

line in this area, which has resulted in the backwardness in this area. This area had made a great contribution in attaining the independence, but even after 39 years of independence this area remains undeveloped.

Therefore, I request the Planning Commission and the Ministry of Railways that the work regarding conversion of the Shahganj Azamgarh-Mau-Balia metre gauge line into broad gauge line may be started without further delay.

[English]

(vii) Need to sanction an amount of Rs. 80 crores for construction of Mankhurd-Belapur Railway Line in Bombay

DR. DATTA SAMANT (Bombay South Central) : Vashi and New Bombay have been developed during the last five years. More than five lakh people reside in New Bombay. Hundreds of new big and small factories are located in this area. Length of the Mankhurd Belapur Railway Line Project is 17 KM and it includes 2 KM long railway bridge at Vashi. Railway Ministry approved this Project in 1983-84 and the present estimated cost of this project is Rs. 160 crores. Railway Ministry have so far provided Rs. 3,75,00,000 during the last three years.

The State Government have agreed that funds of the order of Rs. 80 crores for the Project would be raised through debentures being floated by CIPCO and the remaining amount would be provided by Railways. The contribution of Maharashtra Government will be released in five years in a phased manner. I, therefore, appeal to Railway Ministry to sanction an amount of Rs. 80 crores in a phased manner in five years. This Railway line will be so economical that the money invested by Railways over this Project will be recovered in five years time.

13.33 hrs.

DISCUSSION RE : NEED TO PRESERVE THE SANCTITY AND DIGNITY OF THE NATIONAL SYMBOLS—Contd.

[English]

MR. CHAIRMAN : The House will now

take up further discussion, under Rule 193, on the need to preserve sanctity and dignity of the National Symbols.

Shri Aziz Qureshi.

[Translation]

SHRI AZIZ QURESHI (Satna) : Mr. Chairman, Sir, the national flag or the national anthem of any nation are the symbols of the national honour, unity and integrity of that country. Mr. Chairman, Sir, I heartily welcome the statement of the Prime Minister made in the House yesterday in this regard and I hope, that it would remove doubts, if any, created in the minds of the people. Actually the aim behind raising this controversy and showing disrespect to the national flag and the national anthem is to harm the unity and the integrity of the country. These are the people who do not have the courage to speak openly that the unity and the integrity of the country should be harmed. Instead they attack our national flag and anthem and thus raise a controversy. Yesterday, my colleague Shri Jaipal Reddy and some others wanted to know why the Congressmen used the Tricolour and why the Congress Party held its meetings under the Tricolour. Such people neither know the history of this nation nor are they aware of the freedom struggle, otherwise they would not have stated such a thing. The people who first visualised the national flag were none other than the Congressmen. The Congressmen unfurled the flag for the very first time as far back as 7th August, 1906 at Parsi Bagan Square and it was unfurled the second time in Paris in 1907 when madam Cama and her followers were deported. Dr. Annie Besant and Shri Tilak unfurled this flag in 1912 the third time but all the three times the form of this flag was not like the one which we have at present. How strange it is that Shri Jaipal Reddy is not aware of this historical fact that when the session of Congress Party was held in 1912 in Andhra Pradesh; the home State of Shri Jaipal Reddy, a youngman for the first time presented and unfurled this flag. Thereafter, Mahatma Gandhi improved it and included white colour and spinning wheel in the flag. Thereafter, the tricolour flag was adopted as the flag of the Congress Party. Then in 1931, during the session of

[Shri Aziz Qureshi]

A.I.C.C., the Congress Party, passed a resolution and adopted this tricolour flag as the flag of the party and used it during the national freedom movement. At that time, it was vowed that the Congress would continue its struggle for freedom under this tricolour. Since then, we have this tricolour. Under this very tricolour we fought the foreign powers and threw them out of the country.

On 22nd July, 1947, the tricolour was adopted as the national flag after passing a resolution in the Constituent Assembly in the adjacent hall in this building and on the first dawn of the independent India it was dedicated to the nation. Therefore, in my view it is not proper to use derogatory language for this flag or towards the organisation associated with it. I want to quote the words of Maulana Azad before you regarding this flag which he had uttered in 1947, when there was mass scale exodus from Pakistan and *vice versa*. At that time thousands of people had gathered in Jama Masjid and were ready to leave India. At that time Maulana Azad had made a historical speech there and had said :

Look, there the tricolour is flying high with full honour and dignity on the ramparts of the Red Fort. This is the same flag which was derided by the arrogant rulers.

But where are those people today ? They are no more but our tricolour is still flying high with the same honour and dignity. We have to live under its shadow.

Mr. Chairman, Sir, I would like to say that we should not tolerate any derogatory remarks regarding the national flag or national anthem or any disrespect towards them, because they are not just a flag or a song. Actually these are the symbols of the sacrifices made by thousands of people who sacrificed their lives to keep it aloft. The rhythm of this song resounds with the sacrifices of the mothers who lost their sons, the wives who lost their husbands and thousands of martyrs on account of which we are enjoying independence.

Mr. Chairman, Sir, the judgement of the Supreme Court regarding the national

anthem was mentioned here. Actually, since the beginning of the session, I was making efforts that the national anthem should be discussed in the House either in the form of a submission or under rule 377, but I was always told that as the matter was *sub judice* in the Supreme Court, therefore it could not be discussed in the House. I was successful in the ballot also. But I am happy that today we are having a discussion on this matter.

When the Supreme Court delivered its judgement regarding this matter, there was a great reaction against it throughout the country. A person raised his voice against this judgement and today we must pay tributes to him. The person was Shri Mohammad Yunus, who is the Chairman of the Trade Fair Authority of India. He had said that whosoever insults the national anthem or makes derogatory remarks, does not deserve to be called an Indian nor does he deserve to hold any post in the country. He should leave this country. Shri Muhammad Yunus is a person who had left Peshawar and had opted to settle in India after partition, leaving behind his ancestral property, family, relatives and his own native place. He did so, because he wanted to uphold the idea of nationalism and secularism. And that is why he raised his voice against the Supreme Court's judgement. I congratulate him and I think the whole House will unanimously support me in this regard. We welcome him, but as soon as Shri Muhammad Yunus made his statement, action was taken against him and he was dragged to the court. I want that our Government should grant protection to such a person, who has sacrificed everything for the sake of this country and if it considers necessary it should amend the law accordingly. At present, he is being harassed and pressurised by dragging him to the court. We should provide protection to him and he should be saved from harassment.

