

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 at the final stage and we will be expanding the Commission very soon.

With these words, Sir. . . .

SHRI KALPNATH RAI: By what time?

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

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

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

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

SHRI KALPNATH RAI: Soon means 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 of 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 of 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 Board

would have wide ranging powers. 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 or 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 BIFR would help in getting over the problem of sickness to a great extent.

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

THE VICE-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 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 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 report 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 of 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 mentioned 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. Any- way, the Bill envisages to deal with such industries only as a corrective measure. But the Bill does not say anything about the preventive mea- sures and what they should do to pre- vent the industries from going sick. There is not a single word about it. Only some corrective measures have been mentioned. This is one big de- ficiency of the Bill.

Sickness of industries is prevalent in so many sectors. Whether it is cotton or textile or jute or engineer- ing 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 has many provisions and it is very difficult to deal with all the aspects of the Bill in such a short time. But I would like to deal with certain sali- ent features of the Bill. First of all, the term 'industrial undertaking' as defined in the Bill does not include ancillary industrial undertakings. It may be a small scale industrial under- takings. I mean that some company may not fall sick, but the sickness may percolate into the ancillary in- dustry. 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 falls sick and the com- pany 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 draw the at- tention of the hon. Minister. There are some criteria of industrial sick- ness. I am not going into it.

As regards the past attempts to deal with this problem, I find that from 70's the Government is taking one measure after another. But

every measure has been a self-de- feating measure. In the 70s, the Gov- ernment allowed the healthy units to take over the sick units under cer- tain conditions. That did not work. Then the responsibility was given to the financial institutions who were to see to it whether an industry is go- ing sick. Some early warning system was introduced. That too did not work. Then a Sick Industries Cell was set 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 them worked properly. Lastly, an institu- tional committee was also set up. That too did not help. Finally, they established this Industrial Recon- struction Corporation of India. That was converted into Industrial Re- construction Bank of India. About the functioning of this Bank, I have so many grievances. Paucity of time does not allow me to elaborate 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 function- ing of the Bank as to 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 reported and then about the contents of the scheme to 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 provisions of the Bill, it says, and I quote: "Timely detec- tion of sickness has been sought to be achieved by placing the onus of reporting the 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 detection 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 on 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 them. 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 the 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 think, 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 DIFR 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 hon. 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 scaling 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 during the initial years to be made up later. Unless these provi-

sions are made for revival of 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 provisions, 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 of the hon. Minister to this and I hope the suggestions made by me will get due consideration from the hon. Minister.

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, about 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 source 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

[Shri Sukomal Sen]

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 I would like the hon. Minister to throw some light on this.

Lastly Sir I 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 not 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 but of continuing to, invest in a failure.

The industrial history of the world is full of industrial casualties. Wherever there has been industrial growth wherever there has been industrial revolution, 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 occurring is the State, thereafter by this enactment, attempting 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 attempting 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 the 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 already gone bad—and it is not a question of medically treating that which is remediable because the grounds of sickness could be very many—if production, revenue to the State and employment opportunities 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 other detailed 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 as 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 you 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 industry, 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. I would like to mention, very briefly, of the question of the financial institutions and the Registrar of Companies. There is a mention here and as the honourable Minister, of course, very well knows most of the industries at whatever level of production, are aided and the entrepreneurial activity is sustained by finance from our 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 heirarchical structure of our private/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, sometimes preferential, sometimes objectionable, sustenance 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, some 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 of 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 nominees are on their Boards, and if despite 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 the 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 not renowned for our ability in financial matters. Despite that, I make bold to make some suggestions. In respect of financial institutions, in 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 million 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 arithmetic. 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 Rs. 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 of 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 of measures including the change of management through the speedy mechanism for mergers, amalgamations etc.

Sir, there can be no two opinions that in recent years the magnitude of industrial sickness has taken serious proportions. Over the decade, the number of sick units has almost doubled. Latest figures put such units as anything around 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, 1983 to Rs. 1,994.64 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 advances 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 of 10 years. Associated firms or those with common Director will also be thus debarred.

Government has done well to keep the MRTTP units out of the provisions of the Bill. They can now acquire or take over sick units without the laborious process of obtaining the clearance of the MRTTP 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 MRTTP 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 this category, mostly because of the lack of

[Shri T. Chandrasekhar Reddy]

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 networth. 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 networth could 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 case.

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 case 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 is due to factors beyond the control of the management, pecuniary action is not initiated. There are also the special cases of productive units that are sick 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 would 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 quicker.

