

12.18 HRS.

GOLD (CONTROL) BILL—contd.

Clause 11—contd.

MR. SPEAKER: The House will now take up further clause-by-clause consideration of the Gold (Control) Bill. We were discussing clause 11 yesterday and Shri Lobo Prabhu was making his speech at that time. Now he may conclude.

SHRI S. M. BANERJEE (Kanpur): Sir, may I make a submission to you? We have reached up to clause 11 only and with all our sincerity and honesty we are unable to conclude it within the time allotted for it. There are other clauses coming which are much more important. I would crave your indulgence and wish to bring before the notice of the House that time should really be extended for a better debate.

SHRI LOBO PRABHU (Udipi): Sir, I was on my second leg, that of the reasonable restrictions which are allowed under article 19.

12.19 HRS.

[**MR. DEPUTY-SPEAKER** *in the Chair*].

In this connection I could quote much law but I am afraid that the Deputy Prime Minister may have no patience—I would not say, no knowledge of the law on the subject. But the law is explicit that no restrictions on an innocent occupation are justified either in respect of a person working for himself or in respect of a person working for others. Just now I might confine myself to certain restrictions which are obviously obnoxious.

I had occasion yesterday to refer to clause 5 which gives a blanket power to the Administrator to make rules for licensing and regulations in respect of so many different aspects of gold control. I would like the Hon. Minister to consider how far this blanket power is consistent with clause 14 where

Government itself keeps the power to make regulations. Who is the authority? Under clause 5 it is the Administration and under clause 14 Government may make regulations.

I would like to inform this House that the Administrator for gold control is only a Joint Secretary to Government. There are in Government about 110 Secretaries and Additional Secretaries and, perhaps—I am subject to correction—about 200 Joint Secretaries. You are appointing one Joint Secretary as the Gold Controller and you are giving him powers which are equal or even excessive of those powers given to the Government itself under clause 14. The Deputy Prime Minister may kindly apply his mind to this particular point as to whether sub-clause (b) of clause 5 may not be eliminated.

Then, I come to another obvious contradiction. It is about the culpability of the transferees of gold. They may be persons who buy it or they may be persons who receive it by other methods. The transferee should not be made responsible for the transferer not having made a declaration about the gold possessed by him. I do hope that the Deputy Prime Minister will have the generosity to concede it.

Now, I come to my main objection where the restrictions are patently unreasonable. There are four classes of persons. Firstly, there are the refiners. One can conceive of some control on refiners because they are a small body and they are a body of rather important persons and they are also concerned with work which is not very ordinary and which is also of some foundational importance. If that is conceded, the question arises that, to this body of persons, the Bill allows a wide scope for recruitment. There are provisions by which selection may be made.

Then, I come to the next body of persons, the dealers, who are also next in importance. Here again, there

is a provision for selection of anyone who applies to the Administrator.

Thirdly, we come to a much larger body, that is, of certified goldsmiths. During the general discussion, a point was raised that for this body, the only entry possible is through such class and category as are declared by the Administrator. Is this fair that when for a smaller body, a more capable body, you throw the entry open, for a large body of small people, the entry is so restricted and so dependent on the discretion of the Administrator? I would suggest that the same scope which has been allowed to refiners and to dealers also may be allowed to the third category, that is, of certified goldsmiths.

Lastly, there is the class of artisans. It may not have been realised by anyone that there is a definite attempt here to kill the class of artisans. Is it the policy of the socialist Government to make it more difficult for the small people to live while the bigger people, somehow, are allowed to take the advantage of the law? Here, no artisan can be recruited unless he qualifies himself to be a goldsmith. As I have already said, there are the difficulties about goldsmiths. I would, therefore, ask the Deputy Prime Minister to consider why he is discriminating against the more helpless class of goldsmiths and artisans. The artisans must be given the same right as it is given to refiners.

