

# HOUSE OF THE PEOPLE

## THE BANARAS HINDU UNIVERSITY (AMENDMENT) BILL, 1951

( REPORT OF THE SELECT COMMITTEE )



PARLIAMENT SECRETARIAT  
NEW DELHI.

*Sep, 1951*

REPORTS OF SELECT COMMITTEE PRESENTED

TO PARLIAMENT IN - 1951.

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S. No.	Short title of the Bills.	Date of intro- duction. (Presentation) 3.	Date of Publica- tion. (in the Gazette) 4.
	2.		
1.	The Port Trusts and Ports (Amendment) Bill, 1950.	7- 2-51.	24-2-51.
2.	The Representation of the People (No.2) Bill, 1950.	31- 3-51.	14-4-51.
3.	The Finance Bill, 1951.	21- 4-51.	24-4-51.
4.	The Constitution (First Amendment) Bill, 1951.	25- 5-51.	2-6-51.
5.	The State Financial Corporations Bill, 1951.	10- 8-51.	25-8-51.
6.	The Tariff Commission Bill, 1951. ✓	-do-	-do-
7.	The Forward Contracts (Regulation) Bill, 1950.	20- 8-51.	1- 9-51.
8.	The Indian Companies (Amendment) Bill, 1951. ✓	30- 8-51.	8- 9-51.
9.	The Evacuee Interest (Separation) Bill, 1951.	10- 9-51.	29- 9-51.
10.	The Benares Hindu University (Amendment) Bill, 1951.	7- 9-51.	29- 9-51.
11.	The Aligarh Muslim University (Amendment) Bill, 1951.	-do-	-do-
12.	The Press (Incitement to Crime) Bill, 1951.	27-9-51.	6-10-51.
13.	The Industries (Development and Control) Bill, 1949.	24- 9-51.	-do-
14.	The Plantations Labour Bill, 1951. ✓	29- 9-51.	13-10-51.

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1.	2.	3.	4.
15. The Delhi Premises (Requisition and Bisectio) Amendment Bill, 1951.	10- 9-51.	22- 9-51.	
16. The Displaced Persons (Debts Adjustment) Bill, 1951.	1-10-51.	20-10-51.	
17. The Notaries Bill, 1951.	4-10-51.	-do-	

# THE BANARAS HINDU UNIVERSITY (AMENDMENT) BILL, 1951

## REPORT OF THE SELECT COMMITTEE.

We, the undersigned, members of the Select Committee to which the Bill to amend the Banaras Hindu University Act, 1915, was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Upon the changes proposed by us which are not formal or consequential, we note below:—

*Clause 1.*—We have re-drafted sub-clause (2) of clause 1 because it is necessary that clauses 15 and 16 should come into force at once. It may also be necessary to bring the remaining provisions of the Act into force on different dates.

*Clause 3.*—In the proposed section 4, we have omitted the words “subject to the Ordinances” and the words “where such test is specially prescribed by the Statutes” in order to prevent the provisions of the section from being whittled down by any Ordinances or Statutes made on the subject.

In the proposed section 4A, we have empowered the University to make special arrangements in respect of the residence, discipline and teaching of women students and to confer degrees and academic distinctions on women who have pursued a course of private study and have passed the necessary examinations of the University. Although the provisions inserted by us are enabling provisions, we recommend that the University should give effect to them by making the necessary provisions in the Statutes or the Ordinances.

We have also expressly empowered the University to create any administrative, ministerial and other posts for which no specific provision is made in the Act.

In the proposed section 5, we have added a new sub-section (7) which enables the Visitor to annul any proceeding of the University which is not in conformity with the Act, Statutes or the Ordinances. We have also introduced a new section 5A which provides for a quinquennial review of the work and progress of the University by a committee appointed in this behalf by the Visitor.

*Clause 4.*—We have re-drafted the proposed section 7 so as to specify separately the authorities and officers of the University. In our opinion, the Syndicate of the University which has been performing useful functions should be continued, but we think it would be more appropriate to call it the Standing Committee of the Academic Council.

*Clause 5.*—We have empowered the court to review the acts not only of the Executive Council but also of the Academic Council and the Standing Committee of the Academic Council.

*Clause 6.*—In the proposed sub-section (1) of section 10, we have omitted the provision “prescribing the maximum number of members of the court” because provisions relating to the Constitution of the court are to be made in the Statutes.

*Clause 7.*—In the proposed sub-section (1) of section 11, we have omitted the word “entire” because the Executive Council will also have certain powers in respect of Academic matters.

*Clause 8.*—The re-draft of the proposed section 12 is consequent upon the decision to have a Standing Committee of the Academic Council.

*Clause 11.*—We have prescribed the limits of the University with reference to the main temple of the University.

*Clause 13.*—We have added a provision that a member of the court may propose the draft of a Statute.

*Clause 14.*—We have added a new section 19A on the lines existing in other similar University Acts providing that every salaried officer and teacher of the University shall be appointed under a written contract and that any dispute arising out of such contract shall be referred to a Tribunal of Arbitration. Such a provision exists in other Acts.