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 of 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 cases 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 intervention of 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 important in the context of reports circulating that the Government proposed to close down some of these "sick" units like the Engineers India, the Hindustan Steel Construction Limited and a score others. I would request the Hon'ble Finance Minister to spell out the Government policy in this regard.

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

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 of sick units, adding 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 give confidence to the investors about future investment. I once again thank you, 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 industrial undertakings; the speedy

[Shri G. Varadaraaj]

determination by a Board of experts of the preventive, ameliorative, remedial and other measures which need to be taken with respect of 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 these 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, they did not exercise their rights properly, or they were not vigilant in monitoring 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 to 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 cent of the industries have gone sick because of mismanagement or for some 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 time the damage has been done to the industry. Many 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 cotton 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 loss 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 additional funds have to be given or the unit has to be scrapped. If 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 sickness. 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 yarn 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 consideration. 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 depends 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 concern that many Industries 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 been 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 not able to repay them.

Sir, No steps had been taken after Independence to set up Industry in 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 entrepreneurs 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 Jana]

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 survey, 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 should 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 entrepreneurs 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 inhabited by tribals. 93 districts in the country were identified as "No Industry District". Out of those 93 districts, 3 were in Orissa. Those were Phulabani, Bolangir 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 came up in that district. There is

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, most 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. If further steps are not taken, than 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 to speak. With these words, I conclude my speech.

*SHRI GANESHWAR KUSUM (Orissa): Mr. Vice Chairman Sir, I rise to speak a few words in support of the Sick Industrial Companies (Special Provision) Bill, 1985. I thank you for having allowed me to speak in Oriya.

Sir, late Pt. Jawahar Lal Nehru, the first Prime-Minister of India laid the foundation of Industrialisation in India. He felt that the nations progress is impossible without the growth 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.

[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.R.E. 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 Central 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

Sixth plan, now the existing units including many major Industries are facing serious power crisis. The duty of the Government is to revive the sick units. At the same time it is also the duty 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 Ib valley in Sambalpur district of the State of Orissa. If these 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 Ib 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 हूँ कि औद्योगिक-रूपणता इंडिस्ट्रियल सिकनेस ने ऐसा भयंकर रूप धारण कर लिया है कि इस संबंध में तुरन्त कानन बनाने की सख्त जरूरत है। लेकिन जो विधेयक उन्होंने प्रस्तुत किया है उससे हम उद्देश्य कि प्रति नहीं होगी ऐसा मेरा ख्याल है इसी लिए मैं कुछ बातों को सदन के सामने प्रस्तुत करना चाहता हूँ। यों तो सरकार की ऐसी नीति है जिसके चलते जो बोर्ड बनेगा वह क्या कर सकेगा, नहीं जानते। अभी मैं बिहार की गेहूँदास इंडिस्ट्रीज लिमिटेड के बारे में बताना चाहता हूँ। राज्य सरकार ने अधिग्रहण की मिफारिश करके केन्द्रीय सरकार के पास दो महीने पहले भेज दी। इस विधेयक में 60 दिन का प्रोविजन है कि शेयर होल्डर्स की बैठक बुलावे 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 हूँ। सबसे ज्यादा उपेक्षा इस बिल में मजदूरों की की गई है और जिस मजदूर के बिना औद्योगिक ऋणता को रोकना बहुत ही सम्भव मा है। इस विधेयक में मजदूरों की ज़रूरत 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। यहाँ तक कि अगर मजदूर सरकार को नोटिस देना चाहे, बोर्ड को देना चाहे कि यह सिकनेस की तरफ जा रही है या यहाँ पर गबन हो रहा है तो वह भी वहाँ 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 स्वी 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 हूँ कि सरकार ने जो तथ्य उस के सामने थे उस पर भी विचार नहीं किया। रिजर्व बैंक ने 378 बड़ी एवं मध्यम यूनिट्स की जाँच की उसमें से 52 परसेंट में मिमनेजमेंट पाया। उसमें

फाइनेन्शियल मिमनेजमेंट या दूसरी चीज पाई है। फाइनेन्शियल मिमनेजमेंट को रोकने के लिए आपने कोई प्रावधान किया है? जो लोग ऐसा करेंगे वह तो बिल 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 क्लार्ज है मगर उमने जो मिमनेजमेंट किया है फंड का तो उसके लिये कोई सजा नहीं है?

