

[Shri Indrajit Gupta]

one Member has resigned why should four be elected? Let him hold elections for that single vacancy only.

श्री रामाबतार शास्त्री (पटना) : इस्तीफा तो एक ने दिया है, चार क्यों चुने जा रहे हैं ?

MR. SPEAKER : The hon. Minister has said that the board was not constituted at all. Now, this motion is for the reconstitution of that board.

श्री रामाबतार शास्त्री : रिकास्टिट्यूशन की क्या बजह है ?

SHRI RAJ BAHADUR : There are not only Members of Parliament, but there are others also. There were changes in regard to them also. So, the whole board is being reconstituted.

10.10 hrs.

INDUSTRIES (DEVELOPMENT AND REGULATION) (AMENDMENT) BILL

—Contd.

THE MINISTER OF INDUSTRIAL DEVELOPMENT (SHRI MOINUL HAQUE CHOUDHURY) : Sir, I have already moved the motion.

We have introduced the Industries (Development and Regulation) Amendment Bill, 1971 to deal with a situation about which the hon. Members of this House are aware and have frequently expressed concern. The spectre of sick and closed industrial units has already assumed a threatening dimension, bringing in its wake a chain of economic and social problems.

At a time when we are trying to accelerate our rate of growth and reach industrial self-sufficiency, these recent developments have necessitated some re-thinking as to what the Government can and should do to arrest the trend and reverse it.

We have taken a close look at the Industries (Development and Regulation) Act to

find out whether the existing provisions of the Act could meet the needs of the situation. While the existing provisions are all right to deal with a normal situation, these are quite inadequate in the present context.

Take, for instance, section 15 of the Act under which Government is empowered to make or cause to be made an investigation into the affairs of industrial undertakings. Whereas investigations under this section are extremely useful and necessary, they are time-consuming and may sometimes enable any unscrupulous management to fritter away whatever resources are left with it. Unfortunately, under the present Act there are no provisions to take over a concern without an investigation even though the Government might be having documentary or other evidence to the effect that the management is trying to ruin the concern.

Similarly, present provisions do not secure the long-term rehabilitation of industrial undertakings. An industrial unit taken over has to be returned to the original owner after an initial period up to five years or an extended period, but within a maximum period of 15 years in all. Thus, a mismanaged unit may be set right by the Government, but ultimately it has to be handed over to the same unscrupulous or incompetent management.

Apart from these, we have been considerably handicapped in the matter of taking over the management of industrial undertakings which, as a result of mismanagement or some other reason have gone into voluntary or compulsory liquidation and stopped production. There are no provisions under the existing Act to enable Government to take over such concerns to keep production going.

Similarly, there is no provision in the Act to prohibit the institution of any suit or other legal proceedings against an undertaking taken over by the Government. If decrees are obtained and assets are attached and brought to sale, the industrial undertaking taken over will be unable to recover and the very purpose for which an undertaking has been taken over by the Government may be defeated.

Under the present Bill, we are seeking to deal with such situations. It is proposed to provide certain enabling powers to the Government to take over speedily the management of industrial undertakings under certain circumstances without an investigation. It is also intended to confer powers on the Government to make or cause to be made an investigation into the affairs of industrial undertakings in respect of which proceedings for liquidation are pending before a court and production has stopped, and also to take over their management with the permission of the court. The Bill also provides for suspending for a maximum period upto 5 years the past liabilities and obligations of the industrial undertakings taken over by the Central Government and also provides relief to them from the operation of certain laws. In order to ensure that at the end of the period of takeover by the Government, the industrial undertaking does not revert to the same incompetent management, the Bill provides that in relation to the undertaking taken over, the Government will have the power to move for : (a) the sale of the undertaking at a reserve price or higher (Government purchasing it at the reserve price; if no offer at or above the reserve price is received), action being taken simultaneously for the winding up of the company owning the industrial undertaking or (b) the reconstruction of the company owning the industrial undertaking with a view to, if considered necessary, give the Central Government a controlling interest in it.

The provisions of the Bill are on the lines of the Ordinance promulgated on 1st November, 1971. However, some small modifications have been effected. The circumstances necessitating the promulgation of the Ordinance have been already explained in the statement laid on the Table, and I need not repeat them. I have no doubt that these amendments to the Industries Act which are absolutely essential under the present circumstance would be approved by this hon. House without any note of dissent.

MR. SPEAKER : Motion Moved:

"That the Bill further to amend the Industries (Development and Regulation) Act, 1951, be taken into consideration".

SHRI JYOTIRMOY BOSU : (Diamond-Horbour) This Bill, if seen from the point of view of the worker, is a classic example of the Government's ineptitude in that they have thought of penalising the poor workers for the misdeeds of the employers. In a very recent statement the Prime Minister made at Ahmedabad, she said that over 100 mills—I suppose she meant textile mills—had closed down due to the mismanagement of the employers. Everybody knows that they had been siphoning out money by concealing the true profits and converting the same into black money. Therefore, these closures that took place were the result of the misdeeds of the big employers.