Mr. Chairman, Sir, several misleading things are said about our National Anthem. Sometimes, it is said that Tagore had written this anthem in honour of George IV or V. I would like to clarify for the benefit of such people that 'Jana gana mana' was sung for the first time during the Congress Session in 1911 in Calcutta, and then a decision was taken that it should be

accorded the status of National Anthem of India. It was also decided at the same place that Bankim Chandra Chatterjee's 'Bande Mataram', which is a famous song of the novel 'Anandmath', would also receive equal honour, and would be accepted as the National Song of India. Even then if it is said that Tagore had written our National Anthem in honour of King George IV or V of England, then nothing can be more misleading than this.

Mr. Chairman, Sir, I would like to make one thing absolutely clear that if any person insults our National Flag, National Anthem or our National Emblem, then he has no right to live in this country and if the words or deeds of any person, tantamount to such as insult, he should have no right to live in the country

Sir, it is unfortunate that sometimes in the name of Khalistan and sometimes in the name of Pakistan, flags of other countries are hoisted in this country. I would say that, those who do it, are the worst traitors of this country. They are neither Sikhs, nor Muslims, nor Hindus, because if they sincerely believe in any religion, they cannot fly flags of other countries; and if anyone does so, there should be no place for him or her in this country. The people of this country have already taken a decision in this regard.

Sir, I want to submit that the people should be made aware of the significance of the National Flag and the National Anthem. The Government should frame a code for the National Anthem, as it has framed for the National Flag, outlining guidelines for the people to show honour and respect to it. I want that the said code be framed at the earliest, so that controversies are not created at any time in this regard.

Mr. Chairman, Sir, I once again support the views of the Hon. Prime Minister and reiterate that the National Anthem, National Flag and the National Emblem should not be insulted at any cost. If any person, or any group belonging to any particular section, religion, region, or language does it, then it will not be tolerated at all, and the people of this country will not allow such elements to live

here. This is a unanimous decision taken by us, by the people of this country, and we, the citizens of India living from Kashmir to Kanyakumari take a pledge to lay down our lives to safeguard the honour of our National Flag and that of our National Anthem.

[English]

KUMARI MAMATA BANERJEE (Jadavpur) : Sir, I am thankful to you for giving me this opportunity to participate in this discussion. But before I come to the subject, I would like to take permission from you—I have given notice—to give some Bengali quotations; please allow me to quote.

The National Flag, the National Anthem and the National Emblem are the three symbols of independence, identity and sovereignty of the nation and as such, they must command the spontaneous respect and loyalty from every citizen of this country. It is a fact that we are now passing through very crucial times from the integration point of view because sometimes we hear that a copy of the Constitution of India has been burnt, sometimes it is learnt that our National Flag has been burnt by some one. We were really very much concerned when we heard the judgement of the Supreme Court on the National Anthem. We are very much concerned about it. Without the national feelings, without the respect for the national symbol, how can any one call himself a citizen of India? We are really grateful that hon. Speaker has allowed a discussion in this august House. We know that this House has some dignity and respect. We know that we, Members of this august House, may come and go, but this august House will go on for ever bearing the unity and integrity of this country. I say this from my heart that we are ready to die, we are ready to lay down our lives making sacrifice for the country, but we cannot tolerate any citizen of India refusing to sing our National Anthem or refusing to respect our National Flag or refusing to respect our National Emblem. Nobody can refuse it.

The national symbol is above all the religions. It is not a partisan matter and

[Kumari Mamata Banerjee]

I think the whole House will unitedly and unanimously pass a resolution or take a decision that nobody can disrespect these national symbols. I am really surprised to hear some voice of some of the opposition members yesterday. I must congratulate Madhav Raddiji because he has given some constructive suggestions.

But I was surprised to hear Mr. Jaipal Reddy and Mr. Suresh Kurup who took it as a light thing and have stated like a joke or a teasing thing.

We have to think about what our Prime Minister has stated in this House. He said united we stand and divided we fall. We have to fight against poverty, we have to fight against racism, we have to fight against provincialism and we have to fight against parochialism to make our country strong and to make our nation strong. It is a fact that some communal forces and some fissiparous forces are trying to destabilise our country. We are really surprised when we heard that there is a conspiracy to below up the Parliament.

We have already lost our great mother Smt. Indira Gandhi, we have lost Gen. Vaidya, we have lost Lalit Maken and so many peace loving people. We have to ask this august House whether terrorism is more powerful or the unity and the integrity of India is more powerful. We have to ask this august House whether terrorism is more powerful or the peace loving people's attitude is more Powerful. We have to sort out this matter because otherwise some people within the country and outside the country will try to disintegrate our country.

"Jana Gana Mana..." by poet Rabindra Nath Tagore was adopted as the National Anthem by Constituent Assembly of India on 24th of January, 1950 by way of a statement made by the President of the Assembly to this effect.

The President Dr. Rajendra Prasad during the course of his statement said that the Government is empowered to make such alterations in the words as it deems necessary keeping in view the demands of the occasion. There was no further debate

in the Constituent Assembly on the subject and the statement was accepted unanimously.

Now this situation came up only because of the Supreme Court judgement, I must congratulate the Prime Minister because he has given a bold statement yesterday that our Government will not accept the Supreme Court verdict.

13.48 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

Somebody may criticize this. But the people of India are proud of Rabindra Nath Tagore. He has got his Nobel Prize for Geetanjali. At the time of Banga Bhanga in Bengal between 1905 and 1906 the first man who tied a Rokhey to Hindus and Muslims was Rabindra Nath Tagore. He said...

*Banglar maati Banglar jol, Banglar vayu
banglar fol punya hauk hel Bhagavan.*

In 1919 after Jalianwala Bagh incident it was Rabindra Nath Tagore who gave up his knighthood in protest against the Jalianwala Bagh incident. His outlook was based on universal truth, his outlook was based cosmopolitan outlook. He was a man of duty. He was a lover of natural beauty and peace loving people. His tradition was emotion of love for the humanity. I would like to tell the people who criticize that Rabindra Nath Tagore categorically denied and said :

"I should only insult myself if I cared to answer those who consider me capable of such unbounded stupidity as to sing in praise of George the Fourth or George the Fifth as the Eternal Charioteer leading the pilgrims on their journey through countless ages of the timeless history of mankind".

I would like to quote a Bengali poem about Rabindra Nath Tagore.

