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LOK SABHA

THE BANARAS HINDU UNIVERSITY (AMENDMENT) BILL, 1958

(Report of the Select Committee)

PRESENTED ON THE 27TH AUGUST, 1958

LOK SABHA SECRETARIAT
NEW DELHI
August, 1958

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THE BANARAS HINDU UNIVERSITY (AMENDMENT) BILL, 1958.

Composition of the Select Committee

1. Sardar Hukam Singh—*Chairman.*
2. Shri Banarasi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shrimati Jayaben Vajubhai Shah
5. Shri Radha Charan Sharma
6. Shri C. R. Narasimhan
7. Shri R. Govindarajulu Naidu
8. Shri T. R. Neswi
9. Shri Hiralal Shastri
10. Shri Tribhuan Narayan Singh
11. Shri Sinhasan Singh
12. Shri Atal Bihari Vajpayee
13. Pandit Munishwar Dutt Upadhyay
14. Shri Birbal Singh
15. Pandit Krishna Chandra Sharma
16. Shri Nardeo Snatak
17. Shri Mahavir Tyagi
18. Shri N. G. Ranga
19. Shri N. R. Ghosh
20. Shri Nibaran Chandra Laskar
21. Shri T. Sanganna
22. Shri Prakash Vir Shastri
23. Shri Prabhat Kar
24. Shri T. Nagi Reddy
25. Shri Braj Raj Singh
26. Shri J. M. Mohamed Imam
27. Shri Jaipal Singh
28. Shri Frank Anthony
29. Shri Surendra Mahanty

30. Shri R. K. Khadilkar
31. Shri H. C. Dasappa
32. Shri Khushwaqt Rai
33. Shri Asoke K. Sen.

DRAFTSMEN

Shri G. R. Rajagopaul, *Secretary, Legislative Department, Ministry of Law.*

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

Report of the Select Committee

I, the Chairman of the Select Committee to which the Bill* further to amend the Banaras Hindu University Act, 1915 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 11th August, 1958. The motion for reference of the Bill to a Select Committee was moved by Dr. K. L. Shrimali on the 14th August 1958, discussed in the House on the 14th and 16th August, and adopted on the 16th August, 1958 (Appendix I).

3. The Committee held 6 sittings in all.

4. The first sitting of the Committee was held on the 18th August, 1958 to draw up a programme of work. The Committee at this sitting decided to hear the evidence of Pandit Govind Malaviya, M.P.

5. At the second sitting held on the 19th August, 1958 the Committee heard the evidence tendered by Pandit Govind Malaviya, M.P.

6. Certain documents and papers were circulated to the Committee. The Committee append three of the documents to this Report (Appendix III).

7. The Report of the Committee was to be presented by the 22nd August, 1958. The Committee were granted extension of time on the 22nd August, 1958 upto the 27th August, 1958.

8. The Committee considered the Bill clause by clause at their sittings held on the 19th, 20th, 21st and 22nd August, 1958.

9. The Committee considered and adopted the Report on the 25th August, 1958.

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*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 11th August, 1958.

10. The observations of the Committee with regard to the changes proposed in the Bill are detailed in the succeeding paragraphs.

11. *Clause* 2.—The amendment made in this clause is of a drafting nature.

12. *Clause* 5.—The Committee consider it desirable to fix a time-limit of two months for the Visitor to exercise his powers under the proposed sub-section (6) of section 18, and if the Visitor does not act within that period, the Ordinance should be deemed to have been approved by him.

The Committee similarly feel that, in the proposed sub-section (7) of section 18, the period specified should be raised from 'one month' to 'two months'.

The clause has been amended accordingly.

13. *Clause* 7:

Proposed Statute 14.—The Committee are of the opinion that the Pro-Chancellor should also be a member of the Court. The new item (b) added in clause (1) of this Statute makes the necessary provision.

The other amendments made are of a drafting nature.

Statute 18.—The Committee are of the view that the powers of the Executive Council under this Statute should be exercised subject to the control of the Visitor.

Necessary amendment has accordingly been made in this Statute.

Proposed Statute 29.—The Committee consider that the composition of the Selection Committee should be specifically laid down in this Statute. The Committee have accordingly amended the Statute specifying the composition of this body.

Proposed Statute 30.—After careful consideration the Committee have amended the provision regarding the Screening Committee proposed in the Bill. Under the revised procedure, instead of the Screening Committee itself examining the cases, the Executive Council would forward to the Solicitor-General such cases where it has reason to believe that the continuance in office of the persons concerned would be detrimental to the interests of the University. The Solicitor-General on being satisfied that a *prima facie* case exists would forward the cases to the Screening Committee (now called the Reviewing Committee) which, after such investigation or

enquiry as it may consider necessary, would make its recommendations to the Executive Council for further action. Suitable provision has also been made in respect of cases of complaints against members of the Executive Council.

Statute 42.—The Committee feel that instead of deleting the Statute, it would be sufficient if the provision entitling the registered donors to vote alone were omitted.

Necessary amendment has accordingly been made in this Statute.

14. The Committee in the end wish to state that in their deliberations they have kept in view the assurance given by the Minister of Education that the present Bill was meant to be a temporary measure and that a more comprehensive legislation would be brought forward by Government at an early date after a thorough examination of the entire question. The Committee hope that all the necessary steps would be taken to bring forward the promised legislation within a reasonable period.

15. The Committee recommend that the Bill as amended be passed.

HUKAM SINGH,
Chairman,
Select Committee.

NEW DELHI;
The 27th August, 1958.

Minutes of Dissent

I

The report of the Banaras Hindu University Enquiry Committee, on which the present Bill is based, makes painful reading. According to the Report, the Banaras Hindu University, which was meant to be the "temple" of Hindu Renaissance, has ended in a neo-Tammany Hall of "teacher-politicians" and "professional students". Some have questioned the findings and conclusions of the Committee, but none convincingly. Even the letter of Shri Govind Malaviya, an ex-Vicechancellor, dated the 5th October, 1951, to the Visitor, corroborated many of the findings of the Committee. According to Shri Malaviya, the atmosphere in the Banaras Hindu University was such that "no decent man could continue" there. Thus, there was a clear need for effecting radical changes in the functioning of the University.

2. But the manner in which the Government have tackled this problem has provoked much bitterness and controversy. It is indeed unfortunate that the Government had to promulgate an Ordinance on the 14th June, 1958 to remedy the deterioration in the affairs of the University. I am strongly of the opinion that promulgation of an Ordinance in respect of an academic institution betrays lack of a sense of proportion and could have been avoided, had Government been more mindful of their responsibility.

3. It cannot be said that only the Mudaliar Committee woke up the Government to the reality of the situation. Since 1948, Vice-Chancellor after Vice-Chancellor had brought these serious malaises in the body of the University to the notice of the Government. It really baffles one's understanding as to why the Government thought it fit not to move even a small finger in the matter and suddenly rushed to issue an Ordinance. In fact as the Report suggests, the Government had put premiums on the unacademic academicians of the University, by decorating a certain Professor with Presidential Award, even though his conduct in a particular matter was discussed and noticed by the Railway Enquiry Committee.

4. The present Bill, however, does not touch even the fringes of the problems that beset this Central University. It is more penal in

nature than reformative. Even though the Select Committee has considerably improved the original provisions for a Screening Committee by substituting it with a Reviewing Committee with a modicum of procedure, still it remains there casting its grim "criminal court", like shadow over the whole University. Instead of allowing the sore to faster, it would have been better if disciplinary action could have been taken forthwith against persons against whom *prima facie* charges of a grave nature existed and were sustained.

5. Even though the Bill has been inspired by the Mudaliar Committee, it has made serious departures from the recommendations of the Committee for which no reasons whatsoever have been offered by the Government. Under the present Bill the Court of the University has been reduced to an advisory body of nominated persons with the object of avoiding "acrimonious discussion" and "party politics" from creeping into the Court which was cast in the frames of "the supreme governing body of the University". The remedy proposed is like beheading a person for curing his headache. The Mudaliar Committee's recommendation in this regard was both fair and well considered. The Committee has recommended "to impose the condition that any such act cannot be overruled unless by two-thirds majority.....and only when the relevant Statutes, Regulations or Ordinance are brought up for consideration or when there is a definite official item on the agenda pertaining to the decision arrived at by such bodies". As to the composition of the Court, the Committee's recommendations were directed at reforming the Body while retaining its elected character-and, towards that end, the Committee recommended for adopting the proportional representation with the single trasferable vote. The University being a Central one, the Committee had rightly recommended that the composition of the various bodies "should reflect the characteristics of a Central University". But the present Bill has practically ignored these recommendations, for which no reasons have been offered.

6. It has been repeated time and again that the present Bill is a temporary measure and that the Government would in good time introduce a comprehensive measure in this regard. Personally, I have a premonition that this legislation is likely to linger on the Statute Book for a not-too-small period. It would have been more honest, and forthright under the circumstances, to have suspended the authority of the University for the time being and vested its affairs in a Strong Committee, as suggested by the Mudaliar Committee.

7. While, therefore, I am in agreement with the basic objective of the Bill, I am opposed to its pattern. I hope and trust the Government will lose no time in introducing soon a more comprehensive and radical measure to ensure that the Central University of India truly reflects the all-India character, the secular ideal and the democratic aspirations of the Nation in their functioning.

NEW DELHI;
The 25th August, 1958.

SURENDRA MAHANTY

II

I regret I cannot agree with the Report of the Select Committee on the Banaras Hindu University (Amendment) Bill as it is presented to the Parliament. In paragraph 14 of the Report the assurance given by the Minister of Education that the present Bill was meant to be a temporary measure and that a more comprehensive legislation would be brought forward by the Government at an early date is specifically mentioned. Along with this assurance it would have been proper to put on record a feeling shared by many members of the Committee that it would be difficult to achieve the objective of the Bill unless Government consider the desirability of relieving the present Vice-Chancellor and the Treasurer of their responsibility simultaneously with the enactment of this measure. Whether rightly or wrongly from all accounts it is contended by some sections in the University that continuation of the Vice-Chancellor and the Treasurer would lead to persistence of the prevailing feuds. In fact it would fail to achieve the desired results. Even now therefore I would like the Government to give their serious thought to this question and see that Vice-Chancellor and Treasurer be soon relieved of their offices in the Banaras Hindu University.

Coming to the Bill proper, in my opinion, it would have been in keeping with the purpose of this drastic measure if the court of the University had been kept in abeyance for a while till a comprehensive legislation of a permanent nature is enacted. But the Government has decided to continue the court as an appendage with nominal advisory powers. It would have been far better if the Government had entrusted the work of eradicating all the alleged evils that have brought about the present deplorable situation giving full authority to the new Vice-Chancellor and the Executive Council.

As it is, in section 7, sub-section 3, of the Bill statute 14 of the University is substituted by a new one. In this new statute representation is given to departments, colleges, teachers as well as old students of the University. In the context of the prevailing situation which necessitated the promulgation of the ordinance drastically curtailing the powers of the court, in my opinion, it would be all the more desirable to keep all such persons connected with the University in some way or the other from being represented on the Court. Anyone of the representatives from whatever category would be a suspect in the eyes of those who are supposed to be

in the rival group. In a faction-ridden atmosphere of the University it would be to the advantage of all concerned to keep away for the time being representatives of the departments, colleges, teachers as well as old students of the University. As the Court is primarily concerned with the administrative affairs of the University it would do no harm to the academic life if these representatives are kept out of the picture for the time being.

I would therefore submit that these three categories of representation provided in the substitute statute should be deleted.

Instead I would like to increase the representation provided for the Parliament. In the Bill there is a provision for three nominations from both the Houses. I would suggest that this number be raised to nine—six from Lok Sabha and three from Rajya Sabha. I would further like to have them elected rather than being nominated as provided in the Bill.

It is unfortunate that Government had exercised all its powers of nomination before the present Bill has received the sanction of the Parliament. It is very difficult now to suggest a change in what already has been done. I would however urge that, while exercising the power of nominations in future, due consideration should be given by providing representation, as far as possible, for all regions so as to further strengthen the all-India character of this great institution.

NEW DELHI;
The 27th August, 1958.

R. K. KHADILKAR.

III

The Bill seeks to replace the Ordinance promulgated by the President on the 14th June, 1958 in pursuance of the recommendations made by the Mudaliar Committee. It was not within the scope of the Select Committee to verify the facts given in the Mudaliar Committee Report. The veracity of most of these facts has been questioned in the Lok Sabha by several members and some of these have been challenged as gross mis-statements. Even the Education Minister in his speech in the Lok Sabha on the 14th and 16th August, 1958, had to admit that "there may be some minor factual errors which may have crept into the body of the Report." Nor was it possible for the Select Committee to collect new evidence to get a clear idea of the situation indicated by the Mudaliar Committee and to judge for itself whether the provisions of the Bill would be effective enough to meet that given situation.

No doubt, the Bill as it has emerged from the Select Committee is an improvement upon the original draft, particularly the provisions relating to the Screening Committee which has been replaced by a Reviewing Committee and the Solicitor General to the Government of India has been brought in to ensure that only the guilty are punished and not the innocent ones.

Still the Bill needs quite a few improvements and certain provisions require clarification. Hence this note of dissent.

