It was in the late nineteenth century that Sir Syed Ahmed Khan initiated in Aligarh a powerful educational movement for bringing about intellectual awakening among the Indian Muslim community. Inspired by rational interpretation of Islamic teachings he realised that modern liberal education was the only solution to bring about a renaissance among the Muslim community and therefore he established Muhammadan Anglo-Oriental College. By 1920, Aligarh Muslim University was established as a result of statutory legislation. Though the funds were collected largely by the Muslim community, some contributions were made by Hindus and other communities as well. The Act of 1920 by which this university was established kept it open to all persons of either sex and of whatever race, creed or class but ensured that high offices of authority such as Vice-Chancellor, Executive Council and University Court be left open for Muslims alone and for a long time the University became, in the opinion of nationalist leaders, a centre of intense political activity for politicians and communalists who encouraged Muslim separatism and communalism. Administratively it was a unitary and residential university and academically it was a centre of study and research in Islamic Religion, philosophy and education.
After the inauguration of the Constitution, the Aligarh Muslim University Act was amended in 1951 and 1965. By the former amendment, an attempt was made to change the provision that related to imparting religious instruction in such a way that the University would not lose the grant given by the Central Government. The latter amendment reduced the powers of the Court of the University and increased those of the Executive Council. In Ameer Basha and others v. The Union of India (1968), where these two amendments were challenged, the Supreme Court held that since the University was established by the Central law vis., the Aligarh Muslim University Act, 1920, it could not be treated as one established and administered by the Muslim minority within the meaning of Article 30(1) of the Constitution. Apart from the constitutional obstacle, it was not proper for a secular government to allow a self-confessed minority institution to function with State funds.

In 1965, the obscurantist activities in the University resulted in an attack on the Vice-Chancellor, Mr. Ali Yawar Jung.

Since 1965, the university has been governed under emergency legislation creating some sort of uncertainty in its administration and the recent Amendment Bill of 1972 sought to end this uncertainty and to ensure that the

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1 For details see supra Chapter XIII, Minority Rights, pp. 610-23 of this thesis.
University would henceforth be administered on the lines of the proposals set out in Gajendragadkar Committee report. This legislation seeks to preserve the distinct academic atmosphere built around the university for over fifty years of its existence. Its unitary and residential character is retained and it shall continue to function as a national institution specialising in the studies of Islamic religion and philosophy. At the same time the legislation tries to strengthen the academic community within the University and tries to introduce much-needed and long-delayed reforms which provide for the smooth functioning and academic autonomy of this national institution. This is being done by introducing certain structural reforms. The composition of the Court of the University has been altered to reduce the influence of donors and old boys while giving teachers a greater voice and by including 15 student representatives. The procedure for appointing the Vice-Chancellor provides for a selection committee consisting of persons nominated by the Chancellor or Visitor and the University Executive Council; the committee recommends a panel of names, out of which the Chancellor or Visitor appoints one for the position. This method may have its defects but this is certainly a change for the better since the Executive Council is more representative of academic interests than the Court of the University which includes representatives.
of the Old Boys' Association, of commerce, agriculture, trade unions and other organizations which are not necessarily aware of academic requirements.

This legislation has provoked rival demonstrations against it both by Muslim and Hindu communal elements. The Muslim League, the Muslim Majlis, the Majlis-a-Mushavarat and the Old Boys' Association of the Aligarh University have been misleading the Muslim masses into believing that the legislation has tried to diminish the right of the Muslim community as a religious minority in as much as the legislation does not declare the University a minority institution under Article 30(1) of the Constitution. The Jan Sangh on the other hand has intensified the criticism by arguing that the legislation has been pampering the claims of the minorities in as much as the legislation does not accept the plea that colleges in Aligarh town which are not part of the present campus be affiliated to it.

