IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

(Petition under Article 32 of the Constitution of India read with Under Order XXXVIII of the Supreme Court Rules 2013)

WRIT PETITION (CIVIL) NO. OF 2020

IN THE MATTER OF:

Balram Singh & Ors. ...Petitioners

Versus

Union of India & Anr. …Respondent

PAPER BOOK

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ADVOCATE FOR THE PETITINER:VISHNU SHANKAR JAIN

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A

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OFFICE REPORT ON LIMITATION

1. The Petition is/are within time
2. The Petition is barred by time and there is delay of No days in filing the same against order dated and Application for Condonation of ___ day's delay has been filed.
3. There is a delay of ___ days in refilling the Petition and Application for condonation of_____ days delay in refilling has been filed.

(SECTION OFFICER)

Filed on 07.2020

A1

PROFORMA FOR FIRST LISTING

SECTION –

The case pertains to (please tick/check the correct box):

Central Act: (Title): 42nd Amendment of the Constitution of India, Representation of People Act, 1951

Section: 29-A(5) of Representation of People Act, 1951

Central Rule: (Title) N/A

Rule No(s) : N/A

State Act: N/A

Section: N/A

State Rule: (Title) N/A

Rule No(s) : N/A

Impugned Final Order/Decree: (Date): N/A

High Court: N/A

Names of Judges: N/A

Tribunal/Authority: (Name) N/A

1. Nature of matter: Civil

2. (a) Petitioner/appellant: Balram Singh & Ors..

(b) e-mail ID: N.A.

Mobile phone number: N.A

3. (a) Respondent: Union of India& Anr

(b) e-mail ID: N/A

Mobile phone number: N/A

4. (a) Main category classification: 1800 Ordinary Civil Matters

(b) Sub classification: 1807 Others

5. Not to be listed before: N/A

6a. Similar/Pending matter: Not filed any similar matter

6b. Decided cases with citation: Not any similar decided case.

7. Criminal Matters: N/A

(a) Whether accused/convict has surrendered: N/A

(b) FIR No. Date: N/A

I Police Station: N/A

(d) Sentence Awarded: N/A

(e) Sentence Undergone: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 notification: N/A

(b) Date of Section 6 notification: N/A

I Date of Section 1 notification: N/A

9. Tax Matters: State the tax effect: N/A

10. Special Category (first petitioner/appellant only):

Senior citizen 70 years DSC/ST / Woman/child Disabled Legal Aid case in custody: N/A

11. Vehicle Number (in case of Motor Accident Claim matters): N/A

Date: ….07.2020

New Delhi

VISHNU SHANKAR JAIN

Advocate for the Petitioners

Code No- 2448

Email: advt.vishnujain@gmail.com

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PROCEEDINGS

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SYNOPSIS

This Petition is being filed under Article 32 of the Constitution of India Challenging the 42nd Constitution Amendment Act 1976 by which the words "socialist" and "secular" were inserted in the Preamble of the Constitution of India, which is per se illegal for violating the concept of freedom of "Speech and Expression" enumerated in Article 19(1)(a) of the Constitution of India and the right to "freedom of religion" guaranteed under Article 25 of the Constitution of India and such amendment is also against the historical and cultural theme of the Great Republic of Bharat, the oldest civilization of the world, having clear concept of "Dharma" different from the concept of religion and the communist theory of State cannot be applied in Indian context which has been a total failure and is not in tune with the religious sentiments and socio-economic conditions of India.

The petitioners are also challenging the insertion of the words 'Secular' and "Socialist' in section 29 A (5) of the Representation of People Act 1951 added by Act No. 1 of 1989 (w.e.f. 15.06.1989) making compulsory for the political parties applying for registration before Election Commission of India to make specific provision in its memorandum or rules and regulations that the association or body shall bear true faith and allegiance to the Constitution of India as by law established and to the principles of 'S**ocialism'** and 'S**ecularism'** and democracy and would uphold the sovereignty and integrity of India.

The question is as to whether the political parties and public in general have to follow principles of socialism and secularism compulsorily and the conditions embodied in section 29-A (5) of

the Representation of People Act are violative of Article 19(1) (a),(c), Article 25 and against the principle of democracy, the soul of the Constitutional theme.

In famous case Abhiram Singh Vs C. D. Commachen reported in 2017 (2) SCC 629, a Seven Judges Bench interpreted the word 'his religion' occurring in section 123 (3) of Representation of People Act, 1951. Justice Dr. D. Y. Chandrachud while giving a dissenting judgment expressed his views referring to some ground realties prevailing in the society and held that in a democratic setup the citizens have right to raise their voice at public platform. These views are applicable in pre-election era before election starts and are applicable in this case also. Few passages of the judgment are being quoted below:-

> **Para 111 at page 699** "….. Our Constitution recognises the broad diversity of India and, as a political document, seeks to foster a sense of inclusion. It seeks to wield a nation where its citizens practise different religions, speak varieties of languages, belong to various castes and are of different communities into the concept of one nationhood. Yet, the Constitution, in doing so, recognises the position of religion, caste, language and gender in the social life of the nation. Individual histories both of citizens and collective groups in our society are associated through the ages with histories of discrimination and injustice on the basis of these defining characteristics. In numerous provisions, the Constitution has sought to preserve a delicate balance between individual liberty and the need to remedy these histories of injustice founded upon immutable characteristics such as of religion, race, caste and language. The integrity of the nation is based

on a sense of common citizenship. While establishing that notion, the Constitution is not oblivious of history or to the real injustices which have been perpetrated against large segments of the population on grounds of religion, race, caste and language. The Indian State has no religion nor does the Constitution recognise any religion as a religion of the State. India is not a theocratic State but a secular nation in which there is a respect for and acceptance of the equality between religions. Yet, the Constitution does not display an indifference to issues of religion, caste or language. On the contrary, they are crucial to maintaining a stable balance in the governance of the nation."

Para 118 at page 700 "These, among other provisions of the Constitution demonstrate that there is no wall of separation between the State on the one hand and religion, caste, language, race or community on the other. The Constitution is not oblivious to the history of discrimination against and the deprivation inflicted upon large segments of the population based on religion, caste and language. Religion, caste and language are as much a symbol of social discrimination imposed on large segments of our society on the basis of immutable characteristics as they are of a social mobilisation to answer centuries of injustice. They are part of the central theme of the Constitution to produce a just social order. Electoral politics in a democratic polity is about mobilisation. Social mobilisation is an integral element of the search for authority and legitimacy. ……."

Para 119 at page 701 "…..To hold that a person who seeks to contest an election is prohibited from speaking of the

legitimate concerns of citizens that the injustices faced by them on the basis of traits having an origin in religion, race, caste, community or language would be remedied is to reduce democracy to an abstraction. Coupled with this fact is the constitutional protection of free speech and expression in Article 19(1)(*a*) of the Constitution. This fundamental right is subject to reasonable restrictions as provided in the Constitution……"

Para 120 at page 701 "……Caste, race, religion and language are matters of constitutional importance. The Constitution deals with them and contains provisions for the amelioration of disabilities and discrimination which was practised on the basis of those features. These are matters of concern to voters especially where large segments of the population were deprived of basic human rights as a result of prejudice and discrimination which they have suffered on the basis of caste and race. The Constitution does not deny religion, caste, race, community or language a position in the public space. Discussion about these matters—within and outside the electoral context—is a constitutionally protected value and is an intrinsic part of the freedom of speech and expression. The spirit of discussion, debate and dialogue sustains constitutional democracy. A sense of inclusion can only be fostered by protecting the right of citizens freely to engage in a dialogue in public spaces. Dialogue and criticism lie at the heart of mobilising opinion. Electoral change is all about mobilising opinion and motivating others to stand up against patterns of prejudice and disabilities of discrimination……."

F

In this case the petitioners submit that 'Socialist' and 'Secular' concepts are political thoughts and may be applicable so far as the nature of the Governance of the country in a vital sense is concerned but at the same time in a democratic setup, the subjects of the nation are not bound to accept a particular ideology and the application of the ideology depends on the will of the people to be reflected through votes from time to time.

Article 14 of the Constitution guarantees equality before the law to all persons and Article 15 (1) is an injunction against the State from making any law or provision discriminating any citizen on the basis of religion, creed, caste, decent, place of birth or any of them. Article 27 prohibits the State from compelling any person to pay taxes, the proceeds of which or specifically are appropriated in payment of expenses for promotion or maintenance of any particular religion or religious denomination. The combined effect of Article 14, 15(1) and 27 is that all the three organs of the State in the matter of framing laws, performing Sovereign and Governmental functions and in dispensing justice will be free from religious bias.

The question is as to what is more required and how the citizens of India can be compelled to be secular when they have fundamental right to Freedom of religion under Article 25 of the Constitution of India, to freedom of conscience and right freely to profess, practice and propagate religion.

The Constitution must be in consonance with the historical and cultural background of the country. In Indian context the concept of Dharma is prevailing in the country from Satyug, which lasted for 17,28,000 years, Treta Yug which lasted for 12,96,000

years, Dwapar Yug which lasted for 8,64,000 years and then Kalyug started from 3102 B.C.E. i.e. roughly it began 5122 years ago.

It is a matter of recorded history that invaders right from 712 with the attack of Mohd. Bin Qasim till 15.08.1947 have trampled the Indian culture during which a number of evils developed in the society. Indian society is still facing social and cultural attack from foreigners.

In 19th Century a German philosopher, economist, historian, sociologist, political theorist, journalist and socialist revolutionary Karl Marx (5 May 1818 –14 March 1883) propounded a new theory giving dimension to the concept of socialistic State, commonly known as communist theory or Marxist theory terming religion as opium, which should be vanished from public life.

Karl Marx viewed religion as "the soul of soulless conditions" or the "opium of the people". At the same time Marx saw religion as a form of protest by the working class against their poor economic conditions and their alienation. In the Marxist – Leninist interpretation, all modern religions and churches are considered as "organs of bourgeois reaction" used for "the exploitation and the stupefaction of the working class."

Karl Marx religious views have been the subject of much interpretation. He famously stated in Critique of Hegel's Philosophy of Right:-

> "Religious suffering is, at one and the same time, the expression of real suffering and a protest against real suffering. Religion is the sigh of the oppressed creature, the

heart of a heartless world, and the soul of soulless conditions. It is the opium of the people.

The abolition of religion as the illusory happiness of the people is the demand for their real happiness. To call on them to give up their illusions about their condition is to call on them to give up a condition that requires illusions. The criticism of religion is, therefore, in embryo, the criticism of that vale of tears of which religion is the halo.

Criticism has plucked the imaginary flowers on the chain not in order that man shall continue to bear that chain without fantasy or consolation, but so that he shall throw off the chain and plucks the living flower. The criticism of religion disillusions man, so that he will think, act, and fashion his reality like a man who has discarded his illusions and regained his senses, so that he will move around himself as his own true Sun. Religion is only the illusory Sun which revolves around man as long as he does not revolve around himself."

The communist manifesto says:-

"Nothing is easier than to give Christian asceticism a Socialist tinge. Has not Christianity declaimed against private property, against marriage, against the State? Has it not preached in place of these, charity and poverty, celibacy and mortification of the flesh, monastic life and Mother Church? Christian Socialism is but the holy water with which the priest consecrates the heart-burnings of the aristocrat."

The theory of Karl Marx divided the world into Left and Right theories of State functioning, Leftist supporting Communist theory and Rightist opposing Communist theory.

Generally European countries condemned the Communist theory whereas Lenin was pioneer of Communist theory and implemented the same at the cost of life of lakhs of citizens. Later on China also adopted Communist theory, where there is no democracy. Generally the concept of democracy is alien to Communist theory of State. It is seen that in communist dominated State there is no democracy.

An article dated 10.06.1853 written by Karl Marx under the caption "THE BRITISH RULE IN INDIA" was published on 25.06.1853 in New York Daily Tribune wherein Karl Marx has expressed his views on ancient Indian culture and regarding other matter concerning India. He has severely even in uncouth manner criticized the Hindu Dharma. His views have its implication on those who follow communist/leftist philosophy in India and they wanted to introduce the word Socialist and Secular in the Constitution and became successful in Emergency Era when most of their opponents had been sent behind bars.

Another article dated 22 July 1853 written by Karl Marx under the caption THE FUTURE RESULTS OF BRITHSH RULE IN INDIA" was published on 08.08.1853 in New York Daily Tribune wherein he has taken stock of situation of British Rule and went on saying that:-

> "England has to fulfill a double mission in India: One destructive, the other regenerating the annihilation of old Asiatic society and the laying the material foundation of western society in Asia.

> Arabs, Trucks, Tartars, Mogulas, who had successively overturn India, soon became Hindooized, the barbarian conquerors being, by an eternal law of history, conquered themselves by the superior civilization of their subjects. The British were the first conquerors superior, and therefore, inaccessible to Hindoo Civilization. They destroyed it by braking it the native communities, by uprooting the native industry, and by leveling all that was great and elevated in the native society. The historic pages of their rule in India report hardly anything beyond that destruction. The work if regeneration hardly transpires through a heap of ruins. Nevertheless it has begun".

It is noteworthy that the words'Socialist' and 'Secular' were not introduced in the Preamble in the Draft Constitution. In Constituent Assembly a prominent member Prof. K.T. Shah made an endeavor to incorporate words'Socialist' and 'Secular' in the Preamble of the Constitution.

On 15.11.1948 Prof. K.T. Shah proposed first amendment, seeking to declare India as a "Secular, Federal, Socialist Nation". (Constituent Assembly Debates Volume VII page no. 399-400). After lengthy discussion the Assembly rejected the amendment in Preamble proposed by Prof. K. T. Shah.

On 25.11.1948, Prof. K.T. Shah second time introduced an amendment No. 1019 in Article 40 of the Draft Constitution for incorporating the word 'secular'. The amendment was rejected by the House. (Constituent Assembly Debates Volume VII page no.

597 and 605). The amendment proposed by Prof. K. T. Shah was rejected by the House.

On 03.12.1948, Prof. K.T. Shah third time moved an amendment to incorporate the word ‘secular’ in draft Article 18. (Constituent Assembly Debates Volume VII page no. 815). The amendment proposed by Prof. K. T. Shah was rejected by the House.

Dr. Ambedkar opposing the said proposal addressed the Assembly on 15.11.1948. (page no. 401-402 of Constituent Assembly Debates Volume VII) such motion and consequently after due deliberation said proposal was rejected.

It is relevant to mention that the word secular occurred 67 times in the debate of Constituent Assembly. Likewise the word secular was broadly discussed in the debates. The Constituent Assembly in meeting dated 17.10.1949 lastly discussed the issue of ‘Secular’ and ‘Socialist’ extensively and all such proposals were rejected and the Preamble was passed without having words ‘Secular’ and ‘Socialist’.

The Question is as to what is the effect of using the ‘socialist and secular’ words in the Preamble of the Constitution of India and whether in Indian contest Secular means the Government bound by Article 14, 15 and 27 of the Constitution of India and such concept cannot be applied in public domain and the concept of socialist does not mean acceptance of Marxist Communist theory and same is limited so far it is against exploitation and is concerned with the upliftment of the conditions of workmen.

It is relevant to mention that the term ‘Secular’ and ‘Socialist’ have limited meaning in Indian context. In France and

in some countries a secular Government is never involved in religious matter whereas the Indian Constitution itself has empowered the State to indulge in religious matter and some special rights have been given even to religious minority under Article 30 the Constitution. Even the State can grant aid to minority religious institutions.

By virtue of item 20 list 1 of 7th Schedule Parliament can enact law relating to pilgrimages outside India. The Union of India as well as States have power to make law on the subjects trust and Trustees in item 10, Charities and Charitable Institutions, Charitable and Religious Endowment and Religious Institutions falling in item 28 of concurrent list. The State under Article 25(2) has power to make law regulating or restricting any economic, financial, political or other secular activity associated with religious practice. Therefore, in India the State has power to make law relating to matters connected with religion within the parameters of Constitutional limitation.

In view of the fact that States have power to indulge in religious matters, though in limited sense, and can give grant to religious minorities, thus the State as a political entity cannot be a secular republic in strict sense.

One of the question is as to whether Parliament has power to amend the Solemn declaration made in the Constituent Assembly on 26.11.1949 by substituting some words and phrases in 1976 or the Preamble which in the form of vow taken by the members of the Constituent Assembly cannot be altered at all.

In view of the background of origin of the words ‘Socialist’ and ‘Secular’ referred to above, it would be desirable for the Hon’ble Court to declare that nothing can be added or subtracted in the Preamble of the Constitution. The words ‘Secular’ and

'Socialist' added in the Preamble have no binding force so far the political party and public in general are concerned and the state cannot compel the subjects to follow the principle of socialism and secularism.

LIST OF DATES

29.08.1947	Constituent Assembly of India vide resolution dated 29.08.1947 appointed a drafting committee.
21.02.1948	Dr. Bhim Rao Ambedkar in his letter dated 21.02.1948 (page iii of Daft Constitution of India) addressed to the President of the Constituent Assembly of India submitted that on behalf of drafting committee, appointed by resolution of Constituent Assembly of August 29, 1947, the draft of the New Constitution of India settled by the committee, was being submitted. He further mentions that:- "Preamble- 'The Objective Resolution' adopted by the Constituent Assembly in January 1947 declares that India is to be a Sovereign Independent Republic. The drafting committee has adopted the phrase Sovereign Democratic Republic as Independence is usually implied in the term Sovereign."
15.11.1948	In the Constituent Assembly, the proposal of Sri K. T. Shah to incorporate in Article 1, the words 'Secular', 'Federal Socialist', was discussed. Dr. B. R. Ambedkar, strongly

	opposed the insertion of those phrases in the proceeding held on 15.11.1948. The proposal put forward by Sri K.T. Shah was negatived.
15.11.1948	Dr. Ambedkar opposing the said proposal addressed the Assembly on 15.11.1948 (page no. 401-402 of Constituent Assembly Debates Volume VII) such motion and consequently after due deliberation said proposal was rejected.
25.11.1948	On 25.11.1948 Prof. K.T. Shah second time introduced an amendment No. 1019 in Article 40 of the Draft Constitution for incorporating the word 'secular'. The amendment was rejected by the House. (Constituent Assembly Debates Volume VII page no. 597 and 605). The amendment proposed by Prof. K. T. Shah was rejected by the House.
03.12.1948	Prof. K.T. Shah third time moved an amendment to incorporate the word 'secular' in draft Article 18 on 03.12.1948. (Constituent Assembly Debates Volume VII page no. 815). The amendment proposed by Prof. K. T. Shah was rejected by the House.
06.12.1948	Sri Lokanath Mishra, one of the prominent members of the Constituent Assembly in his speech delivered on 06.12.1948 on the issue of Secular State and termed the said concept as a slippery phrase, a device to by-pass the Ancient culture of the land. Another prominent member Sri H. V. Kamath

	expressed his view point on Hindu Dharma vis-a-vis the Secular concept in Indian contest.
17.10.1949	The Preamble proposed by Drafting committee has been accepted by Constituent Assembly after due deliberation rejecting the proposal to include the words 'Socialist' and 'Secular'.
25.06.1975	The President of India proclaimed emergency Under Article 352 of the Constitution of India.
02.11.1976	The House of the People (Lok Sabha) passed 42nd Constitutional Amendment Bill 1976.
11.11.1976	The Council of States (Raj Sabha) passed 42nd Constitutional Amendment Bill 1976.
18.12.1976	The President of India After passing the 42nd Amendment Bill the President of India assented to the Bill.
03.01.1977	The Constitution (42nd Amendment Act) Act 1976 came into operation inserting the words 'Socialist' and 'Secular' in the Preamble of the Constitution.
21.03.1977	The proclamation of Emergency was revoked. The Emergency remained in operation from 25.06.1975 to 21.03.1977.
15.06.1989	Chapter 4-A under the heading "Registration of Political Parties" was added in Representation of People Act, 1951, making provision for registration of political parties with the Election Commission of India, laying down the condition for registration in section 29-A of the Act.

. …..07.2020 Hence the present Writ Petition.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

((Petition under Article 32 of the Constitution of India read with Under Order XXXVIII of the Supreme Court Rules 2013)

WRIT PETITION (C) NO. OF 2020

IN THE MATTER OF:

1. Balram Singh
   S/o Gnaga Dutt,
   R/o 109 Fourth Floor,
   State Bank Colony,
   G.T. Karnal Road,
   Delhi-110009
2. Karunesh Kumar Shukla
   S/o Sri Ram Narayan Shukla
   R/o Village-Pakri Bhikhi
   Post-Belhra, Pakri Bhikhi,
   District- Basti
   Uttar Pradesh-272182

3. Pravesh Kumar
   S/o Rishi Pal Singh,
   R/o F-1/B, Jagat Puri Parwana Road,
   Krishna Nagar, East Delhi,
   Delhi-110051

…Petitioners

-Versus-

1. Union of India

   Through its Secretary,

   Ministry of Law and Justice,

   4th Floor, A-Wing, Shastri Bhawan,

   New Delhi-110 001

   E-mail id – kg.thang@nic.in

2. The Election Commission of India,

   Through its Secretary,

   Nirvachan Sadan.

   Ashoka Road,

   New Delhi-110 001

…Respondents

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA CHALLENGING THE CONSTITUTIONAL VALIDITY OF WORDS SOCIALIST AND SECULAR INSERTED BY FORTY SECOND AMENDMENT IN THE PREAMBLE OF THE CONSTITUTION AND TO ISSUE AN APPROPRIATE WRIT ORDER OR DECLARATION THAT THE CITIZENS, SOCIAL ORGANIZATIONs AND POLITICAL PARTIES ARE NOT BOUND TO ADOPT THE PRINCIPLEs OF 'SOCIALISM' AND 'SECULARISM' AND TO STRIKE DOWN THE WORDS 'SOCIALIST' AND 'SECULAR' OCCURRING IN SECTION 29-A (5) OF THE REPRESENTATION OF PEOPLE ACT,1951 .

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND OTHER COMPANION JUSTICES OF THE HON'BLE SUPREME COURT OF INDIA;

HUMBLE PETITION OF THE PETITIONER ABOVENAMED;

MOST RESPECTFULLY SHEWETH;

1. That this Petition is being filed under Article 32 of the Constitution of India challenging the Forty Second Constitution Amendment Act 1976 by which the words 'Socialist' and 'Secular' were inserted in the Preamble of the Constitution of India. The petitioners are also challenging the insertion of the words 'Secular' and "Socialist' in section 29 A (5) of the Representation of People Act 1951 added by Act No. 1 of 1989 (w.e.f. 15.06.1989) compelling the political parties to mention in the memorandum, rules or regulation that they will abide by principles of 'Socialism' and 'Secularism'.

1.A Petitioner No.1 Balram Singh,- is citizen of India and voter from 18- Model Town Constituency Delhi. He is Advocate and is member of Supreme Court Bar Association. He is practicing in this Hon'ble Court.

Petitioner No. 2 Karunesh Kumar Shukla,- is citizen of India and voter from 61-Basti Sadar Constituency Uttar Pradesh. He is Advocate and is member of Supreme Court Bar Association. He is practicing in this Hon'ble Court.

