, I believe, that all the previous Vice-chancellors have been put in the court. I think that this makes the body not only powerful but it makes it a comprehensive body. One thing which struck as worthy of appreciation is that in this composition, the all-India image or character has been strengthened by this provision. It is not a University merely of Uttar Pradesh. I do not believe that the university is merely for the Muslims, though the Muslims have certainly contributed to it largely. The Muslims have done it and we are proud of that. It is a very good university of our whole nation and our country has its reputation in the international world also. So, we are proud of that. By making all these additions to this, a good thing has been done. The democratic processes are there. The court will make its recommendations. The executive council will make certain reports and so on and so forth. The Chancellor may be elected by voting. The Pro-chancellor will be elected by voting and so on and so forth.

[Shri H. K. L. Bhagat]

Now, a number of people have stated what they consider to be progressive elements. That is what you might feel though you might not say it. You might think that the people who were having oriental thinking were not progressive. Well, I do not agree. I personally think, both in terms of character—composition and giving powers, the Government has done well. This is an exercise done after a lot of care and consultation. The matter is very important. He mentioned our Minister's reference to the election manifesto. I want to know which is the party which did not make it an election issue. In this country, every party, every leader sitting here, has talked of the Aligarh Muslim University at one time or other. When certain amendments were made which ran counter to what is being brought here, we were criticised. So my feeling is that this is an issue of foremost importance to the nation and in the minds of Muslims.

I do not believe that is finishing the secular character of the university. No. We have institutions already run by Hindus, by Muslims, by Sikhs, by Christians and others in this country. There is nothing new in that. It is not finishing the secular character of the university. The secular character is maintained. I do not believe that if in a certain university there is a majority of Muslims, it becomes a non-secular university. It remains a secular university. The strength and essence of secularism lies, apart from other things, not only in counting heads—it is an important principle—but also in the satisfaction of all people, not only of the majority community but certainly of the minorities of India. No secularism will thrive in this country if secularism creates frustration in the minds of minorities. It is very necessary for the very foundation of fabric of this country to which we are committed. Therefore, to say that this Bill hits at the secular

fabric or character of the university, I would say, is wrong.

I would say that this Bill is very good and it is most welcome. Some people may say that it has not gone too far or that it has gone only that far. Keeping the parameters of a court decision, keeping the public opinion which is before us, I think, the Government has done very well in bringing forward this Bill. I think, the passage of this Bill will not only be supported by Muslims but all our people, leaving aside a few communal mad fellows who talk this way or that. He said that some people are asking for the Aligarh Hindu University and all that. Should we ignore history? Should we ignore what has happened during the last 50 years? No. There are people in this country who raise all kind of things, sectarian, communal and all that. Our strength in secularism will lie not in bending before them but in facing them boldly and in strengthening the foundations of the fabric of secularism. Who can ignore history? No one can ignore history. No party dare say that this history can be ignored.

I think, the Government has done well in bringing forward this Bill. I congratulate the hon. Minister, the Government and the Prime Minister for this measure and I would say that the passage of this Bill will be welcomed by the country as a whole.

SHRI GULSHER AHMED (Satna):
Mr. Chairman, Sir, my learned friend Shri Somnath Chatterjee, in the very beginning said that some kind of a consideration should be shown to the minority community. By making this demand that this kind of Bill be passed for the Muslim community, I do not think much of their demand has been met.

I will explain to you what was the position of 1920 Act and what amendments have been made and why there is the necessity for this amendment again. Till 1950, the 1920 Act worked very well. But after India became In-

dependent and we became a socialist democratic republic and a parliamentary democracy, it was very necessary that some of the provisions in the Act should be deleted and amended. What the 1951 amendment did was this. There was Section 8 which stated that the court had the power to make a statute providing for compulsory religious institute in the university. In view of the changed circumstances and in view of the Constitution coming into force, it became very necessary that in order to make the university a secular university, the amendment of Section 9 was done. Similarly, Section 8 was amended. I would like to read the amendment that was made. Section 8 was amended a little bit; it was not deleted. Section 9 was deleted. Section 8 was amended in this shape:

"The University shall be open to persons of either sex and of whatever race, creed, caste or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be admitted therein, as a teacher or student, or to hold any office therein, or to graduate thereat, or to enjoy or exercise any privilege thereof, except in respect of any particular benefaction accepted by the University, where such test is made a condition thereof by any testamentary or other instrument creating such benefaction."

The new Section 8 had also a proviso laying down that:

"Nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those who have consented to receive it."

This amendment was made in 1951 with the object of making this institution a secular institution.

The trouble arose when an amendment was made in the year 1965; a very drastic change was made in the Act; the main change was that Section 23 of the Act was amended. It

related to the composition and power of the Court. There was a provision in the Act that the members of the Court would be Muslims; no non-Muslim was entitled to be a member of the Court. Then the powers of the Court were taken away by this and those powers were given to the Executive Council. That was the main reason why some of the people moved a writ petition in the Supreme Court, and the Supreme Court said that, because this institution was not established or administered by the minority community, they were not entitled to get the protection under article 30 of the Constitution. Their argument was that this University came into existence as a result of passing of the Act of 1920 by the legislature and according to their opinion, it was a creation by the Legislature and not a creation or establishment by the minority community. Technically it may be correct that, by virtue of the Act of 1920, the University came into existence. But factually it was the majority of the Muslims who had donated the money. One of the conditions for the establishment of the University was that they had to deposit Rs. 30 lakhs, and I think, ninety per cent of the contribution was made by the Muslims because they were interested in establishing that institution. So, factually they were the promoters, the people who had created this institution. But for them, but for their giving the contribution, the Government of India was not prepared to have this Bill of 1920 passed. Therefore, factually it is not correct that it was established by a Statute, though technically and legally it is correct. As my friend, Mr. H.K.L. Bhagat, has said, Mr. Somnath Chatterjee has been very legalistic. Factually, if you see as to who were the persons who created this University, you will find that some of the non-Muslims also had donated because in those days we were more secular than we are today. Some of the non-Muslims also had contributed and made donations. Simply because some of the non-Muslims had donated; the

Court came to the conclusion that it was not the Muslims who had created this institution and they gave the reasoning that it was created by a Statute. They further went on to say that it was also not administered by the minority community. The reasons are, they said, that in the Court, in the Executive Council and other authorities of the University, some of them were elected, some were nominated, and those who were elected were voted by non-Muslims also. So, how could they say that they are representatives of the Muslims who were elected and who were Members of the Court?...

MR. CHAIRMAN: What had been the factual position apart from the theory?

SHRI GULSHER AHMED: The factual position was that the majority of the members in the Court and in the Executive Council and other authorities of the University were Muslims—nearly 90 per cent of them. So, factually it can easily be said that it was established and administered by the minority community. But for technical reasons the Supreme Court held that because of this creation by a statute and administration not solely by the minority community which means naturally protection of Art 30 of the Constitution, it is not a minority institution. So my second submission is that my friend Mr. Chatterjee has said that it should be more secular and more democratic. It is more democratic, Mr. Chairman. Previously, under the 1920 Act, there used to be 400 people—mostly donors. A large number of people who had donated Rs. 30 lakhs and so on and not elected by the representatives of the teachers or staff or this association or that association were members. What has been done in his Bill is that it has been made more secular. All those changes which were made in 1951 and 1965 have been retained and they have not been deleted. The secular character has been kept. There is no denial of this fact. And at the same

time it has been made more democratic. Representation has been given even to the non-teaching staff. The non-teaching staff can be the peon, it can be the clerk or anybody else. Various kinds of associations that exist in this country have been given representation because one of the serious complaints against Aligarh University was that it was merely a University of people of UP. Most of the people who were interested in the affairs of the Aligarh University were people from UP. But by this kind of provision, educational societies have been given representation. Cultural societies have been given representation. Oriental Colleges have been given representation. All these kinds of representation that have been given in the new Act is solely with the object and purpose of giving wide representation to varied kinds of interests and classes belonging to the minority community. So, to say that it is not secular and democratic is not correct. I submit, with due respect to my learned friend Mr. Chatterjee.

I feel that in the definition of 'University' only 'established' word has been used. I would have been very happy if the word 'administered' or 'maintained' also has been added, because in Art 30 both the words are used—right to establish and right to administer. The Supreme Court has said that the condition precedent...

MR. CHAIRMAN: Excuse me. 'established and run'—will not that be sufficient?

SHRI GULSHER AHMED: The word in the Constitution is 'administer'...

MR. CHAIRMAN: You are quite right.

SHRI GULSHER AHMED: I think we have to stick to that word. So, right to establish and right to administer—both terms are used in Art 30 of the Constitution. So, in order to remove any kind of ambiguity if these words and also 'maintain' because that is used in Art 26, had been used, any

kind of confusion, apprehension or suspicion that my learned friend, Mr. Chatterjee has, could have been removed because arguments have been advanced on all these aspects and so, it was necessary that besides all these words, something more be written here in order to remove his apprehension. 'The University' shall mean so and so which shall be administered and maintained by the Muslim community. I wish all these apprehensions of my hon. friend had been removed.

In so far as the other aspects of the Bill are concerned I think the best that could be done has been done. And nothing better than this could have been done. They wanted to satisfy the minority community whose two demands were these. One was that the character of the university—I won't use the word 'minority' as my friend would not like that word—as it was before 1951 should be maintained. That cannot be maintained without making certain amendments. Those amendments that are made are welcome.

MR. CHAIRMAN: You would not like to use the word 'basic'.

SHRI GULSHER AHMED: No, Sir. Then the fundamental question will come. Now, Sir, the second thing that they wanted was that the university should be made autonomous. In this Bill an attempt has been made to make this university as much autonomous as possible. The power has been given to the Visitor. The President of India means this. My hon. friend has got the impression that the Executive will have no control and they will run this institution in any manner they like.

Sir, this apprehension of my friend is not correct. If you go through the Bill, you will find that the Visitor has been invested with great powers. He has power to appoint the Vice-Chancellor. That is the most important one. If the Vice-Chancellor exercises this power, naturally, the President or somebody who is the Vice-Chancel-

lor of the University, will surely consider or think a number of times before appointing anyone. He must be a secular man and not a communal man. There will be control of the Executive and there is no doubt about it. So, whatever apprehension that my learned friend has got we must remove from his mind. I would say that no one should have communal bias. He should not become a Member of the Court as otherwise he will not be able to discharge his duty in a progressive manner. This is only stretching too far or too much. I think that his apprehension is not based on a correct analysis and on correct facts. I think the Bill that has been presented deserves appreciation from all ment and of education also.

MR. CHAIRMAN: Shri Indrajit Gupta. He has made a special request to me. He is a good man.

DR. SUBRAMANIAM SWAMY (Bombay North East): All of us are good. All right, let him go ahead.

MR. CHAIRMAN: I say everyone is good.

SHRI INDRAJIT GUPTA (Basirhat): May I proceed?

MR. CHAIRMAN: Yes.

SHRI INDRAJIT GUPTA: Sir, before I make comments on certain provisions of this Bill, I should make it clear that as far as the main purpose of this Bill is concerned, it is to invest the Aligarh Muslim University with a minority character as envisaged in Article 30. We fully support it.

I am not much impressed by the argument that this was an item in the ruling party's election manifesto. I am supporting it for this reason that our party has also for a long time been agitating for this. We do feel that for various historical reasons, traditional reasons which have been mentioned here by other speakers, it is necessary to restore this minority character of the University.