I would, further, add that the artisans licence fee of Rs. 10 is also excessive and, in any kind, this is a form of discrimination and of unreasonableness which is not allowed under clause 17. Lastly, I would beg the Deputy Prime Minister not to dismiss the whole thing as one which has not been approved by the Law Ministry. He is here to satisfy the House about law; he need not refer us to the Law Ministry. If the Law Ministry is to satisfy us, then the Law Minister must be present. As was suggested before, the Attorney-General should have been asked to come and satisfy us that this particular legislation is within

the competence of Government because if it is not within the competence of Government, this Parliament may have to be ashamed of itself for passing this, which the Court will strike down.

SHRI TENNETI VISWANATHAM (Visakhapatnam): I suppose, we are on Clause 11. I oppose it for this reason that it prevents anybody from following his vocation. As has been already pointed out, you can impose reasonable restrictions. Now what are the reasonable restrictions which are imposed under Clause 11? There are no restrictions placed; everything is left into the hands of the Administrator. Clause 11, therefore, violates the principle of Fundamental Rights guaranteed under article 19 of the Constitution. Everything is left into the hands of the Administrator. Reasonable restrictions are equated with a gentleman called the Administrator. Therefore, it violates Fundamental Rights and it cannot go as it is. Certain reasonable restrictions must be pointed out, must be embodied, here in this Clause itself within which the Administrator can move. But here everything is left to the Administrator. Reasonable restrictions are not imposed here. There is a blanket ban on people following their own professions. That is why it is against the Constitution and I oppose Clause 11.

THE DEPUTY PRIME MINISTER AND MINISTER OF FINANCE (SHRI MORARJI DESAI): My hon. friend, Shri Lobo Prabhu, wants me to argue about law and tell him how I consider that it is legal and not merely quote the Law Ministry. I am not quoting merely the Law Ministry. I am saying that the Law Ministry also supports my view. It is not as if I have taken only the view from the Law Ministry and that I have no view myself. It is, of course, evident that there is a difference of opinion in this matter. There is always bound to be a difference of opinion in matters of law; otherwise, there will not be two sides of a case in any court of law:

if all agreed about laws, how would there be cases going on? Therefore, this is natural.

Take article 19 of the Constitution on which the Hon. Member relies. He says that these are not reasonable restrictions. That will be a matter for the court to decide whether they are reasonable or not. He may not consider them reasonable; I consider them reasonable, and how much to argue to show that they are reasonable all through? If he wants to argue for a long time, I can certainly meet him and argue with him, but this is not the place where I can go on carrying on argument like this. There is also a provision in the Constitution under article 19:

".....nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to.—

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

Therefore, Government has got these powers under the Constitution. This is the power taken here and, therefore, it is perfectly within the Constitution. I, therefore, do not accept the arguments of the Hon. Member.

MR. DEPUTY-SPEAKER: I shall now put Amendment No. 129 to Clause 11 to the vote of the House.

Amendment No. 129 was put and negatived.

MR. DEPUTY-SPEAKER: The question is:

"That Clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clauses 12 to 15 were added to the Bill.

Clause 16—(Declarations as to articles or ornaments)

SHRI SRINIBAS MISRA (Cut-tack): I beg to move:

Page 14,—

for lines 5 to 34, substitute—

"(a) in relation to articles, unless the total weight of articles owned, possessed, held or controlled by the person exceeds fifty grammes;

(b) in relation to ornaments, or both articles and ornaments, where both articles and ornaments are owned, possessed, held or controlled unless the weight of such ornaments, or both articles and ornaments, exceeds four thousand grammes:

Provided that colaterals in a Hindu joint-family shall be deemed to be distinct persons for the purpose of this sub-section." (64)

SHRI N. DANDEKAR (Jamnagar): I beg to move:

Page 12,—

Omit lines 11 to 15 (92).

Page 13, lines 14 and 15,—

After "testamentary" insert "," (93).

Page 13, line 31,—

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

Page 14, line 11,—

*for "fifty" substitute—
"one hundred" (95).*

Page 15, line 6,—

omit "not" (96).

SHRI LOBO PRABHU: I beg to move:

Page 14, line 8,—

for "twenty" substitute "fifty" (130).

Page 14, line 10,—

for "fifty" substitute "hundred" (131).