Petitioner No. 2 Pravesh Kumar, - is citizen of India and voter from 60-Krishna Nagar Constituency Jagatpuri Delhi. He is social worker.

1.B The petitioners are intending to form a political party but they do not subscribe the idea that a political party should adopt principles of 'Socialism' and Secularism' as mandated in section 29-A (5) of Representation of People Act 1951.The petitioners are filling this petition in their personal capacity as they are aggrieved in the matter being citizens of India. It is humbly submitted that considering the nature of the prayer made herein if this Hon'ble Court thinks that the matter concerns the public at large, this Hon'ble Court may kindly treat this petition as a Public Interest Litigation by virtue of provisions contained in Order 38 Rule 12 (c) of the Supreme Court Rules 2013.

2. **Brief facts are as follows:-**

2.1 That Dr. Bhim Rao Ambedkar, the Chairman of drafting committee submitted the Draft Constitution to the President of the Constituent Assembly of India on 21.02.1948. It is relevant to point out that the draft of Preamble as proposed by the drafting committee, after heated arguments in the Constituent Assembly was finally accepted, brushing aside the proposal to insert the words 'Secular' and 'Socialist' in the Preamble of the Constitution of India.

2.2 That it relevant to mention that the proposal to insert the words 'Secular' and 'Socialist' in the Preamble was rejected thrice after due deliberation and exchange of views between the members of Constituent Assembly. The

Preamble was adopted in the meeting of the Assembly on 17.10.1949 without using the words 'Secular' and 'Socialist'.

2.3 That it is relevant to mention that a prominent member of Constituent Assembly, Prof. K.T. Shah proposed the amendment to insert the words 'Secular' and 'Socialist' in the Preamble thrice. The first proposal was discussed by Constituent Assembly in meeting dated 15.11.1948 (Constituent Assembly Debates Volume VII age No. 399-401). A copy of the proposal and the views of Prof. K. T. Shah expressed before the Constituent Assembly on 15.11.1948, is annexed hereto and marked as **Annexure No. P-1. (page 55 to 59)**

2.4 That Dr. Bhim Rao Ambedkar opposed the amendment proposed by Prof. K.T. Shah and strongly submitted that those two words were unnecessary. He also stated that "what should be the policy of State, how the society should be organized in its social and economic sides are matters which must be decided by the people themselves according to time and circumstances. It cannot be laid down in the Constitution itself, because that is destroying democracy altogether. If you state in the Constitution that the social organization of the State shall take a particular form, you are, in my judgment, taking away the liberty of the people to decide what should be the social organization in which they wish to live. It is perfectly possible today, for the majority people to hold that the socialist organization of society is better than the capitalist organization of the society. But it would be perfectly possible for thinking

people to devise some other forms of social organization which might be better than the socialist organization of the today or of tomorrow. I do not see therefore why the Constitution should tie down the people to live in a particular form and not leave it to the people themselves to decide it for themselves".

A Copy of complete speech of Dr. Bhim Rao Ambedkar delivered on 15.11.1948 (Constituent Assembly Debates Volume VII page 401-402) is annexed hereto and marked as **Annexure No. P-2. (page 60 to 62)**

2.5 That after discussion the motion mooted by Prof. K. T. Shah, negatived by the Constituent Assembly on 15.11.1948 (Constituent Assembly Debates Volume VII page 403). The relevant portion of the proceeding dated 15.11.1948 is as under:-

"Mr. Vice President: The Question is:

That in clause (1) of Article 1 after the words 'shall be a' the words 'Secular, Federal, Socialist' be inserted.

The motion was negatived."

2.6 That on 25.11.1948, Prof. K.T. Shah again moved an amendment No. 1019 in Article 40 of the Draft Constitution for incorporating the word 'secular'. The amendment was discussed in the House and same was negatived. A copy of the extract of the proceeding relating to the amendment No. 1019 proposed by Prof. K. T. Shah on 25.11.1948 (Constituent Assembly Debates Volume VII page 597 and

605) is annexed hereto and marked as **Annexure No. P-3. (page 63 to 64)**

2.7 That another attempt was made to introduce the word 'secular' by Prof. K. T. Shah by moving amendment No. 566 in the Constituent Assembly on 03.12.1948. Constituent Assembly again rejected such proposal on 03.12.1948. A copy of the proceeding relating to the amendment No. 566 proposed by Prof. K. T. Shah on 03.12.1948 (Constituent Assembly Debates Volume VII page 815-816) is annexed hereto and marked as **Annexure No. P-4. (page 65 to 67)**

2.8 That Sri Lokanath Mishra, one of the prominent members of the Constituent Assembly, in his speech delivered on 06.12.1948 on the issue of Secular State, termed the said concept as a slippery phrase, a device to by-pass the Ancient culture of the land. Another prominent member Sri H. V. Kamath expressed his view point on Hindu Dharma vis-a-vis the Secular concept in Indian contest. A copy of the relevant portion of the speech of Sri Lokanatha Misra and Sri H. V. Kamath delivered on 06.12.1948 (Constituent Assembly Debates Volume VII page 823-826) is annexed hereto and marked as **Annexure No. P-5 (page 68 to 75)**

2.9 That the Constituent Assembly in its meeting dated 17.10.1949, finally discussed about the Preamble. The question to introduce the words 'Socialism' and 'Secularism' was discussed intensively by the Assembly and ultimately proposal was rejected. Sri Brijeshwar Prasad, a prominent member of the Assembly moved amendment to include the word socialist in the Preamble of the

Constitution. After discussion this amendment was rejected by the House. A copy of proceeding related to Preamble discussed by Constituent Assembly in meeting dated 17.10.1949 (Constituent Assembly Debates Volume X-XII page 429-457) is annexed hereto and marked as **Annexure No. P-6 (page 76 to 134)**

2.10 That Dr. Ambedkar in his speech made in the Constituent Assembly on 15.11.1948, opposed to incorporate the words 'Socialist' and 'Secular' because that concept is a political thought concerning the governance of the country. In a Constitution recognizing to establish a democratic Government, no ideology should be thrust upon the citizens to go by with a particular ideology taking way their right to choose a Government to be governed by the ideologies most suited in the Indian context to the public and Nation as will of the people reflected through vote should be the guiding principle in framing the Constitution.

2.11 That the political ideology to have a 'Socialist' and 'Secular' state is the outcome of Karl Marx phenomenon developed in 19th century. Karl Marx, (5 May 1818 –14 March 1883) a German philosopher, economist, historian, sociologist, political theorist, journalist and socialist revolutionary propounded a new theory giving dimension to the concept of socialistic, secular State, commonly known as communist theory or Marxist theory terming religion as opium.

2.12 That Karl Marx had studied the history and culture of different nations of the world including India. He showed

his keen interest in the cultural, religious and political system prevailing in India. It appears that he could not get the correct version of Vedic Hindu Dharma and ancient Hindu culture and he read about India with yellow eyes and predetermined motion against religion.

2.13 That an article dated 10.06.1853 written by Karl Marx under the caption "THE BRITISH RULE IN INDIA" was published on 25.06.1853 in New York Daily Tribune wherein Karl Marx has expressed his views on ancient Indian culture and regarding other matter concerning India. Few passages from the published article as aforesaid available on internet are reproduced below:-

> "Hindostan is an Italy of Asiatic dimensions, the Himalayas for the Alps, the Plains of Bengal for the Plains of Lombardy, the Deccan for the Apennines, and the Isle of Ceylon for the Island of Sicily. The same rich variety in the products of the soil, and the same dismemberment in the political configuration. Just as Italy has, from time to time, been compressed by the conqueror's sword into different national masses, so do we find Hindostan, when not under the pressure of the Mohammedan, or the Mogul, or the Briton, dissolved into as many independent and conflicting States as it numbered towns, or even villages.
>
> Yet, in a social point of view, Hindostan is not the Italy, but the Ireland of the East. And this strange combination of Italy and of Ireland, of a world of voluptuousness and of a world of woes, is anticipated

in the ancient traditions of the religion of Hindostan. That religion is at once a religion of sensualist exuberance, and a religion of self-torturing asceticism; a religion of the Lingam and of the juggernaut; the religion of the Monk, and of the Bayadere.

I share not the opinion of those who believe in a golden age of Hindostan, without recurring, however, like Sir Charles Wood, for the confirmation of my view, to the authority of Khuli-Khan. But take, for example, the times of Aurangzeb; or the epoch, when the Mogul appeared in the North, and the Portuguese in the South; or the age of Mohammedan invasion, and of the Heptarchy in Southern India; or, if you will, go still more back to antiquity, take the mythological chronology of the Brahman himself, who places the commencement of Indian misery in an epoch even more remote than the Christian creation of the world.

There cannot, however, remain any doubt but that the misery inflicted by the British on Hindostan is of an essentially different and infinitely more intensive kind than all Hindostan had to suffer before. I do not allude to European despotism, planted upon Asiatic despotism, by the British East India Company, forming a more monstrous combination than any of the divine monsters startling us in the Temple of Salsette. This is no distinctive feature of British Colonial rule, but only an imitation of the Dutch, and so much so that in order to characterize the working

of the British East India Company, it is sufficient to literally repeat what Sir Stamford Raffles, the English Governor of Java, said of the old Dutch East India Company:

"The Dutch Company, actuated solely by the spirit of gain, and viewing their Javan subjects, with less regard or consideration than a West India planter formerly viewed a gang upon his estate, because the latter had paid the purchase money of human property, which the other had not, employed all the existing machinery of despotism to squeeze from the people their utmost mite of contribution, the last dregs of their labor, and thus aggravated the evils of a capricious and semi-barbarous Government, by working it with all the practiced ingenuity of politicians, and all the monopolizing selfishness of traders."

All the civil wars, invasions, revolutions, conquests, famines, strangely complex, rapid, and destructive as the successive action in Hindostan may appear, did not go deeper than its surface. England has broken down the entire framework of Indian society, without any symptoms of reconstitution yet appearing. This loss of his old world, with no gain of a new one, imparts a particular kind of melancholy to the present misery of the Hindoo, and separates Hindostan, ruled by Britain, from all its ancient traditions, and from the whole of its past history."

A complete copy of letter dated 10.06.1853 written by Karl Marx under caption THE BRITHISH RULE IN INDIA

published in New York Daily Tribune on 25.06.1853 available on internet (https://www.marxists.org/archive/marx/works/1853/06/25.htm) is annexed hereto and marked as **Annexure No. P-7. (page 135 to 143)**

2.14 That Another article dated 22 July 1853 written by Karl Marx under the caption THE FUTURE RESULTS OF BRITHSH RULE IN INDIA" was published on 08.08.1853 in New York Daily Tribune wherein he has taken stock of situation of British Rule and went on saying that:-

> "England has to fulfill a double mission in India: One destructive, the other regenerating the annihilation of old Asiatic society and the laying the material foundation of western society in Asia.
>
> Arabs, Trucks, Tartars, Mogulas, who had successively overturn India, soon became Hindooized, the barbarian conquerors being, by an eternal law of history, conquered themselves by the superior civilization of their subjects. The British were the first conquerors superior, and therefore, inaccessible to Hindoo Civilization. They destroyed it by braking it the native communities, by uprooting the native industry, and by leveling all that was great and elevated in the native society. The historic pages of their rule in India report hardly anything beyond that destruction. The work if regeneration hardly transpires through a heap of ruins. Nevertheless it has begun".

A complete copy of letter dated 22.07.1853 written by Karl Marx under caption THE FUTURE RESULTS OF BRITHSH RULE IN INDIA published in New York Daily Tribune on 08.08.1853 available on internet (https://marxists.catbull.com/archive/marx/works/1853/07/22.htm) is annexed hereto and marked as **Annexure No. P 8. (page 144 to 152)**

2.15 That in fact, the Constitution makers never intended to introduce Socialist and Secular concept for the governance of a democratic Government. In fact, they intended to ensure that the Government will not show its inclination towards any religion and will treat the subject equally without any religious bias. Most of the modern Constitutions accept the principle that the Government should keep itself aloof from religion and it shall not interfere in religious matters.

2.16 That keeping in view the provisions made in other Constitutions of the world, the Constitution makers granted equality before the law and equal protection before law to all persons in Article 14 and declared injunction under Article 15 against the State from making any law discriminating the citizens on the basis of creed, caste or religion etc and also declared in Article 27 that nobody will be compelled to pay taxes, the proceeds of which are utilized for promotion and maintenance for particular religion.

2.17 That the Constitution makers keeping in view the socio economic condition of labours, workers, workmen and

weaker section of the society have made provision and also for abolishing forced labour.

2.18 That in Article 23, right against exploitation has been conferred providing that 'Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law'.

2.19 That in interest of social welfare principles have been laid down to be implemented by the state in the governance of the country in Article 38, 39, 41, 42, 43, 45, 46, 47 and 48 in part iv under the heading "DIRECTIVE PRINCIPLES OF STATE POLICY".

2.20 That in view of the elaborate provision having been made to secure the citizens from religious bias and making provision to save workers and weaker sections of the society from the clutches of capitalist, it was not necessary to introduce the words 'Socialist' and 'Secular' in the Preamble of the Constitution of India.

2.21 That there is one strong reason for not declaring India as a secular country because some provisions in the Constitution have been made in favour of minority communities distinguished on the basis of religion and state has been empowered to give them grants and also that the State has been conferred with the power to make laws relating to religious matter and even reservation has been allowed in favour of Anglo Indian Community, a religious minority in the country.

2.22 That it is submitted that the Constitution of India has conferred wide powers on the state to enact law relating to religious matters. Article 25 (2) (a) of the Constitution lays down that states can make law 'regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice'. Therefore the state has power to make laws in religious matter for the purposes enumerated in Article 25 (2) (a) of the Constitution of India.

2.23 That in strict sense in a secular Constitution the state cannot have power to make law indulging in economic, financial, political and any activities of any religion or religious denomination.

2.24 That at the same time Article 30 (2) provides that 'the state shall not in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.'

2.25 That it is respectfully submitted that a secular state cannot provide any grant to any religious community. Such types of grant being given by the state are alien to the concept of secular state. Secularism and grant to minority institution cannot go together. These are antithesis to each other.

2.26 That apart from above, there are subjects placed in the 7th Schedule of the Constitution on which Parliament or the State legislature as the case may be have power to make laws in the matter relating to religion or religious institutions. The subjects provided in the 7th Schedule of the

Constitution conferring power to make laws by the state are given below:-

(a) List -1 – Item 20: Pilgrimages to places outside India.

(b) List 2- Item 7: Pilgrimages, other than pilgrimages to Places outside India.

(c) List 2- Item 32 : ……..… religious and other societies and associations .

(d) List 3- Item 10- Trust and Trustees.

(e) List 3- Item 28-Charities and Charitable institutions, charitable and religious endowments and religious institutions

2.27 That Article 331 provides that if in the opinion of the President of India, the Anglo Indian Community is not adequately represented in the House of the people, he may nominate not more than 2 members of that community to the House of the people. Similar provision made in Article 333 to nominate one member of that community in the State Assembly by the Governor. The term Anglo Indian has been defined in Article 366 (2) of the Constitution.

2.28 That in view of the provisions contained in Article 331 and 333, the President of India or the Governor of the States have been empowered to nominate persons from Anglo India Community, which is a minority community. In a secular Constitution such types of nomination is not permissible.

2.29 That the power of the state to enact law on religious subjects and power to nominate members from minority Anglo Indian community and insertions of word secular in the Preamble of the Constitution are contradictory and against the spirit of the Constitution.

2.30 That Constituent Assembly keeping in view the power conferred on state on religious matter and duty to provide grant to minority educational institution also did not declare India as a secular state.

2.31 That it cannot be disputed that the Constitution was enacted to establish a democratic form of Government. The concept of the democracy is the basic theme behind framing the Constitution. It can be said that entire Constitutional framework rests on the principles of democracy.

2.32 That in democratic setup, it is for the citizens of the country to like or dislike a particular political thought and such concept may change from time to time according to the need of the society. Dr. Ambedkar in his address to the Constituent Assembly of 15.11.1948, rightly pointed out that 'what should be the policy of the State, how the society should be organised in its social and economic sides are matters which must be decided by the people themselves according to time and circumstances.'

2.33 That it is submitted that the philosophy of 'Socialism' and 'Secularism' was advocated by Karl Marx, the pioneer of COMMUNIST thought. In few countries said ideology was accepted but largely same was disapproved by a large number of Nations.

2.34 That the Constitution makers had seen the cruel actions of Lenin where a large number of people were killed in making a communist State. The Constitution makers were aware that in communist theory democracy cannot survive. The political ideologies like 'Socialism' and 'Secularism' were not thrust upon by Constituent Assembly to strengthen the democracy.

2.35 That it is relevant to mention that Preamble is the mirror of the Constitution and reflects as what was intended to implement and achieve through Constitution as framed. The declaration made in the Preamble is a solemn vow taken by the members of Constituent Assembly taken on a particular day.

2.36 That from the recitals made in the preamble it is clear that declaration made in the Preamble refers to the people of India who adopted the Constitution as drafted on 26th November 1949, and gave themselves to the Constitutional ethos to achieve the declaration made for the citizens enshrined in the Preamble of the Constitution.

2.37 That is respectfully submitted that Preamble of the Constitution is does not confer any power to the State and also does not confer any rights to the citizens which may be enforced through any provision of the Constitution. Preamble contains the declarations reflecting the ideals cherished by the Constituent Assembly and those assurances are not 'enforceable law' which could be directed to be implemented by the Courts.

2.38 That Parliament has power to amend the Constitution from Article 1 to 395 in accordance with the provisions laid down in Article 368 of the Constitution. The Preamble is separate and is not the main part of the Constitution which confers rights or powers to either State or Citizens. Therefore Parliament in exercise of its amending power cannot amend the Preamble of the Constitution.

2.39 That Parliament cannot amend the Preamble of the Constitution and nothing can be added and subtracted from the Preamble by Parliament exercising amending power under Article 368 of the Constitution of India as declaration made on 26th November 1949, in the Preamble, cannot be amended in any manner subsequently Therefore, the amendment made by Forty Second amendment is ultra vires.

2.40 That Preamble declared that India will be a Sovereign Democratic Republic. Therefore, we have to go through the concepts of these three phrases. The term Sovereignty has been defined by a number of scholars from Aristotle to Austin. In this regard it is submitted that:-

> 'The theory of Sovereignty was first given by the French Jurit 'Bodin'. He used the term sovereign for the first time, in his book, 'De la Republique'. He said that the absolute and perpetual power lies within the State. According to Bodin, the ruler is the source of all laws. He has the absolute power of law making. Hobbes took inspiration from Bodin but later on his theory was adopted by Bentham, Austin and many

other jurists. Hobbes and Bentham said that sovereign as completely absolute and he was not bound by anything.

Austin said "if a determinate human superior, not in a habit of obedience of a like superior, receives habitual obedience from a bulk of given society, than that determinate superior is sovereign of that society and the society (including the superior) is sovereign and independent.'

2.41 That now defining the word Republic the concept given by Andre Munro, holding degree of Ph.D. in political science, who was also editor at Encyclopaedia Britannica, can be referred to and same is as :-

"**Republic**, form of Government in which a State is ruled by representatives of the citizen body. Modern republics are founded on the idea that sovereignty rests with the people, though who is included and excluded from the category of the people has varied across history. Because citizens do not govern the state themselves but through representatives, republics may be distinguished from direct democracy, though modern representative democracies are by and large republics. The term republic may also be applied to any form of government in which the head of State is not a hereditary monarch."

2.42 That it may be pointed out that number of Nations in their Constitution have adopted the concept of a Republic State. In brief the term 'Republic' may be defined as:-

> 'A Republic is form of Government where the citizens have supreme power, and they exercise that power by voting and electing representatives to make decisions and governed. Republics come in different forms of Government, but a common one is a Democracy.'

2.43 That the combined effect of three phrases 'Sovereign' 'Democratic' 'Republic' is that, the Constitution makers declared that India will be a Sovereign Republic to be governed by an elected Government through democratic process. These words refer to the nature of the State going to be established and form of Government to rule the country.

2.44 That Preamble runs in two parts, first relates to the creation of Sate and nature of Government to be formed, whereas second part relates to the goal to be achieved relating to rights and aspirations of the citizens. In this regard it is relevant to point out that the opening sentence of the Preamble that 'to Constitute India into a' ….. 'Sovereign Democratic Republic' establishes that it concerns with the status of India as a 'Sovereign Nation' with further declaration that there will be the democracy in the Republic of India.

2.45 That the words 'Constitute India into a' is significant to conceive the idea that India has been Constituted in a

Sovereign Socialist Secular Democratic Republic and same indicates the form of Government with Sovereign status. The inclusion of the words 'Socialism' and 'Secularism' only declares the nature of Republic and is limited to the working of the sovereign function of the State.

2.46 That after insertion of the words 'Socialist' and 'Secular', the combined effect of the first part of the Preamble would be that the Government will follow the 'Socialist' and 'Secular' principles and the entire sentence can be interpreted as that 'India is a Sovereign State' and it will be a 'Secular Socialist Democratic Republic'. More liberally it can be said that the Government democratically elected will follow 'Socialist' and 'Secular' principles in governing the country.

2.47 That the second part of the Preamble begins with the words 'and to secure to all its citizens …..' . Thus the principles declared therein reflect the Constitutional goal to be achieved for the welfare of the citizens and it gives a shape of welfare State going to be established by the functionaries of the State. These declarations are related to citizens. The first part is regarding the nature of Indian Nation and governance of the country and the second part concerns the citizen rights, aspirations of the masses and the Constitutional declaration made for the welfare of the citizens.

2.48 That the substitution of the words 'Socialist' and 'Secular' in the Preamble is not applicable to the citizens, organizations and political parties. Therefore, respondents

cannot enforce the concept of ‘Socialist’ and ‘Secular’ upon citizens, organizations and political parties.

2.49 That it is worth to mention that Article 19 (1) (a) of the Constitution guarantees every citizen, the right to freedom of speech and expression subject to any law made under sub-clause (2) imposing reasonable restrictions on the exercise of the right in the interests of the Sovereignty and integrity of India, the security of the State, friendly relation with Foreign States, Public order, decency or morality in relation to contempt of court, defamation or incitement of an offence.

2.50 That Article 19 (1) (c) of the Constitution guarantees every citizens right to form associations or unions or Co-operative societies subject to any law made under sub-clause (4) imposing reasonable restrictions on the exercise of the right in the interests of the Sovereignty and integrity of India, public order or morality.

2.51 That the Article 25 of the Constitution of India, guarantees every citizens right to freedom of religion subject to public order morality and health and any law made for regulating or restricting the economic , financial, political and other secular activities associated with religious practices.

2.52 That in view of the provisions contained in Article 19 (1) (a) and (c) and Article 25 of the Constitution of India, the citizens have right to freedom of speech and expression and to form union and associations in connection with exercising right to religion under Article 25 of the Constitution of India.