I say this despite the fact that I am well aware that the overwhelming majority of the Muslim community in this country are people who are economically underprivileged and also suffer from great deprivation of opportunities, of livelihood, of employment and of education also.

PROF. N.G. RANGA (Guntur): Deprivation?—Nobody deprives them.

SHRI INDRAJIT GUPTA: Because of their poverty. You are not aware of that.

PROF. N. G. RANGA: What do you mean? (*Interruptions*)

SHRI INDRAJIT GUPTA: I know that. (*Interruptions*). Sir, the children of the overwhelming majority of Muslims in this country can never hope to see even the portals of the Aligarh Muslim University.

SHRI M. RAM. GOPAL REDDY (Nizamabad): Prof. Ranga knows the people, from much earlier than your birth.

SHRI INDRAJIT GUPTA: Have you finished?

MR. CHAIRMAN: Don't enter into a debate now.

SHRI INDRAJIT GUPTA: I think Prof. Ranga can look after himself. You also were born after him, not before him. So, Sir, whatever you do with this University, by itself, it will not give access to university education to the majority of our Muslim brethren in this country. In spite of that, I do feel that it is necessary today that the provisions of this Bill should be enacted. I am also glad that it has been specifically stated here in regard to the 'powers of the University' that the University should promote especially the educational and cultural advancement of the Muslims of India. That is a good thing which has been put here, as a sort of perspective pledge. I also support the

idea that the Court should be restored to the position of the supreme executive body. Even now, before this Amending Bill has been passed, there is nothing which can prevent certain forces, (if they are communal forces, obscurantist forces or conservative forces) from trying to exert their influence and pressure in Aligarh. I think Mr. Chatterjee has in mind a recent episode which took place concerning an eminent Marxist intellectual, for whom I have very great respect, Prof. Irfan Habib, because, the campaign and the vendetta launched against him were not on the ground primarily of his having violated any rule or any discipline of the university that was put forward as an excuse. The type of campaign which was carried on was precisely because he had never hidden the fact that he was a Marxist. And therefore such slogans were written on the walls which can only be inspired by some obscurantist and reactionary elements. But could that be prevented simply because the university up to that time has not been given minority character? It cannot be done. Such forces may be there. There are other forces also secular forces, democratic forces. And sometimes they may come into clash with each other. I do not think it was a good thing that after Prof. Irfan Habib was suspended and an enquiry was ordered, that enquiry was entrusted to one Mr. Justice Khalil from Orissa, who happens to be himself a former member of the executive committee of the Old Boys Association because that Old Boys' association was in the vanguard of the campaigns against Irfan Habib. And a prominent member of that Old Boys' Association was selected to conduct the enquiry, which, I do not think, is the way to inspire confidence that the enquiry will be impartial (*Interruption*). Somebody not connected with all this should have been appointed. However I hear that he has been replaced subsequently by somebody else. Is it a fact? Some other Justice has been brought in now. I am not sure

about it. Justice Khalil was appointed. (Interruptions)

MR. CHAIRMAN: I think, his name was Justice Khalil Ahmed.

(Interruptions)

SMRI INDRAJIT GUPTA: Mr. Chatterjee has raised some important constitutional and legal points which I am not competent to say anything about. If the Law Minister wants, he can argue with Mr. Chatterjee. The main point which I have understood him to say was that once this University gets the protection under Article 30, it will not be possible for any external agency, whether it be the Parliament or the Government or anybody else, to interfere in the working and administration of that University. If that legal constitutional point is correct, well, then some apprehension may arise in the minds of some people that if the Court happens to be dominated at any particular time by certain types of elements, then they may alter the Statute in a way which would be detrimental to the cause of secularism and you cannot interfere, you cannot do anything and if that is the legal position, in spite of the fact that we are passing a statute in the supreme Parliament of India, I do not know whether other institutions, educational institutions, set up by minorities of their own choice in this country—there are many of them and they are not set up by the statute of Parliament—will be put on par with the Aligarh Muslim University and I do not think that from a common sense point of view, it can be a correct thing. I know that in some private institutions, not all of them, but in some of them there are many malpractices, there is a lot of mal-administration. Teachers do not get their salaries they are made to sign that they have received a certain amount but they are not given their actual salaries. All such things happen. But can such a thing happen in an institution of the minorities' choice which

is set up by the Parliament of this country? Does it also mean that we will not be able to interfere with its functioning if we find that something is going wrong? For example, you may say that it is an hypothetical conjecture. Suppose at some time later this new court as it is proposed now, brings in a Statute saying that although the University which is spent all irrespective of religions, race, sex and so on, is there anything to prevent the Court at some future date of imposing a ceiling on the ratio or the percentage of people belonging to non-Muslim community who can come? I do not know. Such apprehensions may be there in the minds of some people, though we should try to see and we should be clear about this, that in the event of the powers of the administrative bodies of the University being misused at any time for communal purposes or non-sectarian purposes, it will be possible for remedial action to be taken by the Parliament or anybody else on that account. I am not clear what the legal position is. The Minister may kindly clarify this. But I do not subscribe to the view—though I do not think anybody has put that view here, I do not know what the subsequent speakers will say—But I do not subscribe to the view that because the institution will have a majority of Muslims, therefore automatically it must be having a communal colour or some kind of obscurantist or reactionary colour. My party certainly does not subscribe to such a view and if it comes to that there are obscurantist element in other communities also who are no less fanatical than some people in the Muslim community. I do not know what goes on in the Banaras Hindu University. Many of the things will not pass, most of the things, I am sure, from this standpoint of secularism. But I do feel, and I am not making a legal point, I am making it bluntly, I am making a political point, that today, in the circumstances of today, the world today, where

the Indian Muslims, let us face it, are being sought to be influenced by certain communal and divisive and fundamentalist pressures and agencies, some of which are operating in our country and some of which are even international, I think, in such a situation it is very necessary that we should demonstrate before the world that for the largest religious minority which we have got in our country, we are passing a law to ensure that the Aligarh Muslim University will have a minority character as per Article 30 of the Constitution. It is very necessary. Not that by itself this will be a safeguard against everything, but nevertheless, it is necessary, and I think, the Muslim community at large, including those poorer people who can never see the doors of a University, will welcome it.

The present position is that the Supreme executive of it is not the court; the Executive Council which consists mainly of academic people is there. As far as I know, in teaching community of the University, the senior teachers, readers, dean and so on, is not as though there is an overwhelming preponderance of Muslims; there is a substantial section, 40 per cent or how much, I do not know, non-Muslims and this proportion may increase in future for obvious reasons. The proportion of non-Muslims in the Executive Council is likely to go on increasing. Therefore, if the minority character of the University is to be maintained, I think, it is only right that not the Executive Council, but the Court should be given the status of the supreme administrative body.

Having said that, I must say that in the actual provisions of clause 20 which sets out mainly the composition of Court, I feel, there is sufficient margin and latitude for democratising it further. It is necessary to make it as democratic as possible. Unfortunately

upto the last week when we had the meeting of the Business Advisory Committee, the Government even never revealed that they had any intention of bringing this Bill in this session. Now only two days are left in this session and the Government have come forward with this Bill and it is being hustled through. I think, some more time should have been given, when we could have discussed with the Minister and other people certain changes which could be brought about to make the structure of the court a little more democratic. Now, it is not possible. I as also some other hon. Member have moved some amendments, but no amendment will be considered at this stage. If they had referred the Bill to a Select Committee, we could have considered this Bill in greater detail.

One main proposal which I would like to make is that wherever elections are provided for the court by different categories of people, the election should be by proportional representation and single transferrable vote. This is the only way to make it more democratic. Secondly, we have suggested that the representation which is being allowed to the teachers and lecturers should be increased a bit more. The representation which is being suggested for the non-teaching staff should also be increased. What is the use of giving them only five seats? It is a big Council of 169 people. It should be increased a bit, from five to ten. In the case of the donors, I think the representation prescribed here should be reduced. Somebody said that donors were any how getting extinct, and that they were not of much importance now. They had a much bigger importance in the olden days. But their representation can, and should be reduced.

About the old boys, I want to widen the scope of their representation. It means the representatives should not be selected only from the members, ces of today the world today, where

existing old Boys Association. I would suggest an electoral college of old boys to be formed. Let all the old boys, wherever they are in India, be registered as an electoral college, and let that electoral college elect the representative of the old boys on the Court, instead of keeping it restricted to a small group of people who happen to be members there. Let us widen its scope. I think this can be done without any difficulty.

We are talking a lot about secularism; but I find that the definition of representatives of Muslim culture and learning is given here in an unsatisfactory way. For example, it is mentioned under Statute 14 sub-clause (xxvi):

"Six persons representing Muslim Colleges of Oriental Learning in India, to be elected by the Court..."

and again under (xxviii) and (xxix) it is said:

"(xxviii) Two persons representing Urdu language and literature, to be elected by the Court;

"(xxix) Five persons representing Muslim Educational and Cultural Societies situated outside the State of Uttar Pradesh, to be elected by the Court;

I have no particular objection to this; but I would say that within all these definitions, there is no place, e.g. for an institution like the Jamia Millia Islamia. It will not come in any of these definitions. Don't you consider it to be a secular institution with long, nationalist traditions? But you have made the definition in such a manner that the Jamia Millia Islamia can never be represented. Please look into this. The definition should be sufficiently wide to enable such institutions also to be given representation there.

Then about the panels which are to be sent to the Visitor for his nomination of the Vice-Chancellor. Here, a two-stage operation is visualized. First of all, the Executive Council will recommend a panel of five names; then it will go to the Court; then the

Court may, if it wants, reduce these five to three; and those three names will be sent to the Visitor—a sort of a filtering or screening process. I do not understand why this is necessary at all. I think in this respect the Executive Council is only asked to make a recommendation. It is better qualified to make suitable recommendations for the post of Vice-Chancellor from among the eminent people in educational field, etc. I would suggest that a panel of five recommended by the Executive Council should be allowed to go to the Visitor without being trimmed or cut or abbreviated by the Court. This should be done. Otherwise, there may be some difficulties created.

Finally, something about the teachers of the secondary schools in the University. There are three such schools on the campus. Just to show how bureaucratically and unsympathetically the present administration works, I would say this: in 1973, the University Grants Commission had decided to allow a selection grade to 20 per cent of the secondary school teachers under the University. This proposal was accepted by the Executive Council of the University. A committee was set up to prepare a list of teachers. It received the approval of the Vice-Chancellor two years ago. But upto this date, not a single teacher has received the benefit of this selection grade; and quite a few of the persons who are the potential beneficiaries of this, have by this time either retired from service or died. This shows that even when a small measure to benefit some teachers was approved eight years ago, due to the attitude of the administration, upto this day they have not been able to benefit by it. So, in future. We will have to see, when you are trying to democratise and secularise the whole administration, whether there is room here for a great deal of improvement. But I suppose you will say that it is not possible to do anything now. Let the Bill be passed. Once the Bill is passed, Mr. Somnath Chatterjee says, that you

Amdt.) Bill

[Shri Indrajit Gupta]

cannot interfere with anything there, you cannot interfere with the statute of the administration or anything, because they will claim protection under Article 30. I am all for giving them the character of the minority institution, but the Law Minister must explain whether Mr. Somnath Chatterjee is apprehension on this legal or constitutional aspect is correct or not, because in that case, even if we are aware of certain wrong things happening there, if we find that we are powerless and impotent to intervene, that will not be a very happy day. Therefore, subject to these doubts and qualifications which I have expressed regarding the statutes and the structure of administration, I generally support the Bill's main purpose which is to give this University a minority character under Article 30 of the Constitution.