The academic community, the students, teachers and educationists did not appear to be actively participating in these agitations. The Old Boys' Association was almost dominated by feudalists and non-secularists. One could easily understand the fact that the extreme communalists and politicians on both sides who fomented the agitation were inspired more by religious fanaticism and had a political axe to grind rather than any real academic purpose to serve nor had they the welfare of the University
in mind. Any dispassionate and objective study of the measure would point out the desire of the government to streamline the administration of the University while retaining its special character and orientation towards Islamic studies. It must be realised that the legislation has symbolised a struggle for academic freedom for progress and above all for secularism. It is admitted that such a legislation cannot be a comprehensive remedy for the ills of our Universities and that in the ultimate analysis it is the self-regulating capacity of our academic community that can provide a true answer. Salvation of our Universities cannot be realised by statutory legislation alone but better structural framework can at least make a good beginning. It is high time for Muslims to realise that they have to enter the mainstream of the educational system and have to move forward along with the rest of the people and that only institutions with a secular atmosphere can lead them to better understanding and appreciation of each others' point of view and peculiarities of culture. Hindu extremist organisations should learn that the legitimate claims of Muslim minorities sanctioned to them by the constitutional guarantees must be duly respected. It is only by such understanding on the part of both that a new secular and egalitarian society which seeks the good of all can be built up.
APPENDIX II

DEFINITION OF HINDU

In a very recent case Commissioner of Wealth-tax West Bengal v. Smt. Champa Kumari Singhí1 the Supreme Court dealt with a question whether a Jain undivided family is included in the expression Hindu undivided family.

The reasoning adopted in the Calcutta High Court was that 'although Hindu law applies to Jains except in so far as such law is varied by custom, Jains do not become Hindus in the same way as Khojas and Cutchi Memons of Bombay and Sunni Bohras of Gujarat cannot be regarded as Hindus although Hindu law applies to them in matters of inheritance and succession. Hinduism does not include Hindu converts to other religions and also dissenters from Hinduism who formed themselves into distinct communities or sects with peculiar religious usages so divergent from the principles of Shastras that they could not be regarded as Hindus. It was mentioned that the modern trend of authority is against the view that the Jains are Hindu dissenters is based on misreading of the ancient authorities relating to these religions. A reference was made to the findings of Mr. C. R. Jain who put forward the thesis that Hinduism and Jainism were parallel creeds.

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though they shared the same form of social order and mode of social living. He had even contended that the error which had crept in the matter of Jains being governed by Hindu law should be rectified.2

The Supreme Court in this connection refers to the views expressed by established authorities3 in the matter and also to cases decided and points out that the Jains were to be regarded as Hindus for the purposes of law though they seem to dissent from some of the principles of orthodox Hinduism. It maintains:

"Before the amendment and codification of major branches of Hindu Law by four statutes, i.e. The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956, The Hindu Minority and Guardianship Act 1956 and the Hindu Adoptions and Maintenance Act 1956, the undisputed position was that the Jains were governed by the Hindu Law modified by custom. ... The legislative practice also was to generally treat Jains as included in the term 'Hindu' in various statutory enactments. Wherever Jains were mentioned in addition, it was by way of abundant caution. ... We are not concerned with the question whether Jains are sect of Hindus or Hindu dissenters.

2 G. R. Jain, "Jain Law" (1926) quoted Ibid., at p. 172.

3 For example, Hayne, West and Buhler, G.C. Sarker etc., quoted Ibid., p. 172.
Even if religions are different what is common is that all those who are to be governed by the provisions of these enactments are included in the term "Hindu". They are to be governed by the same rules relating to marriage, succession, minority, guardianship adoption and maintenance as Hindus. The statutes have thus accorded legislative recognition to the fact that even though Jains may not be Hindus by religion, they are to be governed by the same laws as the Hindus.4

4 For example, Sterkumarbai V. Jeoraj, A.I.R. 1921 P.C. 77. Pannalal V. Sitarai, A.I.R. 1953 Nag. 70.