*Clause 16.*—We have added a new clause so as to facilitate the transition from the provisions of the existing Act to the provisions of the Act as amended by this Bill.

2. The Bill was published in the Gazette of India, Part II—Section 2, dated the 5th May, 1951.

3. We consider that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR

A. K. AZAD

B. R. AMBEDKAR

M. HIFZUR RAHMAN

\*R. K. SIDHVA

\*M. A. KAZMI

\*R. U. SINGH

S. D. DEO

\*ZAKIR HUSAIN

\*K. T. SHAH

\*GOVIND MALAVIYA

J. D'SOUZA S. J.

\*GOVIND DAS

DESHDBANDHU GUPTA

SYED NAUSHERALI

JAIPAL SINGH

G. DURGABAI

\*TEK CHAND

P. S. DESHMUKH

\*H. N. KUNZRU

MONO MOHON DAS

\*SYAMA PRASAD MOOKERJEE

NEW DELHI;

The 7th September, 1951.

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\*Subject to a Minute of Dissent.

## MINUTE OF DISSENT

## I

Although no formal decision was taken, the majority view was that the words "Hindu" and "Muslim" from the main heading of both the bills be deleted. I hold the majority view.

Regarding religious instruction I think it should be definitely laid down that the religious instruction, debates or talks shall be in spiritual, moral and musical subjects only. If it is not made clear then there is likelihood of clash and differences in various sectors and believers of religions in both *viz.* Hindu and Muslim communities. Shias and Sunis and Baha'is will demand their own way of religious instructions, so will Sanatanis, Arya Samajists, and Murti Pujaks. Under these circumstances I think the suggestion made by me if accepted will avoid such a clash.

R. K. SIDHVA

NEW DELHI;

The 7th September, 1951.

## II

There are two matters on which I don't see eye to eye with the members of the Select Committee.

2. The first relates to the appointment of a Pro-Vice-Chancellor as provided in clause 7. I would like the words "if any" to be inserted after the word "Pro-Vice-Chancellor" in clause 7 of the Banaras Hindu University Amendment Bill, as are sought to be added after that word by clause 16 of the Aligarh Muslim University Amendment Bill in the case of the Aligarh University. The Court of the Banaras Hindu University, which is the supreme governing body of that University, has passed a resolution to the effect that the office of Pro-Vice-Chancellor is unnecessary. I dare say the fact of a resolution of the supreme governing body of the University advocating the abolition of the office of Pro-Vice-Chancellor would at least show that the question needs examination. What, however, the amending Bill seeks to do is to provide for that office as if there were a clear case for it. This is certainly not so.

3. The provision for the office of a Pro-Vice-Chancellor was originally made for the Banaras Hindu University because it was believed that an eminent public man, who would not be able to give his whole time to the University, would hold the office of Vice-Chancellor. It was therefore deemed desirable to have a man on the spot in the person of the Pro-Vice-Chancellor. Statute 11 of the First Statutes of the University, which defined his duties, ran as follows:

"The Pro-Vice-Chancellor shall be ex-officio Secretary of the Court and the Council. He shall be the executive assistant to the Vice-Chancellor in all matters administrative and academic including the discipline of the graduates and undergraduates."

The nature of the duties of the Pro-Vice-Chancellor as disclosed by this Statute was consistent with what he was originally intended to do and mostly men retired from Government service were recruited to discharge them. With the exception of one eminent Vice-Chancellor of the Banaras Hindu University appointed in special circumstances, all other Vice-

Chancellors have been men who have not devoted their whole time to the work. If the Vice-Chancellorship is to continue to be a part time office, there is certainly need of a Pro-Vice-Chancellor. If, however, the Vice-Chancellorship is going to be a whole-time office as recommended by the University Education Commission, the question as to whether there should be a Pro-Vice-Chancellor certainly needs to be examined. The terms and conditions of the office of Vice-Chancellor are going to be determined by Statutes to be framed by the Central Government and until that has been done, a verdict on the need or otherwise for the office of Pro-Vice-Chancellor is not possible. I am aware that the Banaras Hindu University is a big institution but Universities with almost as big a budget are running efficiently without a Pro-Vice-Chancellor. It has also to be remembered that the Banaras Hindu University is divided into Colleges and there is a Principal appointed for each College. A large part of the academic and administrative business of the Colleges is attended to by the Principals of Colleges themselves.

4. On financial considerations too, the proposal to have a Pro-Vice-Chancellor would seem to be extremely inappropriate and unsound when we have a rather expensive establishment of the Vice-Chancellor.

Although in the absence of relevant data it is somewhat difficult to say what it exactly costs the University to keep a Pro-Vice-Chancellor, I have no doubt that it is a substantial sum of money which it can ill afford in these difficult days. In this connection I would invite a reference to Table No. 2 on page 21 of the Budget statement of the Banaras Hindu University for the year 1951-52, in which the Vice-Chancellor's office is shown to have cost the University a sum of Rs. 55,801 during the last year. An analysis of this expenditure as disclosed by the Budget Statement for 1951-52 is given below—the figures for "telephone charges" and "motor expenses" particularly are interesting.

