and there used to be four members on it. Now, the Commission is having only two members, the post of official members fell vacant since July, 1983. We have a proposal which is at a very very mature stage and it has been accepted in principle to broad base the Commission. The honourable Prime Minister has directed that there should be more representatives of the farmers on the Agricultural Costs and Price Commission.

SHRI KALPNATH RAI; How many members?

SHRI **BUTA** SINGH.. It will have another three members. It will have one farmer-member from the areas which are cultivating the high-yielding varieties of crops, another farmer member from the dry-land farming areas and another farmer-member from among those who have marginal lands or very very small lands, so that all the three interests among the farmers are represented on the Commission. And. Sir, the proposal is a' the final stage and we will be expanding the Comrfission very soon.

With these words. Sir. . . .

SHRT KALPNATH RAI. By what time?

SHRI R. MOHANARANGAM: It will be bettor if Mr. Kalpnath Rai does not interrupt the Minister.

SHRI BUTA SINGH: I cannot say m how many days it will be done.

SHRI KALPNATH RAI: By what time will you do it? *(Interruptions).*

SHRI BUTA SINGH: I cannot when it will be done; but it will be soon.

SHRI KALPNATH RAI: Soon mean? when? Within a few months?

SHRI BUTA SINGH: May be within less than one month.

SHRI KALPNATH RAI: Within one month?

SHRI BUTA SINGH: Less than a month.

With these words, Sir, I express my thanks, heartfelt thanks, to all the honourable Members who have given valuable thoughts and suggestions and have contributed to the debate. We will definitely take into account the suggestions made by the honourable Members and see how best we can implement them. Thank you, Sir. .

MOTION FOR ELECTION TO THE NATIONAL SHIPPING BOARD

THE MINISTER OF TRANSPORT (SHRI BANSI LAL): Sir. I beg to move the following Motion;

"That in pursuance of clause (a) of sub-section (2) of section 4 of the Merchant Shipping Act. 1958 (44 of 1958), this House do proceed to elect, in such manner as the Chairman may direct, two members from among the members of the House to be members of the National Shipping Board with effect from the date of reconstitution the Board."

The question *was* put and *the* motion *was adopted*

THE SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) BILL 1985

THE MINISTER OF FINANCE (SHRI VISHWANATH PRATAP SINGH). Sir, I beg to move:

"That the Bill to make in the public interest':, special provisions with a view to securing the timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be

[Shri Vishwanath Pratap Singh]

taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, as passed by the Lok Sabha, be taken into consideration."

Sir, the honourable Members would recall that I had, in my Budget speech, indicated that the Government was seriously concerned about the problem of growing industrial sickness and proposed to bring forward a special legislation to deal with this problem. The present Bill is in fulfilment of that assurance.

As the honourable Members are aware, the problem of growing industrial sickness has been a cause of serious concern to the banks, financial institutions and to the Government. While guidelines have been issued from time to time regarding detection of sickness at the incipient stage by close monitoring of sick units by the banks, financial institutions, etc. and for taking remedial measures, it has been felt that the institutional arrangements for working out rehabilitation packages and their implementation in the case of sick units needed to be strengthened.

In this Bill, there are two criteria which have been adopted for determining whether a company is sick or not. A company would be treated as sick if it has incurred cash losses for two consecutive financial years and the accumulated losses have eroded its entire net worth at the end o,f the second year.

The underlying objectives and reasons for bringing this legislation before this august House have been set out in the Statement of Objects and Reasons appended with the Bill. The Bill seeks to establish a quasi-judicial body termed as the Board for Industrial and Financial Reconstruction. This foard would have wide ranging po,wers. it can make an enquiry whether a company is sick or not and if it comes to the conclusion that the company is sick it could either give some reasonable time to the company to make the net worth positive or it can ask one of the financial institutions to see whether a rehabilitation scheme can be prepared for the company and where found feasible, prepare such a scheme. The measures that can be considered by the Board for rehabilitation may include change of management, reconstruction of share capital, amalgamation, sale ox leasing out of a part or of -whole of the industrial undertaking of the sick industrial company and other preventive, ameliorative and remedial measures. It is also proposed to give to the Board powers of Specified Authority and of the Central Government under section 72(a) of the Income-tax Act for granting tax relief in cases of merger of sick industrial companies with other companies.

The responsibility for reporting sickness is being laid on the management of the sick industrial companies. Further, the Central Government, State Government. Reserve Bank of India, any public financial institution, a State level financial institution or a scheduled commercial bank may also make a reference to the Board with regard to sickness in an industrial company. A provision has also been made in the Bill that when 50 per cent of the net worth of the company is lost, the company would be required to call a general body meeting and report the matter to the shareholders who can take a decision whether they want the same management to continue or not. The company would also be required to report the matter to the BIFR. It is expected that the shareholders in such cases would be in a position' to take suitable Steps to arrest the decline in the performance of the company and *to* prevent it from becoming further sick.

In order to, give the workers a chance to manage sick units, a provision has been included in the Bill that

in case of sale or lease of the unit, employees' societies be also kept in view. Government sincerely wants that those guilty of mismanagement or diversion of funds should not be allowed to go scot free and hence a provision has been made in the Bill that in case the Board is satisfied that there has been gross mismanagement or diversion of funds, the Board shall direct the financial .institutions and banks not to give any further financial assistance to any unit with which such persons are associated for a period of ten..years.

The Government hope that the setting, up of BlFR would help in getting •r the problem of sickness to a great extent.

With these words, I move the House to take up consideration of the Bill.

THE V7ICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL). There is one amendment by Mr. Sukomal Sen.

SHRI SUKOMAL SEN (West Bengal): Sir, I beg to move:

"That the Bill to make, in the public interest, special provisions with a view to securing the timely

-ection of sick and potentially sick companies owning industrial undertakings, the speedy determina_ tion by a Board of experts of foe-preventive, ameliorative, remedial and other measures which need to be taken up with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely: —

1. Shri Chaturanan Mishra
2. Shri Parvathaneni Upendra
3. Shri Makhan Paul
4. Shri R. Mohanarangam
5. Shri V. Gopalsamy
6. Shri S- W. Dhabe
7. Shri Nand Kishore Bhatt
8. Shri M. S. Gurupadaswamy
9. Shri Chitta Basu 10. Shri Sukomal Sen

with instruction of repo.rt by the first day of the next Session."

The questions were proposed

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL)!; The motions are now open for discussion. Shri Sukomal Sen.

SHRI SUKOMAL SEN: Mr. Vice-Chairman, Sir,I-listened to the introductory speech of the hon. Minister. The hon. Minister has not mentioned the total number of sick industries in the country as it stands today as also the amount of bank credit involved. There are a lot of sick industries'. Only a few days back our hon. Minister of State for Finance, Shri Janardhana Poojari, said in a function at Jalpaiguri in West Bengal that about 92,000 units, big, small and medium, have been found sick in our country. Previously, the Reserve Bank gave the figures of total number of sick industries as about 82,000. Whether it is 92,000 or 82,000 I do not know about the accuracy of the figures. As regards the bank credit locked in these industries, also, there are various estimates. Some estimates say that 3500 crores of rupees have been locked up. Some other estimates suggest that 5000 crores of rupees have been lock up. I would like the hon. Minister to clarify this point. What is the total number of sick industries in this country and what is the bank credit locked up in these industries? Whether it is 92000 or whether it is the total amount *oi* 5000 crores of rupees, the figure indicates the dimension of the problem that the country is facing in regard to sick industries. The Reserve Bank has also said that 50 per cent sickness of these industries is due to mismanagement by the owners. They manage the industries in such a way that they fall sick. They also mentiorfed faulty planning, faulty project and wrong technology. I am not going into the details about

[Shri Sukomal Sen]

the causes of sickness. The Bill also does not say anything about it. Anyway, the Bill envisages to deal with such industries only as a corrective measure. But the Bill does not say anything about the preventive measures and what they should do t_0 prevent the industries from going sick. There is not a single ytford about it. Only some corrective measures have been mentioned. This is one big deficiency of the Bill.

Sickness of industries i_s prevalent in so many sectors. Whether it is cotton or textile or jute or engineering or sugar or iron, you find that industries, whether big, medium or small, are going sick one by one. We see at least one industry going sick every passing day. This is the overall situation of the sickness of industries in our country.

Sir, the Bill is a very big one. It hag many provisions and it is very difficult t_0 deal with all the aspects of the Bill in sveh $_a$ short time. Hut I would like to deal with certain salient features of the Bill. First or all, the term 'industrial undertaking'

fined ^{in} th_e Bill does not incli ancillary industrial undertakings, It may be a small scale idustrial undertakings. I mean that some comp. may not fall »ick. but the sickness may percolate into the ancillary industry. What about that? Nothing has been mentioned about that. If the company goes sick, then this Bill will be applied. But suppose an un-dertaking of the company falls sick or one unit tails sick aj)d the company winds up that undertaking or unit and the company as such does not fall sick. In that case, the Bill does not say anything. These are some basic deficiencies of the Bill to which i would like to dra., the 1 tention of the hon. Minister. There arc some criteria of industrial sick ness. I am not going into it-

As regard- the past attempts to deal wilh this problem, I find that from 70's the Government is taking one measure after another. But every measure has been a self-defeating measure. In the 70s, the Government allowed the healthy units to tak_e over the sick units under certain conditions. That did not work. Then the responsibility was given to the financial institutions who were to see to it whether an industry is going sick. Some early warning system was introduced. That too did not work. Then a Sick lndustries Cell Was scl up to function as a clearing house. That too did not work. In this way, the Government has taken steps one by one. But none of fhem worked properly. Lastly, an institutional committee was also set up. That too did not help. Finally, they established this Industrial Reconstruction Corporation of India. That was converted into Industrial Reconstruction Bank of India. About the functioning of this Bank, i' have so many grievances. Paucity of time does not allow me to $_e$labora^ on these things and the functioning of the Bank. If it is elaborated, it can be shown that about the revival of the sick units, the achievement of the Bank is very little. I would like the hon. Minister to go into the functioning of the Bank as lo how far they have been able to help and revive sick industries.

Then coming to the main deficien cies of the Bill, about the reporting system for detection of sickness, how the sickness is to be report then about the contents of the scheme t_0 revive $_a$ sick unit, the Bill envi sages a scheme as to how to revive the units. About punishment, the hon. Minister said that some deter rent punishment had been envi saged in the Bill. About reporting, in terms of the > the Bill, it says, and I quote: "Timely detection of sickness has been sough; to be achieved by placing the onus reporting th_e sickness of the company on the Board of Directors of the sick company." I would like to draw the attention of the hon. Minister to this point. In terms of sub-section (1) of Section 15 of the Bill, such reporting must take place within two months

from the date of finalisation of the duly audited accounts of the company for the financial year at the end of which the company has become a sick industrial company. In practice, what happens? In practice, audited accounts are normally available after six months from the close of the financial year. And during the financial year under consideration, that is during the 12 months, the company has fallen sick. Thereafter, if we add six months for the completion of the audit, and then add further two months for reporting sickness, it makes a total 20 months from the birth of sickness to its defection in the eyes of the law. During these 20 months, the company will actually fall sick, and the detection procedure will continue for these 20 months. And at the end of 20 months, you will find and it will be detected that the company has already fallen sick, The question of liquidation or something else will come up. So, about this reporting also, it is defective. I would like the hon, Minister to please go through it. The point is that the sole reliance en audited reports for detection is also not at all good. Only through the audited reports we find that the company is going sick, But there are the outward manifestations also. If we enumerate the outward manifestations of sickness, we will find that it starts with an attack on the labour, irregular disbursement of wages and stoppage of payment to labour. This is the first symptom. Then comes the arrears in the payment of provident fund, sales tax, excise, ESI payment, etc. They try to evade all these things. They do not deposit the money for these funds. Then it starts with the irregular payment and stoppage of payment to the creditors. And lastly the manifestation comes in a big way—retrenching the workers. If they want to do with some they say that these workers are surplus. These things come up. These are the actual manifestations of sickness. About these things also, the Bill is actually silent. I do not know how the Bill has been drafted and whether they have any idea about the manifestation of sickness. I would like you to go into the real picture as to how the sickness appears in the eyes of all. Now, about the timely detection of sickness, it can be really achieved if we allow the workers to report about the sickness because the first attack comes upon therm. They do not get their pay. Payment of their provident fund dues, sales tax, ESI dues and all these are evaded. So, why not the workers have a right to report to this DIFR either through {he State Government or directly? The workers should have the right to report about the sickness. Why should We rely only on the audited reports? That is one of the biggest lacunae Of this Bill. Not only the workers. I thinks, the responsibility of reporting sickness should also be given to the authorities collecting the statutory dues. They are to get the dues. If the sales tax. the excise and the ESI authorities are not getting the dues, why not these authorities who collect these dues and who do not get these dues also be given the responsibility for reporting to the DIBR and also to the Government about the initial sickness of the industry? So these authorities should be given this right. Then creditors also, if they find that they are not getting back the money or the money is falling in arrears, should also be given the right to report about sickness of an industry. So this Bill is full of lacunae and I hope the hi Minister will look into it and rectify. The hon. Minister will agree that the sickness gets manifested mainly through adverse liquidity problem. I do not want to repeat it. but this problem also affects the workers. As I said, the workers should have the right to report about the sickness. Then the State Government is also concerned with it because the industry is set up in some State and if there is some trouble with regard to non-payment of wages to the workers, the case will go to the Labour Department of the State Government. Even there may be a case of sales-tax evasion and, therefore, the State Government also gets involved and they should also have the right to report about the Bill. I would

[Shri Sukomal Sen]

draw the attention of the hon. Minister to section 15(2) (a) where the right of the State Government is sought to be made conditional; this right is not given unconditionally. A company may have its headquarters in a particular State, say Tamil Nadu. The company has its headquarters in Madras but has its undertakings elsewhere which may get sick. Since the company's headquarters are in the State of Tamil Nadu, that Government has the right to report about the sickness because the main company is situated in that State and this company will ultimately go sick. So, why should not the State Government also have the responsibility of reporting about the sickness. I hope the hon. Minister will consider it.

Then about the revival .scheme. I want the hon. Minister to compare the provision of this Bill with the provisions of the original scheme which were put in the rules of the Industrial Reconstruction Bank of India Act. The provision of that Act was perhaps better than the provision made in this Bill. I want the hon. Minister to consider the proposed revival scheme as outlined in section 18 of the Bill and see as to what extent the proposed Bill is an improvement on the earlier legislation. It is a big question mark to me, at least. It is not at all an improvement on what was there in the IRBI Act. In that Act, there is a provision of scaling down liabilities. Even that provision is not found in this Bill. I would suggest that for the revival scheme to be successful the scheme should provide for sealing down of liabilities commensurate with the asset backing; secondly, for liquidity assistance at nominal interest; thirdly, conversion of irregularities in the working capital into term loans repayable over a long period at nominal rate of interest; fourthly, grant of similar term loans at concessional rate of interest for paying outstanding wages to, workers and also to enable supplies to be resumed; then provision to make cash loss durfno; the initial years to be made up later. Unless these provisions are made lor revival ol sick industries, I don't think it will be possible if this Bill is enacted as it is now.