श्री विश्वनाथ प्रताप सिंह : डाइवर्शन करता है, मिमनेजमेंट करता है तो उसके लिये प्राविजन 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 प्राविजन ऐसा नहीं रखा कि उनके लिये क्या करेंगे, कैसे करेंगे? चाहे एल आई सी हो या दूसरे फाइनेन्शियल इंस्टीट्यूट 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 परसेंट सिकनेस फोल्टी प्लानिंग के जरिए होती है। उसके बारे में इस बिल में कोई प्राविजन नहीं है। इसको चेक करने के लिए कोई प्राविजन नहीं है। फोल्टी प्लानिंग हुई है या नहीं, ऐसा लगता है कि सरकार इसकी देखभाल नहीं करना चाहती है। उसी तरह से रिपोर्ट के मुनाबिक 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 हूँ। अमेरिका में तो कोई भी कंट्रोल नहीं है। वहाँ पर पिछले दिनों में बहुत तेज रफ्तार में 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, रामेटिरियल के बारे में यह बोर्ड कुछ नहीं कर सकता है। इस संबंध में बोर्ड क्या कर सकेगा जब सरकार ही कुछ नहीं कर पाती।

दूसरी बात मैं यह कहना चाहता हूँ कि मजदूरों के विवादों के चलते दो परसेन्ट की जो सिकनेस आती है इसके लिए आप एवार्ड ससपेन्ड करेंगे यह समझा जा सकता है। लेकिन यह लोजिक समझ में नहीं आता है कि 98 परसेन्ट केस में मालिक खा जाये उसके लिए भी आप मालिकों को पनिशमेंट देने के लिए वजाय मजदूरों को पनिश करें, यह उचित नहीं है। यह तो महाभारत वाली बात हो गई कि खाय भीम और पैखाना करे शकुनी। इसमें कोई टुक नहीं है। एक अन्य बात जिसकी तरफ मैं आपका ध्यान आकर्षित करना चाहता हूँ और जिसकी जांच प्लानिंग कमीशन ने भी की है वह है इम्प्रोपर टेक्नोलोजी इनएडेक्वेट एटेशन टू ग्रार 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 हूँ। शायद आपने उसको देख लिया होगा। श्री रतन टाटा की बात इंडिया टुडे में छपी है। मैं उसका उद्धरण देता हूँ :

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 for 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 corollary to competition and are issues that need to be addressed directly."

यह बात एक उद्योगपति ने खुद कही है मैं भी मोडिनाइजेशन चाहता हूँ। मैं मोडिनाइजेशन के खिलाफ नहीं हूँ। 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 मोडिनाइजेशन 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 दोगे 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 हूँ। मैं यह कहना चाहता हूँ कि सिकनेस की पहली चोट मजदूरों पर पड़ती है। मैं यह कहना चाहता हूँ कि प्रोविडेंट 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 हूँ कि आप इस बारे में कोई क्लस बनाइये या यहाँ पर कुछ आश्वासन दीजिये।

इसके अलावा मैं यह भी कहना चाहता हूँ कि इसमें कम्पनी की जो परिभाषा की गई है उस परिभाषा से काम नहीं चलेगा क्योंकि कम्पनियों के अन्दर बहुत से युनिट्स 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 हूँ कि आप इस परिभाषा को ग्राइड कीजिए। सेक्शन 20 में रोसेज के बारे में कहा गया है। अगर 50 परसेंट लोस होगा तो आप बोर्ड आफ डायरेक्टर्स की मीटिंग बुलाएंगे। मैं समझता हूँ कि 50 परसेंट हाई परसेन्टेज है। उसको आप कम कीजिए। 10 परसेंट, 5 परसेंट, जितना कम हो सकता है, कीजिए। उसको आप घटाइये। यह 50 परसेंट की बात बहुत हाई है। दूसरी बात मैं यह कहना चाहता हूँ कि जब बोर्ड यह समझे कि पैसे का गवन हुआ है या दूसरी तरफ डावर्जन किया है तो उस पर एक्शन लेने के लिए कहा जाएगा। मैं चाहता हूँ कि उसके रिनाइजेशन 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 हूँ कि इस तरह की कुछ मछल इसमें पाबंदियाँ लगाई जाये तो कुछ इसका अच्छा हल निकाल 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 है, इसमें करीब 85 हजार यूनिट्स हैं। आपके इस कानून बनने के बावजूद 513 लाजे यूनिट और ज्यादा से ज्यादा 1437 मीडियम इंडस्ट्रीज जो है वे इसमें कवर होंगी तो पहली बात 83 हजार सिक यूनिट्स इसमें नहीं हैं इसमें आ सकी है। दूसरी बात यह है कि क्या ये जो 513 बिग इंडस्ट्रीज और 1437 मीडियम इंडस्ट्रीज है, उनको आटोमेटिकली 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 है। इसलिये मैं चाहूंगा कि इसका कम से कम इसमें प्रावधान दीजिए और इसके लिये एक मैनेजीरियन कैंडिडेट लाज स्केल में बनाने को कोशिश कीजिए ताकि इसका प्रावधान हो सके। नहीं तो ये लगभग 2 हजार उद्योग जो चोस्ट 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 शर्तों के साथ मैं चाहता हूँ कि यह प्रावधान जो हम कह रहे हैं आप इसको यहीं मान लीजिए, तो अच्छा है इसके मनेक्ट 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 हूँ।