Expenditure	Actuals of the year 1948-49	Actuals of 1949-50	Actuals 1950-51 (Prelim.)	Budget Revised 1950-51	Budget 1951-52
1. Establishment . . .	35,361	17,901	34,105	41,763	42,342
2. B. H. U. Contribution to Provident Fund . . .				538	496
3. Stationery & Printing . . .	272	535	589	700	600
4. Postage and Telegrams . . .	318	654	835	1,000	1,000
5. Telephone charges . . .	792	1,131	2,415	2,459	1,000
6. Travelling Expenses . . .	3,032	9,140	2,169	4,677	5,500
7. Motor Expenses . . .	1,235	2,444	4,346	4,164	3,500
8. Miscellaneous . . .	158	518	338	500	500
9. Servants' Uniform . . .					
10. Repairs to furniture . . .	..	..	..	..	..
	41,168	32,373	44,797	55,801	54,937

The actual cost, however, is more. Assuming that the Vice-Chancellor uses only one car the annual depreciation on this car (presumably purchased during 1948-49, *vide* item No. VII(1) on page 17 of the Budget Statement for 1951-52 against which an entry of Rs. 45,298 has been made) cannot be less than Rs. 4,000 per annum. To this also must be added another Rs. 5,000 at least on account of the rent of his free furnished residence and its maintenance. So the total expenditure on the Vice-Chancellor's office comes to about Rs. 65,000 per annum. The figures regarding the office of Pro-Vice-Chancellor are not with me, but assuming that the Pro-Vice-Chancellor, on account of his salary, free car, free furnished residence and maintenance of lawns and grounds appurtenant thereto, etc. costs about half as much as the Vice-Chancellor, the expenditure on his office can be assessed at about Rs. 30,000 per annum. This is hardly justifiable. No University can and should spend nearly Rs. 1 lakh per annum on the Vice-Chancellor and Pro-Vice-Chancellors' offices alone.

5. In view of the above considerations, we are driven to the irresistible conclusion that we need have no Pro-Vice-Chancellor for the Banaras Hindu University. This office would hardly appear to be necessary, but I am prepared to accept a permissive provision on the lines of that made in the Aligarh Muslim University Bill.

6. The second point on which I differ from my colleagues arises out of the provision in clause 4A(vii) which empowers the University "to institute professorships, readerships, lectureships and any other teaching posts required by the University and to appoint persons to such professorships, readerships, lectureships and other posts." This classification does not correspond with the existing classification of teachers in the Banaras Hindu University where the main categories of teacherships are University Professorships, Professorships and Assistant Professorships. I am personally opposed to the existence of a hierarchy in the teaching staff of Universities and there is a growing body of opinion in the teaching profession strongly opposed to such hierarchy. Even Governments in certain States like Uttar Pradesh and Bihar have not accepted a three-layered classification in the superior teaching services. Such classification operates as a handicap against the legitimate promotion of even qualified and experienced lecturers to posts of Readers as the bottleneck for promotion to higher posts is too narrow. In actual practice all the teachers are engaged in both undergraduate and postgraduate work and an appreciable number of lecturers possess research qualifications and experience but they have no chance of any legitimate promotion and retire on the modest emoluments in the scale in which they began their career. On account of more numerous avenues open elsewhere there is a real danger of Universities not attracting the best talents. By making the crossing of efficiency bar depend upon research work, defects inherent in the scheme can be avoided.

7. When more important matters like the appointment and conditions of service of Vice-Chancellor and the constitution and powers of authorities like the Court, the Executive Council and the Academic Council are being left by the Bill to be regulated by Statutes to be framed later, it is only proper that a less important matter like classification of teachers is so left and is not regulated by the Bill itself. This would not debar the classification of teachers into professors, readers and lecturers by Statute or Ordinance and would at the same time make it possible to provide for such classification as the University may deem proper with the approval



of the Government. I see distinct advantage in the Banaras Hindu University Amending Act not containing any provision about the actual classification of teachers and leaving the matter to be regulated by Statutes or Ordinances which would admit of change much more easily as compared with an Act of Parliament. In my view, clause 4A(vii) should be substituted by more general words, namely, "to institute teaching posts required by the University and to appoint persons to such posts".

R. U. SINGH

NEW DELHI;  
The 7th September, 1951.

### III

We are definitely and strongly of the opinion that the proposed new section 5A should be deleted from the Bill to amend the Banaras University Act.

ZAKIR HUSAIN  
H. N. KUNZRU

NEW DELHI;  
The 7th September, 1951.

### IV

I have signed this Report subject to the following minute of dissent.