Now, this Bill proposes a whole array of provision but it is totally silent on the role to be played by the banks and financial institutions to evolve a pragmatic financing policy for the revival of sick units. This is the basic deficiency of this Bill. I would like to draw the attention o,f the hon. Minister to this and I hope the suggestions made by me will get due consideration from the hon. Minister.

4.P.M.

About the operating agency in regard to revival, what the Bill proposes is an operating agency which, by definition, means—I quote 'any public financial institution'. Everybody knows that these public financial institutions lend money to the companies. They even lend money to companies which fall sick or which swallow money. Knowing fully well this fact and being aware of the functioning of the public financial institutions, why should they be designated as operating agencies I do not understand. I would suggest that there should be an independent operating agency so that the revival scheme can be a realistic one. We should not depend on public financial institutions who, to a certain extent. are also responsible for the sickness of industries, who turn a blind eye to the incipient sickness of industries. Therefore, I propose that there should be an independent operating agency.

Now. I would like to point out about another provision which directly hits the workers. The Bill provides in subsections (3) and (4) of section 22 that in the revival scheme all settlements, awards, standing orders claims, rights etc. before any court or tribunal shall remain suspended in such a manner as may be specified by the Board. This is totally anti-labour. Let us say, there has been a settlement on wages or other amenities between the labour and the management. After this, everything will be set aside and nothing will be operative. It is an infringement on the trade unions and the rights of the workers. This goes

against the provisions of the Industrial Disputes Act and all labour laws. I would suggest that the Bill should be amended, this provision should be struck down. Otherwise, this will *go* totally against the workers.

Now, abo.ut the formation of the Board. It is a quasi-judicial body, I understand. But I do not understand why there should not be representatives of the State Government as well as labour on the Board. The Board should have representatives of the State Government which is directly concerned with the effects of sickness as well as representatives of labour who are immediately affected by sickness. Their representatives should be on the Board. Otherwise, the Board cannot function, in a realistic and proper way.

[The Vice-Chairman (Shri M. P. Kaushik**)** in the Chair.]

Now, about the winding up or liquidation of a company. The Bill says that if everything fails, it will go into liquidation. I would suggest that the Board should decide about liquidation only after concurrence by the State Government. The State Government is directly concerned. It will have to, bear the effects of liquidation and sickness. Without the concurrence of the State Government, the Board should not have any right to suggest liquidation of any company.

Then, another amusing word has been used by the makers of the Bill here. 'Sacrifice'. I do not know why this word has been used.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): Please conclude.

SHRI SUKOMAL SEN: I will conclude within two minutes. I would request the hon. Minister to kindly listen *to* me. I do not know why the word 'sacrifice' has been used here. What sacrifice the State Government will do? It means, the State Government is asked to sacrifice their sales-tax for the liquidation of the sick industry. The State Government is not responsible for the sickness. Why should the State Government sacrifice? May be, in one or two cases, in some special cases, they may be asked to sacrifice their arrears of sales-tax. But there cannot be a blanket provision. As you know, Sir. sales-tax is the main so.urce of revenue for the States. If this is eroded by the provisions of this Bill, if the sacrifice is to be made by the State Government by waiving the arrears of sales-tax, I think, it will be a big attack on the State Government. It will erode the resources of the State Government. I would like this provision to be withdrawn. Then, another aspect. This Bill is only for the private companies, it does not say anything about the government companies, public sector industries or the joint sector enterprises. What will happen to the joint sector company or to the public sector industry? Nothing has been said about these industries in this Bill, whether the provisions of this Bill will apply to them, or not. I would like the hon. Minister to clarify this.

Also nothing has been said in this Bill whether the operation of the Industries Development and Regulation Act would be affected by the provisions of this Bill. If we assume that in a few cases the revival of sick unit has succeeded, will the company be handed over to the shareholders or to the erstwhile management? Even after the revival of the sick unit what will happen, these things have not been spelt out here.

Coming to the deterrent punishment, for potential weakness, management people who are responsible for potential weakness will be given punishment but what will happen to those people who really manage to see that the industry falls sick, by bungling money. by swallowing money, by mismanaging, by corruption, by malpractices? I can cite a

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number of instances where even sound industries have been made to fall sick because of mismanagement, because of fraudulent practices, because of unfair means indulged in by the management. In regard to this nothing has been said, in this Bill.

I suggest that whenever any director of a company is found responsible for making it sick, he should be debarred from being director of the company for a period of seven years and this should be in addition to the other punishment provisions of the Bill. The punishment for such people should be made more deterrent and 1 would like the hon. Minister to throw some light on this.

Lastly Sir 1 have already said that the workers are going to be the first victims of the sickness of an industry. There are workers who have already been laid off due to sick industries having been closed down. I will like to know, what will happen to the workers? Are you going to allow the management, in the name of labour, to retrench workers? What are you going to do about these workers who have already been retrenched and thrown into the streets because of the closing down of so many sick mills? I would like the hon. Minister to see that the workers' interest is fully protected. They are not touched, they are kept as they were or as they are. For those who have already been thrown out of the job because of the closing down of several mills, I would like the hon. Minister to prepare a scheme so that these workers can be re-employed elsewhere.

This Bill does not say anything about the revival of the closed mills. This should be made clear. The Finance Ministry has issued directives that if the State Governments want to take over the sick industry, they will have to underake the pretakeover responsibility. Banks dues may be there, some arrears of sales tax or excise levy may be there all the responsibility has to be undertaken by the State Government and only then the State Government can take over the sick mill. I would like the hon. Minister to withdraw that order which goes against the taking over of the sick industries and which stands as an obstacles in the way of taking over of the sick industries by State Governments.

Finally, Sir, I would suggest that a comprehensive Bill incorporating all the suggestions should be brought in. They should consult the trade unions, the workers representatives and consider their suggestions. They should not make haste as is being done through this Bill. This sickness of industries is not a new thing. In our country the capital system is decaying and you cannot revive it. It is a moribund system, but you cannot do away with it immediately. So, there should be a thorough and comprehensive Bill.

Therefore, I would suggest that this Bill should be sent to a Joint Select Committee so that there can be further scrutiny of all the provisions. Only after thorough scrutiny and the recommendations of the Joint Select Committee the Bill should be framed, and the hon. Minister then can come before the House for its enactment. Thank you.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): Shri Jaswant Singh.

SHRI JASWANT SINGH (Rajasthan): Mr. Vice-Chairman. Sir, I am grateful to you for permitting me to break the queue. And I am grateful to my friends and colleagues of the opposition who have not raised objections as it is because of a pressing matter.

I am not going to go into the detailed aspects of the provision that the hon. Minister has brought before the House. No doubt a great deal of thought has gone into detailing this but I would like to share with the hon. Minister some of my apprehensions as far as this Bill is concerned.

To my mind why industrial sickness arises could be on account of many factors. It could be on account of entrepreneurial error; it could be on account of managerial malfunction or malfeasance; it could be on account of technological obsolescence; it could be

on account of a larger holistic economic situation, both internal and external.

Now I do not for a moment claim that what I have listed here are the reasons why industrial sickness can take place, but these are some of the reasons which contribute to industrial sickness and it is in the combating of that sickness, if these are some of the reasons, that the role of State comes into question. And that is my primary difficulty in understanding as to what is the underlying philosophy that has governed the State, that has directed this Government, that has persuaded this Government to come forward with a measure of bureaucratically remedying industrial sickness. Of course in the Objects and.the reasoning that has been given. ... I do not normally do it but it slightly disturbs me. I do abt want you to stop it because I know he is a very busy man. Now I am trying to understand the philosophy which has governed the State to come forward with such a measure. There are occasions when I think the Government is attempting to sustain only insolvency. The Government is perhaps, in doing what it is doing, landing itself into the trap of bad money chasing good money—or not of bad money chasing good money btrt of continuing to, invest in a failure.

The industrial history of the world is full of industrial casualties. Where - ever there has been industrial growth wherever there has been industrial levolution, wherever there has been movement forward irrespective of which particular 'ism' is applied, there are bound to be casualties as that society, that nation moves forward, and in the process of casualty occurr ing is the State, thereafter by this en actment, attemping to do that which is insupportable because that which is incapable of existence by itself cannot be artificially perpetrated. And my fear is that the State is atte-tempting to artificially perpetrate that which is proven to be a failure that which has already got classified as industrially sick.

Having questioned the role, the relevance, the capacity or capability of the State in rectifying such a measure and having asked the Government to clarify the philosophy underlying the whole provision. I would be less than fair if I do not mention that the hon. Minister in his preliminary statement has come forward and said that the three primary considerations that have . persuaded the Government are production, revenue and employment. These are attributed to be the three primary considerations and I am sure tne Government is persuaded by other considerations as well-Now, here again. I am not persuaded. If you go through the whole process of identifying an industrial sickness and then invest in that which has al-ready gone bad—and it is not a question of medically treating that which is remediable because the grounds of sickness could be v'ery many—-if production, revenue to the State and employment or?o-t*jri+ies to the people at large were the considerations, then I am not fully convinced that this measure is the right way to go about it. I would advocate, because I would be less than fair to my convictions if I did not advocate it—and I would come to some of the othr-r tailed points later—that that which would turn Industrially sick must not be sustained by more of public funds. This is how the State is playing with public funds. Money in the care of the State is not money which is State-owned: they are public funds. And I would caution the Government about investing in that which has proven bad with more of public funds.

Sir, the courses suggested are very detailed and it would be taking the time of the House if I read them out. besides being boring to the honourable Minister who has now heard the debate and has piloted this measure through both the Houses, and so, I do not want to go into them. I cannot, however, help voicing a fear—and that is about the institution of this Board. I started by saying that ycu are trying to correct industrial sickness by bureaucratization, and I do

[Shri Jaswant Singh]

repeat that fear, I do repeat that apprehension. What is happening is that as it is, Indian industrs', at whichever level it is operating, is considerably kept under control. It is ridden by the State on very short stirrups and extremely tight reins—and that is perhaps how it ought to be. Thereafter, despite riding industry on short stirrups and tight reins if a sickness occurs and if the Government comes forward with the proposition that that sickness is curable by the institution of yet another Board, I fail to be fully convinced about it.

I do not want to take too much time. 1 would like to mention, very briefly, of the question of the financial insti tutions and the Registrar of Compa nies. There is a mention here and as the honourable Minister, of course, very well knows most of the in dustries at whatever level of production, are aided and the entrepreneurial activity is sustained by finance from 6ur financial institution, whether it is the banks, lending institutions or whatever it is. I am not going into a detailed analysis of the breakdown of the heirarchial structure of our pri vate/public companies as it were, but it is patent, it is clear enough to all those who know, that huge industrial empires have come into being only on account of the very constructive, some times preferential, sometimes objection able, sv.s*ence and support that these empires have received from public financial institutions, inclusive of banks. Now, these having come into being, in the process some have not flourished, EOme have not fructified, some have not been successful. What were the financial institutions doing in the case of those that were failures, those that have now proven to be failures? After all, the investors o,f money, whether it is the Unit Trust— perhaps the Unit Trust does not do it—or the LIC or any of the lending institutions, even the nationalized banks, are represented on their Boards, their noiliinees are on their Boards, and if Jespite their presence those institutions have come into sickness. now by the institution or by the establishment of yet another Board *to* oversee what has already been done earlier, fails to carry conviction. Sir here is a very brief word about the functioning of the Registrar of Companies. Perhaps, it is outside th* immediate ambit of the hon. Minister. But I would request him to consider that if perhaps the Registrar of Companies is more alert to the criteria laid down about cash losses in two years, five years, the accumulated losses, the erosion of equity any corporate-sector which has come into being, we would not be faced with the kind of the size of sickness that we are currently faced with.

I would conclude, Sir, with a suggestion to the hon. Minister for whatever my suggestions are worth. I claim to no, study of Economics. I come from a part of the country, where we are j not renowned for our ability in financial matters. Despite that, f make bold to make some suggestion-. In respect of financial institutions is respect of banks, in respect of the involvement of the State in those units which have gone sick, please examine again how past inefficiency is a licence, is a warrant for your coming forward and suggesting that by the establishment of the Board we will be ensuring future effectiveness.

. Secondly, Sir, I suggest to the hon. Minister that in the holistic aspect unless the capital-output ratio comes down, this mere measure by itself, however welcome, will not suffice. Unless the capital-output ratio of the country is brought down to levels where entrepreneurial activity yet again becomes a profitable activity, we will be multiplying the sickness, and that is an aspect of a high-cost economy with which the hon. Minister is very familiar. And I do "want to give the illustration of 6 milion tonnes of steel lying accumulated in India and yet India importing steel. The other day the hon. Minister in the

House informed me that the costs of-

the Food Corporation of India for collection are Rs. 32 per quintal, for storage Rs. 38 per quintal, for distribution Rs. 36 per quintal. Please do quicker arithmatic. You will find that almost Rs. 110 are added to costs by an agency of the State. The farmer hands over his produce to that agency, from that to the point where that agency itself then distributes it to the fair-price shops or whatever it adds R's. 110. The point is that the State as an entrepreneur is not an identity which carries conviction with me, and hence my questions that I have raised.

Thank you very much.

SHRI T. CHANDRASEKHAR REDDY (Andhra Pradesh): Mr. Vice-Chairman, I rise to support the Sick Industrial Companies (Special Provisions) Bill. The main thrust of the Bill is on rehabilitation of weak industrial units, to keep the industry alive and healthy and thereby save the jobs of thousands of workers employed in these units. Towards this end. provision has been made in the Bill for early detection of sickness by a Board for financial and industrial reconstruction.

SHRI ALADI ARUNA alias V. ARUNACHALAM (Tamil Nadu): Anna DMK should have been allowed now.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): You will get your turn.

SHRI ALADI ARUNA alias V. ARUNACHALAM: That is true. We should have got it now.

THE VICE-CHAIRMAN (SHRI M. , P. KAUSHIK): Please take your seat.

SHRI T. CHANDRASEKHAR REDDY: In fact, the most important function *f the proposed Board will be to signal when financial sickness has reached a point where concerted remedial action becomes necessary. This is sought to be done through a package cf measures including the change of aaanagement through the speedy mechanism for mergers, amalgamations etc.

Sir, there can be no two opini;> that in recent years the magnitude of industrial sickness has taken serious proportions. Over the decade, the number of sick units has almost doubl-ed. Latest figures put such units anything arond 85,000 including those in the small-scale sector. More than Rs. 2-200 crores credit provided by the commercial banks is locked up in these sick units. The magnitude, of the problem can be gauged from the fact that the bank credit locked up has been ever on the rise—from Rs. 1,644.84 crores at the end of March, 1383 to Rs. 1.904.64 crores at the end of March 1984; and Rs. 2,211.18 crores at the end of March this year. Latest RBI figures put the outstanding ed-vances to sick industrial units at 7.8 per cent of the total advances of all scheduled banks in the country.

The Bill provides for the management of sick units whose networth has eroded by 50 per cent to report to the Board. In cases where 100 per cent networth has been lost, the management will be held responsible for mismanagement and will not receive any further assistance from financial institutions even for new ventures for a period[6] of 10 years. Associated firms or those with common Director will also be thus debarred.

