

STATUTORY RESOLUTION RE : DIS-
APPROVAL OF GOLD CONTROL
(AMENDMENT) ORDINANCE AND
GOLD (CONTROL) AMENDMENT
BILL - (Contd.)

MR. SPEAKER : Further discussion of the following Resolution moved by Shri Kanwar Lal Gupta on the 8th August, 1969, namely :

"This House disapproves of the Gold (Control) Amendment Ordinance, 1969 (Ordinance No. 6 of 1969) promulgated by the Vice-President acting as President on the 3rd July, 1969."

and further consideration of the following motion moved by Shri P. C. Sethi on the 8th August, 1969, namely :

"That the Bill to amend the Gold (Control) Act, 1968, be taken into consideration."

along with amendments for circulation.

I have received a communication requesting that the debate on this be adjourned. I could not make out the signatures.

SHRI DEVEN SEN (Asansol) : I would very much like this Bill to be rejected.

MR. SPEAKER : The time allotted by the Business Advisory Committee has been accepted by the House. We have taken only 45 minutes out of 3 hours. I am sorry I cannot allow it. The discussion will continue now.

SHRI S. M. BANERJEE (Kanpur) : Before I lend my support to the various clauses of the Bill, I must bring to the notice of this House and the Minister that I have received numerous telegrams from the goldsmiths' associations, the Akhil Bharatiya Swarnakar Sangh and also the Sarafa Association asking me to appeal to Government to withdraw this pernicious legislation. I know this Bill has been brought after the Supreme Court judgment. If we go through the various provisions, it will become clear to us that the Bill has embodied the various suggestions or rulings of the Supreme Court.

I was a member of the Select Committee along with Shri Dandekar and others. There we did point out to Government, to the

ex-Finance Minister, Shri Morarji Desai, that in case these provisions were challenged in the Supreme Court, they might be declared *ultra vires* of the Constitution.

I am happy that these suggestions have been embodied in the Bill. But let us go back to 1962 when the Chinese aggression took place. Then unitedly the people of India, irrespective of caste, creed, sect or political affiliation stood as one man behind the late Prime Minister, Pandit Nehru. At that time, he gave a call 'ornaments for armaments.' I remember the ladies in the country, specially the poorer, contributed more for that purpose. Fortunately or unfortunately maharanis, whether they are in the Swatantra Party or close to Jan Sangh, did not contribute gold and only the sisters from the middle class contributed gold. You will remember that when the gold control came there was great difficulty and 166 goldsmiths committed suicide and thousands of families were facing starvation because they could not get any work. Nearly five lakhs of goldsmiths throughout the country were unemployed. They were given loans by the State Governments for rehabilitation purposes. After lending them Rs. 3,000 or Rs. 4,000, they wanted to recover that amount. We pointed out that the money should not be recovered. Some notices were sent in U. P. and the mortgaged property of the goldsmiths was auctioned.

I request him to consider dispassionately whether gold control has served its purpose in the country. The three aims were : the price of gold should come down to the international price of gold ; concealed gold would be made to come out and thirdly, there will be less smuggling. The hon. Minister in his reply to the debate on the disapproval motion did say that there was smuggling though it might not be on the same scale as before. But if we read the figures we find that in 1966-67 it was more than 1964-65. In 1968 it came down but in 1969 I do not know what is going to happen. Gold that was smuggled through the BOAC plane was released with the help of some officers. Now because Shri Morarji Desai is out there should at least be a reconsideration of the entire problem. It has not brought down prices which are fluctuating. The price is around Rs. 215 per tola. Con-

sealed gold has not come out; smuggling goes unabated. If it is not a dogma, I request the hon. Minister to consider this point. Mr. Anil Basu, General Secretary of the Akhil Bharatiya Swarnakar Sangh went on hunger strike and he was supported by comrades who came from different parts of the country and they also resorted to hunger strike. Mr. Sachin Chaudhuri who was then the Finance Minister promised that certain concessions would be given. Concession after concession was given. What is the use of a Bill with only a long title? If you are not bringing forward a Bill out of conviction what is the use of a Bill. I have already said that all the three objectives were defeated. I request Mr. Sethi and the Prime Minister who is now the Finance Minister to consider the whole matter objectively and dispassionately. I would request you to withdraw this particular Bill, because all that glitters is not gold. Unfortunately, the smugglers are operating, and they are international smugglers with a national character. So, I say that this sort of thing will continue, and there will be no utility of this particular legislation.