SHRI RAM JETHMALANI (Bombay North West): Mr. Chairman, Sir, there are very distinguished Muslim gentlemen on the Treasury Benches; and if they have found this Bill satisfactory, it is no part of my business really to raise any objection. Equally, there are some distinguished Muslim gentlemen on this side. I hope they too find the Bill satisfactory. If there is a unanimity amongst the Muslim members of this House drawn from both sides, I don't think anybody should cavil at a particular provision of the Bill.

But this is the Bill which was supposed to be designed to restore the minority character to an institution and primarily therefore it is the interest, the wishes, the expectations and the legitimate desires of the minority, which are relevant and not what other people think. Now I am intervening in this kind of a debate in which, as I said, I do not know if there is a unanimity amongst the Muslim gentlemen. I am doing so because I wish to point out what I regard as highly unsatisfactory features of this Bill. I have no desire

to drive a wedge between the Ruling Party and the Muslim voters in this country, but it is my duty because I have taken interest in this subject and the proof of my interest in this subject is that when the Janata Government came into power, they introduced a Bill to amend the Aligarh Muslim University Act. I am on record that I got up on the Floor of this House and strongly and violently criticised the Janata Government for not having complied with the wishes of the Muslim community in India. I pointed out at that time that the Minority Commission had expressed three desires and the Bill make only two desires and the third was not being squarely and honestly made. The Janata Government was no more. Thereafter, another Bill was introduced and that Bill was introduced in the form in which it was a worse fraud on the Muslims of India than the Bill introduced by the Janata Government. Not being satisfied with the Bill which was being introduced, I submitted to this House a Private Members' Bill No. 28 of 1980; and I am surprised that not one member of this House has referred to that Bill, because I believe that the whole mischief about the Aligarh Muslim University is created by the judgment of the Supreme Court in 1967. I am not criticising the judges of the Supreme Court. The Supreme Court succumbs to an argument which was made on behalf of the then Government in this country and certainly that was not a government formed by the Opposition. It was the Government of those gentlemen who have now introduced this Bill. The Supreme Court was interpreting article 30 and it held that a university which is incorporated by an Act of a legislature in India cannot be said ever to be established by the minorities, whatever may be its antecedents and history and the reasons for which the institution came into existence and whatever might be the purposes or the course of its historical evolution. That judgment has got to be undone. For that, you have to make

a series of legislative judgments of facts which are inconsistent with the facts presented to the Supreme Court by the then Government on the basis of which the Supreme Court was persuaded to advance a particular view. I regret to find that that has not been done. I still wish to suggest to the Muslims of India, those who consider the Aligarh Muslim University dear to them, that unless the Bill contains a series of legislative judgments in the form of a preamble, that judgment cannot be undone. I am reading from a Private Member's Bill which I introduced. It says:

"Whereas the Aligarh Muslim University created by the Aligarh Muslim University Act, 1920, was so created as a result of impetus provided by Sir Syed Ahmed Khan who conceived the idea of imparting liberal education to Muslims in literature and science along with instruction in Muslim religion and tradition;

And whereas the Muslim University Association was set up for purpose of establishing a teaching university at Aligarh;

And whereas the Muslim community collected a sum of Rs. 30 lakhs which became a permanent endowment to meet the recurring expenses of the University;

And whereas the Act of 1920 conferred power on the Court of the University to make statutes providing that instruction in Muslim religion be compulsory for Muslim students;

"And whereas the entire history of the University points to one conclusion only that the University was established by Muslims for Muslim"

The operative portion of it was:

"It is hereby declared that the University known as the Aligarh Muslim University created by the Aligarh Muslim University Act, 1920, is an educational institution

established by the Muslims, a religious minority in India."

Without these legislative judgments of facts being incorporated in the Bill, the Bill will remain a fraud on the minority character of the institution. I submit that this is only an attempt to hoodwink the Muslims of India by telling them, "We are complying with your demands", but in fact you are not. Unless you incorporate this preamble wholesale, you will not succeed in restoring the minority character, the Muslim character, of the university. I go further. I had called the Bill which I introduced as "The Aligarh Muslim University (Restoration of Minority Character) Bill, 1980." I want to ask, why is it in this long Bill, nowhere you have referred to this object—neither in the preamble nor in the name nor in the statement of objects and reasons? The statement of objects and reasons is totally innocent. What ought to have predominantly mentioned is conspicuously absent. The whole purpose of the Bill is not being outlined in the statement of objects and reasons. Item (4) of para 2 starts with 'restoring'. When I read it, I thought they are now thinking of restoring the minority character of the institution. But I find that it is "restoring the status of the supreme governing body of the University to the Court and modifying its composition". Therefore, this Bill does not even pretend to be a Bill to restore the minority character of this institution, nor is it designed by the nature of its provisions to achieve that object. It is only intended to throw dust.

16.00. hrs

I go further. In spite of that fact that an institution may be a minority institution within the meaning of Article 30, it is settled law that the legislature of the country which means Central Legislature in this case retains the power to regulate teaching standards, qualifications of teach-

[Shri Ram Jethmalani]

ers, conditions of employment, discipline, good manners, public order and peace. These subjects even in a minority institution, are matters of legislation and regulated by Central Legislature. I find that there is nothing of this kind in the Bill. The Bill gives no guidelines. The Bill gives no indication of any kind at all, nor does the Bill retain any authority or at least control over these kinds of facets of the administration, which can be regulated by law. I presume that the main teaching in this institution shall of course be, apart from other secular subjects, propagation of the spirit of Islam as properly understood by all people who understand Islam in its pristine glory. I have always thought, and here I join issue with my friend, that in this institution political, social or economic doctrine is taught which is inconsistent with the teachings of Islam. I think, the administrators of this University shall have the requisite right to eliminate that kind of teaching from this University. And if those who are in-charge of administering this University or come to be in-charge, regard communism inconsistent with Islam. It shall be their duty to exclude it from the teaching and no communist doctrine shall be taught in this University. As far as I understand, Islam stands for the three things. And the Bill ought to make sure that the teaching imparted in this University shall be wholly consistent with these three principal objects of Islam. Islam stands for undiluted democracy. It is the most democratic sect. It may be that most Muslim countries today do not have democracy. But that is the misfortune of the Muslims who live in those countries. But, Sir, Islam talks of democracy. Therefore, I suggest that the Bill should give a clear guideline that those who go to this University shall be taught the elementary basic lessons in democracy. They shall be taught the worship of one God and only that God and not worldly gods on this earth below, because, today in a large

number of universities this personality cult is growing up and all kinds of new tin gods are being set up and those tin gods are going to receive obeisance from the products of this University. That will not be consistent with the whole teaching of Islam. I thought the Bill might give some guidelines.

Whatever might have been practices, every religion has got distorted in the course of historical evolution. Hinduism has got distorted; Christianity has got distorted and so also Islam. Islam stands for respect for all faiths. Therefore, I believe that in this University, there shall be teaching given which should make each product of this University proud in the eyes of the founder of that institution, Syed Ahmed Khan, who said and declared expressly that the scholars of this institution shall go out throughout the country and shall spread the gospel of Indianness and one India in every nook and corner of India. I thought the Bill should have indicated some guidelines on these lines rather than making the kind of provisions that they have made about the administration of the University, which is another fraud. What they have tried to give with the right hand, they have tried to take away with the left hand. Originally, things were regulated by the statutes.

MR. CHAIRMAN: You mean to say that they are using both the hands.

SHRI RAM JETHMALANI: Both. One import and other export. I want to show how the provisions relating to administration are absurd in the first instance. I find from the section which deals with the constitution and the structure of the Court that there are 44 members of this Court who are to be elected by the Court itself. I have never seen a greater absurdity than providing for the constitution of a body, 44 of whose members are to be

elected by itself. How will this body be elected and which is the court which is first going to embark upon the election of 44, I do not know. This is an absurdity which the Law Minister will have to grapple with and I hope he will find some satisfactory explanation.

16.05 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

I think that the Section relating to the constitution of the court is working impossibility and whatever ingenuity the Law Minister might exercise. I am sure that this University will first end up in the courts and the litigations will never come to an end, the instructions will go by the board. Are you not directly interfering with the right of administration which Article 30 of the Constitution was supposed to grant to the minorities when, for example, you say that 5 persons should be nominated by the Visitors, and you say it by the Act that 5 persons should be nominated by the Visitor? I understand the Visitors is the President of India and the President is a constitutional head. I am just giving you an illustration. There are a lot of nominated persons in the court. It means that the Government of the day will nominate those five. Like that, if you calculate, you will find that the Government has taken upon itself the power virtually to control the court and this is exactly inconsistent with Article 30 and this is a fraud on Article 30 because you pretend to tell them that you are restoring it the right of administration, but you pretend to grant it with words and take it away by deeds.

I have warned the Muslims of India, but Sir, it is for them to decide.

श्री आरिफ मोहम्मद खां (कानपुर) :

उपाध्यक्ष महोदय, आपने मुझे अलीगढ़ मुस्लिम विश्वविद्यालय (संशोधन) विधेयक

पर बोलने का मौका दिया, इसके लिए मैं आपको धन्यवाद देता हूँ।

उपाध्यक्ष महोदय, इस से पिछला संशोधन 1972 में हुआ था। उस वक्त इतिफाक से मैं अलीगढ़ मुस्लिम यूनिवर्सिटी छात्र संघ का अध्यक्ष था। जब इसी सदन में उस संशोधन विधेयक पर चर्चा हो रही थी तो मैं भी बैलरी में बैठ कर उस चर्चा को सुन रहा था।

श्रीमन्, उस वक्त विश्वविद्यालय को किस प्रकार से चलाया जाए, अलीगढ़ मुस्लिम यूनिवर्सिटी का कलेक्टर क्या रह इस बारे में अपनी मांगों को लेकर उस समय की स्टूडेंट्स यूनियन ने जो आन्दोलन चलाया था, उसमें मैं यूनियन का प्रेजिडेंट होने के नाते आगे था। आज मैं यह समझता हूँ कि उन मांगों को इस विधेयक के द्वारा पूरा कर दिया गया है। उन मांगों को पूरा किये जाने के लिए, मैं आपके माध्यम से, श्रीमन्, माननीय शिक्षा मंत्री, माननीय प्रधान मंत्री श्रीमती इन्दिरा गांधी को और उनकी सरकार को हार्दिक बधाई देना चाहता हूँ। यह न केवल अपनी तरफ से बल्कि अलीगढ़ मुस्लिम यूनिवर्सिटी के समुदाय और उससे सम्बन्धित सभी व्यक्तियों की ओर से देना चाहता हूँ।

श्रीमन्, मैं यह समझता हूँ कि माननीय शिक्षा मंत्री ने अपने वक्तव्य में अलीगढ़ मुस्लिम यूनिवर्सिटी के बारे में जो कुछ बताया है, अगर आप नजर डालें उस नम्बर पर जितने नम्बर में अलीगढ़ में छात्र शिक्षा पाते हैं और पूरे हिन्दुस्तान में मुसलमानों की जो तादाद है, और उन दोनों का मुकाबला करें तो आपको यह बात अच्छी तरह से समझ में आ जाएगी कि अलीगढ़ मुस्लिम यूनिवर्सिटी अकेली मुसलमानों की शिक्षा का कोई हल नहीं है। (व्यवधान)।