2. I do not think the purpose of making religious instruction not compulsory, in conformity with the ideal of a secular State, will be served by the clause as it stands and the proviso to it. By permitting such instruction to be given to those who ask for it, without at the same time placing an obligation upon the University concerned to provide such instruction in any religion in which students ask for, if the students asking for it are adequate in number, and if the University has sufficient means and facilities for the purpose. The result of the present wording would be that only Hindu students will ask for and get such religious instruction in Banaras, and only Muslim students do so in Aligarh. The two Universities would thus continue to remain exclusively Hindu or Muslim institutions, so far as providing religious instruction is concerned. I think, therefore, that a further proviso is necessary to add to the existing one, requiring the Universities to provide instruction in any religion for which there is sufficient demand, and in regard to which the University concerned has sufficient financial and other facilities. This would, also, help to keep such instruction on a higher plane of religious philosophy, rather than dogma or ritual, which tend to narrow the mind and create rigid moulds of thought.

3. I also, consider it necessary that the University should itself have power and authority to make arrangements for an impartial hearing and disposal of any complaint that the teachers, or any of them, or the students, may have against any University authority or officer. Accordingly, in the clause dealing with the "Powers of the University", I would like to amend so as to authorise the University to set up, whenever the occasion demands, its own Tribunal of arbitration in regard to any complaint that any students, teachers, or officers of the University may have to make in regard to their treatment, or in regard to the terms and conditions of their service. This will enable the University to avoid any needless washing of its dirty linen,

or exhibiting in the public any unsavoury skeleton; and minimise the occasions for the use of the emergency powers vested in the Visitor to the disadvantage of the University.

4. The provision for Quinquennial Inspection, inserted by the Select Committee, would be shorn of its hardship, in regard to occasions for complaints or dissatisfaction, contemplated in the preceding paragraph, if the Arbitration or Judicial Tribunal, suggested therein, can be set up at any time, and off its own bat, by the University, without waiting for 5 years to elapse, and an outside authority carry out an inspection, make its report, and thereupon require the University to take the action indicated.

5. The Quinquennial Inspection would gain very considerably in utility, if an obligation is placed on the Government to meet the legitimate needs and requirements of the University, as revealed by such inspection. A corresponding obligation would, of course, have to be, as it is, placed on the University authorities to carry out any instructions given as the result of such Inspection, if it reveals any deficiencies or shortcomings of the University.

6. On principle I am against the institution of a Visitor, and more specifically if the Visitor is to be the Head of the Union. I consider it would tend to bring the President of the Union needlessly into Party politics. His decisions can only be those of his Ministers, and those Ministers would, *ex hypothesi*, be Party leaders. The autonomy of a University is, in my eyes, too sacred a principle to be thus made the plaything of Party politics. If a Visitor is, nevertheless, thought to be indispensable, I would rather have the Chancellor of the University vested with this authority, than the President of the Union.

K. T. SHAH

NEW DELHI;

The 7th September, 1951.

## V

I. The Benares Hindu University is a running institution. Its present Constitution has two sets of bodies to deal with the academic and the administrative matters. The Supreme body of the University, namely, the Court, deals with administrative affairs, with the Executive Council as its executive body. It carries on the day to day administration of the University. The Senate is the Supreme body on the academic side with the Syndicate as its executive. This bifurcation of the academic and the administrative control has worked during these thirty years with marked success and smoothness. What is more, it has tended to keep the academic side of the University pure and clean, the bane of party politics, if at all, being confined to the administrative sections.

The Select Committee has agreed that this healthy bifurcation should remain and the bodies which are at present called the Senate and the Syndicate should continue, but it has recommended by a small majority that the names of the Senate and the Syndicate should now be changed into "The Academic Council" and "The Standing Committee of the Academic Council".

We are of the opinion that the old names, Senate and Syndicate, should be allowed to remain. The Indian Universities' Commission have themselves said that it is not their intention "to see exact uniformity of constitution even among Universities of the same general type". Besides, all the printed records of the University of the past decades, all resolutions and correspondence, have been in the name of the Senate and Syndicate. Since these two bodies are going to be retained, we are strongly of the opinion that there is no need to disturb the present names. We suggest that they should be allowed to remain.

The only argument advanced for the change was that in some Universities the Senate is the Supreme body and that by calling it 'the Academic Council', uniformity would prevail in the three Central Universities. We are unable to see the weight of this argument. But whatever there be in it, the advantage of retaining a name which has come down, when such retention makes no difference whatsoever in the substance, is obvious and we feel that it should be done.

II. We should like to draw attention to the supreme importance of the complete autonomy of Universities. It is a principle not only recognised but assiduously followed and maintained all over the world. When our Universities were started in this country, the Government of the day was a foreign Government which distrusted the people in all matters, and therefore, put down clauses in the various Universities' Acts giving powers of interference to the Government in their affairs. We regret we have not been able to get from the Parliamentary Library or from the Ministry of Education Library the Acts and Calendars of most of the foreign Universities. But, to the extent that we could, such powers of interference did not exist in the Acts constituting the Universities of free countries. We would, therefore, feel happy if Clause 5, sub-clause (2), (3), (4), (5) and (6) are dropped.

