

plete all these ; the Budgets and the Proclamation about Punjab and the extension of the Proclamations about UP and West Bengal.

SHRI R. D. BHANDARE (Bombay Central) : Regarding the motion dealing with the Joint Committee on the social welfare of the Scheduled Castes and the Scheduled Tribes may be taken up earlier because it will not occupy much time. The reason is that there is going to be an election. The programme should be so fixed that the Committee should be elected before the end of the session.

MR. SPEAKER : But before that, anyhow the Budgets must be passed.

SHRI R. D. BHANDARE : I do not depreciate that important aspect.

SHRI S. M. BANERJEE (Kanpur) : He has accommodated many of our demands, like the strike situation. You remember, Sir, last week perhaps Shri Bhogendra Jha made a statement.

MR. SPEAKER : I will not allow you to raise it. It is not permitted. It is wrong to raise like that. He told me and I told him, for heavens' sake, don't raise it. Now, you raise it in his absence.

11-40 HRS.

(GOLD CONTROL) BILL—*contd.*

Clause 16—*contd.*

MR. SPEAKER : 3 hours were allotted for clause-by-clause consideration. We have already spent 2 hours and 30 minutes. We are on clause 16 only. There are a number of clauses on which there are no amendments and they are not controversial. We can dispose them off quickly. In the case of controversial clauses where we have got amendments and all that I will give you some time. But we will cut the time of the third reading—I will guillotine it. Clauses will have to be discussed and wherever there is controversy I will give you some time.

Now we are on clause 16. Shri Lobo Prabhu to continue his speech.

SHRI LOBO PRABHU (Udipi) : Mr. Speaker, Sir, the amendments proposed by me are of procedural nature. I would like to draw the attention of the Finance Minister to the fact that the limit of 20 grams which has been fixed as the weight for an article is the same as the weight fixed for a letter which is to be carried by a postage of 20 nP. This limit is so small and for such a small weight no person should be penalised. I would therefore propose to the Finance Minister that the limit be raised to 50 grams in respect of minors and to 100 grams in respect of other persons.

My second amendment is also procedural. In the following clause there is a kind of loophole to the limit of 20 grams or 50 grams in the preceding clause for articles because it is provided in relation to any ornament or gold articles the limits will be from 800 to 4000 grams. This would imply that the maximum fixed here that is 800 grams to 4000 grams could be applied also to articles irrespective of the lower minimum fixed in the earlier sub-clause. I would, therefore, like it to be clarified in that these articles be subject to the limit fixed in clause 5 even where mixed with ornaments.

MR. SPEAKER : The Finance Minister.

SHRI K. NARAYANA RAO (Bobbili) : I want to submit a few words.

MR. SPEAKER : Your amendment is not there. Do you want general discussion on this ?

SHRI K. NARAYANA RAO : I cannot move an amendment. If I move an amendment, I will have to press for it.

MR. SPEAKER : All right. Let the Finance Minister resume his seat. He wants to make some valuable suggestions.

SHRI K. NARAYANA RAO : Sir, this clause 16 affects every individual. It is not confined to any select class. Everyone who comes within this

has to make a declaration. The Finance Bill has made certain exemptions when the individuals are not required to make a declaration. In the process there are certain classifications the rationale of which, the reasonableness of which, is very difficult to understand. The classification on the face of it is absolutely arbitrary. I submit there is article 14 of the Constitution which enjoins on the State not to deny equality. I would like to give a couple of examples here. According to this a family consisting of father and mother, a family consisting of two minors, a family consisting of four members, is placed on par with individuals that is to say, a single individual is also eligible up to 2000 grams....

MR. SPEAKER : After all I do not mind. But at least the Congress Members should co-operate with me to push it through in an hour and a half. I do not know if the Finance Minister is prepared to accept his constitutional point.

SHRI K. NARAYANA RAO : I submit one simple thing. My submission is : Two minors can constitute a family and they are entitled to 4000 but one minor and an adult are not entitled to that. They are entitled to 800 plus 2000. Can it be justified on the face of it ? I am prepared to accept if there is any reasonableness. I can give quite a lot of situations to show that this classification is arbitrary. I therefore plead with the Minister to see that an understandable and intelligible classification is brought.

THE DEPUTY PRIME MINISTER AND MINISTER OF FINANCE (SHRI MORARJI DESAI) : Several amendments have been moved. I accept amendments 93 and 94 moved by Mr. Dandekar because they are just clarifactory things and therefore I have no objection to accepting them.

I cannot accept amendment 92 because that brings in a declaration which has to be made in future — a

declaration which had to be made in the past but which they did not do. Now to make them eligible again for a declaration will not be proper. I cannot therefore accept it.

Regarding Clause 16(5), an objection was raised about minors and individuals and definition of family. The definition of family has been made; if it is to be taken away, I have no objection, but that will take away the rights of several people to have more. An adult is not included. An adult himself will be entitled. An adult son will be entitled to have 2000 grams. Therefore it is in addition to 4000 grams. If you want to include also adult's sons and children I have no objection in these 4000 grams....

SHRI SRINIBAS MISRA (Cuttack) : It is not a question of charity. The discrimination is : one minor gets 800 and two minors get 4000.

SHRI MORARJI DESAI : If two minors are a family and there is no father and mother or anything then those two minors will make a family; not otherwise. Those who inherit from the family must also be put in the same line as the family. I am prepared to change minor and individual and make them one. I am prepared to accept this in (b) (i) and (ii) and not in (a) (i) and (ii) because in (a) (i) (ii) articles had to be declared before. from 1963 onwards, and they have already been declared; therefore, there is no question of any minor or other people having anything now. I am prepared to accept in (b) (i) (ii). In that case, the amendment will be like this :

"Page 14,—

Omit lines 19 and 20

In line 21, *omit* the brackets and the words 'other than a minor'.

Line 21, *for* (ii), *substitute* (i).

Line 23, *for* (iii), *substitute* (ii)."

I move this amendment. This can be accepted.

[Shri Morarji Desai]

I cannot accept the other amendments.

MR. SPEAKER : The question is :
Page 13, lines 14 and 15,—

after "testamentary" insert ",", (93)

The motion was adopted.

MR. SPEAKER : The question is :
Page 13, line 31,—

after "testamentary" insert ",", (94)

The motion was adopted.

MR. SPEAKER : I now put amendment 254, Government's amendment, to the vote of the House.

The question is :
Page 15,—

(i) line 8,—

after "body corporate or a firm,"

insert "the declaration referred to in this sub-section shall also be made by";

(ii) line 10,—

omit "shall make a declaration" (254)

The motion was adopted.

MR. SPEAKER : The question is :
Page 14,—

(i) omit lines 19 and 20

(ii) in line 21, omit the brackets and the words "other than a minor".

(iii) line 21, for (ii), substitute (i);

(iv) line 23, for (iii), substitute (ii).

The motion was adopted.

Amendments Nos. 64, 92, 95, 96, 103, 131, 133 to 135, 202, 220 and 236 were put and negatived.

MR. SPEAKER : The question is :

"That Clause 16, as amended, stand part of the Bill."

The motion was adopted.

Clause 16, as amended, was added to the Bill.

Clauses 17 to 26 were added to the Bill.

Clause 27—(Licensing of dealers)

SHRI SRINIBAS MISRA : I beg to move.

Page 21,—

. Omit lines 36 to 40 (65)

Here it deals with dealers. The only sub-clause to which I take exception is sub-clause (8) which reads :

"Every licensed dealer shall ensure that every artisan or other person employed by him complies, in the course of such employment, with the provisions of this Act or any rule or order made thereunder and of any other law relating to gold or foreign exchange for the time being in force."

This is putting the responsibility on the dealer to see that the artisans under him do not violate law.

The question is how far this will be practicable. The artisans may violate the law and they should be punished for that. But why should the dealer be punished? How is the dealer responsible for the action of the artisans employed by him? My suggestion is that this should be omitted. We cannot put criminal responsibility on one for the action of another.

SHRIMATI SUCHETA KRIPALANI (Gonda) : I beg to move.