I must congratulate the Vice Chancellor of Vishwa Bharati because they have already taken a decision that they are going to publish some of Tagore's collections in all regional languages I would also like to request our Minister to please educate the people of India about Tagore's ideology

and his philosophy. Then only the people will understand what was Rabindra Nath Tagore. Sir, Rabindra Nath Tagore was very much concerned about the situation of our country. His outlook was a broad-minded outlook and when he wrote this song, then he said, "Panjab Sindhu Gajrat Maratha Dravida Utkal Banga". He was a poet of Bengal. He has not mentioned about Bengal first. He first mentioned the name of Panjab because his outlook was broad-minded. He knew the feelings of India. He knew we are Indians and India is our motherland. India is our heart and India is our soul. At the time of Banga-Bhanga in the year 1905-1906 Rabindra Nath Tagore said:

*Jahara tomar bishaike, vayu
ntvalche tabo nalo.
Tumi ki tader kshama kartacha.
tumi ki benecho nalo?*

Second Sir, he said :

*He m r tirtha, purna chitta jagore dhire,
ael Bharoter maha-manober sgar tixe.*

I quote Sir, he said about the freedom fighters to praise them and to remind the new generation :

*Birer e rakto-srote, maatar e ashru-dhara
er jato mulya, se ki
dharar-dhulal hobe saara?*

He mentioned these quotations in favour of our freedom fighters, our youth, our students and our people who have fought for Independence and sacrificed their lives. I would also like to quote Netaji Subhash Chander Bose who was our great hero :

*Aamra antarer songe desh'ke
bhalo-basina, aamra swajatt'ke bhalo
basina, taai aamra kori grtha-bibad
taal aamader modhey janme Mirzafar
Urmichand; Taara aajo moreni,
taader bang ha vridhhi peye cholechhe.*

It is a fact that this type of Mir Zafar and Urmichand are increasing day by day. So, we are facing this problem.

We have already passed the Prevention of Insults to National Honour Act, 1971 which provides :

"Whoever intentionally prevents the singing of the Indian National Anthem or causes disturbance to any assembly engaged in such singing shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both"

Sir this Section (3) is not enough. Government must amend the law and bring about some strong amendments to protect the unity and integrity of our country.

I would like to draw your attention to go through the performance of Asian games. Before the start of Asian games instead of national anthem "Saare Jahan se achcha" and "Jana Gana Mana". It is the feeling of everyone why national anthem was not sung. I know this song was written by Iqbal. We have great respect for him. He wrote this song before Independence but after that he was a great admirer of Pakistan. We always respect this song but why in Asian games this song was sung instead of the National Anthem.

Some people try to refuse to sing National Anthem and respect the national flag. Even some people have torn the copies of the Constitution. What steps have been taken by the Government to punish such persons and how many such persons have been punished so far? If you cannot implement this Act then how people will know about the law and respect our National Anthem. There should be no partisan outlook on this matter in this House. Members from both sides are united on this matter. We are grateful to the Chair that a discussion has been allowed.

In conclusion I would like to say that we are ready to die. we can lay down our lives for the progress of our country and to protecting the unity and integrity of our country and to give proper respect to the national symbols. Nobody can violate the national symbols.

SHRI AMAR ROYPRADHAN (Cooch Behar): Mr. Chairman, Sir, one cannot be happy to enter the question of national symbols after thirty-nine years of independence. It is a matter of shame for all of us to enter into such a controversial debate about the national anthem and the national emblem.

[Shri Amar Roypradhan]

I fully share the views and the sentiments expressed by Shri Madhav Reddi who is the mover of this motion. I may differ with the Prime Minister on so many political points, but at least on this point, I fully agree with him that we cannot accept the Supreme Court's verdict on National Anthem. We have been forced to enter into this debate on account of the Supreme Court judgement. It has raised so many questions in the public mind. The Supreme Court has held clearly that such compulsions of singing National Anthem would clearly contravene the rights guaranteed under Articles 19 (1) and 25 (1) of the Constitution of India. I am not a constitutional pundit or even a lawyer. But I in my own humble opinion would like to express my views in this matter that I do not agree with the Supreme Court verdict.

The Supreme Court in its observation has said :

"No person can be forced in the singing of National Anthem if he has genuine conscientious, religious objections."

I have got serious objections to the words 'genuine conscientious, religious objection'. It is also a fact that so many questions have been raised in the public minds after the Supreme Court verdict. Firstly, whether this poem, our National Anthem is against the modality of a particular religion or against general conscientious, and secondly, when on the one hand, we are observing the 125th birthday of Rabindranath Tagore, some people have raised voice that this particular poem, our National Anthem, was written in connection with the visit of King George, the Vth of U.K. to India. Further, some people also say that in this particular poem, the National Anthem, all the States were also not mentioned.

Before I deal with these questions, we must appreciate what was Rabindranath Tagore and what was the political environment of our country at that time. Further, we must understand the involvement of Rabindranath Tagore in the political movement and what was Rabindranath

Tagore in the eyes of the British imperialists in those days particularly round about 1911 when this particular poem was written.

We should not forget that it is Rabindranath Tagore whom Gandhiji respected as Gurudeva; we should not forget that it is Rabindranath Tagore who got love and affection for Neeruji and Indiraji and encouraged them. We should not forget that it is Rabindranath Tagore who first came forward to welcome and congratulate Netaji Subhash Chandra Bose when he quit National Congress in 1939. We should also not forget that it was Rabindranath Tagore who gave up his knighthood title in protest of the Jalianwalabagh massacre by the Britishers. We should not forget that it was Rabindranath Tagore who first spoke loudly about socialism in Russia and said *Russia Dekhe Elam*.

We should not see Kabiguru Rabindranath Tagore in such a manner that he was a poet of Bengal only. Yes, he was born in Bengal ...(*Interruptions*) Some people have said that all the States were not mentioned in the National Anthem.

14 00 hrs.

It is also true that he wrote :

"Oh amar sonar Bangla
Amo Tomay Bhalabasi"

This 'Sonar Bangla' is the National Anthem of Bangladesh. Rabindranath Tagore is not a poet of Bengal alone. He is the poet of India. In his 'Bharat Tirtha', he wrote—

"He more chitta punya tirtha
Jagare dhire, Ei Dharater mahamanaber
sagar-tire"

In fact I should stress that Rabindranath Tagore is a poet of the world. He wrote against colonialism and imperialism. And he raised his voice so loudly long long back, by writing 'Africa'. In this he depicted imperialists in this way :

"Elo Ai Manusdharar dal
Nakh Jader Tikshna
Tomar Nekerer cheya"

"The imperialists came to Africa— they are ferocious and their nails are sharper than the paws of the wild lions of Africa."

Rabindranath was a man of great vision. He was very humane and he was the greatest lover of mankind. So he wrote :

"Ami kabi Jata Akhyat janer
Nirbak maner"

He was a poet of those who are unknown, who are neglected and those who cannot express their minds. So he wrote :

"More nam ai bole khyata bok
Ami tomaderi Lok"

"Let his name be popular in such a manner that he is the man of common people."