Government has done well to keep the MRTP units out of the provisions of the Bill. They can now acqvire or take over sick units without the laborious process of obtaining the clearance of the MRTP Commission or the Company Law Board. This is a recognition that the time is the essence of speedy rehabilitation of a sick unit. The removal of these procedural hurdles should ensure speedy rehabilitation of the weak units.

While keeping the MRTP units out of the Bill is understandable, it is not clear why the small scale units are also not covered by the Bill. A bulk of the sick units fall under thi* category, mostlv because of the lack of

[Shri T. Chandrasekhar ReddyJ managerial skill of the entrepreneur. The small scale units have an important role in the economy. They have a | large base and high employment potential. They are also widely diffused.

The Bill has not laid down the guidelines for determining the net-worth. Over a period of time, project costs have been rising significantly. A company set up say a decade ago requires much less capital and its net-worth co.uld be much lower than a similar company set up say two years ago. *It* would not be fair to base decisions regarding networth on. historical costs. This should be borne in mind by the Board while evaluating each cast;.

There is also another point. Well running units which takeover or amalgamate with a sick unit may end up having networth depleted due to absorption of losses incurred by the sick units. Therefore, it is necessary while computing networth to take into account the funds allocated towards depreciation and investment allowance. I hope this will be borne in mind by the Board.

It is admitted by all that the main cause of sickness is either structural changes in the nature of the market that occur over a long period of time or prolonged mismanagement, usually reflected in a failure to use one's depreciation funds to upgrade one's technology or change the product-mix in response to changes in demand.

A classic example of the latter category is the textile mills in Bombay and Ahmedabad which have become a big drain to the exchequer as a result of nationalisation following their going sick. The Bill has taken care of this aspect and has also laid down punishment for those responsible for diversion or mismanagement detrimental to the interests of the company in c«te they fail to carry out the directions of the Board. Adequate precaution will have to be taken by the Board to ensure that where the sickness ie due to factors beyoad the control of the management, penalty action is not initiated. There are also the special cases of productive units that are eick from their very inception, either because they are set up on the basis of faulty assumptions about the nature of the market or future changes in technology. Most of the units set up by technocrats fall in this category.

Since the important purpose of the Bill is to protect the jobs, it w&wld have been better if a package for rehabilitation of the labour affected as a result of industrial sickness is also contained in the Bill. It is true such rehabilitation is covered by the several laws now in force and administered by different Ministries like Labour and Industry. The sufferings of the workers affected by the close of a unit stems largely from lack of coordination between these different Departments. In case a rehabilitation package is laid down in this Bill, it would move matters faster and quicher.

While on this aspect. I would like to make a suggestion. Why cannot the Finance Minister think of some insurance scheme to insulate industrial units from sickness. Funds from the insurance could also be earmarked for the rehabilitation o,f the workers affected by an industrial sickness. The interests of the financial institutions could also be safeguarded by such a measure. Provision could also be made for the retraining of the affected labour in other trades from out of the insurance fund. Since the Finance Ministry is administering a number of insurance schemes, it would do well to give this suggestion the consideration it deserves.

The insurance fund could also be the moving factor towards conversion of a sick unit into a labour corporative. Ready availability of such a fund would speed up the process of conversion of an existing unit into a cooperative.

In some cases, it would be far better to allow a unit to die a natural death, than pump in more money and try to revive it, Such industrial death is not a new phenomenon. It occurs even in the most advanced countries. In some casei the management finds it advantageous to continue to pay the workers their wages than run the factory and continue to incur losses. It would be good if such units are allowed to die. But no process has been laid down in the Bill for such units. Are they to, undergo the same time consuming and tedious process of seeking liquidation through the interventionof courts? The Hon'ble Minister should clarify this point.

The public sector units going sick also deserve attention. So far, this problem is sought to be tackled 'through budgetary support or increasing the administered price. This has not paid dividends in the past. Now, that we are in the Seventh Plan and the Plan has given to the public sector the responsibility of generating a minimum of Rs. 35.000 crores of the Rs. 1,80,000 crores investment in public sector from their internal resources a major- attention in this direction is called for. Understandably, no provision in this regard could be included in the present Bill. But all the same, we would like to know the thinking of the Government in this critical area. This is all the more imporl in the context of reports circulating that the Government proposed to close tfown some of these "sick" units Engineers India, the Hindu-. start Steel Construction Limited and a score others. I would request the Hon!M.e Finance Minister to spell out the Government policy in this regard.

as I said earlier time is the essence of the problem of industrial Financial sickness precedes technological breakdown,, often my several years. In almost all cases, the first ieads to the second situation. Whtia funds are short management resort to economy through neglect of maintenance and improvement in technology as well as the nroduct-mix.

It is at this stage that the stronger unit should step in to take over the weak one. In such a situation, rehabilitation becomes easy.

There is recognition of this fact in the Bill which has provided for the Board to sound the first signal of sickness. But the Board itself will come to this conclusion only on the basis of the financial statement and other allied data from the sick company. It will then go into the question of net-worth etc.

Sir, we are all aware of the long delay that occurs in the finalisation of the statement of accounts of our companies. Though these are governed by the rules and regulations of the Company Law Board, in many cases these norms are strictly adhered to. In such an event, the Board will not be able to detect sickness in time. Everyday that passes with a sick unit not being able to cover its direct cost and interest charges from its current earnings only make its rehabilitation more and more costly and complicated. I do not know how this is sought to be sorted out by the Bo

With these few words, Sir. I once again support the Bill. I hope that with the passing of this Bill, the era of take overs and nationalisation sick unit 3 to the burden of the exchequer will come to an end. Nationalisation or take over will be., resorted only when such a step is in the interest of the country. This will also gwe cc to the investors .abo.ut future ent. I once again thank ;MJU, Sir, for the opportunity given to me.

SHRI G. VARADARAJ (Tamil Nadu): Mr. Vice-Chairman. Sir, let me congratulate the Hon'ble Finance Minister for this Bill of the Sick Industrial Companies (Special Provisions) Bill, 1985. Now, this Bill clearly says to make, in the public interest, special provisions with a view to securing the timely detection of sick and potentially sick companies owning I industrial undertakings; the speedy

[Shri G. VaradarajJ

de termination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect ol such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto. From some of the statistics I have, I find most of *the* industries have gone sick during the period 1972 onwards till 1983 and there are a very few companies during 1984-85 which have either been taken over or managed by various agencies like the Industrial Regulation Act and nationalised banks. Now already, Sir, we have various agencies to monitor the financial management of the Companies and theae financial agencies like the nationalised banks, the Industrial Finance Corporation, the Industrial Re-construction Corporation and various other Corporations have their representatives in the Boards of Industrial undertakings, whose names I have here, which have gone sick during that period. We understand that during this period i.e. 1972 to 1983-84, all these industries have gone sick only because of the mismanagement or because of the Government policy at that time. Many a time, the industrial sickness may be. attributed to the Government policy also and whether the Hon'ble Minister has gone through or made a study of this aspect as to 'why only during this particular period i.e. 1972 onwards, there was more . industrial sickness. Similarly now the Government, through this Bill, wants to have another committee, that is, the BIFR, to be appointed to go into the problems of industrial sickness and ■ find out remedial measures. But it is always said that prevention is better than cure. Now if this committee is going to achieve something, or if this committee is going to see that no, industry goes sick, do I understand that earlier when the various representatives were on the boards of various industrial concerns which went sick, ibey did not exercise their rights properly, sr they were not vigilant in monittrtag the financial aspects of those companies? For example, if you want to borrow funds from these institutions, you have to submit to them a project report, a feasibility study report; and subsequently, we have quarterly financial monitoring systems. Cash flow statements and many other statements are given t« the various agencies and authorities to show how the finances are utilised. In spite of that, if so many industries have gone sick, then there should be something radically wrong with the governmental policies at that time.

The Reserve Bank of India says that about 50 per ce,nt of the industries have gone sick because of mismanagement or for iome other reasons. I want to know from the hon. Minister: what about the other 50 per cent of the industries which went sick? What are the reasons? Again I would like to say that definitely there should be something wrong with the Government policies at that time. For example, now the hon. Prime Minister has brought in a new textile policy, but the implementation of that textile policy has not taken place yet. Only now they are having a Minister separately for Textiles, but by this I the damage has been done to the industry. Marty of the textile industries are pre-dominantly spinning industries and in the southern region of the country—that is, Karnataka, Kerala, Tamil Nadu and Andhra Pradesh— the industries are all cottoa spinning industries and this new policy has affected these spinning industries in the past five months, from June, 1985 till now. Therefore, we are not able to do anything and these textile mills will definitely show red figures in their balance-sheets, in their profit and oss accounts and this will again lead to industrial sickness in the textile industry, which in turn will throw a lot of workers out of employment. This particular policy has not safeguarded any interest of the working populace. Now the BIFR is supposed to go into the sickness of the industry. You have given 60 days' time for the management to report. Subsequently, the State Government has to report. Then

this committee will go into all the aspects and decide whether the industry has *to* be closed or additionsl funds have to be given or the unit has to be scrapped. . It this is the position, then during that period what is going to happen to the labour force of that industry? In this country, next to agriculture, the textile industry is employing the maximum labour. If this is the case, in the southern States. particularly in Tamil Nadu, the labour force will be very much affected.

Furthermore, timely financial aid is important when an industry is in sick-ness. When an industry wants additional funds to revive timely financial assistance is necessary. But timely financial assistance never comes to the industry. If even at that stage, timely financial assistance is not given, then the possibility of that industry going sick is there. Now in Tamil Nadu, in the case of three or four textile units where the Government is coming forward to give guarantee, the banks are refusing funds. This is also adding to the misery and sickness of the industry.

Finally, about the textile policy, we know there is already overproduction in the textile industry and we are producing 6 per cent more cotton yam than is required by the country. When this is the actual situation, unless we are definite about the industrial policy of the Government for textiles, if not today, within a couple of years or within the next year the possibility of closure of more and more textile industries is imminent. Hence, what is the policy the Government of India is going to rely on?, These are also the factors which should be considered before taking this Bill into ron-sideration. Therefore, I request that this Bill may be referred to a Joint Committee for its consideration.

*SHRI JAGADISH JANI (Orissa (: Mr. Vice-Chairman, Sir, I rise to support the Sick Industrial Companies (Special Provision Bill, 1985. At the outset, I thank you for having given me the opportunity to speak., I also thank the Honourable Minister who is kind enough to include my name in the list. Though it is late, but the Bill has been brought forward before this House. This is a progressive Bill. Therefore I welcome this Bill.

Sir, the progress of a nation depend -on the growth of Industry to a large extent. A number of steps have been taken for the growth of Industry in the country during the last two decades. We have also, had a remarkable progress in the field of Industry during these years. But it is a matter of great concer, that many Incustries set up in different parts of the country have fallen sick. The sickness of. these Industrial units have a direct impart on our economy. The production has been declining due to it. The unemployment problem has beer, mounting. There has been loss of revenue due to that reason.

It is regrettable that in many cases the newly set up Industries have fallen sick. The Industrial companies taking loans from the Banks are nc able to repay them.

Sir, No steps had been taken aft Independence to set up Industry ii: Orissa despite the fact that there was tremendous scope to set up Industry in that state. However, it is gratifying that steps have been taken for rapid industrialisation in that State after 1980. A number of medium and major Industries have come up in Orissa in the public sector. A good number of Industries have also been set up in the private sector in Orissa during these five years. The private emreprenuers are coming forward to set up industry in Orissa. The Government of Orissa has been giving a lot of incentives including allotment of land, industrial sheds and raw-material. Therefore I take this opportunity to thank the Chief Minister and his progressive Government. If Central Government continue to help the State, many more industries will

^English translation of the original speech delivered in Oriya-

[Shri Jagdish JaniJ certainly come up in Orissa. ' At the same time I am sorry to say that many Industrial Companies in Orissa have fallen 'sick. Therefore I would like to suggest the Government to make a country-wide surveyj including Orissa, to identify the number of Industries which have fallen sick. The reasons of the sickness should also be found out and necessary steps shcuid be taken to revive those industries. It is gratifying to note that such provisions are there in this Bill. After the enforcement of the act 'the reasons of sickness of industries will be known and it will be possible to revive those industries.

Sir, when the young entreprenuers set up industry they apply to the Banks for loan. But the Banks take a lot of time in sanctioning loans-Therefore the setting up of industries are delayed. Steps are not being taken to rehabilitate the industrial Companies fallen sick due to some reason or other. I am happy to see certain provisions made in this Bill under which steps can be taken to rehabilitate the sick industrial Companies. Now there will be no problem in getting loans to set up Industry. The Industrial Companies will function smoothly. Many people will get employment in the Industrial sector. The Industrial production will also increase.

Now I would like to speak a few words about Orissa. I come from Phulabani district of that State. Phulabani is predominately inhabitat. ed by tribals. 93 ditstricts in the country were identified as "No Industry District". Out of those 93 districts, 3 were in Orissa. Those were •Phulabani. Bolanair and Balasore. Now Industries have been set up in Bolangir and Balasore. But no major or medium Industry has been set up in Phulabani district. I raised this issue in different forms several times. After that, a few small scale units cam$_e$ up in that district. There te tremendous scope to set up forest based Industry in my district. There is scope to set up mineral based Industry. Therefore such type of Industry should be set up by the Central Government undertakings in Phulabani district. All the small scale units which have fallen sick in my district should also be revived as soon as possible. If my district is industrialised, many unemployed youths, mast of whom are tribals will be absorbed in those industries. Therefore steps should be taken to set up industry in Phulabani district.

Recently a proposal has been given to set up a major industry in Phulabani at a cost of Rs. 13/- crores. But nothing has been done to expedite the implementation of that project. It further steps are not taken, than I I feel that it is an attempt to remove the name of Phulabani from 'No Industry district'. Therefore further steps should be taken to expedite the establishment of that major industry in Phulabani. Once again I thank you for having given me the opportunity tr> speak. With these words, I eon-elude my speech.

*SHRI GANESHWAR KUSUM (Orissa>: Mr. Vice Chairman Sir, ^{T} rise to speak a few worJs in support of the Sick *Industrial* Companies (Special Provision,? *Bill.* 1U85. I thank you for having allowed me to speak *m* Oriya.

Sir, Iste Pt. Jawahy- Lai Nehru. the first Prime-Minister of inoia laid thti foundation of Industrialisation in He leit th.it the eau^ns progress is impossible witlTjct the gro\\.tn of Industry. After that our late lamented leader Shrimati Indira Gandhi took a number of steps to set up industry during her tenure as Prime Minister. As a result of her efforts, now we have good many industries in different States. Now India is one of the industrially advanced country in the world.

♦English translation of the original speech delivered in Oriya.

Sir, it is matter of great concern that thousands of industries have fallen sick in different parts of the country. The sickness of Industries have led to the mounting unemployment. If we allow those- Industries to remain sick for some period more, the Industrial production, will certainly decline. Therefore those sick units need to be revived without further loss of 'iime. 1 am glad that our dynamic Prime Minister Shri Rajiv Gandhi has taken steps at this critical hour to revive those sick units. I thank him very much for the steps taken by him for the rehabilitation of sick Industrial Companies.