Again I say in relation to the working class, this Bill is a retrograde measure. Omnibus powers have been given to the new managements (1) to declare all former workers and employees as having no right to reemployment, (2) to reduce the wages and terms of employment, (3) to screen workers with regard to their past as old employees and (4) to deny workers under the new employer any right under the industrial law of the country. This is all that they have made available to the working class in this Bill. And a new class of factories will come into existence under State management under the socialist Congress Raj of Mrs. Indira Gandhi, with a new kind of slave and serf labour. This will be prohibiting all trade union activities. I want the hon. Minister to consider whether this does or does not hit at the very root of the fundamental rights and this will no doubt be struck down one day. It will only prove to be a false thing by nullifying the workers' right to wages and that the losses and consequent closures are due to the workers and not due to the misdeeds of the capitalist economy or mismanagement of the working and planning of this Congress Government.

But the truth of the matter is like this. Will the hon. Minister kindly hear me? I am quoting from a survey report published by the Government of West Bengal entitled *Labour in West Bengal, 1970*. It says that out of 65 cases under the heading permanent closures by causes, financial stringency accounts for 23; lack of orders, market depression, etc., 8; shortage of raw materials, 2; gherao, nil; violence, nil; others 9; miscellaneous 9; labour indiscipline 11; and strike, nil.

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I shall quote from another document also. Closure cases which occurred during 1970 and continued as on 31st December, 1970, according to the causes (provisional); total number, 166; financial stringency, 38; lack of orders, market depression, etc., 8; shortage of raw materials, 2; gherao, nil; indiscipline, 38; violence, 1; go-slow, 7; strike, 5; others, 46; miscellaneous, 21. The "others" and "miscellaneous" quite often cover trouble within the management and ownership and other things like obsolescence technical methods, etc. As far as strike is concerned, the worker must struggle and fight for his legitimate rights to have a wage to keep himself going. If, for that the owners are allowed to close down their factories under the very nose of this Government which has been talking a lot about socialism, etc., it will be a very regrettable thing.

I now quote from the *Economic Times* which shows that the labour's responsibility as a cause for closure is not more than 25 per cent. A quick survey by the *Economic Times* revealed that (1) at least a third of the closed factories suffered from depletion of finances and shortage of working capital; (2) about 20 per cent suffered from technological obsolescence; (3) about 10 per cent each from shortage of raw materials and managerial inefficiency. This means that labour trouble as a direct cause for closure of factories in West Bengal could not be attributed to more than one fourth of the causes for the closure of factories.

What are you doing about the fullest utilisation of the built-in capacity of the industries in the country? You do not utilise more than 17 per cent at the highest, in West Bengal. I think it is still lower. You are, on the one hand, keeping the built-in capacity of the machinery idle. On the other hand, you are importing from abroad at a fabulous cost involving foreign exchange. We do not understand how this could be done.

Then, about West Bengal, I can state that the shortage of raw material and steel has been one of the main reasons for closure. West Bengal did not get more than 17 per cent of their requirements of steel last year. It is learnt that during the six months from October, 1970 to March, 1971, the

Government's indent or demand for steel and steel scrap was 1,23,000 tonnes, whilst they were given only 14,530 tonnes. So imagine it is not more than even nine per cent of the total requirements, and you are making the workers responsible for the closure of the factories. Your Bill shows how very anxious you are to penalise them and see that they do not get even the minimum requirements for their daily living today.

Similar is the condition of the small scale industry: lack of working capital and other raw materials. About industrial stagnation. I can say this much.

It is the Government that is responsible for shielding the miscreants in the industry in that they have continuously allowed them to conceal the true profit of the industry and allowed them also divert from that money to black money and with that money they have allowed the monopolies to create new industries and allowed the older ones to dry out. You cannot absolve yourself from these results. Why do you want to penalise the workers for this? We do not understand this. If we talk about misappropriation of royalty moneys payable to the Government, that runs into several crores. Provident fund is money given by a worker to be held in trust by the employer. It is a breach of trust when a man misappropriates provident fund money. The punishment for that—Mr. Choudhury is a lawyer and he knows is seven years imprisonment. I want to ask a categorical question: how many prosecutions have been launched against the employers who are misappropriating and thus committing breach of trust and misappropriated the money of the poor workers.

What about the arrears of taxes? Your corporate sector is responsible for 92 per cent of the arrears of taxes which reached Rs. 900 crores according to the latest report given by the Comptroller and Auditor-General. You cannot compel them because they are your patron saints. Your very existence depends upon their support. Therefore, you have to go and penalise the worker whenever you bring in a piece of legislation.

Under the guise of a progressive measure this Congress Government is out to destroy the very forces of progress. The working class has been made the victim of the fraud

and manœuvres of the capitalists under the very nose of the Government. Then they have been allowed moratorium on arrears, provident fund, wages, bonus, etc. They should be cleared at once.

