

interest in this matter. This has been the fervent request of all the Andhra and an active point of discussion in the last General Elections.

-----

12.21 hrs.

SICK INDUSTRIAL COMPANIES  
(SPECIAL PROVISIONS) BILL—Contd.

[English]

MR. DEPUTY SPEAKER : We shall now take up item No. 7 on the Agenda—Further consideration of the Sick Industrial Companies (Special Provisions) Bill. The Hon. Minister of Finance may reply.

THE MINISTER OF FINANCE (SHRI VISHWANATH PRATAP SINGH) : Sir, I want to thank the Hon. Members for the constructive suggestions they have given on this Bill. It does show their interest in the subject and their concern about the sickness in the industry.

There have been various points of view and many Members have expressed that it is not enough, but so far as it is a step in a direction in which we all want to go, on that there has not been debate and for that there has been a general support for which I want to thank the Hon. Members for, there may be debate on the quantum of the steps to be taken, but the step to be taken in the direction of the step is right. That is the impression that we have got in this House and I want to express my gratitude for the same.

One thing I want to share with the House is that other agencies of financial institutions or State agencies or other agencies which are concerned with industry and its health shall continue to play their role and this Board does not displace their own and by the same token, it is not the only remedy for dealing with industrial sickness or industrial health. It is in fact when other agencies fail—it is not our conception that other agencies will not cease their work and only this Board will be there. To help the industry and keep it in health all agencies will be contributing and in fact when these agencies

fail, then the matters will come to the fore. And the main thrust is on rehabilitation and the main thrust of various provisions in the Bill is on keeping the industry alive, keeping it healthy and take measures, financial packages steps including amalgamation, and change of management. All these steps are envisaged in it to keep the unit healthy and it is only when all fail, then it is a question of liquidation and it was conceived that the Board should not be burdened with the procedures of liquidation because that is very lengthy and it will go to the appropriate forum in the High Court, and so far it can be kept alive, to that extent DFIR should be actively associated in this.

The point was raised about workers' interests by various Members from both sides. We have come with our amendment that in case all these have failed, labour cooperatives should also be considered by the Board.

SHRI BASUDEB ACHARIA (Bankura) : Sick units.

SHRI VISHWANATH PRATAP SINGH : Yes, Sick units.

We have already made a provision. A concern was expressed that the labour dues do not get paid when the units become sick. Already provision has been made that labour dues will be *pari passu* with security. So it is provided in the Budget itself and also in the Act that has been passed by the Parliament. So, that is one step that takes care under that enactment. We are also thinking of coming with a sort of rehabilitation package for the labour, apart from the existing provision, which would give a fair deal to the labour to rehabilitate itself and also get opportunities of employment in case a unit is absolutely non-viable or cannot be run on any ground. The first effort will be to run it.

Also, so far as the workers' participation is concerned, that will be governed by the exiting laws of the land regarding workers' participation and it will be as much applicable to any unit that comes there. So, what I want to say is that some enactments have to come by various other Ministeries like the Labour Ministry, the Department of Company Affairs etc., which we are thinking like

rehabilitation package. So, it is not that all things have been put at one place. But the various enactments of the country or the enactments of the Government are as much operative or as much effective as this enactment, whether they are put in one place or at various places, so far as basic interests are taken care of and provisions are made therefor.

Now, the other point is, what punishment has been envisaged in this Bill about these people who siphon away money or mismanage it and then the unit becomes sick. Though I have said that basically this is for restoration of health, this is also an important point. I want to share with the Hon. Members that there were two routes open. One is to make provision in the Bill itself which we are now doing by an amendment. The other is that the Board could come to the conclusion that there is diversion and then the Government could take administrative measures or directly advising financial institutions. In fact, this was in our mind initially. That is why, an expressed provision had not come in the Bill earlier. The advantages that we were advised in this route are, once you make an enactment and a clause, it immediately become justiciable, and for stay order etc., they go to the court. But once the Board recommends certain thing, then the institutional finances have get the commercial judgement. Nobody can force the commercial judgement by any court order or anything and taking cognizance of this, if administratively the Government advises, it does not become a court matter or justiciable under the Act. So, this route was thought of. I am only sharing the view. We thought, we would be very effective in that way. Once taking the views of the Board, no Chairman would dare to go against the conclusion of the Board and also the guidelines given by the Government to give money. At the same time, we will not be subject to going court and justifying it because it is an internal matter. So, in fact, it was not our intention to dilute it. But what was in our mind was to deal with it more effectively. Here in the debate, it emerged as consensus of the House and many Hon. Members have said that the provision should be made in the Bill itself. Since our intention is same as that of the Hon. Members and sensing the mood of the House and advice coming across all sections of the House, we have brought this amend-

ment and made the provision in the Bill itself. And the provision that is made is, once the Board comes to the conclusion that there has been diversion or management which has been detrimental to the company and because of that the unit has become sick, it will direct the person concerned. The word used is not, "advise" or "come to the conclusion" or something like that. The provision has been "direct". Now, if the direction of the Board is not followed by a person, it has been provided that there will be punishment of three years. It will direct a financial institutions not to extend any financial assistance for a period of 10 years. Now, the question was raised, why not for long time; why is only for 10 years? Now, even life imprisonment is 14 years. I think, 10 years' period is a sufficiently strong time, long time and is an enough punishment. Because, it is not only that person is debarred for 10 years, if he is a partner to any other firm or if he is director in any company, then that firm or that company also gets debarred from financial assistance. So, virtually he becomes a financial leper. If he is associated with any company or any firm, that firm also gets debarred. It is a big punishment because other firms in which he is associated also get debarred from financial assistance. So, we thought, it is sufficiently a deterrant punishment.

About misfeasance or money has been given by any person which should not have been given, the power of recovery under Section 24 has been given to the Board to recover the money and direct that the money be paid.

The other point raised was as to why not criminal prosecution powers be given to the Board. We thought that once Board comes to the conclusion that there is mismanagement or criminal offence, it could bring it to the notice of the Government and then the Government could appropriately proceed under the Criminal Law or under the proper law. To burden the Board itself of being the complainant and conducting prosecution cases in various parts of the country would be, I think, not fair. So, it is better that the Government which has got its agencies all over, its lawyers, its whole system, if there is a criminal offence in any part, it could be pursued under the Criminal Offences Act in the present law.

[Shri. Vishwnath Pratap Singh]

In so far as the criminal offences are concerned, nobody is protected. The existing provisions of prosecution are there and that will be operative as much.

Regarding change of management, provision has been made—A point was made that they are very clever and it is very difficult to change the management. Let us trust on the competence and the wisdom of the Board and that is why the change of management provision has been made.

I think, these were the two very basic concerns which we have met in the amendments. The other points that were raised were that the detection system is not early enough. I am first coming to the broad points and I will then come to other points. If we see that the net worth is the shareholders' money or risk money put into, the provision is made when there is erosion of 50 per cent. The general body of shareholders has to be called and only when they clear that the present management should continue, it should be allowed to continue. Therefore, there is a mechanism of early detection. It will be quite earlier than the existing system that we have got. Because now what happens, when the net worth gets eroded—what to say of 50 per cent, but several times the net worth is eroded—only then people come to know that is becoming sick.

So, the net worth principle is included in this, because the right to manage any enterprise is to the extent that you have your share money. That gives you in the present system the right to manage a unit. When you have exhausted it and when you are on your creditors' money, loan money, you have lost your right to manage a unit, the basic right by which the right had arisen to manage it, so that you may not go on consuming. Now you have consumed your own money, you go on consuming the credit money, which will be that of the institutional finances. In our present set up there is a very large amount of institutional finance money. So, compulsorily it has been made that they have to come to the core.