2.53 That citizens have right to form union or association to awake the citizens of their religious rights guaranteed under Article 25 and 26 of the Constitution of India. They are not bound to follow the principles of 'Socialism' and 'Secularism'.

2.54 That Political party is a union or association within the meaning of Article 19 (1) (c) of the Constitution of India. A political party can be formed in exercising the rights to form a union or association subject to reasonable restrictions which can be imposed under sub clause (4) of Article 19 of the Constitution of India.

2.55 That the citizens of the country have fundamental right to form a political party to preserve and protect religious and cultural rights and to awake the citizens regarding their right to religion, right to equality, right against discrimination, right not to pay taxes for the promotion of any religion as prohibited under Article 27 and right to establish educational institution to promote their religion, culture and cultural values.

2.56 That a political party is free to negate socialist theory of State. A political party may be formed to oppose the communist theory of State. A political party may support either leftist or rightist or any other view point. A political party can canvass that we should nether be leftist or rightist but we may adopt the Indian economic theory prevailing in the country since long due to which there was a golden period and much more than expected in a 'Marxist Economic Theory'.

2.57 That as mentioned above, Parliament by amending Section 29-A in Representation of People Act 1951 while making provision for registration of a political party, made it compulsory for a political party to give declaration that it will abide by the principles of 'Socialism' and 'Secularism'.

2.58 That the impugned provisions in Section 29-A (5) of Representation of People Act 1951, are completely in violation of Article 19(1) (a) and (c) and 25 of the constitution of India as parliament has no power to impose any restriction beyond the scope of Article 19 (2) and 19 (4) and Article 25 (2) (a) of the Constitution of India in the matter of formation of an association or union.

2.59 That it is relevant to mention that there is no provision in Constitution authorising the Parliament compelling a society, organization to declare that it will be bound by the principles of socialism and secularism. The Parliament has transgressed its legislative powers in making conditions for a political party to abide by the principles of Socialism and Secularism as provided in Section 29-A (5) of the Representation of People Act 1951.

2.60 That it appears that Parliament being influenced with the words Socialism and Secularism appearing in the preamble of the constitution added by forty second amendment conceived the idea that those declarations are also connected with the citizens and the political parties may be compelled to accept those principles whereas the provision contained in Preamble so far as it relates to the principles of Socialism

and Secularism are concerned, are connected with the working of the Government.

2.61 That it is the case in which by virtue of words Socialism and Secularism appearing in the Preamble, the Parliament has gone to the extent even to bound the political parties by such motion and the impugned provision in violation of Article 19 (1) (a) and (c) and Article 25 of the Constitution of India.

3. QUESTIONS OF LAW:

The following substantial questions of law arise for consideration of this Hon'ble court

3.1 Whether Parliament in exercise of amending power under Article 368 of the Constitution of India can add, Subtracts or amend the Preamble of the Constitution?

3.2 Whether for the purposes of amendment of the Constitution Preamble cannot be construed as 'the provision of the Constitution'?

3.3 Whether Parliament can make any change in the declaration made in the Preamble by the Constituent Assembly on 26th November 1949?

3.4 Whether the principles of the Secularism and Socialism are part of political thoughts developed with the ideology of Karl Marx in so many countries can be recognised in the Indian Constitution of India?

3.5 Whether an ideology developed and prevailing outside India against the cultural and religious sentiments of the citizens affecting the pride of the Nation can be introduced

in the declaration made in the Preamble of the Constitution of India?

3.6 Whether Preambles runs in two part and first part from the words 'Constitute…… to Republic' is connected with the Sovereign status of the country and governance through democratic process whereas declaration regarding citizens have been made in Second part from the words 'and to secure to all its citizens'?

3.7 Whether the citizens, the social organization and political parties are bound to abide by the principles of 'Socialism' and 'Secularism' as enshrined in the Preamble of the Constitution of India added by forty second amendment of the Constitution?

3.8 Whether by forty second amendment of the Constitution is ultra vires?

3.9 Whether the provision made in section 29-A (5) of the Representation Act 1951 in so far it imposes conditions for the political parties to declare to abide by the principles of Socialism' and 'Secularism' are violative of Article 19 (1) (a), (c) and Article 25 of the Constitution of India?

4. DECLARATION:

It is most respectfully submitted that the Petitioners further declare that they have not filed any other petition before any court or in this Hon'ble Court in respect of the subject matter of this petition.

5:- GROUNDS:

The writ petition is being preferred on the following grounds:

A) Because the Constitution makers never intended to introduce Socialist and Secular concept for the governance of a democratic Government. In fact, they intended to ensure that the Government will not show its inclination towards any religion and will treat the subject equally without any religious bias. Most of the modern Constitutions accept the principle that the Government should keep itself aloof from religion and it shall not interfere in religious matters.

B) Because keeping in view the provisions made in other Constitutions of the world, the Constitution makers granted equality before the law and equal protection before law to all persons in Article 14 and declared injunction under Article 15 against the State from making any law discriminating the citizens on the basis of creed, caste or religion etc and also declared in Article 27 that nobody will be compelled to pay taxes, the proceeds of which are utilized for promotion and maintenance for particular religion.

C) Because Constitution makers keeping in view the socio economic condition of labours, workers, workmen and weaker section of the society have made provision and also for abolishing forced labour

D) Because Article 23, right against exploitation has been conferred providing that 'Traffic in human beings and begar and other similar forms of forced labour are prohibited and

any contravention of this provision shall be an offence punishable in accordance with law'.

E) Because in interest of social welfare principles have been laid down to be implemented by the state in the governance of the country in Article 38, 39, 41, 42, 43, 45, 46, 47 and 48 in part iv under the heading "DIRECTIVE PRINCIPLES OF STATE POLICY".

F) Because in view of the elaborate provision having been made to secure the citizens from religious bias and making provision to save workers and weaker sections of the society from the clutches of capitalist, it was not necessary to introduce the words 'Socialist' and 'Secular' in the Preamble of the Constitution of India.

G) Because there is one strong reason for not declaring India as a secular country because some provisions in the Constitution have been made in favour of minority communities distinguished on the basis of religion and state has been empowered to give them grants and also that the State has been conferred with the power to makes laws relating to religious matter and even reservation has been allowed in favour of Anglo Indian Community, a religious minority in the country.

H) Because Constitution of India has conferred wide powers on the state to enact law relating to religious matters. Article 25 (2) (a) of the Constitution lays down that states can make law 'regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice'. Therefore the state has power to

make laws in religious matter for the purposes enumerated in Article 25 (2) (a) of the Constitution of India.

I) Because a secular state cannot provide any grant to any religious community. Such types of grant being given by the state are alien to the concept of secular state. Secularism and grant to minority institution cannot go together. These are antithesis to each other.

J) Because there are subjects placed in the 7th Schedule of the Constitution on which Parliament or the State legislature as the case may be have power to make laws in the matter relating to religion or religious institutions.

K) Because in view of the provisions contained in Article 331 and 333, the President of India or the Governor of the States have been empowered to nominate persons from Anglo India Community, which is a minority community. In a secular Constitution such types of nomination is not permissible.

L) Because the power of the state to enact law on religious subjects and power to nominate members from minority Anglo Indian community and insertions of word secular in the Preamble of the Constitution are contradictory and against the spirit of the Constitution.

M) Because Constituent Assembly keeping in view the power conferred on state on religious matter and duty to provide grant to minority educational institution also did not declare India as a secular state.

N) Because in democratic setup, it is for the citizens of the country to like or dislike a particular political thought and

such concept may change from time to time according to the need of the society. Dr. Ambedkar in his address to the Constituent Assembly of 15.11.1948, rightly pointed out that 'what should be the policy of the State, how the society should be organised in its social and economic sides are matters which must be decided by the people themselves according to time and circumstances.

O) Because Constitution makers had seen the cruel actions of Lenin where a large number of people were killed in making a communist State. The Constitution makers were aware that in communist theory democracy cannot survive. The political ideologies like 'Socialism' and 'Secularism' were not thrust upon by Constituent Assembly to strengthen the democracy

P) Because Preamble of the Constitution does not confer any power to the State and also does not confer any rights to the citizens which may be enforced through any provision of the Constitution. Preamble contains the declarations reflecting the ideals cherished by the Constituent Assembly and those assurances are not 'enforceable law' which could be directed to be implemented by the Courts.

Q) Because Parliament cannot amend the Preamble of the Constitution and nothing can be added and subtracted from the Preamble by Parliament exercising amending power under Article 368 of the Constitution of India as declaration made on 26th November 1949, in the Preamble, cannot be amended in any manner subsequently Therefore, the amendment made by Forty Second amendment is ultra vires.

R) Because Preamble runs in two parts, first relates to the creation of Sate and nature of Government to be formed, whereas second part relates to the goal to be achieved relating to rights and aspirations of the citizens. In this regard it is relevant to point out that the opening sentence of the Preamble that 'to Constitute India into a' ….. 'Sovereign Democratic Republic' establishes that it concerns with the status of India as a 'Sovereign Nation' with further declaration that there will be the democracy in the Republic of India.

S) Because the words 'Constitute India into a' is significant to conceive the idea that India has been Constituted in a Sovereign Socialist Secular Democratic Republic and same indicates the form of Government with Sovereign status. The inclusion of the words 'Socialism' and 'Secularism' only declares the nature of Republic and is limited to the working of the sovereign function of the State.

T) Because after insertion of the words 'Socialist' and 'Secular', the combined effect of the first part of the Preamble would be that the Government will follow the 'Socialist' and 'Secular' principles and the entire sentence can be interpreted as that 'India is a Sovereign State' and it will be a 'Secular Socialist Democratic Republic'. More liberally it can be said that the Government democratically elected will follow 'Socialist' and 'Secular' principles in governing the country.

U) Because second part of the Preamble begins with the words 'and to secure to all its citizens …..' . Thus the principles declared therein reflect the Constitutional goal to be

achieved for the welfare of the citizens and it gives a shape of welfare State going to be established by the functionaries of the State. These declarations are related to citizens. The first part is regarding the nature of Indian Nation and governance of the country and the second part concerns the citizen rights, aspirations of the masses and the Constitutional declaration made for the welfare of the citizens.

V) Because the words 'Socialist' and 'Secular' in the Preamble are not applicable to the citizens, organizations and political parties. Therefore, respondents cannot enforce the concept of 'Socialist' and 'Secular' upon citizens, organizations and political parties.

W) Because Article 19 (1) (a) of the Constitution guarantees every citizen, the right to freedom of speech and expression subject to any law made under sub-clause (2) imposing reasonable restrictions on the exercise of the right in the interests of the Sovereignty and integrity of India, the security of the State, friendly relation with Foreign States, Public order, decency or morality in relation to contempt of court, defamation or incitement of an offence.

X) Because Article 19 (1) (c) of the Constitution guarantees every citizens right to form associations or unions or Co-operative societies subject to any law made under sub-clause (4) imposing reasonable restrictions on the exercise of the right in the interests of the Sovereignty and integrity of India, public order or morality.

Y) Because Article 25 of the Constitution of India guarantees every citizen, the right to freedom of religion subject to

public order morality and health and any law made for regulating or restricting the economic , financial, political and other secular activities associated with religious practices.

Z) BecauseArticle 19 (1) (a) and (c) and Article 25 of the Constitution of India, the citizens have right to freedom of speech and expression and to form union and associations in connection with exercising right to religion under Article 25 of the Constitution of India.

AA) Because citizens have right to form union or association to awake the citizens of their religious rights guaranteed under Article 25 and 26 of the Constitution of India. They are not bound to follow the principles of 'Socialism' and 'Secularism'.

BB) Because Political party is a union or association within the meaning of Article 19 (1) (c) of the Constitution of India. A political party can be formed in exercising the rights to form a union or association subject to reasonable restrictions which can be imposed under sub clause (4) of Article 19 of the Constitution of India.

CC) Because citizens of the country have fundamental right to form a political party to preserve and protect religious and cultural rights and to awake the citizens regarding their right to religion, right to equality, right against discrimination, right not to pay taxes for the promotion of any religion as prohibited under Article 27 and right to establish educational institution to promote their religion, culture and cultural values.

DD) Because a political party is free to negate socialist theory of State. A political party may be formed to oppose the communist theory of State. A political party may support either leftist or rightist or any other view point. A political party can canvass that we should nether be leftist or rightist but we may adopt the Indian economic theory prevailing in the country since long due to which there was a golden period and much more than expected in a 'Marxist Economic Theory'.

EE) Because Parliament by amending Section 29-A in Representation of People Act 1951, while making provision for registration of a political party, made it compulsory for a political party to give declaration that it will abide by the principles of 'Socialism' and 'Secularism.

FF) Because Section 29-A (5) of Representation of People Act 1951 is completely in violation of Article 19(1) (a) and (c) and 25 of the constitution of India as parliament has no power to impose any restriction beyond the scope of Article 19 (2) and 19 (4) and Article 25 (2) (a) of the Constitution of India in the matter of formation of an association or union.

GG) Because Parliament compelling a society, organization to declare that it will be bound by the principles of socialism and secularism. The Parliament has transgressed its legislative powers in making conditions for a political party to abide by the principles of Socialism and Secularism as provided in Section 29-A (5) of the Representation of People Act 1951.

HH) Because Parliament being influenced with the words Socialism and Secularism appearing in the preamble of the constitution added by forty second amendment conceived the idea that those declarations are also connected with the citizens and the political parties may be compelled to accept those principles whereas the provision contained in Preamble so far as it relates to the principles of 'Socialism and Secularism' are concerned, are connected with the working of the Government.

Prayers

The petitioners therefore, most humbly pray that this Hon'ble court may be pleased to:-

a) Issue appropriate writ, order or direction striking down the words 'Socialist' and 'Secular' inserted in the Preamble of the Constitution by section 2 (a) of the Forty Second Constitution Amendment Act, 1976.

b) Issue appropriate writ, order, direction or declaration that the concept of 'Socialism' and 'Secularism' occurring in Preamble of the Constitution refers to the nature of the Republic and is limited to the working of the Sovereign function of the State and same is not applicable to the citizens, the political parties and the social organizations ;

c) issue an appropriate writ, order or direction striking down the words Socialism and Secularism occurring in Section 29-A (5) of the Representation of People Act 1951;

d) issue an appropriate writ, order, direction or declaration that State has no power and jurisdiction to compel the citizens of India to abide by the principles of Socialism and Secularism;

e) issue any other and further order and/or directions be given as in the nature and circumstances of the case may require;

f) Allow the petition with costs.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL AS IN DUTY BOUND EVER PRAY.

Drawn By FILED BY

VISHNU SHANKAR JAIN

Counsel for the Petitioners

Drawn on: 07.2020

PLACE: NEW DELHI;

FILED ON: July, 2020

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

(Petition under Article 32 of the Constitution of India read with Under Order XXXVIII of the Supreme Court Rules 2013)

WRIT PETITION (CIVIL) NO. OF 2020

IN THE MATTER OF:

Balram Singh & Ors. ...Petitioners

Versus

Union of India & Anr. …Respondent

AFFIDAVIT

I, Balram Singh S/o Gnaga Dutt, R/o 109 Fourth Floor, State Bank Colony, G.T. Karnal Road,Delhi-110009, do hereby solemnly affirm and state on oath as under:

1. That I am Petitioner No.1 in the above mentioned petition. I have been authorized by co-petitioners to file this affidavit on their behalf. I am fully conversant with the facts of the case.

2. I say that the contents of Synopsis & List of Dates at pages B to __ and contents of Writ Petition as contained at para 1 to 5 at pages __ to ____ are true to my knowledge and information derived from the record of the case and questions of law raised in the petition, grounds and para 1A and 1B, of the Writ Petition and Interlocutory Applications at Page ___ to ____ are true as per the legal advice received and believe by me are true and correct.

3. That the contents of averments made in the writ petition are true and correct to the best of my knowledge. I say that the Annexure P-1 to …….. contained in pages ____to ___ produced alongwith the Writ Petition are true and correct.

4. That the averments of facts stated herein above are true to my knowledge and belief, no part of its false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION:

I, the above deponent hereinabove do hereby verify the contents of para 1 to 4 of this affidavit to be true and correct to the best of my knowledge and belief. I state that no part of this affidavit is false and nothing material has been concealed therefrom.

Verified at Lucknow on this day of …… , July, 2020.

DEPONENT

APPENDIX-I

PROVISIONS FROM THE CONSTITUTION OF INDIA

Article 14. Equality before law.—

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to—

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

Article 19. Protection of certain rights regarding freedom of speech, etc.—

(1) All citizens shall have the right—

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions 2 [or co-operative societies];

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; 3 [and]

(f) * * * * *

(g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of 6 [the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of 6 [the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in 1 sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the

said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

Article 23.Prohibition of traffic in human beings and forced labour.—

(1) Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them

Article 25 Freedom of conscience and free profession, practice and propagation of religion.—

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly

Article 27. Freedom as to payment of taxes for promotion of any particular religion.—No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Article 30. Right of minorities to establish and administer educational institutions.—

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

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

Article 38. State to secure a social order for the promotion of welfare of the people.—

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39. Certain principles of policy to be followed by the State.—

The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39A. Equal justice and free legal aid.—

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Article 41. Right to work, to education and to public assistance in certain cases.—

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases

of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42. Provision for just and humane conditions of work and maternity relief.—

The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 43. Living wage, etc., for workers.—

The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

Article 43A. Participation of workers in management of industries.—

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

Article 43 B. Promotion of co-operative societies.—

The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies.

Article 44. Uniform civil code for the citizens.—

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Article 45. Provision for early childhood care and education to children below the age of six years.—

The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Article 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.—

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

Article 48. Organisation of agriculture and animal husbandry.—

The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall,

in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Article 48A. Protection and improvement of environment and safeguarding of forests and wild life.—

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 331. Representation of the Anglo-Indian Community in the House of the People.—

Notwithstanding anything in article 81, the President may, if he is of opinion that the Anglo-Indian community is not adequately represented in the House of the People, nominate not more than two members of that community to the House of the People.

Article 333. Representation of the Anglo-Indian community in the Legislative Assemblies of the States.—

Notwithstanding anything in article 170, the Governor 7*** of a State may, if he is of opinion that the Anglo-Indian community needs representation in the Legislative Assembly of the State and is not adequately represented therein, [nominate one member of that community to the Assembly].

Article 366. Definitions.—

In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

(2) "an Anglo-Indian" means a person whose father or any of whose other male progenitors in the male line is or was of

European descent but who is domiciled within the territory of India and is or was born within such territory of parents habitually resident therein and not established there for temporary purposes only;

Article 368 : **Power of Parliament to amend the Constitution and procedure therefor**.

(1) Notwithstanding anything in this Constitution, Parliament may in exercise of its constituent power amend by way of addition, variation or repeal any provision of this Constitution in accordance with the procedure laid down in this article.

(2) An amendment of this Constitution may be initiated only by the introduction of a Bill for the purpose in either House of Parliament, and when the Bill is passed in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting, it shall be presented to the President who shall give his assent to the Bill and thereupon the Constitution shall stand amended in accordance with the terms of the Bill:

Provided that if such amendment seeks to make any change in—

(a) article 54, article 55, article 73, article 162, article 241 or article 279A or

(b) Chapter IV of Part V, Chapter V of Part VI, or Chapter I of Part XI, or

(c) any of the Lists in the Seventh Schedule, or

(d) the representation of States in Parliament, or

(e) the provisions of this article, the amendment shall also require to be ratified by the Legislatures of not less than one-half of the

States 1*** by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

(3) Nothing in article 13 shall apply to any amendment made under this article.

(4) No amendment of this Constitution (including the provisions of Part III) made or purporting to have been made under this article whether before or after the commencement of section 55 of the Constitution (Forty-second Amendment) Act, 1976] shall be called in question in any court on any ground.

(5) For the removal of doubts, it is hereby declared that there shall be no limitation whatever on the constituent power of Parliament to amend by way of addition, variation or repeal the provisions of this Constitution under this article.]

APPENDIX-II

THE CONSTITUTION (FORTY –SECOND AMENDMENT) ACT, 1976

An Act further to amend the Constitution of India

[18th December, 1976]

Be it enacted by Parliament in the Twenty –Seventh Year of the Republic of India as follows:-

1. **Short title and commencement**.-

(1) This Act may be called the Constitution (Forty- second Amendment) Act, 1976.

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

2. **Amendment of the Preamble** .- In the Preamble to the Constitution,-

(a) For the words "SOVEREIGN DEMOCRATIC REPUBLIC, the words shall be substituted; and

(b) for the words "unity of Nation", the words " unity and I integrity of the Nation" shall be substituted

APPENDIX-III

THE REPRESENTATION OF THE PEOPLE ACT, 1951

REGISTRATION OF POLITICAL PARTIES

29A. Registration with the Election Commission of associations and bodies as political parties. — (1) Any association or body of individual citizens of India calling itself a political party and intending to avail itself of the provisions of this Part shall make an application to the Election Commission for its registration as a political party for the purposes of this Act.

(2) Every such application shall be made,—

(a) if the association or body is in existence at the commencement of the Representation of the People (Amendment) Act, 1988 (1 of 1989), within sixty days next following such commencement;

(b) if the association or body is formed after such commencement, within thirty days next following the date of its formation.

(3) Every application under sub-section (1) shall be signed by the chief executive officer of the association or body (whether such chief executive officer is known as Secretary or by any other designation) and presented to the Secretary to the Commission or sent to such Secretary by registered post.

(4) Every such application shall contain the following particulars, namely:—

(a) the name of the association or body;

(b) the State in which its head office is situate;

(c) the address to which letters and other communications meant for it should be sent;

(d) the names of its president, secretary, treasurer and other office-bearers;

(e) the numerical strength of its members, and if there are categories of its members, the numerical strength in each category;

(f) whether it has any local units; if so, at what levels;

(g) whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

(5) The application under sub-section (1) shall be accompanied by a copy of the memorandum or rules and regulations of the association or body, by whatever name called, and such memorandum or rules and regulations shall contain a specific provision that the association or body shall bear true faith and allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India.

(6) The Commission may call for such other particulars as it may deem fit from the association or body.

(7) After considering all the particulars as aforesaid in its possession and any other necessary and relevant factors and after giving the representatives of the association or body reasonable opportunity of being heard, the Commission shall decide either to register the association or body as a political party for the purposes of this Part, or not so to register it; and the Commission shall communicate its decision to the association or body: Provided that no association or body shall be registered as a political party under this sub-section unless the memorandum or rules and regulations

of such association or body conform to the provisions of sub-section (5).

(8) The decision of the Commission shall be final.

(9) After an association or body has been registered as a political party as aforesaid, any change in its name, head office, office-bearers, address or in any other material matters shall be communicated to the Commission without delay.]

ANNEXURE P-1

15.11.1948 (Constituent Assembly Debates Volume VII Page No. 399-401)

Prof. K. T. Shah (Bihar: General): Sir, I beg to move:

"That in clause (1) of article 1, after the words`shall be a' the words `Secular, Federal Socialist' be inserted."

and the amended article or clause will read as follows:

"India shall be a Secular, Federal, Socialist Union of States."