In the Select Committee it was mentioned that the above powers of the Visitor would be exercised only "in any grave emergency". No opposition was expressed to this and we assumed that this had been agreed to. If these sub-clauses have to remain, we suggest that at the beginning of clause 5, sub-clause (2), the words "In any grave emergency" should be added.

### III. *With regard to clause 5A:*

We suggest the addition of the words "and requirements" after the word "needs" in this Clause to clarify the meaning and the purpose of this clause more fully. It was argued in the Select Committee that the word "needs" includes 'requirements'. There should, therefore, be no objection to its inclusion.

We should also like to add at the end of this clause: "It will be the duty of the Central Government to fulfil the needs of the University to the best extent possible."

IV. Last but not the least our objection is to the terms of Clause 15 of the Bill. We are glad that the Honourable Minister for Education has agreed, and will announce in the Parliament, that he will appoint a Committee of 5 or 7 members of Parliament to whom the draft adaptations and modifications in the present Statutes of the University shall be referred and that the decisions of the Committee will be accepted and

given effect to by the Government. This is satisfactory so far as it goes and is a distinct improvement upon the clause as provided in the Bill.

We are of the opinion that the adaptations and amendments of the Statutes, when provisionally finalised, should be sent to the Universities concerned for their opinions thereon and that they should be finalised only after taking such opinions into consideration and being laid before Parliament.

The three suggestions which we wish to make now regarding clause 15 of the Bill are as follows:—

(1) That this Committee should be appointed by the Parliament on a motion by the Honourable the Education Minister. This will be a more correct procedure and in keeping with the position and powers of the Parliament. It will make no difference in actual fact and we can see no possible objection to this course being adopted.

(2) That the decisions of this Committee should be placed on the table of the House for the information of the members of the Parliament.

(3) That the procedure agreed to by the Hon'ble the Education Minister, and the modifications proposed by us therein, if accepted, should be substituted in the Act in place of the proposed first para. of clause 15 of the Bill, which, as at present, reduces the Parliament to a nullity.

As we have said, our proposal will make little difference in actual effect. But our suggestion is motivated by a desire to maintain the sovereignty and powers of Parliament in tact. In the history of the British Parliament, the tendency for Government to take over in its own hands more and more powers had been on the increase at one stage until in 1929 a Committee was appointed by Lord Sankey as Lord Chancellor, called "The Ministers' Power Committee" which laid down that Parliamentary control over delegated legislation was necessary. Provision was then made for it by Statute.

We must safeguard against this danger overtaking us also. Our proposal will make little difference in substance but will result in the observance of the correct and healthy procedure. We cannot be without hope that on further thought, the Government will find no objection to our suggestion. The Parliament, we trust, will agree with us.

We reserve to ourselves the right of moving amendments to the Bill as amended by the Select Committee.

All our remarks except those relating to the Senate and the Syndicate at the Benares Hindu University, apply to the Bill relating to the Aligarh Muslim University also, *mutatis mutandis*.

GOVIND MALAVIYA  
SYAMA PRASAD MOOKERJEE  
GOVIND DAS  
M. A. KAZMI

NEW DELHI;  
The 7th September, 1951.

717 P.S.

*Clause 15.*—I am not in favour of clause 15 of the Bill, in so far as it gives to the Central Government the final power to make adaptations and modifications in the Statutes now in force. When the Benares Hindu University Act was passed in 1915, the first Statutes were incorporated in a Schedule which was an integral part of the Act and was passed by both Houses of the Legislature. The same procedure was followed when the Aligarh University Act and the Delhi University Act were passed. As the present Bill materially enlarges the scope of the Statutes, which now deal with such important matters as the establishment and abolition of Faculties, Departments, Halls, Colleges and Institutions, it is very necessary that the first Statutes should have been incorporated in a Schedule attached to the Bill and passed by Parliament.

The only reason given for not following this procedure is that the Schedule would swell the size of the Bill and it would take a great deal of time which may not be available in the present Sessions of Parliament. With respect, I consider this a very feeble argument, indeed. It seems to me that this is an instance of the recent tendency to delegate to the executive power to legislate on important matters without any reference to, or control by, Parliament. This is a dangerous tendency and I cannot too strongly deprecate it.

In England, during the World War I and the succeeding years, numerous instances of such unrestricted delegation of legislative power to Ministers or Heads of Departments occurred. This gave rise to bitter criticism in and outside the two Houses of the British Parliament and in 1929 Lord Chancellor Sankey appointed a Committee called the "Ministers' Power Committee" to examine the question and make suggestions. After an elaborate enquiry the Committee submitted its report in 1932. Its conclusions were that while delegated legislation is inevitable in the existing circumstances, it is necessary to retain some kind of Parliamentary control over it. This is now secured by making clear provision in the Statute (whereby such powers are delegated to Ministers or other authorities) that the Rules and Regulations framed by them shall be laid before Parliament and will be dealt with in one of the following ways :

- (a) The Rules or Regulations made by delegated authority shall be laid before Parliament as soon as may be; or
- (b) after being so laid, they shall not come into effect until the expiration of a specified period, which usually is forty days; or
- (c) they shall lie before Parliament for a specified period, during which any member may move a resolution annulling or modifying them, and they shall be annulled or modified accordingly; or
- (d) the Rules or Regulations shall lapse after a specified period, unless Parliament has expressly approved them.