As far as the various provisions of this legislation are concerned, I welcome them, because they are in consonance with and are in accordance with the Supreme Court judgment, but still, I have received telegrams from many people. Even the goldsmiths do not want this to come. I would request the hon. Minister to kindly have another round of meetings with the Akhil Bharatiya Swarnakar Sangh and with Mr. Anil Basu and others and various representatives who do not like the gold control. Let us have another meeting with them. Let some Opposition Members be consulted, especially those who know the job. I do not mind recommending Shri Dandekar who pleaded so well and objectively. It is not because he belongs to the Swatantra Party. He really pleaded the case so well in this particular case. He proved that all these clauses ultimately are going to be declared invalid by the Supreme Court. The hon. Minister should convene a meeting of the Opposition parties and the Swarnakar Sangh and others, and let us all consider the whole matter objectively, because there should be no more starvation deaths of goldsmiths. They should not be made to suffer any more. 170 to 200 people

have already died and many had committed suicide. There is no compensation paid to them. Let us not have this sort of legislation which has defeated all its purpose. In fact, it is not because Shri Morarji Desai is out now, that I am pleading now. Even before, when he was here, I had pleaded against it, but he stood like a rock. He said that once a decision has been taken, it has to be implemented. I may point out here that the Compulsory Deposit Scheme which was introduced by him has been withdrawn. So, let them not stand on a question of prestige; let the Bill be withdrawn for the sake of the country. The lust for gold will be there, irrespective of this legislation.

I may point out another thing in this connection. Even on the Rs. 10 currency note, there is difference now. In the present Rs. 10 note, the words "on demand" have been omitted. If there is no "on demand", what happens? Previously, these words were there on these notes. The words were, "I promise to pay the bearer, on demand, the sum of rupees ten". Now the size of the note has also changed. There is a change in size. I can place it on the Table of the House provided it is returned to me with some interest. The words "on demand" have been conveniently omitted. (Interruption) I am prepared to lay it on the Table because if it goes into your pocket, I know you will return it to me!

MR. SPEAKER: I can find your money back in your pocket!

SHRI S. M. BANERJEE: Formerly, the words were "I promise to pay the bearer the sum of rupees ten on demand." Now, these words are not there. "On demand" has been omitted. This is the condition of the country. That is why the people do not part with gold. That is the only guarantee for them because it will make ornaments for them.

Now, while saying that, let it not be understood that I am supporting smuggling. I am not supporting smuggling. I am only supporting the plea for withdrawal of this measure, and supporting the cause of the sweated labour who earn by this trade. The nation will support the Government in any aggression from outside. Let there be any aggression: whether from China or Pakistan

[Shri S. M. Banerjee]

or from any other country. I assure you that all our ladies and mothers will contribute their ornaments, as they have done indeed in the past. Maharani Gayatri Devi will not do so, but my sister will do it; we come from the middle class. (Interruption)

MR SPEAKER: They are also hon. Members of the House.

SHRI S. M. BANERJEE: Mr. Lobo Prabhu will not do it; Mrs. Lobo Prabhu will do it; my sister will do it. Let there be no objection. (Interruption) All right; I withdraw whatever I have said against Mr Lobo Prabhu. I would only say that in that case gold will come in. Gold will flow in this country, and again, that slogan, ornaments for armaments, will be translated into action when necessary. But let this Bill be withdrawn.

SHRI K. NARAYANA RAO (Bobbili): When the Gold Control measures were initially introduced in this country, there was a widespread opposition to this measure from people all over the country. Nonetheless, Government was determined to pursue this particular measure to its logical end after making some concession here and some concession there. Last time when the Bill was passed in this House, some of us objected to the various provisions of this Bill on the counts of both policy as well as legality and our fears have come true. The Supreme Court has struck down certain provision of the Gold Control Act. I was one of the persons who brought a call-attention motion here bringing the judgment of the Supreme Court to the notice of the Government. In that context, I had pleaded with the hon. Minister to re-examine the provisions of the Act in the light of the Supreme Court's judgment. But, unfortunately, what has happened is that this particular Amendment is confined only to the provisions which have been invalidated by the Supreme Court. My plea was that the whole measure should be re-examined on grounds of both policy as well as legality.