I may inform the House that they have already asked the Finance Ministry to issue

instructions to the Banks, Financial Institutions that they should start monitoring the defaulters of any statutory dues. I think, the Hon. Members made a point that when there is a default of statutory dues or the wages of labour, that is the quite earlier indication that something is going wrong. So, we have a Sickness Monitoring Cell in the Reserve Bank, we have it in the Financial Institutions, and in the Banks where they come. Many directors of different concerns are there and they get information. So, we are advising all these bodies separately apart from this that they should all start monitoring the defaulters and their statutory dues. So this is also what the Hon. Members have suggested and we have included it in an administrative order...

SHRI AMAL DATTA (Diamond Harbour): Give it publicity.

SHRI VISHWANATH PRATAP SINGH: Yes, in fact, it is only a few days back I have given instructions. Before going to the Press I thought that it would be proper for me to first inform the House and then we will give publicity.

The other point is: why SSI units have not been included and it is confined to the medium and large? I share the concern of SSI units because they have a very large base and it has a very large potential of employment and also distribution of employment opportunities across the country. But what we found and what we felt purely on administrative reasons was that the structure of the Board would not be able to cope up with all the small scale industries. That was the sole reason why we have it in the present form. Let us take the load which we can start with and competently deal with and as we gain experience in handling these matters, we could have a look about it sometime later after a few years of working.

About partnership firms, member asked why partnerships are not included. In fact, the concept, the whole mechanism and the hub of the measure is the standard of net worth. The net worth measure is not applicable to partnerships. So with that definition of sickness by net worth that we have evolved in this we will not be able to measure the partnership firms as and when they become sick.

Shri Mool Chand Daga made a point about losses in the public sector and why not BIFR deal with it. I will not share the private conservation I had and Mr. Gupta has taken offence to it. I think, the point made about the public sector losses is of great national concern to all of us, not in the sense of any accusation, but now there is the need to improve the efficiency of the public sector. The public sector plays its role in our achieving self-reliance. It has given us the necessary raw material and service to the economy. It has been our major engine of economy and will continue to be our major engine as the Prime Minister has mentioned that the allocations and investments will be greater in the Seventh Plan than what it was in the Sixth Plan. But, at the same time, out of Rs. 180,000 crores of Seventh Plan, Rs. 35,000 crores internal resources generation has to come from the public sector. If this internal resource generation is not coming forth, I do not think that we shall have the Seventh Five Year Plan. That is the importance of the public sector being the hub of our Seventh Plan. Its losses get reflected in the administered price increases or in the budgetary support increasing the deficits which may make both sick. So even for price stability apart from development, it becomes necessary that the public sector losses are reduced because otherwise also any extra effort made for raising the resources, if that gets absorbed in meeting the losses of the public sector, the net result is what is available by extra tax effort for development is lost. So we are going into this in detail as to how to reduce the public sector losses and how to have administered prices according to normative standard. This exercise is being done but while the Government is aware of this problem, is concerned with it and is applying itself, I do not think BIFR is the proper place to bring the sick public sector units there. Sarvashri Purohit, Dighe ji and various other Hon. Members mentioned about the finalisation of accounts and said that they can easily go on prolonging it and take their own time and that way the purpose of the Bill will get defeated. I would like to say that it has been provided that the Central Government, the State Governments, financial institutions and banks can also refer the matter to the Board. Further, company law has its own provisions about submission of audited accounts within a specific time.

SHRI AMAL DATTA : Workers have not been given that right.

SHRI VISHWANATH PRATAP SINGH : The Board has *suo moto* right to take action. It is not dependant on the owners' reporting and a certain agency reporting. It has been provided that it can *suo moto* take action and if the workers bring it to the notice of the Board and the Board is satisfied then it can act and that way the workers are not deprived.

SHRI BASUDEB ACHARIA : But it is not provided in the Bill.

SHRI VISHWANATH PRATAP SINGH : When the provision is *suo moto* it is a very wide provision.

Shri Madhav Reddi and Shri Ayyapu Reddy mentioned that this period of seven years is too long. May I mention that many a time when new industries are put up it is the experience of many companies that they incur losses and it takes time for them to explore the market. So, if we apply it too early then many potentially very good units will come under sickness definition and get into trouble. So, we thought seven years, period is reasonable. But even before seven years if there is mis-management or gross mis-utilisation then there are existing laws which can take care of it. If there is any criminal mis-appropriation then the existing law can take care of it.

Shri Rajhans mentioned about the shareholders. What I said about the workers is also open to share-holders. They can bring it to the Board and the Board can also *suo moto* act.

Sir, about the time allowed on various provisions the Hon. Members have expressed that this is too dilatory and that too much time is being allowed. Sir, we have to see in the present state of affairs how much time is lost. Now, we are taking this provision outside the jurisdiction of the High Court and bringing it into this Board. If we compare it with the present time, I think, it is a practical time frame. It is a quasi judicial body. It will have to give requisite time. So, let us

[Shri Vishwanath Pratap Singh]

have a time frame which is practical and, I think, the provisions that have been made take care of this.

**SHRI E. AYYAPU REDDY (Kurnool):** Winding up has again gone back to High Court.

**SHRI VISHWANATH PRATAP SINGH:** The Board is not concerning itself with funeral ceremonies. We gave thought to it as to why not winding up proceedings should also be brought in. Then it came to our judgement if we put winding up proceedings in this Board then much of its energy will be lost in prolonged winding up proceedings rather than restoring the unit to health.

**SHRI E. AYYAPU REDDY:** There are two forums to deal with one industry. One is the Board and the other is the High Court. It will again prolong the matter.

**SHRI VISHWANATH PRATAP SINGH:** There are two forums. One is, still the patient is breathing and the other is till the patient expires.

**SHRI E. AYYAPU REDDY:** So far as the sick industry is concerned... is it making or alive or...

**SHRI VISHWANATH PRATAP SINGH:** Our purpose is to restore health and that is the function of the hospitals. If the hospitals get dead bodies, then the hospitals will not function. They will have to function as morgues.

Then the point was raised as to why a provision was made, that is, a judge has been put and the Appellate body has been provided? The point was that we are taking away some powers of the courts and the high courts. Now, by taking away the powers, if an Appellate provision has not been made, then this enactment would not have held good in the courts and as we are taking away the powers of the court, appellate provision was necessary and for that someone of a capacity of a judge or the status of a judge was provided to keep the confidence in the system and also when the judiciary is taken

away from some of them, it is necessary to have a judge or a person having competence of a judge so that the Supreme Court also feels that there is reasonable provision for appellate for being heard. So, this was the basic thinking.

Now, the other point was that the various contracts would be suspended and the interests of the labour could be affected. If it was the concern expressed by the Hon. Member the provision is that it is not obligatory on the part of the Board that it will suspend all contracts and that it will suspend contracts across the Board itself on the discretion of the Board and it can suspend only those contracts which it thinks that it is reasonable and that way we should have try in the discretion of the Board that we should not think that it will be acting as anti-labour. That way it is not obligatory or compulsory on the Board to Labour contract.

Sir, Shri Krishna Iyer mentioned about the liquidation and I have mentioned about the rehabilitation package which we are thinking of labour dues being made *pari passu*. We have already made provision in the budget and about the compensation Rs. 20,000 were exempt. This year we have raised the exemption to Rs. 50,000 and if some provision is made in some scheme, then total exemption is also contemplated. These are some of the provision in the interest of labour which we have in mind.

Now, the other side of the position was that the Board should have the power to grant all financial relief. I think that might be too harsh on the financial institutions and while financial institutions will be involved in making the package, I think, the discretion of the financial institutions should not be so fettered and I am sure that a package suggested by the Board after all considerations will be honoured by the financial institutions unless they have very extreme difficulty which they can present before the court.

Shri Amal Datta mentioned that the Central Government should take all the responsibilities on this, I think we have to share it and the Centre has to come forward and the State Governments, banks and various other parties have to share the bur-

den, I think there is no escape from that. I think if the State Electricity Boards improve, many sickness will be reduced without further drain on our resources.