The 27th session of the Indian Labour Conference has unanimously decided : "Consequent upon the take over there should not be any reduction in employment or emoluments nor could there be any adverse effect on service conditions and benefits. It had also agreed unanimously that the legislative provisions and Governmental machinery for take over should ensure continued employment and production. Despite the unanimous recommendation of the Indian Labour Conference that the decision arrived at the tripartite should be fully respected and implemented, we find that these decisions have been violated and flouted and an Ordinance promulgated with a number of provisions against the interest of the working class. Therefore the demand is that it be revised keeping in view the recommendations of the Indian Labour Conference and the demands put forward by the trade unions.

SHRI INDRAJIT GUPTA (Alipore) : This Bill seeks to give statutory form to the Ordinance. At first sight it appeared to be a really progressive measure and we were inclined to welcome it and support it but on closure scrutiny of the provisions of the Bill and the earlier Ordinance it became clear that under the guise of a progressive measure actually certain very retrograde things are being imported into this. Therefore it is not possible for us to give any sort of blanket or unconditional support to this measure as it stands, unless it is amended in certain vital aspects.

The statement which the Minister has made explaining the circumstances which necessitated the promulgation of this Ordinance, very correctly lays stress repeatedly on two or three different aspects, disquieting aspects, undesirable aspects, of the feature of mass closures, large-scale closures, of factories and units which have been taking place in our country for a considerable time. The factors which he has emphasized, and with which I agree, are not only the loss in production which the country has to suffer, but also

the question of unemployment, the fact that a large number of workers running into lakhs were being thrown out on the streets and that this unemployment problem, if allowed to continue in this way, would also in its turn lead to law and order situation. He has mentioned all these facts in his statement. He has even drawn particular attention to the condition of the industrial climate in West Bengal and he has taken pains to give the number of factories which were affected and the number of workers who have been thrown out. Three or four times in this he has repeated that a large number of workers are involved and this necessitates immediate action on the part of the Government, so that industrial undertakings can be taken over in the interests of continued production and employment. This point is being correctly emphasized here.

Finally, on page 4 of the statement he has made out even more explicitly :

"...Since the situation of low production and un-employment was fraught with possibilities of law and order and other problems, immediate action by way of promulgation of an Ordinance led to be taken..."

I have no quarrel at all with this statement, but when we come to its translation into the terms and provisions of a piece of legislation, we find that what the Government is concerned with here apparently is only the question of production. As far as the Bill goes, they have completely given the go-by to the question of guarantees that those workers who are thrown out of employment for no fault of theirs, simply due to the reckless or waisical action of the employers, have to be taken back into employment and that there should be no reduction of employment. This has been given a complete go-by without any explanation whatsoever as far as this bill is concerned. I am really surprised at this.

My hon. friend Shri Jyotirmoy Bose has mentioned it, but I would like to repeat it. I saw the Labour Minister here a minute ago, but he is not there now. I am sure you, Sir, will also find it distressing the way this Government functions between

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one Ministry and another. Only five or six days before this Ordinance was promulgated, the 27th session of the Indian Labour Conference took place in Delhi on the 22nd and 23rd October, and the Ordinance was promulgated on the 1st Number. This Indian Labour Conference which is supposed to be a very importance one, which was attended by all the representatives of all the employers' organisations, the Central Trade Unions, the State Governments and so on, come to certain unanimous conclusions which are recorded. If Mr. Moinul Haque Chowdhury asks his colleague to supply him with a copy of the officially recorded unanimous conclusions of that conference, he will find there that when they discussed this problem of closures, they had also suggested that Government should come forward with some legislative measures. There, they have said quite clearly, and I am quoting :

"Legislative provisions of governmental machinery for take-over should ensure continuity of employment and production. Consequent upon the take over, there should not be any reduction in employment or emoluments, nor should there be any adverse effect on service conditions and benefits."

This is the unanimous conclusion of the Indian Labour Conference, and five or six days later, another Ministry drafts an Ordinance, which is now brought forward in the shape of a Bill, which runs strictly counter to this unanimous conclusion. Is it one Government functioning, or separate Governments functioning, independently in separate Ministries, we are unable to understand. I think there should be a little more co-ordination, but the whole outlook behind this Bill, as far as the workers are concerned, is a completely capitalist outlook, if I may say so.

The workers of the closed undertakings are put on the same footing as any other physical assets. Workers who are humanbeings with families and children are considered in this Bill to be equivalent to a piece of iron or coal or something like that. No difference. I have not got the time to go into a detailed examination of the provisions, but I would draw attention to section 18FF, which has

come forward with this extraordinary proposition that when a unit is taken over, the operation of the Industrial Employment Standing Orders Act, the Industrial Disputes Act and the Minimum Wages Act will remain suspended and all contractual obligations, agreements, settlements, awards and all proceedings in courts and tribunals will be kept suspended. That means, any agreements or tribunal awards which have been in force there relating to the workers' wages, DA, etc., can be suspended.