Now let us study that particular period when he wrote this particular poem 'Bharat Bidhata' in which our National Anthem is included. It was around the year 1911. What was the political atmosphere in our country at that time? What was the role of Rabindranath Tagore in those days? What was he in the eyes of the British Imperialists? I am not giving here my own opinion. With your permission I would like to quote the great historian Jadunath Sirkar from his book 'India Through Ages' On page 96, he wrote about a Case Diary of 1910 at Jorasenka Police Station, Calcutta where a constable reported :

Tin Nambar Dagi—Rabindranath
Tagore kal rat ko gbar pancha"

This was how the Britishers treated Rabindranath Tagore. You see further more. Rabindranath Tagore was among 23 public and prominent persons who were named in 1909 by the police intelligence. These persons were connected with the political agitation in Bengal and a close watch was ordered by F C. Daly, DIG Special Branch, Calcutta by Circular No. 6 SB., dated 27th July 1909. The list included Surendranath Banerjee, Motilal Ghosh, A. Rasul, Brajendra Kishore Roychowdhari, and so on. Rabindranath's name was found at sl. No. 20 in the list.

'Home Political PRGS Deposit' November 1909 reports :

"Babu Rabindranath as a friend of Arabinda Ghosh. was the aristocrat champion of the Party."

So, the great revolutionary, Arabinda Ghosh was his friend.

In another diary entitled 'Political Trouble in India 1909 to 1917', it is observed :

"Sir Games Campbell Kerr, the Private Secretary to the Chief of Indian Intelligence also refers to Tagore's poem 'Suprabhat' as the interpretation of 'Geeta' favoured by Aurobindo Ghosh and revolutionaries of Manikatala Bomb Case."

I shall now refer to the Biography of Gokhale by Dr. B.R. Nanda. At pages 400-401, it is mentioned :

"When Calcutta University proposed to confer a D. Litt. Degree on Tagore in 1913, it appears that the Governor General had to overrule the police objection..."

I do not care whether the criminal examination will give him a bad character or not. (Lord Hardinge to Lord Carmichael) After all if anybody like to say that Rabindra Nath Tagore was the agent of the Britishers, it is a shame to our nation. We all should be ashamed of it.

Sir, now let us come to the poem itself for which so many debates have taken place.

*Jana-gana-mana-adhinayaka, jaya he
Bharata-bhagya-vidhata
Punjab-Sindhu-Gujarat-Maratha-
Dravida-Utkal-Banga*

AN HON. MEMBER : Don't recite the full poem.

SHRI AMAR ROYPRADHAN : I do not like read the entire poem. Only a few lines for reference. It is the translation of Rabindranath Tagore himself. What he wrote? What is the meaning of this?

[Shri Amar Roypradhar]

Thou art the ruler of the minds of all
people, dispenser of India's destiny.

Isn't it? Is there anything missing in it? You go through the other lines of the same poetry which is not in our national anthem, some words may be there, then you will know what is there in our national anthem.

*Patan-abhaya daya bandhur, pantha
Yuga yuga dhabita yatri
Hay chirsarathi, taba ratha chakra
mukha rita patha dinratri*

Sir, this the eternal charioteer and the poet himself wrote it. It is the glory of eternal charioteer who guides human travellers through the ages. They were saying that the religious people cannot support this poem. I do not believe in God. There are so many people who believe in God, whether it is Hindu or Muslim or Christian. At least they should know something from the words. So they should be proud of this poem. This poem was never meant for the eulogy of the King George V—the imperialist.

So at last, I must echo the voice of other members and join the Hon. Speaker of this House, who said a few days before, that Parliament should make a law in such a manner so that singing of National Anthem be made compulsory for us all. I do support it.

Then again I must say don't mingle up religions with the conception of nationality, unity, integrity and sovereignty. Religious freedom is one and nation's honour is the other. So we should honour the national emblem. We should honour the national song. We should honour the national anthem.

SHRI BRAJAMOHAN MOHANTY
(Pur): Mr. Chairman, Sir, the problem created by this judgement is manifold. It has almost opened the Pandora's box. It has created social, political and legal crises in the country.

So far as the judgement is concerned, I would only place before you that this judgement had a number of deformities and

the courts of India are not bound by this judgement. As a matter of fact, the earlier Government had called Anand Margi case as a question of Articles 25 and 26, which were never deliberated, saying, that was not applicable because Anand Margis had wanted to have *Tandava* dance on this. That was a case and besides that there was a larger case.

Three judges were involved in that case. And this was the judgement where two judges were involved. So, they are bound by that decision, otherwise, they would have referred it to the full Bench or to a larger Bench. But without doing that they distinguished this case by saying that this case just crept into the earlier case. So, my submission would be that in that background, this judgement is not binding on the courts of India; and the Home Minister should address himself to examining this decision, and the Law Minister also should do so.

Now about Article 25. It is subject to public morality and health. The court did not address itself to it. The court has not adjudicated on that point. My submission is that the freedom of conscience is subject to public order, public morality and public health. So, in that background, that is not available to them. If that becomes available, then those who believe in *tantra*, the Rajneesh group and the *Sahaja* group will have the right to freedom of conscience, and they would have the freedom to propagate it in public. That is a subject of controversy.

The next point is this: so far as Article 19(4) is concerned, the court's observation is that the executive order has not been given statutory coverage. So, it cannot over-ride fundamental rights. Is it possible to give statutory coverage to everything? Suppose a teacher enters a class, and the students do not get up, or they are moving around and do not sit down. On the contrary, they claim the right of movement which is a fundamental right. What would be the situation then? How can you cover this? It is the natural right of the teacher and the parents, to control children. No statutory coverage is necessary in such cases.

Mr. Madhav Reddi said that we should improve the statute. I feel that the statute

that is in operation is adequate, and sufficient to answer this problem. My question is: how can you give absolute coverage to the teacher's rights. Suppose the teacher is giving dictation, but some student is knitting sweaters. What is the answer to it? Will there be statutory coverage for this? To what extent can you go on doing such things? Should you give a statutory coverage for the practice of *tantra*, *Sahaja* and other things, to those people who believe in them?

We are landing ourselves in a very difficult situation by this judgement. This judgement has absolutely no sanctity and it should go. It should be thrown into the dustbin of history by the nation.

Now about Article 51(a). I am only quoting Supreme Court cases. The editor's commentary will perhaps be quite relevant here. He has shown how the floodgates of a controversy have been opened. He said :

"A significant aspect of the matter is that facts the court found that the conscientious objections did not offend the Fundamental Duty under Article 51A(a) to respect the National Anthem. A future case may involve a conflict between the objection based on conscience and the Fundamental Duties upon a citizen. In that respect the Constitution of India differs from the U.S. Constitution. Can a member of the Jehovah's Witnesses refuse to take the Form of Oath or Affirmation prescribed in the Third Schedule to the Constitution if required to do so?"