The Court

Under the old Act, the Court was the "Supreme Governing Body". But now status has been reduced to that of an advisory body only. The question which arises is as to which agency have the functions and powers of the supreme governing body now been assigned to? Is it to the Executive Council or is it to the Ministry of Education working through the visitor. If it is to the former it should have been explicitly made clear and a clause to that effect should have been added.

Under the present Bill the membership of the Court has been considerably reduced and an impressive galaxy of persons from all over India have been nominated to it. It is, however, extremely doubtful if they will meet even once a year and will play any effective role or have any material influence in the administration of the Varsity.

As regards the composition of the Court, I regret to say that the Select Committee did not favour the suggestion that representation be given to the donors, who had a place of pride under the statute. The Hindu University has been built up by the genorosity and philanthropy of the public and even now out of its total budget of Rs. 2,01,65,126 the Government grants both Central and State amounts to Rs. 55,19,515 only, which the rest is drawn from public charities. It would have been in the ditness of things that donors should have been taken on the Court.

Under the old Act members of Parliament on the Court were to be elected, but under the proposed enactment they are to be nominated by the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha. This, obviously, is a retrograde change, and, cannot, be justified. Even while conceding that this is an emergency measure, and that all elections within the 'Varsity have been held up, one cannot but feel that the change over from election to nomination in the case of Members of Parliament smacks of a lack of faith in the Parliament to elect proper persons.

Under the old Act, the Court used to have representatives of Vedic, Buddhist, Sikh and Jain culture and Learning but now they have been given the go-by. Mahamana Pt. Malviyaji founded the Hindu University to promote Hindu Culture and to spread the message of the vedas and the shastras with its door open to all races and classes, castes and creeds. The spirit in which Mahamana Malviyaji founded the University ought to have been respected by including the representatives of Hindu culture and learning on the Court. Anyhow, I hope, these shortcomings will be rectified when a permanent Bill is broughtforth.

The Executive Council

As regards the Executive Council, the nominated members have been taken from all over India and there is no doubt that these are from amongst the best available persons. But the difficulty is that they will come for a few hours to attend the meeting of the Council and will go away and it is extremely doubtful if they will be able to have first hand knowledge about the affairs of the University. In the old Council there were a few *ex-officio* members who knew everything about the University having been there for several years. It will be highly desirable if by rotation or convention a member of Parliament from the region in which the University is situated, included in the seven persons nominated by the Visitor.

The next question is about the Chairmanship of the Executive Council. The Chairman, I feel, should be appointed by the Visitor from amongst the members nominated as is the case at Kharagpur.

The persons nominated to the Council are generally of so high a status that they may find it a little embarassing to sit under a very junior Vice-Chancellor. The Vice-Chancellor ought certainly to be a nominated member of the Council, but the Chairmanship of the Council should not *ipso facto* develop upon him. The choice of this office, I feel, should rest with the Visitor and he may nominate any one from amongst the Council members to this august post.

The new personnel of the Council will have a great influence on the students as well as the teachers and will improve matters. The appointment of a non-controversial Chairman of the Council, I hope, will have a tremendous impact on the minds of the people. The appointment of the same person as the executive head whose Executive Council has been held responsible for mismanagement will defeat the very objects of the Bill.

The Selection Committee

The only change made by the Bill in the Selection Committee is that the powers of selecting experts have been given to the Executive Council instead of the Standing Committee of the Academic Council. This, I hold, is not an improvement. The reasons are obvious. The University has got more than 50 or 60 subjects and has to make appointments in all these subjects. A Council of 8 persons, however able they may be, is not expected to know the names of experts in all these subjects and has to depend upon expert advice. The Council meets once a month and sometimes in one meeting it has to appoint experts for 15 or 20 posts. This will mean 50 or 60 experts. It is extremely difficult to imagine that the members of the Council will come prepared with all these names. So in actual practice it will be the Vice-Chancellor who will dictate the names of these experts and thus it will be a decision of the Vice-Chancellor and not of the Executive Council. It is, therefore, essential that the Council should be given expert advice on the selection of the personnel for acting as experts. This advice can be better given by the Academic Council in which are included professors of all the subjects. As the Academic Council appoints other bodies, it may very well appoint for the year a panel of experts for each subject and the Executive Council may select experts out of that panel.

As regards the appointment of a professor, the Bill provides that apart from the Vice-Chancellor and the Pro-Vice-Chancellor, the Executive Council may nominate three persons "who have special knowledge of or interest in the subject". One fails to appreciate how having interest in any particular subject can qualify anyone to being able to appoint professors in that subject. Any graduate can

have interest and very deep interest at that—in a subject but he cannot be deemed fit enough on this score to appoint lecturer. This provision needs amendment so that professors may be appointed on the advice of persons who have special knowledge of and not mere interest in that particular subject.

Concluding, I would like to express the hope that it will not be long before the Government comes forth with a permanent statute to replace the present one. The present measure is an emergency one and it should be scrupulously treated as such. The Government should also take note of the fact that in the minds of a large number of well-wishers of the Hindu University a strong misgiving persists that in order to end factionalism in University affairs, the Government is unwillingly helping to perpetuate the control of one particular faction. It would be well if the Government appreciates that this misgiving is not without foundation and takes steps to remove it.

NEW DELHI;

The 27th August, 1958

ATAL BIHARI VAJPAYEE

IV

Even conceding that situation in the Banaras Hindu University has deteriorated beyond imagination and agreeing that suitable steps are necessary to set matters right, we are of the opinion that the medicine prescribed will not cure the disease and the way it has been administered will leave enough room for doubt.

An Ordinance can be promulgated in an urgency when the Parliament is not sitting and that emergency was not foreseen. In this case, the affairs of the Banaras Hindu University were known to the Government for a long time and the Government by their inaction allowed the situation to further deteriorate. Between the 10th of May and the 11th August, 1958, nothing extraordinary occurred necessitating the promulgation of this Ordinance.

The sorry state of affairs of the Banaras Hindu University were in existence for the last six or seven years or even more, and these were known to the Government from the various reports that they have been receiving from the Vice-Chancellors of those periods. Therefore, the Government should be held responsible for not taking proper steps at the right moment to check the growing indiscipline and factionalism.

We are not convinced that situation did develop between May and August to such a state that the promulgation of an Ordinance can be justified.

We fail to appreciate also the way the whole affair has been handled by the Government, even after the promulgation of the Ordinance. It was not necessary to hurriedly nominate personnel of the Court and other bodies other than the Executive Council. Excepting the Executive Council, the other two bodies had no function for the present and in fact these bodies did not meet during these days. We disapprove of the procedure of the Government of coming before the Parliament after completing every action and to demand an *ex post facto* sanction from the Parliament.

Under any circumstances, this state of emergency must end at the earliest. It is imperative that a comprehensive legislation should be brought to put the Banaras Hindu University in order. A specific date should be announced to allay the apprehension of the people who genuinely believe that the Government is attempting to run the University as a Government department.

Coming to the provisions of the Bill, we are of the opinion that this being a temporary measure under extraordinary circumstances, it is not necessary to have a Court with nominated members as an advisory body. We therefore strongly feel that section 2 of the Amending Bill should have been amended to read: "Section 9 of the Banaras Hindu University Act 1915 be deleted". We are further of the opinion that in case it is felt necessary to keep the Court, the number of members of Parliament should be increased and they should be elected by the Parliament.

We also think that the Banaras Hindu University being an All India University the Court should include one member from each State Legislature. It is our considered opinion that in the existing state of affairs, no member of the teaching staff should be included in the Court as it would help only in giving a fillip to the existing faction. Those members of the teaching staff who will be included in the Court would be unfortunately drawn into the vertex of power politics.

We are of the opinion that the Selection Committee should not include any member of the Executive Council, as the Executive Council will have an opportunity to deliberate over the recommendations of the Selection Committee. We are glad that the clause for the formation of the Screening Committee has been improved to a great extent and we hope that this clause will not be used as a handle to terrorise the teaching staff and shall not become a plea to victimise those who hold differing opinions.

This University has a long patriotic history and it is our desire that it should develop into a modern University. To fulfil the desire of the founder of the University, and of the public in the country, it is our suggestion that the Government would appoint a Committee of the members of Parliament of all shades of opinion to go into the question of amending or if necessary re-drafting the existing Banaras Hindu University Act and report to the Parliament at the latest within one year.

NEW DELHI;
The 27th August, 1958.

PRABHAT KAR.
T. NAGI REDDY.

V

We append this Minute of Dissent as our efforts to make the Committee agree to our suggestions and proposals did not succeed.

University autonomy has been respected all over the world since time immemorial. India too has not been an exception to this, even amongst adverse circumstances. Even the foreign rulers could not dare lay their hands on University autonomy in India while they were being fought against in India even for their very existence in the country. Even during the memorable days of 1942, Banaras Hindu University's affairs could not be managed by them against the then Act, Statutes and Ordinances. It is in this context that we appeal to the Committee not to allow the Government to lay their hands on the autonomy of this University. We are sorry we could not succeed in converting the Committee to our views.

We would have liked the character of the old Court to remain in tact. The Court is a body which meets only once in a year. If the assurance of the Hon'ble the Prime Minister was to be fulfilled *i.e.* the bringing forward of the permanent law about this University within six to eight months—it may be that the Court may not even meet once within this period. But even in these circumstances the Committee did not think it fit to leave the old court in tact. We, in the alternative, would have liked to retain the function of the old court to remain in tact—"the Supreme Governing Body of the University etc." In our view, there would be no danger of any sort from a Court which is to be purely a nominated body composed as it is to be of the best available educationalists of the country. Then, in the alternative, we would have liked that donors, who were promised at the time of receiving their donations for the growth of the University that they shall be life members and their character as such would be recognised by law framed thereafter, would have been retained as members of the Court for the remaining period of their life. This would have gone a long way to fulfil the assurances of the founder of the University also. Then about the composition of the proposed Court in the Bill. It was suggested that there would be some nine members of Parliament on the Court of the University under the proposed Bill. We would have liked this number to be raised to 12, eight from Lok Sabha and four from Rajya Sabha, all to be elected by the respective Houses. We resent very much nomination of any member of Parliament by the Government or any body whatsover.

If the nomination as such was to be retained. it could have been done by the Speaker of Lok Sabha or the Chairman of Rajya Sabha, as the case may be. This would have been in consolance with the spirit of the conventions recently established about members of Parliament with respect to their serving on bodies outside Parliament and also in conformity with proposed Parliament (Prevention of Disqualification) Bill. This in our view would have gone a long way to set the matters in the University right.

We concede that there has been a slight improvement with regard to Selection Committee and the Screening Committee over the provisions of the draft Bill. We would have liked the Screening Committee not to have been born at all. The Committee have put the "old wine in the new bottle" although in a diluted form by changing the name of the Screening Committee to the Reviewing Committee and making provision for the Solicitor-General to the Government of India to come into the picture in between the Reviewing Committee and the Executive Council. Our view is that in the measure of six to eight months duration such a drastic provision which would create an atmosphere of fear amongst the University staff should not be there. This provision would affect even those who might have worked for the development of the University with the Founder during the early days of the University. But we concede that the improvement over the draft provision with regard to the Screening Committee is a right step to set the matters in the University in order. We would have gone a step forward and liked that instead of one High Court Judge in the Reviewing Committee there would be two Judges of the requisite status.

Since the promulgation of the Ordinance it has been in the air—however unfounded it might be—that the present Vice-Chancellor is responsible for the present state of affairs in the University. We would only like to emphasise that the Government would take very seriously this fatcor into consideration while changing the future set-up of the University, and if by requesting one person to relinquish charge of the University, matters can be set right that would be tried and put into action.

NEW DELHI:

The 27th August, 1958.

BRAJ RAJ SINGH
KHUSHWAQT RAI.

Bill No. 82-A of 1958.

THE BANARAS HINDU UNIVERSITY (AMENDMENT) BILL, 1958

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

further to amend the Banaras Hindu University Act, 1915.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

1. This Act may be called the Banaras Hindu University (Amendment) Act, 1958. Short title.

16 of 1915. 2. For section 9 of the Banaras Hindu University Act, 1915 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:— Substitution of new section for section 9.

"9. The * * * functions of the Court shall be— The Court.

(*a*) to advise the Visitor in respect of any matter which may be referred to it for advice;

(*b*) to advise any authority of the University in respect of any matter which may be referred to the Court by such authority; and

(*c*) to perform such other duties and exercise such other powers as may be assigned to it by the Visitor or under this Act.".

Insertion of new section 12A.

3. After section 12 of the principal Act, the following section shall be inserted, namely:—

Proceedings of University authorities or bodies not to be invalidated by vacancies, etc.

"12A. No act or proceeding of any authority or body of the University shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.".

Amendment of section 17.

4. In section 17 of the principal Act, for sub-sections (3), (4), (5), (6) and (7), the following sub-section shall be substituted, namely:—

"(3) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes; but 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.".

Amendment of section 18.

5. In section 18 of the principal Act, for sub-sections (5), (6), (7) and (8), the following sub-sections shall be substituted, namely:—

"(5) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Visitor who may pass such order thereon as he thinks fit.

(6) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Visitor who may within two months from the date of receipt thereof disallow any such Ordinance or remit it to the Executive Council for further consideration.

(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 two months from the date of such order.".

Amendment of section 19.

6. In section 19 of the principal Act, the proviso to sub-section (3) shall be omitted.

Amendment of Statutes.