The Honourable Finance Minister is piloting this Bill to, revive and rehabilitate the Sick Industrial, Companies and the sick units as well. I congratulate him on this occassion. Some Industrialists have set up industry in the country. Most of those industries have fallen sick. We have to find jut the reasons of their sickness. The Government of India should iinance the sick Industrial Companies those have really fallen sick. Those sick Industries should be taken up first where more number of people can be provided empoyment. Some Industrial Companies have closed down their units as they are not able to find market for their products. Government should make some efforts to create marke; facilities to sell their products and thereby revive those sick unr

Sir, some Industrial Companies have not given proper wages to their workers. Therefore the workers have stopped working as a protest. The employers have not given any importance to fulfil, the genuing grievances of the workers. In many Industries the workers have been thrown out of employment. Some Industries have been closed down on account of all such disputes.

Sir, provision has been made in this Bill about the constitution of a board. The Board has been empowered to investigate the reasons of the sickness;'

The Board can also take steps in the revival of the sick units. Lakh*- of unemployed youths will get employment when the sick units start functioning. The country will progress in the field of Industry. Industrial production will naturally increase. But I am afraid whether all the provisions made in this Bill will be effectively implemented. Therefore I request the Minister to give emphasis on the proper implementation of these various provisions made in this Bill. Steps should be taken to monitor the implementation of the Act atleast once in every three months. The Board should make a survey of the sick units all over India to identify various factors responsible for sickness. All the sick units should be revived within a time limit. Then only the purpose of this Bill will be served.

Now I would like to say something about my area. Sir, I have come from Sundargarh district in Orissa. There were only 5000 Industries ia Orissa up to 1980. Our present Chief Minister of Orissa gave the slogan of "1000 Industries with an investment of 1000 crores within 1000 days." You will be happy to note that 15,089 Industries have been set up in Oriss? during the period between 1980 ana 1985. But it is regrettable that the number of Industries falling sick out of those 15,000 are increasing every month. The reasons of the sickness of those Industries are not for to seek

Sir. the role played by the commercial banks in sanctioning loans to set up small scale 'units is not satisfactory. The Commercial Banks are making unexpected delay in sanctioning loans an one pretext or the other. In many cases the equipments are ready and preliminary formalities are completed, still there is delay in getting loans from the Banks. As a result of this some Industries are falling sick from the beginning. The power of Bank Managers' are very limited. They are not able to help

[Shri Ganeshwar Kusum] Divisional Managers and other Bank Managers posted at the Sub-divisional Headquarters should be increased,

There have not been adequate marketing facilities to sell the product In • Orissa. Orissa is an undeveloped State. The National Small Industries Corporation and DGS&D should extend proper help to the State of Orissa in the promotion of marketing of Industrial products. All the major Industries established in Orissa should accept the guidelines laid down by the Bureau of Public Enterprises. Even the major public sector Company like National Aluminium Company has been going by the guidelines of BPE. But I am sorry to let you know that Rourkela Steel Plant is not going to accept those guidelines. Because Steel Authority of India has not accepted such guidelines. Therefore I request the Government to send directions to Rourkela Steel Plant to accept the B.RE. guidelines. With a view to get a lot of help from Rourkela Steel Plant many Industries have been set up in private sector in and around Rourkela. But the management of Rourkela Steel Plant has not been helping those small scale units. Narrating their problem, the small scale units Federation, Rourkela has submitted a memorandum to the Government of India. I request the Honourable Finance Minister to look into their problems and do the needful.

Sir, there is scope to set up Forest-based, Agro-based and mineral-based Industries in Sundargarh district in Orissa. I take this opportunity to request the Cental Government to set up many such Industries and help solving the unemployment problems in that district.

Lastly Sir, another important factor responsible for the sickness of the Industry in Orissa is shortage of power. Orissa was a surplus State so far as power is concerned. But after the rapid Industrialisation programme undertaken in that State during the Six^h plan, now the existing units including many major Industries are facing serious power cisis. The duty of the Government is to revive the sick units. At the same time it is also the du;y of the Government to set up new Industries in Orissa. The Government have to generate additional power in Orissa in order to achieve the above objectives. As such, I request the Government to expedite the establishment of the proposed Super Thermal Power Station at Talcher. At the same time, I demand that a Super Thermal Power Station should also be set up at lb val_ ley in Sambalpur district of the Stale of Orissa, li ihese two Super Thermal Power Stations are set up in Orissa, no Industries in the state will suffer on account of power shortage. Therefore the two Super Thermal Power Stations should be set up in Talcher and lb Valley at an early date.

With these words, I thank the Chair for allowing me to speak and with these words I conclude my speech.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): Shri Babul Reddy: Not here. Shri Chaturanan Mishra.

श्री चतुरानन मिश्र (बिहार) : उप-सभाध्यक्ष महोदय, मैं वित्त मंत्री जी की इस बात से सहमत हूं कि औद्योगिक-रुग्णता इंडिस्ट्रियल सिकनैस ने ऐसा भंयकर रूप धारण कर लिया है कि इस संबंध में तुरन्त कानून बनाने की सख्त जरूरत है। लेकिन जो विधेयक उन्होंने प्रस्तुत किया है उससे इस उद्देश्य कि पूर्ति नहीं होगी ऐसा मेरा ख्याल है इसी लिए मैं कुछ बातों को सदन के सामने प्रस्तुत करना चाहता हूं। यों तो सरकार की ऐसी नीति है जिसके चलते जो बोर्ड बनेगा वह क्या कर सकेगा, नहीं जानते। अभी मैं बिहार की रोहतास इंडिस्ट्रीज लिमिटेड के बारे में बताना चाहता हूं। राज्य सरकार ने अधिग्रहण की सिफारिश करके केन्द्रीय सरकार के पास दो महीने पहले भेज दी। इस विधेयक में 60 दिन का प्रोविजन है कि शेयर होल्डर्स की बैठक बुलावें किन्तु भारत सरकार को राज्य सरकार भेज देती है, 60 दिनों में कुछ नहीं

होता है। फिर इस विधेयक के 60 दिन में कुछ होगा भरोसा नहीं। मैं मजदूरों के बारे में कुछ कहना चाहता हूं। सबसे ज्यादा उपेक्षा इस बिल में मजदूरों की की गई है और जिस मजदूर के बिना औद्योगिक रूग्णता को रोकना बहुत ही सम्भव सा है। इस विधेयक में मजदूरों की जरूरत सरकार को कब पड़ती है जब या तो तनख्वाह काटनी होती है, एवार्ड न लागू करना हो। दूसरे जब सरकार नहीं चला सके, कोई प्राइवेट नहीं चला सके या कम्पनी बिल्कुल घाटे में चली जाए। ऐसे समय में ही सरकार मजदूरों को याद करती है। उस कारखाने को कोआपरेटिव में चलाने के लिए नहीं तो और किसी वक्त में मजदूरों को इस बिल में कोई याद नहीं किया गया है। यहां तक कि अगर मजदूर सरकार को नोटिस देना चाहे, बोर्ड को देना चाहे कि यह सिकनैस की तरफ जा रही है या यहां पर गबन हो रहा है तो वह भी वहां नहीं कर सकता।

श्री विश्वनाथ प्रताप सिंह : दे सकता है

श्री चतुरानन मिश्र : इस बिल में नहीं है।

श्री विश्वनाथ प्रताप सिंह : बताऊंगा।

श्री चतुरानन मिश्र : मैं बधाई दूंगा। हम तो चाहते हैं कि ऐसी चीज बिल में हो। अगर आप कहेंगे तो हम को कोई एतराज नहीं है। आप कह सकते हैं कि बोर्ड स्वो मोटो उसको ले सकता है या बोर्ड मजदूरों की शिकायत ले सकता है लेकिन मजदूर यूनियन और मजदूरों को आपने इस विधेयक में यह अधिकार नहीं दिया है। वैसे तो किसी भी नागरिक को अधिकार है। मजदूरों को घनघोर उपेक्षा की गई है और इस उपेक्षा से कोई भी उद्योग चल नहीं सकता। मैं अब इस बात पर आता हूं कि सरकर ने जो तथ्य उस के सामने थे उस पर भी विचार नहीं किया। रिजर्व बैंक ने 378 बड़ी एवं मध्यम यूनिटस की जांच की उसमें से 52 परसेंट में मिसमैनेजमेंट पाया। उसमें फाइनेन्शियल मिस मैनेजमेंट या दूसरी चीज पाई है। फाइनेंशियल मिस मैनेजमेंट को रोकने के लिए आपने कोई प्रावधान किया है? जो लोग ऐसा करेंगे वह तो रूल आपने बनाया कि 10 वर्ष के लिए उन्हें वित्तीय संस्थान से मदद नहीं मिलेगी ऐसा आपने भाषण भी दिया था बजट में। अच्छी बात है, लेकिन अगर डाइवर्शन फंड का कर ले तो उसके लिये सजा कोई होगी यह इसमें नहीं है। इस बिल का जो पालन नहीं करेगा उसके लिए तो क्लाज है मगर उसने जो मिस-मैनेजमेंट किया है फंड का तो उसके लिये कोई सजा नहीं है?

श्री विश्वनाथ प्रताप सिंह : डाइवर्शन करता है, मिसमैनेजमेंट करता है तो उसके लिये प्रोविजन कर दिया गया है।

श्री चतुरानन मिश्र : दूसरी बात यह है कि सरकारी अफसर नुमाइन्दा बनकर कम्पनी के बोर्ड के सदस्य रहते हैं वे देखभाल नहीं करते और वह कम्पनी सिक हो जाती है। उनके लिए कोई प्रोविजन ऐसा नहीं रखा कि उनके लिये क्या करेंगे, कैसे करेंगे? चाहे एल आई सी हो या दूसरे फाइनेनशियल इंस्टीट्यून के जो बोर्ड के सदस्य होते हैं।

एक माननीय सदस्य : आर्टिकल 311 है।

श्री चतुरानन मिश्र: यह उनके लिये नहीं होगा, दूसरों के लिए आर्टिकल 311 है। वे जो कर्मचारी हैं उनके लिए है।

5.00 PM

जो लोग ऐसा रोजगार करते हैं उनके लिए पूरा संविधान ही सुरक्षा में बना हुआ है। दूसरी बात रिजर्व बैंक की रिपोर्ट में यह है कि 40 परसेन्ट सिकनैस फोल्टी प्लानिंग के जरिए होती है। उसके बारे में इस बिल में कोई प्रोविजन नहीं है। इसको चेक करने के लिए कोई प्रोविजन नहीं है। फोल्टी प्लानिंग हुई है या नहीं, ऐसा लगता है कि सरकार इसकी देखभाल नहीं करना चाहती है। उसी तरह से रिपोर्ट के मुताबिक 23

[श्री चतुरानन मिश्र]

परसेन्ट सिकनेस रिसेशन से भी होती है। पूंजीवाद में तो रिसेशन के लिए कोई दवा भी नहीं है। अभी बी० जे० पी० के माननीय सदस्य कह रहे थे कि सरकार ने इन कम्पनियों पर ओवर-कंट्रोल किया है, इसीलिए ये बीमार हो गई हैं। उनके इस विचार से मैं मतभेद रखता हूं। अमेरिका में तो कोई भी कंट्रोल नहीं है। वहां पर पिछले दिनों में बहुत तेज रफ्तार से सिकनेस हुई है थोड़ा इसको उन्होंने चेक किया है। इसलिये मार्केट के रिसेशन में यह बोर्ड क्या करेगा, इस बारे में सरकार की तरफ से कोई सुझाव नहीं आया है। इसी प्रकार से पावर कट, रा-मेटिरियल के बारे में यह बोर्ड कुछ नहीं कर सकता है। इस संबंध में बोर्ड क्या कर सकेगा सब सरकार ही कुछ नहीं कर पाती।

दूसरी बात मैं यह कहना चाहता हूं कि मजदूरों के विवादों के चलते दो परसेन्ट की जो सिकेनेस आती है इसके लिए आप एवार्ड ससपन्ड करेंगे यह समझा जा सकता है। लेकिन यह लौजिक समझ में नहीं आता है कि 98 परसेन्ट केस में मालिक खा जाये उसके लिए भी आप मालिकों को पनिशमेन्ट देने के लिए बजाय मजदूरों को पनिश करें, यह उचित नहीं है। यह तो महाभारत वाली बात हो गई कि खाय भीम और पैखाना करे शकुनी। इसमें कोई तुक नहीं है। एक अन्य बात जिसकी तरफ मैं आपका ध्यान आकर्षित करना चाहता हूं और जिसकी जांच प्लानिंग कमीशन ने भी की है वह है इम्प्रोपर टेक्नोलोजी इनएडेक्वेट एटेंशन टू आर० एण्ड डी० एण्ड इम्प्रोपर सेलेक्शन आफ प्रोडक्ट मिक्स। आप इनके बारे में गहराई से विचार कीजिये। इस संबंध में एक उद्योगपति ने भी कहा है। मैं उनका कथन कोट करना चाहता हूं। शायद आपने उसको देख लिया होगा। श्री रतन टाटा की बात इंडिया टुडे में छपी है। मैं उसका उद्धरण देता हूं :

Mr. Ratan Tata said in the 'India Today', and I quote:

"My fear is that the same people who are asking for liberalisation Will screen lor protection again." Why? "There will be bloodshed", he answers. "If anyone thinks that it can be done without pain, they are fooling themselves." He expects the pain to come from closures and retrenchments which are a natural corollery to competition and are issues that need to be addressed directly."