In addition, there is a Standing Committee of Parliament to which all Rules and Regulations framed by delegated authority and all Orders-in-Council are submitted for scrutiny. In this way, effective Parliamentary control is ensured. In our Parliament no such Standing Committee has yet been constituted.

In an important matter like the first Statutes of Benaras and Aligarh Universities I am not in favour of giving the Central Government unrestricted and uncontrolled power to frame the first Statutes which will, *inter alia*, deal with the Constitution, Powers and Duties of various University Bodies and under which Faculties, Departments, Colleges and Institutions may be established or abolished. The least that should be done is to follow one of the four modes in which British Parliament secures control over delegated legislation.

I would, therefore, strongly urge that clause 15 be amended so as to provide that the adaptations and additions to the statutes in force at the commencement of the Amending Act, made by the Central Government, be laid before Parliament and shall come into force after one month from the date on which they are so laid.

*Clause 5.*—I suggest that in sub-clause (2) of clause 5 the words "in cases of emergency" be added in the beginning. As clause 5A has made provision for quinquennial review of the University by Inspection Committee appointed by the Visitor, it seems necessary to add these words. It was stated that inspection contemplated in clause 5(2) to 5(6) will be done in cases of emergency only, and this should be stated expressly in the Act.

TEK CHAND

NEW DELHI:

The 7th September, 1951.

**THE BENARES HINDU UNIVERSITY (AMENDMENT) BILL, 1951.**

(As Amended by the Select Committee)

(Words underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

**BILL**

further to amend the Benares Hindu University Act, 1915.

Be it enacted by Parliament as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Benares Hindu University (Amendment) Act, 1951.

(2) Sections 15 and 16 shall come into force at once and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions.

2. **Substitution of certain expressions for certain other expressions in Act XVI of 1915.**—In the Benares Hindu University Act, 1915 (hereinafter referred to as the principal Act), whenever an expression mentioned in column 1 of the Table hereunder occurs then, unless otherwise expressly provided in this Act; there shall be substituted therefor the expression set opposite to it in column 2 of the said Table.

**TABLE**

1	2
Benares Council Regulations Senate	Banaras Executive Council Ordinances Academic Council

3. **Substitution of new sections for section 4, 5 and 6 in Act XVI of 1915.**—For sections 4, 5 and 6 of the principal Act, the following sections shall be substituted, namely:—

“4. **University open to all classes, castes and creeds.**—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:

Provided 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.

4A. **Powers of the University.**—The University shall have the following powers, namely:—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge;

(2) to promote Oriental studies, and in particular Vedic, Hindu, Buddhist and Jain studies, and to give instruction in Hindu religion and to impart moral and physical training;

5 (3) to hold examinations and to grant and confer degrees and other academic distinctions to and on persons who—

(a) shall have pursued a course of study in the University or in an institution maintained under sub-section (1) of section 15 or admitted to the privileges of the University under sub-section (2) of that section, or

10 (b) are teachers in educational institutions, under conditions laid down in the Statutes and the Ordinances, and shall have passed the examinations of the University under like conditions, or

15 (c) being women, shall have pursued a course of private study and shall have passed the examinations of the University under conditions laid down in the Ordinances;

(4) to confer honorary degrees or other distinctions \*\*\*\*\* in the manner laid down in the Statutes;

20 (5) to grant such diplomas to, and to provide such lectures and instruction for, persons not being members of the University, as the University may determine;

(6) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine;

25 (7) to institute professorships, readerships, lecturerships and \*other teaching posts required by the University and to appoint persons to such professorships, readerships, lecturerships and other posts;

30 (8) to institute and award fellowships (including travelling fellowships), scholarships, studentships, exhibitions and prizes in accordance with the Statutes and the Ordinances.

(9) to institute and maintain Halls and hostels and to recognised places of residence for students of the University;

35 (10) to demand and receive such fees and other charges as may be prescribed by the Ordinances;

(11) to supervise and control the residence and to regulate the discipline of students of the University, and to make arrangements for promoting their health;\*

40 (12) to make special arrangements in respect of the residence, discipline, and teaching of women students;

(13) to create administrative, ministerial and other necessary posts and to make appointments thereto; and

45 (14) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University.\*\*\*\*\*



5. *Visitor.*—(1) The President of India shall be the Visitor of the University

(2) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, laboratories and equipment and of any institution maintained by the University, and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the University.

(3) The Visitor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to appoint a representative who shall have the right to be present and be heard at such inspection or inquiry.

(4) The Visitor may address the Vice-Chancellor with reference to the result of such inspection and inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(5) The Executive Council shall communicate through the Vice-Chancellor to the Visitor such action, if any, as it is proposed to take or has been taken upon the result of such inspection or inquiry.

(6) Where the Executive Council does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall be bound to comply with such directions.