7. The Statutes of the University shall be amended as follows:—

(i) in clause (2) of Statute 4 and clauses (2) and (3) of Statute 6, the words "at the next annual meeting of the Court" shall be omitted;

(*ii*) in Statute 12,—

(*a*) clause (2) shall be omitted;

(*b*) in clause (5) (*a*), the words "and the Court" shall be omitted;

(*iii*) for Statute 14, the following Statute shall be substituted, namely:—

"14. (*1*) The Court shall consist of the following members, namely:— The court.

(*a*) the Chancellor, *ex officio*,

(*b*) the Pro-Chancellor, *ex officio*,

(*c*) the members of the Executive Council, *ex officio*,

(*d*) two persons from the Departments and Colleges of the University, nominated by the Visitor,

(*e*) two persons from among the teachers of the University other than Professors, nominated by the Visitor,

(*f*) five persons from among the old students of the University, nominated by the Visitor,

(*g*) three members of Parliament, two to be nominated by the Speaker of the House of the People from among the members thereof and one to be nominated by the Chairman of the Council of States from among the members thereof,

(*h*) twenty-nine persons nominated by the Visitor from among persons who are men of standing in public life, or have special knowledge or practical experience in education or have rendered eminent services in the cause of education. * * * *

(*2*) Seventeen members of the Court shall form a quorum.";

(*iv*) Statute 16 shall be omitted;

(*v*) for Statute 17, the following Statute shall be substituted, namely:—

"17. (*1*) The Executive Council shall consist of the following members, namely:— The Executive Council.

(*a*) the Vice Chancellor, *ex officio*,

(*b*) seven persons nominated by the Visitor,

(*c*) one person nominated by the Chief Rector.

(*2*) Five members of the Executive Council shall form a quorum.";

(*vi*) in Statute 18,—

(*a*) in clause (*1*), for the word "Court", the word "Visitor" shall be substituted; and the words "not otherwise provided for" shall be omitted;

(*b*) in clause (*2*) (*viii*), the words "otherwise than by an act of the Court" shall be omitted;

(*vii*) in Statute 20, in item (*i*), the words "the Court or" shall be omitted;

(*viii*) in Statute 28, for the words "The Court, the Executive Council", the words "The Executive Council" shall be substituted;

(*ix*) for Statute 29, the following Statute shall be substituted, namely:—

Selection Committee.

"29. (*1*) The Selection Committee for making recommendations to the Executive Council in respect of any appointment specified in column (1) of the Table below shall consist of the Vice-Chancellor who shall be the Chairman thereof, the Pro-Vice-Chancellor and the persons specified in the corresponding entry in column (2) of the said Table.

The Table

(1)	(2)
Professor.	Three persons not connected with the University, nominated by the Executive Council, who have special knowledge of, or interest in, the subject with which the person to be appointed will be concerned.
Reader. / Lecturer.	1. The Dean of the Faculty concerned with the subject with which the person to be appointed will be concerned. 2. The Head of the Department concerned with the subject with which the person to be appointed will be concerned. 3. Two persons not connected with the University, nominated by the Executive Council, who have special knowledge of, or interest in, the subject with which the person to be appointed will be concerned.
Registrar.	Three members of the Executive Council nominated by it.

(2) The procedure to be followed by the Selection Committee in making recommendations shall be determined by the Executive Council.

(3) If the Executive Council is unable to accept any recommendations made by the Committee, it shall record its reasons and submit the case to the Visitor for final orders.";

(x) for Statute 30, the following Statute shall be substituted, namely:—

"30. (1) If the Executive Council has reason to believe that the continuance in office of any person who on the 14th day of June, 1958, was holding any teaching, administrative or other post in the University would be detrimental to the interests of the University, it may, after recording briefly the grounds for such belief, refer the case of any such person, together with the connected papers, if any, in its possession, to the Solicitor-General to the Government of India: Power to inquire into the cases of certain persons connected with the University.

Provided that, where an allegation of the nature referred to in this sub-section relates to a member of the Executive Council who was holding any teaching, administrative or other post in the University on the said date, the Executive Council shall, without considering the allegation, refer the case of such person, together with a copy of the allegation, to the Solicitor-General to the Government of India.

(2) If on any such reference the Solicitor-General to the Government of India is of opinion that there is a *prima facie* case for inquiry, he shall refer the case of the person concerned to a Committee to be constituted for the purpose by the Central Government and known as the Reviewing Committee, which shall consist of the following persons, namely:—

(a) a person who is or has been a Judge of a High Court nominated by the Central Government who shall be the Chairman of the Committee; and

(b) two persons nominated by the Central Government from among persons who have had administrative or other experience in educational matters.

(3) It shall be the duty of the Reviewing Committee to examine the case of every person referred to it by the

Solicitor-General; and the Reviewing Committee shall, after holding such inquiry into the case as it may think fit, and after giving to the person concerned an opportunity of being heard, if he so desires, forward its recommendations to the Executive Council.

(*4*) The meetings of the Reviewing Committee shall be convened by such person as may be appointed for this purpose by the Chairman.

(*5*) On receipt of the recommendations of the Reviewing Committee, the Executive Council shall take such action thereon as it may think fit:

Provided that when the recommendations relate to any such person as is referred to in the proviso to sub-section (*1*), such person shall not take part in any meeting of the Executive Council in which the recommendations are considered.

(*6*) Before taking any action against any person on the recommendations of the Reviewing Committee, the Executive Council shall give him a reasonable opportunity of being heard.";

(*xi*) in Statute 35, for the words "the Annual Meeting", the word "meetings" shall be substituted;

(*xii*) in Statute 36, for the words "an Annual Meeting", the words "a meeting" shall be substituted, and the words "or as a member of the Court or of the Executive Council" shall be omitted;

(*xiii*) in Statute 42, the words "and entitled to vote at the election" shall be omitted.

Transitional provision.

8. (*1*) Every person holding office as a member of the Court or the Executive Council, as the case may be, immediately before the 14th day of June, 1958, shall on and from the said date cease to hold office as such:

Provided that where any such person held immediately before such date any other office in the University, nothing contained in this sub-section shall be construed to affect his continuance in such other office.

(2) Until the Court or the Executive Council is constituted in accordance with the provisions of clause (*iii*) or clause (*v*), as the case may be, of section 7, the Visitor may, by general or special order, direct any officer of the University to exercise the powers and discharge the duties conferred or imposed by or under the principal Act, as amended by this Act, on the Court or the Executive Council, as the case may be.

Repeal and saving.

9. (1) The Banaras Hindu University (Amendment) Ordinance, 1958, is hereby repealed.

4 of 1958.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 14th day of June, 1958.

APPENDIX I

(*Vide* para 2 of the Report)

Motion in the Lok Sabha

"That the Banaras Hindu University (Amendment) Bill, 1958, be referred to a Select Committee consisting of:—

1. Sardar Hukam Singh
2. Shri Banarsi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shrimati Jayaben Vajubhai Shah
5. Shri Radha Charan Sharma
6. Shri C. R. Narasimhan
7. Shri R. Govindarajulu Naidu
8. Shri T. R. Neswi
9. Shri Hiralal Shastri
10. Shri Tribhuan Narayan Singh
11. Shri Sinhasan Singh
12. Shri Atal Bihari Vajpayee
13. Pandit Munishwar Dutt Upadhyay
14. Shri Birbal Singh
15. Pandit Krishna Chandra Sharma
16. Shri Nardeo Snatak
17. Shri Mahavir Tyagi
18. Shri N. G. Ranga
19. Shri N. R. Ghosh
20. Shri Nibaran Chandra Laskar
21. Shri T. Sanganna
22. Shri Prakash Vir Shastri
23. Shri Prabhat Kar
24. Shri T. Nagi Reddy
25. Shri Braj Raj Singh
26. Shri J. M. Mohamed Imam
27. Shri Jaipal Singh
28. Shri Frank Anthony

29. Shri Surendra Mahanty
30. Shri R. K. Khadilkar
31. Shri H. C. Dasappa
32. Shri Khushwaqt Rai and
33. Shri Asoke K. Sen

with instructions to report by the 22nd August, 1958."

APPENDIX II

MINUTES OF THE SELECT COMMITTEE ON THE BANARAS HINDU UNIVERSITY (AMENDMENT) BILL, 1958

I

First Sitting

The Committee met from 09.30 to 10.41 hours on Monday, the 18th August, 1958.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

2. Shri Banarsi Prasad Jhunjhunwala
3. Shrimati Jayaben Vajubhai Shah
4. Shri C. R. Narasimhan
5. Shri R. Govindarajulu Naidu
6. Shri T. R. Neswi
7. Shri Tribhuan Narayan Singh
8. Pandit Munishwar Dutt Upadhyay
9. Pandit Krishna Chandra Sharma
10. Shri Nardeo Snatak
11. Shri N. R. Ghosh
12. Shri Nibaran Chandra Laskar
13. Shri Prakash Vir Shastri
14. Shri Prabhat Kar
15. Shri T. Nagi Reddy
16. Shri Braj Raj Singh
17. Shri J. M. Mohamed Imam
18. Shri Jaipal Singh
19. Shri Surendra Mahanty
20. Shri R. K. Khadilkar
21. Shri H. C. Dasappa
22. Shri Khushwaqt Rai
23. Shri Asoke K. Sen

Dr. K. L. Shrimali, *Minister of Education*, was also present.

DRAFTSMAN

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. G. Saiyidain, *Secretary, Ministry of Education.*

Shri T. S. Bhatia, *O.S.D., Ministry of Education.*

Dr. N. S. Junankar, *Deputy Education Adviser*, Ministry of *Education.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary*

2. The Committee decided that copies of the following papers might be circulated to the Members:—

(i) Letter from Shri C. P. Ramswamy Ayyar to the Visitor.

(ii) Pandit Govind Malaviya's letter to Shri H. P. Mody.

3. The Committee decided that Pandit Govind Malaviya, M.P., might be requested to appear as a witness before the Committee at their next sitting, if he so desired.

4. The Committee then adjourned to meet again at 09.00 hours on Tuesday, the 19th August, 1958.

II

Second Sitting

The Committee met from 09.00 to 10.55 hours and again from 17.30 hours to 18.27 hours on Tuesday, the 19th August, 1958.

PRESENT

Sardar Hukam Singh—*Chairman*.

MEMBERS

2. Shri Banarsi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shrimati Jayaben Vajubhai Shah
5. Shri Radha Charan Sharma
6. Shri C. R. Narasimhan
7. Shri R. Govindarajulu Naidu
8. Shri T. R. Neswi
9. Shri Tribhuan Narayan Singh
10. Shri Sinhasan Singh
11. Shri Atal Bihari Vajpayee
12. Pandit Munishwar Dutt Upadhyay
13. Shri Birbal Singh
14. Pandit Krishna Chandra Sharma
15. Shri Nardeo Snatak
16. Shri N. G. Ranga
17. Shri N. R. Ghosh
18. Shri Nibaran Chandra Laskar
19. Shri Prakash Vir Shastri
20. Shri Prabhat Kar
21. Shri T. Nagi Reddy
22. Shri Braj Raj Singh
23. Shri J. M. Mohamed Imam
24. Shri Jaipal Singh
25. Shri Surendra Mahanty
26. Shri R. K. Khadilkar
27. Shri H. C. Dasappa

28. Shri Khushwaqt Rai

29. Shri Asoke K. Sen.

Dr. K. L. Shrimali, *Minister of Education* was also present.

DRAFTSMAN

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. G. Saiyidain, *Secretary, Ministry of Education.*

Shri T. S. Bhatia, *O.S.D., Ministry of Education.*

Dr. N. S. Junankar, *Deputy Education Adviser, Ministry of Education.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

WITNESS

Pandit Govind Malaviya, M.P.

2. The Committee heard the evidence tendered by Pandit Govind Malaviya, M.P.

3. A verbatim record of the evidence was taken down.

4. The Committee took up clause by clause consideration of the Bill.

5. *Clause* 2.—The following amendment was accepted:—

In page 1,

for line 8, *substitute*—

"The functions of the Court".

The discussion on the clause was not concluded.

6. The Committee then adjourned to meet again at 09.00 hours on Wednesday, the 20th August, 1958.

III

Third Sitting

The Committee met from 09.00 to 10.50 hours on Wednesday, the 20th August, 1958.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

2. Shri Banarsi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shrimati Jayaben Vajubhai Shah
5. Shri Radha Charan Sharma
6. Shri Tribhuan Narayan Singh
7. Shri Sinhasan Singh
8. Shri Atal Bihari Vajpayee
9. Shri Birbal Singh
10. Shri Nardeo Snatak
11. Shri N. G. Ranga
12. Shri N. R. Ghosh
13. Shri Nibaran Chandra Laskar
14. Shri Prakash Vir Shastri
15. Shri Prabhat Kar
16. Shri T. Nagi Reddy
17. Shri Braj Raj Singh
18. Shri J. M. Mohamed Imam
19. Shri Jaipal Singh
20. Shri Surendra Mahanty
21. Shri R. K. Khadilkar
22. Shri H. C. Dasappa
23. Shri Khushwaqt Rai
24. Shri Asoke K. Sen

Dr. K. L. Shrimali, *Minister of Education* was also present.

DRAFTSMAN

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. G. Saiyidain, *Secretary, Ministry of Education.*

Shri T. S. Bhatia, *O.S.D., Ministry of Education.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 2 (*contd.*).—The Committee adopted the clause as amended.