**SHRI E. AYYAPU REDDY :** Because they are not able to pay the Electricity Board's bill, some of the industries are becoming sick.

**SHRI VISHWANATH PRATAP SINGH :** And some do not start paying it so that the electricity is disconnected and they say that there have not been able to pay.

**MR. DEPUTY SPEAKAR :** Because of this even the Electricity Boards will become sick.

**SHRI VISHWANATH PRATAP SINGH :** A point was made by Shri Daga that as twenty years experience has been put in the Bill, young blood will not be able to come as Members of the Board. We have moved an amendment to reduce it to fifteen years and I think, that will meet his point.

Then, about appointment of labour representatives as also other persons who are experienced people in industry as also have expertise in certain fields, that point was made by some Hon. Members including Shri Priya Ranjan Das Munsii. What he meant was professional people. There is a provision in the Bill that people who experience in labours matters, banking, technology and economics would be eligible for being appointed in the Board.

Regarding reference of this Bill to the Select Committee, I think, the Government has responded to the various suggestions made by the Hon. Members and certain amendments have been brought in.

This is an important piece of legislation and we want to go into immediate action. The purpose of reference to Select Committee is to get public opinion and I think, we have responded to the sentiments of the House. It would not, therefore, be advisable to lose more time by sending it to the Select Committee.

With these words, I commend this Bill to the House for its approval,

**MR. DEPUTY SPEAKER :** Shri Daga has moved his amendment to the Motion for Consideration.

**SHRI MOOL CHAND DAGA :** I seek leave of the House to withdraw my amendment.

**Amendment No. 45 was, by leave, withdrawn.**

**MR. DEPUTY SPEAKER :** The question is :

“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 with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected therewith or incidental thereto, be taken into consideration”

*The motion was adopted*

**MR. DEPUTY SPEAKER :** The House will now take up clause by clause consideration of the Bill.

**Clause 2 :** The question is :

“That clause 2 stand part of the Bill”.

*The motion was adopted.*

**Clause 2 was added to the Bill**

**Clause 3—(Definitions)**

**SHRI E. AYYAPU REDDY :** I beg to move :

Page 3, line 37,—

add at the end—

[Shri E. Ayyapu Reddy]

“and includes every industrial unit which has stopped functioning and producing for a period of six months on account of lack of adequate finance, managerial failure and resulting in termination of employment of the employees, declaration of lockout or an imminent threat of declaration of lockout or termination of employment.” (57)

SHRI BASUDEB ACHARIA : I beg to move :

Page 3. line 37—

*add* at the end—

“and shall also include such units whose managements have been taken over under the Industries (Development and Regulation) Act and the State Governments appointed authorised controllers.” (92)

SHRI E. AYYAPU REDDY : I have moved my amendment like this :

“and includes every industrial unit which has stopped functioning and producing for a period of six months on account of lack of adequate finance, managerial failure and resulting in termination of employment of the employees, declaration of lockout or an imminent threat of declaration of lockout or termination of employment.”

The purpose is clear that instead of depending upon book accounts and book adjustment to find out whether the industry has become sick or not, we want a patent test to be adopted for the purpose of declaring it as a sick industry.

SHRI BASUDEB ACHARIA : The purpose of my amendment is this. I want that not only the large and medium industrial units, but all the industrial units should also be covered under this. That is why, my suggestion is to add at the end of line 37.

“and shall also include such units whose managements have been taken over under the Industries (Development and Regulation) Act and the State Government's appointed authorised controllers.”

All the industries including the small units, which are also a major part of the sick industries should be included. Unless the small industries are included. I think the purpose will be defeated. That is why my suggestion is to include all the sick industrial units, including small units.

SHRI VISHWANATH PRATAP SINGH : Sir, so far as the criteria are concerned, the Hon. Member mentioned about managerial failure resulting in termination of employment of the employees, declaration of lockout or an imminent threat of declaration of lockout or termination of employment. While, these are all cause for concern, I think for measuring sickness, it is simple to have one variable or two. If we have several variables, we will get more into a debate as to whether it is sick or not. Here is a simple way of measuring sickness through the net worth aspect. As soon as you touch 50 per cent erosion, you go to the shareholder and when the erosion is 100 per cent, you come to the Board. So, we have got just one yardstick. These problems are also dealt with under the IDR provisions. As I mentioned earlier, the other routes of treating sickness are not closed. In fact it is a collective effort. The take over of a unit can be done through the provisions under the IDR Act, if there is a closure or mismanagement, etc. I think, if we take over all the units, we will not be able to deliver goods on that scale. It is better to take up such things whereby we can deliver goods, rather than take up a measure by which we cannot handle, though it is desirable that we attend to it. The other provisions which are in existence can take care of these things. It is not our concept that this Bill is going to displace or substitute other provisions of dealing with sickness. Those Acts have their role and these problems can be tackled by them.

SHRI AMAL DATTA : Those units which are presently, i. e. already sick and not to be diagnosed later, have to be taken over.

SHRI VISHWANATH PRATAP SINGH : Even the present units, once they have eroded

their 100 per cent net worth, they will qualify to come before the Board. Here the Governments, whether it is provided in the State Governments or in the Central Government, they call can report. If they have it, they are competent to report.

MR. DEPUTY SPEAKER : If the House agrees, I shall put all the Amendments to Clause 3 to the vote of the House.

*Amendment Nos. 57 and 92 were put and negatived*

MR. DEPUTY SPEAKER : 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).

SHRI E. AYYAPU REDDY : I beg to move

Page 4,

*after line 49, insert—*

“Provided that where the Board consists of more than six persons, at least one of them shall be a member from Lok Shbha and where the Board consists of fourteen persons, at least one Member shall be from Rajya Sabha.” (55)

MR. DEPUTY SPEAKER : Shri Vishwanath Pratap Singh for Government Amendments.

SHRI VISHWANATH PRATAP SINGH : Yes, I am moving. I beg to move :

Page 4, line 43, for “twenty”

*substitute “fifteen” (102)*

SHRI E. AYYAPU REDDY : My Amendment is this that provided where the Board consists of more than six persons, at least one of them shall be a Member of the Lok Sabha and where the Board consists of fourteen persons, at least one Member shall be a Member of the Rajya Sabha.

SHRI VISHWANATH PRATAP SINGH : Sir, Members are not debarred from being Members of Parliament, either Lok Sabha or Rajya Sabha. Members of Parliament are not barred from becoming Members of the Board and I think let it be open rather than making a specific provision for it.

SHRI AMAL DATTA : I hope the Minister will agree that it is an Office of Profit. Unless you exclude it by an Act of Parliament that becomes an Office of Profit to which a Member of Parliament cannot be appointed.

SHRI VISHWANATH PRATAP SINGH : That is one aspect more added on my side.

MR. DEPUTY SPEAKER : Let us take up Government Amendments first. No. 102 moved by Shri Vishwanath Pratap Singh.

The question is :

Page 4, line 43. for “twenty”, (102)

*Substitute “fifteen”*

*The motion was adopted.*

MR. DEPUTY SPEAKER : I shall put Amendment No. 55 to Clause 4 to the vote of the House.

*Amendment No. 55 was put and negatived*

MR. DEPUTY SPEAKER : The question is :

“That Clause 4, as amended, stand part of the Bill”

*The motion was adopted*

Clause 4, as amended, was added to the Bill.

Clause 5—(Constitution of Appellate Authority)

SHRI E. AYYAPU REDDY : I beg to move.

Page 5, line 8.

omit “has been a Judge of the Supreme Court or who is or” (110)



MR. DEPUTY SPEAKER : Do you want to say anything ?

SHRI VISHWANATH PRATAP SINGH : I do not agree with the Amendment, regarding Clause 5.