Sections 18FA and clauses (2) to (4) of section 18FF are absolutely antiworking-class provisions to this extent that while a provision is made that the terms and conditions for reopening the units will be shown to the shareholders' and creditors' representatives and so on for their approval and suggestion. While provision is made that the High Court before it approves of the reconstruction scheme, will also solicit the opinions of the shareholders and creditors, there is no provision that the workers' trade union representatives will be even consulted. It is an extraordinary state of affairs. We will never support a Bill like this containing such retrograde provisions and which does not guarantee that the workers who have been thrown out will be taken back. Rather, there are provisions that the authorised person who will be in charge of running the undertaking can pick and choose arbitrarily who will be taken back and who will be kept out. Even the question of seniority is not put in. It gives a free hand to the so-called authorised person. Our experience of nationalisation of banks or taking over of the management of general insurance companies is that in all these cases, the authorised persons, whether they are called custodians or by any other name, have invariably been the very same people who were associated with the earlier management. The same people who had closed down the concerns are brought back and put in charge as custodians or authorised persons to run the Government-administered undertakings. These people, with their mentality and outlook towards the workers, will certainly utilise these provisions, which I have cited, to their detriment. Any workers whom they do not like can be arbitrarily kept out. These sweeping powers have been given to them. This is most objectionable and we cannot accept this under any

circumstances. We will have to vote against these clauses quite definitely. I think the Labour Minister will also be put to a considerable amount of embarrassment because having brought the India Labour Conference to agreed conclusions precisely on these points so that these safeguards are provided, we find Government going back on all those assurances and promises.

After all, this is only an enabling power to take over. Certainly it facilitates the process of taking over by Government and to that extent this is a positive thing. It makes it easier for the government now to take over and it certainly removes from the scene any of those technical or legal obstacles and difficulties which were preventing such take overs. But I would like to know from the government, from the Minister when he replies, what sort of intention they have at the moment of taking over and whether at least those concerns would be taken over into which under the old unamended Act enquiries have already been held. They may not be required in the future but in the past they were required. So, enquiries have been held into a large number of cases of closure, enquiries have been completed and reports have been submitted and they are lying with the Minister. Some of those companies have gone into liquidation and the proceedings are pending in some cases. We know very well the name of Shri Haridas Mundhra, a gentleman who does not have a very savoury reputation, who was connected with quite a number of concerns. For example, there is Alcock Ashdon, one of the engineering concerns in the western part of the country. Then there is Makintosh Burn. Such companies have either closed down or are on the verge of closure and these matters have been brought to the government's attention long long ago. Now, if this Bill is passed as it stands, he has sufficient powers under it. Is he really going to assure the House that in the case of those units which are lying closed for a long time, which are vital units, which have huge orders pending, government orders, defence orders, export orders, are these concerns going to be allowed to be mismanaged and remain closed like this or is the government going to take them over? That is what I would like to know in the case of industries in respect of

which enquiries have been completed. Then, it has been brought to my notice that the BNR textile mills at Rajnandgaon, Madhya Pradesh, is closed for months together, enquiries have been completed and reports have been submitted. What does the government propose to do about it? Then there is a concern which is directly connected with Defence orders, the Defence Ministry knows about it, called the Andhra Scientific Company. The owners of it were people who were not connected with industry; they were big landlords. They had too much of money, they did not know what to do with it, they invested it and set up the Andhra Scientific Company, and it has worked on defence orders. Now the landlord owners of the company, having squandered and mismanaged the company, have run away and the company is not functioning. It has to be taken over, particularly in the interests of defence. What does the government propose to do there?

Therefore, I would only say that as far as the enabling powers are concerned, to enable these units to be taken over, we welcome this Bill as a step forward, but we would like to have a firm assurance from the government that they are actually going to use those powers. As far as the other provisions which relate to workers are concerned, we are completely opposed to them. That part of the Bill is completely retrograde and the trade unions throughout the country are united in their opposition to it. So, I would request him to reconsider this. A number of amendments have been tabled by various members. He should study them and accept at least one or two which will see to it that the workers' jobs are guaranteed and their terms and conditions of service are not changed to their detriment and they are also given a chance to have a voice in each particular case of restructuring of those companies.

SHRI C. M. STEPHEN (Muvattupuzha): Mr. Speaker, Sir, rising to speak on this Bill, I feel happy and also extremely unhappy too. I am feeling happy because the government is assuming powers to face the situation which has been very bad and to take over industrial units which are being closed down, have been closed down or are being mismanaged, resulting in the collapse of production and in the

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denial of employment to the workers. This is a welcome step and that has been due for a long time. I am feeling unhappy because in spelling out the purpose and the assuming of this power a very major consideration namely, pertaining to the workers, has been left out. Secondly, the government is seeking powers as much against the workers as against the employers who have failed the society. They want to take over the units. That is welcome. But while taking over the units, they want powers also to refuse workers the protection of Minimum Wages Act, the protection of Industrial Disputes Act, the protection of Standing Orders Act and they want powers to nullify all agreements which are existing as between workers and employers. In that respect, I feel rather unhappy.