4. *Clauses* 3 *and* 4.—These clauses were adopted without any amendment.

5. *Clause* 5.—The Committee decided that the Visitor might be authorised to exercise his power under sub-section (6) of section 18 within two months, failing which the Ordinances might be deemed to have been approved by him.

It was also decided that in the proposed sub-section (7) of section 18 for "one month" the words "two months" might be substituted.

The Draftsman was directed to carry out the necessary amendments.

Subject to the above, the clause as amended was adopted.

6. *Clause* 6.—The clause was adopted without any amendment.

7. The Committee then adjourned to meet again at 09.00 hours on Thursday, the 21st August, 1958.

IV

Fourth Sitting

The Committee met from 09:00 hours to 10.55 hours and again from 17.15 hours to 18.35 hours on Thursday, the 21st August, 1958.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

2. Shri Banarsi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shrimati Jayaben Vajubhai Shah
5. Shri Radha Charan Sharma
6. Shri R. Govindarajalu Naidu
7. Shri Tribhuan Narayan Singh
8. Shri Sinhasan Singh
9. Shri Atal Bihari Vajpayee
10. Pandit Munishwar Dutt Upadhyay
11. Shri Birbal Singh
12. Pandit Krishna Chandra Sharma
13. Shri Nardeo Snatak
14. Shri N. G. Ranga
15. Shri N. R. Ghosh
16. Shri Nibaran Chandra Laskar
17. Shri Prakash Vir Shastri
18. Shri Prabhat Kar
19. Shri T. Nagi Reddy
20. Shri Braj Raj Singh
21. Shri J. M. Mohamed Imam
22. Shri Jaipal Singh
23. Shri Surendra Mahanty
24. Shri R. K. Khadilkar

25. Shri H. C. Dasappa

26. Shri Khushwaqt Rai

27. Shri Asoke K. Sen

Dr. K. L. Shrimali, *Minister of Education* was also present.

DRAFTSMAN

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. G. Saiyidain, *Secretary, Ministry of Education.*

Shri T. S. Bhatia, *O.S.D., Ministry of Education.*

Dr. N. S. Junankar, *Deputy Education Adviser, Ministry of Education.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee decided to ask for extension of time for the presentation of the Report upto the 27th August, 1958 and the Chairman was authorised to move the necessary motion in the House.

3. The Committee resumed clause by clause consideration of the Bill.

4. *Clause* 7

(a) The Committee decided that the Pro-Chancellor should also be a member of the Court. A new item (aa) was accordingly inserted in the proposed Statute 14(1).

(b) The Committee felt that in items (c) to (f) of the proposed Statute 14(1), the term "representatives" might be replaced by a more appropriate expression. The Draftsman was directed to examine the matter.

(c) The Draftsman was also directed to redraft item (g) in the light of the discussions in the Committee.

(d) The Committee were of the view that the powers of the Executive Council under Statute 18(1) ought to be exercised subject to the control of the Visitor. The Draftsman was directed to make suitable provision accordingly.

Discussion on clause 7 was not concluded.

5. A telegram from the Secretary, Students Union, Banaras Hindu University requesting permission to appear before the Committee for tendering oral evidence was placed before the Committee. The Committee felt that it would not be possible to examine any witnesses at this stage.

6. The Committee then adjourned to meet again at 09.00 hours on Friday, the 22nd August, 1958.

V

Fifth Sitting

The Committee met from 09·00 hours to 10.45 hours and again from 15·30 to 17·00 hours on Friday, the 22nd August, 1958.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

2. Shri Banarsi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shrimati Jayaben Vajubhai Shah
5. Shri Tribhuan Narayan Singh
6. Shri Sinhasan Singh
7. Shri Atal Bihari Vajpayee
8. Shri Birbal Singh
9. Shri Nardeo Snatak
10. Shri N. R. Ghosh
11. Shri Nibaran Chandra Laskar
12. Shri Prakash Vir Shastri
13. Shri Prabhat Kar
14. Shri T. Nagi Reddy
15. Shri Braj Raj Singh
16. Shri Jaipal Singh
17. Shri Surendra Mahanty
18. Shri R. K. Khadilkar
19. Shri H. C. Dasappa
20. Shri Khushwaqt Rai
21. Shri Asoke K. Sen

Dr. K. L. Shrimali, *Minister of Education was also present.*

DRAFTSMAN

Shri G. R. Rajagopaul, *Secretary, Legislative Department Ministry of Law.*

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri K. G. Saiyidain, *Secretary, Ministry of Education.*

Shri T. S. Bhatia, *O.S.D., Ministry of Education.*

Dr. N. S. Junankar, *Deputy Education Adviser, Ministry of Education.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 7

(a) *Proposed Statute* 29:

The Committee felt that the composition of the Selection Committee should be specifically laid down in the proposed Statute 29 and that the following might be the composition of that body:—

(i) Vice-Chancellor

(ii) Pro-Vice-Chancellor

(iii) Dean of the Faculty concerned, if the post is that of Lecturer or Reader

(iv) Head of the department concerned, if the post is that of Lecturer or Reader

(v) Three experts (not connected with the University, nominated by the Executive Council, who have special knowledge of, or interest in the subject with which the person to be appointed will be concerned), in the case of Professor.

(vi) Two experts (not connected with the University nominated by the Executive Council, who have special knowledge of, or interest in the subject with which the person to be appointed will be concerned), in the case of Lecturer or Reader.

The Draftsman was directed to make necessary provision accordingly.

(b) *Proposed Statute* 30:

The following amendment was accepted:—

In page 4, for lines 23 to 37, and in page 5, for lines 1 to 8, substitute

Power to inquire into the cases of certain members of the staff.

"30. (i) if the Executive Council has reason to believe that the continuance in office of any person who on the 14th day of June, 1958, was holding any teaching, administrative or other post in the University would be detrimental to

the interests of the University, it may, after recording briefly the ground for such belief, refer the case of any such person, together with the connected papers, if any, in its possession, to the Solicitor-General to the Government of India:

Provided that where an allegation of the nature referred to in this sub-section relates to a member of the Executive Council who was holding any teaching, administrative or other post in the University on the said date the Executive Council shall without considering the allegation refer the case of any of such persons together with a copy of the allegation to the Solicitor-General to the Government of India;

(*2*) If on any such reference the Solicitor-General to the Government of India is of opinion that there is a *prima facie* case for inquiry, he shall refer the case of the person concerned to a Committee to be constituted for the purpose by the Central Government and known as the Reviewing Committee, which shall consist of the following person, namely:—

(*a*) a person who is or has been a Judge of a High Court nominated by the Central Government who shall be the Chairman of the Committee; and

(*b*) two persons nominated by the Central Government from among persons who have had administrative or other experience in educational matters.

(*3*) It shall be the duty of the Reviewing Committee to examine the case of every person referred to it by the Solicitor-General and the Reviewing Committee shall, after holding such inquiry into the case as it may think fit and after giving to the person concerned an opportunity of being heard, if he so desires, forward its recommendations to the Executive Council.

(*4*) The meeting of the Reviewing Committee shall be convened by such person as may be appointed for this purpose by the Chairman.

(*5*) On receipt of the recommendations of the Reviewing Committee, the Executive Council shall take such action thereon as it may think fit:

Provided that when the recommendations relate to any such person as is referred to in the proviso to sub-section (*1*), such person shall not take part in any meeting of the Executive Council in which the recommendations are considered.

(6) Before taking any action against any person on the recommendations of the Reviewing Committee, the Executive Council shall give him a reasonable opportunity of being heard".

(c) *Statute* 42:

The following amendment was accepted:—

In page 5, *for* line 15, *substitute*—

'(*xiii*) in Statute 42, the words "and entitled to vote at the election" shall be omitted.'

Subject to the above, clause 7 was adopted.

4. *Clauses* 8, 9 *and* 1.—These clauses were adopted without any amendment.

5. The Chairman read out to the Committee a letter received from Shri Ishwarlal H. Desai, Bombay suggesting that the appellations 'Hindu' and 'Muslim' be omitted from the names of the Banaras Hindu University and the Aligarh Muslim University and that the former be preferably named as Varanashi University. The Committee felt that the amendment was outside the scope of the Bill.

6. The Committee decided to consider the draft Report at their next sitting.

7. The Committee then adjourned to meet again at 12.30 hours on Monday, the 25th August, 1958.

VI

Sixth Sitting

The Committee met from 12.32 hours to 13.05 hours, on Monday, the 25th August, 1958.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

2. Shri Banarsi Prasad Jhunjhunwala
3. Shri Satyendra Narayan Sinha
4. Shri R. Govindarajulu Naidu
5. Shri Atal Behari Vajpayee
6. Shri Birbal Singh
7. Shri Nardeo Snatak
8. Shri N. G. Ranga
9. Shri N. R. Ghosh
10. Shri Nibaran Chandra Laskar
11. Shri Prabhat Kar
12. Shri T. Nagi Reddy
13. Shri Braj Raj Singh
14. Shri Jaipal Singh
15. Shri Surendra Mahanty
16. Shri R. K. Khadilkar.
17. Shri H. C. Dasappa
18. Shri Khushwaqt Rai
19. Shri Asoke K. Sen

Dr. K. L. Shrimali, *Minister of Education* was also present

DRAFTSMAN

Shri N. Swaminathan, *Deputy Draftsman, Ministry of Law*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri T. S. Bhatia, *O.S.D., Ministry of Education.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered and adopted the Bill as amended.

3. The Committee decided that it was not necessary to lay the evidence tendered before them on the Table of the House.

4. The Committee decided that the documents circulated to them might be appended to the Report:—

(1) Extracts from the speech of Dr. S. Radhakrishnan, the then Vice-Chancellor, Banaras Hindu University, in the special meeting of the Court of the University held on the 11th January, 1958;

(2) Letter dated the 5th October, 1951 from Pandit Govind Malaviya, the then Vice-Chancellor, Banaras Hindu University to Shri H. P. Mody, the then Governor of Uttar Pradesh; and

(3) Letter dated the 4th February, 1956 from Dr. C. P. Ramaswamy Ayyar, the then Vice-Chancellor, Banaras Hindu University to the Visitor.

5. The Committee then considered and adopted the draft Report.

6. The Committee authorized the Chairman, and in his absence Shri Jaipal Singh, to present the Report on their behalf.

7. The Committee decided that Minutes of Dissent, if any, should be sent so as to reach the Lok Sabha Secretariat by 10 hours on Wednesday, the 27th August, 1958.

8. The Committee then adjourned.

APPENDIX III

(*Vide* Para 6 of the Report)

DOCUMENTS CIRCULATED TO THE SELECT COMMITTEE AND APPROVED BY THEM FOR PRESENTATION TO LOK SABHA

I

Extracts from the Speech of Dr. S. Radhakrishnan, the then Vice-Chancellor, Banaras Hindu University in the Special Meeting of the Court of the University held on the 11th January, 1948.

"Dr. Amarnatha Jha is no stranger to us. He has been a Professor all his life and had been the Vice-Chancellor of the Allahabad University for 9 years. A distinguished educationist, an able disciplinarian, and a lover a students, there could not have been any other suitable person for the Vice-Chancellorship and therefore, it is a matter of immense satisfaction to me and to the members of the Court as also to the students and staff of the University, that we have been able to get Professor Amarnatha Jha to act as the Vice-Chancellor in this University.

There is a tinge of sorrow in my mind. I spoke to him and I wrote to him that is essential that he should undertake the Vice-Chancellorship for at least a period of three years-a minimum period that will give us a sense of security that will allay all apprehensions. That will make him take interest in the affairs of the University. He assured me that if the affairs of the University were favourable, he would serve for a longer period. It is the duty of the members of the Court, the Council and students and teachers of this University to make his stay a success so that we may have a good fortune of having Dr. Jha as our Vice-Chancellor for many many years. With these words I move that Dr. Jha be elected the Vice-Chancellor of this University for the residue period of mine.".

II

Letter dated the 5th October, 1951 from Pandit Govind Malaviya, the then Vice-Chancellor, Banaras Hindu University to Shri H. P. Mody, the then Governor of Uttar Pradesh.

Your Excellency,

This is in continuation of my last letter dated 30-9-51 to Your Excellency in which I stated that I would send to Your Excellency in a few days a note on certain doubts regarding the last election of the Vice-Chancellor of the Banaras Hindu University held on the 27th May, 1951, which, I gathered from Your Excellency during the interview I had the honour of last having with you at the Rashtrapati Bhawan at New Delhi, had been raised before Your Excellency. Your Excellency advised me to send you a note about the matter to enable you to read and ponder over the same. I beg Your Excellency to forgive this delay in my doing so. It is only today that I have been able to prepare it. I have framed it in the shape of doubts and answers. I did not have all the papers or any legal advice available to me here but I have framed the replies as best I could. I trust they will enable Your Excellency to see the whole case in its correct perspective.

The doubts to which answers have been attempted seriatim in my note are given below. I trust Your Excellency will be able to go through it and to give it such consideration as you may find it may deserve. In case there is any further point of doubt in Your Excellency's mind which I have failed to recollect, I shall be grateful if Your Excellency will kindly let me know the same, so that I may make my submission to you about that also.