SHRI E. AYYAPU REDDY : The Hon. Minister is pleased to say that unless they constitute an appellate authority, the Supreme Court or the High Courts are likely to strike it down. And they seem to have taken away the jurisdiction of the courts; and, therefore, they find it necessary to constitute an appellate authority. My submission is that it is a wrong conception. Now, the High Court has got jurisdiction regarding writ under Article 226. Against an order of the Board, we are finding now, that in Excise, Income tax and other matters in spite of the fact that there are appellate tribunals, the litigants are approaching the High Courts. Even after an appellate tribunal, in matters of Excise, Income tax and otherwise also they are going to High Courts, and are invoking the jurisdiction of the High Courts under Article 226.

Now, the court itself takes so much of time. For every order of the court, one man will run to the appellate authority, and then drag on the litigation. If the appellate authority reverses the order of the Board, naturally that will be the subject matter of admission by a writ, because where there is a reversal order, the High Court will naturally intervene. Even if it confirms the order of the Board, the litigant is taking it to the High Court. So, the concept of having an appellate authority over a Board which has been constituted with highly qualified persons, will only result in endless litigation. It is only to avoid that, that I have said that the idea of having an appellate tribunal must be dropped.

MR. DEPUTY SPEAKER : Already the Minister has replied to you. Now, I put Amendment No. 110 moved by Shri E. Ayyapu Reddy to the vote of the House.

*Amendment No. 110 was put and negatived*

MR. DEPUTY SPEAKER : The question is :

“That Clause 5 stand part of the Bill.”

*The motion was adopted*

Clause 5 was added to the Bill

MR. DEPUTY SPEAKER : Clause 6 Mr. Das Munsi is not here. The question is :

“That Clause 6 stand part to the Bill.”

*The motion was adopted.*

Clause 6 was added to the Bill.

Clause 7—(Removal of Members from office in certain circumstances)

MR. DEPUTY SPEAKER : Mr. Das Munsi is not here. Mr Ayyapu Reddy.

SHRI E. AYYAPU REDDY : I beg to move :

Page 6,

*omit* lines 24 to 30. (58)

Page 6,—

*for* lines 24 to 30, *substitute*—

“Provided that no Member shall be removed from the office unless he is given an opportunity of being heard on show cause to why he should not be removed on any of the grounds mentioned in clauses (a) to (e).” (111)

There is an obvious mistake here. The Hon. Minister may kindly look at the proviso under Clause 6(2) which says :

“Provided that no person shall hold office as Chairman or other Member after he has attained the age of sixty-five years.”

There is absolutely no dispute with regard to that. The maximum age of a member must be 65 years. But one of the qualifications is : even a person who has been a Judge of the Supreme Court can be appointed. A person who has been a Judge of the Supreme Court will retire only after the age of 65. The only contingency is that he has resigned before he had attained the age of 65. Already, there is

difficulty in finding suitable personnel for the Supreme Court. There is no necessity now to say that a Judge of the Supreme Court, or a person who has been a Judge of the Supreme Court will be drafted. There are enough number of High Court Judges. After all, the calibre is the same; and from out of them, only some are recruited. So, using the words, "has been a Judge of the Supreme Court" and also saying that he should be within 65 years, appear to be rather paradoxical and contradictory.

**SHRI VISHWANATH PRATAP SINGH :** This applies to a case where some Judge has resigned before attaining the age of 65 years; and now he is not a Judge.

**SHRI E. AYYAPU REDDY :** No Judge has retired so far, before 65.

**SHRI VISHWANATH PRATAP SINGH :** But in case such a person is there, and talent is available, why should we exclude it ?

**MR. DEPUTY SPEAKER :** I now put Amendment Nos. 58 and 111 to vote.

*Amendment Nos. 59 and 111 were put and negatived.*

**MR. DEPUTY SPEAKER :** The question is :

"That Clause 7 stand part of the Bill".

*The motion was adopted.*

Clause 7 was added to the Bill.

Clause 8—(Secretary, officers and other employees of Board or Appellate Authority)

**MR. DEPUTY SPEAKER :** Mr. Ayyapu Reddy.

**SHRI E. AYYAPU REDDY :** I beg to move :

Page 6, lines 32 and 33,—

*omit "and a secretary (by whatever name called) to the Appellate Authority" (59)*

Page 6, line 37,—

*omit "or, as the case may be, the Appellate Authority" (60)*

Page 6, lines 41 and 42,—

*omit "and the Appellate Authority" (61)*

The Supreme Court is asked to intervene. My submission is that already the Supreme Court is over-burdened. Recently, the Chief Justice has said that it is not able to dispose of final hearings on matters. It has become a case of dealing with interim orders only. Now we are trying to say that a reference must be made to the Supreme Court. Why should we confer another jurisdiction on them for deciding these matters ? Why should the Supreme Court be brought in here ? It is not able to find enough time to dispose of the work which it has already undertaken. Can the Government not itself dispose of these things and if the Government says he is disqualified, given him an opportunity and see that he is disqualified ? If he is aggrieved he will go to the Supreme Court or the High Court. But why should we confer jurisdiction or powers on the Supreme Court now ? If you ask your adviser, they will say that you should not burden the Supreme Court with this type of work. A reference can be made for the removal of that person, if need be. After all, the Government can give them a proper notice and an opportunity to be heard. A reference can be made for removal. Otherwise, how many years will it take ? Will it be able to answer your reference immediately ? I do not want the Hon. Minister to make a reference to the Supreme Court and bring in the Supreme Court unnecessarily into this Sick Industrial Companies Bill.

**SHRI VISHWANATH PRATAP SINGH :** This is a quasi-judicial body and the Member of a quasi-judicial body should have a sanctity and that is why we wanted a judicial body to advise us. The case goes to the Board, and they are empowered, and it may be said that the Board is in the hands of the Government.

**MR. DEPUTY SPEAKER :** I shall now put Amendments Nos. 59, 60 and 61 to Clause 8 to the vote of the House.

*Amendment Nos. 59 to 61 were put and negatived.*

MR. DEPUTY SPEAKER : The question is—

“That Clause 8 stand part of the Bill”.

*The motion was adopted.*

**Clause 8 was added to the Bill**

MR. DEPUTY SPEAKER : Clause 8A. Dr. Datta Samant. He is not here. We go to Clause 9.

Shri Ayyapu Reddy, Amendment No. 62.

**Clause 9—(Salaries, etc. be defrayed out of the consolidated fund of India)**

SHRI E. AYYAPU REDDY : I beg to move—

Page 7, line 7,—

*omit* “and the Appellate Authority” (62)

MR. DEPUTY SPEAKER : You have already spoken. You have already said whatever you want.

MR. DEPUTY SPEAKER : I shall now put Amendment No. 62 to Clause 9 to the vote of the Hous.

*Amendment No. 62 was put and negatived.*

MR. DEPUTY SPEAKER : The question is—

“That Clause 9 stand part of the Bill”.

*The motion was adopted*

**Clause 9 was added to the Bill**

MR. DEPUTY SPEAKER : Now we go to Clause 10.

**Clause 10—(Vacancies, etc. not to invalidate proceedings of Board and Appellate Authority)**

SHRI E. AYYAPU REDDY : I beg to move :

Page 7, lines 9 and 10,—

*omit* “or, as the case may be, the Appellate Authority” (63)

Page 7, lines 11 and 12,—

*omit* “or the Appellate Authority” (64)

Page 7, line 13,—

*omit* “or the Appellate Authority” (65)

MR. DEPUTY SPEAKER : Now I shall put Amendments Nos. 63, 64 65 moved by Shri E. Ayyapu Reddy to vote.

*Amendment Nos. 63 to 65 were put and negatived.*

MR. DEPUTY SPEAKER : The question is :

“That Clause 10 stand part of the Bill”.