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

Page 15, lines 3 and 4,—

omit “, possessed, held or controlled” (133)

Page 15, line 4,—

omit “any capacity other than” (134)

Page 15, lines 10 and 11,—

omit “, possessed, held or controlled” (135)

SHRI BENI SHANKER SHARMA (Banka): I beg to move:

Page 15,—

omit lines 1 to 6 (202)

SHRI NAMBIAR (Tiruchirappalli): I beg to move:

Page 15, line 4,—

omit “other than the capacity” (220)

SHRI TENNETI VISWANATHAM: I beg to move:

Page 14, line 8,—

for “twenty” *substitute* “one hundred” (236)

SHRI MORARJI DESAI: I beg to move:

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)

MR. DEPUTY-SPEAKER: These amendments are now before the House.

SHRI SRINIBAS MISRA: While the matter of the Banking Laws Amendment was being discussed.....

MR. DEPUTY-SPEAKER: Hon. Members will have to be very brief.

SHRI SRINIBAS MISRA: Regarding clause 16, I hope you will not force me to be brief. I shall try to explain the position.

MR. DEPUTY-SPEAKER: Looking to the nature of the amendments I feel that it may take hours. But I cannot permit so much time.

SHRI SRINIBAS MISRA: At that time, I had the apprehension that the Finance Minister would try to include clauses for family control in Finance Acts. That was spoken by way of apprehension and in fun. I had not studied this Gold Control Bill carefully at that time. But in clause 16 he has tried to include a family control measure.

AN HON. MEMBER: Family planning.

SHRI SRINIBAS MISRA: All right, family planning measure. He thinks that in every Bill he can reform the society and show his wisdom by bringing forward measures which are not necessary.

SHRI RANGA (Srikakulam): And help people to commit suicide.

SHRI SRINIBAS MISRA: I would first refer to the scheme of clause 16. Clause 16 wants to provide for declaration of gold by anybody who possesses some gold; it may be gold ornament or gold article. These are the two categories in respect of which a declaration has to be made.

The Hon. Minister has sought to define the term ‘family’ for the purpose of this clause. We find a strange definition here. It reads thus:

“For the purposes of this section, ‘family’ shall be deemed to consist of—

(i) the husband, wife and one or more minor children;

(ii) any two or more of them,

but shall not be deemed to include any other person.”

So, adult children will not be considered to be members of the family. The

phrase 'any two or more of them' means that two minor children can form a family. Two minor children of five or six years will form a family, but adult children are excluded from the term 'family'. The reason for my referring to this is this. Taking this meaning of family and reading the whole clause, to me it appears that there can be three objections. One is that it is discriminatory. The second is that it is absurd and unworkable. The third is that it savours of wisdom but it appears that the Finance Minister has not given any thought to this although he has given much wisdom to it.

SHRI NAMBIAR: It is on this clause that the whole Act is going to be declared null and void by the Supreme Court. It is such an absurd clause.

MR. DEPUTY-SPEAKER: The phrase 'any two or more of them' is also there.

SHRI SRINIBAS MISRA: The word 'them' in the phrase 'any two or more of them' must refer to husband, wife and one or more minor children. The phrase is 'any two or more of them'. It may mean minor children, husband or wife or any two of them. It may mean two minor children or two or more, maybe, five children also; it may mean husband and wife, or two minor children or any two of them. Or it may mean husband, wife and two minor children, or wife and two minor children, or husband and wife; they will be a family. But what about adult children? Where shall they go? This is demolishing the concepts of family in this country.

SHRI MORARJI DESAI: It gives an advantage; it is not giving disadvantage.

SHRI SRINIBAS MISRA: This is a family control measure, this is a measure of family planning. He does not want more than two minor children. The other minor children will have to go to the street.

SHRI MORARJI DESAI: It is absurd to argue like that.

SHRI SRINIBAS MISRA: Perhaps, the Hon. Finance Minister thinks that I am misinterpreting. If so, I shall be very glad to hear his interpretation of it.

MR. DEPUTY-SPEAKER: Apart from his interpretation, I also fail to understand his argument. What does the phrase 'any two or more of them' would mean? Does it not include all others?