Page 21, after line 29 insert :—

"(6A) In case of issue of a new licence, an application may be cancelled if the applicant has no previous experience in the business of gold or gold ornaments.

(6B) In case of renewal of an existing licence, it may be cancelled only after conviction of the dealer for serious infringement of the Gold (Control) Act." (77 as corrected).

I have made a small correction in the amendment as circulated, because instead of line 29 it should be line 11.

It has been represented to us that arbitrary powers have been given to

the administrator. Powers have been given to the administrator to decide how many licensed shops there should be in a region taking the requirements of the region into account, as also the anticipated demands of the region. There is some flaw in the thinking on this matter. For, the goldsmiths do not necessarily get orders only from their region. They get orders from outside also. For instance, I may like to get something made at Calcutta, and certain people living here may like to get something done in Madras. There are also certain places where goldsmiths are very famous for their workmanship and people from all over India go to them. Therefore, I have suggested that the licence should be denied only if the man has no experience or he has been convicted for serious infringement of the Gold Control order.

SHRI LOBO PRABHU : I beg to move.

Page 20, line 15, for 'Save as otherwise provided in this Act', substitute "when the Government so directs". (136).

I would like to refer the Finance Minister to his own statement made earlier that there is no intention to apply this Act all over with all rigidity and that it has to be applied where it is necessary only. One can understand the severity of this Act in a region which is susceptible to gold smuggling or a region where a certain number of offences of this nature are committed. But I believe to apply the Act to the whole country saying 'Save as otherwise provided in this Act' is not fair to the regions which are immune. Therefore, I would suggest that Government keep to themselves the power of applying this Act to such areas at such times as they may deem necessary.

I must admit that the Finance Minister has a way of so completely ignoring the amendments tabled that one wonders....

MR. SPEAKER : Now, the hon. Member is indulging in a general lecture.

SHRI LOBO PRABHU : When he ignores our amendments, then we have naturally a right to urge....

MR. SPEAKER : Now, the hon. Minister.

SHRI MORARJI DESAI : I have been charged with neglecting amendments. But when I find that the amendments go to the same purpose, I do not think that it is necessary to go on speaking about it again and again and I think to save the time of the House it becomes necessary to say very little.

As regards the amendments moved by Shri Lobo Prabhu, I can accept it because the amendment suggests:

"When the Government so directs"

I do not know how that can happen. It is provided in the Act itself....

SHRI LOBO PRABHU : It can direct by general orders.

SHRI MORARJI DESAI : It is provided in the Act itself. Otherwise, nobody can do it. As it is provided in the Act, therefore, it can be done. This relates only to dealers, and dealers have to be dealt with strictly. If we do not deal with dealers strictly then nothing can be done. Then nothing would remain in this Gold Control Bill. It is for this reason that I cannot accept the amendments moved by Shrimati Sucheta Kripalani also.

MR. SPEAKER : Now, I shall put amendments Nos. 65, 77 and 136 to the vote of the House.

Amendments Nos. 65, 77 and 136 were put and negatived.

MR. SPEAKER : The question is:

"That clause 27 stand part of the Bill".

The motion was adopted.

Clause 27 was added to the Bill.

Clause 28 was added to the Bill.

Clause 29—(What the dealer may manufacture)

SHRI S. M. BANERJEE : According to this clause, the goldsmiths have no right to purchase primary gold to manufacture ornaments for their customers or the public in general have no right to keep any primary gold with them. So, the position of the goldsmith reverts back to the old position of 2nd September, 1966 though they were assured that some concession would be given. I would like the hon. Minister to let us know whether it is possible to include goldsmiths also so that they may also keep primary gold for the manufacture of ornaments.

SHRI MORARJI DESAI : Goldsmiths are entitled to keep a certain amount which has been prescribed; beyond that they cannot keep and they cannot be put in the same position as dealers. If they want to be dealers and have a dealer's licence, they can have it and not remain as goldsmiths. They can choose one of the two things.

MR. SPEAKER : The question is:

"That clause 29 stand part of the Bill".

The motion was adopted.

Clause 29 was added to the Bill.

Clause 30—(Ornament, etc, to be stamped)

SHRI VISHWA NATH PANDEY (Salempur) : I beg to move.

Page 22, omit lines 24 to 26. (78)

उपाध्यक्ष महोदय, इस के सम्बन्ध में मेरी यह प्रार्थना है कि आप सेशन 30 में जो प्रोवीजो है—उस को देखिये—

"Provided that nothing in this section shall apply to any article or ornament on which, owing to its nature or the smallness of its size, it is not possible to put such a stamp."

इस से यह साबित हुआ कि जो आर्टिकल छोटी है जिन पर स्टैम्प नहीं लग सकती है, उन पर स्टैम्प नहीं लगाई जायगी लेकिन इस से यह इंगित नहीं होता है कि किस डाइमैन्शन के जेवर पर स्टैम्प नहीं लगाई जायगी। मेरा यह अनुरोध है कि आप इस प्रकार के छोटी जेवरों की सूची बना दें कि अमुक-अमुक छोटे जेवरों पर स्टैम्प नहीं लगाई जायगी, जिससे कि बनाने वालों को कठिनाई न हो।

SHRI MORARJI DESAI : I would say that the limit is prescribed in this. The proviso reads thus :

"Provided that nothing in this section shall apply to any article or ornament on which, owing to its nature or the smallness of its size, it is not possible to put such a stamp."

It is only those things that are exempted. Otherwise, it will cause great hardship. That is why the proviso is there.

SHRI K.M. ABRAHAM (Kottayam) : *Tanka* is an ingredient which is used for melting gold and for joining gold pieces. Here under the provision stamping is only for gold and not for this *tanka*. If *tanka* is not also stamped, if we take 100 gms. gold and 5 gms. *tanka* together, then 105 gms. will be sold in the market and the consumers will be put to loss because of the *tanka*. I saw recently an order from the district authorities of Delhi issued to the association of goldsmiths in Delhi that *tanka* is excluded from this stamping. Therefore, I would request the hon. Minister that *tanka* may also be stamped.

SHRI MORARJI DESAI : I do not know how it could be stamped separately. If the two are mixed then it is not possible to stamp everything separately. But the purity of gold is stamped, and, therefore, that will be taken into account while stamping it.

MR. SPEAKER : I shall now put amendment No. 78 to the vote of the House.

Amendment No. 78 was put and negatived.

MR. SPEAKER : The question is:

"That clause 30 stand of the Bill".

The motion was adopted.

Clause 30 was added to the Bill.

12 hrs.

Clause 31—(*Acquisition of gold by a dealer*)

SHRI SURAJ BHAN:— *rose.*

MR. SPEAKER : It is not compulsory that on every amendment we should have a discussion.

SHRI VASUDEVAN NAIR (Peer-made) : I have also the same amendments. I should like to move amendment Nos. 5, 6 and 7 to clause 31.

I beg to move.

Page 22, line 32,—

- (i) after "any" insert "new"
- (ii) after "article," insert "new"

(5)

Page 22,—

(i) line 38,—

after "any" insert "old"

(ii) line 39,—

after "any" insert "old" (6)

Page 22, line 41,—

after "any" insert "old" (7)

I am sorry to say that hon. Minister has given concession to the dealers, concessions which he has refused to give to the goldsmiths. A class of dealers will be developed as a result of this clause when it comes into force. As my hon. friend Mr. Banerjee was pointing out, they are in a position to manufacture ornaments from primary gold, which privilege is denied to the goldsmiths. We should like to put the goldsmiths at least on par with the dealers, though we are not in a position to help the goldsmiths. I should like the hon. Minister to understand this position and accept my amendments.

3—3 LSD/68

SHRI MORARJI DESAI : Goldsmiths are not dealers and they are not on a par with each other. This will be a restriction and it will not be proper to put this restriction on them. I cannot accept these amendments.

MR. SPEAKER : I shall put the amendments to clause 31 to vote.

Amendments Nos. 5, 6, & 7 were put and negatived.

MR. SPEAKER : The question is :

"That clause 31 stand part of the Bill"

The motion was adopted.