Coming to the policy question, this particular Act has rendered many goldsmiths homeless, has denied the sustenance to a large number of goldsmiths. Coming as I do from the rural sector, I know how certain families

have been destroyed because of the gold control measure. Here Government try to rehabilitate them by giving some loans here and there, but unfortunately what the Government is not realising is the fact that it is extremely difficult for anybody to change his profession from one to another. This is a folly which the Government has committed. Whatever loans have been given by Government have not served the purpose. As has been pointed out by many friends, a large number of families of goldsmiths have been rendered destitutes. Therefore, I pleaded with the Government that it should have taken advantage of the judgment of the Supreme Court and it should have seen that the measure was withdrawn.

Coming to the question of legality, it is very essential to realise that the matter was brought before the Supreme Court only on behalf of the dealers with the result that only those provisions have been struck down. Though the validity of the other provisions has not been questioned by the Supreme Court, it is still open to the Supreme Court to question the validity of the provisions restricting the right of goldsmiths to pursue a particular profession. I shall just bring this to your notice. One of the provisions which were invalidated by the Supreme Court was with reference to section 27 (2) (d), which says:

"A licence issued under this section,—

(d) may contain such conditions, limitations and restrictions as the Administrator may think fit to impose and different conditions, limitations and restrictions may be imposed for different classes of dealers."

With reference to this particular provision, the Court made the following observations:—

"On the face of it, this sub-section confers such wide and vague power upon the Administrator that it is, difficult to limit its scope. In our opinion, section 27 (2) (d) of the Act must be struck down as an unreasonable restriction on the fundamental right of the petitioners to carry on business."

This is with reference to dealers. The nature of restriction imposed on the dealer

was struck down. Therefore, this particular provision has now been amended to bring it in conformity with the judgment of the Supreme Court. Now I come to the goldsmiths where also the nature of restriction imposed is exactly the same as in the case of dealers. Section 39 (2) (c) says :

"may contain such conditions, limitations and restrictions as the Administrator may think fit to impose and different conditions, limitations and restrictions may be imposed for different classes of certified goldsmiths."

This is verbatim the same as has been imposed on dealers. If that provision goes, naturally this provision should automatically go.

Not only that, there are quite a large number of restrictions imposed on persons to become entitled to the grant of a certificate. If you look at them it would look as though after two generations there would be no scope for one to be a goldsmith because there would be nobody who would be eligible for making an application. Why do I say that? Please refer to section 39 (4), which says :—

"On and from the commencement of this Act, the following classes of persons shall be eligible to apply for the grant of a certificate, namely :—

- (a) a persons who had been carrying on business as a goldsmith for more than a year immediately before the commencement of Part XIA of the Defence of India Rules, 1962 ;"

This means, those persons who were already granted certificates are eligible. Then sub-clause (b) says :—

"a person who, at the commencement of this Act, is a member of the family of a certified goldsmith and had been assisting him in his work as a goldsmith for not less than one years ;"

Here are the second class of people who are eligible. According to this, a person should be a member of the family of a goldsmith who has already been given the certificate. On the face of it, it is an extremely vague term but this is done with a view to escaping from the legal difficulty. I would like to know from the hon. Minister as to who is considered to be a member of

the family. Is the sister's son a member of the family? Does it necessarily mean that he should be a son? This is not clear from this particular provision. But once they say that he should be the son of a goldsmith, it will be struck down. To avoid that difficulty they have introduced this vague concept.

Whatever that may be, for being eligible a person must be a member of the family of a certified goldsmith who must be a goldsmith at the commencement of the Act. So, after a certain time a person who is a member of the family of a goldsmith is not eligible because he was not a certified goldsmith at the time of commencement of this Act with the result that after a certain period of time there will be nobody in entire India who would be eligible for being certified as a goldsmith.

Such is the stringency of this measure and such are the restrictions that are imposed by this Act. Therefore I stoutly believe that this Act is not going to be sustained on legality.

Then, it requires all individuals all over India to make a declaration if they have a certain amount of gold with them. You are imposing a particular restriction. To achieve what? To stop gold smuggling. This is very important. When the matter was brought before the Supreme Court, the counter-affidavit filed by the Government stated that the rationale of the Act was primarily purely to stop and counteract smuggling. But you have a large machinery to counteract smuggling. What you cannot do directly you want to achieve through indirect measures without knowing what the impact of this particular Act is going to be. You do not tighten your anti-smuggling measures. You are not in a position to control them but you want to put everybody as a sort of a semi-criminal so that something will happen somehow.

Even now we are not in a position to identify to what extent this particular measure has succeeded in stopping smuggling. It is only a pious wish that if we take these measures, possibly some smuggling may stop. According to its own admission in the Supreme Court, after devaluation every year Rs. 100 crores worth of gold smuggling was being done. Therefore it is extremely difficult to know to what extent this has served the purpose.