I would like to ask the hon. Minister what exactly is the underlying policy of this Bill. Is it the policy that industrial units must be taken over? Is that the only policy? For taking this extra-ordinary step, there must be a purpose. What is that purpose? They have spelt out two purposes. One is to ensure that the production is not hampered I welcome that. Another purpose is to serve the general interests. I welcome that too. But are these the only two things which are affected when a unit is closed? Is not there another section which is very vitally affected? When a concern is closed, thousands of workers are thrown out in the streets. Is it not the purpose of this Bill that workers must be given employment? To say that as a result of taking over, the workers will also get employment is one thing. To say that we are taking over the factory in order that workers get employment is another thing. These are entirely two different things. The provision of employment as a byproduct is one thing. To go ahead with the set purpose of giving employment to workers is another thing. The difference lies in the approach to a particular problem. Whether you are conscious, anxious, solicitous, about the provision of employment of workers is the question.

I am sorry in spelling out the provisions and the need for this Bill, the hon. Minister has taken into account the interests of

production, the interests of general public, mere amorphous, intangible, unspelled, and the Government has not chosen to tell the country that they are taking over the units in order that the unemployment problem may be solved. That is a very vital part of it. If they could tell us that the purpose of taking over a unit is to give employment to workers and, in order that the workers may be given employment on a permanent basis, they will have to for the time being undergo certain privations, denying themselves certain rights, that is understandable. The worker will understand that. But to tell them that we are taking over this unit for the general public and for the production of certain industrial products and, in order that that purpose may be served, the worker who is a part of this will have to give up this right or that right, is a position which will not be acceptable to the worker. It is in this manner that I approach the problem.

There is another aspect which I am not unaware of. That aspect is that provision with respect to non-application of the Acts specified in the Third Schedule is an enabling provision. The provision with respect to the denial of the protection of certain agreements is also an enabling provision. That is to say, merely because 'X' factory is taken over under the provisions of this Bill, it does not automatically follow that those Acts will not apply, it does not automatically follow that the agreements will not apply and it does not automatically follow that the conditions of service will alter. Only if the Central Government notifies, then alterations will take place. That is a factor which I do not understand. I have moved certain amendments with respect to this. I would appeal to the hon. Minister to consider or to clarify to the House what exactly is the policy of the Government, what is going to be the policy of the Government with respect to the implementation of this enabling power, whether there will be an implementation of it on a blanket basis, whether the workers could be sure that unless it is very absolutely necessary, the law, as it is, will be allowed to go on or that there will be no curtailment of the rights and privileges. If that assurance is forthcoming, then, of course, knowing as I do of the character of the Government, I will certainly be inclined to be satisfied with the particular thing.

Even then, I do want to underline one particular thing. In the Third Schedule, there are three Acts mentioned, Industrial Disputes Act, Standing Orders Act and the Minimum Wages Act. I do not know why these Acts are mentioned. The Industrial Disputes Act is an Act for the purpose of ensuring orderly behaviour in the industrial units. That is the only purpose. It is under the Industrial Disputes Act that a strike becomes illegal. It is under the Industrial Disputes Act that an agreement, once framed, has got a compelling force. If the Government or the management, does not want that provision, by all means you can have it that way. As far as the worker is concerned, his rights are never protected by these Acts. The workers never look to the Industrial Disputes Act or the Standing Orders Act to protect their rights. He has got his own method. His method is strike and when you say that the Industrial Disputes Act will not apply, illegality of the strike goes off the board and he gets his weapon and he may use it. Once the factory is opened and thousands of workers are in it, it is not these Acts that will apply to him. It is the strike which will be his only weapon that will be there. And to regulate that weapon, there are two Acts. One is the Industrial Disputes Act and the other is the Standing Orders Act. Whoever might have framed them, they thought these Acts need not apply. If that is so, anarchy will prevail and the workers will have full right to go the way they want. But if you want it, by all means you can have it. I have nothing to say.

With respect to the Minimum Wages Act, in the Scheduled Industries which are here, most of the Scheduled Industries are industries which are governed by Wage Boards, none by any notification under the Minimum Wages Act and that you want these Acts should not apply. My objection to it is one of principle. This country in the course of the last twenty years ever since Independence by awards and awards, by Industrial Tribunals and Appellate Tribunals and by the judgments of even by what is now known as the retrograde reactionary Supreme Court, we have said that no industry which is not capable of minimum wages need exist. That is the principle. That has been accepted. Now, the Parliament of India is now being asked to give its sanctified sanction to a particular provision whereunder we announce to the country that in the India of 1972 they

can be an industrial unit where minimum wages may not apply. Now whether that is a provision which should be accepted? It would defile the face of this Bill, it would defile the face of the socialist appearance and the socialist soul that we want to build up. It is absolutely wrong. Therefore, I would still appeal to the Minister to consider and to delete from out of the Schedule at least the Minimum Wages Act. If that provision is incorporated in it, that will certainly be a day of sorrow for the working class of India. May be, I, as a trade union worker, will certainly support this Bill if there is a whip but let me tell the Minister that every trade union worker on this side will support it with a qualm of conscience, with an agony, with a great misery in their mind, with a feeling that they are committing a sin. Let us not be forced to do that. That is the only appeal I would make to him with respect to that.