Clause 31 was added to the Bill.

Clause 32—(*Possession of primary gold by a licensed dealer*)

MR. SPEAKER : I would appeal to the hon. Members to select some three or four important amendments and speak on them, instead of taking up each amendment and speaking on them. We take up clause 32. There is Shri Beni Shanker Sharma's amendment.

श्री बेनी शंकर शर्मा (बांका) : I beg to move.

Page 23,—

(i) line 21,—

for "four hundred" substitute "one thousand"

(ii) line 23,—

for "five hundred" substitute "two thousand"

(iii) line 25,—

for "one thousand" substitute "three thousand"

(iv) line 27.—

for two "thousand" substitute "five thousand" (203)

अध्यक्ष महोदय, मुझे केवल दो शब्द कहने हैं। इस क्लॉज के द्वारा स्वर्णकारों को कुछ सोना रखने का अधिकार दिया गया है। एक स्वर्णकार जोकि स्वयं कारीगर का कार्य करता है उसे चार सौ ग्राम तक सोना रखने का अधिकार होगा।

[श्री वेणी शंकर शर्मा]

जो स्वर्णकार 10 कारीगरों तक अपने पास नौकर रखेगा उसको पांच सौ ग्राम तक सोना रखने का अधिकार होगा। मैंने अपने संशोधन के द्वारा यह सिफारिश की है कि उनको जितनी मात्रा में सोना रखने का अधिकार दिया गया है वह मात्रा बहुत ही कम है क्योंकि सोने के गहने बनाने का काम खास खास सीजन में ही होता है। एक कारीगर स्वर्णकार को जो चार सौ ग्राम तक सोना रखने का अधिकार दिया गया है वह बहुत अपर्याप्त है और इस मात्रा को बढ़ाया जाना चाहिए।

एक बात मैं 32-वीं के सम्बन्ध में भी कहना चाहता हूँ। जो स्वर्णकार दस कारीगर तक अपने पास रखेगा उसे पांच सौ ग्राम सोना रखने का अधिकार होगा। यह बात समझ में नहीं आती कि एक स्वर्णकार चार सौ ग्राम सोना लेकर जब स्वयं काम करेगा तो वही आदमी जब अपने पास 10 कारीगर रखेगा उसका काम 500 ग्राम सोने से कैसे चल सकेगा। ऐसी दशा में मैं आशा करता हूँ कि वित्त मन्त्री जी मेरे इस संशोधन को मान लेंगे।

SHRI MORARJI DESAI : There is already power with the Government to enhance it where it is necessary. I cannot enhance it generally. Therefore, I cannot accept the amendment.

MR. SPEAKER : I shall put amendment No. 203 to clause 32 to the vote.

Amendment No. 203 was put and negatived.

MR. SPEAKER : The question is:

“That clause 32 stand part of the Bill.”

The motion was adopted.

Clause 32 was added to the Bill

MR. SPEAKER : I shall put clauses 33 to 38 to vote now.

AN HON. MEMBER : There is an amendment to clause 34.

Clause 33

MR. SPEAKER : The question is :

“That clause 33 stand part of the Bill.”

The motion was adopted.

Clause 33 was added to the Bill.

Clause 34—(Sale or delivery of gold by a licensed dealer or certified goldsmith)

SHRI K. M. ABRAHAM : Sir, I move :

Page 24, line 3, *add at the end*

“except a licensed dealer who belongs to another State” (238)

Sub-clause (1) reads as follows :

“A licensed dealer may sell, deliver, transfer or otherwise dispose of or agree to sell, deliver, transfer or otherwise dispose of ornaments to any person.”

I wish to add at the end, “except a licensed dealer who belongs to another State”. In moving this amendment, I wish to point out that a dealer-to-dealer transaction must be stopped; especially in the inter-State dealer transactions must be stopped. Thousands or lakhs of rupees of ornaments are being sold by these dealers from one State to another State, especially from Amritsar, Delhi and other places.

MR. SPEAKER : That is what Shrimati Sucheta Kripalani said just now.

SHRI K. M. ABRAHAM : Yes. They will purchase gold ornaments from dealers and sell them in Calcutta or Bombay or in any other market at a lower price. Perhaps they will do it on credit also. They are also allowed to manufacture with primary gold. Therefore, there is every probability of smuggled gold coming into their hands and they can use it. If you want to control this effectively, the first thing to be done is, to stop the dealer-to-dealer transactions.

SHRI S. M. BANERJEE : My case is only this. The sub-clause says that a licensed dealer may deliver or otherwise dispose of or agree to sell or otherwise dispose of ornaments and so on. It has been brought to the notice of the hon. Minister and previously also it has been brought to his notice by the Swarnakar Sangh that in this way some of the dealers who are not actual dealers, who are smugglers, manufacture ornaments daily which weigh up to two to three kilos. You can never see ornaments of that size. Anything can be melted and made into an ornament and they can say that this is our traditional ornament, and then it is sold. This is another way of smuggling gold into other States, and with the permission of the Gold Controller and under the law.

My amendment is very simple. What I say is, at the end add, "except a licensed dealer who belongs to another State". This is my amendment. If the hon. Minister is serious about stopping smuggling of gold, he may kindly accept it, or he may suggest another amendment to that effect which we will accept.

SHRI MORARJI DESAI : It is not proper to have inter-State trade stopped in this matter, because, the fashion in one State may be liked in another State. There are several articles made in Rajasthan and which are liked by other States. You cannot say they cannot be sold. To whom else can these be sold except through the dealers? It has to be done through the dealers. Some restriction is now suggested by some hon. Members, but there is this distinction. I do not want to do one against the other like that. Therefore, I do not want to prefer either goldsmiths at the cost of dealers or dealers at the cost of goldsmiths.

SHRI S. M. BANERJEE : It is to another person.

SHRI MORARJI DESAI : Another person cannot do it. He must sell it to somebody. Otherwise he cannot sell it. I do not accept his amend-

ment. (*Interruption*). A dealer has to sell it to other people. What has the dealer to do with that?

Mr. SPEAKER : I shall put the amendment to the vote.

Amendment No. 238 was put and negatived.

MR. SPEAKER : The question is:

"That clause 34 stand part of the Bill."

The motion was adopted.

Clause 34 was added to the Bill.

Clauses 35 to 38 were then added to the Bill.

Clause 39—(Certified goldsmiths)

SHRI SRINIBAS MISRA : Sir, while the Bill was sought to be discussed, I raised the first objection to clause 39 and to chapter VIII onwards as being unconstitutional and that they should not be incorporated in the Bill. My first objection is that this provision restricting the trade or the profession of goldsmiths is beyond the competence of this House. I would refer to entry 24 in List II of Schedule VII to the Constitution. I think the hon. Finance Minister is looking into it. Entry 24 reads like this.

"Industries subject to the provisions of entries 7 and 52 of List I."

It is admitted that the work of a goldsmith is an industry. They take gold, spend labour on it and produce something of value which brings more value than gold. So it is an industry. Industries, regulation and control of industries and development of industries come within the State sphere excepting under entries 7 and 52 of List I. Let us see entries 7 and 52 of List No. I. Entry 7 is :

"Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war."

[Shri Srinibas Misra]

The hon. Finance Minister will not be able to point out any such declaration by Parliament. Entry 52 is :

“Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.”

There is no such declaration like that. So under the guise of controlling gold he is going to regulate, control, restrict and strangle this industry of the goldsmiths. It is an industry and he cannot deny it. He is now going to control this. The only one argument that is open to him and which he has been advancing so far is that it will be decided by the Supreme Court or the High Court as the case may be. But why should he ask this House to go beyond its competence and then subject itself to the humiliation of the law being struck down by the court. It is a question of propriety. Why should he ask us to do that.

The other point is, this House is entitled to pass laws regarding gold, regarding finance, regarding control of finance and therefore this is incidental. But my contention is that this is never incidental. He can control gold. But how is he going to control the industry? That is the mainstay of the goldsmiths.