[श्री आरिफ मोहमद खां]

मेरे खयाल से अगर श्री रशीद मसूद साहब बेसब्रों न करें तो अच्छा होगा। जब माननीय चौधरी चरण सिंह जी प्रधान मंत्री थे, और उस वक्त जो विधेयक ले आये थे तो उस समय आपने कोई बेसब्रों नहीं दिखाई।

मेरा कहना यह है कि अलीगढ़ मुस्लिम यूनिवर्सिटी में जितने छात्र शिक्षा पाते हैं या जितनी वहाँ पर व्यवस्था है, उससे मुसलमानों की शिक्षा की समस्याओं का समाधान नहीं हो जाएगा। इसलिए कि अलीगढ़ मुस्लिम यूनिवर्सिटी को आपने अत्यसंछद्रक चरित्र दे दिया तो इससे हिन्दुस्तान के मुसलमानों की सारी शिक्षा की समस्याएं खत्म हो गई—ऐसा नहीं है, बल्कि इसमें कुछ ऐतिहासिक और भावनात्मक कारण हैं, जिसकी वजह से यह मांग बार-बार रखी जाती रही है और आज माननीय शिक्षा मंत्री जी ने अपने वक्तव्य में उन कारणों पर अच्छा तरह से प्रकाश डाला है और मुझे विश्वास है कि आपने जिस नेकनीयती के साथ, जिस भावना के साथ आज विधेयक प्रस्तुत किया है, निश्चित ही इसके नतीजे में एक बहुत अच्छा वातावरण बनेगा, अच्छा माहौल बनेगा। लेकिन जब मैंने माननीय सदस्यों के भाषण सुने और अभी रशीद मसूद साहब की टिप्पणी सुन रहा हूँ तो बड़ा ताज्जुब होता है। माननीय चटर्जी साहब, मैंने सोचा था कि वे कुछ और बोलेंगे, लेकिन उन्होंने कुछ और ही कहा। इसी प्रकार श्री जेठमलानी जी के बारे में मैंने सोचा था कि वे कुछ और बोलेंगे, लेकिन उन्होंने कुछ और ही बातें कहीं। जेठमलानी जी मेरे नम्बर पर बोले, उन्होंने कहा कि मुझे हवाई जहाज पकड़ना है, मैंने कहा—ठीक है पहले आप बोल लें। अच्छा रहता अगर वे यहाँ मौजूद रहते। इसलिए कि इस बिल में कोई कमी नहीं है। मैं ऐसा आरग्यूमेट नहीं मानता हूँ कि मुसलमानों के हित क्या हैं, यह फैसला करने का

अधिकार केवल मुसलमानों सदस्यों को है। हमने जिस प्रकार की राजनीतिक व्यवस्था अपनाई है उसमें मैं अपने क्षेत्र के हिन्दू-मुसलमान दोनों के हितों के लिए जिम्मेदार हूँ। इसी प्रकार सदन का कोई भी सदस्य, चाहे वह किसी भी धर्म का हो, उसे पूरे देश में रहने वाले धर्मावलम्बियों के हितों का खयाल करना पड़ेगा। यह मुमकिन है कि मैं ही मुसलमानों की भलाई के लिए पीछे रह जाऊँ या किसी और धर्म को मानने वाला अपने धर्मावलम्बियों की भलाई के लिए पीछे रह जाए और दूसर उनके हितों के लिए ज्यादा ज़ोर से आवाज उठा सकें। मैं यह समझता हूँ कि अलीगढ़ के पीछे पूरा का पूरा इतिहास, पूरी की पूरी तारीख इस बात की गवाह है। सर सैय्यद ने अपनी तकरीरों में जो कहा था अलीगढ़ मुस्लिम यूनिवर्सिटी या मुस्लिम ओरिएण्टल कालेज को कायम करने के लिए, उसमें किसी प्रकार की साम्प्रदायिकता नहीं थी। उन्होंने कहा था कि मैं इस मुल्क के हिन्दू और मुसलमानों दोनों को दुल्हन की दो खूबसूरत आंखों की तरह समझता हूँ। इसी प्रकार बाद में मुस्लिम एजुकेशनल कान्फ्रेंस, जितके जरिए फण्ड इकट्ठा किया गया, जिन्होंने फण्ड दिया, उनके नामों की फहरिस्त अगर देखें तो यह जानते हुए भी कि यह मुसलमानों के शैक्षणिक उत्थान के लिए संस्था कायम की जा रही है, सभी धर्म के लोगों ने, हिन्दुओं ने बड़ी तादाद में उस वक्त अपना सहयोग दिया।

श्री जेठमलानी जी कह रहे थे कि इस विधेयक का मतलब यह है कि सरकार इसमें दखलंदाजी करेगी और अगर सरकार दखलंदाजी करेगी तो यह संविधान की धारा 29-30 के विरुद्ध होगा। सरकार और यह पार्लियामेंट ही तो यह विधेयक पास करने जा रही है। उनकी नीयत क्या है, उनकी नीयत यह है कि इस इरादे में, माइनारिटी करेक्टर, इसके ओरिजनल करेक्टर; बुनियादी किरदार

जो किसी बजह से, कुछ टेक्नीकल कारणों से सुप्रीम कोर्ट के फैसले के कारण धुन्ध में आ गए थे वह साफ हो जाए और इस यूनिवर्सिटी ने राष्ट्रीय जीवन में जो महत्वपूर्ण भूमिका निभाई है, इसने जो राष्ट्र की सेवा की है, अपने रास्ते पर तेजी के साथ, तरक्की के साथ चलती रहे ।

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माननीय चटर्जी साहब ने मुकाबला करते समय एक बात कही, और शायद श्री इन्द्रजीत गुप्त ने सही कहा कि पिछले दिनों अल्लोड मुस्लिम यूनिवर्सिटी में होने वाले कुछ घटनाएं उनके दिमाग में थीं ।

मैं नहीं जानता, जैसे भगत जी ने कहा कि उन्होंने इफ एंड बट का प्रयोग बहुत किया है —

I do not know what interpretation will he give to each of his sentence?

लेकिन जो उन्होंने कहा और जो मने मतलब लगाया कि वह कोर्ट को सुप्रीम गवर्निंग बाडी डिक्लेयर किये जाने के खिलाफ हैं, एग्जिक्यूटिव काउंसिल के मुकाबले में । उनको दलील थी कि कोर्ट जिसमें 170 मेम्बर होंगे वह सुप्रीम गवर्निंग बाडी होगी एग्जिक्यूटिव बाडी के कम मेम्बर होंगे, शायद उनका विचार यह था कि हम मेम्बरों में आसानी से फैसला ले सकेंगे । पता नहीं चटर्जी साहब शायद इस बात के लिए...

SHRI SOMNATH CHATTERJEE:
What I wanted to say was that you are replacing the Executive Council by the court. You are providing such a constitution of the court as would undermine the democratic organisation.

SHRI ARIF MOHAMMAD KHAN:
By this Bill, we are not seeking to replace the Executive Council by the Court. But, in fact, we are seeking to restore the original status to the Court which it had been enjoying for very long years till 1965.

और अगर ऐसा ही है, अगर डेमोक्रेटिक फंक्शनिंग केवल उसी के द्वारा हो सकती है, जहां केवल 20 या 22 सदस्य हों तो क्या माननीय सोमनाथ चटर्जी इस बात से सहमत होंगे कि इस पार्लियामेंट के, जिसके 540 सदस्य हैं, इसकी जो सुप्रीम गवर्निंग पोजीशन है, उसे निकालकर कैबिनेट या किसी और छोटी बाडी के हवाले कर दिया जाये ?

SHRI SOMNATH CHATTERJEE:
That is not the number but about the composition.

श्री आरिफ मोहम्मद खान . अगर 170 मेम्बरस का कोर्ट केवल इस कारण से कि उसमें 170 मेम्बर हैं, उसके हाथ में अख्तियार दे देने से अगर डेमोक्रेटिक फंक्शनिंग खत्म हो गई तो आप कैसे डेमोक्रेटिक फंक्शनिंग यहां चला रहे हैं 540 सदस्यों के साथ ? लेकिन असल में बात यह नहीं थी . असल में यात यह है कि एतराज करना था और जिस तरह से कहा, बाकी बाडी में, मुझे कोई एतराज नहीं है । लेकिन जिस तरह से आखिर में उन्होंने वह पोस्टर निकालकर पढ़ा और कहा कि—
This will make inroads to secular and democratic functioning of the University.

और पहले से ही अल्लोड हिन्दू यूनिवर्सिटी की मांग आने लगी है, दोनों को एक साथ जोड़ना, यह पुराना तरीका है इस देश में रहने वाले विभिन्न समुदाय के बीच में मतभेद पैदा कराने का । मैं समझता हूँ कि इस तरीके को रोकने का हर संभव प्रयास हमें करना चाहिए । अगर अलीगढ़ में हिन्दू यूनिवर्सिटी बने तो किसे एत-

[श्री आरिफ मोहम्मद खां]

राज होना, क्यों एतराज हो ? अगर अलीगढ़ में मुस्लिम यूनिवर्सिटी बनाने के लिए इस देश में रहने वाले दूसरे धर्म के लोगों ने खुलकर मटव की है तो अगर नेकनियती के साथ अलीगढ़ में हिन्दू यूनिवर्सिटी बनाने का विचार है भी, तो मैं आपको विश्वास दिलाना चाहता हूँ कि उसमें पूरी सद्द होगी।

श्री चन्द्रजीत यादव (आजमगढ़) : नेकनियती नहीं है।

श्री आरिफ मोहम्मद खां : अगर नेकनियती नहीं है तो आप यकीन मानिये कि जिनकी नियत नेक नहीं है, वह इतने कम तादात में हैं कि उनका जिक्र आने के बाद, इसका मतलब होता है कि उन्हें बल देना। वरना इस देश में बहुमत में है नेकनियत वाले। कांग्रेस ने और श्रीमती इंदिरा गांधी ने अपने मनिफेस्टो में कहा है—

When voted back to power, the Congress will assure the minority character of the Muslim University.

इस देश के बहुमत ने, जिसमें मुसलमानों का बहुमत नहीं है, गैर-मुसलमानों का बहुमत है, उन्होंने इसलिए कि यह संविधान के बुनियादी अधिकारों में, फंडामेंटल राइट्स में दिया हुआ है कि माइनोरिटीज को अधिकार होगा कि वह अपनी शिक्षण संस्थाएं अपनी इच्छा के अनुसार चला सकें, इस बात का साथ दिया।

चटर्जी साहब, इस देश का बहुमत, उसका बहुत विशाल हृदय है, उसे कोई एतराज नहीं है, वह मिलकर साथ रहना जानता है और यही कारण है कि हम यह बात कह सकते हैं, हम फक्र कर सकते हैं, हमें इस बात पर गर्व है कि हिन्दुस्तान में रहने वाले अल्पसंख्यक अपने अधिकारों के लिए, अगर लड़ाई भी लड़नी हो तो बराबरी के साथ लड़ाई लड़ सकते हैं। लड़ाई का मतलब अपनी मांगें

मनवाना, अपनी जायज मांगें मनवाने के लिए कह सकते हैं और किसी प्रकार का भेदभाव महसूस नहीं करते हैं और जहां जायज बात होती है, वहां चाहे थोड़ी देर हम लगायें किसी चीज के मानने में, लेकिन इस देश की मिट्टी में, धरती में सहिष्णुता है, बर्दाश्त करने की बात, साथ में मिल-जुल कर रहने की भावना है। यही कारण है कि यह सदन, यहां पर यह नहीं कहा जा सकता है जहां मुसलमान चाहें उधर बैठें हों या उधर बैठें हों, जैले जेठमलानी साहब कह रहे थे, अगर वह मिल कर भी सोचें तो भी अल्पमत में हैं। लेकिन अकेल मुसलमानों की ताकत से नहीं बल्कि पूरे देश की ताकत जिन के अन्दर निहित है, वह इस देश के प्रतिनिधि यहां इस सदन में बैठ कर ऐसा विधेयक लाए हैं जिसके जगिए अलीगढ़ मुस्लिम यूनिवर्सिटी का माइनोरिटी कैरेक्टर एप्पॉर दिया गया है, माइनोरिटी कैरेक्टर उसे टिटा गया है और मुझे विश्वास है कि इस विधेयक के लागू होने के बाद अलीगढ़ मुस्लिम यूनिवर्सिटी राष्ट्रीय जीवन में महत्वपूर्ण भूमिका निभाने में सफल होगी। धन्यवाद।

MR. DEPUTY-SPEAKER: Shri Rasheed Masood.