*The motion was adoped*

**Clause 10 was added to the Bill**

**Clause 11—(Members and staff of Board and Appellate Authority to be public servants)**

SHRI E. AYYAPU REDDY : I beg to move :

Page 7, line 15,—

*omit* “and the Appellate Authority” (66)

MR. DEPUTY SPEAKER : I shall now put Amendment No. 66 to vote.

*Amendment No. 66 was put and negatived*

MR. DEPUTY SPEAKER : The question is :

“That Clause 11 stand part of the Bill”.

*The motion was adoped*

**Clause 11 was added to the Bill**

**Clause 12—(Constitution of Benches  
of Board or Appellate  
Authority)**

SHRI E. AYYAPU REDDY : I beg to  
move :

Page 7, lines 18 and 19,—

*omit* “or, the Appellate Authority”  
(67)

Page 7, lines 24 and 25,—

*omit* “or as the case may be, the  
Appellate Authority”. (68)

MR. DEPUTY SPEAKER : Now, I shall  
put Amendment Nos. 67 and 68 to vote.

*Amendment Nos. 67 and 68 were put  
and negatived*

MR. DEPUTY SPEAKER : The ques-  
tion is :

“That Clause 12 stand part of the  
Bill”.

*The motion was adopted*

**Clause 12 was added to the Bill**

**Clause 13—(Procedure of the Board  
and Appellate Authority)**

SHRI E. AYYAPU REDDY : I beg to  
move :

Page 7, lines 29 and 30,—

*omit* “or, as the case may be, the  
Appellate Authority” (69)

Page 7, lines 35 and 36,—

*omit* “or, as the case may be, the  
Appellate Authority”. (70)

Page 7, lines 38 and 39,—

*omit* “or, as the case may be, the  
Appellate Authority” (71)

Page 8, line 1,—

*omit* “or the Appellate Authority”(72)

MR. DEPUTY SPEAKER : Now I shall  
put Amendment Nos. 69, 70, 71 and 72 to  
vote.

*Amendment Nos. 69 to 72 were  
put and negatived*

MR. DEPUTY SPEAKER : The question  
is :

“That clause 13, stand part of the Bill”.

*The motion was adopted.*

**Clause 13 was added to the Bill.**

**Clause 14 was added to the Bill.**

**Clause 15 was added to the Bill.**

**Clause 16—(Inquiry into working of  
sick industrial companies)**

SHRI E. AYYAPU REDDY : I beg to  
move.

Page 9,—

*omit* lines 38 to 41. (73)

I said earlier also that there is no necessity  
for the Board to refer the matter to the High  
Court for the purpose of winding up, because  
under the Company Law the Board itself can  
follow this procedure and completely wind  
it up. Taking the matter to the High Court  
only means delaying it and thus denying  
justice to the persons. Especially the financial  
institutions will be very much affected beca-  
use if they have to take the dues, whatever  
the amount maybe, again the matter will be  
postponed and they will have to go to the  
High Court for winding up. Then the official  
liquidator will be appointed and then the  
proceedings will be taken *de novo*. The Board  
itself can sit and order winding up after  
following the procedure laid down in the act.

SHRI VISHWANATH PRATAP SINGH :  
We want to confine in this forum for the pur-  
pose of bringing the industry to health and fo-  
its revival. To that extent we want to focus  
on its energy. When it has come to the con-  
clusion that it cannot be brought to health,  
then other proceedings will take over.

MR. DEPUTY SPEAKER : Now I shall  
put Amendment No. 73 to vote.

*Amendment No. 73 was put and negatived*

MR. DEPUTY SPEAKER : The question is :

“That clause 16, stand part of the Bill”

*The motion was adopted.*

Clause 16 was added to the Bill.

Clause 17 was added to the Bill.

SHRI VISHWANATH PRATAP SINGH : The Bill will make us sit without lunch.

MR. DEPUTY SPEAKER : No, we will finish it. We will get good energy.

SHRI VISHWANATH PRATAP SINGH : But I am grateful that you are finishing it.

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD): Sir, I have requested them either to eat clauses or lunch.

Clause 18—(Preparation and sanction of schemes.)

SHRI SURESH KURUP (Kottayam) : I beg to move:

Page 12—

*after line 17, insert—*

“Provided that the revival scheme shall not result in employment shrinkage for existing employees and if viability norms indicate excess labour than alternative employment shall be found for them, either in the same unit or any of its subsidiaries, if any.”(9.)

SHRI BASUDEB ACHARIA : I beg to move.

Page 12—

*after line 17, insert—*

“(m) scaling down liabilities commensurate with asset backing;

(n) equity type assistance at nominal interest;

(o) conversion of irregularities in working capital accounts into term loans repayable over a fairly long period at concessional rates of interest;

(p) grant of simple term loans at concessional rates of interest for paying outstanding wages and dues to creditors to enable them to resume supplies;

(q) provision to meet case loans during initial years of the nursing programme.”(96)

SHRI VISHWANATH PRATAP SINGH : I beg to move :

Page 12, for line 4, substitute—

“to any person, including a co-operative society formed by the employees of such undertaking and fixing of reserve price for such sale;

(j) lease of the industrial undertaking of the sick industrial company to any person, including a co-operative society formed by the employees of such undertaking;” (103)

Page 12, line 5, for “(j)”, substitute “k”. (104)

Page 12, line 9 for “(k)”, substitute “l”. (105)

Page 12, line 14 for “(l)”, substitute “m”. (106)

SHRI SURESH KURUP : There is no provision in this Bill that after the revival scheme is implemented, what will be done for those employees who may become unemployed, and if there is a shrinkage of employment, what specific measures will be taken about those employees who will become unemployed in such a situation. So, my amendment is regarding that and I move my amendment,

SHRI VISHWANATH PRATAP SINGH : Sir, I have already said that pack-

age for labour we are considering separately.  
*(Interruptions)...*

SHRI AMAL DATTA : In another Bill?

SHRI VISHWANATH PRATAP SINGH : No, separately we are considering what we should have. A part from the present provision, what addition we can have, we are separately considering. It is our intention that labour should be protected and that is why the whole scheme for revival is there. It will be protected. But where it will be absolutely essential for its continuance that some retrenchment will be necessary we hope that unions will also be consulted in the process, and rehabilitation packages under the law will be effective in that case.

MR. DEPUTY SPEAKER : I am first putting the Government's amendments to the vote of the House. The question is :

Page 12, for line 4, substitute :—

„, to any person, including a co-operative society formed by the employees of such undertaking and fixing of reserve price for such sale :

(j) lease of the industrial undertaking of the sick industrial company to any person including a co-operative society formed by the employees of such undertaking;"(103)

Page 12, line 5, for "(j), substitute "k" (104)

Page 12, line 9, for "(k)", substitute "(l)". (105)

Page 12, line 14, for "l", substitute "(m)". (106)

*The Motion was adopted.*

MR. DEPUTY SPEAKER : Now, I will put Amendment no. 95, moved by Shri Suresh Kurup to the vote of the House.

The question is :

Page 12,—

*after line 17. insert—*

"Provided that the revival scheme shall not result in employment shrinkage for existing employees and if viability norms indicate excess labour than alternative employment shall be found for them, either in the same unit or any of its subsidiaries, if any (195).

*The Lok Sabha Divided.*

DIVISION NO. 2                      AYES                      13.29hrs.

Acharia, Shri Basudeb  
 Barman, Shri Palas  
 Basu, Shri Anil  
 Biswas, Shri Ajoy  
 Das Shri R. P.  
 Datta, Shri Amal  
 Dora, Shri H. A.  
 Gosh Gopwami, Shrimati Bibha  
 Kalpana Devi, Dr. T.  
 Kurup, Shri Suresh  
 Raju, Shri Anand Gagapathi  
 Rao, Shri A. J. V. B. Maheswara  
 Rathnam, Shri N. Venkata  
 Reddy, Shri B. N.  
 Reddy, Shri E. Ayyapu  
 Reddy, Shri M. Raghuma  
 Reddy, Shri P. Manik  
 Riyan, Shri Baju Ban  
 Saha, Shri Ajit Kumar  
 Tiraky, Shri Piyus  
 Tulsiram, Shri V.