[Shri K. Narayana Rao]

Therefore I plead with this Government that instead of tackling the problem directly let us not have recourse to divious measures whose impact is extremely difficult to define. Once we concede that by indirect measures you want to stop smuggling of gold, the logic should extend to the very many large items which are being smuggled. Are we following similar measures in regard to them? No. How is it that gold has been picked up for this invidious treatment?

Therefore in the interest of a large number of goldsmiths who have been reduced penniless and destitutes, Government should withdraw it and approach the problem directly and deal with it so. These Indirect measure are not going to help anybody. It has put unreasonable restrictions on every section of society. Therefore taking advantage of this particular judgement of the Supreme Court, I hope and trust the Government will reconsider this and see how far these restrictions could be reduced and, if necessary, Government will withdraw this particular measure.

श्री प्रकाशवीर शास्त्री (हापुड़) : अध्यक्ष महोदय, मैं संक्षेप में केवल दो तीन बातें कहना चाहता हूँ।

नेता जी मुभापचन्द्र बोस ने इस देश की आजादी के लिए संघर्ष करते हुए अपने सिपाहियों और देशवासियों को सम्बोधित करते हुए यह एक नारा लगाया था कि तुम मुझे खुन दो मैं तुम्हें आजादी दूंगा। उसी तरह जब 1962 में चीन ने भारत पर हमला किया, तो सरकार की ओर से कहा गया कि हमें हथियार चाहिए और उसके लिए आवश्यक है कि हमें ज्यादा से ज्यादा सोना दिया जाये। जब सरकार की ओर से सोने की मांग आई, तो बड़े पूंजीपतियों के बारे में तो मैं नहीं कह सकता, लेकिन जहा तक मध्यमिक श्रेणी और छोटी श्रेणी के लोगों का सम्बन्ध है, मानाओं और बहनों ने अपने-अपने जेवर उतार कर सरकार को दे दिये सिर्फ इस दृष्टि से कि देश की स्वतंत्रता की रक्षा होनी चाहिए।

लेकिन बाद में क्या हुआ? अध्यक्ष महोदय प्राणने छोटे बच्चों की किताब में यह कहानी पढ़ी होगी कि एक मुर्गी रोज एक सोने का अंडा देती थी और उसके मानिक ने यह सं.च कर कि बजाये रोज एक सोने का अण्डा लेने के क्यों न मारे अण्डे एक साथ निकाल लूँ, उस मुर्गी का पेट चीर डाला। उसी तरह हम नादान सरकार ने सोने के संबध एक कानून बनाया और सोने पर अधिकार करने के लिए एक अर्बवध कार्यवाही करने का प्रयास प्रारम्भ किया।

इसका नतीजा यह हुआ कि जो लाग अपनी टुच्छा से इस देश की रक्षा के लिए गोना दे रहे थे, उनके हाथ पीछे हट गये। जो सोना प्रकट रूप में लोगों के पास था, वह भी अंड-प्रांड चला गया। क्योंकि लोगों ने सोचा कि न जाने कब सरकार की निगाह उस पर पड़ जाये।

लेकिन सरकार के कानून में कितनी कम-जोरी थी? सरकार का कानून कितना गलत था, उसका सबसे बड़ा प्रमाण यही है कि वह अब तक तीन बार सोने के सम्बन्ध में तरह-तरह के कानून ले कर सदन में लाई है। अन्तिम बार वह जो कानून यहाँ पर लाई, सर्वोच्च न्यायालय ने उसकी भी कुछ धाराओं को अर्बध ठहराया और इस कारण सरकार को यह नया कानून लाने के लिए विवश होना पड़ा।

सरकार ने सोने के सम्बन्ध में सब से पहले जब कानून बनाया, तो उसके सामने दो उद्देश्य थे। एक तो यह कि सोने के तस्कर व्यापार में किसी प्रकार कमी आनी चाहिए और दूसरे, करोड़ों रुपये का जो सोना और उसके जेवर मृत सम्पत्ति के रूप में पड़े हुए है, जिसका कोई उपयोग नहीं हो रहा है, देश के प्राथिक विकास में उसका उपयोग हो। जहाँ तक सोने के तस्कर व्यापार का सम्बन्ध है, वह पहले से बड़ा ही है, घटा नहीं है। जिस समय सरकार