That is why I have moved my amendment No. 67. In this connection I will again refer you to clause 39, sub-clause (4) which reads like this :

“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:—”

No other person who is not included in it will be eligible to apply. Who are they? I am taking as a contingent matter the amendment suggested by the Minister, amendment No. 255 which reads like this :

“(a) a person who had been carrying on business as a goldsmith for more than a year immediately before the commencement

of Part XII-A of the Defence of India Rules, 1962;”

So those who in the past were carrying on the profession as goldsmith will be entitled to apply. The present sub-clause (a) will be changed to (b). According to the amendment suggested by him, if we take “a person who at the commencement of this Act is a member of the family” and if we take, say, 1st January 1969 as the date of commencement of the Act, those who were members of the family of a certified goldsmith and had been assisting him in his profession previous to that date for not less than one year, they will be entitled to apply. Then comes (c) which is present (b) which says :

“a person who has received any loan from the Government under any scheme for the rehabilitation of goldsmiths and has made, within six months from the commencement of this Act, an application for the grant of a certificate.”

These are the two classes of persons who will apply for being certified goldsmiths. But what of the people who will attain majority or who are not assisting, what of the children of the goldsmiths who have not attained majority or who are not assisting them?

What of the children who will come hereafter? Does the Finance Minister wish to kill the class of goldsmiths so that after the commencement of this Act nobody will take to the profession of goldsmiths? I raised this point earlier and drew his attention to that. Still, he is not able to appreciate the difficulty. After 20 or 30 years, after all the certified goldsmiths who were goldsmiths on the 1st of January 1969 are dead, because they do not live for ever, there will be no class of goldsmiths.

This provision is also hit by article 19(1) (g) which says that all citizens shall have the right, the fundamental right, to practice any profession or carry on any occupation, trade or business. This is a profession, occu-

pation and also business. So, this violates that provision of the Constitution. It also does not lie in his mouth to say that this is saved by sub-clause (6) because it relates only to existing laws. Only the existing laws will not be affected by this article. This is not an existing law. Control, regulation and strangulation of the profession of goldsmiths is not an existing law. So, the Finance Minister cannot bring a legislation which violates the fundamental right of the goldsmiths.

What I have suggested is that in sub-clause (4), in place of (a) the following be substituted. I would request the Finance Minister to listen attentively. It reads :

“a person who at or after the commencement of this Act is a member of the family of a certified goldsmith and has at least one year's experience in assisting a certified goldsmith;”

He can prescribe the qualification for a goldsmith. Unless one is a qualified goldsmith, he need not be given a certificate. You may prescribe that he should undergo some training and become qualified. I think this will satisfy everybody and the children of goldsmith will be able to practice that profession.

SHRI S. M. BANERJEE : Sir, I support Shri Srinibas Misra. Even on that day when this Bill was taken up for consideration our basic objection was to clause 39. One objection was that this goes against the fundamental right guaranteed to every citizen under article 19 of the Constitution. The clause reads :

“(3) Every certificate granted to a person under Part XIIA of the Defence of India Rules, 1962, or under the Gold (Control) Ordinance, 1968, recognizing him as a goldsmith, shall, if in force immediately before the commencement of this Act, continue to be in force until the death of the holder, or the cancellation thereof whichever is earlier.”

The following clause reads :

“(4) 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 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 year.”

I may state here that goldsmiths as a whole belong to a backward community. At least in my State of UP, we grant certificates to them saying that they are swarankars so that they could get some concessions for the education of their children. In every State they are given some facilities and concessions though it may not be to the extent to which it is given in the case of Scheduled Castes and Scheduled Tribes. This Bill wants to give certificates to some people as goldsmiths. So, the destiny of future of the sons and grandsons of the goldsmiths will be decided by the Gold Controller. He will be the person who will decide who is a goldsmith and who is not a goldsmith. This is ridiculous. That is why I have moved my amendment.

That day also it was pointed out by some hon. Members that very important constitutional points have been raised. The hon. Finance Minister then said: let them go to the Supreme Court. But I say that this House has every right to move a motion summoning the Attorney-General or, if it so pleases the House, it may request the government that the question may be referred to the Supreme Court for its opinion. My amendment No. 260 suggests that this House requests the government that the Attorney-General of India be summoned to address the House to clarify certain constitutional points in respect of clause 39, including the question of reasonable restrictions.

MR. SPEAKER : He is going into much wider issues.

SHRI S. M. BANERJEE : Sir, you will remember the historical debate we had on the question of land acquisition and then again on the question of the compulsory deposit scheme. It was contented by the hon. Finance Minister that it is a reasonable restriction. We contested it saying that he cannot do it. Ultimately, the Attorney-General came and addressed the House, as provided in the Constitution. Although the point was won by the government, still we had the consolation that we had put forward our point. That is why we request—kindly allow me to move this motion—that the Attorney General be summoned to address the House to clarify certain constitutional points in respect of clause 39 including the question of reasonable restriction.

In case the Finance Minister does not agree and says that the Attorney General should not be summoned, even though he has a right to do so under the Constitution, there is another amendment by Shri Vasudevan Nair in which he says :—

“This House recommends to the Government to seek opinion of the Supreme Court of India to clarify certain constitutional points including the question of reasonable restrictions with respect to clause 39 of the Gold (Control) Bill.”

There are many other amendments to clause 39 which we are not moving at present. If it goes to the Supreme Court for opinion, I will be happy and I will withdraw my motion. But if that is not done, let the Attorney General be summoned and express his opinion so that we make up our minds and decide about this.

SHRI S. M. BANERJEE : I beg to move.

“That this House recommends to the Government that Attorney General of India be summoned to address the House to clarify certain Constitutional points in respect of clause 39 including the

question of reasonable restriction.” (260)

SHRI VASUDEVAN NAIR : I beg to move.

“This House recommends to the Government to seek opinion of the Supreme Court of India to clarify certain constitutional points including the question of reasonable restrictions with respect to clause 39 of the Gold (Control) Bill.”(261)

SHRI SURAJ BHAN (Ambala) : I beg to move.

Page 25,—

for lines 17 and 18, *substitute—*

“(b) shall be valid until the death of the holder, and” (9)

Page 25, line 19,—

after “restrictions, ” *insert—*

“not inconsistent with the provisions of this Act,” (10)

Page 25, lines 21 and 22,—

omit “for different classes of” (11)

Page 25,—

for lines 23 to 28, *substitute—*

“(3) A person who intends to commence, after the commencement of this Act, as a self employed goldsmith, shall make an application, (in such form and on payment of such fee not exceeding one rupee) for the issue of a certificate and the Administrator shall grant certificate to such applicant.” (12)

Page 26, line 3,—

after “years” *insert—*

“or more on the basis of proportion of amount of loan taken by the applicant” (13)

Page 26, line 16,—

for “ten rupees” *substitute—*
“one rupee” (14)

Page 26, line 20,—

Omit “the antecedents of the applicant”. (15)

Page 26,—

for lines 22 and 23, substitute—

“certificate, by order, in writing, shall grant the certificate.” (16)

Page 26,—

for lines 28 to 31, substitute —

“(8) A certified goldsmith may employ not more than one hired labourer, to assist him in his work as a goldsmith, in the actual process of making, manufacturing, preparing, repairing, processing any article or ornament, but such hired labourer shall not make, manufacture, prepare, repair, or process any article or ornament.” (17)

SHRI SRINIBAS MISHRA : I beg to move:

Page 25, —

for lines 32 to 35, substitute—

“(a) a person who at or after the commencement of this Act is a member of the family of a certified goldsmith and has at least one year's experience in assisting a certified goldsmith.” (67)

Page 26,—

omit lines 11 to 13. (70).