SHRIMATI KRISHNA KAUL
(Uttar Pradesh: Mr. Vice Chair-
man, with your permission I rise
to speak and to support The Sick
Industrial Companies (Special Provi-
sions) Bill, 1985 as proposed by our
hon. Minister of Finance Shri Vishwa-
nath Pratap Singh. The Bill seeks to
make in public interest several provi-
sions with a view to securing timely
detection of sick and potentially sick
companies owning industrial under-
takings, 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 mea-
sures 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 GAYA
JYON JYON DAWAA KI. The Gov-
ernment announced certain policy
guidelines of sick industries in Octo-
ber 1981 for the guidance of the Cen-
tral 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. It 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 Industry 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. Minister that the Government was considering the enactment of a special legislation for establishing a quasi-judicial body which would be designated as the Board for Industrial and Financial Reconstruction. Mr. Chairman, Sir, such a legislation is being brought forward known as the Sick Industrial Companies (Special Provisions) Bill, 1985.

Now, without going into the controversies regarding the comparative and contributive responsibilities of various sectors, various constituents, in an industry for causing industrial sickness, I would like to put in a word 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 abnormal if 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 in 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 international market scene, excessive taxation policy of 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 Financial 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 the Board. The Chairman and Members of both these authorities will be deemed to be public servants. These two 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 it. 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 or 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 welcome feature of the Bill is, in order to make effective enforce-

ment 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 is 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, 1985, 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 and 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 हूँ।

मिल मालिकान अपने मे बहुत कम पैसा और बैंकों से फाइनेशियल 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 प्रॉब्लम 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 बीरेन्द्र वर्मा]

नाक 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 पेशतर ही उसका टेक-ओवर कर लें तो ज्यादा अच्छा होगा। ऐसा देखा है कि सरकार सिक यूनिट्स का टेक ओवर करती है। जैसे कि टेक्सटाइल 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 बैंको का रुपया जाता रहता है, देते रहते हैं और एक स्टापगैप अरेंजमेंट इसमें रहता है। जो कस्टोडियंस जाते हैं, या जिनको आप जनरल मैनेजर्स 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 डेक्लेरेशन का और उनके टेक-ओवर का जो भी आप करें और यह बहुत ही सही बात है कि उनके बोर्ड आफ मैनेजमेंट बाज दफा जो उनके चैयरमैन होते हैं, मैनेजिंग डाइरेक्टर होते हैं, वह अपने खाने-कमाने का रास्ता बना लेते हैं और यूनिट्स को खाते रहते हैं। दूसरे यूनिट्स में शेयरहोल्डर्स और नहीं होते जिसमें कि उसके रुपये को लगा लेते हैं। तो जो दूसरे शेयरहोल्डर्स हैं, उनको पनिशमेंट मिल जाती है।

तो इसमें आप यह देखें कि कोई आपकी ऐसी मशीनरी होनी चाहिए या फाइनेंशियल 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 नाक-आऊट करने के इरादे से, तो उसमें कोई न कोई पैनल, एक प्रोबीजो इसमें किया जाना चाहिए और उसके 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 माडर्नाइज करके चलायें, जिस तरह उत्तर प्रदेश में शुगर फैक्टरी ली, जैसे आप टेक्सटाइल इण्डस्ट्री को लिये हुए हैं, जैसे आपने आठ शुगर फैक्टरीज को लिया हुआ है। यह महज स्टापगैप 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 आपकी महायता में उनको माडर्नाइज कराया जाए और वह नुकसान से भी बच जाएं, आपकी आय भी बनती रहे, आपका उत्पादन भी बना रहे, नेबर का इंट्रेस्ट भी लुक-आफ्टर हो, इस तरह आप ध्यान दें, न कि आप एक स्टापगैप अरेंजमेंट लेकर नुकसान उठाना प्रारम्भ कर दें।