(7) Without prejudice to the foregoing provisions of this section the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with this Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the University to show cause why such an order should not be made and if any cause is shown within a reasonable time, shall consider the same.

5A. *Quinquennial review.*—(1) There shall be a review of the working and progress of the University and of its needs, once during every period of five years commencing from the date of the coming into force of the Benares Hindu University (Amendment) Act, 1951, by a committee appointed for the purpose by the Visitor and consisting of such number of persons as the Visitor may think fit.

(2) The Committee appointed under sub-section (1) shall inspect the University and shall make a report to the Visitor.

(3) The report of the committee appointed under sub-section (1) shall be communicated to the University for such action as the University may think fit.

6. *Chief Rector and Rectors.*—(1) The Governor of the State of Uttar Pradesh shall be the Chief Rector of the University.

(2) Such persons \*\*\*\*\*, as may be appointed in this behalf in accordance with the Statutes, shall be the Rectors of the University."

4. Substitution of section 7 in Act XIV of 1915.—For section 7 of the principal Act, the following section shall be substituted, namely:—

“7. Officers and authorities of the University.—The following shall be the officers and authorities of the University:—

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OFFICER OF THE UNIVERSITY

- (i) The Chancellor,
- (ii) The Pro-Chancellor:

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Provided that until one of the two Pro-Chancellors holding office at the commencement of the Benares Hindu University (Amendment) Act, 1951, ceases to hold office, there shall be two Pro-Chancellors.

- (iii) The Vice-Chancellor,
- (iv) The Pro-Vice-Chancellor,
- (v) The Treasurer,
- (vi) The Registrar,
- (vii) The Deans of the Faculties, and

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(viii) Such other persons in the service of the University as may be declared by the Statutes to be the officers of the University.

AUTHORITIES OF THE UNIVERSITY

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- (i) The Court,
- (ii) The Executive Council,
- (iii) The Academic Council,
- (iv) The Standing Committee of the Academic Council,
- (v) The Finance Committee,
- (vi) The Faculties, and

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(vii) Such other authorities as may be declared by the Statutes to be authorities of the University.

5. Amendment of section 9, Act XVI of 1915.—In section 9 of the principal Act,—

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(a) in sub section (I),—

(i) the words “in administrative matters,” shall be omitted:

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(ii) for the words and brackets “the Senate (save when the Senate has acted in accordance with powers conferred on it under this Act, the Statutes or the Regulations)” the words and brackets “the Executive Council, the Academic Council and the Standing Committee of the Academic Council (save when these authorities have acted in accordance with powers conferred on them under this Act, the Statutes or the Ordinances)” shall be substituted.

(b) sub-section (2) shall be omitted.

**6. Amendment of section 10, Act XVI of 1915.**—For sub-section (1) of section 10 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) The Executive Council shall be the executive body of the University

**7. Amendment of section 11, Act XVI of 1915.**—In section 11 of the principal Act—

(a) in sub-section (1) the word “entire” shall be omitted;

(b) sub-section (2) shall be omitted.

**8. Amendment of section 12, Act XVI of 1915.**—For section 12 of the principal Act, the following section shall be substituted, namely:—

“12. The Standing Committee of the Academic Council.—There shall be a Standing Committee of the Academic Council which shall exercise such powers and perform such duties as may be vested in it by the Statutes.”

**9. Amendment of section 13, Act XVI of 1915.**—For sub-section (1) of section 13 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) The accounts of the University shall, once at least in every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India.”

**10. Amendment of section 14, Act XVI of 1915.**—In section 14 of the principal Act, for the words “the States” the word “India” shall be substituted.

**11. Amendment of section 15, Act XVI of 1915.**—In section 15 of the principal Act,—

(a) in sub-section (1), for the words “institutions in Benares” the words “institutions including High Schools, within a radius of fifteen miles from the main temple of the University” shall be substituted;

(b) in sub-section (2), for the words “institutions in Benares” the words “institutions including High Schools, within the aforementioned limits” shall be substituted.

**12. Amendment of section 16A, Act XVI of 1915.**—In section 16A of the principal Act, after the word “fund” the words “or provide such insurance scheme” shall be inserted.

**13. Amendment of section 17, Act XVI of 1915.**—In section 17 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and duties of the Court, the Executive Council, the Academic Council, the Standing

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Committee of the Academic Council, the Finance Committee and such other bodies, as \*may be deemed necessary to constitute from time to time;

6 (b) the election and continuance in office of the members of the said bodies, including the continuance in office of the first members, and the filling of vacancies of members, and all other matters relative to those bodies for which it may be necessary or desirable to provide;

10 (c) the appointment, powers and duties of \* the officers of the University;

(d) the constitution of a pension or provident fund and the establishment of an insurance scheme for the benefit of the officers, teachers and other employees of the University;

(e) the conferment of honorary degrees;

15 (f) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(g) the establishment and abolition of Faculties \*\* Departments, Halls, Colleges and institutions;

20 (h) the conditions under which colleges and other institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(i) the institution of fellowships, scholarships, studentships, exhibitions, medals and prizes; and

25 (j) all other matters which by this Act are to be or may be provided by the Statutes.";

(ii) for sub-sections (3), (4) and (5), the following sub-sections shall be substituted, namely:—

30 "(3) The Court may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereinafter in this section provided.