I may request every hon. Member who speaks not to take more than 10 minutes.

SHRI RASHEED MASOOD: How is it possible?

MR. DEPUTY-SPEAKER: I know you are capable of making all the points within 10 minutes.

श्री रशीद मसूद (सहारनपुर) : उपाध्यक्ष महोदय, मेरे खोजी दोस्त जो अलीगढ़ यूनिवर्सिटी के अन्दर मुझे से जूनियर रहे हैं, खुदा मालूम" क्यों, मेरी एक मामूली सी बात से बुझा जान गए। उन्हें यह एहसास क्यों होने लगता कि मैं इस को मुकम्मिल तौर पर रद्द कर दूंगा ?

लेकिन मैं यह जरूर चाहता हूँ कि हिन्दुस्तान में रहने वाले हर व्यक्ति को जो उस कॉमिस रखा है, उस को यह एहसास होना चाहिए कि उसको मिल क्या रहा है ? मैं यह जरूर चाहूँगा कि हिन्दुस्तान के 13 करोड़ मुसलमानों को यह झूठा एहसास न दिलाए कि उनकी यूनिवर्सिटी को माइनारिटी कैरेक्टर दे कर उन को धांस दिया जा रहा है। मैं यह जानता हूँ कि आप ने बहुत कुछ दिया है लेकिन 16 साल की कुर्बानियों के बाद यह दिया है जिस में हजारों मुसलमानों ने अपनी जान दे दी, जिसके लिए मु तकिल तौर पे वे लड़ते रहे और जिन में हमारी लड़ाई के एक विपाहनालाग आरिफ मोहम्मद खाँ भी थे। वह इस चीज के लिए नहीं लड़ रहे थे। वह यक़ीन तौर पर आर्टिकल 30 का नाम ले कर लड़ रहे थे। लेकिन आज वह इस बिल का नाम ले कर कह रहे हैं कि हम लड़ रहे थे सिर्फ इस चीज के लिए जो हमें इस बिल में दिया है। मैं यह बात साफ कर देना चाहता हूँ कि आप ने यक़ीनन कुछ दिया है लेकिन यह कहना कि आपने आर्टिकल 30 के मुताबिक माइनारिटी कैरेक्टर दे दिया है यह दिल्कुल गलत बात है। बल्कि यह जो आज का सुप्रीम कोर्ट का डेसिजन है उस से एक इंच भी इधर या उधर नहीं है। सिर्फ एक लवज का इस्तेमाल कर के—“आप देवर मोल चलायस” जो आर्टिकल 30 में इस्तेमाल से आया है—उस लवज का इस्तेमाल कर के आप हिन्दुस्तान के 13 करोड़ मुसलमानों को बेदकूफ बनाने के लिए कह दें कि माइनारिटी कैरेक्टर रेस्टोर किया जा रहा है यूनिवर्सिटी को..... (व्यवधान) ...

श्री एम० राम गोपाल रड्डो : (विजामा-बाद) : यह बेदकूफ की बात नहीं करनी चाहिए। अच्छी बात करिए। जब बात

कर रहे हैं तो अच्छी बात करिए। पार्लियामेंट में इस तरह की बात नहीं करनी चाहिए। ... (व्यवधान) ...

श्री रसीद मसूद : मेरे खयाल से हमारे बुजुर्ग दोस्त बेदकूफ को जानते नहीं कि बेदकूफ अनपार्लियामेंट्री नहीं है। आप मुझे बता दीजिए कि बेदकूफ के बदले में कौन सा लवज इस्तेमाल करें ? खैर, छोड़िए ... (व्यवधान) ...

डा० सबाहउद्दौल्लाह स्वामी : * * * * कैसे अनपार्लियामेंट्री होगा ? ... (व्यवधान) ...

श्री रसीद मसूद : मैं यह कह रहा था कि अगर मेरे दोस्त यह बात कहते कि हमने बहुत कुछ दिया है, हम अपनी मंजिल के करीब पहुंच रहे हैं और हमें उम्मीद है कि हम अपनी मंजिल तक पहुंच जाएंगे तो मैं आरिफ मोहम्मद साहब को मुबारकबाद देता। लेकिन ऐसा उन्होंने नहीं कहा है। इसीलिए मैंने वह जुमला कहा था जिस की वजह से उन को गुस्सा आ गया।

मैं इस से पहले दो तीन बातें कहना चाहता हूँ और खास तौर से इसलिए यह कहना चाहता हूँ कि गुप्ताजी ने इस बात को उठाया था कि अलीगढ़ यूनिवर्सिटी जो मौजूदा ऐक्ट के तहत चल रही है जब उस में भी, सेकुलर ऐक्ट के तहत चलने के बाद भी वही इरफान हबीब साहब के खिलाफ आवाज उठ सकती है तो फिर माइनारिटी कैरेक्टर आप इस को दे देंगे तो भविष्य में नहीं उठगी, इस को बारण्टी नहीं है। स यह बात साफ कर देना चाहता हूँ कि यह फैशन होमया, मेरे भाई मुझे

[श्री रसीद मसूद]

माफ करें, जब उन के इन्टरेस्ट की बात आती है तो आटोनामी भी चाहिए उन को, सेकुलर हिन्दुस्तान भी चाहिए और उन के दूरे इन्टरेस्ट की बात आती है तो आटोनामी भी नहीं चाहिए और सेकुलर हिन्दुस्तान भी नहीं चाहिए। क्या मैं पूछ सकता हूँ कि इरफान हवीव साहब के खिलाफ हंगामा करने पर तो हमारे मोमजिज मेम्बर ने इतना एतराज किया लेकिन इरफान हवीव साहब सौ दफा से ज्यादा लाल झंडा उठा कर के यूनिवर्सिटी को बन्द करा चुके हैं और हंगामा करा चुके हैं, उस के खिलाफ क्या आप ने आवाज उठाई ?

श्री जमोलुर्रहमान (किशनगंज) : आप की जानकारी के लिए बता दूँ 374 दफा स्ट्राइक कराया है और किया है।

श्री रसीद मसूद : मेरे दोस्त बता रहे हैं 374 दफा 200 और बढ़ गये। तो 374 दफा जिस शरूस ने यूनिवर्सिटी बन्द कर दी है उस शरूस के खिलाफ अगर यूनिवर्सिटी बन्द करने के बारे में कोई बात कहने पर लड़के हेरजिटेशन करते हैं तो उन पर गोली चला दी जाती है तो यहां एतराज किया जाता है। मैं नहीं चाहता था यह बातें कहना, चाहता था बिल तक कनफ्रान्स रहूँ, लेकिन चूंकि यहां यह बात छड़ दी गई इसलिए मुझे कहने पर मजबूर होना पड़ा। मैं नहीं समझ सका, मैंने कांस्टीट्यूशन पढ़ा है और कांस्टीट्यूट एसेम्बली की डिबेट भी देखी है, मेरी समझ में आज तक यह बात नहीं आई है कि आर्टिकल 30 के तहत आने के बाव बिस्कुल एबसॉल्यूटली कोई पावर पालियामेंट की नहीं रहेगा कि उसमें इंटरफ़र कर सके? नहीं। जना माननीय जठमलानी साहब ने कहा पालियामेंट जब कोई ऐक्ट बनायेगी उसमें पालियामेंट को पावर्स दोबारा हैं,

लेकिन अगर उसका बैसिक कंटेन्ट चेंज करने के लिए पावर इस्तेमाल करेंगे तो नहीं होगी। कुछ चीजें सुप्रीम कोर्ट ने कही हैं उनके तहत आप देख सकते हैं। लेकिन यह कहना कि बिल्कुल आपको अख्तियार नहीं है, ऐसा नहीं है। अगर ऐसा हो तो फिर मेरे खयाल से आर्टिकल 30 की कोई जरूरत ही नहीं है और पार्ट 3 की भी कोई जरूरत नहीं है। कांस्टीट्यूट एसेम्बली की डिबेट में वही ऐसा नहीं है कि हमारे कांस्टीट्यूशन बनाने वाले यह चाहते हों कि हिन्दुस्तान की माइनोरिटीज को, चाहे वह लिगुडिस्टिक हों या रिनीजस हों, उनकी अपनी पसन्द की यूनिवर्सिटी कायम करने की इजाजत नहीं है। अगर यह बात वहां आ जाती तो बात समझ में आती कि आर्टिकल 30 सिर्फ इसलिए है कि केवल स्कूल और कॉलेज कायम करें, यूनिवर्सिटी के लिए नहीं है। अब यूनिवर्सिटी अगर बनेगी तो हमेशा पालियामेंट के ऐक्ट से बनेगी। अगर आप इसका इन्टरप्रीटेशन यह देखें कि पालियामेंट के ऐक्ट से जो चीज बनी है वह पालियामेंट के ऐक्ट से ही बनी है तो फिर जिन हजारों लोगों ने कुरबाना दे कर उस यूनिवर्सिटी को बनाया है उसका कोई कण्ट्री-ब्यूशन नहीं है, तो फिर आर्टिकल 30 की कोई जरूरत नहीं रह जाती है। या फिर क्लियर कट बात होनी चाहिए कि हिन्दुस्तान के मुसलमान या और माइनोरिटीज को यूनिवर्सिटीज कायम करने का अख्तियार नहीं है। जो मेरे लायक दोस्त कांस्टीट्यूशन की बात करते हैं वह आर्टिकल 30 को देखें कि उसका परपज क्या है।

दूसरे प्रश्नों से कि माइनोरिटी क्रेक्टर का मसला आया, हालांकि इस में उसका कोई जिक्र नहीं है, मेरी दख्खान्त है आप से कि इस झगड़े को खत्म कीजिए वरना हमें जंग फिर लड़नी पड़ेगी। आज आप जो देख रहे हैं उसे हम मंजूर करेंगे और