Naturally, they have followed USA's precedent. You know, nowadays the frontiers of judicial review have been unreasonably extended. You know that the Constitution-framers had decided not to allow the concept of "due process" in our Constitution? Now we are blindly following the American precedents, and importing 'due process'. Ultimately, the frontiers have been very much extended.

There are two judgements of the United States which have been referred to in this judgement. One case is that of Mr.

Frankforter in 1949, and the other is that of Mr. Jackson in 1943. They have followed the subsequent judgement; but I say that they have blindly followed it, without taking into consideration the special features of the Indian Constitution.

Mr. Madhav Reddi said that there is some inadequacy in the statute. So far as prevention of insult to National Honour Act, is concerned Section 3 is quite adequate. Somebody says, prevents. What is prevention? If I do not do, the others will not be persuaded not to do; that indirectly prevents. So, that completely comes in. So, within the statute itself, the case is covered. He says, somebody stood up. He has shown full respect to the national anthem. But that is not the point.

I would place before you the other side of the matter; that means whether Rabindra Nath wrote a song addressing George V or George IV. So, that point had been answered. If anybody goes through that poem, the whole of it has not been accepted as a national anthem; part of it has been accepted as a national anthem. If he says, the manipulator of the destiny of India to whom ocean responds, to whom Vindhya responds, to whom Himalayas respond, can there be some human beings or certain other force to whom the Nature responds? So, it is above Nature. So, you can imagine what is that force. I do not want to define it. Thank you.

SHRIMATI GEETA MUKHERJEE (Panskura) : The sanctity of the National Symbols, be it our National Flag, be it our favourite and inspiring National Song, I think it is the duty of all Indians to defend that sanctity. I also think that all should be taught in that spirit. While saying that, I would like to make a few observations in this connection.

Yesterday, the question of a National Anthem—whether that remains or not—was raised by Mr. Indrajit Gupta. Now, why at all? As you know, for quite some time our inspiring National Anthem, they were attacking in different garbs. Once it was said that it was written for the British Princess; then that died down. Then there was a question of geographical entity: whether all have been incorporated into it

[Shrimati Geeta Mukherjee]

or not. So, if you see from time to time there was an attack from interested quarters on the great National Song. I believe that, all of us, irrespective of any ideas we may have, will defend this.

In this connection, I think, surely our State and National Flag is a symbol of the State as a whole and also should be defended for the integrity of the country.

It is good for all of us to defend it in the most flowerly language at our command; surely that is necessary. But I believe the time has come to defend the national integrity and the National Symbols by action and not only by profession.

I am coming from the old India Peace March, dedicated to the cause of the world peace as well as to the integrity of our nation. There were about two lakhs of people despite all the disturbances in the city today; they were marching. I am just coming from there; irrespective of political parties, irrespective of any other opinions, they were saying that they were for world peace, for the integrity of our country; and in that demonstration you will be happy to know that there was a contingent from the disturbed Punjab. They were just behind us. They were shouting all the time.

*Na Hindu Raj, Na Khalistan
Jug Jug Jije Hindustan*

I call this defence of national integrity, I call this defence of national symbols. Not only speechifying. I am not saying that anybody is speechifying. That is not my point. But the point is, one has to defend by action.

Secondly, I would like to make a little observation on the point which was raised by our young Prime Minister yesterday. I do not know, what was the background, why suddenly while defending these symbols, correctly no doubt, he suddenly said that India is against any foreign ideology be that from America, from Japan or from Soviet Union.

SHRISHANTARAM NAIK (Panaji) :
This is exactly because in this judgement

American judgement have been referred to.

SHRIMATI GEETA MUKHERJEE :
Just a minute. Thank you very much for the prompting. I know. I knew also. I am also glad that it has been raised, that it is because in the judgement the question of some people in America observing certain things have been raised, I quite understand that. That could have been said. Japan, America, Soviet Union all have the same kind of ideology, I believe. But on the question of foreign ideology, all ideologies have to be judged on merits.

Religious ideologies for example. I have nothing for religious ideologies. Even then, I would like to say that Gautama Buddha's religious ideology, that was born in India, it has spread to China across the borders. It is in that context we have to see, it was at that time.

For example, I believe in the Marxist ideology, Communist ideology. Is it of any country? I would like to say, the question of ending oppression, exploitation of man by man, this concept is an eternal concept, it has to be accepted by every country but to be applied in that specific condition. One cannot say it is foreign because Karl Marx was a German or because this Great Revolution, triumphed in the Soviet Union for the first time. What I would like to say is India has always shown unity in diversity. India, therefore, also should reject and accept the ideologies on the basis of merits. Surely, we shall not accept any imperialist ideology, doubtlessly; Not because it comes from America but because its content is totally reactionary. Therefore, I have no objection to this when...

(Interruption).

PROF. P.J. KURIEN (Idduki) : Madam, that is what is exactly said. We will not accept an ideology simply because it is coming from there. We will judge on the merits of it.

(Interruption)

SHRIMATI GEETA MUKHERJEE : In this context, it is not because, it comes from an imperialist country or a socialist country it would be bracketed for any things I say.
(Interruption)

PROF. P.J. KURIEN : We will judge it on merits and decide and accept it.

SHRIMATI GEETA MUKHERJEE : In any case, I would like to again say that we have to defend our national symbols through our actions, and action mainly, that is the homage which we have to pay towards our national symbols.

SHRI SHANTARAM NAIK (Panaji) : In fact, the Supreme Court has so far given several judgements and some of them or most of them have been very illuminating. But 11th August, 1986, I would say, was the dark day in the history of the Supreme Court, because on this day, the Supreme Court, despite the provisions in the Constitution and the law, failed to honour and respect the dignity of our National Anthem. On 13th August it was reported in *The Times of India* and on the same day, I was one of the first persons to raise it during Zero Hour. And in this very session I have even moved a Private Member's Bill to amend the Prevention of Insults to National Honours Act, 1971. The question is whether Prevention of Insults to National Honours Act, 1971 is required to be amended or not. I think, it is not necessary. But I have moved the Bill as a measure of abundant caution, in case it is necessary. In my humble submission, as Prime Minister has said, Section 3 of the Prevention of Insults to National Honours Act, 1971 must be read with Article 51 A of the Constitution. This the Supreme Court has failed to recognise. In fact, as and when the Supreme Court required, it had stretched the articles and sections of various legislations several times. In fact, it has gone to the extent of asking executive officers or engineers even to provide funds in a budget. It has created public interest litigations by stretching the law when there is no provision for the same. It had found out after several years that there is what is known as the basic structure of the Constitution. For years we did not know that there existed the basic structure of the Constitution. It said that these and these were the things which constituted the basic structure of the Constitution and the same could not be amended. Take the case of reservation. Today in each reservation matter it has fixed percentage.