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

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

साथवर, एक बात कह कर मैं समाप्त करता हूँ और वह यह है कि पब्लिक एण्डरटेकिंग जो है आपकी, जो सिक हो रह है, वह तो सब प्रायः अधिकांश नई इकाईयाँ थीं। उनमें भी अगर मिशनर्स आई हैं, तो उसके कारण भी आप बूढ़े क्योंकि वह कहीं और तो है नहीं, वह आपकी ही हैं तमाम और उनके कारण दुंदन के लिए मेरे पास यह सुझाव है—आपको सुझाव है कि सेपरेट कांडर होना चाहिए, जैसे अऊट डेटड फैक्टरीज बेकार हो जाती है और लाभ देना बंद कर देती है और नुसान में जाती है, इसी प्रकार जो पुराने आदमी हैं—स्टेट गवर्नमेंट भी जो रद्दी से रद्दी आदमी हो जाते हैं, एस०डी०एम० या आई०ए०एम० को बेकार समझते हैं, उन्हें इन यूनिट्स में कह देते हैं कि इनको आप ले जाइयेगा।

मेरे पास एक सुझाव है, चाहे पब्लिक एण्डरटेकिंग है या कोई फैक्टरी को आप लेंगे, एक सेपरेट कांडर आपका बने और नये आई०ए०एम० या नये पी०सी०एम० वाले जो भी जिस लायक हों, या सेपरेट ट्रेनिंग देकर उद्योग विभाग के ट्रेनीज को आप इसमें रखें। तभी आप अपना नुसान भी बना सकेंगे और जो मिशनर्स हैं, 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 इम्प्लेमेंट होगा और देश का भी इसमें भला होगा।

SHRI K. VASUDEVA PANICKER (Orissa): Mr. Vice-Chairman, Sir, I am supporting this Bill in toto. 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. This Bill has got a philosophical background, this Bill has got a historical reason. In 1973 there were around 85,000 sick 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 again 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 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. This 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 the system of 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 small-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 particular sector called the agrarian sector? It is impossible. So, the way out is to find out some other source of employment. And the other source of employment is industry and industry alone.

So, this Bill is seeking to redeem the industries which are going to suffer from the sickness and from the consequential death of the sickness. So, this Bill is aiming at gradual transformation of the Indian agrarian society into an industrial society. If that 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 mention. This Bill, if I am right, if I 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 of the industries are coming within the ambit of the small-scale industries. And if you take the small-scale industries and multiply by ten employees or 15 employees or 20 employees, it forms a major part of the working-class population of this country. 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 to consider.

In this connection, I want to bring out one thing. There were two sorts of philosophies debated in India, in the

pre-independent India. There has been going on a dialogue, a debate on the industrial process of India, on what sort of industrialisation this country should have. That was the question in those days. Mahatma Gandhi who believed in spiritualism and who analysed the implications of transformation of the society through industry, considered that the small-scale industries and the cottage industries were alone the panacea for the poverty and redemption of the people of India. But Pt. Jawaharlal Nehru who came across so many forces outside the parameter, outside the four walls, of India, understood that if we were going to have small-scale and cottage industries alone, there would come a time when foreign forces would become industrial monsters and would be in a position to capture India and would convert India again into a colony. So, he thought, it should not happen. There were two basic philosophies which were considered, which were discussed, which were debated on the Indian sub-continent 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 major and substantive industries, the core industries should be in the public sector and also that the Government of this country should go in for major, big 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 sector and the small-scale sector. If that is the case, if you want to provide employment through the small-scale industries and the cottage 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 from being an agrarian society to an industrial-cum-agrarian society. For that 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 industries in this country. Ever so many industries coming on the surface of this country means that more and more people are getting employed. It means that more and more consciousness, revolutionary consciousness of the people is coming up. If that is the case, then, India will be changing. We are going towards the twentyfirst century. At the moment we are standing at the tenth place in the industrial world. Our leader, Prime Minister Rajiv Gandhi, the young dynamic leader wants to take this country towards the twenty-first century and place this country across the entire world, to project 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 case, we have to consider this question. We have to include this aspect. If we can do that then we are going in for a change. I submit to the Honourable Finance Minister that he may please consider this aspect. Probably the Finance Minister must have been bored by the repetition of the discussion which went through this House and also the other House. Now, I would like to ask a few points and then conclude.