फिर माइनारिटी कैरेक्टर के लिए आर्टिकल 30 के तहत लड़ाई करे। अगर आप चाहते हैं कि लड़ाई न हो, और माइनारिटी कैरेक्टर देना चाहते हैं और आप ईमानदार हैं मुसलमानों के जज्बात के बारे में तो माननीय बनातवाला ने संशोधन दिया है, उसको आप स्वीकार कर लें। मैंने भी संशोधन दिया है उसको स्वीकार कर लें, और शायद काबो साहब ने भी दिया है, जो 5, 6 आर्टिकलों के अमेण्डमेंट्स हैं जो आर्टिकल 30 के मुताल्लिक चाहते हैं इसको आप गिनाशन दें, उसको स्वीकार कर लें। अगर आप वाकई ईमानदार हैं तो इस झगड़े को जितनी जल्दा हो सके खत्म कर लें। मुझे यकीन है कि जिसको ईमानदारी कहते हैं उसकी कुछ कमी है उस पार्टी में। क्योंकि जैसा आरिफ साहब ने कहा था कि आपका गवर्नमेंट भी कोई नहीं बोली, तो उनको याद नहीं है, वह शायद उस वक्त यहां नहीं थे, जब हमारी पार्टी ने बिल पेश किया था तो हमने पूरी तरह से मुखालिफत की थी। मानाय बनातवाला साहब मौजूद हैं, और लोग मौजूद हैं, हम उस वक्त भी माइनारिटी कैरेक्टर के लिए चिल्ला रहे थे और चाहते थे कि माइनारिटी कैरेक्टर दिया जाय। आप दो हा चाह रहे हैं जिक्र अल्फाब के थोड़े हेरफेर के साथ जो जनता सरकार ने दिया था। लेकिन मैं अभी श्री सुब्रह्मण्यम साहब से कह रहा था हम तो लड़ाई लड़गे, हमारे अगर चिल्लाने के बावजूद आप लोगों ने पास कर दिया होता तो आज यह आपके बनाए हुए बिल का क्रेडिट इस पार्टी को नहीं जाता। वरना आप बताइये क्या वजह थी दो दिन पहले बिजनेस ऐडवाइजरी कमेटी की मीटिंग ई उसमें आपने जिक्र नहीं किया। हम तैयार नहीं कर सके, मैं 17 दिन के बाद आया हूं.....

श्री आरिफ मोहम्मद खाँ : यह नीयत का मामला है।

श्री रशीद मसूब : नीयत ही तो खराब है आपकी।

इसलिए इस सिलसिले में मेरा कहना यह है कि आर्टिकल-30 के तहत इसको पूरी तरह से माइनोरिटी कैरेक्टर दिया जाए।

मैं एक दो चीजें और कहने के बाद अपनी बात समाप्त करूंगा। सेशन 35 (4) के तहत यह प्रावधान किया गया है कि यूनिवर्सिटी का एन्यूअल एकाउण्ट हर साल सदन की मेज पर रखा जाएगा। मैं मोहतरमा से पूछना चाहता हूं कि अभी चन्द दिन पहले जवाहर लाल यूनिवर्सिटी के मुताल्लिक मामला चल रहा था, तो उसके लिए ऐसा क्यों नहीं किया गया। उसके लिए कहा जाता है कि यह ऑटो-नामस बाँड़ी है, हम उसमें टखलअन्दाजी नहीं कर सकते हैं, जब कि वहां दुनिया का हर पॉसिबल मुमकिन कर्रप्शन मौजूद है, लेकिन वह ऑटोनामस बाँड़ी है, इसलिए उसके अन्दर इन्क्वायरी नहीं कर सकते हैं। अलीगढ़ मुस्लिम यूनिवर्सिटी का एन्यूअल एकाउण्ट पार्लियामेंट की मेज पर रखा जाएगा, ताकि हर मेम्बर को अख्तियार हो कि वह कहीं भी उस पर एतराज कर सके और डिस्कशन कर सके।

श्री आरिफ मोहम्मद खाँ : हर सैण्ड्स यूनिवर्सिटी का होता है। आप यादव जी से पूछ लीजिए जो कि आपके बगल में बैठे हुए हैं।

श्री रशीद मसूब : इसमें स्पैसिफिक प्रोपोजन नहीं है।

شری اہم - رام گوپال دتتی

(نظام آباد): یہ بیوقوفی کی بات
نہیں کرنی چاہئے - اچھی بات کرنے -
جب بات کر رہے ہیں تو اچھی
بات کریں - پارلیمینٹ میں اس
طرح کی بات نہیں کرنی چاہئے -
.... (انٹرمیشن)....

شری رشید مسعود: مہرے خیال

ہم ہمارے بڑے بزرگ دوست بیوقوف
کو جانتے نہیں کہ بیوقوف ان
پارلیمینٹری نہیں ہے - آپ مجھے
بتا دیجئے کہ بیوقوف کے بدلے میں
کون سا لفظ استعمال کریں خیر
چھوڑئے (انٹرمیشن)....

ڈاکٹر سہرامہنتر سوامی: *

کسے ان پارلیمینٹری ہوگا -

.... (انٹرمیشن)....

شری رشید مسعود: میں یہ

کہہ رہا تھا کہ اگر مجھے دوست
یہ بات کہتے کہ ہم نے بھی
کچھ دیا ہے ہم اپنی منزل کے
قریب پہنچ رہے ہیں - اور ہمیں
امید ہے کہ ہم اپنی منزل تک
پہنچ جائیں گے - تو میں عارف مسعود
صاحب کو مبارکباد دیتا - لیکن
ایسا انہوں نے نہیں کہا ہے -
اسی لئے میں نے وہ جملہ کہا

تھا - جس کی وجہ سے ان کو غصہ
آ گیا -

میں اس سے پہلے دو تین
ہفتوں پہلے چاہتا ہوں اور خاص طور
سے اس لئے یہ کہنا چاہتا ہوں
کہ کہتا جاؤں گی اس بات کو
اٹھایا تھا - کہ علیحدہ یونیورسٹی
جو موجودہ ایکٹ کے تحت چل
رہی ہے جب اس میں بھی
سیکولر ایکٹ کے تحت چلنے کے
بعد بھی وہاں عرفان حبیب صاحب
کے خلاف آواز اٹھ سکتی ہے -
تو پھر مائٹوریتی کیریئٹر اس کو
دے دیں گے - تو ہوش میں نہیں
اٹھ گی اس کی گزرتی نہیں ہے -
میں یہ بات صاف کر دیتا چاہتا
ہوں کہ یہ نہیں ہو گا کہ میرے
بھائی مجھے معاف کریں گے جب
ان کے انٹریسٹ کی بات آتی ہے
تو آٹونومی بھی چاہئے ان کو -
سیکولر ہندوستان بھی چاہئے -
اور ان کے دوسرے انٹریسٹ کی
بات آتی ہے - تو آٹونومی بھی
نہیں چاہئے - اور سیکولر ہندوستان
بھی نہیں چاہئے - . کہا میں
پوچھ سکتا ہوں کہ عرفان حبیب
صاحب کے خلاف ہنگامہ کرنے پر
تو ہمارے معزز ممبر نے اتنا اعتراف
کہا لیکن عرفان حبیب صاحب
سودھ سے زیادہ لال چہلچہا اٹھا

[شری رشید مسعود] ۲
کرنے یونیورسٹی کو بلند کرا چکے
ہیں۔ اور ہنگامہ کرا چکے ہیں
اس کے خلاف کیا آپ نے آواز
اٹھائی۔

شری جمیل الرحمن (کشن گلج):

آپ کی جانکاری کے لئے بتا دوں
۳۷۳ دفعہ کرایا ہے۔

شری رشید مسعود: میرے

دوست بنا رہے ہیں۔ ۳۷۳ دفعہ -
دو سو اور بڑھ گئے۔ تو ۳۷۳ دفعہ
جس شخص نے یونیورسٹی بلند
کر دی ہے اس شخص کے خلاف
اگر یونیورسٹی بلند کرنے کے بارے
میں کوئی بات کہلے پر لوگ
ایجنٹیشن کرتے ہیں۔ تو ان پر
کولی چلا دی جاتی ہے۔ تو یہاں
اعتراض کیا جانا ہے۔ میں نہیں
چاہتا تھا یہ ہاتھوں کہلا۔ چاہتا
تھا ہل تک گنڈائیں رہوں۔ لیکن
چونکہ یہاں تک بات چھوڑ دی
گئی اس لئے مجھے کہلے پر مجبور
ہونا پڑا میں سمجھ سکا میں نے
کانسٹی چیومن پڑھا ہے اور کانسٹی
چیومنٹ اسمبلی کی قہمت بھی
دیکھی ہے۔ میری سمجھ میں
آج تک یہ بات نہیں آئی ہے۔
کہ آرٹیکل ۳۰ کے آنے کے بعد
ایمپولیوٹلی کوئی پاور پارلیمینٹ
کی نہیں رہے گی۔ کہ اس میں
انٹرفیئر کر سکیں وہ نہیں۔ جیسا

مائنڈ چھتہ ملانی صاحب نے کہا
پارلیمینٹ جب کوئی ایکٹ
بلانے کی اس میں پارلیمینٹ کی
پاورس دوارا ہیں۔ لیکن اگر اس کا
بھس کر ریگٹر چیلج کرنے کے لئے
پاور استعمال کریں گے تو نہیں ہو
گی۔ کچھ چیزیں سوپریم کورٹ نے
کہی ہیں۔ ان کے تحت آپ دیکھ
سکتے ہیں۔ لیکن یہ کہلا کہ بالکل
آپ کو اختیار نہیں ہے ایسا نہیں
ہے۔ اگر ایسا ہوتا پھر میرے خیال
سے آرٹیکل ۳۰ کی کوئی ضرورت ہی
نہیں ہے۔ اور پارت تین کی بھی
کوئی ضرورت نہیں ہے۔ کانسٹی چیومنٹ
اسمبلی کو قہمت میں کہیں ایسا
نہیں ہے کہ ہمارے کانسٹی چیومنٹ
بلانے والے یہ چاہتے ہوں کہ ہندوستان
کی مائینریٹیز کو چاہے وہ لنگسٹک
ہوں یا رلیجمس ہوں ان کو اپنی
پسلد کی یونیورسٹی قائم کرنے کی
اجازت نہیں ہے۔ اگر یہ بات وہاں
آ جاتی تو بات سمجھ میں آتی کہ
آرٹیکل ۳۰ اس لئے ہے کہ کھول
اسکول اور کالج قائم کریں یونیورسٹی
کے لئے نہیں ہے اب یونیورسٹی بلے
کی تو ہمیشہ پارلیمینٹ کے ایکٹ
سے بلے کی اگر آپ اس کا انٹرفیئریشن
یہ دیتے ہیں کہ پارلیمینٹ کے
ایکٹ سے جو چیز ہلی ہے وہ
پارلیمینٹ کے ایکٹ سے ہی ہلی
ہے اور پھر جن ہزاروں لوگوں نے
فرہانی دے کر اس یونیورسٹی کو

بذایا ہے۔ ان کا کوئی کلچر پیوشن نہیں ہے۔ تو پھر آرٹیکل ۳۰ کی کوئی ضرورت نہیں رہ جاتی ہے۔ یا پھر کلٹر کٹ بات ہونی چاہئے۔ کہ ہندوستان کے مسلمان یا اور مائٹوریٹی کو ہونیورسٹیز قائم کرنے کا کوئی اختیار نہیں ہے۔ جو مہرے لائق دوست کانستی چھوٹن کی بات کرتے ہیں۔ وہ آرٹیکل ۳۰ کو دیکھیں کہ اس کا پوز کیا ہے۔