Who has given this power to it? It is the power of the legislature to fix any percentage, good or bad. The Supreme Court has gone to that extent. When the Supreme Court has stretched the law in this manner from time to time, could it not stretch it in this case to protect our National Anthem, national honour and national dignity? This is what I am submitting. If it had only said that there was no provision, then it could have been understood. Even these circulars which have been referred to by the judgement of the Supreme Court, of that particular institution under the heading 'Patriotism' say :

"Environment should be created in the school to develop the right kind of patriotism in the children. Neither religion, nor party nor anything of this kind should stand against one's love of the country."

This circular, it says, is not binding because it was not statutory. But the very circular it quoted in another aspect by saying that it very rightly emphasised the importance of religious tolerance. It quoted a portion of the circular which said that all religions should be equally respected. This part of the circular relied and quoted. But it did not recognise or respect that portion of the circular which speaks of patriotism.

Further the whole ground here is this that it goes against the religious tenets. Right from the beginning, its approach is very callous. It referred to the petitioner saying that :

"Until July, 1985, when some patriotic gentleman took notice, the gentleman thought it was unpatriotic of the children not to sing the National Anthem. He happened to be the Member of the Legislative Assembly."

This is the way the petitioner has been referred to as one gentleman. Is this the way to refer a person, who is to approach the Supreme Court on a patriotic issue? Could his designation not have been referred to with dignity? Right from the beginning, the approach here is very callous. May I go to page 620 of the judgement. Here the entire case is on religious grounds. The court says :

[Shri Shantaram Nalk]

"The students who are Witnesses, do not sing the National Anthem though they stand up on such occasions to show their respect to the National Anthem. They desist from actual singing only because of their honest belief and conviction that their religion does not permit them to join any rituals except it at the same time, of their prayers to Jehovah, their God."

Is our nation subservient to any religious practice or religious people? Who said so? On the contrary, there is every provision to restrict any Fundamental Right in the interest of our nation, or the broad principles as I have stated. Nowhere it can be seen from any angle that religion comes above it. But sometimes the courts and judges interpret in various ways. You know for twenty years now we have that judgement on schools wherein they have said that minorities have got specific right with respect to the management of their own schools. We know this law for the last twenty years. Nothing could be done. But today after 20 years, one fine morning they say, no, even minorities cannot suspend or dismiss teachers in their own fashion. Only now after twenty years they have realised this. So, for twenty years they were laying down some different law. Therefore, I would say that the sense of patriotism should come first and foremost. The Prime Minister has said that as per the existing law itself we have to approach the Supreme Court and get the interpretation which is in our honour, but in case the Supreme Court does not honour, then we have to amend the law and make the singing of National Anthem compulsory for all citizens of India.

[Translation]

SHRI KALI PRASAD PANDEY : (Gopalganj) : Mr. Chairman, Sir, yesterday, the atmosphere in the House was such that every Member regardless of the region to which he belonged, welcomed whole heartedly the Prime Minister's statement to the effect that the honour of the National Symbols would be protected at all costs. I am also grateful to him for the statement that he has made in the House, espousing

the cause of the nation's unity and integrity, for which every citizen of this country is praising him today.

So far as the Supreme Court's Judgement is concerned I shall not go into its legal aspect, as I am not a legal expert. But whatever little intelligence I have, I shall certainly say that when our Constitution was framed, it ought to have been clearly provided that no one could approach the High Court or the Supreme Court in connection with matters relating to our National Emblem, National Flag or our National Anthem. Why is this issue being raised in the House today? It is being raised after 36 years of independence. Why wasn't it raised earlier? The issue was challenged in the High Court and Supreme Court. On the one hand, there is the Punjab issue and on the other hand there are problems relating to other States as well. Besides, there is a conspiracy to endanger our national unity and integrity.

Again we have read Tagore's biography and Mahatma Gandhi also accepted him as Guru Dev. There is nothing in our 'Jana Gana Mana' which might be against any particular religion, caste or community. Therefore, this must be kept in view while bringing any Bill in this regard in the Parliament. I do not want to go into details in the Supreme Court's Judgement, but I must say that if our national unity and integrity is jeopardised by any judgement, we shall never accept it. Many people have stood under the National Flag and sung the National Anthem. Every innocent child of this country is familiar with 'Jana Gana Mana' and knows that it is sung on the occasions of our Republic Day and the independence Day. Every citizen of this country thinks it to be the symbol of our country, and our Tricolour flag shows that we are living in an independent country.

With these words, I support the statement of the hon. Prime Minister,

SHRI KEYUR BHUSHAN (Raipur) : Mr. Chairman, Sir, the discussion going on at present is in regard to our National Anthem and our National Emblem which symbolise our national unity and integrity,

In the discussion being held here for the last two days—whether on terrorism in Punjab, security at the borders or due respect to our National Flag and National Emblem, the underlying moot point is to see how our citizens are reacting to it. Every patriot, every citizen shows due honour to the country, the National Anthem, and the National Emblem and there is no controversy about it. If a person does not accept the above, it would imply that he is not an Indian. It would mean that he does not have the feelings which a citizen should have for his country. If we consider this, it would become clear to us that there are certain elements which do not accept the nation and think certain other things to be greater than the nation. The reason behind the emergence of such line of thinking these days is, certain forces do not want India to become a strong and powerful nation. This is not an ordinary thing. It is not so that certain little children have felt or that their guardians have felt or a particular religious group has felt that it would be a sacrilege to sing the National Anthem. Why should religion come into it? It is a premeditated anti-national conspiracy and such efforts are made time and again. Why are we not allowed to emerge as a strong nation? The entire nation will have to debate the issue.

It is clear that our national thinking is the offshoot of the culture of the world. Shrimati Geeta has just now said that the philosophy of Marx is for the entire world and the philosophy of Buddha is for the entire universe. Our philosophy has been the philosophy of the universe. Our religion, our thinking, and our culture are not restricted to one particular place. These are the result of thinking of our nation and culture based on the entire environment. We have not thought of ourselves in isolation, we have considered the entire world as one family and have made advancement in that way. All religions are covered under that thinking. In 'Jana Gana Mana' which is our national anthem, the same ideology has been recognised. I want to come once again to the same thing that this conspiracy began the day we got our freedom. The imperialist powers of the world knew that India will attain freedom and would strive for world

peace; they also know that it would herald the end of the imperialist forces and they will not succeed again in enslaving the world. Therefore, they raised the question of religion and dismembered India so that the apostle of peace may not march forward. Therefore, they used religion as a tool in this conspiracy but they could divide the land and not the hearts, because at that time Gandhiji was alive. At that time those powers wanted to divide the men also, because they apprehended that the two countries might unite once again. Though the two lands have not united, yet our hearts are one. Therefore, they continued to conspire and till date they are busy in their nasty designs. Their efforts are continuing and it is they who are using religion to complicate the Punjab problem. Efforts are being made to create disaffection in the State in the name of religion, whereas the people of Punjab are brimming with the feeling of patriotism for India. Howsoever grave the conspiracy may be, I am sure, there is not even a single village, out of the 12,800 villages of the State, where communal riots have taken place. The people of the State are ready to embrace each other and are trying to fight unitedly the present crisis. The more we take this into consideration, the stronger will be our nation.