In submitting this motion to the House I want first of all to point out that owing to the arrangements by which the Preamble is not considered at this moment, it is a little difficult for those who would like to embody their hopes and aspirations in the Constitution to give expression to them by making amendments of specific clauses which necessarily are restricted in the legal technique as we all know. Had it been possible to consider the governing ideals, so to say, which are embodied in this Preamble to the Draft Constitution, it might have been easier to consider these proposals not only on their own merits, but also as following from such ideals embodied in the Preamble as may have been accepted.

As it is, in suggesting this amendment, I am anxious to point out that this is not only a statement of fact as it exists, but also embodies an aspiration which it is hoped will be soon realized. The amendment tries to add three words to the descriptions of our State or Union: that is to say, the new Union shall be a Federal, Secular, Socialist Union of

States. The Draft Constitution, may I add inpassing, has rendered our task very difficult by omitting a section on definitions, so that terms like "States" are usedin a variety of meanings from Article to Article, and therefore it is not always easy to distinguish between the various senses in which, and sometimes conflicting senses in which one and the same term is used. I take it, however, that in the present context the word "Union" stands for the composite aggregate of States, a new State by itself, which has to be according to my amendment a Federal, Secular Socialist State.

I take first the word `Federal'. This word implies that this is a Union which however is not a Unitary State, in as much as the component or Constituent parts, also described as States in the Draft Constitution, are equally parts and members of the Union, which have definite rights, definite powers and functions, not necessarily overlapping, often however concurrent with the powers and functions assigned to the Union or to the Federal Government. Accordingly it is necessary in my opinion to guard against any misapprehension or mis-description here after of this new State, the Union, which we shall describe as the Union of India.

Lest the term `Union' should lead any one to imagine that it is a unitary Government I should like to make it clear, in the very first article, the first clause of that article, that it is a `federal union'. By its very nature the term `federal' implies an agreed association on equal terms of the states forming part of the Federation. It would be no federation, I

submit, there would be no real equality of status, if there is discrimination or differentiation between one member and another and the Union will not be strengthened, I venture to submit, in proportion as there are members States which are weaker in comparison to other States. If some members are less powerful than others, the strength of the Union, I venture to submit, will depend not upon the strongest member of it, but be limited by the weakest member. There will therefore have to be equality of status, powers and functions as between the several members, which I wish to ensure by this amendment by adding the word `Federal'.

So far as I remember, this word does not occur anywhere in the constitution to describe this new State of India as a Federation and this seems to me the best place to add this word, so as to leave no room for mistake or misunderstanding hereafter.

Next, as regards the Secular character of the State, we have been told time and again from every platform, that ours is a secular State. If that is true, if that holds good, I do not see why the term could not be added or inserted in the constitution itself, once again, to guard against any possibility of misunderstanding or misapprehension. The term `secular', I agree, does not find place necessarily in constitutions on which ours seems to have been modelled. But every constitution is framed in the background of the people concerned. The mere fact, therefore, that such description is not formally or specifically adopted to distinguish one state from another, or to emphasis the character of outstate is no reason, in my opinion, why we

should not insert now at this hour, when we are making our constitution, this very clear and emphatic description of that State.

The secularity of the state must be stressed in view not only of the unhappy experiences we had last year and in the years before and the excesses to which, in the name of religion, communalism or sectarianism can go, but I intend also to emphasis by this description the character and nature of the state which we are constituting today, which would ensure to all its peoples, all its citizens that in all matters relating to the governance of the country and dealings between man and man and dealings between citizen and Government the consideration that will actuate will be the objective realities of the situation, the material factors that condition our being, our living and our acting. For that purpose and in that connection no extraneous considerations or authority will be allowed to interfere, so that the relations between man and man, the relation of the citizen to the state, the relations of the states inner seamy not be influenced by those other considerations which will result in injustice or inequality as between the several citizens that constitute the people of India.

And last is the term `socialist'. I am fully aware that it would not be quite a correct description of the state today in India to call it a Socialist Union. I am afraid it is anything but Socialist so far. But I do not see any reason why we should not insert here an aspiration, which I trust many in this House share with me, that if not today, soon hereafter, the character and composition of the State will change,

change so radically, so satisfactorily and effectively that the country would become a truly Socialist Union of States.

The term `socialist' is, I know, frightening to a number of people, who do not examine its implications, or would not understand the meaning of the term and all that it stands for. They merely consider the term `socialist' as synonymous with abuse, if one were using some such term, and therefore by the very sound, by the very name of it they get frightened and are prepared to oppose it. I know that a person who advocates socialism, or who is a declared or professed socialist is to them taboo, and therefore not even worth a moment's consideration.....

Annexure P-2

15.11.1948 (Constituent Assembly Debates Volume VII page 401-402)

The Honourable Dr. B. R. Ambedkar (Bombay: General): Mr. Vice-President, Sir, I regret that I cannot accept the amendment of Prof. K. T. Shah. My objections, stated briefly are two. In the first place the Constitution, as I stated in my opening speech in support of the motion I made before the House, is merely a mechanism for the purpose of regulating the work of the various organs of the State. It is not a mechanism where by particular members or particular parties are installed in office. What should be the policy of the State, how the Society should be organised in its social and economic side are matters which must be decided by the people themselves according to time and circumstances. It cannot be laid down in the Constitution itself, because that is destroying democracy altogether. If you state in the Constitution that the social organisation of the State shall take a particular form, you are, in my judgment, taking away the liberty of the people to decide what should be the social organisation in which they wish to live. It is perfectly possible today, for the majority people to hold that the socialist organisation of society is better than the capitalist organisation of society. But it would be perfectly possible for thinking people to devise some other form of social organisation which might be better than the socialist organisation of today or of tomorrow. I do not see therefore why the Constitution should tie down the people to live in a particular form and not leave it to the people

themselves to decide it for themselves. This is one reason why the amendment should be opposed.

The second reason is that the amendment is purely superfluous. My Honourable friend, Prof. Shah, does not seem to have taken into account the fact that apart from the Fundamental Rights, which we have embodied in the Constitution, we have also introduced other sections which deal with directive principles of state policy. If my honourable friend were to read the Articles contained in Part IV, he will find that both the Legislature as well as the Executive have been placed by this Constitution under certain definite obligations as to the form of their policy.Now, to read only Article 31, which deals with this matter:It says:

"The State shall, in particular, direct its policy towards securing –

(i) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(ii) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(iii) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(iv) that there is equal pay for equal work for both men and women;...."

There are some other items more or less in the same strain. What I would like to ask Professor Shah is this: If these directive

principles to which I have drawn attention are not socialistic in their direction and in their content, I fail to understand what more socialism can be. Therefore my submission is that these socialist principles are already embodied in our Constitution and it is unnecessary to accept this amendment.

Annexure P-3

25.11.1948 (Constituent Assembly Debates Volume VII page 597)

Mr. Vice-President: Amendment No. 1019 - Mr. K. T. Shah.

Prof. K. T. Shah (Bihar: General): Mr. Vice-President, Sir, I beg to move-"That for article 40, the following be substituted: -

"40. The Federal Republican Secular State in India shall be pledged to maintain international peace and security and shall to that end adopt every means to promote amicable relations among nations. In particular the State in India shall endeavour to secure the fullest respect for international law and agreement between States and to maintain justice, respect for treaty rights and obligations in regard to dealings of organised peoples amongst themselves."

Sir, in commending this motion to the House I would begin by recognising at once that, as far as the surface goes, there seems to be not much difference in the ideals sought to be attained by my amendment and those in the wording of article 40 as it stands. The difference may appear to be the difference of wording only. I submit, however, that though the difference seems to be a difference, superficially judging, of wording only, to me at any rate the difference in wording seems to conceal a difference of approach, a difference of out-look, perhaps also a difference in intention. I would urge, Sir, that we should leave no room for doubt about this matter. I will point out for instance that the original clause as it stands requires –

"That the State shall promote international peace and security by the prescription of open, just and honourable relations

between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among governments and by the maintenance of justice and respect for treaty obligations in the dealings of organised people with one another".

Now I have emphasised in this connection that by such articles in our Constitution, we want to convey, not merely some vague promise or endeavour to promote, or even an obligation to promote international peace and security etc. I want, first and foremost, the State in India to be pledged to promote international peace and security.

25.11.1948 (Constituent Assembly Debates Volume VII page 605)

Mr. Vice-President: The question is that for article 40, the following be substituted: -

"40. The Federal Republican Secular State in India shall be pledged to maintain international peace and security and shall to that end adopt every means to promote amicable relations between nations. In particular the State in India shall endevour to secure the fullest respect for international law and agreement amongst States and to maintain justice, respect for treaty rights and obligations in regard to dealings of organised peoples amongst themselves."

The motion was negatived.

Annexure P-4

Prof. K. T. Shah on 03.12.1948 (Constituent Assembly Debates Volume VII page 815-816)

Prof. K. T. Shah: Mr. Vice-President, I beg to move:

"That the following new article be inserted under the heading "Rights relating to Religion" occurring after article 18:-

`18-A. The State in India being secular shall have no concern with any religion, creed or profession of faith; and shall observe an attitude of absolute neutrality in all matters relating to the religion of any class of its citizens or other persons in the Union.'"

This, Sir, ought not to be a controversial matter at all. We have proclaimed it time and again that the State in India is secular; and as such it should have no concern--I should think that would follow logically--with the affairs of any religion, with the profession of any particular faith, creed or belief.

By this I do not wish to suggest that the neutrality of the State in matters of religion should mean the utter ignorance or neglect of institutions or services which may, in the name of religion or belief, be conducted by people professing a particular form of faith. All I wish to say is that with the actual profession of faith or belief, testate should have no concern. Nor should it, by any action of it, give any indication that it is partial to one or the other. All classes of citizens should have the same treatment in matters mundane from the State. And even those who may not be citizens of this State, by living within it, should receive the same treatment.

The citizens of this Union obviously belong to all professions, a wide variety of faiths or religious beliefs. To take one or the other, or even to suggest that one or the other is favoured or assisted or aided by the State in its mundane affairs at any time--if I may put it so,--would not be in the interest of the State. For it would give any other section of the people professing another belief, the impression that any particular section is preferred.

If the State can--and I believe it can very easily--promote all mundane services, all worldly activities and utilities which are for the benefit of the community collectively-no matter by what section they are carried on--then, according to my amendment, there ought to be no objection. But if the State is associated in any way with the promotion of any particular form of profession or faith, then I think it would be highly objectionable for a secular organization to do so.

Accordingly I am suggesting that "The State in India being secular shall have no concern with any religion, creed or profession of faith". I am again and again emphasis in this aspect of religion because that is by its very essence, a non-worldly activity, and as such the State which is—may I say it without any disrespect-essentially an earthly organization, should have no concern.

One could dilate upon this matter for an indefinite period. I do not regard occasions of this kind, or debates of this nature to be opportunities for unconscious self-revelation or deliberate professions of one's own attitude. I therefore will not take the time of the House in going further into this subject which I am sure would interest everybody sufficiently, at any rate, to consider favourably my amendment.

(Amendment No. 567 was not moved.)

Mr. Vice-President: No. 568.

Shri T. T. Krishnamachari: May I point out that this amendment relates to a matter more or less akin to 13-Awhich you were good enough to keep in abeyance for the time being? **Mr. Vice-President**: Then it may stand over.

(Amendment No. 569 was not moved.)

Mr. Vice-President: I put amendment No. 566 to vote.

The question is:--

"That the following new article be inserted under the heading "Rights relating to Religion" occurring after article 18:

`18-A. The State in India being secular shall have no concern with any religion, creed or profession of faith; and shall observe an attitude of absolute neutrality in all matters relating to the religion of any class of its citizens or other persons in the Union.'"

The amendment was negatived.

Annexure P-5

06.12.1948 (Constituent Assembly Debates Volume VII page 823-826)

CONSTITUENT ASSEMBLY OF INDIA

Monday, the 6th December 1948

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. Vice-President (Dr. H. C. Mookherjee) in the Chair.

TAKING THE PLEDGE AND SIGNING THE REGISTER

The following Member took the Pledge and signed the Register:--

Shri K. Chengalaraya Reddy (Mysore).

DRAFT CONSTITUTION-(Contd.)

Article19-(Contd.)

Mr. Vice-President (Dr. H. C. Mookherjee): We shall now resume discussion on article 19.

Shri Lokanath Misra (Orissa: General): Sir, it has been repeated to our ears that ours is a secular State. I accepted this secularism in the sense that our State shall remain unconcerned with religion, and I thought that the secular State of partitioned India was the maximum of generosity of a Hindu dominated territory for its non-Hindu population. I did not of course know what exactly this secularism meant and how far the State intends to cover the life and manners of our people. To my mind life cannot be compartmentalised and yet I reconciled myself to the new cry.

The Honourable Pandit Jawaharlal Nehru (United Provinces: General): Sir, are manuscripts allowed to be read in this House?

Mr. Vice-President: Ordinarily I do not allow manuscripts to be read, but if a Member feels that he cannot otherwise do full justice to the subject on hand, I allow him to read from his manuscript.

The Honourable Pandit Jawaharlal Nehru: May I know what is the subject?

Mr. Vice-President: Mr. Lokanath Misra is moving an amendment to article 19. I ask the indulgence of the House because Mr. Lokanath Misra represents a particular point of view which I hold should be given expression to in this House.

Shri Lokanath Misra: Gradually it seems to me that our 'Secular State' is a slippery phrase, a device to by-pass the ancient culture of the land. The absurdity of this position is now manifest in articles 19 to 22 of the Draft Constitution. Do we really believe that religion can be divorced from life, or is it our belief that in the midst of many religions we cannot decide which one to accept? If religion is beyond the ken of our State, let us clearly say so and delete all reference to rights relating to religion. If we find it necessary, let us be brave enough and say what it should be.

Shri S. Nagappa (Madras: General): The honourable Member is reading so fast that we are not able to follow him.

Mr. Vice-President: Order, order.

Shri Lokanath Misra: But this unjust generosity of tabooing religion and yet making propagation of religion a fundamental right is some what uncanny and dangerous. Justice demands that the ancient faith and culture of the land should be given a fair deal, if not restored to its legitimate place after a thousand years of suppression.

We have no quarrel with Christ or Mohammad or what they saw and said. We have all respect for them. To my mind, Vedic culture excludes nothing. Every philosophy and culture has its place but now (the cry of religion is a dangerous cry.) It denominates, it divides and encamps people to warring ways. In the present context what can this word propagation' in article 19 mean? It can only mean paving the way for the complete annihilation of Hindu culture, the Hindu way of life and manners. Islam has declared its hostility to Hindu thought. Christianity has worked out the policy of peaceful penetration by the back-door on the outskirts of our social life. This is because Hinduism did not accept barricades for its protection. Hinduism is just an integrated vision and a philosophy of life and cosmos, expressed in organised society to live that philosophy in peace and amity. But Hindu generosity has been misused and politics has over run Hindu culture. Today religion in Indian serves no higher purpose than collecting ignorance, poverty and ambition under a banner that flies for fanaticism. The aim is political, for in the modern world all is power-politics and the inner man is lost in the dust. Let everybody live as he thinks best but let him not try to swell his number to demand the spoils of political warfare. Let us not raise the question of communal minorities anymore. It is a device to swallow the majority in the long run. This is intolerable and unjust.

Indeed in no constitution of the world right to propagate religion is a fundamental right and justiciable. The Irish Free State Constitution recognises the special position of the faith professed by the great majority of the citizens. We in India are shy of such recognition. U. S. S. R. gives freedom of religious worship and freedom of anti-religious propaganda. Our Constitution gives the

right even to propagate religion but does not give the right to any anti-religious propaganda.

If people should propagate their religion, let them do so. Only I crave, let not the Constitution put it as a fundamental right and encourage it. Fundamental rights are in alienable and once they are admitted, it will create bad blood. I therefore say, let us say nothing about rights relating to religion. Religion will take care of itself. Drop the word `propagate' in article 19 at least. Civilisation is going headlong to the melting pot. Let us beware and try to survive.

Mr. Vice-President: There are two amendments in my list, i.e., 592 and 593. They are of similar import and may be considered together. Of these two, amendment No. 593 standing in the name of Mr. Kamath is more comprehensive and I allow it to be moved.

Shri H. V. Kamath (C. P. & Berar: General): Mr. Vice-President, Sir, I move:-

That after clause (1) of article 19, the following new sub-clause be added:-

"(2) The State shall not establish, endow, or patronize any particular religion. Nothing shall however prevent the State from imparting spiritual training or instruction to the citizens of the Union."

The amendment consists of two parts, the first relating to the disestablishment or the separation of what you may call in Western parlance the Church from the State, and the second relates to the deeper import of religion, namely, the eternal values of the spirit.

As regards the first part of the amendment, I need only observe that the history of Europe and of England during the middle ages, the bloody history of those ages bears witness to the pernicious effects that flowed from the union of Church and State. It is true enough that in India during the reign of Asoka, when the State identified itself with a particular religion, that is, Buddhism, there was no `civil' strife, but you will have to remember that at that time in India, there was only one other religion and that was Hinduism. Personally, I believe that because Asoka adopted Buddhism as the State religion, there developed some sort of internecine feud between the Hindus and Buddhists, which ultimately led to the overthrow and the banishment of Buddhism from India. Therefore, it is clear to my mind that If a State identifies itself with any particular religion, there will be rift within the State. After all, the State represents all the people, who live within its territories, and, therefore, it cannot afford to identify itself with the religion of any particular section of the population. But, Sir, let me not be misunderstood. When I say that a State should not identify itself with any particular religion, I do not mean to say that a State should be antireligious or irreligious. We have certainly declared that India would be a secular State. But to my mind a secular state is neither a Godless State nor an irreligious nor an anti-religious State.

Now, Sir, coming to the real meaning of this word religion', I assert that 'Dharma' in the most comprehensive sense should be interpreted to mean the true values of religion or of the spirit. 'Dharma', which we have adopted in the crest or the seal of our Constituent Assembly and which you will find on the printed proceedings of our debates: ("Dharma Chakra pravartanaya")--that

spirit, Sir, to my mind, should be inculcated in the citizens of the Indian Union. If honourable Members will care to go just outside this Assembly hall and look at the dome above, they will see a sloka in Sanskrit: "

Na sa Sabha yatra na santi vriddha Vriddha na te ye na vadanti dharmam."

That 'Dharma', Sir, must be our religion. "Dharma' of which the poet has said.

Yenedam dharyate jagat (that by which this world is supported.)

That, Sir, which is embodied which is incorporated in the great sutras, the Mahavakyas of our religions, in Sanskrit, in Hinduism, the Mahavakya 'Aham Brahma Asmi', then 'Anal Haq' in Sufism and `I and my Father are one'--in the Christian religion--these doctrines, Sir, if they are inculcated and practised to-day, will lead to the cessation of strife in the world. It is these which India has got to take up and teach, not merely to her own citizens, but to the world. It is the only way out for the spiritual malaise, in which the world is caught today, because the House will agree, I am sure, with what has been said by the Maha Yogi, Sri Aurobindo, in one of his famous books, where he says: .

"The master idea that has governed the life, the culture, social ideals of the Indian people has been the seeking of man for his true, spiritual self and the use of life as a frame and means for that discovery and for man's ascent from the ignorant natural into the spiritual existence."

I am happy, Sir, to see in this Assembly today our learned scholar and philosopher, Prof. Radhakrishnan. He has been telling

the world during the last two or three years that the malaise, the sickness of this world is at bottom spiritual and therefore, our duty, our mission, India's mission comes into play.

If we have to make this disunited Nations--so called United, but really disunited nations- -really United, if we have got to convert this Insecurity Council into a real Security Council, we have to go back to the values of the spirit, we have to go back to God in spirit and truth, and India has stood for these eternal values of the spirit from time immemorial.

Coming to the second part of the amendment, which reads: "Nothing shall however prevent the State from imparting spiritual training or instruction to the citizens of the Union", I attach great importance to the same. India has stood through the ages for a certain system of spiritual discipline, spiritual instruction, which has been known throughout the world by the name of "Yoga"; and Sri Aurobindo, the Maha Yogi, has said again and again, that the greatest need today is a transformation of consciousness, the upliftment of humanity to a higher level through the discipline of Yoga.

May I, Sir, by your leave, read what a Western writer, Arthur Koestler has written in one of his recent books called "Yogi or commissar"? "Yogi" stands for spirituality and "commissar" stands for materialism. In that book the writer observes: "Will mankind find a doctor or a dictator? Will he be yogi or commissar? The yogi does in order to be; the commissar, the capitalist, does in order to have; Western democracy needs more yogis"; that is the conclusion reached by this Western author.

Here, Sir, I would like to draw the attention of the House to the value and the importance that all our teachers, from time

immemorial, from the Rishis and the Seers of the Upanishads down to Mahatma Gandhi and Netaji Subhas Chandra Bose have attached to spiritual training and spiritual instruction. Netaji Subhas Chandra Bose went to the length of prescribing spiritual training and spiritual instruction to the soldiers of the Azad Hind Fouj. In the curriculum, in the syllabus of the Azad Hind Fouj, this item of spiritual instruction was included. When I say, Sir, that the State shall not establish or endow or patronise any particular religion, I mean the formal religions of the word; I do not mean religion in the widest and in the deepest sense, and that meaning of religion as the highest value of the spirit, I have sought to incorporate in the second part of the amendment. That is, the State shall do all in its power to impart spiritual training and spiritual instruction to the citizens of the Union.

In the end, I would only say this. We are living in a war-torn, war-weary world, where the values of the spirit are at a low ebb, or at a discount. Nemesis has overtaken the world which has lost its spiritual value, and unless this world returns to the Spirit, to God in spirit and in truth, it is doomed Sir, I commend my amendment to the acceptance of the House.

Annexure P-6

17.10.1949 (Constituent Assembly Debates Volume X-XII page 429-457)

Mr. President : These are all the amendments that we have had from the Drafting Committee. There are certain amendments printed in the List of Amendments and probably some others in some one or other of the numerous lists subsequently circulated. The question is whether we take up any of those amendments. We have gone through the whole Constitution article by article and clause by clause at great length and I do not think we can re-open any of those things at this stage by bringing in fresh amendments. There is one amendment by Pandit Thakur Das Bhargava, No.472, on which Mr. Naziruddin Ahmad has given notice of an amendment, and this was included in List I of Fifth Week. It was not by itself an amendment. It was a long article and it related only to one paragraph of that article. I think this very point has been covered by article 109, which we have passed. Article 109 confers original jurisdiction on the Supreme Court and Article 121 lays down that the Supreme Court will have its own rules of procedure, while article 25 deals with the remedies given to a party to have Fundamental Rights enforced in court. I think these three articles between themselves cover everything contained in the amendments of Mr. Naziruddin Ahmad and Pandit Bhargava. I therefore rule out of Pandit Bhargava's amendment.

We shall now take up the Preamble .

Preamble

An Honourable Member : May I suggest that the Preamble be taken up when we meet again in November for the Third Reading ? By that time, the Drafting Committee will also have submitted its final report to this House.