यह बात एक उद्योगपति ने खुद कही है मैं भी मौड्रेनाइजेशन चाहता हूं। मैं मौड्रेनाइजेशन के खिलाफ नहीं हूं। लेकिन जिस ढंग से आप इसको कर रहे हैं उससे क्लोजर और ज्यादा होगा, रिट्रेन्चमेन्ट होगा और हालत में और ज्यादा खराबी आएगी। इसलिए आप मोड्रेनाइजेशन के लिए कोई दूसरा प्लान बनाइये जिसमें वेलेन्स रास्ता निकाला जा सके। आप टेक्नोलोजी को बढ़ा रहे हैं क्योंकि आप को वर्ल्ड में कम्पीट करना है। लेकिन इसके साथ साथ आप अपनी स्थिति को भी देखिये। इसको आप मल्टीनेशनल्स पर मत छोड़िये। अगर आप इनको कम्पीट करने दंगे तो और भी अत्यधिक हालत खराब हो जाएगी। माननीय सदस्य श्री सुकोमल सेन जी ने कुछ सुझाव रखे हैं और उन्होंने बिल की विभिन्न धारों के बारे में कहा है मैं उनसे सहमत हूं। मैं यह कहना चाहता हूं कि सिकनेस की पहली चोट मजदूरों पर पड़ती है। मैं यह कहना चाहता हूं कि प्रोविडेन्ट फण्ड का पैसा रुकने लगता है, तनख्वाह की हर रेगुलर पेमेन्ट होती है, ई० एस० आई० का पैसा नहीं मिलता है तो आप इनको सिकनेस के सिम्पटम्स समझिये। इससे आपको भी मदद मिलेगी और हमको भी मदद मिलेगी। मैं चाहता हूं कि आप इस बारे में कोई रूल्स बनाइये या यहां पर कुछ आश्वासन दीजिये।

इसके अलावा मैं यह भी कहना चाहता हूं कि इसमें कम्पनी की जो परिभाषा की गई है उस परिभाषा से काम नहीं चलेगा क्योंकि कम्पनियों के अन्दर बहुत से युनिटें भी होते हैं। अगर एक युनिट सिक हो गया तो उस युनिट का क्या होगा, इस बारे में बिल में

स्पष्ट नहीं है । इसलिए मैं चाहता हूं कि आप इस परिभाषा को प्रीडन कीजिए । सेक्शन 20 में रोसेज के बारे में कहा गया है । अगर 50 परसेन्ट लोस होगा तो आप बोर्ड आफ डायरेक्टर्स की मीटिंग बुलाएंगे । मैं समझता हूं कि 50 परसेन्ट हाई परसेन्टेज है । उसको आप कम कीजिए । 10 परसेन्ट, 5 परसेन्ट, जितना कम हो सकता है, कीजिए । उसको आप घटाइये । यह 50 परसेन्ट की बात बहुत हाई है । दूसरी बात मैं यह कहना चाहता हूं कि जब बोर्ड यह समझे कि पैसे का गबन हुआ है या दूसरी तरफ डाबर्जन किया है तो उस पर एक्शन लेने के लिए कहा जाएगा । मैं चाहता हूं कि उसके रिलाइजेशन के लिए उनकी खानगी सम्पत्ति और दूसरी कम्पनियों की दूसरी जो प्रोफिट है उसको भी वसूलने का प्रावधान किया जाना चाहिए ताकि वे डरें तो मैं यह चाहता हूं कि इस तरह की कुछ सख्त इसमें पाबंदियां लगाई जाये तो कुछ इसका अच्छा हल निकल सकता है मेरा पूर्ण विश्वास है (समय की घंटी) उपसभाध्यक्ष महोदय, आप मुझे दो मिनट का समय और दें ।

उपसभाध्यक्ष (श्री एस० पी० कौशिक) जरा जल्दी समाप्त करें ।

श्री चतुरानन मिश्र : जो सिक इंडस्ट्रीज हैं, इसमें करीब 85 हजार यूनिटस हैं । आपके इस कानून बनने के बावजूद 513 लार्ज यूनिट और ज्यादा से ज्यादा 1437 मीडियम इंडस्ट्री जो हैं वे इसमें कवर होंगीं तो पहली बात 83 हजार सिक यूनिटस इसमें नहीं हैं. इसमें आ सकी है । दूसरी बात यह है कि क्या ये जो 513 बिग इंडस्ट्री और 1437 मीडियम इंडस्ट्रीज है, उनको आटोमेटिक्ली इस बोर्ड में रेफर समझा जाय क्योंकि आपने कहा है कि उनके बारे में कोई सूचना देगा, कोई खबर करेगा । अब ये जो 2 हजार उद्योग धंधे हैं इनका क्या होगा ? क्या यह बोर्ड दो हजार उद्योग धंधों की जांच करेगा ? जांच करने में और नई प्लान बनाने में दस वर्ष लग जायेंगे । किसी भी बोर्ड के पास इतने साधन नहीं हैं कि इतने उद्योगों के लिये स्कीम बनाकर मार्डनाइज्ड और प्राफिटेबल तरीके से चलाने को कोई स्कीम बनाकर सरकार को दें । जब सरकार ही इसमें फेल होती है तो इस बोर्ड के पास क्या साधन हैं । इसलिये मैं चाहूंगा कि इसका कम से कम इसमें प्रावधान दीजिए और इसके लिये एक मैनेजीरियल कैडर लार्ज स्केल में बनाने की कोशिश कीजिए ताकि इसका प्रावधान हो सके । नहीं तो ये लगभग 2 हजार उद्योग जो चोक्ड हो गये हैं और ये कूड़े-करकट की तरह फेंक दिये जायेंगे बोर्ड के पास केस जाने और उनकी जांच करने का समय नहीं है । इन शब्दों के साथ मैं चाहता हूं कि यह प्रावधान जो हम कह रहे हैं आप इसको यहीं मान लीजिए, तो अच्छा है इसके सलेक्ट कमेटी में ना जाने से भी काम चल सकता है, आप इसको आज ही स्वीकार कर लीजिए नहीं तो फिर आपस में बैठकर कोई नतीजा निकालिये, यह सुझाव मैं आपके सामने प्रस्तुत करता हूं ।

SHRIMATI KRISHNA KAUL (Uttar Pradesh: Mr.. Vice Chairman, with your permisssion I rise to speak and to support The Sick Industrial Companies (Special Provisions) BiII$_i$ 1985 as proposed by our hon. Minister of Finance Shri Vishwanath Pratap Singh. The Bill seeks to make in public interest several provisions with a view to securing timely detection of sick and potentially sick companies owning industrial undertakings, speedy determination by Boards of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto.

Sir, industrial sickness has become almost endemic and one may even say that *MARZ BARHTA HEE GATA JYON JYON DAWAA KI.* The Government announced certain policy guidelines of sick industries in October 1981 for the guidance of the Central Ministries, State Governments

[Shrimati Krishna Kaul]

and financial institutions etc. for dealing with the problem. According to these guidelines, banks and financial institutions were required to undertake a diagnostic study of the sick units assisted by them. On the basis of such studies, the industrial units which were considered to be potentially viable were provided assistance by restructuring of their capital, funding of interest liabilities concessional finances, complementary management support, and so on. Government also participated in such assistance by way of providing reliefs and concessions as envisaged in the rehabilitation steps, I" was not always feasible or desirable to revive every sick unit and action taken by the Government financial institutions and banks could not prevent, or prove adequate and effective, in stopping the number of these sick units going up year to year. In reply to Unstarred Question 1701 on August 12, 1985 by the hon. Minister of Indus, try and Company Affairs, in the Rajya Sabha it was stated that number of sick industrial units for which data was collected by Reserve Bank of India has been increasing from year to year. The number of sick units and the amount outstanding against them as on 30th June, 1984: I quote: 'The number of sick units—large—513; amount outstanding against them—Rs. 2,113 crores; Number of medium units —1437; amount outstanding against them—Rs. 377 crores; Number of small units—81,647 and the amount) outstanding against them—Rs. 788 crores; the total being—83,597 sick units and amount outstanding«~Rs. 3,278 crores.' It was further stated by the hon. Min. ister that the Government was considering the enactment of a special legis. lation for establishing a quasi-judicial body which would he designated as the Board for Industrial and Financial Reconstruction. Mr. Chairman, Sir. such a legislation is being brought forward known as the Sick Industrial Compantei (Special Provisions) Bill, 1985.

Now, without going into the controversies regarding ..he comparative and contributive responsibilities of various sectors, various constituents, in an industry for causing industrial sickness,, I would like to put in a w°rd about the causes of industrial sickness The sickness of an industrial unit may be caused either by internal disorders in the functional area or by external reasons. If any functional area of an industrial unit like production, marketing, finance, personnel or corporate management etc. develops any abnormality, the whole unit may turn sick. The workers in a unit may take the functioning as abaormal il they are not getting their wages in time. The management and investors may consider the abnormality in terms of inadequate return on investment. The banks, financial institutions, may be alarmed over the unit's inability ia meeting its contractual obligations. The external causes may arise due to changes in the general environment or social, political or international environment, which may be beyond the control of the unit or of the company. For example, there may be import restrictions, delay in disbursement of Loans, liberalised licensing of projects in a particular industry, changes in the intematronal market scene, excessive Taxation policy ot the Government and similar other reasons.

The present Bill, that is, the Sick Industrial Companies (Special Provisions), Bill, 1985, provides for the establishment of a Board to be known as the Board for Industrial and finan. cial Reconstruction. A welcome feature of the Bill is the provision that the Government will also constitute an appellate authority for industrial and financial reconstruction, for hearing appeals against the orders of <*tibe* Board. The Chairman and Membesrs of both these authorities wiU be deemed to be public servants. Tliese tw« bodies will also constitute benches . which will have the powers of the Board or the Authority.

As per the provisions of the Bill, the Board will have a Chairman and two to fourteen Members. The Bill also provides that the Board for industrial and Financial Reconstruction may make an enquiry to determine whether an industrial unit has become sick on reference from the Board of Directors of the company concerned or from the Central or State Governments, the Reserve Bank of India, State financial institutions or scheduled banks. The Board may take action on information received with respect to such a company or upon its own knowledge about the financial condition of the company. It is thus evident that the proposed Bill offers a wide range and variety of sources from which the Board can entertain references for making an enquiry about the Sickness of any industrial unit.

The Board may require operating agency to enquire into and make a report about matters as specified by ii. The Board may appoint one or more persons to be special director or directors of the company to safeguard the financial and other interests of the company.

If the Board decides that it is practicable for a sick industrial company to make its net worth positive within a reasonable time, the Board may accord such time to the company to make its net worth positive. In case the Board decides that it is not practicable for the sick unit to make its net worth positive, within a reasonable time; it may direct any operating agency to prepare a scheme providing for any of the measures such as, reconstruction; revival or rehabilitation of the sick industrial company; change for taking over of management, amalgamation of the sick company with another company; sale or lease of a part or whole of the industrial company; any other preventive, ameliorative or remedial measure that may be deemed necessary.

Another welqome feature of the Bill is, in order to make effective enforcement of the proposed Act adequate penalties have been provided under sections 33 and 34 of the Act. The Central Government has also been authorised to make rules for carrying out the provisions of the Act.

Besides, the Bill also tries to take care of the interests of the shareholders and i_s concerned with the plight of the industrial workers. A provision has been made to watch and safeguard their interests. Thus, it is clear that this Sick Industrial Companies (Special Provisions) Bill, 198S, is a comprehensive document and I congratulate our hon. Minister for Finance for this.

I am sure the House will adopt the Bill so that the promulgation of the Act may succeed in changing the industrial climate in the country, reverse the trend of ever-increasing sickness in the industrial sector, generate a healthier industrial climate with higher production and higher employment potential and generation of greater employment opportunities so that we may enter the Twenty-first century as an industrially healthy, prosperous, advanced vibrant nation. Thank you.

श्री वीरेन्द्र वर्मा (उत्तर प्रदेश) : माननीय उपसभाध्यक्ष जी, माननीय वित्त मंत्री जी ने जो बिल पेश किया है मैं उसका स्वागत करता हूं ।

मिल मालिकान अपने से बहुत कम पैसा और बैंकों से फाइनेंशियल इंस्टीट्यूशन्स से ही पूरा पैसा ले कर मिल खड़ी कर देते हैं । मिल खड़ी होने के पश्चात् वह जब तक नयी रहती है, मुनाफा देती रहती है, भरपूर मुनाफा कमाते हैं लेकिन ज्यों ज्यों मिल पुरानी होती चली जाती है, लेबर की तनख्वाहें बढ़ती हैं, लेबर संगठित हो जाती है, वे प्राब्लम समझने लगते हैं मुनाफा भी उनका घटता है तो उसकी आय निकालकर नयी फैक्ट्रियां स्थापित करना प्रारंभ कर देते हैं और इरादतन टैक्सेज से बचने के लिए जो विभिन्न प्रकार के सरकार को देने पड़ते हैं, कभी

[श्री वीरेन्द्र वर्मा]

लाक आऊट कर देते हैं, और इंडस्ट्री को सिक कर ही देते हैं।

माननीय मंत्री जी ने 60 डेज का टाइम इसमें रखा है। 60 डेज 30 डेज रख लें क्योंकि अभी तो वह बीमार है इसलिए मुर्दा होने से पेश्तर ही उसका टेक-ओवर कर लें तो ज्यादा अच्छा होगा। ऐसा देखा है कि सरकार सिक यूनिट्स का टेक ओवर करती है। जैसे कि टैक्सटाइल मिलों को बहुत बड़ी तादाद में आपने टेक-ओवर किया। उत्तर प्रदेश की सरकार ने जहां आप मुख्य मंत्री भी रह चुके हैं, वहां भी बहुत सी शुगर यूनिट्स को टेक-ओवर किया है।

मेरी उत्तर प्रदेश के मुख्य मंत्री से बातचीत हो रही थी। वह कह रहे थे कि पचास करोड़ रुपये की प्रति वर्ष हमें हानी होती है। इसी प्रकार आठ शुगर फैक्टरीज आपने टेक-ओवर की हुई हैं। आपका काम केवल यह रह जाता है कि इन टेक-ओवर सिक यूनिट्स में आप अपना रुपया, सरकार का या बैंकों का रुपया जाता रहता है, देते रहते हैं और एक स्टापगैप अरेंजमेंट इसमें रहता है। जो कस्टोडियंस जाते हैं, या जिनको आप जनरल मेनेजर्ज बनाते हैं, वह भी स्टापगैप में ही जाते हैं, कोई चार महीने रुकता है और खूब खाया, कमाया और फिर आपने दूसरी जगह ट्रांसफर कर दिया।

तो मेरी आपसे यह प्रार्थना है कि एक तो तीस दिन टाइम में सिक यूनिट्स के डैक्लेरेशन का और उनके टेक-ओवर का जो भी आप करें और यह बहुत ही सही बात है कि उनके बोर्ड आफ मेनेजमेंट बाज दफा जो उनके चैयरमैन होते हैं, मैनेजिंग डाइरैक्टर होते हैं, वह अपने खाने-कमाने का रास्ता बना लेते हैं और यूनिट्स को खाते रहते हैं। दूसरे यूनिट्स में शेयरहोल्डर्ज और नहीं होते जिसमें कि उसके रुपये को लगा लेते हैं। तो जो दूसरे शेयरहोल्डर्ज हैं, उनको पनिशमेंट मिल जाती है।

तो इसमें आप यह देखें कि कोई आपकी ऐसी मशीनरी होनी चाहिए या फाइनेंशल इंस्टीट्यूशन की ऐसी मशीनरी होनी चाहिए कि जो यह भी देखती रहे कि यह सिक इरादतन तो नहीं कर रहा और अगर वह इरादतन यूनिट्स को सिक कर रहा है टैक्सेज से बचने के लिए, उसकी आमदनी को दूसरी जगह लगाने के लिए, उसमें लाक-आऊट करने के इरादे से, तो उसमें कोई न कोई पैनल, एक प्रोवीजो इसमें किया जाना चाहिए और इसके अलावा कोई आपकी ऐसी व्यवस्था जरूर होनी चाहिए जिससे वह इरादतन इस प्रकार की बात न करे

फिर आप या तो उनको टेक-ओवर करें, तो स्टापगैप न करें, बल्कि लें और माडर्नाईज करके चलायें, जिस तरह उत्तर प्रदेश में शुगर फक्टरी लो, जैसे आप टेक्सटाईल इण्डस्ट्री को लिये हुए हैं, जैसे आपने आठ शुगर फैक्टरीज को लिया हुआ है। यह महज स्टापगप अरेंजमेंट, मैं समझता हूं कि इसमें आपको नुकसान ही नुकसान है और वह नुकसान और बढ़ता चला जाता है और वह भी नहीं लेना चाहेंगे।