DOUBTS ANSWERED IN THE NOTE

Doubt No. 1

That, when the Court of the Banaras Hindu University at its special meeting held on the 10th & 11th March, 1951, had passed a resolution that the Vice-Chancellor shall be a man of high academic

repute and shall have administrative and teaching experience of at least 15 years, why did it, on 27-5-51, proceed to re-elect Pandit Govind Malaviya as Vice-Chancellor without first rescinding its previous resolution of March '51?

Doubt No. 2

That, the moment the Vice-Chancellor sent in his letter of resignation on the 23rd April '51, he ceased to be the Vice-Chancellor.

Doubt No. 3

That, why did the Vice-Chancellor keep the Council of the University in the dark about his intentions and, why did he not place his resignation before the Council and ask it to convene a meeting of the Court?

Doubt No. 4

That, why was a second set of Notices issued regarding the meeting of the Court convened for the 27th May 1951, saying that it should be read as a Special Meeting?

Doubt No. 5

That, why should the Vice-Chancellor have himself presided over the meeting at which his own re-election was going to be proposed, particularly when objection was taken to it at the commencement of the meeting?

Doubt No. 6

That, the vacancy in the post of the Vice-Chancellor caused by his resignation dated the 23rd April '51, could only be a casual vacancy, and that, in any case, any election of a fresh Vice-Chancellor could therefore be only for the residuary period of the term and not for a full term of three years.

Doubt No. 7

That, if during the last election on 27-5-51, no less than 37 members of the Court voted against the Vice-Chancellor, why should he continue to work at the University?

Doubt No. 8

That, why should the Vice-Chancellor have resigned in April '51, when his term was going to expire in December next?

Doubt No. 9.

The last doubt may be that, now that a case is pending in the Law Courts questioning the validity of the election, how can the Visitor's approval be given before the suit is decided?

The interests of the University require that the very serious injury which is being done to it by interested parties on account of the present suspense should be checked immediately. I request that Your Excellency may kindly consider the urgent desirability of issuing Your approval to the last election of the Vice-Chancellor without delay.

Your Excellency was good enough to tell me that you have obtained or would obtain advice from the highest possible sources in the country in this matter. I do not know if both sides of the case had then been presented to Your Excellency and were conveyed to those whose advice might have been sought. If not, I trust Your Excellency will be pleased to send a copy of my attached note to those quarters again asking them for an expression of opinion after full consideration of the same.

May I in the end offer to Your Excellency my sincere personal apology for all the bother which has been created for you in this matter? I feel destressed over it. But I trust, with your usual generosity, Your Excellency will be able to appreciate that I am motivated by no personal consideration. The Banaras Hindu University is my *alma mater*. I have seen it rise and develop from absolute nothing to its present magnitude. Practically not a day of my life, during the last 30 years, has been without thought of it. As far as was humanly possible, I have not spared myself in any way to bring the University up to a level and ideal which no reasonable man would but approve and admire; to what all right thinking men, including Your Excellency yourself, have been saying about the ideals and requirements of Indian Universities. It is for Your Excellency to judge if I have been able to achieve anything in that direction.

Once again apoiogising for the length of this letter and the note and trusting that Your Excellency is well, I remain, with the kindest regards,

Your Excellency,
Yours sincerely,
GOVIND MALAVIYA.

His Excellency Shri H. P. Mody,
Governor, Uttar Pradesh,
Lucknow.

Encl: *List of Doubts.*
Note on Doubts.

A list of doubts which have been answered seriatim in the Note

DOUBTS OF A TECHNICAL NATURE

Doubt No. 1

That, when the Court of the Banaras Hindu University at its special meeting held on the 10th and 11th March 1951 had passed a resolution that the Vice-Chancellor shall be a man of high academic repute and shall have administrative and teaching experience of at least 15 years, why did it, on 27-5-51, proceed to re-elect Pandit Govind Malaviya as Vice-Chancellor without first rescinding its previous resolution of March '51?

Doubt No. 2

That, the moment the Vice-Chancellor sent in his letter of resignation on the 23rd April, 1951, he ceased to be the Vice-Chancellor.

Doubt No. 3

That, why did the Vice-Chancellor keep the Council of the University in the dark about his intentions and, why did he not place his resignation before the Council and ask it to convene a meeting of the Court.

Doubt No. 4

That, why was a second set of Notices issued regarding the meeting of the Court convened for the 27th May, 1951, saying that it should be read as a Special Meeting?

Doubt No. 5

That, why should the Vice-Chancellor have himself presided over the meeting at which his own re-election was going to be proposed, particularly when objection was taken to it at the commencement of the meeting?

Doubt No. 6

That, the vacancy in the post of the Vice-Chancellor caused by his resignation dated the 23rd April, '51 could only be a casual vacancy, and that in any case, any election of a fresh Vice-Chancellor could therefore be only for the residuary period of the term and not for a full term of three years.

DOUBTS REGARDING GENERAL ASPECTS

Doubt No. 7

That, if during the last election on 27-5-51, no less than 37 members of the Court voted against the Vice-Chancellor, why should he continue to work at the University?

Doubt No. 8

That, why should the Vice-Chancellor have resigned in April, 1951, when his term was going to expire in December next?

Doubt No. 9

The last doubt may be that, now that a case is pending in the Law Courts questioning the validity of the election, how can the Visitor's approval be given before the suit is decided?

A note on certain doubts raised regarding the last election of the Vice-Chancellor, Banaras Hindu University on 27-5-1951

Doubt No. 1

That, when the Court of the Banaras Hindu University at its special meeting held on the 10th & 11th March, 1951 had passed a resolution that the Vice-Chancellor shall be a man of high academic repute and shall have administrative and teaching experience of at least 15 years, why did it, on 27-5-51, proceed to re-elect Pandit Govind Malaviya as Vice-Chancellor without first rescinding its previous resolution of March, 1951?

Answer to Doubt No. 1

The Court at its meeting held in March, 1951 was not making changes in the Statutes of the University but was only recommending certain suggestions for the consideration of the Government of India. Resolutions of that day therefore could not by any stretch of imagination be treated as decisions of the court over-riding the *status quo.*

Secondly, the election of the Vice-Chancellor is governed by Statutes. Even assuming for discussion that the Court at its meeting held on March' 51, had desired to make a change in the Statute governing the election of the Vice-Chancellor, the same would have needed the approval of the Visitor (H.E. the Governor of U.P.) before it could take effect.

As no modification in the existing Statute had been intended nor any modification was made in the manner stated above, the existing Statute naturally remained in force and any election could only have taken place according to them, as the election on the 27th May 1951 actually did.

Therefore, no question or occasion could arise of any rescinding of the resolution of the court meeting of March' 51 which had no other force than that of a recommendatory suggestion.

Doubt No. 2

That, the moment the Vice-Chancellor sent in his letter of resignation on the 23rd April '51, he ceased to be the Vice-Chancellor.

Answer to Doubt No. 2

This is a completely groundless contention. As this doubt was mentioned orally on the very day on which the letter of resignation was sent, the Vice-Chancellor wrote another letter the next morning emphasising and further clarifying what had been stated by him in his previous day's letter *viz.*, that his resignation would take effect only at a future date when his successor would be elected and would take over charge. It is absured to say that out of a letter, only one sentence should take effect without reference to the rest of the document; indeed, without reference to the very next following sentence in the same paragraph.

However, three days latter, a letter of objection on the point was received from Shri Sri Niwas, a member of the Court and the Council of the University. He had been vehemently opposed to the present Vice-Chancellor from the very beginning. On the receipt of his letter, the Vice-Chancellor requested the Pro. Vice-Cchancellor to obtain the best possible legal opinion in the matter. The Pro Vice-Chancellor sent the whole case to Allahabad to the Advocate-General of U. P. Shri P. L. Banerjee for his opinion. Shri P. L. Banerjee sent his written opinion saying that the Vice-Chancellor's resignation would take effect only after the election of his successor and his taking over charge and that it was perfectly legal for the Vice-Chancellor to continue in his Office and to perform all his functions till then. To make this doubly sure, the matter was referred to Dr. Bakshi Tek Chand, the well-known leading legal luminary of the country and an ex-judge of a High Court. A copy of this opinion (*see* Annexure A) has already been submitted to the Visitor.

In view of this clear opinion of the best possible legal advisors, the Vice-Chancellor had no option but to continue to work as such, whether he himself liked it or not. It was his duty and he performed it. He should be given credit for it.

Doubt No. 3

That, why did the Vice-Chancellor keep the Council of the University in the dark about his intentions, and why did he not

place his resignation before the Council and ask it to convene a meeting of the Court?

Answer to Doubt No. 3.

It is not at all correct to say that the Vice-Chancellor kept the Council in the dark about his intentions. He did inform the Council of his decision before he sent in his letter of resignation. It is printed in the proceedings. But he could not possibly allow the Council to consider it and by not accepting it, compel him to continue to work in an atmosphere in which no self-respecting man could have continued. He therefore informed the Council of his decision before acting upon it. Even that was not necessary under the Statutes. He did it purely as a matter of correct personal behaviour.

Regarding the convening of the meeting, again, if the Vice-Chancellor had left it to the Council, probably it might not have called the meeting at all. Under the University Statutes, the Vice-Chancellor has independent powers of convening meeting of the Court under Statute 9 (3), though the Council may also convene a meeting under Statute 16 (5) if it so desires. There is no rule that the meeting of the Court can only be called with the approval of the Council and therefore no objection legal or moral can be taken to the meeting called by the Vice-Chancellor which was in absolute conformity with the law.

Doubt No. 4.

That, why was a second set of Notices issued regarding the meeting of the Court convened for the 27th May, 1951, saying that it should be read as a Special Meeting?

Answer to Doubt No. 4.

There are two types of meetings provided; one, called a general meeting in which the period of the notice to be given to the members is longer *viz.*, at least 30 days and proposals have to be sent by them up to 20 days before the meeting, which means that they have at least 10 days' time to send in their proposals. The second type of meeting is a special meeting for which only 14 days' notice has to be given and, according to convention, proposals have to be sent by members upto 7 days before the meeting. It will be seen that from the point of view of members, the first type of meeting gives the greater advantage *viz.*, longer notice of the meeting, longer time for sending in proposals and longer period for preparing for the election. The general meetings however are held annually. The Vice-Chancellor, in the best of spirit, desired to give all

these better advantages to the members and therefore in the notice which he issued he merely said that "a meeting of the Court" would be held on the 27th May, 1951. This was done to avoid the technical difficulty in calling it a general meeting and yet to give to the members all the facilities thereunder.

To be on the safer side, the Advocate-General of U. P. was consulted. He gave the opinion (*see* Annexure B) that the first notice satisfied all the requirements for a special meeting and advised that another notice should be issued saying as much and mentioning that members could send in their proposals up to 7 days before the meeting A second notice therefore was issued in accordance with the advice of the Advocate-General of U. P. It will thus be seen that the issue of the two sets of notices was meant to and actually did provide greater latitude and facility to those who might have been opposed to the Vice-Chancellor. It could have meant no possible advantage whatsoever to those who were for his re-election. The issuing of two sets of notices therefore shows how fair the attitude of the Vice-Chancellor was in the matter; and how the advice of competent legal advisers was throughout followed.

Doubt No. 5.

That, why should the Vice-Chancellor have himself presided over the meeting at which his own re-election was going to be proposed, particularly when objection was taken to it at the commencement of the meeting; or, why did he not absent himself from the meeting to avoid having to preside it?

Answer to Doubt No. 5.

The statutes of the Banaras Hindu University provide as follows:—

> "5. (2) The Chancellor shall, if present, preside at the Convocation of the University for conferring degrees, and at all other meetings of the Court."
>
> "7. In the absence of the Chancellor one of the Pro-Chancellors *present*
>
> shall preside at the meetings of the Court. If both are present, the one 'senior in order of election by the Court shall preside' "
>
> "9. (1) The Vice-Chancellor.....In the absence of the Chancellor and the 'Pro-chancellor, he shall also preside at the meetings of the Court' "

The Vice-Chancellor made every possible human endeavour to get any one of the two Pro-Chancellors to come to preside over the meeting; the Chancellor himself having been reported to be out of India at the time. Copies of the Vice-Chancellor's correspondence with the Pro-Chancellors in this matter, which have already been submitted to the Visitor, will prove to any unbiassed person that no effort had been spared to get one or the other of them to come to the meeting and to preside over it.

As, however, none of them could come, there was no option for the Vice-Chancellor but to preside over the meeting, as the Statutes made it obligatory for him to do.

The Vice-Chancellor would have been happy to have been saved from the task. Indeed, it would have suited him personally to have absented himself altogether from the meeting to have been saved from the ordeal of having to preside over it.

But, there were two difficulties in the way. First, the atmosphere which some kind opponents had tried to create was such that the Vice-Chancellor's absence from the meeting was likely to have been misunderstood and twisted against him. Even that difficulty, however, he might have ignored. But, the second was that the Statutes left him no choice. It will be noticed that in the case of the Chancellor and the Pro-Chancellors, the Statutes lay down that they shall preside *if present*. In the case of the Vice-Chancellor, however, there is no such qualification. The Statute says that in their absence the Vice-Chancellor "shall preside". It may mean that *he had to be present and to preside over the meeting.* In the atmosphere of unrestrained and "stop-at-nothing" opposition from this group, if the Vice-Chancellor had absented himself while he was physically fit and able to attend and had not presided over the meeting, there would have been the risk of these very opponents challenging the validity of the proceedings on that ground.