SHRI SRINIBAS MISRA: Never. The phrase 'them' will refer to the category mentioned in the earlier sub-clause. It would refer to 'husband, wife and one or more minor children'. That is, the family will consist of husband and wife and two minor children M1 and M2; or 'any two of them' would mean husband and two minor children, or wife and two minor children or husband and wife. I think I am clear. 'Any two of them' would mean any two of the earlier category.

SHRI S. KANDAPPAN: So, two for the father and two for the mother.

SHRI SRINIBAS MISRA: Sub-clause (5) reads thus:

No declaration referred to in sub-section (1) or sub-section (3) shall be required to be made.—

Now, he is very kindly trying to give some exemptions. The exemptions are as follows:

(a) in relation to articles, unless the total weight of articles owned, possessed, held or controlled by.—

(i) a minor, who is not a member of a family, exceeds twenty grammes.....

This means that a minor who is not a member of a family and who has no brother and no father and no mother cannot possess more than 20 grammes without a declaration.

Then, it reads:

"(ii) an individual (other than a minor), who is not a member of a family, exceeds fifty grammes."

This means that my adult sons will be entitled to have 50 grammes because they are not members of the family. Although a minor might have inherited from his parents 100 gms. he will be required to declare it, but myself and my family including minor children, my wife and adult sons numbering two or three will not be required to declare to the extent of 50 gms. Why? I have taken all the principles that he has adumbrated here for granted.

MR. DEPUTY-SPEAKER: Is it not advantageous to the family also?

SHRI SRINIBAS MISRA: It is disadvantageous to the minor. Why should this restriction be there? A minor may be the son of a family; perhaps, his parents may be dead due to some epidemic attack. But he will be required to declare if he has got more than 20 gms. For the purpose of this Bill is such a discrimination necessary? Has it got any relationship with the purpose of the Bill? The purpose of the Bill is to control gold, and not to make the minor children destitute. What reasonable nexus is there between the purpose of the Bill and this provision? There is thus a clear discrimination between a minor and a major. Of course, there is a discrimination regarding voting and regarding contractual obligations, but this kind of restriction cannot be imposed by this Bill. Then, we have:

"a family, exceeds fifty grammes."

A person who has got four or five or ten children will be a family; the Hindu joint family as we understand may have as much as 500 to 600 gms. whereas another person who is blessed with many children and adult children will have only 50 gms. without a declaration. Why should that be so? Is he trying to control gold by this Bill or is he trying to proliferate corruption? If his desire is to control gold

and to have a full account of how much gold is there in the country and to control it, why should one family having four or five adult children be allowed to have at the rate of 50 gms. each and another family only 50 gms.? This is regarding articles.

Then comes a worse case, regarding ornaments. The sub-clause reads as follows:

"in relation to any ornaments, or both articles and ornaments....."

- (i) a minor, who is not a member of a family, exceeds eight hundred grammes.
- (ii) an individual (other than a minor) who is not a member of a family, exceeds two thousand grammes."

Another may be 17. Being 17, he is a minor. He will have 50 gms. But another, who has crossed 18—he is not a member of the family—exceeds 2,000 gms. Why? Is there any reason? Can he adduce any reason?

After one year, what will happen? He makes a declaration. If he is a major, is it not a further disqualification added to minors? If a person has two sons, one 17 and another 18—a person who is 18 is left free—what is the position?

SHRI NAMBIAR: That may be a daughter.

SHRI SRINIBAS MISRA: The person who is 17 has to make a declaration. The State is the custodian of the minor. It should help him. But he is trying to put a disqualification. He will have to go to somebody. Or does the Finance Minister think that minors are incapable of guarding their property and therefore, they should be deprived of it? If that is the purpose, he should have clearly said so.

"A family exceeds four thousand grammes". Family means minor children and parents—four thousand grammes.

The worst of this will be apparent when I refer to sub-cl (2). In sub-clause (2), it is said:

"For removal of doubts, it is hereby declared that the declaration referred to in this section shall be made in relation to any article or ornament or both, owned by a minor or lunatic, as the case may be".

What is this? How can this be workable?

Suppose a minor has got a guardian. He is not a member of the family. The guardian will make the declaration.

At the same time, please look at (g):

"owned, possessed, held or controlled by a Hindu undivided family, by the head or karta of such family".