One more thing and I have finished. There are only two provisions whether when the management is taken over, the worker must be taken over or not. In the first provision at the time of taking over, there is no doubt that all the workers will be taken over. There is nothing like pick and choose as far as that section is concerned. It is only with regard to the application of these provisions that Government come in and the workers will be taken over. I hope when the scheme is framed the Government is given power to decide how many of these workers will be taken over and how many need not be taken over. I have nothing about it. In the scheme also it is there.

SHRI INDRAJIT GUPTA : The authorised person is given the power.

SHRI C. M. STEPHEN : No, Sir. The position is this. For the purpose of running the industrial undertakings, or exercising functions of control in relation to the concerned part, the authorised person may employ such of the former employees of the industrial undertaking whose services became discharged by reason of the winding up of the company, etc.

Therefore, the provision first is that such of them or all of them who have been discharged will be taken. But when the scheme is framed, it is provided that such of

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them as may be specified alone will be taken over. Therefore, certainly a scheme can be framed and that scheme will be put before the High Court and the High Court will then give its sanction. The provision in the Bill is that notice of the scheme will be given to the creditors and the members of the company. But there is no provision for any notice being given to the trade unions which are affected by this. I have tabled an amendment that notice be given to the trade unions also, so that the trade unions also could be given a say in this manner, so that the final decision may bind the trade unions also. But according to the present provision in the Bill, there is no provision for any notice to the trade unions, and yet the scheme can be sanctified and the scheme will be binding on the employees. May I submit that if the final order will have to be binding on the employees, then there should be notice given to the employees also, according to the principles of natural justice? Therefore, notice should be given to the employees also.

As I said earlier, I welcome this Bill because it meets a great challenge which is now facing our country. But I would have been happy if while spelling out the purpose of this Bill, the specific purpose of giving employment to the workers had been mentioned as one of the purposes, and I would have been happy if those provisions which are apparently against the working classes had not been there. I would appeal to the hon. Minister to give us an assurance that those provisions are merely enabling provisions and that the fundamental rights and claims of the workers will be supreme in the calculations of the Government and of the authorised person.

I would also appeal to the hon. Minister to consider whether it is in conformity with the concept of natural justice, that a scheme should be framed and got through which is statutorily binding on the workers, without giving the right of hearing to the workers while at the same time giving the right of hearing to the creditors and members of the company. I would request the hon. Minister to consider that the workers are as much part of this industrial establishment as, and in fact, they are much more a part of

it than, anybody else, and therefore, their rights should be considered in that light, and protected as well.

With these observations, I support this Bill broadly, and I appeal to the hon. Minister to do his best to dispel the doubts and the fears that some of us are entertaining with respect to the object which the Bill is aiming at.

With these words, I support this Bill.

SHRI JYOTIRMOY BOSU : News has come that there is surrender in Bangla Desh of the entire Pakistani forces. We would like to have in the House a confirmation from Government in this regard. We are very anxious to know about it, as you, Sir, also would be equally anxious to know it.

MR. SPEAKER : We have all been very anxious to know it, and we have been waiting for this moment. The hon. Minister concerned is not here. I think that Government will be the first to inform the House of it.

SHRI JYOTIRMOY BOSU : News has come, and, therefore, we are anxious to know the correct position.

AN HON. MEMBER : You can summon the hon. Minister to make a statement.

***SHRI. C CHITIBABU (Chingleput):** Mr. Speaker, Sir, I am grateful to you for giving me an opportunity to participate in the debate on the Industries (Development and Regulation) Amendment Bill, 1971. While welcoming this Bill, which will enable the Government of India to take over the closed or about to be closed industrial undertakings which are vital for the economic development of the country and in consequence of which the rigours of rising unemployment in the country will be reduced to a substantial degree, I would like to point out certain deficiencies in the Bill, I would also like to point out to the hon. Minister that I do this not with the intention of picking holes but with the intention that the hands of the Government will be strengthened if these deficiencies are removed.

*The original speech was delivered in Tamil.