For these two reasons, the Vice-Chancellor had no option left but to attend the meeting and to preside over it, howsoever intensely he might have personally disliked having to do so.

That was how he had to preside over the meeting. The important point then should be how he conducted the proceedings of the meeting. Stringent precautions were taken by the Vice-Chancellor to ensure that his presence in no way affected the election. It is significant that the voting in regard to the election of the Vice-Chancellor, which was done by members one by one by a truly and entirely secret ballot, resulted in the Vice-Chancellor's winning by an overwhelming margin; but on the similar question whether the Pro-Vice-Chancellor should be asked to carry on the work of the Vice-

Chancellor until the next annual meeting, for voting on which ballot papers were distributed to all the members at once and canvessing and exertion of pressure by others was possible, the Vice-Chancellor's majority was considerably less. This should prove conclusively that if there was any intimidation at the meeting it was from the opponents of the Vice-Chancellor.

If any important member who was present at the meeting were consulted, it would be easily found that the way the Vice-Chancellor conducted the proceedings allowed the greatest possible latitude in favour of every one who was opposed to his re-election. Members from outside who were in no sense party to any controversy were freely remarking upon the excessive latitude which the Chairman allowed to his opponents. No complaint, legal, moral or mental could therefore be possible on account of the Vice-Chancellor having presided over the meeting, as he had to do under the Law in force on the subject.

Doubt No. 6.

That, the vacancy in the post of the Vice-Chancellor caused by his resignation dated the 23rd April, '51, could only be a casual vacancy, and that, in any case, any election of a fresh Vice-Chancellor could therefore be only for the residuary period of the term and not for a full term of three years.

Answer to Doubt No. 6.

Statute 8 of the University reads as follows:—

"8 (1) The successors to the first Vice-Chancellor shall be elected by the court from among its own members. Such appointed shall be subjected to the approval by the visitor.

(2) The Vice-Chancellor shall hold office for 3 years.

(3) Casual vacancies in the office of the Vice-Chancellor shall be filled up by election by the Court, subject to approval by the Visitor"

This shows that naturally the Statutes contemplated two different types of occasions when a Vice-Chancellor would have to be elected *viz.*, one when a vacancy arose by the full period of an incumbent's term of office ending by the efflux of time, and, two, whenever a vacancy arose, whatsoever the reason, before such expiry of any Vice-Chancellor's 3 years' term of office. The second type of vacancy, has been distinguished from the other by being called "casual" in section 8(3) above. But, while this natural and necessary

differentiation has been shown regarding the genesis of any vacancy, no differentiation has been made regarding the manner in which it has to be filled up. A casual vacancy also has to be filled up exactly in the same manner as a normal vacancy. Again, 8(2) says that the Vice-Chancellor shall hold office for 3 years. No distinction is made for a Vice-Chancellor who is elected to fill up a casual vacancy. It is clear therefore that the Statutes intend that whatever the reason or the occasion for any vacancy arising in the post of a Vice-Chancellor, the person who is elected to fill it up is to hold it for the full normal term of 3 years.

Convention and precedent also prove this. When the Late Pandit Madan Mohan Malaviyaji decided to retire and tendered his resignation from office of Vice-Chancellor thereby creating a casual vacancy, his successor Prof. S. Radhakrishnan was elected for a full term of 3 years and not for the residuary period. The election received the approval of the Visitor, H.E. the then Governor of U.P. Again, when Prof. Radhakrishnan resigned from his office and again a casual vacancy was created, the present Vice-Chancellor who was then the Pro-Vice-Chancellor was, with great difficulty, able to persuade Prof. Amaranatha Jha to take up the Vice-Chancellorship. Prof. Jha agreed to do so but only for the residuary period of Prof. Radhakrishnan's term. The normal practice and the interpretation of the Statutes having always been that the Vice-Chancellor's election was for the full term of 3 years, and Dr. Jha being insistent that he could come only for the residuary period, the resolution of the Court electing Dr. Amaranatha Jha had to be particularly framed in those terms to make it clear that in that particular case the election was for the residuary period only.

Over and above all this, once a similar objection was raised in the Special General Meeting of the Court of the Banaras Hindu University dated the 13th April, 1919. Sir Sivaswamy Iyer, who had been elected Vice-Chancellor in the casual vacancy caused by the sad demise of the first Vice-Chancellor, Sir Sunder Lal, was in the chair. Dr. Tej Bahadur Sapru was also present. On a similar objection being raised, Sir Sivaswamy Iyer gave the ruling, or stated, that the election of a Vice-Chancellor, made even to fill a casual vacancy, secured for him the office for the full term of three years. He was supported in this by Dr. Tej Bahadur Sapru.

Thus, both law and precedent leave no room for any doubt on the point. Whether an election takes place to fill up a vacancy caused by the efflux of time or to fill up a vacancy which may be called a casual vacancy, the election is for the full term of 3 years. The election held on the 27th May, '51, can, therefore, in no way be for the residuary period only.

DOUBTS REGARDING GENERAL ASPECTS

Doubt No. 7.

That, if during the last election on 27th May, 1951, no less than 37 members of the Court voted against the Vice-Chancellor, why should he continue to work at the University?

Answer to Doubt No. 7.

Whether the Vice-Chancellor should continue in his office in spite of the campaign of false propaganda and organised opposition is a question which has occurred to him repeatedly. But, on deep and religiously earnest consideration he has come to the conclusion that despite the unpleasantness of the task, as one who has been associated with the University since its very foundation and has been so to say nurtured in its atmosphere, it will be wrong for him to run away from what he should regard as his sacred duty to allow the manoeuvrings of a caucus to play havoc with the future of the University.

But, besides the above, firstly, if 37 persons opposed him, 58 persons voted for the Vice-Chancellor. It would be an irony if due to the machinations of the defeated party, the man who was elected by such an overwhelming vote, instead of being backed, should be treated, without reason, as if he were a culprit.

Secondly, so long as the law provides that the Vice-Chancellor has to be elected, the element of contest and opposition has clearly to be contemplated. It cannot be derided. If an election is provided then if the successful candidate is selected even by a majority of one single vote, he comes into office. That is so all over the world. So long as the law provides for an election we must accept the full import of that system. If, out of a thousand 501 vote for a particular candidate and 499 people vote against him, even then it is he who is elected and takes the office. In actual, point of fact, in most of the Universities in the country, we happen to have Vice-Chancellors who have been elected after a contest and against whom many had voted. There has been the famous instance of Dr. Ganganath Jha at Allahabad who was elected by the barest majority of one single vote in the teeth of fierce opposition. He defeated Dr. Wier, Principal of the Law College, who was the favourite of the then Governor and Chancellor Sir Malcolm Hailey who was presiding. Even a technical objection questioning the validity of the voting was raised, but Sir Malcolm Hailey said that an election was an election. Dr. Ganganath Jha had won, even though by only one vote, and he was made the Vice-Chancellor. In no case was approval

ever withheld or delayed on the ground of the successful candidate having been opposed by people. No such consideration should be allowed to come into the picture. It will cut asunder the very basis of all modern democratic institutions based upon the method of election.

It may also be of interest to mention that when about four years ago the present Vice-Chancellor was first elected Pro-Vice-Chancellor of the University then also 36 persons had voted against him. Then he had a majority of 3 only; 39 persons having voted for him. The then Visitor gave his approval without delay. The opposition even now remains at 37 as it was. This speaks for itself. Further, the voting in his favour, having risen from 39 to 58, shows what the Court generally thinks of his work. In any case, the only relevant point is that in an election, a contest is fully envisaged and is natural, and the winning candidate should not be derated because people opposed him.

Doubt No. 8

That, why should the Vice-Chancellor have resigned in April 1951, when his term was going to expire in December next?

Answer to Doubt No. 8.

Under the Act and Statutes of the University the Court is the supreme body of the University. It elects the Vice-Chancellor, the Pro-Vice-Chancellor and the members of the Council. The Council is only its own Executive Body. The Vice-Chancellor (Pandit Govind Malaviya) had throughout pursued the policy that in the matter of making appointments to the University, as recommended by the recent Indian University Education Commission, outside experts should be invited for making the best selection from among the candidates and that their recommendation should be accepted.

In the Allahabad and Lucknow Universities, where H.E. the Governor of U.P. is the ex-officio Chancellor, it is laid down that if the Executive Council does not accept the recommendation of the Selection Committee the matter is referred to the Chancellor who makes the final choice. There is no such provision in the Statutes of the Benares Hindu University. There the decisions of the Council are final in all such matters. In the absence of any such provision for an appellate authority like Allahabad and Lucknow, the duty of the Vice-Chancellor at Banaras became even more urgent and sacred that he should see to it that the correct, healthy, impersonal policy was pursued, purity of administration was maintained and nothing was done which could even be doubted as

falling short of the strictest standards of correct and impartial action. The Vice-Chancellor therefore invariably followed the policy of appointments being made in strict accordance with the recommendation made by the outside experts.

There has been, however, for a very long time, a strong group in the Benares Hindu University and its Council which works on party lines. Pandit Krishna Deva Tiwary, Dr. Ram Ugrah Singh and Sardar Trilochan Singh of Lucknow, Dr. Ramyash Roy, Dr. Akhaibar Lal, Pt. Ram Vyas Jyotishi and Pt. Sitaram Chaturvedi of Banaras and a few others are important members of this group. One has only to ask even a man in the street in the Benaras Hindu University, to find out the truth of the existence of this group, and its working purely on party lines.

A post of a Professor had fallen vacant in the Department of Botany and was advertised. Among the applicants was Dr. Ramyash Roy also. In the usual manner, experts were appointed. The Benares Hindu University is lucky to have as its Pro-Vice-Chancellor one of the greatest Botanists of the country, Dr. P. Parija, D.Sc., F.N.I. etc., who had been Professor, Principal, Director of Agriculture and Vice-Chancellor of the University, in Orissa. He is universally respected for his sober and impartial attitude in all matters. It was at his suggestion that the very best possible experts about whose ability and impartiality no one could ever entertain the slightest doubt *viz.*, Dr. Iyyengar of Madras and Dr. Agharkar of Poona were appointed and came for the purpose. They and Dr. Parija recommended three names in order of preference. Dr. Ramyash Roy's name was later on added by them as No. 4, as an act of courtesy to some members of the Board of appointment, who were pleading for Dr. Ramyash Roy. The Vice-Chancellor, who was the Chairman, allowed these members to argue with the experts for more than an hour, pressing Dr. Ramyash Roy's name. At the end thereof these experts said that they regretted they could not feel justified in suggesting any change in their recommendation. Dr. Ramyash Roy's name therefore remained in the 4th position.

When the matter came up before the Council (Executive Council) of the University, the Vice-Chancellor proposed that the person recommended highest by the experts should be appointed. Pt. Krishna Deva Tiwary stood up in the open meeting of the Council and made a counter proposal that Dr. Ramyash Roy should be appointed. The Vice-Chancellor explained that so long as he was the Vice-Chancellor, he would not be a party to such action because then nobody in the University would be able to feel that

appointments were made in the University impartially on the basis of merit. Every one, instead of applying his energy to his work would be encouraged to interest himself in the vortex of party politics activities, and all healthy progress in University work would come to an end. The matter had to be put to vote and the Council by a majority of 8 to 6, adopted the Vice-Chancellor's proposal that the gentleman recommended by the experts should be appointed.

From that day this party has made it its every day determined task to oppose the Vice-Chancellor in every manner possible. A baseless and malicious whispering campaign of fantastic allegations was started against the Vice-Chancellor. Care was taken not to make any specific allegation publicly but all sorts of absurd things were being spread in and around the University. For instance, it was being whispered all over, of course without the remotest foundation, that 12 or 16 lakhs of funds kept separately in the Provident Fund Account of the University had been dissipated. Under these circumstances the Vice-Chancellor requested the Honorary Treasurer to prepare a statement on the financial position of the University, during the Vice-Chancellor's 3 years of office, from the annual audited and published accounts of the University. This statement was placed before a meeting of the Council. There was no other way for any member but to express his sense of satisfaction over it and no other a person than Pt. Krishna Deva Tiwary said that the Council should record the statement with pleasure. The Council *unanimously* did so, and decided that the statement should be published. It was done. This was on the 9th of April 1951.

The Vice-Chancellor had hoped that after this, work would proceed smoothly. But he proved to be too optimistic. This group continued in its own way. The Vice-Chancellor found that this partisan day-to-day opposition without any regard to truth or merit, was creating a very unhealthy atmosphere. He was faced with a peculiar situation. He had been endeavouring to his utmost to run the University on the strictest lines of correctitude. The University, on every side—academic, administrative and financial—had been making marked progress. Things were beginning to look up in every direction. All disinterested and independent persons, unasked, were expressing unstinted appreciation of the work. And yet the Vice-Chancellor was finding himself at logger heads with this strong group in the Executive Council specially on an issue on which there could be no yielding for any public man of integrity.

If, like a gentleman the Vice-Chancellor was not willing to continue in his post like this, the only courses left to him were the following:—

(1) To yield to the pressure tactics of this powerful group and to obtain their support by agreeing to do thing according to their interested desires; thereby ruining for all time the possibility of any pure and impartial administration in the University;

(2) To quietly step out of the picture and leave the University in the hands of such people; or

(3) To let the Supreme Body of the University *viz.*, the Court to decide whether the policy which he had been following had its approval, and whether it desired him to continue as the Vice-Chancellor of the University. (The Council, being the Subordinate Body of the Court, being expected to respect any decision of the Court).