NOES

Alkha Ram, Shri  
 Ansari, Shri Abdul Hannam  
 Ansari, Shri Z. R.  
 Antony, Shri P. A.  
 Azad, Shri Bhagwat Jha  
 Azad, Shri Ghulam Nabi  
 Baghel, Shri Pratapsingh  
 Bairwa, Shri Banwari Lal  
 Basheer, Shri T.

Bhagat, Shri H. K. L.  
Bhandari, Shrimati D. K.  
Bhanu Pratap Singh, Shri  
Buta Singh, S.  
Chandrashekharappa, Shri T. V.  
Charles, Shri A.  
Chavan, Shrimati Premalabai  
Dennis, Shri N.  
Dhariwal, Shri Shanti  
Dighe Shri Sharad  
Gadgil, Shri V. N.  
Gadhvi, Shri B. K.  
Gomango, Shri Giridhar  
Jaideep Singh, Shri  
Kamla Prasad Singh, Shri  
Krishna Kumar, Shri S.  
Krishna Singh, Shri  
Kuchan, Shri Gangadhar S.  
Kuppuswamy, Shri C. K.  
Malik, Shri Dharampal Singh  
Mishra Shri Uma Kant  
Nawal Prabhakar, Shrimati Sundarwati  
Panika, Shri Ram Pyare  
Pardhi, Shri Kesharao  
Paswan, Shri Ram Bhagat  
Patel, Shri Ahmed M.  
Patel, Shri Ram Pujan  
Patil, Shri Shivraj V.  
Patil, Shri Yashwantrao Gadakh  
Poojary, Shri Janardhana  
Pradhan, Shri K. N.  
Puran Chandra, Shri  
Pushpa Devi, Kumari  
Ram, Shri Ramswaroop  
Ram Dhan, Shri  
Ram Samujhawan, Shri  
Ramachandran, Shri Mullappally  
Rampal Singh, Shri  
Rao, Shri K. S.  
Raut, Shri Bhola  
Ravani, Shri Navin  
Sahi, Shrimati Krishna  
Sathe, Shri Vasant

Shah, Shri Anoopchand  
Shanmugam, Shri P.  
Sharma, Shri Nawal Kishore  
Shastri, Shri Hari Krishna  
Shivendra Bahadur Singh, Shri  
Sodi, Shri Mankuram  
Soren, Shri Harihar  
Sultanpuri, Shri K. D.  
Suman, Shri R. P.  
Thakkar, Shrimati Usha  
Thara Devi, Kumari D. K.  
Vir Sen, Shri  
Vyas, Shri Girdhari Lal

MR. DEPUTY SPEAKER : Subject to correction, the result\* of the Division is :

Ayes — 21.

Noes — 64.

*The motion was negatived.*

MR. DEPUTY SPEAKER : I will now put Amendment No. 96, moved by Shri Basudeb Acharia to the vote of the House.

*Amendment No. 96 was put and negatived.*

MR. DEPUTY SPEAKER : The question is :

“That Clause 18, as amended, stand part of the Bill.”

*The motion was adopted.*

**Clause 18, as amended, was added to the Bill.**

MR. DEPUTY SPEAKER : We now go to Clause 19.

**Clause 19— (Rehabilitation by giving financial assistance)**

\*The following members also recorded their votes :-

AYES : Shri Srihari Rao and C. Sambu; and

NOES : Shri Swami Prasad Singh, Shri Prithvi Chand Kisku, Ch. Simder Singh, Dr. K. G. Adiyadi, Shri George Joseph Mundackal, and Shri Bapulal Malviya.

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

Page 13, for lines 39-40 substitute—

“other authority (any Government, bank, institution or other authority required by a scheme to provide for such financial assistance being hereafter in this section referred to as the person required by the scheme to provide financial assistance) to the sick industrial company.” (4)

Page 13, line 42,—

for “all concerned for their consent,”

substitute—

“to every person required by the scheme to provide financial assistance for his consent.” (5)

Page 13, for lines 44-47, substitute—

“(3) Where in respect of any scheme the consent referred to in sub-section (2) is given by every person required by the scheme to provide financial assistance, the Board may, as soon as may be, sanction the scheme and on and from the date of such sanction the the scheme shall be binding on all concerned.” (6)

Page 13, for lines 48-51, substitute—

“(4) Where in respect of any scheme consent under sub-section (2) is not given by any person required by the scheme to provide financial assistance, the Board may adopt such other measures, including the winding up of the sick industrial company, as it may deem fit.” (7)

SHRI BASUDEB ACHARIA : I beg to move :

\* Page 13 ---

after line 40 insert—

“19. (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.” (83)

Page 13, line 42—

after “concerned” insert—

“including workers representatives”  
(84)

Page 13, line 51,—

add at the end—

“But it shall be mandatory for the Board to seek concurrence of the concerned State Government before sending a sick industrial company into liquidation.” (85)

MR. DEPUTY SPEAKER : Mr. Acharia, if you want to speak on your amendments you may do so.

SHRI BASUDEB ACHARIA : Sir, My amendment says that it shall be mandatory for the Board to seek concurrence of the concerned State Government before sending a sick industrial company into liquidation, before winding up of a sick industry. Secondly, in the event of liquidation or winding up of a sick industrial company the workers' dues shall be deemed to be the first charge. Before liquidation the concurrence of the State Government should be obtained. The workers payments, the dues in Provident Fund Account and others should be ensured. These are my amendments. I have already moved them.

THE MINISTER OF FINANCE (SHRI VISHWANATH PRATAP SINGH) : Sir, I cannot agree to these amendments. For any decision making there has to be a final authority. We have made provision for the Board. After the formation of the Board, if

Moved with the recommendation of the President.



we give the power of veto to the States, and if they don't agree, then, there will be a deadlock. So, the Board has to be the final authority and that is what we have provided for. So far as the labour dues are concerned I have already expressed my opinion.

MR. DEPUTY SPEAKER : I shall now put amendment Nos. 83, 84 and 85 moved by Shri Basudeb Acharia to the vote of the House.

The question is :

Page 13,—

*after line 40, insert—*

“19. (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.” (83)

Page 13, line 42,—

*after “concerned” insert—*

“including workers representative” (84)

Page 13, line 51,—

*add at the end —*

“But it shall be mandatory for the Board to seek concurrence of the concerned State Government before sending a sick industrial company into liquidation.” (85)

*The Lok Sabha divided :*

DIVISION NO. 3      AYES      13.38 hrs.

Acharia, Shri Basudev  
Barman, Shri Palas  
Basu, Shri Anil  
Biswas, Shri Ajoy

Das, Shri R. P.  
Datta, Shri Amal  
Dora, Shri H. A.  
Ghosh Goswami, Shrimati Bibha  
Kalpana Devi, Dr. T.  
Khan, Shri Zulfiqar Ali  
Kurup, Shri Suresh  
Raju, Shri Anand Gajapathi  
Rao, Shri A. J. V. B. Maheswara  
Ratnam, Shri N. Venkata  
Reddy, Shri B. N.  
Reddy, Shri P. Manik  
Riyan, Shri Baju Ban  
Saha, Shri Ajit Kumar  
Sambu, Shri C.  
Tiraky, Shri Piyus  
Tulsiram, Shri V.