'Family' will have to be given the same meaning as in sub-clause (6). Please look at item (ii) 'any two or more of them'. Two minors can also make a family, according to this definition. Who will make the declaration under (g)? Can the minor be required to make the declaration? It is against all laws in force in this country. A minor cannot make a declaration, he cannot enter into a contract. So is such minor required to make a declaration?

So what I have suggested is this. Perhaps this is his pet definition. He wants a family to be like that. Perhaps his family is like that — I do not know; I am not aware of his family affairs. But if he wants that, let it remain. What I have suggested is:

"in relation to articles, unless the total weight—

(a) of articles, owned, possessed, held or controlled by the person exceeds fifty grammes"—

I have not tried to increase the ceiling. I have only said that the distinction should be removed. Everybody will have fifty grammes.

(b) "in relation to ornaments, or both articles and ornaments,

where both articles and ornaments are owned, possessed, held or controlled unless the weight of such ornaments, or both articles and ornaments, exceeds four thousand grammes"—

that is the maximum he has given—

"Provided that collaterals in a Hindu joint family"—

because he does not want them to be in the family—

"shall be deemed to be distinct persons for the purpose of this sub-section".

I hope he will give some thought to it and not try to perpetuate this distinction and impose his wisdom upon us without any reason.

MR. DEPUTY-SPEAKER: Only on important clauses, where there are amendments of a substantial nature, I will permit some time. Otherwise, I will have to guillotine because with the pressure of time it is very difficult to manage. This clause is important and a lot of amendments are also there. But I would request members who have moved amendments to be very brief and to the point.

SHRI NAMBIAR: At 2 O'clock we are taking some other subject. That is my difficulty. Tomorrow I may not be here.

MR. DEPUTY-SPEAKER: Just two minutes each. Before we adjourn we shall finish it.

SHRI N. DANDEKAR: Two of my amendments, 93 and 94, are entirely minor, almost grammatical. If the hon. Minister thinks that it improves the expression, he may accept them; if he thinks them to be unnecessary, I have no particular additional point to make.

My amendment No. 92 is an important amendment. The scheme of the clause is concerned with when, in what circumstances and in relation to what amount, you need to make a declaration. If you have less than a certain

quantity, you need not; if you have more, you have to. By this amendment I am seeking to delete the second proviso which appears at page 12, which reads as follows:

“Provided further that nothing in this sub-section shall be construed as enabling any declaration to be made in respect of any gold for which the period prescribed or allowed under the law for the time being in force before the commencement of this Act had expired before such commencement.”

I did raise this point at the Joint Committee and the Minister was good enough to say that he would issue instructions enabling this to be done. On further consideration I regard this proviso as a complete bar to anybody making a declaration, who may have failed to make a declaration under the existing law. I have therefore suggested the deletion of this proviso.

There is another amendment — 95 which concerns the scheme of exemption from declaration. There is no prohibition here from owning articles or anything. The point of this exercise is merely: upto what point you need not declare after which you have to declare. The scheme on the whole is perfectly sound within the limitations of gold control. The only change that I should like to suggest is that the exemption limit should be 100 grammes, instead of fifty grammes. In respect of articles, there is a lower limit upto which declarations are not necessary, after which declaration is necessary, namely, a minor who is not a member of the family — 20 grammes; an individual who is not a member of the family — 50 grammes; a family — also 50 grammes. My suggestion is that in the case of a family, the limit in respect of the articles upto which declaration need not be made should be raised to 100 grammes. Apart from that the general scheme of declarations, exemptions upto which declarations need not be made, etc. is all right.

I now come to a final and a very important point which has caused a

great deal of consternation. It is concerned with sub-clause 7, at page 15. It says in effect, whereas in respect of an ordinary person who is not a dealer or a refiner these exemption limits in respect of making declarations do apply, this one specifically says that sub-section (5) shall not apply to every licensed dealer or refiner. It says:

“Every licensed dealer or refiner shall make a declaration or further declaration, as the case may be, in accordance with the provisions of this section in relation to any gold owned, possessed, held or controlled by him in any capacity other than the capacity of a licensed dealer or refiner and the provisions of sub-section (5) shall not apply to such gold.”