No decent man could continue in the atmosphere which had been created. The Vice-Chancellor had to choose one out of these three courses. It appeared to him that the first would virtually amount to treachery towards the University which was his *alma-mater* and would be unworthy of a public man of any principles. The second, it appeared to him, would be an act of desertion at a crucial moment. He felt that the third was the only decent and correct constitutional, democratic, impersonal, public spirited attitude which could be taken. He therefore decided to resign to let the Court decide. He made that clear in his letter of resignation.

Another thing also had happened. As has been mentioned earlier, the Court at its meeting in March had suggested for consideration that the Vice-Chancellor should be a teacher and administrator of at least 15 years' experience. It was of course open to the Vice-Chancellor to have continued to work as such for the residue of his term despite the denied and veiled yet unmistakable censure of the Vice-Chancellor implied in the said resolution which was openly the result of party manoeuvring and a momentary majority. But, that would have been interpreted as a desire on the part of the Vice-Chancellor to stick to his office under any conditions. His sense of honour and self-respect ruled it as out of question for him. Therefore, only the third course, which was an honourable course, was left for him. Thus, he had no option but to do what any decent man would have done in the circumstances, *viz.*, to tender his resignation to let the Court itself decide if it wanted him to continue as the Vice-Chancellor.

From his personal point of view, it would have been best for the Vice-Chancellor to have let things continue till December 1951, when, under the new Act, his re-election, if he desired one, would have been, if anything, much more easy and smooth. But, having been trained in life never to decide public questions from the personal point of view, he did not do so. He felt that he could not allow the existing state of things to go on for 8 more months. A clarification one way or the other was not only desirable but essential. Therefore without waiting for his term to expire, he decided, in the best democratic and constitutional spirit, to resign so that the Supreme Body of the University *viz.*, the Court might decide the issue and smooth and normal working might become possible.

The fairest possible election took place. The Court re-elected the Vice-Chancellor by an overwhelming majority. From all standards of normal public life every one should have thereafter worked smoothly, according to the verdict of the Supreme Body. But this group has not done so. They are doing what Pakistan is doing about Kashmir; trying to win their already lost battle, through villification, false propaganda and misrepresentation. It is earnestly hoped that it will be seen through and the public-spirited, democratic and constitutional step taken by the Vice-Chancellor and the decision arrived at by the Court will be appreciated and approved.

Doubt No. 9.

The last doubt may be that, now that a suit is pending in the Law Court questioning the validity of the election, how can the Visitor's approval be given before the suit is decided?

Answer to Doubt No. 9.

It is quite true that so far as the validity or otherwise of the proceedings of the meeting of the Court dated 27th May '51, is concerned a law suit is pending on the subject. The law courts can and will decide about the validity. Under the Act, the Visitor also has himself the power of annulling any proceedings which may not be in conformity with the Act or the Statutes. The question of the validity or otherwise of the proceedings being the subject of a legal suit, no opinion may be expressed either one way or the other, about that issue.

But the question of the validity of the proceedings is one thing and the approval of the person elected is another thing. The question of approval is an entirely separate question. The Visitor may approve of the person elected and yet the proceedings might be

declared invalid; or, the Visitor may disapprove of the person elected and yet the proceedings might be declared valid. The two questions are separate from and independent of one another. It is one of the Statutory obligations of the Visitor to give his approval to the election of a Vice-Chancellor. Performance of statutory obligations is not and cannot be considered an act interfering with any proceeding in a Law Court. If the Visitor feels inclined to give his approval to the election of the Vice-Chancellor held on the 27th of May, there is no legal or moral obstacle in the way of his doing so. The issue therefore should be, not whether the Visitor can give his approval but as to whether he is inclined to give his approval.

The provision making the approval of the Visitor necessary to the election of a Vice-Chancellor, was designed merely to ensure that no undesirable person got into that office. In practice, therefore. this procedure has always been a mere formality; approval having been invariably given in every single case. If any doubt is raised about the validity of any election, the Law Courts are there to decide about it; or, the Visitor may annul the same under his own powers under Section 6(2) of the Act. But so far as the question of approval is concerned, it is a formality which has always been granted forthwith and unless the Visitor feels that the person who has been elected is obviously an unfit or an undesirable person, there need be no delay in his communicating his approval of the election forthwith. The two things must not be mixed up with one another. Even after giving his approval, it will be quite open to the Visitor, if he should feel so, to annul the proceedings of the meeting at which the election took place. The Vice-Chancellor, in that case, would cease from that time to hold his post. The question of validity of proceedings and approval should therefore be treated apart. Except when the unimaginable should happen and the person elected should be clearly undesirable, the Visitor should give his approval to the election without any delay.

In the present case, it should be easily possible for the Visitor to ascertain the work done by the present Vice-Chancellor in the University during the last 3 years, and the principles and the policies pursued by him; also, as to what is likely to happen if the caucus which is today opposing the present Vice-Chancellor, were to get into control over the Vice-Chancellors of the University.

If any independent persons had taken objection to the election of 27th May 1951 there might have been some occasion for the Visitor to ponder whether the person elected should be approved of. In the present case however, it is just those people only, who had set up another candidate for election as Vice-Chancellor and had opposed

the person elected, who have taken objection to the election. Having lost in the election, they are now trying to circumvent their defeat in this manner. Withholding the Visitor's approval on their account will be tantamount to depriving the Court of the University of its function of making its choice from among different contesting candidates.

In view of all this, the two separate questions of the validity of the proceedings and the Visitor's approval of the election of any individual, should not be mixed up and the approval, which is a mere formality to ensure that no undesirable person gets into office, should kindly be communicated to the University Authorities without any delay.

This is urgently necessary because, owing to the delay in the receipt of such approval, the general atmosphere of discipline, serious work and efficiency in the University which has been brought about by 3 years' incessant labour is being gravely endangered. The good work done is being ruined. Interested parties are trying to create the foulest of atmosphere by trying to undermine the authority of the Vice-Chancellor and his control over the affairs of the University. The students are being incited to restart the old era of protests and opposition, of strikes and demonstrations, of agitation and excitement, which have been conspicuous in the University by their complete absence during the past three years. On account of the non-receipt of the approval so far, everything in the University is hanging in suspense. No work can be done. The group mentioned before is making normal work in the Council of the University impossible. Chaos is being created by them at every meeting. Truth, propriety and correct procedure are being thrown to the winds. They are proceeding everywhere with the one object of recking the present Vice-Chancellor's administration. If all this has to be put a stop to, then the Visitor's approval should be given without delay, provided, of course, that he does not consider the person elected undesirable. According to the Statutes, no other element comes into the picture.

The Vice-Chancellor has been fighting a herculean battle against this caucus for a clean and pure impartial administration; for a healthy and disciplined life in the University. If the Visitor is satisfied that it is so, he, as the head of the State may, of course subject to rules, strengthen the hands of the Vice-Chancellor by the weight of his moral support and backing. The aims and purposes of the opposing group have, for years, been well known and can easily be found by the Visitor by a direct enquiry from independent and respected members of the Court. Delay in the granting of the Visi-

tor's approval is only helping this group and is ruining the interests of the great institution. It need not wait because the validity of the proceedings of the meeting of the Court is in question in a Court of Law.

All the possible doubts have been dealt with. The duty of placing the vital aspects of the matter before His Excellency has been done.

It is now for His Excellency to decide.

ANNEXURE A

The letter of resignation sent by Shri Govind Malaviya dated 23rd April '51 has to be read along with the letter of 24th of April which is said in the letter itself to be in continuation of the earlier letter of the 23rd. In this Vice-Chancellor makes it quite clear that he continues to hold office until he makes over charge to a successor who will be duly elected. This was the effect also of the resignation letter of the 23rd and is made clear by his letter of the 24th.

A vacancy cannot be created by the unilateral act of an officer. It has to be accepted before a vacancy can be said to be created and in my opinion the delivery of the letter of the 23rd April did not *ipso facto* automatically create a casual vacancy within the meaning of Section 8, Clause 3 of the Statutes. No question of construction of the letter of the 23rd April by itself arises because it has been followed up by the letter of the 24th, which must be treated to be part of and in continuation of the letter of the 23rd. Clause 3 of Section 8 cannot operate unless there is a casual vacancy and such a casual vacancy cannot be forced into the present situation when the Vice-Chancellor has never purported to resign from the very moment of the receipt of his letter by the Secretary of the Court. When the termination of the office does not take place on the efflux of the statutory period but is intended by the holder to be brought into existence by his own act, it must be open to the holder to determine the point of time which he intends to be effective for purpose of termination and it is not possible to defeat his intention by giving his act a prior effect, which he never intended. I find that on an earlier occasion Vice-Chancellor Radhakrishnan also tendered his resignation but continued in office until the date mentioned by him for his resignation to take effect. I have no doubt that Vice-Chancellor Govind Malaviya wanted to follow the same procedure and has made it quite clear that his resignation will take effect after the election of a successor which election will by itself be an acceptance of the resignation.

I, therefore, think that it is quite in order and regular for Vice-Chancellor Govind Malaviya to continue to function as Vice-Chancellor until he makes over charge to his successor.

I agree with the above.

Tek Chand

21st May, 1951.

PEARY LAL BANERJI,
Advocate, Allahabad

28th April, 1951.

ANNEXURE B

The notice dated 23rd April convening a meeting of the Court for 27th May 1951 is quite in order, having regard to Section 37 of the Statutes. It gives more than fourteen days' notice required for a special general meeting. It specifies the nature of the business to be conducted.

The further requirement that members desiring to propose shall give notice of the name of the person to be proposed at least twenty days before the date fixed for the meeting is open to objection. The Statutes make no provision on the subject and a reasonable provision therefore could be made by the convener and it would be reasonable to require the names of the nominated persons to be sent in some time prior to the meeting itself to avoid the confusion that would necessarily follow if names were proposed at the meeting itself. I think a week before the meeting would be a reasonable time and a further notice amending the previous one in this particular should be issued.

PEARY LAL BANERJI,
Advocate, High Court
28th April, 1951.

ANNEXURE 'C'

VICE-CHANCELLOR

BENARES HINDU UNIVERSITY
9th October 1951.

Dear Mr. Editor,

On my return to Benares yesterday, I have seen the leading article "The Benares VARSITY Affairs" in your paper dated the 7th October 1951.

I am aware that for sometime there has been a certain amount of criticism, mostly anonymous, appearing in a section of the Press against the present administration of the Benares Hindu University. But so far I have refrained from replying to it. In my view, as far as possible, the Vice-Chancellor of a University should not allow himself to become a party to any unhealthy public controversy. Even more than that I have always believed that no amount of propaganda, howsoever organised, can eventually drown true facts which are bound to become known and recognised in the long run, thereby providing the most effective answer to unjust criticism.

The situation, however, becomes different when an esteemed paper like the 'Leader' or the 'Pioneer' writes a leading article about the matter. I shall be failing in my duty if I do not give you the actual facts. If you could somehow spare the time to personally visit this University once, we shall most gladly provide for you every facility for seeing things for yourself and deciding upon the accuracy or otherwise of the facts mentioned by me.

The kernel of your criticism is (i) that the University is faced with a financial crisis, (ii) that a Committee appointed by the Council to examine and report on the financial position has not cared to hold a single meeting and (iii) that the Vice-Chancellor has been giving increments and extensions to people against all rules and has not been cooperating with the University Council.

In regard to the first, I need only to refer to a statement on the Financial Position of this University which was prepared by the Treasurer when a similar rumour was started by interested parties in March last. A copy of it is enclosed.

As this report showed, during the last four years, *i.e.*, during the period of the present administration, Government Securities held by the University have increased from Rs. 81 to 107 lakhs New buildings, land, equipment and furniture added during the

period amounted in value to Rs. 82 lakhs. The total assets of the University have from Rs. 286 lakhs gone up to well over Rs. 350 lakhs. The old overdraft (debt) has remained practically the same and has been latterly showing a downward tendency. The Cash Yearly deficits of the University were from year to year as follows:--

1947-48	..	Rs. 6·33 lakhs.
1948-49	..	Rs. 4·86 lakhs.
1949-50	..	Rs. 1·03 lakhs.
1950-51	..	no deficit at all expected.

(Final figures, as usual, are available in the following November only on the completion of the annual audit.)

The statement concluded with the remark that for the new year *i.e.*, 1951-52, the financial position of the University was better than probably at any time before. On receiving this report the Council recorded its pleasure and satisfaction on the same. (Resolution No. 554 dated 9-4-1951).