तो जिस दिन भी आप लेते हैं, या तो आप दें उन्हीं लोगों को जिनकी की वह है और आपकी देखरेख में आपको सहायता से उनको माडर्नाईज कराया जाए और वह नुकसान से भी बच जाएं, आपकी आय भी बनती रहे, आपका उत्पादन भी बना रहे, लेबर का इंट्रेस्ट भी लुक-आफटर हो, इस तरफ आप ध्यान दें, न कि आप एक स्टापगैप अरेंजमेंट लेकर नुकसान उठाना प्रारम्भ कर दें।

अब रह जाता है स्माल स्केल यूनिट्स का—आपने इसमें जो मीडियम साईज की और जो दूसरी इण्डस्ट्री है, उनके लेने के लिए आपने यह बिल पेश किया है। बहुसंख्यक तो स्माल स्केल यूनिट्स की ही इकाईयां हैं, यानी 83 हजार या कितने यूनिट्स हैं—(समय की घंटी)—और वह भी खराब हालत में पड़े हैं।

यदि आप सोच सकें, करा सकें —स्माल स्केल यूनिट्स से या स्टेट गवर्नमेंट से करा सकें, तो यह भी बहुत बड़ा काम होगा कि स्टेट गवर्नमेंट में भी इसी प्रकार का बिल, जैसा कि आपने बनाया है, इसी प्रकार का स्टेट गवर्नमेंट भी बनाये और आधार आपने इन बड़ी कम्पनियों के टेक-ओवर का या इनके मेनेजमेंट को बदलने का इसमें कुछ क्लाजज रखी है, उन्हीं आधार पर आप छोटी इकाइयों के ऊपर भी विचार कर सकते हैं।

मान्यवर, एक बात कह कर मैं समाप्त करता हू और वह यह है कि पब्लिक अण्डरटेकिंग्ज जो हैं आपकी, जो सिक हो रहे है, वह तो सब प्राय: अधिकांश नई इकाईयां थी। उनमें भी अगर सिकनैस आई है, तो उसके कारण भी आप ढूंढे क्योंकि वह कहीं और तो हैं नहीं, वह आपकी ही हैं तमाम और उनके कारण ढूंढने के लिए मेरे पास यह सुझाव है—आपको सुझाव है कि सेपेरेट काडर होना चाहिए,—जैसे आउट डेटड फैक्टरीज बेकार हो जाती हैं और लाभ देना बंद कर देती हैं और नुकसान में जाती है, इसी प्रकार जो पुराने आदमी है—स्टेट गवर्नमेंट भी जो रद्दी से रद्दी आदमी हो जाते है, एस०डी०एल० या आई०ए०एस० को बेकार समझते है, उन्हें इन यूनिट्स में कह देते है कि इनको आप ले जाइयेगा।

मेरे पास एक सुझाव है, चाहे पब्लिक अण्डरटेकिंग है या कोई फैक्टरी को आप लेंगे, एक सेपेरेट काडर आपका बने और नये आई०ए०एस० या नये पी०सी०एस० वाले जो भी जिस लायक हों, या सेपेरेट ट्रेनिंग देकर उद्योग विभाग के ट्रेनीज को आप इसमें रखें। तभी आप अपना नुकसान भी बचा सकेंगे और जो सिकनेस है, इसे भी दूर कर सकेंगे। साथ ही तीनों लाभ भी आप को होंगे, रेवेन्यू का लाभ होगा, प्रोडक्शन का लाभ होगा और लेबर का भी इसमें इण्टरेस्ट होगा और देश का भी इससे भला होगा।

SI-IRI K. VASUDEVA PANICKER (Orissa): Mr. Vice-Chairman, Sir, I am supporting this Bill *in tbto.* I support this Bill for a number of reasons.

Sir, this is a major Bill, rather a long Bill, which is trying to save the sick mills and sick industrial units from dying. This is a piece of legislation which is trying to find out the reasons for the sickness of the industries and this is a Bill which is trying to detect the reasons as well as the remedies for the sickness and death of the industries arising out of such sickness.

When we analyse the background of this Bill, the reasons for the Government to bring out this Bill. I think we have to' go back by a few years. Thi:; Bill has got a philosophical background, this Bill has got a historical reason. In 1973 there were around 85,000 • *:* industrial units "in this country. That means, multiplied by a few number of employees working in them, there were a few millions of workers, and at; multiplied by a few numbers of dependents of each employee's family, it means there are a few millions of people at the moment suffering because of the sickness of the industries in India, that is, nearly. 85,000 industrial units in India.

India today, in 1985. is an agrarian country. Eighty per cent of the people are depending on agriculture as a way j of life. Only the remaining 20 per cent of the people are depending on industry. Out of the 80 per cent of the people who, are depending on agriculture as a means of employment, less than half of them are really employed in the agricultural sector. That means, barring 40 per cent, the remaining 40 per cent of the people on the agrarian front itself are not employed at all. Thi'3 is a phenomenon which we cannot tolerate.

Going back to India of three ! hundred years ago when we were captured, when our political power and sovereignty were captured by foreigners, that India of three hundred

(Shri K. Vasudeva Panicker)

years ago was an India where I system o,f economy was not agrarian. There was a certain industrial economy. It was not the modern industry but it was an industrial economy supplemented and provided by the smali-scale industries where more than 60 per cent of the population of India in those days were employed and less than 40 per cent of the people were only employed in the agrarian sector. This is the background history of our economy. Can a country like this provide all the 80 per cent of the population as a way of life in the parti. cular sector called the agrarian sector? It is impossible. So, ihe way out is to find out some other source cf employment. And the other source of employment is industry and indusl alone.

So, this Bill is seeking to redeem the industries which are going to softer from the sickness and from the consequential death of the sickness. So ihis Bill is aiming at gradual transformation of the Indian agrarian society into an industrial society. If thai is the case, this Bill is having a colossal lacuna. I would request the Finance Minister to be aware of one lacuna which I want to men.ion. This Biil, if I am right, if 1 understand properly, does not apply to small-scale industries. Out of 85,000 industries which are under sickness, which have died or are facing death, nearly 80 per cent (pf the industries are coming within the ambit of the small-scale industries. And if you take the small-scale industries and multiply by ten emptoyees or 15 employees or 20 employees, It forms a major part of the working-class population of this dountry. That much of the population is totally excluded from operation of this Bill. This is a colossal lacuna which the Government and the Finance Minister should have k> consider.

In this connection, I want to bring out one thing. There were two sorts of philosophies debated in India, in the p/e-independent India. There has been going on a dialogue, a deba e on the industrial pitocess of India, what sort of industrialisation this country should have. That waj the question in those days. Mahatma Gandhi who believed in spiritualism and who analysed the implications of transformation of the society through industry, considered tha. the smaVi-scale industries and the cottage industries were alone the panacea for the poverty and redemption of the people of India. Bu; Pt. Jawaharlal Nehru who came across so many forces outside the parameter, outside the lour walls, of India, understood that if we were going to have small-scale and cottage industries alone, .here would come a time when foreign forces wtould become industrial monstors and would be in a position to capture India and would convert India again into a colony. So, he though' should not happen. There were two basic philosophies which were considered, which were discussed, which were debated on the Indian subcontinent before 1947. As a result of the dialogue, as a result of the debate, there came a compromise after 1947. and that compromise was that mnior and substantive industries, '.he core industries should be in the public sector and alsl-> that the Government of this country should go in for major. bir type, of industrialisation process. In order to give employment to the poor people of the country, because the agrarian economy will not be able to cope with the needs of the people, as per the philosophical contention of Mahatma Gandhi we also considered that India should also have industrialisation in the cottage sec-or and the small-scale sector. If that is the case, if you want to provide employment through the small-scale industries and the dottage industries, more and more industries are to come, and whoever is capable of investing something such people, can become ultimately industrialists, and thus the economy will take a boost. Gradually India's economy will be strengthened, and in

future India will be transformed ircm being an agrarian Sbciety to an iiidusirial.cum-agrarian society. For

, purpose we need hundreds of thousands of. small-scale industries and cottage industries in the country. If that is the case, then, the Government and the Finance Minister have to consider that we should build up ever so many indus.ries in this eoun. try. Ever 3b many industries coming on the surface of this country means that more and more people are ge-iing employed. It means that more and more consciousness,, revolutionary consciousness lit the people is c°ming .ip. If that is the case, then, India will be changing. We are §oing o-

uls the twentyfirst century. At 'he moment we are standing at the ten.h place in the industrial world. Our leader, Prime Minister Rajiv Gandhi, the young dynamic leader wants to take this country towards ^he twenty-firs; century and place this country across the entire world, to P'*>iect India as one of the most powerfully developed • country, a country which is totally free from poverty and which has redeemed the people from their destitution. If that is the

, we have to consider this question. W<' have .0 include this aspect. If we can do that then we are going in fir ;i change. I submit to the Honourable Finance Minister that he mav please consider this aspect. Probably '.he Finance Minister must have a bored by the repetition of the b'scuss'on which went throngh this e ond also the other Ffonse. Now.

mid like to ask a few noints and 'hen con 'hide. Whether the Government is thinking to provide sufficient professional natjagerlal set up? Whether the eminent is thinking of financial monifyiring scheme? Whether the Government would consider seriously tackling ;hose people who siphon •he investment' that comes from th$_{e}$ finandal institutions? Whether the financial institutions will have professional and technical apparatus to render advice to the sick industries? Whether the Government would consider seriously the corrupt practices of the officers of the banks and financial institutions?

Again there is another aspect, namely, the attitude of the workers whfc are employed in the industry. I am talking about the conception of iude of workers. The labour atti-unately in this country has converted not into a productive institution., but a vested interest to hamper the industrial transformation in this counry. So what action the Government would take against the labour who have unproductive attitude?

With these few words, I Congratulate the Minister for having brought forward this Bill. I also thank the House for giving me this opportuni

SHRI RAMESHWAR THAKUR (Bihar): Mr. Vice-Chairman, Sir, I compliment the Finance Minister for reducing the Sick Industrial Com. panies (Special Provisions) Bill, 3985, which was rather over due. The special features of this Bill, as we are aware,, are particularly to securing the timely detection of the sick and potentially sick companies owning industrial undertakings, the speedy •rminaticn by a Board of experts of the preventive, ameliorative, remedial and other measures. This is important. This is very Comprehensive. If timely steps are taken tl this will certainly help the cause of rehabilitation of industrial sickness in this country. As we are aware, we . have scarce resources for our eco mic growth and development and establishment of new undertakings means high costs. The question » ' employment *to* those who are rendered unemployed on account of closure of the units is equally important. Therefore, this measure which has been taken by the Government will

| Shri Rameshwar Thakur I 1 inly reduce the hardships 'on accounts. We are aware, figures • been quoted that we have nearly oday involving an invest- • that Rs. 3500 crores- e important is the number of day; and the num- oJ ″ mployed is nearly 2H mil- due to .'ickness statutory dues of lent fund and gratuity would amount to Rs. 450 crores which are due to them apart from the fact that had to suffer a lot of hardship nig the closure of the factories. This industrial sickness has been ex amined by various Committees, finan cial institutions. Chamber $_0$f Com- rce and other export bodies.. e humar ^hore is a natural ness in industry also. It is only in India but it is a universal phenomenon. However, the basic rea-i are primarily the changes in the ■nology. defective planning, supply of plant and machinery which is not proper and not equipped with the *a* conditions and also the over all In many cases, from the very $^{1\ ,r}$. overrun starts and by the '. a revaluation is made, cost goes and the investment in the industry 0 goes up and the unit becomes ntially sick before it duction. This aspect ortant but there are other aspects 1 had been identified by the ex- rts, i.e. the policy of the Govern- m in relation to production, distri- 1. prices, change in the invest- . pattern, following new priorities he plans, shortage of power, trans- I, raw materials and so on. The ing Commission has given an ile and the earlier example was I the controlled cloth scheme had 0 considered as a contributory to the prevalent sickness in that or. The major reasons for which management is responsible or the ' is responsible are mismann diversion of funds, wrong divi- 1 policy, excessive over-heads, of adequate provisions of depre- ion on plant and machinery, over- 1 nation of demand. The Sixth , detriment which envisaged in detail the factoi concludes: "However, perhaps, the most important of all causes of sickness is the incompetence and stupidit; Of the management', so major factor i_s the management failure. There are other areas, for instance, the small $scal_e$ industries where $thes_e$ factors are equally important, A number of studies have been made. I would not like to take the time of the Hon'ble Members in detailing them but would request the Minister t_0 look into the causes of sickness of the small scale industries which are large numbers. Though this Bill makes a provision primarily for those major companies, i.e. 513 bigger companies and 1437 medium sized companies, it is essentially to look into the causes of the sickness in small scale industries which are in large number, $wher_e$ employment potential is large and which is base for the larger and medium industries. Therefore, they deserve a special consideration There seems to be certain deficiencies or improvement that could not be brought about which might lead to certain difficulties at the implementation stage, though the Bill has been brought to th_e House with the best of intentions. At this stage, when the Bill which has already been passed by the Lok Sabha, it is. difficult to whether there would be an amendment. But I am still pointing out certain deficiencies for the. consideration of the Hon'ble Minister whether it would be otherwise implemented through rules and regulations or by a policy decision. Otherwise. cV ency would be there in its practical implementation. In clause 3(1) (o)', or. page 3 the words "either. before or after the commencement of the Act' may be added, in third line after *he words "any financial year" because this Bill is coming now and it must be made clear that this applies to any sick industrial company either before or after the commencement of this Act. This is suggested for this reason that in clause 17 it is contemplated that a board would decide whether a company has become a sick industrial company and the definition

•would be that o.f a "deemed" sick tstrial company. Therefore, I wording "either before or after the .'ommencetnent of the Act" is essential.

Secondly we have also to lake into consideration, in view of the large number of sick companies, whether vhe definition of a sick industrial company should be: if the accumulated losses become equal to. or exceed, the worth; whether the cash losses suffered by it is equal or exceed 50 per rent of the net worth; and thirdly, whether it employs more than a certain specified number of people. This will make the Bill more practicable in its application.

Then, in clause 3(o)(iii) the word amalgamations" should be omitted, since the case of amalgamations, consideration passes between the shareholders of the two companies if the assets are revalued. Even the Controller of Capital Issues recognises the share premium created out of the revaluation of assets and determination i! exchange ratios as a result of such revaluation.

Similarly, in clause 15 at the end we should add a proviso: "provided that if an industrial company would fall within the definition of a sick industrial company on the date the provisions of this Act become applica-the Board of Directors shall, within 60 days from the commencement of the Act, in relation to that company, make a reference to the Board for determination of the measures which shall be adopted with respect to that company." And a second proviso is also needed: "provided further that if a sick industrial company has already been aided by a public financial institution and a scheme as contemplated under section 18 has already been or is being contemplated to be adopted. then a reference to the Board sh ill contain such a fact." This is now lacking.

Then, in clause 16(iv) there sh be one proviso: "provided that il a director representing a public tin institution is already on the board of the company, the board maj nate him also to represent the boai

THE VICE-CHAIRMAN (SHRI M. ″•. .KAUSHIK): Please conclude.

SHRI RAMESHWAR THAK1 Only two or three, small suggestions.