In so far as holding gold as a dealer or refiner is concerned, there are strict controlling and accounting provisions to which one cannot in general have any objection. In so far as a refiner or a dealer holding gold in his personal capacity is concerned, I am really unable to see after considerable reflection why he should be prevented from having similar privileges as those enjoyed by any ordinary person, not a dealer or refiner particularly when there is a later provision which says that whatever is in his shop shall be deemed to be stock-in-trade and therefore shall have to be fully accounted for. Anything that is in the shop or the premises of a dealer or a refiner has to be fully accounted for. It may be his stock-in-trade well and good. But if a dealer or members of his family or anyone living in the house has in his personal capacity got a certain amount of gold or articles made of gold or ornaments made of gold, I see no reason why the privileges that are open to an ordinary individual should be denied to him. Therefore, I have suggested the deletion of the word “not” where it says, “the provisions of sub-section 5 shall not apply to such gold.” I have suggested that this should apply by the deletion of the word “not”.

SHRI NAMBIAR: My friend Shri Dandekar has dealt with it very clear-

ly. My only point is this. The hon. Deputy Prime Minister may kindly give thought to what is contained in sub-section 7 at page 15, as Shri Dandekar has said. There are two categories of persons, that is to say, there is the dealer, in the first place, that dealer has also got his family and secondly there is a citizen: you or me. You have a family; I have a family. And the dealer has a family. My family and myself can have 4,000 grammes of gold ornaments. Up to that I need not give any declaration, nor you, nor our Deputy Prime Minister. But here is a gentleman, who is a dealer but he has to give a declaration for whatever gold ornaments he has got in his family other than that in which he is dealing with in the shops. This is the difficulty.

The argument of the hon. Deputy Prime Minister is this: that the person being a dealer, apart from dealing with the gold in his shop, he may have gold ornaments accumulated at home which he may use for dealings. In the garb of private, family ornaments he may keep up to 4,000 grammes which is roughly about 500 sovereigns. The fear is that he will be converting it for the purpose of dealing as a backdoor deal. This is the point wherein the Finance Minister feels that this thing has to be plugged. In order to plug it, he has brought this proviso. He says in whatever capacity, and other than the capacity of the dealer, if he has gold ornaments, to whatever extent it may be, it has to be declared. My answer to this is this that for his own family ornaments you can get it declared but he can have another set of persons with whom he can keep up to 5,000 grammes. That means he can deal with it if he wants to as is happening in prohibition? In regard to prohibition, because you have prohibited persons from drinking and keeping liquor or articles like that, they go to the villages, and it has become practically a cottage industry. This also will spread like that, and you are opening the door for such practice of spreading it.

There must be a purpose in bringing this sort of legislation. You are not

going to help yourself in or are you going to plug the black market dealings of the dealers in the garb of private ornaments that belong to their families. Therefore, let us not bring in this invidious distinction between the family of a dealer and the family of a citizen. This is wrong to the core; you cannot keep it in the Statute-Book, because on the question of invidious distinction, it is going to be struck down by the courts. Therefore, let us not do that.

What I request him is that he must apply his mind to this problem. This is an evil. If it is an evil, it has to be approached in a proper manner, and not by bringing this sort of indirect method which cannot satisfy anyone. Therefore, my request is, either Shri Dandekar's amendment can be accepted or my amendment, which says that the words "other than the capacity" may be deleted. Then it reads that every dealer will have to declare whatever ornaments or gold that he has got as a citizen, in his family, only when it is beyond 5,000 grammes. That is my submission which he can kindly accept.

SHRIMATI SUCHETA KRIPALANI: Mr. Deputy-Speaker, Sir, my task has been made very much easier by the previous two speeches. I also seek to get the same result by moving my amendments Nos. 133, 134 and 135. We are quite in sympathy with the government that gold should be properly controlled and every licensee, dealer or refiner should be accountable for the gold that he possesses. But, then, the goldsmith is a citizen of India and he should enjoy the same rights as the other citizens of India. By this measure we are depriving him and his family members of a right which you are giving to other citizens. This is a discrimination which may go against our Constitution. Under our Constitution you cannot discriminate between one citizen and another.