I would like to submit again that the effort to insult the National Flag, Constitution and to destroy national integrity are a part of the same conspiracy. We shall have to fight it with the same spirit with which we fought during freedom movement of our country. We shall not let the dignity and pride of our flag be compromised, even if we have to sacrifice ourselves. The national anthem we sing now has been the symbol of national unity during the national struggle for freedom. We had taken a pledge at that time that we shall not tolerate insult to our flag even at the cost of our lives. There is need to inculcate the same spirit in the people now and it is this spirit which will fulfil the spirit of the anthem. These separatist elements are using religion as a ploy to disintegrate the country. It is definite that a deep study of religion, brings you nearer human values of nationalism. You may study any religion, you will find the same thing. The description of the religion by

[Shri Keyur Bhushan]

Shrimati Gita is correct but presently the people in the name of religion are trying to take us to destruction. The religious gurus are presenting a distorted picture of religion on account of vested interest. But if you try to search the feeling of universal brotherhood in the religion, the feeling with which the human beings feel themselves bound with each other, you will not be disappointed. We have to inculcate in the people the spirit of secularism and goodwill towards all the religions. We have to find out a place where we all can pray together and that place is under the national flag. Therefore, I want to say that we should march towards that path and strengthen the common man. It is the separatist forces which are trying to insult the national anthem and disintegrate the country. We are endeavouring to strengthen the efforts of those people in the world who want to live in peace, but the imperialist powers want to dismember our country. Therefore, we have to face them in a well planned manner.

DR. G.S. RAJHANS (Jhanjharpur) :
Mr, Chairman, Sir, most of the things which I wanted to say on the subject have already been said by the other hon. Members. It is the misfortune of the last speaker that he cannot say new things. Even then I would like to draw your attention towards two or three important points.

Some of the hon. Members have quoted certain examples of America in connection with the judgement on National Anthem. I want to ask whether we are going to copy America in everything. Our friend Shri Chidambaram knows that in all the American universities, there is a strange system that the students keep their legs on the desks and no one stands up when their professor enters the classroom. If we follow their culture, you can very well imagine the fate of this country.

While talking of imitating the foreign countries, I would like to ask; why should we not learn good things from them? So far as I know, in Japan in every factory or company, national anthem is sung and national flag is saluted before starting the work for the day. Only after that any

work is started. In certain countries also there are such traditions. Even if we have to imitate, why should we not imitate Japan instead of clumsy imitation of America.

I feel surprised when I see people criticising here even the great poet like Rabindra Nath Tagore. That man sacrificed his entire life in the service of the nation for which each and every person of this country is grateful to him. During the days when Mahatma Gandhi was feeling demoralised he had written a letter to him, in which he had said :

*Yadi tomar dak sune kayo na asse
tumi ekla chalo re,
Yadi kayo katha na ko, kayo na sang
aaye,
tumi ekla chalo re.*

Which means

[English]

If nobody responds to your call, you march alone.

[Translation]

Mahatma Gandhi himself has conceded that nothing has given him more strength than these words of Rabindra Nath Tagore. These words gave Gandhiji immense strength and inspiration. Rather Gandhiji at that time was drifting away from Guru Dev Rabindra Nath Tagore. He asked what to do. Then Guru Dev replied that 'ekla chalo re'.

The way the Himalyas have been a part of this country and shall always remain so the way the Ganga has been flowing since time immemorial and shall go on flowing, similarly 'Jana Gana Mana' has remained our national anthem and shall remain so whether anyone likes it or not. On this issue we are not ready to compromise with anyone. The judges sitting in the air-conditioned rooms cannot feel the pulse of the millions of the common people. We, the people's representatives can understand their feelings and the Prime Minister yesterday expressed the feelings of all of us, when he said :

[English]

"This judgement is not acceptable to us,"

[*Translation*]

You will recall that two or three years back at the end of each film show, national anthem was played in every theatre. I do not know why this practice has now been discontinued. I wish that the system of singing national anthem at the end of film shows should be restarted. Apart from this, I would also like to submit that a law should be enacted under which every guardian and child will have to give an undertaking that whenever a child goes to the school, he will sing the national anthem. There is no need to go into the great history behind the national anthem and the national flag.

Sir, it is now time when we should tell the people that there can be no compromise regarding the National Anthem. Just as our country and her integrity are eternal, so is her National Anthem and the Constitution and there can be no compromise in this respect.

[*English*]

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) : Mr. Chairman, I am grateful to hon. Members and to the whole House for extending their unanimous and wholehearted support to the mover of this motion and to the position taken by the Prime Minister during his brief intervention in this debate.

It is a matter of great satisfaction that there has been no voice of discord or dissonance in this debate. We all feel alike and, therefore, we have spoken in one voice.

There are three dates, just before and after our independence, which are etched in our memory. These are the dates when we gave to ourselves the symbols of our nationhood which we had rediscovered after several centuries and which we had perfected during many decades of service, struggle and sacrifice.

The first of these dates is, 22nd July,

1947 when Pandit Jawaharlal Nehru presented the tricolour as the national flag.

On the 12th May, 1949 we adopted our national emblem.

On the 24th January, 1950 the last solemn act of the Constituent Assembly, sitting in the other Hall, was to accept a statement read by the President of the Assembly, Babu Rajendra Prasad who a few minutes later was elected as the First President of India that *Jana Gana Mana* composed by Gurudev Rabindranath Tagore would be the national anthem of India. That song is part of our history. It is part of our freedom struggle. It was a song; which was first sung in a Congress Session in 1911 and I am sure it was sung earlier and later in other places also. It was, like *Vande Mataram*, a song which moved millions of ordinary men and women to great and heroic deeds. It was on the lips of our people when they spun the *Charkha*, when they braved bullets and lathis and when they offered *Satyagraha*. Verily, I may say, it was a tune to which this nation marched on its onward journey to freedom. What is the song? In Gurudev Rabindranath Tagore's own words :

"It was in praise of the eternal charioteer leading the pilgrims on their journey through countless ages of the timeless history of mankind."

The song does not belong to India alone. It belongs to the whole world. *Jana Gana Mana* is a song which embraces all religions, yet does not belong to any one religion. Its call is to people of all faiths and all lands. It is a hymn in praise of not any religion or God but of the supreme religion of man. It is a cruel twist of irony that our secular Constitution should be invoked by a Court to subordinate a secular song to a religious claim.