In clause 17 the enquiry is noi m It says " . . .may enqui Though normally "may" is taken mean "shall", since it is not mandatory as per clause 16. this els should be suitably re-worded. That is my suggestion.

Provision should be made in this clause requiring the board to watch the results of the scheme already operated, as mentioned in the newly introduced proviso.

Clause 18 should clarify that the scheme approved by the Board and sent according to the procedure 1 in that clause need not undergo further formalities contemplated ui the Companies Act, 1956. There will be complications unless this is clari , If the formalities contemplated I under this Act and under the Companies Act have to be gone through, then it will delay matters and it will en conip'ira! ions.

Then in clause 32 the reference to the Memorandum or Articles of Association of an industrial com; should be omitted since the An: or Memorandum of Association provide for adoption o:[1] the procedures contemplated by the Companies Act. 1956 and this law itself has been kept outside the purview of this Ac This Act says that no. provision. the Companies Act will apply. But I Memorandum or Articles of ASM tion normally provide for the appli-i cation of the Companies Act.

[Shri Rameshwar Thakur] Therefore, this should be omitted. And the last point I would like to, mention is about Section 34. This albo needs clarification. The definition of "director' is not as it is given in the Companies Act, And there is apparently some mistake in printing or something has been left out in regard to the Schedule. The Schedule to, the Act says at the end, "The chairman, member, secretary officer of the . . . Reconstruction/authority . . .". Here at the end it should be "appellate authority"; otherwise it would be incomplete. Later on it has been there but this seems to be an apparent printing mistake or omission which should be rectified at the right time. In the end I would like to say that there should be proper coordination between the board of the Industrial Finance and Reconstruction Corporation and that of the Industrial Reconstruction Bank of India and other financial institutions; otherwise, we have found that with the best of intentions in the past there was no coordination and it creates delays and difficulties. We have a time-bound programme in this Bill and this should act as \n expert body, as a catalyst, it has to work very efficiently and effectivi a modem management. It has the onerous responsibility of looking after the claims of a large number of industries. Therefore, it is necessary that it must be result-oriented and it m have time-bound programmes. The hoards should also take into consici' tion the requirements of training and research and a good cadre of m:.

to look after the work. One last point and that is the] lie sector undertakings have b taken out of the purview. I would only urge the honourable Minister there must be some agency, maybe. the Bureau of Public Enterprises or some other alternative, to look l the conditions of the public sector undertakings and whether they are, *by* and large, fulfilling the same norms which are provided in thi» Bill. Some suitable remedial action shoi be taken in regard to their rehabilitation in time and should not be left to other normal conditions. Lastly about the financial institutions, now the responsibility is given to this board. The financial institutions invest large sums of money in long-term finance as well as banks; they should continue to monitor effectively, rather more effectively now, and whenever they find out oi their monitoring, if they come across' some industries which have become sick or some industry is potentially sick, it is their duty to inform the board that his company as likely to become sick. With these words I support the Bill.

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Mr. Vice-Chairman. I thank the Finance Minister for bringing this legislation which was much awaited. It has been brought, at a very appropriate moment when from tomorrow onwards we are discussing the Seventh Five Year Plan in thi$_s$ House wherein productivity is one of the main features of our Plan Paper. We have talked about productivity in which we have talked about agricultural sector a good deal through various motions, Call-Attention motions and all that, in this House, but probably there has been no discussion about increasing the industrial production. Therefore, I feel this is the most opportune moment. I do not wan* to go into the data, the statistics, etc., to prove that sickness is galloping at a great speed. I would like to draw the attention of the Chair well as the Minister concerned to my little contribution in this debate, without going into the data, showing the galloping speed with which industries are made sick, funds are diverted to other industries the banks and the financial institutions are put to loss, the shareholders are made to suffer. we are left with only a little scope for litigation. So, the question is whether the oresent Bill has plugged these loopholes and put an end to the designs of the dishonest businessmen who take loans' for starting industries, but divert the resources and earn money for themselves, make the industries sick, make the banks

burdensome make the financial instil tutions burdensome and compel the Government to take over the industry and cause labour trouble and so on.

Now Sir, I have my own apprehensions. It was also pointed out by one a£ the honourable Members that the panel provisions were not adequate. Now, clause 23(3) says:

"If default is made in complying with the provisions of this section, every director or other officer of the company who is in default shall be punishable with imprisonment which shall not be less than six months but which may extend to two years and with fine."

When we are providing such a provision under clause 22 of the Bill, why should there be a provision in clause 24, which is the main clause and which deals with the purpose for which this Bill has been brought forward? This clause talks about malfeasance, misfeasance or non-feasance, etc. It also says that there would be a deprivation for years from the date of order for such directors to get any financial assistance. Probably the honourable Minister would be pleased to say that there is already a penal provision. I do not know why that has been incorporated here. In any case, the deprivation for ten years will not be sufficient because the man who gets e things, who diverts the funds from one company to another to money for himself, who dheats the ad the other financial institutions, can also get loans in the name of his wife and children and other relatives. Can he not get loans in the name of his wife and children and other relatives? In that case, this provision may be nugatory because there are many ways to circumvent the process of law. Not only that. The disqualification or the deprivation clause should have been incorporated here saying that his wife and children and other relatives will also be deprived of their right to get loans from these banks and there should; have been • : some provision made for dealing with this aspect.

Then, Sir. the other observation that I wish to make is this: We have made a provision for the Board here and I do not want to repeat all the details. The qualification referred tc therein for the Chairman of the Board is ... (Time bell *rings)*

Sir, I have not taken more than three minutes.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): You have already taken five minutes.

SHRI BIR BHADRA PRATAP SINGH: No. Sir. In any case. I am the only unfortunate person who is asked to finish within five minutes.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): You have already taktn five minutes and you can take two minutes more.

SHRI BIR BHADRA PRATAP SINGH: If the time is to be restricted to five minutes only, then it should have been restricted in the case of everybody. Why in my case only? Anyway, I want to make two, or three suggestions.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): Please do.

SHRI BIR BHADRA PRATAP SINGH: Now, I come to the question of qualifications of the Chairman of the Board. The relevant provision says that the Chairman and other Members of the Board shall be persons who are or have been or are qualified to be High Court Judges. I know and everybody knows that there are difficulties in getting Judges for our High Courts and the Supretne Court; we are not getting Judges. But I am not pessimistic on that count. Let us have persons of integrity. All right. But, if such a combersome procedure is laid down which is a time-consuming factor, it would be very difficult. Moreover that is not the final thing. Apart from the Board there is

an Appellate Tribunal and then there is the High Court also. Suppose you notify the winding-up proceedings. Then the High Court also comes into the picture. Now, let us not forget that there are articles 226 and 132 of the Constitution of India which come into operation here So we 6 PM have kept open a wide range of litigation. Of course, we could not shut down litigation by legislation, except what we have don.: under section 26 of the Act where we have barred civil courts' jurisdiction. But how can we bar an injunction under Article 226 and 32? 1 may tell you from my experience of 22 years at the High Court Bar that if some poor litigant goes with a decree of Rs. 500 or Rs. 2000, he will not get any stay as a matter of principle. Bui there is some big litigant involved — big money. Rs. 50 lakhs, Rs. 10 crores or Rs. 20 crores—immediately the courts exercise their powers under these articles and they grant injunctions as a matter of right. That is still open to fraudulent persons who defraud these banks, financial institutions and Government, and who divert these funds. Then, a mere constitution of such Board with so, many technicalities, time taken, and then appellate jurisdiction and then winding up proceedings in the High Courts, etc. would not do. Some impartial body should be created to review these aspects and various matters and find out some solution which could speed ;p the state of inquiry. It should not take a long time as some hon. Members have suggested.

The other provision that I want to hint hurriedly is that amalgamation provision has been made. Members in this House have suggested that somebody is found specifically making an industry sick. It is not the case with every one. If somebody has only one industry he will never try to make it sick, because that is his life and breath. Only those who have many industries will make one sick, then start another one make that one sick

and go on to another. It is orlly ill these cases that such things are happening. If only such persons are indulging in such things, then am. tion by itself would not be sufficient. Many people in this House have asked: why don't you take a good unit also, along with this sick unit; so that such unfair practices may not be re-i to.

One more aspect I would like to point out. In the case of 50 pei cent erosion there is a provision to :all a meeting of the shareholders. No /, the difficulties have been in those cases where the Board of Directors ai 3 clever enough to have more than ^0 pet-cent of shares themselves. The:i the first part of that provision v .11 be made redundant.

,.. The last aspect I want to :;ouch upon is that suppose a sick . lit is taken over and it has to become healthy. Now. that man come:; and says that it is his fundamental right and that he must get it back, the sick unit which is nurtured. I think that there should be a provision in this Bill that it should be nationali?e>i. He must not get it back, the delimiting roan. With these words, I thin ive started, well started, and industrial sickness will be done away with and industrial growth will take place. With these words. I support the 3ill. j Thank you.

SHRI VISHWANATH PRATAP SINGH: Sir, I am thankful to the hon. Members fox the valuable eoatribu-1 tions they have made to the iebate They have given positive support, made positive suggestions anl also criticism of the Bill, ill *toto,* while there may be a little dissatisfaction about the quantum of the striae we have taken, but on the direction of the stride, I think, there u a wide support.

At the outset I may say that sickness in a growing industrial e:. is a

lomenon that we do witness. We will have to accept a certain amount of sickness due to various factors. As the hon. Members said, it may be due to. obsolescence or it may be due to other factors. At the same time, we have to take care of the investments made. We have to take care of the human factor and see whether it is possible to bring an industry back to health. We should make the maximum effort. In fact, rehabilitation is the main plank of this Bill. Various provisio.ns ha e been made. At the same time, various institutions, the State level institutions, banks and financial institutions, have not been supplanted or substituted by this Board. In fact, they have been supplemented. There are vario-ous other ways of tackling sickness. We have got the DIR also. We have the option of nationalisation. These options are still open. It supplements them.

One of the points which has been made and which I want to meet quite early is that the interest of labour has not been protected. Before dealing with other points. I want to take it up. earlier. It is said that there has been a neglect of labo.ur. In this very Bill, we have made a provision that cooperatives of workers would be one of the options which the Board can consider. Apart from this, we have also a provision that the Board can *SUQ inoto* take cognisance of sickness. It is not dependent on a report by the Board of Directors of a company. It can suo *moto* take cognisance of sickness. It is open for the workers to approach the Board. If the Board feels that the workers are right, it can take action. So, there is a provision.

Regarding representation in the Board, it has been provided in the Bill that the people having experience in labour matters or persons having professional management in various fields or persons having technical experience of management can be taken. Mr. Pannikar referred to this point. These are the points that would be taken into consideration before putting a member in the Board. M I say that so far as labour is concerned, the Government'?' poll under the leadership of our young Prime Minister, is to safeguard the interests of labour? Let it not be forgotten that it is this Government that brought workers' dues *pari passo* with secured debts. It was this Government that brought the stock option scheme for the labour to have a share, ownership share, in the com;.nnv. These are basically radical concepts. It is we who protected the industrial labour wages by increasing the DA Iron ISO to 165-It means protection *at* 101 per cent real wages. Take the bonus scheme. So far as workers are concerned, it i this Government that brought limit to Rs. 2500/-. First they raised it from Rs. 750/- to Rs. j<;00/- and thru
the eligibility limit was raised from Rs. 1600/- to Rs. 2500/-. I, therefore, strongly rebut any insinuation that the Government is not taking care of
labour interests. It is committed to take care of labour interests.

A point has been made that for early detection, the default in statutory dues should also be one of the indicators. I have already issued ins--
. tractions to the banks and tc the Sickness Cell in the Reserve Back
that default in statutory dues should be monitored immediately and that they should[1] start taking cognizance of defaults in statutory dues.

The concept here is that as a standard to measure sickness, we have not put multipal things but only two—cash loss and net worth erosion. There is a basic theoretical concept to have net worth as a measure. Net worth is the share money. It is by this money any company has a right to manage a unit. So far, it has got its risk money. Therefore, it has been provided. And that is I also a sort of early detection method that when 50 per cent of the net worth | is eroded, then the shareholders' meet-I ing is called. The present management will have to, get a fresh mandate from

[Shri Vishwanath Pratap Singh] the shareholders who really own the company. They continue the management because 50 per cent of the share is still left. So, still they have at least the right to manage because it is not totally eroded. It is said that when they touch 100 per cent of the net worth, they will have to come to, the Board. Many Members feel that it is just too late. But if you see the present position, a curtain is put to the extent of erosion that is happening. Not only the present company which we register as sick but also those which come as sick units to us or with even symptoms of sickness much earlier they have eroded not only 100 per cent of net worth but even 300 per cent or 400 per cent of the net worth, meaning thereby not only their own money but also the creditors' money also they have eroded. And in the process, they have taken away the institution's money. So. they are totally running not on their own money but on the creditors' money. Now, if you are running on the creditors' money, you have no right to manage the company. So, in the present system we come to know of it very much late. So compared to what we have today, this is a much earlier signal. And when they have eroded 50 per cent, they still have notice that they can by their effort, by bringing in fresh risk capital, by bringing in their own money, they can still save the situation and make the net worth positive. £0, there is also a pressure on them to bring in more risk capital rather than borrow money from banks. Today if they have started eroding their share capital, they have started borrowing from the bank, here will be their compulsion to bring in mare of their own money md risk money to make the net worth positive. That is the positive economic aspect of this provision.

Now, a point was made by Mr. Reddy and also by Mr. Sukomal Sen. And most of the important, points have been covered. They mentioned about the small scale industry. They mentioned about the ancillary industry. Mr. Panicker and specially Mr. Reddy emphasised the point about the small 1 scale industry. So far as the small scale sector is concerned, there are no two opinions about its importance in our economy, its role in employment. its role in distribution of wealth, and as a buffer to a concentration of wealth in a few hands and as a strategy. And the point made is well taken. The only point is that not on any theoretical aspect or on any principle that the small scale has been excluded, but it is done purely on an administrative point and the dimension of it. To start with, perhaps, we cannot cope up with it. That is the sole argument and the reason but not of any theoretical aspect or any principle. So, take the bite which you can chew. Rather than start with a 'akh of units or 80 000 units and get lost, I think, It is better to start with what we have started and gain experience and see how we can further expand it into areas that are of our concern.

A point was made that the 'company' has been defined as sick and not the industrial unit. The balance-sheet that is prepared is of a company. And the net worth and this concept can be applied to the company. And still if the company is healthy and its industrial unit may be sick, well, there is a chance that the company can inject fresh capital and take care of that unit. Alternatively, we have got other provisions to deal with it. We have other Acts which can take care of the industrial unit's sickness, like takeover of management provisions and these provisions are there; they are not displaced by this Bill.

About the bonus it was said that it would be on the Board to report sickness and because the accounts take a lot of time and audited accounts take a lot of time, the whole procedure can take 20 months. If you look at the provisions carefully, of course Company law provisions are there where audited accounts have to be submitted but if anybody moves the Board and bring out the point, the Board need not wait

for the audited accounts and can take action. So. th.? group of directors who want to take cover of delay, cannot take this recourse and they have to act.