SHRI LOBO PRABHU : I beg to move :

Page 25, line 11,—

for “Save as otherwise provided in this Act”

substitute “When the Government so directs” (137)

SHRI BENI SHANKER SHARMA : I beg to move:

Page 26, line 16,—

for “ten rupees” substitute—
“two rupees” (204)

Page 26,—

(i) line 20,—

omit “the antecedents of the applicant,”

(ii) lines 21 and 22 —

omit “and his suitability for the grant of a certificate” (205)

Page 26, line 8,—

after “who” insert—

“is considered by the Administrator as competent or holds a certificate from an artisan having experience of five years or more that the applicant is competent to work as a goldsmith or” (228)

Page 26, line 10,—

omit “in the public interest” (229)

Page 26, line 12,—

for “not” substitute “also” (230)

Page 26,—

line 13, add at the end—

“Provided he satisfies other conditions as to his eligibility.” (231)

SHRI MORARJI DESAI : I beg to move:

Page 25, —

after line 31, insert—

“(a) a person who had been carrying on business as a goldsmith for more than a year immediately before the commencement of Part XII-A of the Defence of India Rules, 1962;” (255)

Page 25, line 32,—

for “(a)” substitute “(b)” (256)

Page 25, line 36,—

for “(b)” substitute “(c)” (257)

Page 26, line 6,—

for “(c)” substitute “(d)” (258)

Page 26, line 8,—

for “(d)” substitute “(e)” (259)

SHRI SHRI CHAND GOYAL (Chandigarh): Sir, I want to invite your kind attention to sub-sub-clauses (c) and (d) of sub-clause (4) of clause 39. Sub-sub-clause (c) says:—

“an artisan if he surrenders his identity card as an artisan;”

[Shri Shri Chand Goyal]

A condition has been imposed; that is, if an artisan wants to carry on the business of a goldsmith, he will have to give up his other profession of an artisan which he is already carrying on. In small villages or small towns sometimes it is not possible for a man to live by one single profession and he has to supplement his profession by another profession. If we impose this rider on an artisan, namely, that if he wants to secure a licence and wants to come into the profession of goldsmiths he will have to surrender his identity card as an artisan, it will be a great hardship to him and he will not be able to supplement his profession by entering into this new profession. So my respectful submission is that this rider should not be placed on him.

I also want to make a submission with regard to sub-sub-clause (d) which says :—

“a person who belongs to a category or class to which, in the opinion of the Administrator, the certificate may be granted in the public interest.”

Under this very wide undefined and uncanalised powers are being granted to the Administrator without any indication and guidance. This is likely to be struck down as delegated legislation because of these uncanalised wide powers that have been invested in him without giving any guidance. The whole thing should not be left to the mercy of the Administrator. Everybody should not be made dependent upon the sweet will of the Administrator but some guidelines must be provided in sub-sub-clause (d) so that it does not suffer from the deficiency or the infirmity of delegated legislation.

SHRI LOBO PRABHU : I do not wish to repeat the arguments of my learned colleagues. We have got to find some way out of this constitutional impasse. The proposal made by them to widen category (a) to include future members of the family is good, but this also is not as good

as a proposal to amend category (d) i.e., the words “to which, in the opinion” etc. be removed and the words “declared by the Administrator” be substituted. The classes of goldsmiths are well known. If they are declared, a wider family can get an entry into this profession. It is a very simple suggestion and all it means is that discretion is not left to the Administrator. He declares that such-and-such classes of goldsmiths and such-and-such categories of workers are eligible to become dealers.

SHRI P. RAMAMURTI (Madurai) Mr. Speaker, Sir, this is probably the most crucial clause in the whole Bill. I do not attach any value to the earlier things about stopping of smuggling of gold and all that. Despite all those things, declarations and all that, the fact is that smuggling will go on. This is the most controversial clause of the Bill.

The other day, we pointed out that this clause or these provisions are aimed at exterminating goldsmiths as a class. I make that charge even today. This clause is aimed at exterminating goldsmiths as a class. You need not say that. But I say that it is aimed at exterminating the profession of goldsmiths in this country. What do these various provisions of this clause mean? It says :

“(3) Every certificate granted to a person under Part XIIA of the Defence of India Rules, 1962, or under the Gold (Control) Ordinance, 1968, recognising him as a goldsmith shall, if in force immediately before the commencement of this Act, continue to be in force until the death of the holder, or the cancellation, thereof whichever is earlier.”

This means that all those persons who have been goldsmiths from the year 1962 onwards and who continue to be goldsmiths will, hereafter, continue to be goldsmiths. According to the statistics furnished by the Deputy Prime Minister, there are 3 lakh goldsmiths and, according to him, some

have taken to other profession and only 2 lakh goldsmiths remain. Out of 2 lakh goldsmiths, obviously, by the lapse of time, during these 6 years, at least 25 per cent of goldsmiths must have died—they are between the age group of 40, 50 and 60 years. A number of them would have died. Apart from that, who are the persons who will, hereafter, be eligible for being declared as goldsmiths for carrying on the profession of goldsmiths? Who are these people? They are 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 year. Those persons, will continue, hereafter, as goldsmiths. Now, let me give you an example. A goldsmith has got a family of half a dozen out of whom one boy is about 18 years who has been assisting his father for the last one year. Now, that boy will be eligible for being declared as a goldsmith. But his other five sons who may be of the age of 7, 8, 10 and 15 years, who have not been assisting him or who may assist him hereafter, cannot become goldsmiths at all. That means it is limited to those persons who have been assisting him, at the commencement of this Act, for not less than one year.

Then, even about a person who have received any loan from Government, the idea is to restrict it as much as possible. It says:

“Provided that a certificate granted to such person shall be cancelled unless he repays the loan, within a period of two years from the date of the grant of such certificate, in such instalments as the authority by which the loan was granted may specify in this behalf;”

The question of the number of years does not arise. After all, it is the question of his capacity to pay. The capacity to pay depends on the total amount of loan that a person has taken. Supposing a person has been granted for rehabilitation purpose a sum of Rs. 5,000, as I understand,

it was given in Delhi and if you ask him to repay the amount of Rs. 5,000 in 24 instalments, each instalment will be of Rs. 200. Obviously, a goldsmith cannot be expected to pay back Rs. 200 per month. If the intention, really, is to see that the persons are rehabilitated, that they are enabled to repay the loan, I say, don't fix any time-limit but fix a ceiling on the amount that it should not exceed Rs. 25 per month. They should be allowed to pay the amount at the rate of Rs. 25 per month irrespective of the time-limit fixed. If you increase it by Rs. 5 or so, that is a different matter. But their capacity must be taken into account. If you ask them to pay Rs. 200 per month, and then say that you have given them an opportunity but they were not able to pay, it is meaningless. It is the easiest way to see that these people are not rehabilitated.

Then, it says :

“(c) an artisan if he surrenders his identity card as an artisan;”

He is evading the question. I remember, some philosopher was asked, “What is mind?” He replied, “No matter”. When asked, “What is matter”, he replied, “Never mind”. The artisan is one who must have been a goldsmith and a goldsmith is one who must have been an artisan. Here, you say :

“A person who belongs to a category or class to which, in the opinion of the Administrator, the certificate may be granted in the public interest;”

What is ‘public interest’ is to be decided by whom? Whether that person belongs to each class, is for the Administrator to decide. Everything is left to the sweetwill, arbitrary decision, of the Administrator who, I dare say, will certainly function under the instructions of the Government, and the instructions of the Government can very well be seen because the intentions are that this class should be exterminated....

MR. SPEAKER : The other amendments are also there. You are making a long speech.

SHRI P. RAMAMURTI : This is the crux of the whole thing.

MR. SPEAKER : But the others also would like to say something. About 20 members have moved amendments. They should also have a chance.

SHRI P. RAMAMURTI : Then, please extend the time.

MR. SPEAKER : There is no question of extending the time....

SHRI P. RAMAMURTI : I am confining myself only to this Clause.

MR. SPEAKER : Mr. Abraham and others also should get a chance. They have also moved amendments.

SHRI P. RAMAMURTI : If you go through this, it will be amply clear that what is being aimed at is that excepting the present generation of goldsmiths, there should be no more goldsmiths in this country. That seems to be the intention. If that is the intention, I would only ask the Deputy Prime Minister to change the title of the Bill and call it as 'Extermination of Goldsmiths Bill'. That would be the best thing.

SHRI K. M. ABRAHAM (Kot-tayam) : The hon. members have narrated certain things. I am not going to elaborate. I move my amendment No. 239.