NOES

Adiyodi, Dr. K. G.  
Alkha Ram, Shri  
Ansari, Shri Abdul Hannam  
Ansari, Shri Z. R.  
Antony, Shri P. A.  
Azad, Shri Ghulam Nabi  
Baghel, Shri Pratapsingh  
Bairwa, Shri Banwari Lal  
Basheer, Shri T.  
Bhagat, Shri H. K. L.  
Bhandari, Shrimati D. K.  
Bhanu Pratap Singh, Shri  
Buta Singh, S.  
Chandrashekarappa, Shri T. V.  
Charles, Shri A.  
Chaturvedi, Shri Naresh Chandra  
Chavan, Shrimati Premalabai  
Dennis, Shri N.  
Dhariwal, Shri Shanti  
Dighe, Shri Sharad  
Dinesh Singh, Shri  
Gadgil, Shri V. N.  
Gadhvi, Shri B. K.

Gomango, Shri Giridhar  
 Jaideep Singh, Shri  
 Jain, Shri Viridhi Chander  
 Kamla Prasad Singh, Shri  
 Kisku, Shri Prithvi Chand  
 Krishna Kumar, Shri S.  
 Krishna Singh, Shri  
 Kuchan, Shri Gangadhar S.  
 Kuppuswamy, Shri C. K.  
 Malik, Shri Dharampal Singh  
 Malviya, Shri Bapulal  
 Mishra, Shri Uma Kant  
 Nawal Prabhakar, Shrimati Sundarwati  
 Panika, Shri Ram Pyare  
 Pardhi, Shri Kesharao  
 Paswan, Shri Ram Bhagat  
 Patel, Shri Ahmed M.  
 Patel, Shri Ram Pujan  
 Patil, Shri Shivraj V.  
 Patil, Shri Yashwantrao Gadakh  
 Poojary, Shri Janardhana  
 Pradhan, Shri K. N.  
 Puran Chandra, Shri  
 Pushpa Devi, Kumari  
 Ram, Shri Ramswaroop  
 Ram Dhan, Shri  
 Ram Samujhawan, Shri  
 Ramachandran, Shri Mullappally  
 Rao, Shri K. S.  
 Raut, Shri Bhola  
 Ravani, Shri Navin  
 Sahi, Shrimati Krishna  
 Sathe, Shri Vasant  
 Shah, Shri Anoopchand  
 Sharma, Shri Nawal Kishore  
 Shastri, Shri Hari Krishna  
 Shivendra Bahadur Singh, Shri  
 Sodi, Shri Mankuram  
 Soren, Shri Harihar  
 Sultanpuri, Shri K. D.  
 Suman, Shri R. P.  
 Sunder Singh, Ch.  
 Swami Prasad Singh, Shri  
 Thakkar, Shrimati Usha

Thara Devi, Kumari D. K.  
 Verma, Shrimati Usha  
 Vir Sen, Shri  
 Vyas, Shri Girdhari Lal

MR. DEPUTY SPEAKER : Subject to correction, the result\* of the division is :

Ayes : 21

Noes : 71

*The motion was negatived.*

MR. DEPUTY SPEAKER : The question is :

Page 13, for lines 39-40, *substitute-*

“other authority (any Government, bank, institution or other authority required by a scheme to provide for such financial assistance being hereafter in this section referred to as the person required by the scheme to provide financial assistance) to the sick industrial company.”(4)

Page 13, line 42

for “all concerned for their consent”,

*substitute-*

“every person, required by the scheme to provide financial assistance for his consent”.(5)

Page 13, for lines 44-47, *substitute-*

“(3) Where in respect of any scheme the consent referred to in subsection (2) is given by every person required by the scheme to provide financial assistance, the Board may, as soon as may be,

\*The following Members also recorded their votes :

Ayes : Shri E. Ayyapu Reddy, Shri S. Jaipal Reddy, Dr. T. Kalpana Devi and Dr. Chinta Mohan;

Noes : Shri Rampal Singh, Shri Mahendra Singh and Shri George Joseph Mundackal.

sanction the scheme and on and from the date of such sanction the scheme shall be binding on all concerned.”(6)

Page 13, for lines 48-51, substitute—

“(4) Where in respect of any scheme consent under sub-section (2) is not given by any person required by the scheme to provide financial assistance, the Board may adopt such other measures, including the winding up of the sick industrial company, as it may deem fit.”(7)

*The motion was adopted.*

MR. DEPUTY SPEAKER : The question is :

“That clause 19, as amended, stand part of the Bill.”

*The motion was adopted*

**Clause 19, as amended, was added to the Bill**

**Clause 20—(Winding up of sick industrial company)**

SHRI E. AYYAPU REDDY : I move :

Page 14, (i) lines 5 and 6,—

for “it may record and forward its opinion to the concerned High Court.”

*substitute—*

“it shall take proceedings for winding up of the sick industrial company in accordance with the Companies Act, 1956 exercising all the powers of the High Court in winding up of Company under the said Act.”

(ii) *omit* lines 7 to 23. (74)

SHRI BASUDEB ACHARIA : I move :

Page 14.—

*after* line 23, *insert—*

“(5) It shall be mandatory for the Boards to seek concurrence of

the concerned State Government, before winding up a sick industrial company.

(6) In the event of all concerned agreeing to the liquidation or winding up of a sick industrial company, workers’ dues shall be deemed to be the first charge and prompt payment shall be ensured in all cases.” (87)

MR. DEPUTY SPEAKER : I shall now put both the amendments together to the vote of the House.

*Amendment Nos. 74 and 87 were put and negatived*

MR. DEPUTY SPEAKER : The question is :

“That clause 20 stand part of the Bill.”

*The motion was adopted*

**Clause 20 was added to the Bill**

MR. DEPUTY SPEAKER : Clause 21. The question is :

“That clause 21 stand part of the Bill.”

*The motion was adopted*

**Clause 21 was added to the Bill**

**Clause 22—(Suspension of legal proceedings, contracts etc.)**

SHRI VISHWANATH PRATAP SINGH : I beg to move :

Page 14, for lines 44-51, and

Page 15, for lines 1-3, *substitute—*

“22, (1) Where in respect of an industrial company, an inquiry under section 16 is pending or any scheme referred to under section 17 is under preparation or consideration or a sanctioned scheme is under implementation or where an appeal under section 25 relating to an industrial

company is pending, then, notwithstanding anything contained in the Companies Act, 1956, or any other law or the memorandum and articles of association of the industrial company or any other instrument having effect under the said Act or other law, no proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of the industrial company or for the appointment of a receiver in respect thereof shall lie or be proceeded with further, except with the consent of the Board or, as the case may be, the Appellate Authority.” (8)

SHRI E. AYYAPU REDDY : I beg to move :

Page 15,—lines 27 and 28,—

*omit* “at a time so, however, that the total period shall not exceed seven years in the aggregate.” (75)

Page 15,—

*after* line 28, *insert*—

“Provided further that the salaries due to the employees and the amounts due for the supply of raw materials and other essential equipment involved in manufacturing process shall be paid at least fifty per cent by the end of first year after such declaration and the balance of the amount by the end of the second year after such declaration.” (76)

SHRI SURESH KURUP : I beg to move :

Page 15,—

*after* line 28, *insert*—

“Provided further that nothing in this Act shall override the provisions of the Industrial Disputes Act and other labour laws and the interests of the labour shall be fully protected during the consideration and implementation

of the revival schemes referred to in under Section 18 of this Act.” (88)

MR. DEPUTY SPEAKER : Dr. Datta Samant—not present.

SHRI E. AYYAPU REDDY : Sir, giving the Board powers to suspend legal proceedings for 7 years is really atrocious because suspension of legal proceedings for so many years is an extraordinary power given to the Board. That is why, my amendment is to omit that phrase. It must be confined to two years. My apprehension is that the financial institution which has been clothed with powers to take possession of the machinery and other equipment under the various enactments may also be suspended by the Board under Section 7. This extraordinary power can be invoked very mischievously by persons who have made the unit sick so that they can prevent the financial institutions from seizing the factory. That is one object.

My second object is in the other amendment No. 76. When the Board makes a declaration suspending the legal proceedings, there is no rider to it. There is no exemption to it. I want that at least 50 per cent of the employees' salary should be paid by the end of the first year and the balance by the end of the next year. Persons who have supplied raw materials and other essentials will become sick financially if such suspension is ordered and if they are not paid. At no time the Board should have the power to suspend legal proceedings for more than two years. That is the intention of my amendment.