About statutory dues, I have already! mentioned. For creditors to be given the right, of course, institutions have been given the right to bring it to the notice of the Board and in many medium and large units you will see the major creditors are the institutions and the banks where they have got the right to bring it to the notice of the Board.

A point was made that when contracts will freeze, labour will be affected. It is not a mandatory provision that all contracts will automatically freeze. It is only in the discretion of the Board. If it deems necessary, it can freeze the contract. So it is not automatic that all contracts will be frozen and labour contracts will be frozen. It is the discretion of the Board; there is no auto rriaticity.

About the point that State should give concurrence for liquidation and only then it should be possible, well, we do not want liquidation but sometimes there is no choice if a unit is not going to be viable, and that is one point made by Mr. Jaswant Singh and Mr. Reddy also that we should not go on putting public funds into units which have no hope at all. There will unfortunately be some units where liquidation would be necessary and at , that moment to have two executive boards, one with veto for the State. I don't think, will be a practical and working arrangement, because there could be a deadlock and there will be no solution. So the final executive, or the decision-making authority, has to reside at one place and we should have trust on its judgement.

SHRI SUKOMAL SEN: What about the labour?

SHRI VISHWANATH PRATAP SINGH: I am coming to that. We are already examining in the Government to have a rehabilitation package for the. labour apart from the existing one for which there is some provision. The Government is undertaking an exercise of coming with rehabilitation package for labour. The point is, various aspects are to be administered by various Ministries; labour laws and workers' participation is with Labour; maybe, Company Law is dealing with another aspect; then financial institutions are with the Finance Ministry but we are having the totality of the problem before us and that is the problem of rehabilitation of labour in cases of closure and the Government is actively possessed with it and we are conscious of it and would be coming up with seme package for the rehabilitation of labour. Now, a question has been raised, why the State Governments are asked to make sacrifice, that the State Governments are not responsible for sickness. *X* think, in case of sickness, we will have to shoulder it together, fhe Slate and the Centre and the institutions who have advanced money. I would make one point here. If the State Electricity Boards improve their performance, much of the sickness could be reduce. If the State Governments make this one contribution, it woul 3 be of much help.

SHRI IIARI SINGH NALWA (Haryana): Most of the sickness is due to the paucity of electricity.

SHRI VISHWANATH PRATAP SINGH: I will not rub the point. There are people intelligent to take the point.

I

About the public sector and its sickness, for this, we do not need a Board for the public sector. The Government is the Board for the public sector. Sir, public sector has played a very dominant role in giving impetus to our economy since Independence. It has been the main hub of our self-reliance policy The big multi-nationals could be warded off because we had a very strong public sector. But at, the same time, while it has contributed greatly to our self-reliance policy and it will continue to be the main hub of our economy,

[Shri Vishwanath Pratap Singh)

the time has come when all efforts have fco be made to reduce the losses in the public sector. Here. particularly, Ij.n out of Rs. 1,80,000 crores, Rs. 35,000 crores has to come from the public :or—from the Cenmil public sector. Rs. 37.0()() crores and negative, contribution from the State public sector in the Plan—net is Rs. 35,000 crores—if there is no generation of internal resources and there are eaten away by losses, we will not have the Seventh Plan. This is the responsibility we have in running the sector. At the same time, the profitability of the losses of the public sector either get reflected through increase in price or through budgetary support. Both are inflationary. Now, about revision of price, we will have to allow the public sector. We cannot subsidise the private sector by keeping the public sector products and services low. When there is wage increase, it will have to be transmitted. The private sector will have to pay for the goods of the public sector. If it transmits inefficiency either we have to'operate the-price mechanism or take recourse to budgetary support, both of which are inflationary. 1 do not see we can cop,: with price stability or inflation in the Seventh Plan unless we tackle the problem of losses transmitted into the system. It is important for development as price stability that the losses of the public sector are reduced

A suggestion has been made about referring the Bill to a Select Committee. I think, we have had a detailed discussion. This is an important Bill and as soon as we pass it, we can go ahead with its implementation. Of course, suggestions have been made and I share the concern of hon. Members. T think, while we go through, all these will be dispelled.

Now, Mr. Jaswant Singh is not here. I do noi agree with his philosophy Uiat the State should not play any role in the economy. I think, as we are placed today, we cannot fully give the responsibility of economic development of the count 1 market forces alone. After Independence, after the colonial rule, we saw that the market forces were not giving the impulses that were needed to the economy The State had to take over ih. leadership role and give the needed impetus to the economy in the core sector and this is how we came to the present stage oi development, i think, in certain areas, the State will have to continue ' 10 play the role though the point is well taken efficiency has to be there Of course, 1 have agreed on this. In this he lias made a point as to why put in good money for bad money. Already a provision is there which is, only those units which are viable will be rehabilitated, those uiiich are not viable will be given to liquid; ion. A point was made, why then another process of liquidation is there. The point was made by Shri Bir Bhadra Pratap Singh. Here, the point is that this Board wants to confine its energy to rehabilitation and keeping them alive and healthy, but if it is beyond that, it does not want to consume its energy in winding rap a process and all that. That takes a eerv long time and the present procedure -care of thai. For making is he. thy, amalgamation process used to take Song time. That has been provided in thi that has been the basic thinking in b ing-ing forward and drafting this Bill.

About punishment as to why only 10 years and why not criminal provisions have been made, here may I say that the provision is that if there is mismanageme ,1: or diversion of funds, and at times i: happen, then not only that person will be debarred from any financial help from any financial institution but if he 'is a director of any company or he is a partner of any firm', that firm or that comp: not only thai pehsori but thai cor and that firm --will not get any help from any financial in dilution he becomes virtually a financial because if he goes to any financial in tion for financial help he will become an untouchable for the financial insti'.iiion, and his firm also will not get anything. So, it is quite a tough punishment I think if yon ask about the choice, whethe he would like to have this punishment or a jail of three months, he would prefer to go for 3 months' jail but not this punish? ment .

About the criminal pari of it. whal is there is, if the Board conies to the con clusion thai there is criminality in misap propriation or something [ike that, il can report to the State Government and the St;t.' Government can, under the Crimi nal Procedure Code, take action. Tbe State Government can do that. The point is, do envisage that this Board v, ill he ' cond; 1 trlon cases all over the *or* wil! it be concentrating on the i side of rehabil ben the criminal side can be taken care of by the State Government after the report is made to them by the Boarl? State Goveirt-ment or the Centra], Government can take the criminal action. So, criminal \ action is[1] not 'debarred as such from this. Only we do not s involve the Board into this over the country, and spend-

ing its there. It can bring to .the criminality to the notice of the relevant authority which can take action criminal action is not debarred! by this-- Bill.

Shri Rameshwar Thakur made very good point almost on all sections, but one which caught my eye is about the authority', I think my friend is correction. I do not know-how it can be done, but formal correc-le. I think my friend is . right in this and it will have to be done. It seems to be a misprint and it will have to be done. Shri Vir Bhadra Pratap Singh made a point about the Appellate Tribunal. A provision for Appellate Tribunal has to be we are taking away the rights of the High Court in procedure of amalgamation, etc. Had we not.made any •sion of any appeal, the Mkelihood could be struck down in the courts as bad Act because there is no nrovision of appeal and the rights of the court have bee$_n$ taken away. So, we had to make a provision for appellate authori r Therefore, a person having the qui qualification of a judge or who has has been provided.

I think. Sir, I have not covered all the points but the major points of the debate which have com$_e$ before us I have tried to cover and I will request the support of the House for approval of this Bill.

THE VICE-CHAIRMAN (SHRI M.P. KAUSHIK): Shri Sukomal Sen and other • Members. do yon persist with your amendments?

SHRI SUKOMAL SEN; Yes, yes, we persist wilh our amendments.

SHRI VISHWANATH PRATAP SINGH: They are never .mended.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): 1 shall first put the amendment by Shri Sukomal Sen for reference of the Bill to Select Committee to vote.

The question was put and, the motion *was negatived,*

THE VICE-CHAIRMAN (SHRI M.P. KAUSHIK): 1 shall now put the motion moved by Shri Vishwanath Pratap Singh. The question is:

"That the Bill to make, in public interest, special provisions with a view to !he timely detection of sick and potentially sick companies owning industrial undertakings, the speedy determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect of such companies I of the for matters connected therewith or Incidental thereto . as passed by the Lok. Sabha, be taken -nito consideration."

The motion was adopted.

THE vmE-CHATRMAN (SHRI M. P. KAUSHIK): We shall now take up clause by clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 3 *(Definitions')*

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK). We shall now take up clause 3. There are four amendments.

SHRI SUKOMAL SEN; 1 beg to move;

1. "Thai at page 2. lines 21-22 *fen* words 'but does not include a Govern ment company as denned in section 617 of that Act' the words and a joint sector company' be *substituted?'*

2. "That at page 2, line 27, *for* the words 'but does not include' the words 'and includes' be substituted."

3. 'That at pate 2, line 37, *for* the words 'public financial institutions' the words 'Independent agency' be substituted."

4. "That at page 3, line 36, *after* the words 'financial year' the words 'and shall include such companies whose managements have been taken over under the Industries (Development and Regulation) Act, 1951 and by the State Governments appointed authorised controllers."

ndments Vo *to* 4 *were put and the motion* 1 *re negatived,*

THE VICE-CHAIRMAN (SHRI M. *P.* JCAUSHIK): The question is:

That clause 3 stand part of the Bill,

The motion was adopted, was

added to the Bill.

Clause 4—*Establishment of Board*

THE VICE-CHAIRMAN (SHRI M. "P. KAUSHIK): We shall now take up clause 4. There is one amendment.

SHRI SUKOMAL SEN: I beg to Tnove:

5. "That at page 4, line 37. *a* the words 'other members' the words 'Including a representative of the State Government in whose jurisdiction the undertaking is situated' be inserted."

The amendment was put and the motion was negative.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): The question is:

That clause 4 stand the Bill.

the motion

Clause 4 *was the Bill*

Clauses 5 *to* 14 *were added.* .the *Bill.*

Clausi 15—*Reference*

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): We shall clause 15. There is one amendment.

SHRI SUKOMAL SEN: I beg to move: that at page *9, after lint* 4, the following be *inserted,* namely:

"6. (3) The labour may make a re ference to the Board, ii wage pay ments have become irretjblan. or have been stopped for over three months or if statutory clues have not been deposited by the em ployers for more than three months or if supply of inputs have not been regular for more than three months; (4) The Authorities collecting sta tutory dues may make a reference to the Board if due's have been out standing for over six and (5). The creditors may make a re ference to the Board if payments have been outstand:;; for over nine months;

The amendment was *pat :nd the motion* 11 *as negt*

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): The question is:

That clause 15 stand pari of thei Bill.

The motion 1

Llait'i l> was added to the Bill.

Clauses 16 *and* 17 *were added lathe Bill.*

Clause 18—*Preparation taction* **of** ***sfh.pmp?***

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): We shall now take up clause 18. There are two amendments.

SHRI MOSTAFA BIN QUASEM (West Bengal): J moved:

1 hat at page 12, *after* line 18 the following be *inserted,* namely:

7. 'Provided that the revival scheme shall not result in employment shrinkage for existing employees and *it* viability norms indicate ex cess labour then alternative em ploy mint shall be found for them, either in the same unit or in its sub sidiaries, if any'."

"That at page 12, after line 23 lire following be *inserted, namely:—*

8. '(n) scaling down liabilities com mensurate with asset backing; (o) equity type assistance at nominal interest; (p) conversion of irre gularities in working capital ac counts into term loans repayable over a fairly long periods at con cessional rates of interest: (q) grant of simple term loans at con cessional rates of interest for pay ing outstanding wages- and dues to vreditors to enable them to resume supplies; (r) provision to meet cash loans during initial years of the nursing programme'/'

Amendments ***Nos.*** *7 and S were put and the motions were negatived*

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): The question is:

That clause 18 stand part of the Bill.

The motion was adopted.

Clause 18 *was added to the Bill.*

Clause 19—*Rehabilitation hy giving financial assi Vance.*

SHRI MOSTAFA BIN QUASEM: I move:

"That at page 13, *after* line 42, the following be *inserted, namely:*

9. '(1A) Where the revival scheme stipulates that the liability on account of arrears of Sales Tax dues including Central Sales Tax dues shall not reflect on cash flow, then this liability shall be met by an appropriate refund by Government of India fr6m the Corporate Tax paid by the Company prior to its becoming sick'."

10. That at page 13, line 44, *after* the words 'every person' the words 'including workers' representatives' be *inserted."*

That at page 13, line 54, *c* the words 'deem fit' the followi be *inserted,* namely;

11. 'but it shall be mandatory for the Board to seek concurrence of the concerned State Government be- for sending a sick industrial cor - pany info liquidation'."

•Thai at page 13, *after* line 54' 1 he following be *inserted,* namely:

12. '(5) Where the revival scheme does succeed and the sick industrial company's net work is made posi tive, the unit shall not be handed over to the shareholders or the erstwhile Management and shall be nationalised'."

Amendments Nos. 9 to 12 *were put and the motions were negatived*

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): The question is:

That clause 19 stand part of the Bill.

The motion was adopted.

Clause 19 *was added to th..- Bill.*

THE VICE-CHAIRMAN (SHRI P. KAUSHIK): We shall now take up clause 20. There is one ame ment.

Clause 20—*Winding up sick industrial cotnpanv.*

DR. R. K. PODAR (West Bengal): beg to move;

That at page 14. *after* line 23, following be *inserted,* namely:

13. (5) It shall be mandatory for the Boards to seek concurrence of the concerned State Government, before winding up a sick industrial company.

(6) *In* the event of all concerned agreeing to the liquidation or winding up of a sick industrial company, workers' due shall be deemed t_0 be the first charge and prompt payment shall be ensured in all cases'.'

The question was put and the motion was negatived.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): The question is.

That clause 20 stand part of the Bill.

The unit ion was Clause 20 *was added, -to the Bill. Clause* 21 *was added to the Bill*

HE VICE-CHAIRMAN (SHRI M. KAUSHIK): We shall now take up clause 22. There is one amendment.

Clause 22—*Suspension of legal pro-*

SHRI MOSTAFA BIN QUASEM: I beg to move:

That at page 15, *after* line 30 the following be *inserted, in-mcly:—*

14. 'Provided further that nothing in this Act shall override the provisions of the Industrial Disputes Act and other labour laws and the interests of the labour shall be full protected during the consideration and implementation of the revival schemes referred to in section of this Act'."

question was " and the motion was nagitave.

THE VICE-CHAIRMAN (SHRI M P. KAUSHIK): Th_e question is:

That clause 22 stand part of the Bill.

The' motion was adopted.

Clause 22 was *• the Bill.*

Clauses 23 *to* 36 *he Schedule were added to the. Bill.*

Clause 1. *the Formula and the 'Title to the Bill*

SHRI VISHWANATH PRATAP SINGH: Sir, I beg to move:

"That the Bill b_e passed."

The question ond the motion

THE VICE-CHAIRMAN: The House stands adjourned till 11 a.m. tomorrow.

adjourned at thirty-eight minutes past six of the clock till eleven of the clock on Tuesday, the 17th December, 1985.