Maulana Hasrat Mohani : I object to that, because unless you get the Preamble passed today, how could you produce any report on the Second Reading?

Shri K. M. Munshi : Once in my life I support the Maulana Saheb !

Mr. President : I think we should get the Preamble also passed today. The Constitution as a whole has to be passed in its Second Reading and the Preamble forms part of the Constitution. Therefore, the Preamble cannot be postponed.

If necessary, we shall sit in the afternoon and dispose of it, unless we can do it within fifteen minutes that remain before one o'clock.

I find there are quite a good number of amendments to the Preamble in Vol. I of the Printed List Many of them bring in certain matters really not germane to the Preamble but by way of introduction of the Preamble . But I find that Maulana Hasrat Mohani's amendment is one of substance and seeks to bring in altogether new ideas. Therefore, I would ask him if he wishes to move his amendment first.

Maulana Hasrat Mohani : I have three amendments. I want to move them separately, not in one bundle.

Mr. President : Which one do you want to move first ?

Maulana Hasrat Mohani : I wish to Move 453 first. It runs thus:

“That for amendment No.8 of the List of Amendments (Volume I), the following be substituted :-

“That in the Preamble , for the words "We, the People of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic" the following be substituted :-

We, the People of India having solemnly resolved to constitute India into a Sovereign Federal Republic.

or alternatively

"We, the people of India, having solemnly resolved to constitute India into a Sovereign Independent Republic."

I shall just now give my reasons for proposing these amendments. In view of the proverbial shortness of public memory, I want first to remind the Members about a very fundamental fact that has been brought into the present Constitution and in the Draft prepared by Dr. Ambedkar. I refer to Volume IV No.6 of the official report of the proceedings of this Assembly - list 738, Part I: Federal territory and jurisdiction. Under "name of territory and federation" it is said that the Federation hereby established shall be a sovereign independent republic known as India. So it is clearly laid down that we will have only a Federation and it will be a federation of Indian republics. But my friend, Dr. Ambedkar has cleverly, I suppose, dropped the word "Federal" altogether and the word "independent" also has been dropped and he has aid "democratic State". I objected to that when I spoke the other day.

Shri Deshbandhu Gupta : (Delhi): On a point of order : the effect of these amendments if passed would be that the whole Constitution will have to be recast.

Maulana Hasrat Mohani : Who will be responsible for that ?

Shri Deshbandhu Gupta : To move such an amendment at this stage is out of order and it should therefore be disallowed.

Maulana Hasrat Mohani : I should submit that I tried my best in the very beginning to stop you. I said that when you are going to decide the fate of India you should first make up your mind to find out and declare what kind of constitution you are going to frame. But I was ruled out. Of course I said if you do not accept my suggestion then you should not grumble, when the Preamble is presented; should I not raise any objection? Then I will not listen to you if you say because we have passed such and such a thing .....

Shri Deshbandhu Gupta : May I have your ruling?

Maulana Hasrat Mohani : I say that you are responsible for preventing me from getting this thing discussed in the very beginning and therefore if you have to redraft the whole Constitution it does not matter. I shall insist on it. I have every right to propose any amendment in the Preamble , and if you find you have already passed something quite different, let me tell you that the Preamble will not be subject to your erroneous decisions and you will have to correct those decisions and it may take a year or two. But it does not matter. But unless and until you conform to the accepted principles prevalent all over the world, I think it will be ridiculous to pass this so perfunctorily.

Shri Deshbandbu Gupta : May I draw the attention of the Chair to the point of order moved by me? I am serious about it.

Mr. President : He is moving amendment No. 453 which runs thus: "That in the Preamble for the words

'We, the people of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic' the following be substituted: -

'We, the people of India, having solemnly resolved to constituted India into a Sovereign Federal Republic'. "

Or

'We, the people of India having solemnly resolved to constitute India into a Sovereign Independent Republic'. "

So far as this amendment is concerned, I do not see anything in it that is out of order. You are taking only this one, Maulana Sahib?

Maulana Hasrat Mohani : No, no. I will propose the other one when the time comes.

Mr. President : At present you are moving this one?

Maulana Hasrat Mohani : Yes. But I am not giving up the other amendment.

Mr. President : You are not taking up any other at the present moment. You have moved amendment No. 453.

Maulana Hasrat Mohani : Yes - this and the other one.

Mr. President : Which other one ? We have only one amendment.

Maulana Hasrat Mohani : The alternative !

Mr. President : That does not make any difference.

Dr. B. Pattabhi Sitaramayya : You said before that if there are alternative amendments and one of them is moved, the other one would be blocked.

Mr. President : I do not see much difference between the two amendments. They are more or less the same. Therefore whether the one or the other is accepted does not matter.

Dr. B. Pattabhi Sitaramayya : So, if they are the same, only one can be accepted.

Mr. President : Whichever he moves. that I will put to the House.

Maulana Hasrat Mohani : So I halve read out the official report. I refer to volume IV.....

Mr. President: The object of putting the Preamble last was that the Preamble may be in conformity with the Bill as accepted.

Maulana Hasrat Mohani : When I wanted the Preamble discussed at the very beginning you said we will not allow you to discuss it. I, therefore, pointed out that I was suspicious that when you had passed all the other articles according to your wishes, if any one else proposed anything about the Preamble you would say that it was not possible to go back on what we had passed it is now a settled fact and you will then rule me out of order. You gave me a promise that you would not do that and I have that in the printed report.

Dr. B. Pattabbi Sitaramayya: Well, you have been good enough to disallow the point of order but he admits the point of order and therefore he must be ruled out now.

Maulana Hasrat Mohani: What is the point of order?

Mr. President: Maulana Sahib, you are referring to something that I promised. I just want to have that.

Maulana Hasrat Mohani: I will read out to you what you said on a previous occasion. I have here also an admission on the part of

Dr. Ambedkar himself. I refer you to the printed report, volume 7, no. 6, page 418 where he says that he will not object to any amendment being proposed at this stage.

With regard to yourself, I refer you to volume 4, No. 6 on page 733. That was the occasion when the report on the proposed Union Constitution was presented by Pandit Jawaharlal Nehru. I raised an objection at that time and you said that "you need not obstruct him just now". You said I could raise this objection afterwards. "As I understand it, the Maulana's point is that I should give him a promise at this stage that his amendment will not be ruled out of order". Then you said "More than this I cannot say anything at this stage". "I have given some sort of promise that Maulana wanted. I take it that the House wishes that we should proceed with the consideration of this report". I objected and said that I would not allow this report to be considered and then you said that I can raise my objection afterwards and for the present I may, allow Pandit Jawaharlal Nehru to proceed with; this report and it was on that understanding that I refrained from saying all these things at that time.

Mr. President : Far from giving a promise I definitely refused to give a promise. I read the relevant portion of the debate: "As I understand it, the Maulana's point is that I should give him a promise at this stage that his amendment will not be ruled out of order. Obviously I cannot give any promise to any member before the matter actually comes up. But you may all have noticed that I am very liberal in the matter of allowing amendments to be moved even if they come out of time. Unless there is any technical ground, I do not see any reason why his amendment may be ruled out of order. More than this I cannot say anything at this stage".

Maulana Hasrat Mohani : I have been given some sort of promise. Very well, Sir. According to that report the Committee appointed for framing the constitution was given a clear directive that the Constitution should be framed in accordance with the Objectives Resolution passed by this Assembly. It is quite strange that instead of following the Objectives Resolution, Dr. Ambedkar is passing anything he likes. He wants the Objectives Resolution to be in conformity with his erroneous decision. He has reversed the order and this is what I object to most because it has changed the character of the Constitution. As I pointed out here, what was the object of the Objectives Resolution and the Report. They said that it will be a Federation of sovereign Independent Republics. Mark this plural form "Republics". Now he has reversed the whole thing. He has dropped the word ‘Federation’; he has dropped the word Republic and he has dropped also the word, ‘independent’ for some ulterior motive which I am not going to disclose at this moment. I reserve it for a future occasion when I will throw it in his face when the time comes. For the present I say that according to the Objectives Resolution and according to the instructions given by Pandit Jawaharlal Nehru they should at least change this article in this way, that the spirit of what he suggested may be included in the article proposed by Dr. Ambedkar. He in fact, accepted this thing; he drops the word ‘independent’. For the word ‘independent’ I want to put the word ‘Federal’ that is, a sovereign federal Republic; it does not matter if it is not a Republic. When I say a Sovereign Federal Republic, it means a Republic and the State units of that will also be Republics or it will be a Federation. I say ‘No’. He takes that word only because it implies also a sort of a unitary system, and whatever he wants he has reversed and changed the whole character of this Constitution. We mean and

the Objectives Resolution means that India will be made a Federation of Independent Republics and he now says "No". India will be transformed and in the place of the British Empire you will create an Indian Empire which will consist only of States which will have got no power and in the States you have also included and brought down the Provinces also. Formerly, I thought that the States will get the benefit of this inclusion but you have brought down the provinces also and you have deprived them of everything and even the sort of provincial autonomy has been taken away and in fact you have allowed nothing for the Provinces. You decided that you will have elected governors for the provinces. I objected to the word ‘governors’ in the very beginning and when Pandit Jawaharlal Nehru said "I cannot satisfy the Maulana; he is a very deep man. He is afraid of this word ‘Governor’, I suggested that instead of the word ‘Governor’ we may put the word "president’’ also in regard to the provinces. They said that they need not do that. I did not press that matter to the provinces. They said that they need not do that. I did not press that matter at that time but now I find on hearing the explanations given by Dr. Ambedkar that he has reversed the whole picture and he has let the cat out of the bag. He has clearly said: "What will be India that is Bharat? It will be a Union of States". What does this mean? You have discarded the word ‘Republic’; you have discarded the word "Federation"; you have discarded the word "Independent", and my honourable friend, Dr. Ambedkar says: "Well, what does it matter? It does not matter when we say Republic. It is immaterial whether you call it independent or not’’. I say if this is immaterial why is he so anxious to change that word ‘independent’ into ‘democratic’? There is something secretly going behind the scenes and I pointed out on a previous occasion that when Pandit Jawaharlal Nehru

changed his mind and went to England to have some sort of connection with the British Commonwealth, then he thought that we will have a Republic and also ‘independent’. So he wanted to create a loophole for himself because he can now say: "We are already a Republic". We are not an independent Republic. What sort of a Republic are we? Some sort of Republic that these European countries, these imperialists, who are past-masters in this jugglery of words, have coined new phrases; and what are these new phrases? Holland has invented a phrase a Republican Dominion’ and France has coined a new word for Vietnam which says that it will be a colonial Republic. We admit that Vietnam is a Republic and Holland says that they have accepted Indonesia as a Republic but it says it is a Republican Dominion. Instead of the Dominion it will be included in an imperial regime and that fraud was brought about by Holland and by France and do you propose that you will also bring about the same fraud to be enacted here? You said that we have got the word Republic. You have dropped the word Federation. You will also say that of course Pandit Jawaharlal Nehru has agreed to remain in the British Commonwealth because they accept we are independent. But, what sort of independence? It will be a republican dominion. Because if it is a real republic and not a republican dominion, you should have nothing to do with any king or Emperor directly or indirectly in any manner. When once Pandit Jawaharlal Nehru has agreed to remain in the British Commonwealth, I think he has forfeited his right to call India as a Republic. It is not a republic. If it is a republic, it is a republican dominion, as I said just now. So, my alternative proposal is this. Either introduce the word ‘Federal’ instead of the word "Democratic". It will make something clear. If you do not want to introduce this word ‘federation’, if you are

afraid of it, I will grant a concession to Dr. Ambedkar and you stick to the original wording of the Objectives Resolution which is given here. It will be "Independent Sovereign Republic". I say, drop this word ‘democratic’ and keep to the actual words used in the Objectives Resolution. If you use the words "independent Republic’’ my object will be served. I come forward and say that whatever has been done by Pandit Jawaharlal Nehru is absolutely a false policy.

Mr. President : Does any one else wish to say anything about this amendment? I will put it to the vote. First alternative.

The question is:

"That in the Preamble for the words, ‘We, the people of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic’ the following be substituted:- 'We, the people of India, having solemnly resolved to constitute India into a Sovereign Federal Republic’."

The amendment was negatived.

Mr. President: I shall put the second alternative.

The question is:

"That in the Preamble , for the words, ‘We, the people of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic’ the following be substituted:-

‘We, the people of India, having solemnly resolved to constitute India into a Sovereign independent Republic’".

The amendment was negatived.

Mr. President: We shall take up the other things when we meet at six o’clock.

The Assembly then adjourned for lunch till six p.m. The Assembly reassembled after lunch at 6 p.m., Mr. President (The honourable Dr. Rajendra Prasad) in the Chair.

Mr. President: We have to take up the other amendment now. There is one in the name of Maulana Hasrat Mohani, No. 9.

Maulana Hasrat Mohani : Mr. President, I move: "That in the Preamble , for the words 'We, the People of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic' the words 'We, The People of India, having solemnly resolved to constitute India into a Union of Indian Socialistic Republics to be called U. I. S.R. on the lines of U. S. S. R.' be substituted".

Shri Deshbandhu Gupta: May I now raise the point of order again and submit that it is out of order because it goes counter to the Constitution we have passed? Mr. President: A point of order has been raised that the whole Constitution that has been framed and accepted by this house is inconsistent with this amendment of the Preamble and therefore it should be ruled out of order.

Maulana Hasrat Mohani: It was for this very point I requested you to save me from this sort of maneuvering. I am not going to repeat the same things. The other day I proposed this very thing in connection with article I. What I am going to propose today is on a different basis. If you find me repeating the same argument, you can declare me out of order but if I say something quite new which has nothing to do with my amendment to the First article of the Constitution, I think I am entitled to some indulgence on your part. As I showed in my statement earlier, you gave a sort of promise

that you will not rule me out abruptly or without any consideration. Of course if you still think that I have nothing new to say and you find me repeating, you can rule me out; but if it is something quite different from what I said in connection with article 1, then of course I do not see any reason why my amendment should be ruled out of order.

Dr. B. Pattabhi Sitaramayya: May I know whether the vote that was taken this morning was a vote to reject Maulana's amendment? There was no positive vote on the wording of the Preamble ?

Mr. President: I did not take any.

Dr. B. Pattabbi Sitaramayya: Therefore all that was done was to reject this amendment to substitute 'independent' or 'Federal' for the word 'Democratic'. Mr. President: Maulana: what I have to decide is not whether you are going to repeat or not. The point is whether this is in order or not. The objection is that it is inconsistent with the whole Constitution we have passed. What have you to say about that?

Maulana Hasrat Mohani: I do not know how it is inconsistent. Because the words in the Preamble are 'Sovereign Democratic Republic'. I say that instead of these you can say 'Union of independent Republics'. Where is the inconsistency? I do not find any inconsistency in that.

Mr. President: Do you really suggest that the Constitution we have passed is on the lines of U.S.S.R.?

Maulana Hasrat Mohani: I am not going to say anything of the kind. I do not say we should go and merge in the U. S. S. R. or that you should adopt the same Constitution; but what I want to say is

that we should work out our Constitution along the lines and on the pattern of Soviet Russia. It is a special pattern and also republican pattern and also it is of a centrifugal pattern.

Shri Jai Narain Vyas (Rajasthan): May I enquire if the honourable Member is making a speech or replying to the point of order?

Mr. President: He is replying to the point of order.

Maulana Hasrat Mohani: When I propose this that we are not going to merge ourselves with Russia or we are not going to adopt the Constitution of U. S. S. R. I am only suggesting that the Constitution and the Preamble we are adopting here in this Second reading must be on the same lines, of the same pattern as the U.S.S.R. plan and I do not think there is any thing inconsistent in that. What are those considerations? What are the fundamental principles of the U.S.S.R.? They are three. First that it will be federal constitution. Secondly that it will be a centrifugal federation, and at the same time, the Centre, after getting some central powers, it again delegated those powers to their constituent units, declaring that they…..

Mr. President: I think it will save time if I allowed Maulana Sahib to move his amendment, without giving any ruling. So you had better finish your speech.

Maulana Hasrat Mohani: Some of my friends here, whenever they hear the word "Soviet", say, "He is an agent of the Soviet Government, and he is in the pay of the Soviet Government." I do not think anybody in this world can accuse me of that kind of thing.

Mr. President: Nobody has said that in this house.

Maulana Hasrat Mohani: They are the henchmen of the Soviet, they carry out the orders they receive from the Soviet Government. I have no connection with them. I have got no connection with the Communist party of India even, because I refused to join them on the ground that once they made the mistake of saying that we have got a common ground with England because we are both fighting Nazism. I said then, and I say it now, "Anybody who helps any foreign Government, especially the British Government, under any terms or for any motive, I say that he is wrong".

Mr. President: Maulana Sahib, let me remind you that we are not concerned with biographical details. You will please speak on your amendment.

Maulana Hasrat Mohani: I am not going to say anything to which anyone can take objection. I have nothing to do with the Soviet Government or the Soviet Constitution. I want only our Constitution and our Preamble to follow the lines adopted by the Soviet Government, and those are the three lines which I have mentioned. That is to say, our Constitution must be federal, and also along with being federal, it must be centrifugal, that the Constituent States or Republics should willingly hand over certain central powers to the Centre. And after that, to obtain the goodwill of the constituent units, they again, I mean the Soviet Government again, gave freedom to their constituent units or republics. They said, "If you find at any time that the Centre is deciding something against your interest, you are at liberty to differ from the Centre". And therefore, they gave them the simultaneous right, and if they found anything going wrong, any proposal of the Centre, they could at once go out and they said that even when the war was raging. They said to all those Muslim republics of the U.S.S.R., "If

you like, you can go and fight on whichever side you want. If you do not like to fight for us, we do not press you. What was the result? The U.S.S.R. took them into its confidence and the result was not a single Muslim went against the Soviet Republic. Everyone fought, whole heartedly with the Soviet Government. What was the reason for this? They did so, because they found they had been taken into the confidence of the U.S.S.R. They were not made to leave the Soviet group. Why should they leave them? They were also cautious. They would never propose anything which might obviously go against the interest of their Constituent units.

So by adopting this conciliatory attitude they have attained that kind of from and that kind of freedom and that kind of success that has never been known in the world before. I say, Sir, that we should also follow the same policy, and we should also adopt the same attitude. We should also take out minorities into our confidence. Instead of doing that, you are going to outcaste them altogether. You are passing anything you like, without the slightest consideration for the interests of even your political minorities. You do not care a fig about us. You see, your Bengal Government and your Madras Government have declared the Communist Party to be unlawful, on the ground that the Communists have adopted some unlawful means, that they are fighting, killing, murdering and looting. Well, I say that the same thing can be said by the Communists. They can say, "You do not allow us any scope, you do not allow us to take an independent and constitutional attitude, and you……

Mr. President: May I remind you, that we are not in the Legislative Assembly, but we are here in the Constituent

Assembly, and we are not concerned with what is happening in the country at the present moment.

Maulana Hasrat Mohani: Very well, Sir, I have only a few sentences more to speak in this connection and I am not going to take very long over them.

Supposing you say that the Communists can fight a free election in the next election, with joint electorates and all that, and without any restriction. But how are they going to do that? Supposing the Communist party wants to adopt this constitutional means, will you allow them to issue their manifesto, which must certainly be against your principles? Will you allow them to have their agents for the elections? Will you allow them to have their own workers who will approach every voter? You will not do anything of that kind. Once they issue their manifesto, you will at once send them to the prison. So it is a question of whether the hen came first or the egg came first. You imprison them because they adopt violent means, and they say, "We are forced to resort to violent means because you do not leave us any scope for constitutional means".

Mr. President: Maulana Sahib, you are not speaking on your amendment.

Maulana Hasrat Mohani: Very well. I have only to request Dr. Ambedkar and this house to adopt the same conciliatory attitude to all political minorities and to adopt the same principles as have been adopted by the Soviet Union. I am not going to ask you to join the Soviet Union or to adopt their Constitution. With these few words, I propose my amendment and request Dr. Ambedkar to accept it.

Mr. President: Does anyone wish to say anything about this amendment?

Honourable Members: No.

Mr. President : Then I will put it to vote.

The question is:

"That in the Preamble for the words 'We, the People of India, having solemnly resolved to constitute India into a Sovereign Democratic Republic' the words 'We The people of India, having solemnly resolved to constitute India into a union of Indian Socialistic Republics to be called U.I.S.R. on the lines of U.S.S.R. be substituted".

The amendment was negatived.

Mr. President: Now we have got a large number of amendments of which notice is given by other Members. Some of these amendments relate to two things. In some of them the name of God is brought in some form or other in this Preamble . In some others, the name of Mahatma Gandhi 'is brought in some form or other. Then there are some in which some amendments are suggested to the wording. But those are rather minor things, and the main amendments are really those in which the name of God is brought in, or the name of Mahatma Gandhi is brought in, or both together. Now, I would like to know from Members if they insist upon these amendments being moved, because I cannot prevent them from moving them; but I would suggest that neither God nor mahatma Gandhi admits of a discussion in this House. (Hear, hear).

Shri H. V. Kamath: Mr. President, may I move my amendment No. 430?.

Mr. President: If it is moved it may have to be voted upon.

Shri Deshbandhu Gupta : Sir, before Mr. Kamath moves his amendment, may I draw the attention of the house to the fact that when the Assembly passed the Objectives Resolution solemnly, all Members standing, the Prime Minister at that time had made an appeal in these words:

yet,

"It is a Resolution and it is something much more than a Resolution. It is a declaration. It is a firm resolve. It is a pledge and an undertaking and it is for all of us I hope a dedication……. and I wish this house if I may say so respectfully, should consider this Resolution not in a spirit of narrow legal wording, but rather look at the spirit behind that Resolution".

The Preamble is no less important and the Prime Minister's remarks are equally applicable to same. I, therefore, appeal to Mr. Kamath that this may be borne in mind.

Mr. President : May I just point out to Mr. Kamath one thing? In the Schedule III which we have passed an oath or affirmation is prescribed for Ministers and others who have to take office. We have put the thing in the alternative form, such as 'Swear in the name of God' or, ''Solemnly affirm' so as to give freedom of choice to the believers and the non-believers to take the oath or the affirmation. Now here, would you like this thing also to be in the alternative form?

Shri H. V. Kamath: Here we are not individuals. Here we are all the people of India. There is much difference between the two.

Mr. President: The people of India includes individuals. If you insist upon moving your amendment I cannot prevent you. But I would suggest to you not to insist upon it.

Shri H. V. Kamath: Mr. President, I move……

Shrimati Purnima Banerji (United Provinces: General). Mr. President, I would beg of you to see that the matter of God is not made the subject of discussion between a majority and a minority. It is most embarrassing. To most of us, believers and non-believers, it will be difficult to affirm or deny God. Let us not try to invoke his name in vain. It should not be brought up in this form and the members compelled to vote one way or the other. The name of God is invoked by every nation upon earth and god is an Impartial Entity and he should be allowed to remain so. With these words, I appeal to Mr. Kamath not to put us to the embarrassment of having to vote upon God.