Under the existing legal provisions, the Government can take over sick industrial undertakings, but they have got to be returned to the original owners after a period of 15 years or less. In order to ensure continued efficient management of the undertaking taken over by the Government, naturally the Government have to invest public funds to a considerable extent. I wholly agree with the Government that such undertakings in which they have invested huge sums from public exchequer should not be allowed to go back to the original owners responsible for its downfall. But I am unable to appreciate the attempt of the Government to take powers through this measure for the sale of the undertaking after this prescribed period at a reserve price or even at a higher price. If it is at reserve price, the Government will purchase it. But, you know, Sir, that there will be vested interests to offer very much more than the reserve price because they know that the undertaking has been set right and they will be able to reap considerable rewards from it. Naturally the Government, after having invested so much public money in the undertaking and exerted all their energies in making it a remunerative unit, will not be able to purchase it at the reserve price. It is also not given back to the owners who had originally set up this unit with the sweat of their labour and hard-earned money. It will be given to some other vested interests. I am strongly of the view that the Government proclaiming to usher in an era of egalitarian society in the country will never be able to implement this, if they try to get such a power of resale through this Bill. They will only enable the capitalism to enter through back-door through re-doubled vigour. I would appeal to the hon. Minister that he should seriously consider what I have said and bring in an amendment to the relevant clause in this Bill and drop the provision regarding the power to effect the sale of such an undertaking after the end of the prescribed period to somebody else other than the original owners.

The hon. Minister in his statement referred to the fact that 497 undertakings had been closed in West Bengal and 78673 workers have become unemployed. But, I want to say that he has not mentioned the figure regarding undertakings which have been closed throughout the country. I do

not know whether the hon. Minister in his reply to the debate will be able to tell the house the number of undertakings that have been closed all over the country and what is the plan of the Government in reviving them.

Sir, as on 31.12.1970 in the private sector there are 29663 units with the paid-up capital of Rs. 2002.5 crores. Out of this, the Inspection Directorate of the Government could investigate the accounts of only 372 units. It is unfortunate that the moment the Government on the basis of such inspection reports revealing unfair commercial practices adopted by the units want to proceed with intensive investigation immediately under Article 226 of the Constitution such units file writ petitions before the Court and the intentions of the Government are harassed by such devious means. I would strongly plead with the Government that Article 226 of the Constitution should be suitably amended abridging the powers of the High Court to admit writ petitions of the units about which the Government have made public that they have been indulging in malpractices detrimental to the economic development of the country.

Here, I would also refer to another fact. About two years ago when the Standard Motors Co. in Tamil Nadu had been closed and when more than two thousand workers had been rendered jobless, the Chief Minister of Tamil Nadu, Dr. Kalaignar Karunanidhi, repeatedly appealed to the Ministry here that this undertaking should either be taken over by the Central Government or the State Government should be allowed to take it over. If this was not possible, the Centre and the State could jointly run this unit. But the Central Government maintained its stony silence till some solution was found in this regard. Meanwhile, out of their own slender resources, with a view to give some relief to the workers in acute distress; the Tamil Nadu Government used to give Rs. 50 per month to a worker. I am now feeling why should not the Centre have come forward with such a legislation two years before or at least they could have informed the State Government about their plan to bring forward such a Bill in the near future. Instead of keeping mum to the repeated requests of

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our Chief Minister, Dr. Kalsigner Karunanidhi, the Centre could have found out some ways of taking over this unit either by themselves or by the State Government. That would have helped the workers a great deal.

In this context, I would also say that the term "inter-connection" in the Monopolies Act is being interpreted in many different ways. Consequently, the Government themselves are unable to establish the inter-connection with 50 Tata firms, and 200 Birla firms. The Government should take this opportunity to amend the Monopolies Act also giving specific definition of "inter-connection".

11 hrs.

From the Annual Report of the Department of Company Affairs, I find that as on 31.3.70 3085 firms are under liquidation and out of this 1851 units are under the custody of voluntary liquidators on whom the Government have no control. I would request that the hon. Minister should change the system of appointing voluntary liquidators and if necessary, the House will only be too prepared to approve the Bill which he may bring forward for this purpose. Under the present arrangement, the Government are not aware of the exact position of the firms under the custody of voluntary liquidators.

Sir, it is stated that in the interest of workers, this Bill has been brought forward. But it is really a paradox for me that the provisions of Minimum Wages Act will not be applicable to the units taken over by the Government. Secondly, it is prescribed in the Bill that the Government will take only such of the employees back into service which also will be considered as fresh service. Is it doing justice to the workers? I would request the hon. Minister that though, he may not agree to the suggestion that the Industrial employment (Standing Orders) Act and the Industrial Disputes Act should be made applicable to such units, he should at least agree that the Minimum wages Act should be made applicable to these units taken over by the Government.

In 1967 the Government took a decision to nationalise textile industry and in fact a Corporation has also been set up in the public sector. I request that all the textile mills should be nationalised.

Before I conclude, I would suggest that instead of selling back such units to somebody else at a fancy price, the Government should retain them under their management or they should enable the workers to purchase the shares of such units so that they could run them under the management of workers' cooperatives. I would also urge that the provisions affecting the workers should be deleted from this Bill. With these reservations, I support the Bill moved by the hon. Minister.