Page 25,—

for lines 17 and 18, *substitute*—

"(b) shall be valid until the death of the holder, and" (239)

That is, about the cancellation of the certificate. About the cancellation of certificate, I have to say one thing. We must not give capital punishment for a small thing, for a small criminal action of a goldsmith. By 'capital punishment' I mean 'cancellation of his certificate'. By cancelling his certificate, he and his family would starve. Therefore, other

punishments could be given. Therefore, sub-clause (2) (b) should read as follows :—

"shall be valid until the death of the holder."

I now come to amendment 240. I beg to move :

Page 25, line 19,—

after "restrictions" *insert*—

"not inconsistent with the provisions of this Act," (240)

That is, the Administrator is given much power by this Clause. He is also asked to make rules. My submission is that any rules that may be made must be made on the floor of the House, and this power should not be given to the Administrator.

I now come to amendment 241. I beg to move :

Page 25, lines 21 and 22,—

omit "for different classes of" (241)

I suggest this amendment because there is only one class. They belong to the same class. We can, therefore, omit "for different classes of".

I now come to amendment 242. I beg to move :

Page 25,—

for lines 23 to 28, *substitute*—

"(3) A person who intends to commence, after the commencement of this Act, as a self employed goldsmith, shall make an application, (in such form and on payment of such fee not exceeding one rupee) for the issue of a certificate and the Administrator shall grant certificate to such applicant." (242)

That is, sub-clause (3) may be substituted by what I have suggested above. I am not going to explain this very much because Comrade Ramamurti has said so much about that.

As regards amendment No. 243, I would suggest that now the goldsmiths are given two years' time to repay the amount. I submit that

this period is not enough. I fully agree with my hon. friend Shri P. Ramamurti that a ceiling of Rs. 25 or 30 p.m. should be fixed which the goldsmith must pay every month. Or else, those goldsmiths who have received Rs. 1000 or Rs. 200 would be obliged to pay Rs. 50 or 60 or 100 p.m. and their families will have to starve.

Even in Delhi, some six or seven goldsmiths have been sent to jail. I can name some of them. Some of the names are: Kundan Lal, Banarasi Das, Sangat Singh, Darshan Singh, Chittaranjan Roy and Sarvan Singh. These persons have been sent to jail for not having paid the money in time. When Sarvan Singh went to the officer to pay the money he was actually sent to the jail. I request that the goldsmiths should be given more time for paying back the amount.

In amendment No. 244, I have suggested that the words 'one rupee' may be substituted for the words 'ten rupees'. The fee now is only one rupee, but it can be raised to Rs. 10. It is not necessary to raise it to Rs. 10. It must be kept at Re. 1 because the goldsmiths belong to a poor community.

In amendment No. 245, I have suggested that the phrase 'the antecedents of the applicant' should be omitted.

In amendment No. 246, I have suggested the substitution of the words 'certificate, by order, in writing, shall grant the certificate' in place of lines 22 and 23. I would strongly urge that the certificate must not be cancelled.

श्री वेणी शंकर शर्मा : जहाँ तक संवैधानिक आपत्तियों का सम्बन्ध है, और जिन को श्री मिश्र जी ने उठाया है, उनका समर्थन करते हुए मैंने जो संशोधन दिये हैं उनकी ओर ही आपका ध्यान आकर्षित करता हूँ। मैं समझता हूँ कि यदि मेरे इन संशोधनों को मंजूर कर

लिया जाए तो कई असंगतियां दूर हो सकती हैं।

मेरा पहला संशोधन है :

Page 26, line 8, after 'who' insert :

"is considered by the Administrator as competent or holds a certificate of five years or more that the applicant is competent to work as a goldsmith or,"

मैं समझता हूँ कि इसको मान लिया जाएगा।

इस बिल में एडमिनिस्ट्रेटर को अधिकार दिया गया है कि वे स्वर्ण को खास खास अवस्थाओं में ही लाइसेंस दे सकेंगे। इस में कहा गया है कि :—

"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 person who,.....
- (d) a person who belongs to a category or class to which, in the opinion of the Administrator, the certificate may be granted in the public interest.

हम जाति प्रथा का विरोध करते हैं और क्लासलैस सोसाइटी के निर्माण की बात करते हैं लेकिन मैं समझता हूँ कि इस धारा से हम जाति प्रथा के बंधनों को और मजबूत करने जा रहे हैं। हम कहते हैं कि स्वर्णकार का लड़का ही स्वर्णकार हो सकता है, ब्राह्मण या हरिजन बालक स्वर्णकारी का काम नहीं कर सकता है, इसलिए मेरा सुझाव है कि बिलांग्ज टू ए कैटेगरी और क्लास को रखने के बजाय एडमिनिस्ट्रेटर को पावर दी जाए कि—

"is considered by the Administrator as competent or holds a certificate from an artisan having experience of five years or more that the applicant is competent to work as a goldsmith."

[श्री वेणी शंकर शर्मा]

हर एक काम में एप्रेंटिसशिप का सवाल आता है। अगर कोई लड़का किसी स्वर्णकार के यहां एप्रेंटिस हो कर काम करता है तो उसको अधिकार दिया जाना चाहिये कि वह इस काम को अपनी रोजी के लिए अपना सके फिर चाहे वह ब्राह्मण हो या हरिजन या किसी अन्य जाति का हो।

मैंने यह भी मांग की है कि:—

Page 26, line 10, में 'in the public interest, हटा दिया जाय।

मेरी समझ में नहीं आता है कि इस में पब्लिक इंटरेस्ट का क्या सवाल आता है। एडमिनिस्ट्रेटर जिसे चाहे लाइसेंस दे सकता है। इस वास्ते पब्लिक इंटरेस्ट को इस क्लॉज में से हटा देना चाहिये।

पेज 26 पर मेरा संशोधन है:

Page 26, line 12, for 'not' substitute 'also'.

जो एक्सप्लेनेशन है वह इस प्रकार है:

"A person who is engaged as a hired labourer by a certified goldsmith shall not be eligible to receive a certificate under this section".

12.40 Hrs.

[MR. DEPUTY-SPEAKER in the Chair]

सबक्लाज (4) की एक्सप्लेनेशन के मुताबिक किसी ऐसे व्यक्ति को लाइसेंस नहीं दिया जायेगा, जो किसी स्वर्णकार के यहां बरसों से मजदूर के रूप में काम कर रहा है। मैं समझता हूँ कि चाहे वह हायर्ड लेबरर हो और चाहे कोई हो, अगर उसने स्वर्णकार का काम सीख लिया है, तो उसे लाइसेंस दिया जाना चाहिए। इस लिए मैंने यह संशोधन रखा है कि इस एक्सप्लेनेशन में शब्द "नाट" के स्थान पर शब्द "आलसो" रख दिया जाये। इस एक्सप्लेनेशन के अन्त में मैंने यह भी जोड़ना चाहा है कि, "प्रोवाइडिड ही सर्टिफ़ाईड अंडर कन्डीशन्स एंड टु हिज

ऐलिजबिलिटी"। अगर किसी व्यक्ति ने हायर्ड लेबरर के रूप में काम करते हुए स्वर्णकार का काम सीख लिया है और वह उस काम में दक्ष हो गया है, तो उसको अपने जीवन में इस धंधे को अपनाते से रोकना उस के प्रति घोर अन्याय होगा।