Shri H. V. Kamath : I regret I cannot accept the appeal. I shall move amendment No. 430 standing in my name. Sir, I move:

"That in amendment no. 2 of the list of Amendments (Volume I), the following be substituted for the proposed Preamble :-

'In the name of God,

We, the people of India

having solemnly resolved to constitute India into a Sovereign democratic republic, and to secure to all her citizen

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity;

and to promote among them all;

Fraternity, assuring the dignity of the individual and the unity of the nation;

In our Constituent Assembly do hereby adopt, enact and give to ourselves this Constitution".

Dr. B. Pattabhi Sitaramayya: The amendment is only in the first line, you see, Sir?

Mr. President: It is exactly the same as the Preamble except that it begins with 'In the name of God'.

Honourable Members: No speech, please.

The Honourable Shri K. Santhanam: I rise to a point of order. The amendment moved must have a meaning.

Mr. President: It is not a point of order really.

Shri H. V. Kamath: I can reply to Mr. Santhanam. My amendment means, in the name of God we do this and that. No long speech is needed to commend this motion. Besides invoking the name of God, I have taken a little liberty with only one word, and that is, I have changed the word 'its' citizens to 'her' citizens.

Shri A. Thanu Pillai: (Travancore and Cochin State): may I rise to a point of order, Sir? If Mr. Kamath's amendment is accepted, - of course I am a believer in God-would not that amount to compulsion in the matter of faith? Is it not out of order to move a motion like that? It affects the fundamental right of freedom of faith. A man has a right to believe in God or not, according to the Constitution. In that view this amendment should be ruled out, though I am myself a staunch believer in God.

Shri H. V. Kamath: My reply to Mr. Thanu Pillai is that we are passing this in the name and on behalf of the people of India. All that we have done here in this Assembly has been in the name and on behalf of the people of India.

Shri Rohini Kumar Chaudhuri (Assam: General): May I move an amendment to that of Shri Kamath that, instead of 'In the name of God', would he be pleased to accept 'In the name of Goddess'? (laughter).

Shri H. V. Kamath: Mr. President, all that we have done in this House has been done on behalf of and for the people of India, and all decisions have been taken here by the vote of the House. Weather this becomes a matter for the vote of the House or not, I am sure in their heart of hearts the people of India for whom we have been working and toiling here for the last three years would endorse this amendment in toto. That is so far as the point raised by Mr. Pillai is concerned.

I have taken only a slight liberty with the text of the Preamble . As I have pointed out, I am sticking to the wording of the Objectives Resolution moved by Pandit Jawaharlal Nehru in December, 1946. In the first part of it, the future with reference to the governance of the country the words used are "her future governance", her being apt for the motherland. That being so, we should say 'her' and not 'its' citizens in the Preamble . I would leave this however to the Drafting Committee.

As regards the substance of the motion I do not propose to make a long speech. In this august House, the first Constituent Assembly of India, of our Bharata Varsha, in this land, ancient but ever young, which has through the ages renewed itself at the Divine Fountain, let us consecrate this Constitution by a Solemn dedication to God in the spirit of the Gita.

Yatkaroshi yadashnasi

Yajjuhoshi dadasi yat

Yattapasyasi kaunteya

Tatkurushwa madarpanam.

Whatever our shortcomings, whatever the defects and errors of this Constitution let us pray that God will give us strength, courage and wisdom to transmute our baser metal into gold, through hard work, suffering and sacrifice for India and for her people. This has been the voice of our ancient civilisation, has been the voice through all these centuries, a voice distinctive, vital and creative, and if we, the people of India, heed that voice, all will be well with us.

Shri V. I. Muniswamy Pillay (Madras: General): I strongly support the motion moved by Mr. Kamath.

(Prof. Shibban Lal Saksena rose to speak).

Mr. President: Do you want to move any amendment? Prof. Shibban Lal Saksena: Yes, Sir; No. 3.

Mr. President: Does anyone wish to speak on this amendment which has been moved by Mr. Kamath?

Shri M. Thirumala Rao (Madras: General): Are you allowing Mr. Saksena to move his amendment? I want to speak a few words on Mr. Kamath's amendment. Mr. President: We are now on Mr. Kamath's amendment.

Shri Mahavir Tyagi : May I remind Dr. Ambedkar of the promise he made to me on another occasion. May I read a few line, Sir? Sir, on the 15th November, 1948 when the question was discussed, Dr. Ambedkar had asked me to remind him about this question of sovereignty, I said-

"I hope…….that his draft means that it (sovereignty) vests with the people, and his explanation may well go down into the records for future reference".

He replied-

"Beyond doubt it vests with the people. I might also tell my friend that I shall not have the least objection if this matter was raised again when we are discussing the Preamble ".

Mr. President: That is not the point. At the present moment we are on Mr. Kamath's amendment, not on that. We are not dealing with that question now.

Shri Mr. Thirumala Rao : It is unfortunate that Mr. Kamath has not seen his way not to press his amendment to a vote. This is a thing of such vital importance and affects the life of the whole nation, that it should not be subjected to the vote of a House of three hundred people whether India wants God or not. We have accepted that God should be there in the Oath, but for those who do not believe in God, there is an alternative there, but there is no possibility of a compromise which can provide for both the things in the Preamble . Therefore, I think it would be better that Mr. Kamath withdraws his amendment and does not subject God about whom he spoke in such reverent terms to the vote of the House, and if it comes to the vote, it will not be fair to ourselves and to the nation.

Dr. B. Pattabhi Sitaramayya: May I request that that amendment may be disposed of first before we take up anything else?

Pandit Hirday Nath Kunzru : It is a matter of the deepest regret that a matter that concerns our innermost and most sacred feelings should have been brought into the arena of discussion. It would

have been far more consistent with our belief in the highest truths and our determination to adhere firmly to them that we should not seek to impose our own belief on others. I recognise the sincerity of Mr. Kamath and of those who agree with him, but I do not see why in a matter that vitally concerns every man individually, the collective view should be forced on anybody. Such a course of action is inconsistent with the Preamble which promises liberty to thought, expression, belief, faith and worship to everyone. How can we deal with this question in a narrow spirit? We invoke the name of God, but I make bold to say that while we do so, we are showing a narrow, sectarian spirit, which is contrary to the spirit of the Constitution and which we should try to forget at this time when we have reached the end of a very important stage of our labours.

Shri Rohini Kumar Chaudhury : Sir, I am at one with my friend, Pandit Kunzru, in objecting to the amendment which has been moved by my friend Mr. Kamath. Sir, I have great admiration for my friend, Mr. Kamath. I am one who has unbounded confidence in him so far as political affairs are concerned. I must confess that I am very sadly disappointed in him this evening. By this amendment, he shocked the feelings of many when he stoutly refused to accept the amendment which I proposed. Sir, it is not a matter of laughter with me. I believe in a Goddess. I belong to Kamrup where the Goddess Kamakhya is worshipped.

An Honourable Member: God includes Goddess.

Mr. President: It is bad as it is that we have brought in the name of God in our discussion. We should not become flippant about it.

Shri Rohini Kumar Chaudhury: We should remember that when we started our political movement, we started it with the

singing of Bande Mataram. What does Bande Mataram mean? It means an invocation to a Goddess. It means belief in a Goddess. Sir, we who belong to the Sakthi cult, protest against invoking the name of God alone, completely ignoring the Goddess. That is my submission. If we bring in the name of God at all, we should bring in the name of the Goddess also. As I said, this amendment should not have been brought. But as it has been brought, this is my point of view.

The Honourable Shri Satyanarayan Sinha (Bihar: General): Sir, the question may now be put. Pandit Govind Malaviya (United Provinces: General): Sir, I wish to say a few words. Mr. President: There are so many others who are wanting to speak. But it has now been suggested that the matter be closed.

Pandit Govind Malaviya: It has been said that we should not impose our will on any section. I hope the other section of the House also will not do that. I wish, with your permission to say a few words on this matter.

Mr. President : But closure has been moved. I shall put the closure motion to vote.

The question is:

"That the question be now put".

The motion was adopted.

Mr. President: Now I have to put the amendment moved by Mr. Kamath to vote. There is no alternative left to me.

The Honourable Dr. B. R. Ambedkar: He may be asked to withdraw it. Mr. President: I suggested to him not to move it. It rests with him to withdraw it.

Shri H. V. Kamath: I am not withdrawing it.

Mr. President: He says he does not withdraw it.

The question is:

"That in amendment No. 2 of the List of Amendments (Volume 1), the following be substituted for the proposed Preamble :-

'In the name of God,

We, the people of India, having solemnly resolved to constitute India into a Sovereign democratic republic, and to secure to all her citizens,

Justice, social economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity; and to promote among them all;

Fraternity, assuring the dignity of the individual and the unity of the nation;

in our Constituent Assembly do hereby adopt, enact and give to ourselves the Constitution'".

Shri H. V. Kamath: I claim a division.

Pandit Govind Malaviya: I want a division on this question.

Maulana Hasrat Mohani: I also want a division on this question.

Pandit Govind Malaviya : I want a division because I feel that we are doing an injustice to this country and to its people and I want to know who says what on this matter.

The Assembly divided by show of hands.

Ayes: 41

Noes: 68.

The amendment was negatived.

Shri H. V. Kamath: This, Sir, is a black day in our annals. God save India.

Pandit Govind Malaviya: Sir, it is so vital a matter and I again beg of you that we might have a division on this matter. Mr. President: I have had the division now.

Shri A. Thanu Pillai: Sir, Mr. Kamath should not have made that statement, and he should withdraw it.

Mr. President : I may tell Pandit Govind Malaviya this. I have got here in our Rules the following:

"A matter requiring the decision of the Assembly shall be brought forward by means of a question put by the Chairman.

In all matters requiring to be decided by the members of the Assembly, the Chairman shall exercise a vote only in the case of an equality of votes.

Votes may be taken by voices or division and shall be taken by division if any member so desires".

Here I have taken the voices and then I have adopted the particular method of division by asking members to raise their hands, instead of asking them to rise in their places. I think I have substantially fulfilled the requirement of the Rules.

Shri Mahavir Tyagi : On a point of order, sir, the President has already once laid down, by means of a Standing Order, as to what will be the method of Division. I have not got the Order with me because it was issued separately. In that Standing Order it is mentioned in so many words that when a Member calls a Division

the President shall get all the doors closed and say "Ayes to the Right. Noes to the Left". And then the Members will file past by the side of the Tellers. That Standing Order was issued during the session and the requirement of that Standing Order has not been fulfilled.

Mr. President: You have not read the rule rightly. Paragraph (4) of rule 30 says: "The Chairman shall determine the method of taking vote by division". I have followed that.

Shri Mahavir Tyagi: My point is once the standing order was issued, it cannot be changed verbally.

Mr. President: Is it suggested that paragraph (4) of Rule 30 is superseded?

Shri H. V. Kamath: That has been amplified and clarified in your office circular.

Mr. **President**: It does not require any clarification. It is very clear. The Chairman shall determine the method of taking voice by division:

"If in the opinion of the person presiding a division is claimed unnecessarily (that is to say, when he is satisfied in any particular case that there is a clear preponderance of opinion in support of his declaration and against the challengers) he may not follow the ordinary method of having votes recorded in the division lobbies but may have the vote of the House by asking the Members who are for 'Aye' and for 'No' respectively to rise in their places and thereupon as he thinks fit, may either declare the determination of the House immediately or may order a division to be held. When the Chairman there and then declares the

determination of the House, the names of voters will not ordinarily be recorded".

An Honourable Member: The word "division'' has got a particular meaning in point of phraseology. Claiming of division means that names will have to be recorded. It is not mere counting of hands. That is the practice followed in the Legislative Assembly.

Mr. President: We are not concerned with the procedure in other places,. Our procedure is governed by our own rules and I have taken the division in the sense intended by that order. That is my final ruling.

Pandit Govind Malaviya: I have no doubt about the rules. They are quite clear. It is for the Chair to decide the manner in which the views of the House should be obtained. I did not have any doubt in my mind when I made the request to you. But since it is so important a matter about which many of us feel so very keenly, I leave it to you to decide whether anything more should be done. If you are satisfied that what has been done is not enough then in view of our request and our feeling, if you could consider it feasible to have some other method for a division adopted, we shall be very grateful.

Mr. President: I am perfectly satisfied that I have got the view of the House correctly and that is all I am concerned with. We shall go to the next item.

Pandit Govind Malaviya: There was an amendment in my name on this point. You have decided that only Mr. Kamath's amendment will be moved, but my amendment is quite different.

It does not bring in the name of God and it is possible that it may not be offensive to anybody.

Mr. President: I am now going to take the amendments as they are on the Order Paper. I will see what is to be done about your amendment when we come to it. Prof. Shah is not here; so his amendment is not moved. Then Mr. Saksena's amendment.

Prof. Shibban Lal Saksena : Sir, I beg to move:

"That for the Preamble , the following be substituted:- 'In the name of God the Almighty, under whose inspiration and guidance, the Father of our Nation, Mahatma Gandhi, led the Nation from slavery into Freedom, by unique adherence to the eternal principles of Satya and Ahimsa, and who sustained the millions of our countrymen and the martyrs of the Nation in their heroic and unremitting struggle to regain the Complete Independence of our Motherland,

We, the People of Bharat, having solemnly resolved to constitute Bharat into a Sovereign, Independent, Democratic, Socialist Republic, and to secure to all its citizens:

JUSTICE, social, economic and political,

LIBERTY of though, expression, belief, faith and worship,

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity and freedom of the individual and the unity of the country and the Nation:

In our Constituent Assembly this;……..day of Vikrami Samvat 2006 (the 26th day of January, 1950 A.D.) do hereby enact, adopt and give to ourselves this Constitution'".

I have been very much pained to see the attitude of some of our friends regarding the introduction of the holy name of God and the Father of the Nation at the beginning of our Constitution. While they have a right to have their say, other people also have a full right to have their say. This country has always prided on its discoveries in the realm of the spirit and we are now afraid even to put in God's name at the commencement of our Constitution. I am one of those who think that we have produced a great piece of work by preparing this Constitution. There may be some defects in it. But I am sure we have done some very great things. It is only meet and proper that the name of God and the name of the Father of the Nation should be put at the beginning of our Constitution. I am sorry that some people should have thought that we are forcing it on them. There are other Constitutions in the world –the Irish Constitution, for instance-wherein in the very beginning in the Preamble God has been mentioned and homage has been paid to the martyrs who won their freedom. I have therefore been very much pained to feel that some Members merely at the mention of the name of God or the Father of the Nation feel that something is sought to be forced upon somebody. If they feel that way, they are at liberty to have their opinion, but why force others who feel intensely in the matter to eliminate God's name? I greatly regret the attitude of my friends. I hope they will reconsider it. This Constitution will probably build our country on a new pattern and on the basis of the ideals set by the Father of the Nation. It is therefore meet and proper that we should humble ourselves before God and pay homage to the Father of the Nation by incorporating their names in the very beginning of the Constitution.

Shri Brajeshwar Prasad (Bihar: General): Mr. President, I rise to oppose the amendment moved by my friend Prof. Shibban Lal Saksena. I do not want that the name of Mahatma Gandhi should be incorporated in this Constitution, because it is not a Gandhian Constitution. The foundation stones of this Constitution are the decisions of the American Supreme Court. It is the Government of India Act, 1935, repeated again. If we had a Gandhian Constitution, I would have been the first to offer my support. I do not want that the name of Mahatma Gandhi should be dragged in the rotten Constitution.

Mr. President: I will now put this amendment to vote.

Acharya J. B. Kripalani (United Provinces: General): May I request the Mover of the amendment to withdraw it? It is not behoving us to vote on this amendment. We must be very sparing of the use of the name of the Father of the Nation. My friend Shibban Lal knows that I yield to nobody in my love and respect for Gandhiji. I think it will be consistent with that respect if we do not bring him into this Constitution that may be changed and reshaped at any time.

Prof. Shibban Lal Saksena: Sir, in response to the appeal of Acharya Kriplani, I beg to withdraw my amendment.

The amendment was, by leave of the Assembly withdrawn.

(Amendment No. 4 was not moved).

Pandit Govind Malaviya: The amendment of which I had given notice ran thus:

"That in the Preamble , for the words ‘We the people of India’ the following be substituted:-

‘By the grace of Parameshwar, the Supreme Being, Lord of the Universe (called by different names by different peoples of the world).

From whom emanates all that is good and wise, and who is the Prime Source of all Authority,

We the people of Bharata (India),

Humbly acknowledging our devotion to Him,

And gratefully remembering our great leader Mahatma Mohandas Karamchand Gandhi and the innumerable sons and daughters of this land who have laboured, struggled and suffered for our freedom, and".

Dr. P. S. Deshmukh: I rise to a point of order. The essence of this amendment is in two respects. It introduces the name of God and it brings in the name of Mahatma Gandhi. Both of these issues have been decided by this House. In one case there has been some debate and voting; in the other case the honourable Gentleman has withdrawn the motion. I therefore urge that this amendment should be ruled out of order since the main ingredients in that amendment have been already decided by the House.

Pandit Govind Malaviya: If the words which I had been noted, it would have been seen that I had said that I was reading the amendment which I had intended to move. I had said that "it ran thus and thus’’. If the House had borne with me for a moment, I was going to say, Sir, that this was the amendment of which I had given notice, but in view of the discussion which had just taken place what I wished to move now was: I would delete the last portions referring to Mahatma Gandhi and others, and would also delete the word Parameshwara at the beginning. That was what I

was going to say to meet the point of view which has been expressed.

The Honourable Dr. B. R. Ambedkar: They have been disposed of:

Pandit Govind Malaviya: Then the amendment would read: "By the Grace of the Supreme Being, Lord of the Universe, called by different names……..".

Maulana Hasrat Mohani: Is he proposing some new amendment? I rise to a point of order. He is out of order. He is proposing something new.

Pandit Govind Malaviya: Then it will satisfy even the unreasonable point of view which has been expressed here. We will not be referring to 'God' as such or to anybody's particular God because my amendment says "called by different names by different peoples of the world" and yet we would be able to put into our Preamble something which has been the most distinctive and permanent feature of the thought and belief, of the tradition, of the culture and of the history of the entire life of the people of this country from time immemorial. I submit, Sir, that we have come here as representatives of the people of India. Honesty demands that we should record here what may be their view. In this Preamble , Sir…….

Mr. President: I shall decide the point of order. The first point is whether it is covered by the amendment which has been defeated. I think it is covered.

Pandit Govind Malaviya: Even after the deletions, if you think so, I shall take my seat.

Mr. President: By simply omitting the word Parameshwar you do not take out of the amendment which has been defeated.

Pandit Govind Malaviya: I thought the objection of some of our friends was to the word "God". I shall obey your Ruling, Sir.

Shri Mahavir Tyagi: I do not want to move my amendment No. 11 but I want to ask Dr. Ambedkar if he is going to keep to the promise he had made.

Mr. President: That is a different matter.

Shri Mahavir Tyagi: He told me to remind him at the time when the Preamble was being discussed.

Mr. Naziruddin Ahmad: If there is a breach of promise, then my friend should go to Court!

Shri Mahavir Tyagi: It is not a question of promise. I was assured according to the proceedings, by what Dr. Ambedkar had stated about the investment of sovereignty. I had moved an amendment and he had replied that the meaning was "vested in the people" but it was not defined in so many words I had insisted that it be ascertained. Dr. Ambedkar said: "You doubt that it vests with the people. I might tell my friend that I shall not have the least objection".

Mr. President: Is there any amendment?

Shri Mahavir Tyagi: But this is for the Drafting Committee to do it.

Shri Satish Chandra (United Provinces: general): There is an amendment No. 452 in list XXI to the same effect, standing jointly in the names of Shrimati purnima Banerji and myself.

Shri Mahavir Tyagi: If you permit me they might accommodate it in the Drafting Committee.

Mr. President: I understand there is an amendment to that effect. We shall have to take it up when we come to it.

Amendment No. 14: There are several amendments with regard to the name.

Those do not arise now.

Does any Member who has given notice of the amendments printed in the first volume wish to move his amendment?

Honourable Members: No.

Mr. President: I shall go to the supplementary list. There are amendments in the supplementary printed list and I take it that no Member wants to move any of those amendments either.

Honurable Members: No, no.

(At this stage Shrimati. Purnima Banerji rose to speak).

Mr. President: Yours is one of these recent amendments, but I am now thinking of the old printed list.

Then we come to amendment No. 452.

Shri Brajeshwar Prasad There is amendment No. 313 previous to that in List XIII second page.

Mr. President: Yes, you can move it.

Shri Brajeshwar Prasad: Mr. President, Sir, there are eight amendments standing in my name. I refer to amendments Nos. 313,314,316 and 317,318,319,320 and 323. Sir, I would like to move only one amendment.

I refer to amendment No. 313. Mr. President, Sir, I move:

"That for amendment No. 1 of the List of amendments (Vol. 1), the following be substituted:-

'That for the Preamble the following be substituted:-

"WE THE PEOPLE OF INDIA, having resolved to constitute India into a CO- OPERATIVE COMMONWEALTH to establish SOCIALIST ORDER and to secure to all its citizens-

1. an adequate means of LIVELIHOOD
3. FREE ND COMPULSORY EDUCATION
4. FREE MEDICAL AID
5. COMPULSORY MILITARY TRAINING

do hereby ordain and establish this Constitution for India".

Dr. P. S. Deshmukh: What about a camel and motor cycle?

Shri Brajeshwar Prasad: It is for you to suggest those things. Sir, this word secular has not found any place in our Constitution. This is the word on which the greatest stress has been laid by our national leaders. I do submit that this word ought to be incorporated in our Preamble because it will tone up the morale of the minorities and it will check the spirit of loaferism that is rampant in politics. I have laid stress on another word. I refer to the word 'Socialist'. I believe that the future of India is in Socialism. I believe in a Socialist order. When I say that I believe in a socialist order. I do not mean that I accept the Marxian interpretation of History. I do not believe in class war nor in the materialist Philosophy which is so widely prevalent among the socialist circles. By socialism I mean an equalitarian social order. Equality of opportunity without equality of income is a mere shibboleth. I believe that in India we have to evolve a new type of

socialism consistent with the tradition and history of this land. The theory of materialism is a well-knit dogma. I think that we people in India have not to learn anything from Germany on philosophical speculation.

Now I come to some other words which have found place in the Preamble . There seems to be a confusion of thought. I hold the opinion that the word ‘liberty’ and ‘equality’ do not go together. They are incompatibles. They are the enemies of one another, the one can only triumph at the expense of the other. With your kind permission, I would quote a small passage of a few lines from a booklet. I refer to the book entitled "Liberty *versus* equality’’ by Muriel Jaeger:

"It is becoming more and more widely accepted that ownership is one of those liberties that infringe the liberty of others and so must be abolished, or drastically restricted. And at this point what one may call the "paradox of liberty" becomes acute. If every liberty that does, or may do, harm to one’s fellow-men where taken away, there would be no liberty left. The abolition or restriction of private wealth implies some kind of public control. Public control means public planning, for the general good is the whole object of taking wealth out of private hands. This is well-worn platitude; but it is the details that interest us-the effect that the application of these platitudes will have upon our lives from day to day, from year to year, and from generation to generation."