(4) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court, and such draft shall be considered by the Court at its next meeting.

35 (5) The Court may approve any such draft as is referred to in sub-section (4) and pass the Statute or reject it or \* return it to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest:

40 Provided that the Executive Council shall not propose the draft of any Statute or of any amendment of a Statute affecting the status, powers or constitution of any existing authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal, and any opinion so expressed shall be in writing and shall be considered by the Court.

45 (6) Any member of the Court may propose to the Court the draft of any Statute and the Court may either reject the

proposal or refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council. 5

(7) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the Visitor who may sanction, disallow or remit it for further consideration". 10

**14. Substitution of new sections for sections 18 and 19 in Act XVI of 1915.**—For sections 18 and 19 of the principal Act, the following sections shall be substituted, namely:—

"18. *Ordinances.*—(1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:— 15

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University; 20

(c) the degrees, diplomas, certificates and other academic distinctions to be awarded by the University, the qualifications for the same, and the means to be taken relating to the granting and obtaining the same;

(d) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University; 25

(e) the conditions of the award of fellowships, scholarships, studentships, exhibitions, medals and prizes;

(f) the conduct of examinations, including the terms of office and manner of appointment and the duties of examining bodies, examiners and moderators; 30

(g) the maintenance of discipline among the students of the University;

(h) the conditions of residence of students at the University; 35

(i) the special arrangements, if any, which may be made for the residence, discipline and teaching of women students, and the prescribing for them of special courses of study;

(j) the giving of religious instruction;

(k) the emoluments and the terms and conditions of service of teachers of the University; 40

(l) the management of Colleges and other institutions founded or maintained under sub-section (1) of section 15;

(m) the supervision and inspection of Colleges and other institutions admitted to privileges of the University under sub-section (2) of section 15; and 45

(n) all other matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

(2) The Regulations of the University as in force immediately before the commencement of the Benares Hindu University (Amendment) Act, 1951, shall be deemed to be the first Ordinances made under this section.

(3) The said Ordinances may be amended, repealed or added to at any time by the Executive Council:

Provided that—

(i) no Ordinance shall be made affecting the conditions of residence or discipline of students, except after consultation with the Academic Council;

(ii) no Ordinance shall be made—

(a) affecting the admission or enrolment of students or prescribing examinations to be recognised as equivalent to the University examinations, or

(b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.

(4) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (3) but may reject the proposal or return the draft to the Academic Council for reconsideration; either in whole or in part, together with any amendments which the Executive Council may suggest.

(5) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Central Government and the Central Government may, by order, direct that the proposed Ordinance shall be laid before the next meeting of the Court for its approval and that pending such approval it shall have effect from such date as may be specified in the order:

Provided that if the Ordinance is not approved by the Court at such meeting, it shall cease to have effect.

(6) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor and the Court, and shall be considered by the Court at its next meeting and the Court shall have power, by a resolution passed by a majority of not less than two-thirds of the member voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall from the date of such resolution cease to have effect.

(7) The Visitor may, by order, direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance, and any order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(8) The Visitor may, at any time after an Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall cease to have effect.

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19. *Power to make Regulations.*—(1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

(a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

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(b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations; and

(c) providing for all matters solely concerning such authorities or committees appointed by them and not provided for by this Act, the Statutes or the Ordinances.

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(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment, in such manner as it may specify, of any Regulation made under this section or the annulment of any such Regulation:

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Provided that any authority of the University which is dissatisfied with any such direction may appeal to the Court, whose decision in the matter shall be final.

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19A. *Conditions of service of officers and teachers.*—(1) Every salaried officer and teacher of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the officer or teacher concerned.

(2) Any dispute arising out of a contract between the University and any of its officers or teachers shall, at the request of the officer or teacher concerned or at the instance of the University, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Visitor, and the decision of the Tribunal shall be final."

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15. **Temporary provision for amendment of Statutes.**—The Central Government may, by notification in the Official Gazette, make such adaptations and modifications in the Statutes in force immediately before the commencement of this Act as in its opinion may be necessary or expedient to bring the provisions of the Statutes into accord with the provisions of the principal Act as amended by this Act:

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Provided that nothing in this section shall be deemed to empower the Central Government to make any adaptation or modification of any such Statutes after the expiration of three months from the commencement of this Act.

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**16. Transitional provisions.**—Any officer or authority of the University exercising any functions under the principal Act, immediately before the commencement of this Act, shall continue to exercise such functions until the corresponding new officer or authority is appointed, elected or constituted in accordance with the provisions of the principal Act as amended by this Act or the Statutes as adapted or modified under this Act.



PARLIAMENT OF INDIA

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Report of the Select Committee on the Bill further to amend  
the Benares Hindu University Act, 1915.

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*(As amended by the Select Committee)*