सबक्लाज (6) में कहा गया है कि सर्टिफ़िकेट के लिए कोई आवेदन मिलने पर एडमिनिस्ट्रेटर सम्बद्ध व्यक्ति के एनटेसेडेंट्स और सर्टिफ़िकेट देने की उस की सूटेबिलिटी के सम्बन्ध में एन्वयारी करेगा। इस सम्बन्ध में एनटेसेडेंट्स की जांच करने की व्यवस्था रखना मेरी समझ में नहीं आता है। अगर कोई व्यक्ति स्वर्णकार का काम करने की योग्यता रखता है, तो उसे सर्टिफ़िकेट दिया जाना चाहिए। मान लीजिए कि अगर किसी के बाप-दादा के कोई कलंक का काम किया हो, तो एडमिनिस्ट्रेटर उस को सर्टिफ़िकेट देने से इन्कार कर सकता है। हम देखते हैं कि रेश के घोड़ों की पेडिग्री देखी जाती है या प्राचीन प्रया के अनुसार विवाह के सम्बन्ध में दोनों पक्षों की पेडिग्री और एनटेसेडेंट्स आदि देखे जाते हैं। स्वर्णकारी का लाइसेंस देने में एनटेसेडेंट्स की जांच करने का प्रश्न नहीं उठना चाहिए। इस लिए मैंने यह संशोधन दिया है कि सबक्लाज (6) में से ये शब्द निकाल दिये जायें: "दि एनटेसेडेंट्स आफ़ दि एप्लिकेंट" और "एंड हिज सूटेबिलिटी फ़ार दि ग्रांड आफ़ ए सर्टिफ़िकेट"। इस प्रकार इस सबक्लाज में यह व्यवस्था हो जायेगी कि एडमिनिस्ट्रेटर प्रार्थी की केवल स्वर्णकार के रूप में काम करने की योग्यता की जांच कर के उस को लाइसेंस दे देगा। अगर कोई व्यक्ति स्वर्णकार का काम जानता है, उस के लिए काम्पिटेंट और योग्य है, तो उसे लाइसेंस दे दिया जाना चाहिए। इस सबक्लाज

में "एंड हिज़ सूटेबिलिटी फ़ार दि ग्रांट आफ़ ए सर्टिफ़िकेट" शब्द रखने से एड-मिनिस्ट्रेटर चाहे जिस किसी को लाइसेंस लेने से मना कर सकता है।

सबक्लाज (5) में कहा गया है कि लाइसेंस सर्टिफ़िकेट की फ़ीस ज्यादा से ज्यादा दस रुपये होगी। इस ग़रीबी के युग में यह रकम बहुत ज्यादा है। इस लिए मैं ने यह संशोधन दिया है कि सर्टिफ़िकेट की फ़ीस ज्यादा से ज्यादा दो रुपये रखी जाये।

अगर वित्त मंत्री महोदय मेरे इन संशोधनों को स्वीकार कर लें, तो इस क्लाज की बहुतसी कठिनाइयां और असंगतियां बहुत हद तक दूर हो जायेंगी।

श्री कंबरलाल गुप्त (दिल्ली सदर) : उपाध्यक्ष महोदय, यह क्लाज 39 सब से ज्यादा ख़तरनाक है। जिस उद्देश्य से गोल्ड (कंट्रोल) बिल लाया गया है, इस क्लाज से वह पूरा होने वाला नहीं है। इस क्लाज का एक उद्देश्य यह है कि कोई भी नया व्यक्ति इस धंधे में न आ पाये। इस क्लाज के द्वारा इस पर पाबन्दी लगा दी गई है, जो कि संविधान के खिलाफ़ है। इस क्लाज में कहा गया है कि अगर किसी गोल्डस्मिथ का लड़का या रिश्तेदार उस के काम में एसिस्ट करता रहा है, तो उस को सर्टिफ़िकेट मिल सकता है। लेकिन मान लीजिए कि जो छोटा लड़का है और जो काम में एसिस्ट नहीं करता है, तो वह गोल्डस्मिथ नहीं बन सकता है। मैं यह जानना चाहता हूँ कि इस वक्त जो गोल्डस्मिथ हैं, उनके बाद इस धंधे के लिए क्या व्यवस्था की गई है। शायद श्री मोरारजी देसाई ने यह सोच लिया है कि आगे चल कर, दस पंद्रह साल के बाद, गोल्डस्मिथ्स की ज़रूरत नहीं रहेगी। जब आज के गोल्डस्मिथ्स नहीं रहेंगे, तो इस धंधे को कौन करेगा ?

हमारे संविधान में हर एक व्यक्ति को अपनी पसन्द का धंधा या पेशा अपनाने का पूरा अधिकार दिया गया है। इस लिए क्या आने वाली जेनरेशन पर, उन लोगों पर, जो गोल्डस्मिथ का काम करना चाहते हैं, जो जेवर बनाना चाहते हैं, संविधान के मुताबिक इस प्रकार की पाबन्दी लगाई जा सकती है? मैं समझता हूँ कि इस प्रकार की पाबन्दी लगाना ग़लत होगा।

इस क्लाज में यह भी प्राविजन है कि अगर किसी ने लोन लिया है और वह समय पर उस को नहीं दे सकता है, तो उसका सर्टिफ़िकेट कैंसल कर दिया जायेगा। जो व्यक्ति लोन का रुपया अदा नहीं करता है, उसके साथ मेरी कोई हमदर्दी नहीं है, लेकिन मैं समझता हूँ कि इस एक ग़लती के लिए उसे इतनी कड़ी सज़ा देना ठीक नहीं है, जिससे उसकी रोज़ो हमेशा के लिए छिन जाये। अगर इस सज़ा को कम कर दिया जाये, तो मैं उसका समर्थन करूंगा।

इस क्लाज के जरिये कोशिश यह की गई है कि नये गोल्डस्मिथ पैदा न हों और जो गोल्डस्मिथ का काम कर रहे हैं, वे काम न कर सकें, वे काम छोड़ कर भाग जायें। इस क्लाज में वर्तमान गोल्डस्मिथ्स का गला घोंटा गया है। सबक्लाज (8) में कहा गया है कि कोई भी सर्टिफ़ाइड गोल्डस्मिथ अपने काम में एसिस्ट करने के लिए एक से ज्यादा हायर्ड लेबरर नहीं रख सकता है। क्यों? अगर किसी के पास ज्यादा काम आता है, तो उसके एक से ज्यादा हायर्ड लेबरर रखने पर श्री मोरारजी देसाई को क्यों एतराज होना चाहिए? वह चाहते हैं कि उसके गले में सरकार की उंगली ज़रूर रहनी चाहिए, वह सांस नहीं ले सकेगा और अपने आप काम छोड़ कर भाग जायेगा। सरकार का

[श्री कंबरलाल गुप्त]

इरादा यह है कि इस धंधे में नये आदमी तो आये न और जो इस वक्त हैं, उन को भार दिया जाये, ताकि यह क्लास हमेशा के लिए खत्म हो जायेगा।

मैं मंत्री महोदय से कहना चाहता हूँ कि अगर वह सोने की स्मर्गलिंग कम करना चाहते हैं और सोने के उपयोग को कम करना चाहते हैं, तो उसके लिए यह तरीका नहीं है। जो कोई भी गोल्डस्मिथ का काम करना चाहता है, जेवर बनाना चाहता है, उसको ऐसा करने की छूट होनी चाहिए। हाँ, सरकार कोई स्टैंडर्ड मुकर्रर कर दे। जो भी व्यक्ति उस स्टैंडर्ड पर पूरा उतरता है, उसको लाइसेंस और सर्टिफिकेट दिया जाये।

इस क्लाज में यह भी कहा गया है कि जो मजदूर किसी गोल्डस्मिथ को एसिस्ट करता है, उसको लाइसेंस नहीं दिया जायेगा। क्यों? क्या इस लिए कि वह मजदूर है? यह कैसी सोशल-लिज्म और कैसा समाजवाद है! मान लीजिए कि मैं किसी गोल्डस्मिथ को एसिस्ट करता हूँ और मुझे जेवर बनाना आ गया है, तो क्या सरकार मुझे लाइसेंस नहीं देगी? क्यों नहीं देगी? इसका कोई जवाब नहीं है।

श्री स० मो० बनर्जी : इस उसूल के मुताबिक तो कोई डिपुटी मिनिस्टर या मिनिस्टर आफ स्टेट कभी भी कैबिनेट मिनिस्टर नहीं बन सकता है।

श्री कंबरलाल गुप्त : श्री पन्त भी इस बात का खयाल रखें कि इस वक्त जहाँ हैं, वहीं रहेंगे, क्योंकि वह भी मिनिस्टर को एसिस्ट कर रहे हैं, वह सिर्फ एक मजदूर हैं, लेबरर हैं; वह कभी भी फुल-फ्लेज्ड कैबिनेट रैंक के मिनिस्टर नहीं बन सकेंगे। श्री पहाड़िया तो बहुत ही

पीछे हैं। इस के अलावा चूँकि गोल्डस्मिथ सिर्फ एक ही लेबरर रख सकता है, इस लिए यहाँ भी दो डिपुटी मिनिस्टर या मिनिस्टर आफ स्टेट नहीं रह सकते हैं; एक को तो जाना पड़ेगा।

यह पाबन्दी खत्म होनी चाहिए, क्योंकि इस से संविधान का उल्लंघन होता है। जो भी व्यक्ति लाइसेंस पाने के लायक है, उस को लाइसेंस मिलना चाहिए।

SHRI VASUDEVAN NAIR : I have my amendments.