"Public planning means that enterprise, labour, distribution must be strictly regulated. It means, therefore that that one’s chance to choose one’s occupation must be reduced, since the plan cannot possibly be worked unless enough labour is directed into

the occupation where it is needed, regardless of whether enough people want to do that kind of work or not".

Sir, I would crave your indulgence for a few minutes.

Mr. President: Are you going to read the whole book?

Shri Brajeshwar Prasad: No, Sir.

Mr. President: I thought you said you would read one sentence, but at least you have read one paragraph.

Shri Brajeshwar Prasad: I have read a few lines; I wanted to finish one paragraph consisting of 12 lines.

I will just urge another point. I hold that liberty and equality are not merely incompatibles but they can be reconciled only in a class less society and here, I would again refer to another paragraph and I would like with your permission to read a few lines:

> "As for the final goal, the Marxists, who are so severe with "Utopians", have always been rather pathetically vague. But so far as one can discover, they foreseen a state in which everyone will work cheerfully for the common good, any help himself to whatever he wants from the common stock, which will then be so ample that there will be no danger of any rivalry or clashing of interests. They think that this will be the natural result of a society 'without force and without subordination' and that good social habits will grow of themselves in a classless society, so that special state apparatus will become gradually superfluous. It appears from this that the ultimate Communist idea is complete Liberty combined with complete equality".

I do not want to place impossible ideals before the nation. Sir, it is only in a class- less society that we can achieve a reconciliation of the two, concepts of liberty and equality.

I have suggested that instead of these ideals laid down in the Preamble we should have some pragmation ideals before us. If we succeed in providing an adequate means of livelihood, free and compulsory education, free medical aid and compulsory military training I would think that our efforts have borne fruit. I do not want to place impossible ideals before the nation which we know well that neither in our life-time nor in the life-time of our children or our grand children we will not be able to achieve. I would like to refer to another point before I conclude. I object to the word 'sovereignty' in this Preamble . I hold the opinion that the whole concept of Austrian sovereignty has been exploded. A legal concept must have some relation with real facts. If it is not so, it has got no value.

Sir, it is not right to say that the Government of Nepal is a sovereign State. It has got the right: it is sovereign and it can declare war against the U.S.A. The Government of the U.S.S.R. is free to liquidate the Communist Party of Russia. We know that both in the external and internal affairs the State is circumscribed by numerous factors. If the Govt. of Nepal declares war against America or the U.S.S.R. tries to liquidate the Communist Party. We know what the result would be. Therefore, I hold the opinion that we should not place any undue emphasis upon this word "sovereignty". I hold the opinion that this ideal is neither necessary nor desirable because sovereignty leads to war; sovereignty leads to imperialism. (Clapping and interruption).

Mr. President: I hope the honourable Member will take the hint.

Shri Brajeshwar Prasad: I have a right to demand protection from you. I can never be hood-winked in this way….. I will have my say and let honourable Members clap their hands, I will go on speaking and unless you ask me to close my speech, I will go on speaking. I cannot allow, Sir, without raising my voice of protest……

Shri Mahavir Tyagi: On a point of order, I hope you as the custodian of the rights of Honourable Members will see that Members are not shouted down like that.

Mr. President: There is no attempt at shouting him down. They only want to cheer him down. The honourable Member had better finish.

Shri Brajeshwar Prasad: Sir, I will now deal with only one aspect of the question. The word 'sovereign' has found a place in this Preamble . I am rather thick- skinned. I will never resume my seat. I will speak and then take my seat. I feel that this word 'sovereign' is entirely misplaced. A State consists of individuals. Are individuals sovereign in any sense of the term? If individuals are not sovereign, how can a State which consists of individuals be sovereign. It is a very well-known fact that man has no free will of his own, that he is circumscribed by factors of heredity and environment. Both qualitatively and quantitatively he holds a very insignificant place in the universe. If man is so insignificant, if man is a non-entity in the world how can a State which consists of individuals be a sovereign State? Therefore, Sir, I am opposed to this idea of sovereignty.

We are sovereign. We are a sovereign State to the extent it is possible for a modern State to be sovereign. We do not aspire to rise to those Austinian heights because, as I have already stated, it

is a frivolous concept, it is a mischievous concept. The deletion of the word ‘sovereign will not in any way deter us from exercising the functions of sovereignty which are vested in the Government of India. It will not detract one iota of sovereignty. But by the retention of this word ‘sovereign’, we are placing a false ideal, a mischievous ideal before the nation. Therefore, I am opposed to this Preamble . Let us have some pragmatic ideals, ideals which we may be capable of achieving in our own life time and in the life time of our children.

Mr. President: Does any one wish to say anything about the amendment? I shall put this amendment to vote.

The question is:

That the amendment No. 1 of the List of Amendments (Vol. 1), the following be substituted:-

That for the Preamble , the following be substituted:-

"WE THE PEOPLE OF INIDIA-having resolved to constitute India into a SECuLAR CO-OPERATIVE COMMONWEALTH to establish SOCIALIST ORDER and to secure to all its citizens-

1. an adequate means of LIVELIHOOD
2. FREE AND COMPULSORY EDUCATION
3. FREE MEDICAL AID
4. COMPULSORY MILITARY TRAINING

do hereby ordain and establish this Constitution for India".

The amendment was negatived.

Mr. President: We shall take up the amendment of which notice has been given by Shrimati Purnima Banerji, amendment No. 452.

Shri H. V. Kamath: On a point of order, may I submit, Sir, that I have not moved my amendment No. 2? This is with reference to my amendment. Therefore, it cannot arise.

Shri Mahavir Tyagi: On the point of order, may I submit, Sir.

Mr. President: The point of order has been raised. I am considering it. Let me find out what he has moved and what he has not moved.

Shri Mahavir Tyagi : On the point of order raised by my honourable friend Mr. Kamath. I beg to submit that on previous occasions, such amendments have been permitted in the House. When there was no occasion to give amendments because they were time-barred, many of us took the opportunity of just hinging our amendments or connecting them with previous ones. If those Members did not move, it is not the fault of the other honourable Members who have come with their ideas and their amendments. Because there is no other chance of making the amendments relevant, with in the time, the only course left to them was just to relate their amendments to previous ones already given notice of. I would therefore submit, Sir, that at this fag end of the debate, you might kindly not give a ruling which will debar the moving of this amendment.

Mr. Naziruddin Ahmed: May I point out Sir, that this is not an amendment to another amendment, in which case it would have been barred by the rules, but an amendment "with reference to" some other amendment. Therefore, the amendment is in order.

Mr. President: I have as a matter of fact allowed amendments of this nature to be moved. So, I cannot rule this out.

Shrimati Purnima Banerji : Sir, I move:

"That in amendment No. 2 of the List of Amendments (Volume 1), for the first paragraph in the proposed Preamble , the following be substituted:-

"We on behalf of the people of India from whom is derived all power and authority of the Independent India…….

With your permission, Sir, I would like to drop the word "sovereign" here.

"its constituent parts and organs of Government, having solemnly resolved to constitute India into a Sovereign Democratic Republic and to secure to all its citizens:-

Sir, my honourable friend Mr. Tyagi has given point to my amendment and further strengthened my hands. I feel that the Preamble that we are now dealing with forms one of the most important parts of the Constitution and to persons like us who are not of a legalistic bent of mind, it stands as a charter of our freedom and as a measure of our success or our failure. It lays down the goal to which we are going and therefore at this moment if members of this House will allow us to express what we feel on this subject with a little more patience, then, I personally will be very grateful.

Sir, I feel that the Constitution which we have drawn up has invested the President and Parliament with wide powers. At this moment, I do not think we should be content with considering the masses of our people as the sovereign authority from whom all power is derived and in whom all sovereign authority rests by

merely believing that because they once to to the polls once in five years their sovereignty is secured.Therefore, I feel that, in the Preamble , mention of that sovereignty should be made. I have not gone beyond what the House has already passed. The wording which I have quoted here is taken almost verbatim from the Objectives Resolution which was first passed in this House in January 1947. As I said before, the three parts of the Constitution or rather three incidents in the Constitution, one, the Objectives Resolution, second the statement of Objectives of State policy and the Preamble are supposed not to have any legal binding upon the Constitution. But they, in fact, constitute the very life-breath of the Constitution which we have here framed. I do not wish to take more of your time. I would strengthen my argument with the speech quoted by my honourable friend Mr. Tyagi From the speech made by Dr. Ambedkar when he moved the Preamble . At that moment, I was not present in the House. But that has borns my contention out that the sovereignty of the people should be mentioned somewhere in the Constitution. With these words, I move my amendment.

Shri Mahavir Tyagi: Sir, in supporting the amendment of my honourable Friend, Shrimati Banerji, I have to remind the House of the proceedings of 15th November, 1948, when a similar amendment was moved by me. It was worded like this that the sovereignty will vest in the whole body of people. It was discussed thread-bare and I was assured that the article to which I was moving that amendment was not the proper place for that amendment and I was promised that this amendment would be considered when the Preamble was discussed. Now is the occasion when I beg to remind the House of the promise the

Chairman of the Drafting Committee gave me. I am keen that the residence of the sovereignty should be defined. I am more keen about it because up till today the sovereignty vests in His Majesty the King of England. There is an Englishman in whom we have vested the sovereignty for a century past. So if we do not say in so many word, as to where the sovereignty would vest in future it will go on vesting in an Englishman. We want to break it away from him. Therefore, we must definitely say that there is no more sovereignty attached to the King of England.

Then, I also do not want to let remain any doubt or danger of any Government, this or future, to bargain or barter away the sovereignty of the country in the name of Commonwealth or common brotherhood or common citizenship or whatever it be. So the sovereignty must be vested in so many words in the people as a whole. In China in their Constitution they have put it that the sovereignty vests in the whole people of China. Whether the Communists take China or not, the people will remain. People will not be animals if they become communists or if they adopt any party label. People will remain in India as well and the sovereignty will vest in the people of India. It must be defined so that the Government might not misuse it. It does not vest even in the Government. Government only represents the people. Because Dr. Ambedkar has agreed to put it in the Constitution, I do not want to dilate upon it and I hope he will kindly accommodate these words and make it clear once for all that the sovereignty vests in the people and not in any foreigner as it does today, nor in the state even though it has the title of being a "sovereign state".

Acharya J. B. Kriplalani : Mr. President, Sir, it was not my intention to speak but some friends wanted that at this last moment

when practically we are finishing our Constitution I should speak a few words. Some of my friends said that I began, by a formal speech, the proceedings of this House and that I should, at this time of its Second Reading which is for all practical purposes the final reading, finish the proceedings.

Sir, you like a good host, have reserved the choicest wine for the last. This Preamble should have come in the beginning of the Constitution even as it is given in the beginning of the Constitution. There was a reason for that because it would have been before us in every detailed provision that we made in the Constitution. It would have cautioned us that we were not deviating from the basic principles which we have laid down in the Preamble . As I have sat in this House from day to day, I have seen that very often we have deviated from the basic principle laid down in the Preamble only recently we want against the great principle of democracy. This unfortunate land is divided into many castes and economic classes. There are innumerable divisions. I think it was the first time in the history of World's Constitutions that a new caste of administrators was created, and it was placed in a privileged position. It was placed in the position where even the chosen representatives of the people could not touch its special privileges as against the people. This, I submit, was going against the first basic principles of our Constitution.

Sir, I want, at this solemn hour to remind the House that what we have stated in this Preamble are not legal and political principles only. They are also great moral and spiritual principles and if I May say so, they are mystic principles. In fact these were not first legal and constitutional principles, but they were really spiritual and moral principles. If we look at history, we shall find that

because the lawyers and politician made their principles into legal and constitutional form that their life and vitality was lost and is being lost even today. Take democracy. What is it? It implies the equality of man, it implies fraternity. Above all it implies the great principle of non-violence. How can there be democracy where there is violence? Even the ordinary definition of democracy is that instead of breaking heads, we count heads. This non-violence then there is at the root of democracy. And I submit that the principle of non-violence, is a moral principle. It is a spiritual principle. It is a mystic principle. It is a principle which says that life is one, that you cannot divide it, that it is the same life pulsating through us all. As the Bible puts it, "we are one of another," or as Vendanta puts it, that all this is One. If we want to use democracy as only a legal, constitutional and formal device, I submit, we shall fail. As we have put democracy at the basis of your Constitution, I wish Sir, that the whole country should understand the moral, the spiritual and the mystic implication of the word "democracy". If we have not done that, we shall fail as they have failed in other countries. Democracy will be made into autocracy and it will be made into imperialism, and it will be made into fascism. But as a moral principle, it must be lived in life. If it is not lived in life, and the whole of it in all its departments, it becomes only a formal and a legal principal. We have got to see that we live this democracy in our life. It would be inconsistent with democracy to have it only in the legal and political field. Politically, we are a democratic people but economically we are divided into such classes that that the barriers cannot be crossed. If we have got to be democratic we have got to be economically so too.

I also say democracy is inconsistent with caste system. That is social aristocracy. We must do away with castes and classes, otherwise we cannot swear by democracy. And we must remember that economic democracy does not merely mean that there should be no classes, that there should be no rich and poor; but the State itself should live in a manner that is consistent with the life of the poor, if people happen to be poor. It is not economic equality if for pomp and pageant, we spend thousands and lakhs of rupees. It is again not democracy if at every corner of the Government House human beings are made to stand statue like and unmoving. Such things are against the dignity of the individuals. If we establish democracy, we have to establish it in the whole of our life, in all its departments, whether it be in administration, or in society or in the economic field. This we must know and understand.

Then we have said that we will have liberty of thought, expression, belief, faith and worship. We must understand the implications of this also. All these freedoms can only be guaranteed on the basis of non-violence. If there is violence, you cannot have liberty of thought, you cannot have liberty of expression, you cannot have liberty of faith or liberty of faith or liberty of worship. And this non-violence should go so far as to make us not only what is popularly called tolerant of other people, but to a certain extent, we should accept their ideas as good for them. Mere tolerance will not carry us far. Many people are merely tolerant. Why? Because they are indifferent. They say "this man's worship is different from ours. It is wrong. The man is sure to go to hell; but let him, it is none of my business". That is not tolerance. That is intolerance, if violence is not used physically, it is because it is not possible always to use violence, but there is mental violence. We

have to respect each other's faith. We have to respect it as having an element of truth. No religion in the world is perfect, and yet there is no faith without some element of God's truth.

Then we have said that there should be equality of status and opportunity. This implies that in our public affairs, we should be absolutely above board that there should be no nepotism, there should be no favouritism, there should be no "mine" and 'not mine'. This can be done. We can give equality of opportunity and equality of status only when what is considered as "Ours" is put behind and what is considered as "Not Ours" is put before. Unless we do these things, we will not be able to fulfil the aims of our Constitution.

Again I come to the great doctrine of fraternity which is allied with democracy. It means that we are all sons of the same God, as the religious would say, but as the mystic would say, that there is one life pulsating through us all, or as the Bible says. "We are one of another". There can be no fraternity without this. So I want this House to remember that what we have enunciated are not merely legal, constitutional and formal principles, but moral principles; and moral principles have got to be lived in life. They have to be lived whether it is private life or it is public life, whether it is commercial life, political life or the life of an administrator. They have to be lived throughout. These things, we have to remember if our Constitution is to succeed.

Sir, one word more and I have done. I think the amendment proposed by Shrimati Purnima Banerji should be accepted, because it really describes the true position and as such it should be enunciated in the Preamble . On formal occasion, on great occasions, on important occasions, we have to remind our selves

that we are here as the representatives of the people. More than that. We have to remind ourselves that we are the servants of the people. We often forget that we are here as the representatives capacity. We often forget that we are the servants of the people. It always happens that our language, because of our thoughts and actions, gives little countenance to this basic idea. A Minister says "Our Government" not "The People's Government". The Prime Minister says "My Government" not "The People's Government". Therefore, on this solemn occasion, it is necessary to lay down clearly and distinctly, that sovereignty resides in and flows from the people. (*Cheers*) I hope therefore, this House will carry Shrimati Purnima Banerji's amendment.

Mr. President: Are there some other people who want to speak?

Mr. Naziruddin Ahmad : Mr. President, Sir, the eloquent words of Acharya Kripalani require one explanation. He seems to think– and I speak with great respect-that the success of a democracy depends upon the introduction of some sweet and palatable words in the Constitution. I however, submit that the success of a democracy depends on how it is practically worked. It has nothing to do whatever with what we may state in the Preamble or in the Constitution. On the actual working of democracy its success depends.

Honourable Members: Closure, closure.

Mr. President: I take it that closure is accepted. I shall now ask Dr. Ambedkar to reply.

The Honourable Dr. B. R. Ambedkar: Mr. President, Sir, the point in the amendment which makes it, or is supposed to make it, different from the Preamble drafted by the Drafting Committee

lies in the addition of the words "from whom is derived all power and authority". The question therefore is whether the Preamble as drafted, conveys any other meaning than what is the general intention of the House, *viz*. that this Constitution should emanate from the people and should recognise that the sovereignty to make this Constitution vests in the people. I do not think that there is any other matter that is a matter of dispute. My contention is that what is suggested in this amendment is already contained in the draft Preamble .

Maulana Hasrat Mohani: Then why don't you accept it?

The Honourable Dr. B. R. Ambedkar: I propose to show now, by a detailed examination, that my contention is true.

Sir, this amendment, if one were to analyse it, falls into three distinct parts. There is one part which is declaratory. The second part is descriptive. The third part is objective and obligatory, if I may say so. Now, the declaratory part consists of the following phrase: We the people of India, in our Constituent Assembly, day, this month……. do hereby adopt, enact and give to ourselves this Constitution'. Those Members of the House who are worried as to whether this Preamble does or does not state that this Constitution and the power and authority and sovereignty to make this Constitution vest in the people should separate the other parts of the amendment from the part which I have read out, namely the opening words 'We the people of India in our Constituent Assembly, his day, do hereby adopt, enact and give to ourselves this Constitution' Reading it in that fashion…….

Shri Mahavir Tyagi: Where do the people come in? It is the Constituent Assembly Members that come in.

The Honourable Dr. B. R. Ambedkar: That is a different matter. I am for the moment discussing this narrow point: Does this Constitution say or does this Constitution not say that the Constitution is ordained, adopted and enacted by the people. I think anybody who reads its plain language, not dissociating it from the other parts, namely the descriptive and the objective cannot have any doubt that that is what the Preamble means.

Now my friend Mr. Tyagi said that this Constitution is being passed by a body of people who have been elected on a narrow franchise. It is quite true that it is not a Constituent Assembly in the sense that it includes every adult male and female in this country. But if my Friend Mr. Tyagi wants that this Constitution should not become operative unless it has been referred to the people in the form of a referendum, that is quite a different question which has nothing to do with the point which we are debating whether this Constitution should have validity if it was passed by this Constituent Assembly or whether it will have validity only, when it is passed on a referendum. That is quite a different matter altogether. It has nothing to do with the point under debate.

The point under debate is this: Does this Constitution or does it not acknowledge, recognise and proclaim that it emanates from the people? I say it does.

I would like honourable Members to consider also the Preamble of the Constitution of the United States. I shall read a portion of it. It says: "we the people of the United States"-I am not reading the other parts--"We the people of the United States do ordain and establish this Constitution for the United States of America". As

most Members know, that Constitution was drafted by a very small body. I forget now the exact details and the number of the States that were represented in that small body which met a Philadelphia to draw up the Constitution. (Honourable Members There were 13 States). There were 13 States. Therefore, if the representatives of 13 States assembled in a small conference in Philadelphia could pass a Constitution and say that what they did was in the name of the people, on their authority, basing on it their sovereignty. I personally myself, do not understand, unless a man was an absolute pedant, that a body of people 292 in number, representing this vast continent, in their representative capacity, could not say that they are acting in the name of the people of this country. *('Hear, hear').*

Maulana Hasrat Mohani: I do not think. It is only a community.

The Honourable Dr. B. R. Ambedkar: That is a different matter, Maulana. I cannot deal with that. Therefore, so far as that contention is concerned, I submit that there need be no ground for any kind of fear or apprehension. No person in this House desires that there should be anything in this Constitution which has the remotest semblance of its having been derived from the sovereignty of the British Parliament. Nobody has the slightest desire for that. In fact we wish to delete every vestige of the sovereignty of the British Parliament such as it existed before the operation of this Constitution. There is no difference of opinion between any Member of this House and any Member of the Drafting Committee so far as that is concerned.

Some Members, I suppose, have a certain amount of fear or apprehension that, on account of the fact that earlier this year the

Constituent Assembly joined in making a declaration that this country will be associated with the British Commonwealth, that association has in some way derogated from the sovereignty of the people. Sir, I do not think that that is a right view to take Every independent country must have some kind of a treaty with some other country. Because one sovereign country makes a treaty with another sovereign country, that country does not become less sovereign on that account. *(Interruption)*. I am taking the worst example. I know that some people have that sort of fear. *(Interruption).*

Shrimati Purnima Banerji: May I Sir……...

Mr. President: Let Dr. Ambedkar proceed. He has not insinuated anything.

The Honourable Dr. B. R. Ambedkar: I say that this Preamble embodies what is the desire of every Member of the House that this Constitution should have its root, its authority, its sovereignty, from the people. That it has.

Therefore, I am not prepared to accept the amendment. I do not want to say anything about the text of the amendment. Probably the amendment is somewhat worded, if I may say so with all respect, in a form which would not fit in the Preamble as we have drafted, and therefore on both these ground I think there is no justification for altering the language which has been used by the Drafting Committee.

Mr. President: The question is:

"That in amendment No. 2 of the List of Amendments (Volume 1), for the first paragraph in the proposed Preamble , the following be substituted:-

'We, on behalf of the people of India from whom is derived all power and authority of the Independent India, its constituent parts and organs of government, having solemnly resolved to constitute India into a Sovereign Democratic Republic and to secure to all its citizens".

The amendment was negatived.

Mr. President: There is no other amendment. The Preamble , as it is now open to discussion, if any Member wishes to say anything.

Honourable Members: The question may now be put.

Mr. President: If nobody is willing to speak, I shall put the Preamble to the vote.

The question is:

"That the Preamble stand part of the Constitution".

The motion was adopted.

The Preamble was added to the Constitution.

Mr. President: We are now coming to the close of this session. Before I actually adjourn the House, there are certain things which have to be settled at this stage. One of the questions which have to be decided is the next session for the Third Reading of the Constitution, and on previous occasions the House gave me permission to all it at any time I thought necessary, and this time also I suppose the House would give me that permission, but I would ask Mr. Satyanarayan Sinha to move a formal resolution to that effect.

The Honourable Shri Satyanarayan Singha: Sir, I move:

"That the Assembly do adjourn until such day in November 1949 as the President may fix".

Mr. President: The question is:

"That the Assembly do adjourn until such day in November 1949 as the President may fix".

The motion was adopted.