Secondly, this will cause untold hardships and harassment to the members of the family of the goldsmith. Suppose a goldsmith's daughter visits

her father. Immediately he has to inform and he has to give an account. The minute she has left his house, he has to give an account again. Excise officers will go and harass him. Because, our enforcement staff are not all honest. They descend to all kinds of methods and practices to extort money. We should not open the door wide and put them in a position where they can harass people. Further, very serious punishment is attached to non-declaration. I also believe that, if the law is made draconian and harsh people will try to find out loopholes to escape its provisions. Therefore, I join other hon. Members in requesting the Finance Minister that the rights of the members of the family of the dealers should not be interfered with by this measure.

श्री बेणी शंकर शर्मा : उपाध्यक्ष महोदय, मैंने अपने संशोधन के द्वारा सब क्लॉज (7) को निकाल देने की बात कही है। माननीय दांडेकर जी और श्रीमती सुचेता कृपलानी जी ने जो संशोधन दिए हैं, उनसे भी मेरा उद्देश्य पूरा हो जाता है। इसलिए या तो वे संशोधन मान लिए जायें या फिर मेरे संशोधन को मान लिया जाये। मैं अपने पूर्ववक्ताओं का समर्थन करते हुए केवल दो शब्द ही कहूंगा। इस सब क्लॉज के द्वारा एक नागरिक के अधिकारों का हनन किया जा रहा है। स्वर्णकार जहां स्वर्णकार है वहां वह इस देश का एक साधारण नागरिक भी है। सब क्लॉज (5) के द्वारा उसको भी एक साधारण नागरिक के अधिकार हासिल हैं, उसे भी एक सीमा तक स्वर्ण और स्वर्ण के आभूषण रखने का अधिकार है किन्तु जब वह एक स्वर्णकार बन जाता है तब उसका यह अधिकार छीन लिया जाता है। मैं समझता हूँ उसके साथ यह एक बड़ा अन्याय है, इस प्रकार से उसके अधिकारों का हनन नहीं होना चाहिए। इस धारा को रखने में जैसा वित्त मंत्री जी ने कहा है उनका एक मात्र उद्देश्य यह है कि वे इस कानून में कहीं भी कोई भी छिद्र छोड़ना नहीं चाहते। उन्हें शक है कि कहीं स्वर्णकार दूसरे के आभूषणों

को अपना आभूषण न कह दे लेकिन मुश्किल तो यह है कि हमारे वित्त मन्त्री जी अपने को छोड़कर दुनिया में किसी को भी इमानदार नहीं मानते। दुनिया में इमानदार लोगों की कमी नहीं है। सभी लोग बेइमान हैं यह मानकर चलना, किसी भी सभ्य देश के कानून का रवैया नहीं होता। इसलिए मैं कहूंगा कि बेचारे स्वर्णकारों पर जहां हर तरह के और नियन्त्रण हैं, एक यह और नियन्त्रण लगाना बड़ा अन्याय होगा। इसलिए मेरी प्रार्थना है कि कम से कम इस क्लॉज को अवश्य हटाने की कृपा की जाए।

श्री मोरारजी देसाई : अभी सम्माननीय सदस्य ने कहा कि मैं किसी को भी, अपनी जात छोड़कर, इमानदार नहीं मानता, इससे गलत बात दूसरी कोई हो नहीं सकती है। मैं अपने को किसी से बेहतर नहीं मानता हूँ, यह कहना सही होगा।

13.00 HRS.

SHRI LOBO PRABHU : About the arguments which have been going on I am not quite in full agreement. There is a distinction made between the gold held by a goldsmith on his premises and the gold or ornaments which he holds as an individual. What I am concerned here now is — I am not arguing for the Finance Minister but pointing out that a provision exists to distinguish between the two types of gold held by a dealer. . . (Interruption)

MR. DEPUTY-SPEAKER : It seems you would take some time.

SHRI LOBO PRABHU : I will take five minutes.

MR. DEPUTY-SPEAKER : Then you may resume your speech next time.

13.00 HRS.

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