Whether the Government is thinking to provide sufficient professional managerial set up? Whether the Government is thinking of financial monitoring scheme? Whether the Government would consider seriously of tackling those people who siphon off the investment that comes from the financial 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 who are employed in the industry. I am not talking about the conception of attitude of workers. The labour attitude, unfortunately in this country has converted not into a productive institution, but a vested interest to hamper the industrial transformation in this country. 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 opportunity.

SHRI RAMESHWAR THAKUR (Bihar): Mr. Vice-Chairman, Sir, I compliment the Finance Minister for introducing the Sick Industrial Companies (Special Provisions) Bill, 1985, 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 determination 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 then, this will certainly help the cause of rehabilitation of industrial sickness in this country. As we are aware, we have scarce resources for our economic growth and development and establishment of new undertakings means high costs. The question of 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]
certainly reduce the hardships on these accounts. We are aware, figures have been quoted that we have nearly 85,000 units today involving an investment of more than Rs. 3500 crores. More important is the number of employed people today; and the number of unemployed is nearly 21½ million due to sickness statutory dues of provident fund and gratuity would amount to Rs. 450 crores which are due to them apart from the fact that they had to suffer a lot of hardship during the closure of the factories. This industrial sickness has been examined by various Committees, financial institutions, Chamber of Commerce and other export bodies. Like human body, there is a natural sickness in industry also. It is not only in India but it is a universal phenomenon. However, the basic reasons are primarily the changes in the technology, defective planning, supply of plant and machinery which is not proper and not equipped with the Indian conditions and also the over all costs. In many cases, from the very beginning, overrun starts and by the time, a revaluation is made, cost goes up and the investment in the industry also goes up and the unit becomes potentially sick before it goes into production. This aspect is equally important but there are other aspects which had been identified by the experts, i.e. the policy of the Government in relation to production, distribution, prices, change in the investment pattern, following new priorities in the plans, shortage of power, transport, raw materials and so on. The Planning Commission has given an example and the earlier example was that the controlled cloth scheme had been considered as a contributory factor to the prevalent sickness in that sector. The major reasons for which the management is responsible or the unit is responsible are mismanagement, diversion of funds, wrong dividend policy, excessive over-heads, lack of adequate provisions of depreciation on plant and machinery, over-estimation of demand. The Sixth Plan document which envisaged in

detail the factors leading to sickness concludes: "However, perhaps, the most important of all causes of sickness is the incompetence and stupidity of the management". So major factor is the management failure. There are other areas, for instance, the small scale industries where these 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 I would request the Minister to look into the causes of sickness of the small scale industries which are in 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, where 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 the 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 say 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, deficiency would be there in its practical implementation. In clause 3(1)(o), on page 3 the words "either before or after the commencement of the Act" may be added, in third line after the 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 of a "deemed" sick industrial company. Therefore, this wording "either before or after the commencement of the Act" is essential.

Secondly we have also to take into consideration. in view of the large number of sick companies, whether the definition of a sick industrial company should be: if the accumulated losses become equal to, or exceed, the net worth; whether the cash losses suffered by it is equal or exceed 50 per cent 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 of 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 applicable 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 shall contain such a fact." This is now lacking.

Then in clause 16(iv) there should be one proviso: "provided that if a director representing a public financial institution is already on the board of the company, the board may nominate him also to represent the board".

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

SHRI RAMESHWAR THAKUR:
Only two or three small suggestions.

In clause 17 the enquiry is not mandatory. It says "...may enquire". Though normally "may" is taken to mean "shall", since it is not mandatory as per clause 16, this clause 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 set out in that clause need not undergo any further formalities contemplated under the Companies Act, 1956. There will be complications unless this is clarified. If the formalities contemplated both under this Act and under the Companies Act have to be gone through, then it will delay matters and it will create complications.