دوسرے ایسی جھسا کہ مائٹوریٹی کریکٹر کا مسئلہ آیا حالانکہ اس بل میں اس کا کوئی ذکر نہیں ہے۔ مہی درخواست ہے آپ سے کہ اس جھکڑے کو ختم کھجئے۔ ورنہ ہمیں جملگ پھر لونی پڑے گی۔ آج آپ جو دے رہے ہیں اسے ہم منظور کریں اور پھر مائٹوریٹی کریکٹر کے لئے آرٹیکل ۳۰ کے تحت لوائی کریں گے۔ اگر آپ چاہتے ہیں کہ لوائی نہ ہو اور مائٹوریٹی کریکٹر دینا چاہتے ہیں اور آپ ایماندار ہیں مسلمانوں کے جذبہ کے بارے میں تو مانئے ہلات والا نے مسودہ دینا دیا ہے۔ اس کو آپ سوکار کر لیں میں نے بھی مسودہ دینا دیا ہے اس کو سوکار کر لیں۔ اور شاید قاضی صاحب نے بھی دیا ہے جو پانچ چھ آدمیوں نے ایمپلڈ مہلیٹ میں جو آرٹیکل ۳۰ کے متعلق چاہتے ہیں۔ اس کو آپ دیکھیں دیں۔ اس

کو سوکار کر لیں اگر آپ واقعی ایماندار ہیں تو اس جھکڑے کو جتنی جلدی ہو سکے ختم کھجئے مجھے یقین ہے کہ اس کو ایمانداری کہتے ہیں اس کو کچھ کسی ہے اس پارٹی میں کمونکہ جھسا عارف صاحب نے کہا تھا کہ آپ کی گورنمنٹ بھی کوئی نہیں بولی تو ان کو یاد نہیں ہے۔ وہ شاید اس وقت وہاں نہیں تھے۔ جب ہماری پارٹی نے بل پھس کیا تھا تو ہم نے پوری طرح سے مخالفت کی تھی۔ مانئے ہلات والا صاحب موجود ہیں۔ اور لوگ موجود ہیں۔ ہم اس وقت بھی مائٹوریٹی کریکٹر کے لئے چلے رہے ہیں اور چاہتے ہیں کہ مائٹوریٹی کریکٹر دیا جائے۔ آپ دو ہی چیز دے رہے ہیں۔ صرف الفاظ کے سوزے ہیر پھیر کے ساتھ جو جدا سرکار نے دیا تھا لیکن میں ابھی شری سہرا مسلم صاحب سے کہہ رہا تھا ہم تو لوائی کریں گے۔ ہمارے اگر چلانے کے باوجود پ لوگوں نے یہاں کر دیا ہوتا تو آج یہ آپ کے ہجائے ہوئے بل کا بریڈٹ اس پارٹی کو نہیں جاتا ورنہ آپ ہجائے کہا وجہ یہی ہے۔ ان پہلے ہزنہس ایڈوالٹری کی مہلک ہوئی اس میں آپ نے ذکر نہیں کیا ہم تیار نہیں کر سکے میں ۱۲ دن کے بعد آیا

ہوں ...

شری عارف مسعود خان :

نہت کا معاملہ ہے -

شری رشید مسعود : نہت ہی

تو خراب ہے آپ کی - اس لئے اس سلسلہ میں میرا کہنا یہ ہے کہ آرٹیکل ۳۰ کے تحت اس کو ہوری طرح سے مائندورستی دیکر دیا جائے -

میں ایک دو چیزیں اور کہنے کے بعد اپنی بات سمایت کروں گا - سیکشن ۳۵ (۴) کے تحت یہ پرلودھان کیا گیا ہے - کہ یونہورستی کا انول اکاؤنٹ ہر سال سدن کی مہر پر رکھا جائے گا - میں معصومہ سے پوچھتا چاہتا ہوں کہ جلد دن پہلے جواہر لال یونہورستی کے متعلق معاملہ چل رہا تھا تو اس کے لئے ایسا کیوں نہیں کیا گیا - اس کے لئے کہا جانا ہے کہ یہ آٹونومس باقی ہے - ہم اس میں دخل اندازی نہیں کر سکتے ہیں - جب کہ وہاں دنیا کا ہر پاسہل ممکن کرپشن موجود ہے لیکن یہ آٹونومس باقی ہے - اس لئے اس کے اندر انکوائری نہیں کر سکتے ہیں - علی گڑھ مسلم یونہورستی کا انول اکاؤنٹ پارلیمینٹ کی مہر پر رکھا جائے گا - تاکہ ہر ممبر کو اختیار ہو کہ وہ کہیں بھی اس پر اعتراض کر سکیں اور قسطن کر سکیں -

شری عارف مسعود خان : ہر

سولڈر یونہورستی کا ہونا ہے آپ یادو جی سے پوچھ لےجئے جو کہ آپ کے بغل میں بیٹھے ہوئے ہیں -

شری رشید مسعود : اس میں

اسپیکٹ پروویژن نہیں ہے -

شری عارف مسعود خان : آپ

یادو جی سے پوچھئے انہوں نے پارٹی کو چھوڑ دیا ہے لیکن معصوم بات بتائیں گے -

شری رشید مسعود : دوسرے اس

میں آپ نے دیا ہے - کہ اوقاف کے چار ممبرس اس کے ممبر ہوں گے - مسلم اوقاف پر بھی اسٹیٹس میں ہوں اور علی گڑھ مسلم یونہورستی صرف ہورے ہندوستان کے ہی مسلمانوں کے جذبات سے متعلق نہیں ہیں بلکہ یہ انٹرنیشنل ٹائپ کی یونہورستی ہے - جہاں بہت سے ممالک سے لوگ آتے ہیں - اس لئے پورے ہندوستان کے تمام اولاف کے نمائندے اس میں سے دیں - تو زیادہ بہتر ہوگا - تھا زیادہ لوگ شرکت کر سکیں گے -

ایادھیکش مہودے : میں اس

بل کا سمرتہن کرتے ہوئے اپنی بات سمایت کرتا ہوں -]

SHRI V. N. GADGIL (Pune): I rise to support this Bill...

DR. SUBRAMANIAM SWAMY: What else can he do?

SHRI V. N. GADGIL: Before he hears my reasoning, he goes on commenting. I support this Bill because it fulfils a promise, an assurance and a commitment. The promise was that the effect of the judgement of the Supreme Court will be undone. The assurance was that more democratic functioning will be introduced and the commitment was that the original intention of establishing this University will be restored. Now this is done in a very democratic way. A number of individuals and institutions were consulted, several reports of Committees and Commissions were taken into account, widest possible consultation took place, matters were discussed frequently and in the statement of objects it is mentioned why the earlier Bill was withdrawn because some representations were received. Now that is made a point of criticism that you brought two Bills in one year. Certainly we brought because we received representations right from the Vice-Chancellor and others that certain amendments had to be made and they had to be incorporated and the Bill had to be withdrawn.

Then what was the judgement of the Supreme Court? I will not go into the legal technicalities. But, broadly, the position was this. The Supreme Court took a view that to enable an institution to get the character of a University, it must have power to confer degrees recognised by the Government.

Sir, in my submission this is a typical colonial concept, a hangover of the British Imperialism. If the same argument is advanced, then the Supreme Court will say that Nalanda University was not a university as it was not conferring degrees. So this judgement was based—I do not want to go into the technicality of it—on a judg-

ment given in England in the case of St. David College against the Ministry of Education in 1951. That case also strictly speaking does not apply to the case of Aligarh Muslim University. But, the judges chose to rely on that decision. In my submission it was wrong on their part to come to that conclusion. It is very unfortunate. It was a strange coincidence that the earliest liberators of human mind in this century have come from the judges. Justice Ranade in Western India and Sir Syed Ahmad himself were the judges. Those persons started such institutions but their successors in the Supreme Court ignored the original intention and struck down this Act. What was the original intention? If you permit me, I may quote from the biography of Sir Saiyad Ahmed Khan by T. E. G. Graham published in 1885. What was the original intention? This was what Sir Sayed Ahmed Khan said in the Address presented to Lord Lloyd.

"The college, of which your Excellency is about to lay the foundation-stone, differs in many important respects from all other educational institutions which this country has seen. There have before been schools and colleges founded and endowed by private individuals. There have been others built by Sovereigns and supported by the revenues of the State. But this is the first time in the history of the Mohammedans of India that a college owes its establishment,.... not to the splendid patronage of a monarch, but to the combined wishes and the united efforts of a whole community. It has its origin in causes which the history of this country has never witnessed before. It is based upon principles of toleration and progress such as find no parallel in the annals of the East."

In the same Address he mentioned:

"To our Hindu friends also our thanks are largely due. Foremost among them is the name..."
He then mentions the names of

(Shri V. N. Gadgil)
Hindus who donated. Therefore, it will be wrong to say that this is a communal institution of a particular religion. I find the same thing in another study called "Aligarh's First Generation" written by Mr. David Lelyveld. He mentions that till 1885 in that college, the number of Hindus exceeded the number of Muslims. Such is the tradition of this institution and, therefore, the view taken by the Supreme Court was a highly technical view. Therefore it had to be undone and that is the objective of this Bill.

In my submission, the suggested amendment in the Preamble and the amendment to the definition of University and all the rest of the provisions will achieve that objective, namely, of restoring the original intention. Then, Sir, let us see the democratic character. I will not go into details of it because I have not enough time at my disposal.

For example I may mention certain sections. In Section 8(1) I am not going to read the whole of it—a particular portion is to be deleted by this Bill because this is a discrimination as it applies only to Aligarh University and not to other universities. Again under Sec. 17, the Vice-Chancellors and Pro-Chancellors are to be elected—not to be nominated. The argument advanced here is that you are going to give too much power to the Court. The Court is a feature of such an institution and this must be broadbased. If the power is to be vested, it must vest ultimately in the court and not in the Executive Council.

Then, again, the representation for the first time, a very progressive step, is given to women in the Executive Council. The Principal of a Women's College. She will now become a Member of the Executive Council.

Some people carry wrong notions about the attitude of Muslims towards women. I have not got much time. I find from the same book about the remarks of Syed Ahmed, who, in a speech said that as soon as the first generation of Muslim students pass out from the college, Muslim women

will take more and more to education. Then again, Sir, I find in the history that as far back as in 1884, a Student Council Debate was held on the subject. That has been the tradition. Debates used to take place on a number of problems. A motion was brought that 'women should be given higher education'. That has been the tradition. And consistent with that condition democratic representation is given to women.

Then again a criticism was made as to why annual reports and annual accounts should be submitted to Lok Sabha. I thought that would be welcome. Because this very House's Committees, the Public Accounts Committee and the Committee on Assurances have stressed the importance of laying of papers on the table of the House; and they have recommended that provision should be made for laying of annual reports and annual accounts on the Table of the House. This idea should be welcomed because it is a re-assertion of the supremacy of this House so that such institutions become answerable to the House. (Interruptions).

Then again Sir, I find some criticism as to the Students' Council. Now the Students Council representation has a certain history behind it. What was the ambition? I will not name all the Britishers who were associated with Aligarh like Thomas Beck and others. I find that their ambition was to create a 'Cambridge' in India. One thing I did not know earlier; I was surprised to know that the first college in India to introduce the system of 'student prefects' was Aligarh. It gave representation to students. Let their grievances be looked into; let them have representation: This has been the tradition. Several debates are mentioned in the book where students did participate in a number of debates and that shows the importance that is given to the Students' Council. So, that also is welcome from that point of view.