MR. DEPUTY-SPEAKER : Let us finish it before lunch hour.

SHRI VASUDEVAN NAIR : How is it possible ?

MR. DEPUTY-SPEAKER : Two minutes each.

SHRI VASUDEVAN NAIR : Then I do not speak. How is it possible ? We may not speak on all the other clauses, but this clause is very important.

MR. DEPUTY-SPEAKER : It has been decided that only on this clause we will have a debate. Then we will guillotine it. That is decided with the concurrence of the House.

SHRI S. M. BANERJEE : When did the House agree to it ?

MR. DEPUTY-SPEAKER : The Speaker has told me this ; the House has agreed.

SHRI S. M. BANERJEE : Agreed to what ? I was in the House, and so kindly hear me before you give your ruling. When the hon. Speaker was in the Chair, the question was raised ; it was mentioned that we can hurry up with so many unimportant clauses and he said that clauses 39, 40 and so on were very important clauses on which he said he would give ample time for discussion. Sir, now you say there is going to be guillotine. There was guillotine even in the Joint Committee. There is going to be guillotine here. Then we are going to be guillotined outside by the goldsmiths.

MR. DEPUTY-SPEAKER : One hour for one clause is too much.

SHRI VASUDEVAN NAIR : Sir, let the Minister reply after lunch. Let him think over the matter carefully and then come and reply to the debate on this clause.

My amendments to clause No. 39 are amendments Nos. 9 to 17 and 261 standing in my name and some other hon. Members. In the first place I should like to make some observations regarding my amendment No. 261. It is not necessary for me now to go over all the arguments and points made by the previous speakers on many of the constitutional points raised against clause 39. You were drawing the attention of House to the reasonable restrictions to the profession of goldsmiths that can be imposed even according to the Constitution. But, Sir, many of my hon. friends in this House have very eminently and very competently argued against that argument and I think that any impartial observer will agree that there is a strong case for reference of this clause to the Supreme Court. When I asked for a reference of this clause to the Supreme Court I had also some precedents before me. I will draw your attention to what happened in 1958 when, you remember, that controversial piece of legislation by the then Kerala Government, the Kerala Education Act, a draft of it was sent to the Central Government for its concurrence and at that time they thought it necessary to refer it to the Supreme Court even before the Assembly could pass it. I should like the Deputy Prime Minister and Finance Minister not to take upon himself the responsibility of pushing through this particular clause and get into trouble. He says that the Law Ministry concurred with him and that he himself is convinced about the legal validity of this particular clause. It may be that he also is a lawyer, a legal pandit, and the Law Ministry might have concurred with him. But from all round in this House, even from the other side, this was questioned. I should, even at this late stage request him to take the necessary steps. Either

the proposal of my hon. friend, Shri Banerjee can be accepted, that the Attorney General be summoned so that we can have some clarifications from him or, if that is not acceptable, this can be referred to the Supreme Court.

As far as the other amendments are concerned, there again we have to make similar points on this very clause and therefore I do not want to take more time of the House on it. The basic question is this. We are definitely opposed to any suggestion to deprive the goldsmith of his job, of his profession. Under no condition should the certificate be cancelled as far as a goldsmith is concerned. You can give him any other punishment. Hon. Members in this House were arguing that there could be other forms of punishment when they, the goldsmiths, indulge in any mal practice. After all, he is a petty self-employed worker. There are in this country cases under the nose of this Finance Ministry and this Government of all kinds of day light robbery that is going on where the thieves get away with it. We know what is happening every day. The dalals of Jains are engaging themselves in foreign exchange swindling and all kinds of things. What has this government done to such people ? Has it sent any such people to jail till now ?

SHRI KANWAR LAL GUPTA : They are given the benefit of doubt.

SHRI VASUDEVAN NAIR : My hon. friend, Shri Abraham, was reading out the names of the poor goldsmiths who were sentenced and sent to jail for some violation or other. I have papers with me giving details of the certificates which have been cancelled on flimsy grounds by the so-called officers. If the bureaucrats are given such wide powers, they will cancel the certificate of the goldsmith on flimsy grounds and he will be thrown into the streets.

It is very easy to ask a goldsmith to take to another profession. We are speaking from housetops asking and appealing to them to go in search of other jobs. I would like to ask the hon. Finance Minister whether after

[Shri Vasudevan Nair]

looking after finance and politics all these years he can change over to another profession now. Change over from one profession to another is not so easy. It is a traditional profession in which one acquires skill by working day and night. If you request them to take to another profession, they simply cannot do it. If you cancel their licences and certificates they will be thrown to the streets. So, under no circumstances can we agree to a clause by which their certificates are cancelled. Any other punishment can be given, but not this, so far as these poor people are concerned.

Coming to the loans given to these poor goldsmiths, what is the government worrying about? The small pittance of Rs. 500, 1,000 or the maximum of 2,000 that they have distributed to these goldsmiths when they were in distress, when hundreds of them had to commit suicide? Now like a Shylock the Government want to get back that money. The Bill says that if this money is not repaid within two years then the licence will be cancelled. Is this such a heartless government to say that if the money is not paid back by the poor goldsmiths their licences will be cancelled? We would like this government to write off the entire amount given as loan to goldsmiths. They should not ask for the repayment of this money. If they are so particular about their finances, getting back all the money they have given as loan, let them think of all the loans and how they are spending money.

SHRI UMANATH (Puddukkotai) :
Let them get Tata's money back.

SHRI VASUDEVAN NAIR : We are for the write off of these loans but if the government want to get the money back, let them recover it by instalments and not in a lump sum. This particular sub-clause should be suitably amended to give effect to this.

As far as the grant of a certificate is concerned, if a goldsmith makes an application for a certificate, he should be given it rightaway. The Administrator has no business to use his dis-

cretion in this matter. Who are goldsmiths, it is well-defined; it is not difficult to find or verify. In every State in India they can be recognised as a particular community. So, if a person belonging to that community applies for a certificate, it should be given. That should be the proper approach to this problem. You should not give too much of powers to the officers. If they are given discretion, they will use it against the poor people. At least that is our experience. So, this clause should be re-written, if the government is not prepared to make a reference to the Supreme Court. If the reference to the Supreme Court is accepted, it will save them from further trouble in future. So, we warn the Finance Minister that it is better that he takes this advice at this stage; otherwise, there will be more trouble for him in future.

13 Hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock

The Lok Sabha re-assembled after Lunch at five minutes past Fourteen of the Clock

(MR. DEPUTY-SPEAKER *in the Chair*)

GOLD (CONTROL) BILL—*contd.*

SHRI KANWAR LAL GUPTA : On a point of submission. I will not take much time.

उपाध्यक्ष महोदय, लगभग एक महीने से ऊपर हो गया है, सब समाचार पत्रों में स्ट्राइक हो रही है, इस के अलावा अब कुछ समाचार पत्रों ने लौक-आउट कर दिया है—

This is an important issue.

MR. DEPUTY-SPEAKER : This matter was raised in the morning. There is going to be a Call Attention, I suppose.

श्री कंवर लाल गुप्त: काल-एटेंशन की बात नहीं है, आप हमारी बात सुन लें। हम ने काल-एटेंशन का भी नोटिस दिया था, लेकिन अभी तक कोई चीज सामने