Then in clause 32 the reference to the Memorandum or Articles of Association of an industrial company should be omitted since the Articles or Memorandum of Association may provide for adoption of the procedures contemplated by the Companies Act, 1956 and this law itself has been kept outside the purview of this Act. This Act says that no provisions of the Companies Act will apply. But the Memorandum or Articles of Association normally provide for the application 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 also 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 an expert body, as a catalyst, it has to work very efficiently and effectively as a modern 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 must have time-bound programmes. The boards should also take into consideration the requirements of training and research and a good cadre of managers to look after the work. One last point and that is the public sector undertakings have been 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 into the conditions of the public sector undertakings and whether they are, by and large, fulfilling the same norms which are provided in this Bill. Some suitable remedial action should be taken in regard to their rehabili-

tation 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 of 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 is 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 this 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 want 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 as 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, and we are left with only a little scope for litigation. So, the question is whether the present 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 institutions 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 of 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 these things, who diverts the funds from one company to another to money for himself, who cheats the banks and 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 to 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 taken 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 Supreme 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 cumbersome 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

Companies

[Shri Bir Bhadra Pratap Singh]

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 have kept open a wide range of litigation. Of course we could not shut down litigation by legislation, except what we have done 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? I 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. But if 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 up 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 only in these cases that such things are happening. If only such persons are indulging in such things, then amalgamation 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 resorted to.

One more aspect I would like to point out. In the case of 50 per cent erosion there is a provision to call a meeting of the shareholders. Now, the difficulties have been in those cases where the Board of Directors are clever enough to have more than 50 per cent of shares themselves. Then the first part of that provision will be made redundant.

The last aspect I want to touch upon is that suppose a sick unit is taken over and it has to become healthy. Now, that man comes 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 nationalised. He must not get it back, the defaulting man.

With these words, I think we have started, well started, and industrial sickness will be done away with and industrial growth will take place. With these words, I support the Bill.

Thank you.

SHRI VISHWANATH PRATAP SINGH: Sir, I am thankful to the hon. Members for the valuable contributions they have made to the debate. They have given positive support, made positive suggestions and also criticism of the Bill, in toto, while there may be a little dissatisfaction about the quantum of the stride we have taken, but on the direction of the stride, I think, there has been a wide support.

At the outset I may say that sickness in a growing industrial era is a

phenomenon 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 provisions have 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 various 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 labour. 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 *suo moto* 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. May I say that so far as labour is concerned, the Government's policy, 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 passu* with secured debts. It was this Government that brought the stock option scheme for the labour to have a share, ownership share, in the company. These are basically radical concepts. It is we who protected the industrial labour wages by increasing the DA from 130 to 165. It means protection of 101 per cent real wages. Take the bonus scheme. So far as workers are concerned, it is this Government that brought the limit to Rs. 2500/-. First they raised it from Rs. 750/- to Rs. 1000/- and then 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 instructions to the banks and to the Sickness Cell in the Reserve Bank that default in statutory dues should be monitored immediately and that they should start taking cognisance of defaults in statutory dues.

The concept here is that as a standard to measure sickness, we have not put multiple 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 also a sort of early detection method that when 50 per cent of the net worth is eroded, then the shareholders' meeting 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. So, 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 more of their own money and 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 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 lakh 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, the 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 automaticity.

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 some 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. I think, in case of sickness, we will have to shoulder it together, the State 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 reduced. If the State Governments make this one contribution, it would be of much help.

SHRI HARI 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.

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 to be made to reduce the losses in the public sector. Here, particularly, when out of Rs. 1,80,000 crores, Rs. 35,000 crores has to come from the public sector—from the Central public sector. Rs. 37,000 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. I do not see we can cope 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. I think, while we go through, all these will be dispelled.

Now, Mr. Jaswant Singh is not here. I do not agree with his philosophy that 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 country to 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 the leadership role and give the needed impetus to the economy in the core sector and this is how we came to the present stage of development. I think, in certain areas, the State will have to continue to play the role though the point is well taken that efficiency has to be there. Of course, I have agreed on this. In this he has 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 which are not viable will be given to liquidation. 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 up a process and all that. That takes a very long time and the present procedure takes care of that. For making is healthy, amalgamation process used to take long time. That has been provided in this and that has been the basic thinking in bringing 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 mismanagement or diversion of funds, and at times it does 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 company—not only that person but that company and that firm—will not get any financial help from any financial institution? So, he becomes virtually a financial leper because if he goes to any financial institution for financial help he will become an untouchable for the financial institution, and his firm also will not get anything. So, it is quite a tough punishment. I think if you ask about the choice, whether 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 punishment.

About the criminal part of it, what is there is, if the Board comes to the conclusion that there is criminality in misappropriation or something like that, it can report to the State Government and the State Government can, under the Criminal Procedure Code, take action. The State Government can do that. The point is, do we envisage that this Board will be conducting prosecution cases all over the country, or will it be concentrating on the economic side of rehabilitation when the criminal side can be taken care of by the State Government after the report is made to them by the Board? State Government or the Central Government can take the criminal action. So, criminal action is not debarred as such from this. Only we do not want to involve the Board into this litigation all over the country and spending its energy there. It can bring to the notice criminality to the notice of the relevant authority which can take action and so, criminal action is not debarred by this Bill.