Mr. President: I think we have done with all the amendments, of which we had notice, and I need not say anything more about them. Now that we have concluded the Second Reading of the Constitution, by virtue of the powers vested in me under Rule 38-R as recently passed by this House, I shall refer the Draft Constitution with the amendments to the Drafting Committee in order to carry out such redraft of the articles, revision of punctuations, revision and completion of the marginal notes, and for recommending such formal or consequential or necessary amendments of the constitution as may be required. This has to be done to complete the work and I do that by virtue of the authority which you have given me with this, we now adjourn till such date as I may announce.

The Constituent Assembly then adjourned to a date in November 1949 to be fixed by the President.

Annexure P-7

Karl Marx in the New-York Herald Tribune 1853

The British Rule in India

Written: June 10, 1853;
First published: in the *New-York Daily Tribune*, June 25, 1853;
Proofread: by Andy Blunden in February 2005.

London, Friday, June 10, 1853

Telegraphic dispatches from Vienna announce that the pacific solution of the Turkish, Sardinian and Swiss questions, is regarded there as a certainty.

Last night the debate on India was continued in the House of Commons, in the usual dull manner. Mr. Blackett charged the statements of Sir Charles Wood and Sir J. Hogg with bearing the stamp of optimist falsehood. A lot of Ministerial and Directorial advocates rebuked the charge as well as they could, and the inevitable Mr. Hume summed up by calling on Ministers to withdraw their bill. Debate adjourned.

Hindostan is an Italy of Asiatic dimensions, the Himalayas for the Alps, the Plains of Bengal for the Plains of Lombardy, the Deccan for the Apennines, and the Isle of Ceylon for the Island of Sicily. The same rich variety in the products of the soil, and the same dismemberment in the political configuration. Just as Italy has, from time to time, been compressed by the conqueror's sword into different national masses, so do we find Hindostan, when not under the pressure of the Mohammedan, or the Mogul, or the Briton, dissolved into as many independent and conflicting States as it numbered towns, or even villages. Yet, in a social point of view, Hindostan is not the Italy, but the Ireland of the East. And this strange combination of Italy and of Ireland, of a world of voluptuousness and of a world of woes, is anticipated in the

ancient traditions of the religion of Hindostan. That religion is at once a religion of sensualist exuberance, and a religion of self-torturing asceticism; a religion of the Lingam and of the juggernaut; the religion of the Monk, and of the Bayadere.

I share not the opinion of those who believe in a golden age of Hindostan, without recurring, however, like Sir Charles Wood, for the confirmation of my view, to the authority of Khuli-Khan. But take, for example, the times of Aurangzeb; or the epoch, when the Mogul appeared in the North, and the Portuguese in the South; or the age of Mohammedan invasion, and of the Heptarchy in Southern India; or, if you will, go still more back to antiquity, take the mythological chronology of the Brahman himself, who places the commencement of Indian misery in an epoch even more remote than the Christian creation of the world.

There cannot, however, remain any doubt but that the misery inflicted by the British on Hindostan is of an essentially different and infinitely more intensive kind than all Hindostan had to suffer before. I do not allude to European despotism, planted upon Asiatic despotism, by the British East India Company, forming a more monstrous combination than any of the divine monsters startling us in the Temple of Salsette. This is no distinctive feature of British Colonial rule, but only an imitation of the Dutch, and so much so that in order to characterise the working of the British East India Company, it is sufficient to literally repeat what Sir Stamford Raffles, the *English* Governor of Java, said of the old Dutch East India Company:

“The Dutch Company, actuated solely by the spirit of gain, and viewing their [Javan] subjects, with less regard or consideration

than a West India planter formerly viewed a gang upon his estate, because the latter had paid the purchase money of human property, which the other had not, employed all the existing machinery of despotism to squeeze from the people their utmost mite of contribution, the last dregs of their labor, and thus aggravated the evils of a capricious and semi-barbarous Government, by working it with all the practised ingenuity of politicians, and all the monopolizing selfishness of traders."

All the civil wars, invasions, revolutions, conquests, famines, strangely complex, rapid, and destructive as the successive action in Hindostan may appear, did not go deeper than its surface. England has broken down the entire framework of Indian society, without any symptoms of reconstitution yet appearing. This loss of his old world, with no gain of a new one, imparts a particular kind of melancholy to the present misery of the Hindoo, and separates Hindostan, ruled by Britain, from all its ancient traditions, and from the whole of its past history.

There have been in Asia, generally, from immemorial times, but three departments of Government; that of Finance, or the plunder of the interior; that of War, or the plunder of the exterior; and, finally, the department of Public Works. Climate and territorial conditions, especially the vast tracts of desert, extending from the Sahara, through Arabia, Persia, India, and Tartary, to the most elevated Asiatic highlands, constituted artificial irrigation by canals and water-works the basis of Oriental agriculture. As in Egypt and India, inundations are used for fertilizing the soil in Mesopotamia, Persia, &c.; advantage is taken of a high level for feeding irrigative canals. This prime necessity of an economical and common use of water, which, in the Occident, drove private

enterprise to voluntary association, as in Flanders and Italy, necessitated, in the Orient where civilization was too low and the territorial extent too vast to call into life voluntary association, the interference of the centralizing power of Government. Hence an economical function devolved upon all Asiatic Governments, the function of providing public works. This artificial fertilization of the soil, dependent on a Central Government, and immediately decaying with the neglect of irrigation and drainage, explains the otherwise strange fact that we now find whole territories barren and desert that were once brilliantly cultivated, as Palmyra, Petra, the ruins in Yemen, and large provinces of Egypt, Persia, and Hindostan; it also explains how a single war of devastation has been able to depopulate a country for centuries, and to strip it of all its civilization.

Now, the British in East India accepted from their predecessors the department of finance and of war, but they have neglected entirely that of public works. Hence the deterioration of an agriculture which is not capable of being conducted on the British principle of free competition, of *laissez-faire* and *laissez-aller*. But in Asiatic empires we are quite accustomed to see agriculture deteriorating under one government and reviving again under some other government. There the harvests correspond to good or bad government, as they change in Europe with good or bad seasons. Thus the oppression and neglect of agriculture, bad as it is, could not be looked upon as the final blow dealt to Indian society by the British intruder, had it not been attended by a circumstance of quite different importance, a novelty in the annals of the whole Asiatic world. However changing the political aspect of India's past must appear, its social condition has remained unaltered since its

remotest antiquity, until the first decennium of the 19th century. The hand-loom and the spinning-wheel, producing their regular myriads of spinners and weavers, were the pivots of the structure of that society. From immemorial times, Europe received the admirable textures of Indian labor, sending in return for them her precious metals, and furnishing thereby his material to the goldsmith, that indispensable member of Indian society, whose love of finery is so great that even the lowest class, those who go about nearly naked, have commonly a pair of golden ear-rings and a gold ornament of some kind hung round their necks. Rings on the fingers and toes have also been common. Women as well as children frequently wore massive bracelets and anklets of gold or silver, and statuettes of divinities in gold and silver were met with in the households. It was the British intruder who broke up the Indian hand-loom and destroyed the spinning-wheel. England began with driving the Indian cottons from the European market; it then introduced twist into Hindostan, and in the end inundated the very mother country of cotton with cottons. From 1818 to 1836 the export of twist from Great Britain to India rose in the proportion of 1 to 5,200. In 1824 the export of British muslins to India hardly amounted to 1,000,000 yards, while in 1837 it surpassed 64,000,000 of yards. But at the same time the population of Dacca decreased from 150,000 inhabitants to 20,000. This decline of Indian towns celebrated for their fabrics was by no means the worst consequence. British steam and science uprooted, over the whole surface of Hindostan, the union between agriculture and manufacturing industry.

These two circumstances – the Hindoo, on the one hand, leaving, like all Oriental peoples, to the Central Government the care of the

great public works, the prime condition of his agriculture and commerce, dispersed, on the other hand, over the surface of the country, and agglomerated in small centers by the domestic union of agricultural and manufacturing pursuits – these two circumstances had brought about, since the remotest times, a social system of particular features – the so-called *village system,* which gave to each of these small unions their independent organization and distinct life. The peculiar character of this system may be judged from the following description, contained in an old official report of the British House of Commons on Indian affairs:

"A village, geographically considered, is a tract of country comprising some hundred or thousand acres of arable and waste lands; politically viewed it resembles a corporation or township. Its proper establishment of officers and servants consists of the following descriptions: The *potail,* or head inhabitant, who has generally the superintendence of the affairs of the village, settles the disputes of the inhabitants attends to the police, and performs the duty of collecting the revenue within his village, a duty which his personal influence and minute acquaintance with the situation and concerns of the people render him the best qualified for this charge. The *kurnum* keeps the accounts of cultivation, and registers everything connected with it. The *tallier* and the *totie,* the duty of the former of which consists [...] in gaining information of crimes and offenses, and in escorting and protecting persons travelling from one village to another; the province of the latter appearing to be more immediately confined to the village, consisting, among other duties, in guarding the crops and assisting in measuring them. The boundary-man, who preserves the limits of the village, or gives evidence respecting them in cases of

dispute. The Superintendent of Tanks and Watercourses distributes the water [...] for the purposes of agriculture. The Brahmin, who performs the village worship. The schoolmaster, who is seen teaching the children in a village to read and write in the sand. The calendar-brahmin, or astrologer, etc. These officers and servants generally constitute the establishment of a village; but in some parts of the country it is of less extent, some of the duties and functions above described being united in the same person; in others it exceeds the above-named number of individuals. [...] Under this simple form of municipal government, the inhabitants of the country have lived from time immemorial. The boundaries of the villages have been but seldom altered; and though the villages themselves have been sometimes injured, and even desolated by war, famine or disease, the same name, the same limits, the same interests, and even the same families have continued for ages. The inhabitants gave themselves no trouble about the breaking up and divisions of kingdoms; while the village remains entire, they care not to what power it is transferred, or to what sovereign it devolves; its internal economy remains unchanged. The *potail* is still the head inhabitant, and still acts as the petty judge or magistrate, and collector or renter of the village."

These small stereotype forms of social organism have been to the greater part dissolved, and are disappearing, not so much through the brutal interference of the British tax-gatherer and the British soldier, as to the working of English steam and English free trade. Those family-communities were based on domestic industry, in that peculiar combination of hand-weaving, hands-spinning and hand-tilling agriculture which gave them self-supporting power.

English interference having placed the spinner in Lancashire and the weaver in Bengal, or sweeping away both Hindoo spinner and weaver, dissolved these small semi-barbarian, semi-civilized communities, by blowing up their economical basis, and thus produced the greatest, and to speak the truth, the only social revolution ever heard of in Asia.

Now, sickening as it must be to human feeling to witness those myriads of industrious patriarchal and inoffensive social organizations disorganized and dissolved into their units, thrown into a sea of woes, and their individual members losing at the same time their ancient form of civilization, and their hereditary means of subsistence, we must not forget that these idyllic village-communities, inoffensive though they may appear, had always been the solid foundation of Oriental despotism, that they restrained the human mind within the smallest possible compass, making it the unresisting tool of superstition, enslaving it beneath traditional rules, depriving it of all grandeur and historical energies. We must not forget the barbarian egotism which, concentrating on some miserable patch of land, had quietly witnessed the ruin of empires, the perpetration of unspeakable cruelties, the massacre of the population of large towns, with no other consideration bestowed upon them than on natural events, itself the helpless prey of any aggressor who deigned to notice it at all. We must not forget that this undignified, stagnatory, and vegetative life, that this passive sort of existence evoked on the other part, in contradistinction, wild, aimless, unbounded forces of destruction and rendered murder itself a religious rite in Hindostan. We must not forget that these little communities were contaminated by distinctions of caste and by slavery, that they

subjugated man to external circumstances instead of elevating man the sovereign of circumstances, that they transformed a self-developing social state into never changing natural destiny, and thus brought about a brutalizing worship of nature, exhibiting its degradation in the fact that man, the sovereign of nature, fell down on his knees in adoration of Kanuman, the monkey, and Sabbala, the cow.

England, it is true, in causing a social revolution in Hindostan, was actuated only by the vilest interests, and was stupid in her manner of enforcing them. But that is not the question. The question is, can mankind fulfil its destiny without a fundamental revolution in the social state of Asia? If not, whatever may have been the crimes of England she was the unconscious tool of history in bringing about that revolution.

Then, whatever bitterness the spectacle of the crumbling of an ancient world may have for our personal feelings, we have the right, in point of history, to exclaim with Goethe:

"Sollte these Qual uns quälen
Da sie unsre Lust vermehrt,
Hat nicht myriaden Seelen
Timur's Herrschaft aufgezehrt?"
["Should this torture then torment us
Since it brings us greater pleasure?
Were not through the rule of Timur
Souls devoured without measure?"]
[From Goethe's "An Suleika", *Westöstlicher Diwan*]

Annexure P-8

Works of Karl Marx 1853

The Future Results of British Rule in India

Written: on July 22, 1853
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Signed: Karl Marx.

London, Friday, July 22, 1853

I propose in this letter to conclude my observations on India.

How came it that English supremacy was established in India? The paramount power of the Great Mogul was broken by the Mogul Viceroys. The power of the Viceroys was broken by the Mahrattas. The power of the Mahrattas was broken by the Afghans, and while all were struggling against all, the Briton rushed in and was enabled to subdue them all. A country not only divided between Mahommedan and Hindoo, but between tribe and tribe, between caste and caste; a society whose framework was based on a sort of equilibrium, resulting from a. general repulsion and constitutional exclusiveness between all its members. Such a country and such a society, were they not the predestined prey of conquest? If we knew nothing of the past history of Hindostan, would there not be the one great and incontestable fact, that even at this moment India is held in English thraldom by an Indian army maintained at the cost of India? India, then, could not escape the fate of being conquered, and the whole of her past history, if it be anything, is

the history of the successive conquests she has undergone. Indian society has no history at all, at least no known history. What we call its history, is but the history of the successive intruders who founded their empires on the passive basis of that unresisting and unchanging society. The question, therefore, is not whether the English had a right to conquer India, but whether we are to prefer India conquered by the Turk, by the Persian, by the Russian, to India conquered by the Briton.

England has to fulfill a double mission in India: one destructive, the other regenerating the annihilation of old Asiatic society, and the laying the material foundations of Western society in Asia.

Arabs, Turks, Tartars, Moguls, who had successively overrun India, soon became Hindooized, the barbarian conquerors being, by an eternal law of history, conquered themselves by the superior civilization of their subjects. The British were the first conquerors superior, and therefore, inaccessible to Hindoo civilization. They destroyed it by breaking up the native communities, by uprooting the native industry, and by levelling all that was great and elevated in the native society. The historic pages of their rule in India report hardly anything beyond that destruction. The work of regeneration hardly transpires through a heap of ruins. Nevertheless it has begun.

The political unity of India, more consolidated, and extending farther than it ever did under the Great Moguls, was the first condition of its regeneration. That unity, imposed by the British sword, will now be strengthened and perpetuated by the electric telegraph. The native army, organized and trained by the British drill-sergeant, was the sine qua non of Indian self-emancipation,

and of India ceasing to be the prey of the first foreign intruder. The free press, introduced for the first time into Asiatic society, and managed principally by the common offspring of Hindoos and Europeans, is a new and powerful agent of reconstruction. The Zemindari and Ryotwar themselves, abominable as they are, involve two distinct forms of private property in land — the great desideratum of Asiatic society. From the Indian natives, reluctantly and sparingly educated at Calcutta, under English superintendence, a fresh class is springing up, endowed with the requirements for government and imbued with European science. Steam has brought India into regular and rapid communication with Europe, has connected its chief ports with those of the whole south-eastern ocean, and has revindicated it from the isolated position which was the prime law of its stagnation. The day is not far distant when, by a combination of railways and steam-vessels, the distance between England and India, measured by time, will be shortened to eight days, and when that once fabulous country will thus be actually annexed to the Western world.

The ruling classes of Great Britain have had, till now, but an accidental, transitory and exceptional interest in the progress of India. The aristocracy wanted to conquer it, the moneyocracy to plunder it, and the millocracy to undersell it. But now the tables are turned. The millocracy have discovered that the transformation of India into a reproductive country has become of vital importance to them, and that, to that end, it is necessary, above all, to gift her with means of irrigation and of internal communication. They intend now drawing a net of railroads over India. And they will do it. The results must be inappreciable.

It is notorious that the productive powers of India are paralysed by the utter want of means for conveying and exchanging its various produce. Nowhere, more than in India, do we meet with social destitution in the midst of natural plenty, for want of the means of exchange. It was proved before a Committee of the British House of Commons, which sat in 1848, that

"when grain was selling from 6/- to 8/- a quarter at Khandesh, it was sold at 64/ to 70/- at Poona, where the people were dying in the streets of famine, without the possibility of gaining supplies from Khandesh, because the clay-roads were impracticable."

The introduction of railroads may be easily made to subserve agricultural purposes by the formation of tanks, where ground is required for embankment, and by the conveyance of water along the different lines. Thus irrigation, the sine qua non of farming in the East, might be greatly extended, and the frequently recurring local famines, arising from the want of water, would be averted. The general importance of railways, viewed under this head, must become evident, when we remember that irrigated lands, even in the districts near Ghauts, pay three times as much in taxes, afford ten or twelve times as much employment, and yield twelve or fifteen times as much profit, as the same area without irrigation.

Railways will afford the means of diminishing the amount and the cost of the military establishments. Col. Warren, Town Major of the Fort St. William, stated before a Select Committee of the House of Commons:

"The practicability of receiving intelligence from distant parts of the country, in as many hours as at present it requires days and even weeks, and of sending instructions, with troops and stores, in

the more brief period, are considerations which cannot be too highly estimated. Troops could be kept at more distant and healthier stations than at present, and much loss of life from sickness would by this means be spared. Stores could not to the same extent he required at the various depots, and. the loss by decay, and the destruction incidental to the climate, would also be avoided. The number of troops might be diminished in direct proportion to their effectiveness."

We know that the municipal organization and the economical basis of the village communities has been broken up, but their worst feature, the dissolution of society into stereotype and disconnected atoms, has survived their vitality. The village isolation produced the absence of roads in India, and the absence of roads perpetuated the village isolation. On this plan a community existed with a given scale of low conveniences, almost without intercourse with other villages, without the desires and efforts indispensable to social advance. The British having broken up this self-sufficient inertia of the villages, railways will provide the new want of communication and intercourse. Besides,

"one of the effects of the railway system will he to bring into every village affected by it such knowledge of the contrivances and appliances of other countries, and such means of obtaining them, as will first put the hereditary and stipendiary village artisanship of India to full proof of its capabilities, and then supply its defects." (Chapman, *The Cotton and Commerce of India* [pp. 95-97].)

I know that the English millocracy intend to endow India with railways with the exclusive view of extracting at diminished

expenses the cotton and other raw materials for their manufactures. But when you have once introduced machinery into the locomotion of a country, which possesses iron and coals, you are unable to withhold it from its fabrication. You cannot maintain a net of railways over an immense country without introducing all those industrial processes necessary to meet the immediate and current wants of railway locomotion, and out of which there must grow the application of machinery to those branches of industry not immediately connected with railways. The railway-system will therefore become, in India, truly the forerunner of modern industry. This is the more certain as the Hindoos are allowed by British authorities themselves to possess particular aptitude. for accommodating themselves to entirely new labor, and acquiring the requisite knowledge of machinery. Ample proof of this fact is afforded by the capacities and expertness of the native engineers in the Calcutta mint, where they have been for years employed in working the steam machinery, by the natives attached to the several steam engines in the Burdwan coal districts, and by other instances. Mr. Campbell himself, greatly influenced as he is by the prejudices of the East India Company, is obliged to avow

“that the great mass of the Indian people possesses a great industrial energy, is well fitted to accumulate capital, and remarkable for a mathematical clearness of head and talent for figures and exact sciences.” “Their intellects,” he says, “are excellent.”

Modern industry, resulting from the railway system, will dissolve the hereditary divisions of labor, upon which rest the Indian castes, those decisive impediments to Indian progress and Indian power.

All the English bourgeoisie may be forced to do will neither emancipate nor materially mend the social condition of the mass of the people, depending not only on the development of the productive powers, but on their appropriation by the people. But what they will not fail to do is to lay down the material premises for both. Has the bourgeoisie ever done more? Has it ever effected a progress without dragging individuals and people through blood and dirt, through misery and degradation?

The Indians will not reap the fruits of the new elements of society scattered among them by the British bourgeoisie, till in Great Britain itself the now ruling classes shall have been supplanted by the industrial proletariat, or till the Hindoos themselves shall have grown strong enough to throw off the English yoke altogether. At all events, we may safely expect to see, at a more or less remote period, the regeneration of that great and interesting country, whose gentle natives are, to use the expression of Prince Soltykov, even in the most inferior classes, "*plus fins et plus adroits que les Italiens*" [more subtle and adroit than the Italians], a whose submission even is counterbalanced by a certain calm nobility, who, notwithstanding their natural langor, have astonished the British officers by their bravery, whose country has been the source of our languages, our religions, and who represent the type of the ancient German in the Jat, and the type of the ancient Greek in the Brahmin.

I cannot part with the subject of India without some concluding remarks.

The profound hypocrisy and inherent barbarism of bourgeois civilization lies unveiled before our eyes, turning from its home,

where it assumes respectable forms, to the colonies, where it goes naked. They are the defenders of property, but did any revolutionary party ever originate agrarian revolutions like those in Bengal, in Madras, and in Bombay? Did they not, in India, to borrow an expression of. that great robber, Lord Clive himself, resort to atrocious extortion, when simple corruption could not keep pace with their rapacity? While they prated in Europe about the inviolable sanctity of the national debt, did they not confiscate in India the dividends of the rajahs, 171 who had invested their private savings in the Company's own funds? While they combatted the French revolution under the pretext of defending "our holy religion," did they not forbid, at the same time, Christianity to be propagated in India, and did they not, in order to make money out of the pilgrims streaming to the temples of Orissa and Bengal, take up the trade in the murder and prostitution perpetrated in the temple of juggernaut? These are the men of "Property, Order, Family, and Religion."

The devastating effects of English industry, when contemplated with regard to India, a country as vast as Europe, and containing 150 millions of acres, are palpable and confounding. But we must not forget that they are only the organic results of the whole system of production as it is now constituted. That production rests on the supreme rule of capital. The centralization of capital is essential to the existence of capital as an independent power. The destructive influence of that centralization upon the markets of the world does but reveal, in the most gigantic dimensions, the inherent organic laws of political economy now at work in every civilized town. The bourgeois period of history has to create the material basis of the new world — on the one hand universal intercourse founded

upon the mutual dependency of mankind, and the means of that intercourse; on the other hand the development of the productive powers of man and the transformation of material production into a scientific domination of natural agencies. Bourgeois industry and commerce create these material conditions of a new world in the same way as geological revolutions have created the surface of the earth. When a great social revolution shall have mastered the results of the bourgeois epoch, the market of the world and the modern powers of production, and subjected them to the common control of the most advanced peoples, then only will human progress cease to resemble that hideous, pagan idol, who would not drink the nectar but from the skulls of the slain.