The present confusion seems to have arisen because of a financial requirements statement which was placed before a meeting of the Council held on September 30, 1951, on which your article is obviously based. That statement was meant for members of the Council only who are familiar with the relevant background of things and with the above mentioned details. Shorn of this background, an altogether misleading picture has been presented to you. For instance it mentioned that the overdraft, *i.e.*, the loan of the University on 20-8-1951 was Rs. 14,43,525. But it did not mention, and I therefore cannot blame you for having got alarmed as you did, that at the time the present Vice-Chancellor took over in 1948, this loan was already there; that on the 31st March, 1948 it stood, if anything, higher than the present figure, *viz.*, at Rs. 14,58,906 as against the present Rs. 14,43,525. You will surely see that difference this makes. Then, there is another item of Rs. 4,50,000 mentioned in the said statement for electric reorganisation bills, which is altogether misleading. The electrical installation of the University was put in 30 years ago when we had less than 2,000 students. We have now over 8,000 and the accumulated strain and depreciation of the plant has been such as to make it practically useless now. Those who may care to go into the details can find what efforts the University has had to make to keep the electrical supply running in the University. In consultation with the Government of India, the University has now decided to go in for an electric supply scheme at a cost of about Rs. 6 lakhs, by which

electricity will be taken in bulk from the City and will be distributed in the University. The scheme prepared by experts and approved by the Government of India is expected to bring about four times larger supply to the University at a considerably lower cost, thereby resulting in savings which will pay for the initial cost of the scheme in a few years' time. Negotiations have practically reached the final stage for a grant or a loan from the Government of India for this amount. In any case, the scheme will pay for itself. Further, this amount has not to be paid this year. While members of the Council knew this, outsiders naturally could not. Thus Rs. 14·43 plus Rs. 4·5 lakhs, that is, nearly Rs. 19 lakhs go out of the Rs. 27 lakhs which you have mentioned as the financial chasm facing the University. You will agree that taking the above facts into account, an amount of Rs. 9 lakhs alone has to be accounted for. This Rs. 9 lakhs is certainly not such as to bring about the so-called chaos. The very minimum that this University expects to receive from the Government of India during the rest of the current financial year 1951-52 is a sum exceeding Rs. 11 lakhs. In addition to this, it may be mentioned that the annual income of the Benares Hindu University from tution, examination and other fees, interest on securities, endowments and estates and from other sources as apart from Government grants, comes to about Rs. 20 lakhs every year. Substantially more than half of this has yet to flow in. We have thus to receive over Rs. 20 lakhs yet during this year. We can safely expect that this will enable the University to satisfactorily adjust its current year's budget in the actuals as it was able to do during the last year, which fact by itself should show the sound financial position and administration of the University.

Your informant has misled you regarding the Committee also. Instead of having had no sitting at all, it has had meeting on six days till now and is going on with its work. The Vice-Chancellor has been repeatedly writing to the Convener to complete the task as early as possible, without even waiting for him.

The question might be asked as to why the Council was given that note at all if the financial position of the University was so sound. The reason was very simple. Every year the University has had to borrow money from time to time from its Special Funds temporarily to meet its salary bills and other necessary expenditure, pending receipt of the final Government grants for the year

at the end of the financial year. The following have been the figures during the last three years:—

1948-49	..	Rs. 7,50,000
1949-50	..	Rs. 5,50,000
1950-51	..	Rs. 16,00,000

Every one of these temporary transfers was, before the close of the respective financial year, paid back completely out of the Government grants received. It goes to the credit of the University authorities that during the current year 1951-52 till now no such temporary transfers have been made from the Special Funds and sufficient income has been obtained for the University till now to enable it to meet all its expenditure up-to-date without any temporary transfers (loan) from the Special Funds. This has been possible as, unlike previous years, the University has been able to obtain already grants totalling nearly Rs. 12 lakhs up-to-date for this year. Who can say with any reasonableness that this is anything but satisfactory? Now, on account of the Dashahara vacation from the 6th October to the 4th November, however, fee collections and other income of the University becomes practically nil for two months. All that was needed, therefore, was some arrangement by which bills amounting to about Rs. 3½ lakhs (every pie of which is of the routine annual character and not on account of any new or excess expenditure) and the salary bill of the members of the staff for 2 months amounting to Rs. 5½ lakhs, thus making a total of Rs. 9 lakhs, could be paid. This also would be taken only if and when and to the extent to which necessary. These transfers would, as in all previous years, be replaced before the end of the financial year out of the income of the University which, as stated earlier, is sure to become available during the currency of the year.

I trust you will thus see that the Benares Hindu University is, in no sense whatsoever, faced with any financial crisis. Those who have stated to the contrary must be having reasons based upon not facts but something else. I shall not say anything more.

In regard to excessive appointments or actions of authorities against rules, the general principles expressed in your article are quite sound, and the Pro. Vice-Chancellor and I agree with them whole-heartedly. You will, however, probably feel surprised to be told that we have been acting exactly in accordance with them. We have been showing the utmost reluctance to have new appointments made unless they have been proved to be unavoidably essential. Not a single action has been taken by me beyond the rules or even against their spirit.

The present superannuation age of this University is 60. The Indian Universities' Commission presided over by Professor Radhakrishnan to which you have referred, has recommended that it should be raised to 62 and even to 64. A proposal was brought before a meeting of the Council on the 28th May 1951 that this age should be raised to 62. The Vice-Chancellor said that a matter of such importance should not be taken up without its having been on the agenda and said that it might be taken up at the next meeting. The Council, therefore, decided that it should be included in the Agenda for the next meeting and further laid down that those who were to retire in the meantime should continue till that time. The Vice-Chancellor had no further hand in the matter and this resolution was, in the usual routine, given effect to by the Office. The Council, however, decided at its next meeting not to raise the age of superannuation and resolved that all those persons concerned should retire on the 4th November 1951, that is, on the reopening day of the University after the Dashahara vacation. Again, this was given effect to by the Office in the routine manner and all the persons concerned were informed accordingly. Strangely, however, at a subsequent meeting held on the 30th September, the Council, while confirming the minutes of the meeting of May last, decided by a majority to delete the second portion of the resolution saying that those concerned would continue in their posts till the next meeting. I leave it to you to draw your own conclusions. I only wish to add that the Vice-Chancellor has not had to do anything with any other extension, etc. mentioned in your article, except in the routine manner.

It is true that during the recent past there has been a great deal of tension in the Council of the University. The Vice-Chancellor has incurred the wrath of some politically important members because he has been invariably sticking to the principle that appointments should be made on pure merit according to the recommendations of experts and that the bane of elections in the vortex of which teachers of the University get drowned, should be eliminated as far as possible. As you are no doubt aware, both these things have been strongly recommended by the Indian Universities Commission. The Vice-Chancellor has refused to budge from these two principles as he firmly believes that their adoption will be in the best interests of a healthy development of real University life. He has therefore to face all this opposition and propaganda from those who have not seen eye to eye with him on these issues. There has been no other substantial difference between the Vice-Chancellor and the Pro. Vice-Chancellor and this politically powerful group in

the Council. It is for you and the public to judge whether the present administration of the Banaras Hindu University, notwithstanding opposition and misrepresentation, is being run on healthy and sound lines or not. No personal consideration should come into the matter. It is my earnest request to you not to accept all that may be said as necessarily correct whether it comes from one source or another. I invite you to find the true facts for yourself even as, twice, at my request, the Government of India have found them to their satisfaction, and then to help in bringing about in the public mind a correct appreciation of the situation in this University.

Yours truly,

GOVIND MALAVIYA,

Vice-Chancellor.

P.S. To avoid further length I have left out a large number of other relevant facts also which would bring a fuller appreciation of the real reasons for the present controversies regarding the affairs of this University. The facts which I have mentioned above, however, I trust, will enable you to understand the position. As I have said, I should very much like to be saved from the need of entering into a public controversy on the subject. The facts stated above, however, are being sent to you on my authority as the Vice-Chancellor of the University. Unless you consider it altogether essential to do so, I should be grateful by your utilising them, in your own manner and with the same prominence with which you have taken note of the matter before, to dispel any incorrect impressions which might have been created. I do not look upon this as a personal matter. My anxiety, as I am sure yours, is and should be for the Benares Hindu University and for truth, justice and fair play. Both the 'Leader' and the 'Pioneer' have consistently befriended the cause of the Benares Hindu University from its very beginning. I have no doubt that your article is written in that spirit alone. In view of the facts given above, I trust you will do what you may consider fit in the matter in the interest of the University.

Govind Malaviya.

III

Letter dated the 4th February, 1956 from Dr. C. P. Ramaswami Aiyar, the then Vice-Chancellor, Banaras Hindu University to the Visitor.

Dear Mr. Visitor,

In continuation of my letter to you of the 1st instant, I am sending this further communication so as to clarify my position and to explain to you the reasons for my decision to resign from the Vice-Chancellorship of the Banaras Hindu University.

2. I have also addressed to my friend, Dr. Radhakrishnan, an explanatory letter and have had discussions with him.

3. The climate and the environment of Banaras do not suit me and in spite of my inherently good constitution, I have noticed that every prolonged stay in Banaras prejudicially affects me and also makes me feel run down (apart from two actual attacks of illness).

4. The background and personnel of the University, due to unchecked and untoward developments during several years are such that I have to devote eight or ten hours a day to routine, petty and often contentious work of a taxing character. Unfortunately, there is no one else who could adequately deal with the almost daily quarrels and intrigues amongst Professors and their subordinate lecturers and tutorial and administrative staff. Further-more, the University is divided into two, (in fact three) irreconcilable parties or groups, partly political and partly personal in character, that seek, not only by open and unrestrained—disputes among themselves but also through engineering anonymous and other communications and by other means, to acquire influence in the various academic bodies of the University, e.g. the Executive Council, the Standing Committee and the Academic Council. All but a few of the highest grade of Professors and Readers are engaged in this unceasing and ignoble conflict to the obvious detriment of their legitimate duties towards their students or in the direction of Research. Hardly any department in the University but has two groups which are constantly laying their respective complaints against each other

before the Vice-Chancellor or are otherwise making each other's position difficult. The members of the Mining and Metallurgy Departments, the Physics and the Spectroscopic Departments, the Zoology Department, the English Department in the Arts College and the Mathematics Department are all kept on terms of hostility by the several Principals who, in many cases, are not even on talking terms with their immediate subordinates. The case is particularly noteworthy in the College of Indology, the College of Ayurveda, the College of Music and the Women's College. In the result, almost daily recriminations take place which are, unfortunately recorded in letters exchanged between the Principals and Professors and the Professors *inter se* and these letters although the Professors occupy adjacent rooms, are typed and sent in triplicate or quadruplicate, not only to the adversaries concerned but to the Registrar, the Pro Vice-Chancellor and the Vice-Chancellor. Copies of these communications reach the hands of the students and they are ranged in opposing camps and the several teachers cannot thus exercise wholesome disciplinary control over the students collectively or individually.

5. Fortunately, upto now, no revolt has been engineered against me and an incipient students' demonstration which was initiated at the instance of some Professors fizzled out. I am not nervous nor afraid of these phenomena and have, so far, kept them in check. But all this means that I have to devote much time to petty squabbles and numerous interviews and mediations.

6. The students have been encouraged in the past and are still being encouraged by political forces from outside to join and to function in several political parties which are antagonistic to each other; and excepting at the time when the examinations come near, one of the main activities of the students is to be in touch with political leaders outside the University with whose influence they imagine they could establish a political career even though their studies may not have been attended with distinction.

7. Therefore my attempts to influence large policies in the University (which alone is my justification to be the Vice-Chancellor) do not secure the requisite time, peace of mind and tranquility for their fruition.

8. I have been seriously attempting to improve the standard of English at least in the post graduate classes so as to enable the students to study the original text books as apart from lecture notes. I have tried hard to introduce the three year course and to improve and encourage Research as well as to re-organise Ayurvedic and Medical instruction. Professors, in truth, are far less interested in academic matters than in perpetual disputes and personal rivalries

and unfortunately, many of them are comparatively young and are a fixture in the University until the age of 60.

9. In addition and in a very special manner, I have been feeling that the position of a Member of the University Grants Commission is fundamentally inconsistent with the Vice-Chancellorship especially of a Central University. I am greatly interested in the work of the University Grants Commission through whose operations I hope that the standards in the University may be raised, overlapping avoided and research stimulated and rightly canalised. But during my short acquaintance with the work of the Commission, I have found that many situations of great delicacy arise when questions relating to my own University come up for discussion and decision before the Commission of which I am now a member. If I do not speak up for my University, the case may go by default especially as there is a natural disinclination amongst other Universities to support large claims on the part of the Central Universities (which are fortunately specially provided for in the new Act). If I were to advocate the cause of my own University, a charge of special pleading may legitimately arise. I have large development programmes in regard to the Banaras University such as hostels, libraries and laboratories, Senate Hall, sports facilities, common rooms, etc., and there is much embarrassment in its Vice-Chancellor being a member of the University Grants Commission. I specially experienced this embarrassment during the recent visit of the Reviewing Committee of the U.G.C. to Banaras when I had to plead before them for a grant of nearly 150 lakhs of rupees.

10. Over and above all these considerations, there is a personal one. For many years, I have collected considerable material for literary work which I have planned. I had intended to devote myself to that work when I was called upon successively to take up the Vice-Chancellorships of the Annamalai and the Banaras Universities. In neither have I found the time or the opportunity to carry out my intentions. Although I feel that I can still engage myself in educational or other work if I can have some peace of mind during at least a part of the day yet in the conditions that prevail and will prevail for some considerable time in Banaras, I cannot fulfil the programme that I have set before myself.

11. I have therefore decided to resign from the Vice-Chancellorship of the Banaras Hindu University and I am requesting you to accept my resignation with effect from the 2nd April, 1956.

With kindest regards and my best wishes,

I am,

Yours sincerely,

C. P. Ramaswami Aiyar.

GIPND—838 LS—LSI—29-8-58—1450.