Shri Rameshwar Thakur made very good point almost on all sections, but one thing which caught my eye is about the 'Appellate authority'. I think my friend is right. It needs correction. I do not know how it can be done, but formal correction has to be made. 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 made because we are taking away the rights of the High Court in procedure of amalgamation, etc. Had we not made any provision of any appeal, the likelihood was that this Act could be struck down in the courts as bad Act because there is no provision of appeal and the rights of the court have been taken away. So, we had to make a provision for appellate authority. Therefore, a person having the qualification of a judge or who has been a judge has been provided.

I think, Sir, I have not covered all the points but the major points of the debate which have come 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 you persist with your amendments?

SHRI SUKOMAL SEN: Yes, yes, we persist with our amendments.

SHRI VISHWANATH PRATAP SINGH: They are never amended.

THE VICE-CHAIRMAN (SHRI M. P. KAUSHIK): I 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): I 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 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 taken with respect of 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."

The motion was adopted.

THE VICE-CHAIRMAN (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: I beg to move:

1. "That at page 2, lines 21-22 for the words 'but does not include a Government company as defined 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 page 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."

Amendments Nos. 1 to 4 were put and the motions were negatived.

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

That clause 3 stand part of the Bill.

The motion was adopted.

Clause 3 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 move:

5. "That at page 4, line 37, after 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 part of the Bill.

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 to 14 were added to the Bill.

Clause 15—Reference of Board

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

SHRI SUKOMAL SEN: I beg to move:

"That at page 9, after line 4, the following be inserted, namely:

'6. (3) The labour may make a reference to the Board, if wage payments have become irregular or have been stopped for over three months or if statutory dues have not been deposited by the employers for more than three months or if supply of inputs have not been regular for more than three months; (4) The Authorities collecting statutory dues may make a reference to the Board if dues have been outstanding for over six months; and (5) The creditors may make a reference to the Board if payments have been outstanding for over nine months;

The amendment was put and the motion was negatived.

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

That clause 15 stand part of the Bill.

The motion was adopted.

Clause 15 was added to the Bill.

Clauses 16 and 17 were added to the Bill.

Clause 18—Preparation and sanction of schemes

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

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

"That 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 if viability norms indicate excess labour then alternative employment shall be found for them, either in the same unit or in its subsidiaries, if any'."

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

8. '(n) scaling down liabilities commensurate with asset backing; (o) equity type assistance at nominal interest; (p) conversion of irregularities in working capital accounts into term loans repayable over a fairly long periods at concessional rates of interest; (q) grant of simple term loans at concessional rates of interest for paying outstanding wages and dues to creditors to enable them to resume supplies; (r) provision to meet cash loans during initial years of the nursing programme'."

Amendments Nos. 7 and 8 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 by giving financial assistance.

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 from 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, after the words 'deem fit' the following be inserted, namely:

11. 'but it shall be mandatory for the Board to seek concurrence of the concerned State Government before sending a sick industrial company into liquidation'."

"That at page 13, after line 54 the following be inserted, namely:

12. '(5) Where the revival scheme does succeed and the sick industrial company's net work is made positive, 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 the Bill.

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

Clause 20—Winding up sick industrial company.

DR. R. K. PODAR (West Bengal):
 Sir, I beg to move:

That at page 14, after line 23,
 the 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 wind-
 ing up of a sick industrial com-
 pany, workers' due shall be deemed
 to 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 motion was adopted.

Clause 20 was added to the Bill.

Clause 21 was added to the Bill

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

*Clause 22—Suspension of legal pro-
 ceedings, contracts, etc.*

SHRI MOSTAFA BIN QUASEM:
 Sir, I beg to move:

That at page 15, after line 30,
 the following be inserted, namely:—

14. 'Provided further that nothing in
 this Act shall override the provi-
 sions of the Industrial Disputes Act
 and other labour laws and the in-
 terests of the labour shall be fully
 protected during the consideration
 and implementation of the revival
 schemes referred to in section 18
 of this Act'.

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

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

That clause 22 stand part of the
 Bill.

The motion was adopted.

Clause 22 was added to the Bill.

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

*Clause 1, the Enacting Formula and
 the Title were added to the Bill*

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

"That the Bill be passed."

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

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

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