मबसे पहले स्वर्ण (नियंत्रण) विधेयक लाई थी, उस समय सोने का जो भाव था, आज उसमें बहुत वृद्धि हो गई है। जहाँ तक सोने को देश के आर्थिक विकास के लिए उपयोग में लाने का सम्बन्ध है, आभूषणों के सोने का उपयोग बहुत कम हो गया है। क्यों कि आज उसका फैशन नहीं रहा है। मृत सम्पत्ति के रूप में सोना गाबों में होगा, शहरों में तो कम ही है।

अग्रत्र जितने करेन्सी नोट छापता था, उतना सोना वह अपने खजाने में भ्रवश्य रखता था। वित्त मंत्री महोदय स्पष्ट करें कि आज जितने करेन्सी नोट बाजार में चल रहे हैं, क्या उनका सोना सरकार के खजाने में जमा है। आखिर सरकार को रुपये की कीमत घटाने की जरूरत क्यों पड़ी है? जब फास ने अपनी मुद्रा का अबमूल्यन किया है, तो इस सरकार को भी सोचना पड़ रहा है कि कहीं रुपये की कीमत दोबारा कम करने की नीबन न आ जाये। सरकार के दीवालीयेपन का इससे बड़ा सुबूत और क्या हो सकता है?

अगर गोने के सम्बन्ध में इस देश के लोगों का मोह कम करना है, तो उसका एक उपाय यह है कि सरकार स्वयं सोने का आयात करे। ऐसा करने से देश में इतना सोना हो जायगा कि कोई भी व्यक्ति चोरी से सोना नहीं रखना चाहेगा, क्योंकि लोग समझेंगे कि जब चाहे, तब सोना लिया जा सकता है। मैं समझता हूँ कि इस तरह के कानून बना कर सरकार ने व्यापारियों और आभूषण बनाने वालों को चोरी करने की आदत सिखा दी है और देश को जान-बूझ कर भ्रष्टाचार के मार्ग पर डाला जा रहा है। सोना आयात करने से देश को उस से भी बचया जा सकेगा।

इसलिए मैं अपने मित्र के उस सुझाव से सहमत हूँ जो इस विधेयक के सम्बन्ध में सुझाव आया है कि इस विधेयक को जनता की राय जानने के लिए परिचालित किया जाये और लोगों की राय जान कर तब इस सम्बन्ध में कोई आवश्यक निर्णय लिए जायें।

MR. SPEAKER: The House stands adjourned for Lunch till 2 P.M.

13.00 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at Four Minutes past Fourteen of the Clock.

[Shri K. N. Tiwary in the Chair]

RE. RAILWAY ACCIDENT NEAR HYDERABAD - *contd.*

श्री आर्ज फ़रनेन्डोज़ : सभापति महोदय, मुझे आपसे एक अर्ज करनी है। आज सुबह के आखबारों में हैदराबाद के नजदीक कल जो रेल प्रपघात हुआ है, उसके बारे में बहुत ही गम्भीर खबर छपी है। इस सम्बन्ध में काल-एटेंशन तथा एडजार्नमेंट मोशन हम दे चुके हैं, लेकिन उम्मीद करते थे कि सरकार की ओर से, विशेष कर रेल मंत्री की ओर से आज कोई बयान आयेगा, क्योंकि इस प्रपघात में १२ आदमी मरे हैं और खबरों के अनुसार जिस रेल-गाड़ी के नीचे वे लोग आये हैं रेलगाड़ी बिना बत्ती के चल रही थी। हमलसे हमें यह मामला बहुत ही गम्भीर लग रहा है। स्पीकर साहब जिस समय काल-एटेंशन लेंगे, तब वह लिया जाएगा, लेकिन हम चाहेंगे कि आप सरकार से कहें कि इस प्रपघात पर तत्काल आज शाम तक डा० राम सुभग सिंह की ओर से कोई बयान आवे। हमें आशा है कि आप ऐसी कृपा करेंगे।

सभापति महोदय : ठीक है, रेलवे मन्त्री महोदय को इस विषय पर एक वक्तव्य देना चाहिये।

श्री गुणानन्द ठाकुर (सहरसा) : सभापति जी, मैं आपका ध्यान उत्तर बिहार में गंगा नदी की बाढ़ की ओर खीचना चाहता हूँ, वहाँ पर सब कुछ डिस्लोकैट हो गया है, दक्षिण ओर उत्तर का जो कोई सम्बन्ध नहीं रखा गया है। उत्तर बिहार जिसकी आबादी 2 करोड़ से अधिक