Again, now, the most important aspect is not so much the provision of the

Bill, but the very act of bringing this Bill—an act of momentous historical importance. In the background of news of mass conversion, rumours of money being used for religious purposes, talk of fundamentalism, and number of such things, to bring such a Bill and to repose complete faith in the Muslims, is a tremendous act of courage on the part of the Prime Minister and the Government. I am sure that the Muslims will appreciate the trust, the faith, which is reposed in them.

Lastly, I only urge that the original intention of the founders, Sir Syed Ahmed and his colleagues should be brought to proper use and the functioning should improve. I can do no better than end my speech by quoting what was the original intention. This is from a book called "Education and Politics in India" written by a foreigner Radolph. (*Interruption*). This was the original intention. (*Interruption*) Mr. Jethmalani was eloquent about the type of students that Aligarh should produce. But, Sir, his solicitude for Muslims is evident from the fact that catching the flight was more important to him than listening to the debate? But, that apart, let me narrate what was the original intention. The intention was stated like this. I will quote from what Theodore Beck said. He was one of the Principals of the College, with whom Sir Syed Ahmed agreed. This is what he said:

"Students should work more at developing strength of character, a sense of public duty and patriotism. We should devote our attention to turning out men who in appearance, are neatly dressed and clean, of robust constitution and well-trained muscles, energetic, honest, truthful, public-spirited, courteous and modest in manners."

Sir, I hope, with the democratic functioning of this University which this Bill seeks, this ideal will be achieved in no time in the Aligarh Muslim University.

DR. SUBRAMANIAM SWAMY (Bombay North East): Sir, I rise to speak on behalf of the Janata Party. I won't be in a position to use the liberties which Mr. Ram Jethmalani took. I am not doubly sure that whatever he has said represents the opinion of the party. But we do regard the Aligarh Muslim University not as just a University but as a movement which was started with the objects and purpose which Mr. Gadgil just appropriately pointed out. Of course, he had to use books written by foreigners. There are enough books written by Indians also which say the same thing. But the basic points about the Aligarh Muslim University are its minority character and autonomy. They had both. Now, over a period of 18 years they have gone through a process of losing it. In 1965, they lost the minority character and the decision of the Central Government was upheld later on in the Supreme Court Judgment. And in 1972, autonomy also went. It was in 1978 that the Minorities Commission which is also a concept of the Janata Government—it was not there before, it was the Janata Government's concept—came into being.

AN HON. MEMBER: Is it the same Commission which Mr. Masani left in disgust?

DR. SUBRAMANIAM SWAMY: We appointed Mr. Masani as the Chairman because he belonged more or less to minority character of this institution, he did not look at it in that way. But the Minorities Commission gave a unanimous report after Mr. Masani had left. And they said that the autonomy and the minority character of the A.M.U. should be restored. So, the A.M.U. is an institution which has evolved out of a college called the Anglo Mohammedan Oriental College. It was no doubt established by the Muslims with special responsibility to function as a Centre for Islamic and Oriental studies and specially for the cultural and educational advance of Muslims I think there is in disagreement on that. The question is how to bring this about and that is what the

[Dr. Subramaniam Swamy]

legislation is all about. I won't very much disagree with the Bill that has come before us. It is more or less what the Janata Government had brought before this House. Mr. Gadgil says that this is a great historic event on the part of the Congress-I to bring this Bill before this House. It is a historic part on our part because the Janata Government had already brought forward this Bill before this House. The only thing is that within four months, the Government fell. I only wish that this Government also does not fall within four months. So, the appropriation of this historic character, the emotional attachment of Muslims to A.M.U. has to be recognised. It is an institution by Muslims and for Muslims in its broad content. This has to be recognised and we recognise that and therefore we have to look at this Bill from that point of view. It obviously does not satisfy the Muslims because the Bill as it is structured, does not really give the minority character of the Aligarh Muslim University. Now, there have been same objections raised. One is that the Court, as it would be constituted, would become a law unto itself. There are 169 members in it. I do not know whether all the 169 Members would attend the meeting of the court. But Mr. Somnath Chatterjee has made an objection. His objection was that the Bill has structurally changed the relationship of the Court to the Executive Council. I was very much surprised why Shri Somnath Chatterjee should take objection to that. I must point out that so far, the Aligarh Muslim University, particularly the academic side, appointment side and the faculty side have been dominated by two or three families. These two or three families have a special liking for Marxist Communist Party. What would happen after the new structural changes are there is that there will be loss of power for these two or three families.

SHRI SOMNATH CHATTERJEE: Only Swamy can think of that.

DR. SUBRAMANIAM SWAMY: It is a fact and I do not think you will

disagree with me. However, these Marxist families are in name only. Thirty-five relatives of one family happen to be employed in the University. That person lives in a forty-room mansion, drives foreign Toyota car and so on. I would not go into that, but the fact of the matter is that this structural change would mean loss of power of this oligarchy, which was controlling the Aligarh Muslim University and trying to convert it into an Afghanistan for its own purposes. The structural change would mean a loss of power for these two or three families. I fully appreciate the proposed structural change and I think it is necessary to have it.

SHRI SOMNATH CHATTERJEE: What he is saying is not because of the minority character of this institution, but because that would demude us of our authority there.

MR. DEPUTY-SPEAKER: It would very much appreciate, if Swamy's party enters into that University and replaces the Marxists.

DR. SUBRAMANIAM SWAMY: We are going to do that after the Bill is passed, otherwise why should he be worried about it? His first objection is because with this the Communists would be out of power there.

I would like to say that the important thing for us to realise is that this is only a first step. The Government should realise that we will have to return and modify this Bill further. There are a number of constitutional points. The question of appointment of Government nominees on the University Court is bound to be challenged in court and is bound to lead to unpleasant situations. I am surprised that this Bill was brought with great haste. It should have been brought after a great deal of consultations, particularly with those who belong to minority class like Shri Barrow. He is an expert on educational institutions. He should have been consulted, Shri

Shri Banatwall should have been consulted and a variety of others should have been consulted.

SHRI SOMNATH CHATTERJEE:
And Swamy also.

DR. SUBRAMANIAM SWAMY: Yes, of course, on how to get rid of the Communists.

At this moment of time, by and large, we do not object to the structural changes that have been brought. The Bill is still, by and large incomplete as far as the minority character is concerned. Dr. Azmi, Shri Rashid Masood and Shri Ashraf Hussain have suggested an amendment to clause 3 which reads:

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after line 8, insert—

“Explanation— Notwithstanding any judgement or a decree of a Court of Law to the contrary, the University is declared/recognised as an educational institution of their choice established and administered by the Muslims of India within the meaning of Article 30(1) of the Constitution”.

If this explanation is added to the Bill, I will whole-heartedly and willingly support the Bill. Otherwise, I would say: after almost three years of what the Janta Government did, is this all that you could bring and is this what you claim credit for, could you not have taken a step forward? The answer obviously is that their intentions are dubious and doubtful. The basic question of the minority character and the autonomy of the institution have not been properly attended to, nevertheless because the Bill broadly prescribes what we brought in April 1979 and passed in the Lok Sabha in 1979, I will with this reservation on the amendment support the Bill.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND WORKS AND HOUSING (SHRI BHISHMA NARAIN
2990 LS—15

SINGH): I would like to make one request to Shri Shejwalkar. This is an important Bill and has to go to the other House. So, if he agrees, his Resolution can be taken up at 6 o'clock.

SHRI SOMNATH CHATTERJEE:
Let it be discussed fully tomorrow.

MR. DEPUTY-SPEAKER: We will take up Mr. Shejwalkar's Resolution at 5 p.m.; and then after 6 o'clock, we will see. One hour has been allotted for his Resolution.

SHRI N. K. SHEJWALKAR (Gwalior): I have to take the train at 7.30 p.m.

MR. DEPUTY-SPEAKER: We will complete the Resolution by 6 o'clock. I do not want to deprive any hon. Member from speaking on the Aligarh University Bill, because it is a very important matter. I want that all should have a chance. I suggest that we take up Mr. Shejwalkar's Resolution at 5 p.m. Thereafter, all of you will be called.

Is it the sense of the House to agree to this method?

SOME HON. MEMBERS: Yes.

MR. DEPUTY-SPEAKER: We will sit and complete the Bill whatever be the time taken. Then every hon. Member will have a chance to speak. Now Mr. Zainul Basher.

SHRI ZAINUL BASHER (Ghaziipur): The Muslims of this country will always remember this day when the Aligarh Muslim University (Amendment) Bill is at last going to be passed by this august House. I was listening to the speech of Mr. Indrajit Gupta. He was arguing that the sons of a large number of Muslims who are poor, will not be able to enter the doors of the Aligarh Muslim University.

The Aligarh Muslim University is not only an educational institution. It is also an idea, an idea for the spread of modern education among Muslims.

[Shri Zainul Basher]

I wonder what would have happened to me and other Muslim citizens of this country, if the Aligarh movement had not taken place in this country. I have not been a student of the Aligarh Muslim University; I have been a student of the Allahabad University. But I am indebted to the Aligarh movement due to the influence of which I could get the English and modern education, and could come to this great Parliament.

This is the history of the Aligarh Muslim University. This University has been deprived of its original, historical character and of its minority character in 1965, and of its autonomy, as Dr. Subramaniam Swamy said, in 1972. In those days, this Government of Mrs. Gandhi was in power. But I am sorry that in those days, their opinion was over-shadowed, by persons like Mr. Chatterjee. They were over-shadowed, and the consequence was obvious.

MR. DEPUTY-SPEAKER: Mr. Zainul Basher, you can continue after 6 p.m. Now Mr. Makwana will make a statement.

SHRI RAM VILAS PASWAN (Hajipur): I want to raise a point of order, under rule 376, between item 17 and the Ministers' statement.

उपाध्यक्ष जी, मेरा मीडेंट आफ आर्डर है।

17 hrs.

MR. DEPUTY-SPEAKER: What is that point of order? There is vacuum in the House.

SHRI RAM VILAS PASWAN:
Under Rule 376 between item No. 19 and the statement by the Minister.

उपाध्यक्ष महोदय, मेरा पॉइंट आफ आर्डर यह है कि मंत्री जी अभी स्टेटमेंट देने जा रहे हैं। इसी सदन में कहा गया था कि बैकवर्ड क्लासेज कमीशन की रिपोर्ट को रखा जायगा। और अभी मंत्री जी इस पर स्टेटमेंट देने जा रहे हैं। मैं मंत्री जी से जानना चाहता हूँ कि रिपोर्ट को ले डाउन करने जा रहे हैं कि नहीं? या सिर्फ स्टेटमेंट देने जा रहे हैं कि फिर रखी जायगी, फिर रखी जायगी। क्या बैकवर्ड क्लासेज कमीशन का यही कौट होगा?

MR. DEPUTY-SPEAKER: Let him make a statement. You can then make a statement.

17.01 hrs.

STATEMENT RE. SECOND BACKWARD CLASSES COMMISSION'S REPORT

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI YOGENDRA MAKWANA): The Second Backward Classes Commission under the Chairmanship of Shri B. P. Mandal was appointed on January 1, 1979. The Commission submitted its report on 31st December, 1980.

Article 340 of the Constitution, under which the Commission was appointed, requires that the President shall cause a copy of the report together with a memorandum explaining the action taken thereon to be laid before each House of Parliament.

The report has been under the consideration of the Ministry of Home Affairs in consultation with other Ministries and the Planning Commission. Government propose to place the report before the two Houses of