Sir, the Prime Minister has spoken for the nation, for the people. There was a time when certain misguided persons questioned the purpose of the song composed by Gurudev. I want just to go on record the answer given by Gurudev to be on the record of this hon. House. I quote it : "I shall only insult myself if I care to answer those who consider me capable of

[Shri P. Chidambaram]

such unbounded stupidity as to sing in praise of George-IV or George-V as the Eternal Charioteer leading the pilgrims on their journey through countless ages of the timeless of the history of mankind."

There are still people who do not understand. I say this is more out of sorrow than of anger, but say I must. These people do not understand nor do they share the enormous efforts and the great burden of building a nation. From their seats of wealth or learning or piety, they look down upon the resolve the determination of humble men and women to preserve our nation-hood and unity. They debunk the concept of nation-hood, mock at our values. They ask : Shall we salute our national flag ? Shall we sing our national anthem ? Hon. Members will share my anguish at this sorry pass. What is our flag if it is not saluted and what is our anthem if it is not sung. It is said that those who stand but do not sing, respect the national anthem. I fear the day when it will be said by some one equally wise that those who sing but do not stand, also respect the national anthem. I hope such a day will never come. There are two Acts which we have made—not because law should ask Indians, law should ask citizens to do something which they should otherwise do naturally and as part of their belonging to the nation. We have two Acts in punish any one who deliberately insults our national emblems. One of them is the Prevention of Insults to National Honour Act 1971. That punishes or penalises any insult to the national anthem or to the Constitution of India. The other Act is the Emblems and Names (Prevention of Improper Use) Act, 1950 which penalises anyone who improperly uses or otherwise contravenes the provisions of the Act regarding the emblem and the flag.

Let me take just one minute to speak about the philosophy of law. Law and Legislation are not to be made day after day to require people to do something which they should do naturally. Honouring the Constitution, honouring the national flag, singing the national anthem are not matters for which there should be a law. That is part of the responsibility of citizenship. That is part of our duty as Indian citizens.

15.00 hrs.

But if anybody deliberately insults, deliberately does an act of dishonour, he should be punished. While dishonour and insult should be punished, honour and respect should be a natural act of man. That is why we think that the law does not require an amendment. All that it requires is that those who are charged with interpretation of the law should do so in the true spirit of the law and not import ideologies and arguments to understand the Indian value system and the Indian Constitution, the Indian emblems and the Indian symbols.

Recently we witnessed in one State an organized attempt to burn a part of the Indian Constitution. It is a very sorry event. What happened thereafter is a matter of even greater sorrow. I do not wish to enter into the debate except that I want to say that those who sow the wind will reap the whirlwind. We cannot, by deed or word, encourage or endorse any one who indulges in such an act, namely, burning of a part of the Constitution, however strong one may feel about the issue. Members here have said that they feel strongly about certain parts of the Constitution. But that does not give any one the right to burn a part of the Constitution.

SHRI PIYUS TIRAKY (Alipurduars) : But you did not dare say that it was anti-national.

SHRI P. CHIDAMBARAM : Let us not get into that debate now.

I was very happy to see Members on that side, particularly those who make the Left Front in a competitive spirit of praise for Rabindranath Tagore. We share it.

There is really no need for me to make a long speech. The Prime Minister has spoken. But I want to say this. The judgement of the Supreme Court was delivered on the 11th August, 1986. Within 18 days, on the 29th August, 1986, the Attorney-General filed a writ petition under Article 32 of the Constitution requesting that the Court should state the correct legal position. We do not accept the judgement of the Supreme Court and we never will. We believe that the true position will be stated before the year is over and when the

new year dawns, it will dawn with our tri-colour flag flying high and our National Anthem being sung throughout the length and breadth of this country. Now, what is the true position? The true position is that every man, woman and child shall salute the National Flag and every man, woman and child shall sing the National Anthem when it is required to be sung. Neither law nor dialectics shall deflect us from this path. This is the will of the people. A Fundamental Duty has been enshrined under article 51A of the Constitution to respect the National Flag and the National Anthem. I believe, the whole House representing the will of the people will endorse and support Government's determination to ensure implicit obedience to this Fundamental Duty. I once again thank all hon. Members.

SHRI AZIZ QURESHI (Satna) : I particularly mentioned in my speech regarding Mr. Mohammad Yunus, a veteran freedom-fighter and Chairman of the Trade Fair Authority of India, who, for expressing his views on the National Anthem after Supreme Court judgement, has been forced to stand on the dock on a defamation case in the Supreme Court. I would like to know whether the Government will initiate action to save him from any harassment.

SHRI P. CHIDAMBARAM : Shri Mohammad Yunus is adequately represented in the court and I have no doubt that no harm will come to him.

[**SHRI ZAINUL BASHER** *in the Chair*]

15.05 hrs.

CHILD LABOUR (PROHIBITION AND REGULATION), BILL, 1986

As passed by Rajya Sabha

[*English*]

THE MINISTER OF STATE OF THE MINISTRY OF LABOUR (SHRI P.A. SANGMA) : Sir, I beg to move :

"That the Bill to Prohibit the engagement of children in certain employments and to regulate the

conditions of work of children in certain other employments, as passed by Rajya Sabha, be taken into consideration"

According to the Planning Commission's estimates made in March 1985, child workers number approximately 17.58 million. Most of these children moreover work in the unorganised sector where few labour laws are applicable. This has been causing the Government a great deal of concern. In India, as in many other developing countries, children belonging to the poorest families contribute in substantial measure to the income of their families. In these circumstances, it would neither be desirable nor possible to impose a total ban on all child labour. On the other hand, there can be no two opinions on the point that in certain employments/industries, the employment of children is hazardous in the extreme and should, on no account, be allowed.

As of today, the employment of children in certain industries/occupations is prohibited under the law. The Constitution of India stipulates that children below the age of 14 years should not be employed in any factory, mine or hazardous employment. Labour laws, like the Factories Act and the Mines Act, prohibit the employment of children below a certain age in factories and mines. The Employment of Children Act prohibits the employment of children in certain industrial occupations and processes. In other Acts also, like the Plantations Labour Act, the Merchant Shipping Act, the Motor Transport Workers Act, and the State Shops and Establishments Act the employment of children below a certain age is prohibited. However, there is no uniformity in these Acts, nor is there any procedure laid down for deciding the employments from which child labour should be banned.

In most of the areas where child labour today is not banned by law, children work without the benefit of protection of labour laws. There are no maximum working hours, no periods of rest, and no holidays prescribed for these children. Consequently, many children work under conditions of exploitation.

One of the reasons for the existing