SHRI VISHWANATH PRATAP SINGH : Sir, the provision is, it is not in one go, 7 years suspension has been provided for. It is for two years that the initial suspension can be made. Then the extension is for one year each. One year extension is permissible and we should leave this to the discretion of the Board. We should not be apprehensive that the Board will misuse it or act otherwise when we are creating the Board.

Regarding making provision of 50 per cent compulsory payment to those who have supplied raw materials etc., I think, this will bind on the Board very much when it is

[Shri Vishwanath Pratap Singh]

evolving financial packages. The Board should be given flexibility to evolve a package for which a unit can be revived.

MR. DEPUTY SPEAKER : First, I am putting the Government amendment.

The question is :

Page 14, for lines 44-51, and

Page 15, for lines 1-3, *substitute*—

“22, (1) Where in respect of an industrial company, an inquiry under section 16 is Pending or any scheme referred to under section 17 is under preparation or consideration or a sanctioned scheme is under implementation or where an appeal under section 25 relating to an industrial company is pending, then, notwithstanding anything contained in the companies Act, 1956, or any other law or the memorandum and articles of association of the industrial company or any other instrument having effect under the said Act or other law, no proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of the industrial company or for the appointment of a receiver in respect thereof shall lie or be proceeded with further, except with the consent of the Board or, as the case may be, the Appellate Authority.” (8)

*The motion was adopted*

MR. DEPUTY SPEAKER : I am putting amendment No. 75 and 76 moved by Shri E. Ayyapu Reddy to the vote of the House.

*Amendment Nos. 75 and 76 were put and negatived*

MR. DEPUTY SPEAKER : I am putting amendment No. 88 moved by Shri Suresh Kurup to the vote of the House.

*Amendment No. 88 was put and negatived*

MR. DEPUTY SPEAKER : The question is :

“That clause 22, as amended, stand part of the Bill.”

*The motion was adopted*

**Clause 22, as amended was added to the Bill**

MR. DEPUTY SPEAKER : Now clause 23. The question is :

“That clause 23 stand part of the Bill.”

*The motion was adopted*

**Clause 23 was added to the Bill**

**Clause 24—(Misfeasance proceedings)**

*Amendments made :*

Page 16, line 41, for “may direct” *substitute* “may, by order, direct,” (107)

Page 17, for lines 1 and 2, *substitute*—

“(2) If the Board is satisfied on the basis of the information and evidence in its possession with respect to any person who is or was a director or an officer or other employee of the sick industrial company, that such person by himself or along with others had diverted the funds or other property of such company [for any purpose other than a *bona-fide* purpose of the company or had managed the affairs of the company in a manner highly detrimental to the interests of company, the Board shall, by order, direct the public financial institutions, scheduled banks and State level institutions not to provide, during a period of ten years from the date of the order, any financial assistance to such person or any firm of which such person is a partner or any company or other body corporate of which such person is a

director (by whatever name called).

- (3) No order shall be made by the Board under this section against any person unless such person has been given an opportunity for making this submissions.” (108)

Page 17, line 3, for “3”, substitute “4”. (109)

(Shri Vishwanath Pratap Singh)

MR. DEPUTY SPEAKER : The question is :

“That Clause 24, as amended, stand part of the Bill.”

*The motion was adopted*

Clause 24, as amended, was added to the Bill

Clause 25 to 28 were added to the Bill

Clause 29 was added to the Bill

Clause 30—(Protection of action taken in good faith)

*Amendment made :*

Page 18, lines 21 and 22, omit.

“or any other law or provision having the force of law.” (9)

(Shri Vishwanath Pratap Singh)

MR. DEPUTY SPEAKER : The question is :

“That Clause 30, as amended, stand part of the Bill.”

*The motion was adopted*

Clause 30, as amended, was added to the Bill

Clause 31 was added to the Bill

Clause 32—(Effect of the Act on other laws)

*Amendment made :*

Page 18, after line 41, insert -

“(3) Nothing in the Monopolies and Restrictive Trade Practices Act, 54 of 1969 shall apply in relation to—

(a) the modernisation or expansion of a sick industrial company, or

(b) the amalgamation or merger of a sick industrial company with another company as a result of a scheme sanctioned with accordance with the provisions of this Act.” (10)

(Shri Vishwanath Pratap Singh)

MR. DEPUTY SPEAKER : The question is :

“That Clause 32, as amended, stand part of the Bill.

*The motion was adopted*

Clause 32 as amended, was added to the Bill

Clause 33 was added to the Bill

Clauses 34 to 36 were added to the Bill

MR. DEPUTY SPEAKER : The question is :

“That the Schedule stand part of the Bill.”

*The motion was adopted*

The Schedule was added to the Bill

MR. DEPUTY SPEAKER : The question is :

“That Clause 1, the Enacting Formula and the Title stand part of the Bill.”

*The motion was adopted*

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, as amended, be passed.”

MR. DEPUTY SPEAKER : The question is :

“That the Bill, as amended, be passed.”

*The motion was adopted*

MR. DEPUTY SPEAKER : The House now stands adjourned to reassemble at 14.45 hours.

*The Lok Sabha then adjourned for Lunch till forty-five Minutes past Fourteen of the Clock.*

— — —  
*The Lok Sabha re-assembled after Lunch at Forty-nine minutes past Fourteen of the Clock*

[MR. DEPUTY SPEAKER *in the Chair*]

MOTION RE : PRESENT INTERNATIONAL SITUATION AND POLICY OF GOVERNMENT OF INDIA IN RELATION THERETO

[*English*]

MR. DEPUTY SPEAKER : Now we take up item No. 8 of the agenda.

Shri B. R. Bhagat.

THE MINISTER OF EXTERNAL AFFAIRS (SHRI B. R. BHAGAT) : I beg to move :

“That this House do consider the present international situation and the policy of the Government of India in relation thereto.”

Shall I say something ?

MR. DEPUTY SPEAKER : If you want to say anything, you can say.

SHRI B. R. BHAGAT : Sir, I would like to make a brief statement on the SAARC summit conference held in Dhaka on 7th and 8th December, 1985.

The first Summit Conference of South Asian countries was held in Dhaka on 7-8 December, 1985. Prior to the Summit, a Meeting of the Standing Committee, comprising the Foreign Secretaries followed by a meeting of the Foreign Ministers of the seven countries were held from 4-5th December to prepare for the Summit.

The Heads of State or Government of South Asian countries adopted a Charter and a Declaration and issued a Joint Press Statement containing certain important decisions on the last day of the Summit. Copies of the Charter, the Declaration and Joint Press Statement are given below.

I am glad to inform the house that our Prime Minister Shri Rajiv Gandhi was un-animously requested to convene the next Summit Meeting in India. Our Prime Minister's offer in response to host such a Conference has been accepted. Prime Minister's offer for convening a Ministerial meeting on the participation of women in activities at regional level within the framework of SAARC has also been accepted.

Prime Minister Shri Rajiv Gandhi met all participating Heads of State and Government. Both bilateral and multilateral issues of mutual interest were discussed. In the meeting with President Earshad of Bangladesh, satisfaction was expressed at the present state of relations. Besides other matters, an understanding has been reached that India and Bangladesh will jointly deal with the Mizo, Chakma and TULF insurgencies. With the King of Bhutan the two leaders carried forward the discussions held only a few months ago when the Prime Minister visited the Kingdom of Bhutan. The President of Maldives extended an invitation to Prime Minister to visit the Maldives. This has been accepted with pleasure. King Birendra and the Prime Minister reviewed the development of relations since the King's visit to India. It has been agreed that President Zia of Pakistan will come to New Delhi for a day on the 17th December when discussions on