SHRI B. V. NAIK (Kanara) : Mr. Speaker, Sir, unlike other hon. members who spoke about labour, the trade union movement and the workers, I am not very emotionally involved. The explanation could be that my power base is not the urban labour power based on industries, but basically it is in agriculture. At the same time, I would, in the wake of speech of Shri Bosu and in anticipation make a specific request on behalf of our jawans fighting both in the east as well as in the west that as and when you start these industries, urging Government to keep a sympathetic eye for the ex-defence personnel, whether they come from Dacca or from Chhamb, because we have seen the fate of the people who participated in the wars in 1962 and 1965, the fate of the Emergency Commissioned officers as well as the jawans who had been recruited who were completely thrown out and disorganised and had not been accorded a sympathetic treatment after the wars were over.

After this digression, I come back to the original subject.

MR. SPEAKER : How did this subject crop up ?

SHRI B. V. NAIK : It is in regard to providing employment in the industries to be taken over.

MR. SPEAKER : The mere mention of the word employment does not mean

employment throughout the world. Anyway, it is a good idea.

SHRI JYOTIRMOY BOSU : They are not even wanting to keep the existing ones, let alone taking in the ex-service parsonnel.

SHRI B. V. NAIK : In regard to these sick industries, the definition has been given in regard to the industries which have been closed for three months. I believe that any industry in any part of the world, much more in our country, which has remained closed for three months, is not a sick industry. It is already dead and gone. I would, therefore, request that the hon. Minister should make out a re-definition as to what a sick industry is. Any industry which is not able to stand on its own feet, any industry which is not able to make a reasonable amount of profit, any industry which is suffering from one or other cause, has got to be examined in advance, and at the time when it has come to dead stop, it has already entered the stage of *rigor mortis*. Because the statisticians will prove that in the case of those industries which have stopped production, it is a very Herculean task for us to start them again. I therefore do not see any reason why a full period of 90 days after the closure of the industry has to be given, so that our Government comes to the conclusion whether it is to be taken over by this indirect process of nationalisation and taking it over at a minimal cost.

I would also put in a word here that as far as the labour policy is concerned, namely, the protection of the rights for the existing workers in any industrial undertaking, let us take both from the militant or the radical or the leftist point of view as well as from realistic point of view, what the Government is trying to do. As a socialist Government in this country, it is not trying to go against the basic rights of the workers in any industry. It is trying to provide jobs for the jobless, and I think that is an adequate amount of socialism as far this poor country can afford. Under these circumstances, we cannot say that this earnest effort to start 400 or 500 odd industries in specific parts of this country and thereby provide jobs for the presently jobless workers

in that industry—merely because certain basic protection is not provided can be termed as a sort of capitalistic move. The mere fact that we are going to give them jobs where the jobs do not exist is, in an abundant measure, a sort of restoration, *status quo ante*. Therefore, it is abundantly a socialistic measure and I am one with the Minister of Industries as far as this restarting is concerned.

In regard to these industries, I have got two examples. For the last 10 years, the Government of Mysore has been trying to start and restart the two textile mills, one at Gulbarga and the other at Hubli. These textile mills have been in existence since the industrial revolution in this country for past 100 years and more. But for the last 10 years, the State Government of Mysore has borne more than Ra. 2½ crores, and I must say sadly that they have not been able to solve even the elementary problems of having been able to give a sort of assured employment to the people there. There have been colossal failures. I request that the Minister of Industries should look into this.

Then, if it is a question that the Government should not run these industries and if the workers themselves can run them with workers' participation I think the Industries Minister should be in a position to see that this opportunity is given first to the workers and the workers' representative to start the industries. Then, in the context of our Indian realities—may be there is need for research in this field when the sick industries are in a sort of debris in the capitalistic system, they are trying to be rehabilitated not at the public cost but at the private cost. I would, therefore, suggest that parliamentary in this by win field of sick industrial area, namely, cotton textiles and sugar, if we are in a position to see that in the existing reality black money in this country is somehow made to be ploughed into these areas of the sick industries, I think form the point of view of provision of employment for the workers, it would be a great service.

I do not know about the modalities and therefore I do not want to deal at great length with this question. In the mean time there is only one point regarding the industries in the urban metropolis, I hope that the hon. Minister of Industries has had a good look

[Shri B. V. Naik]

at some of the factories in big cities like Bombay and Madras which are situated right in the middle of the cities. I do not know why Mafatlals and Ruias and other firms should occupy precious land in urban metropolis; they have been sitting there for the past hundred years. In the context of urban development, in the context of health and environment, should they not be displaced from these areas? They should be declared fit for housing sites. The Industries Minister should give thought to their dispersal and shift them to Gulbarga or Hooghly, to places where there is a cotton belt or sugarcane or other commodities. Thus a lot of service would be done to the urban population of big cities like Bombay, Madras, Calcutta, Ahmedabad or Bangalore. At the same time a lot of service will have been rendered to the industries as such.

The Bill is the most appropriate and the most welcome; till now we have been trying to see that every failure on the part of the enterprise and management was under-written or subscribed and paid for by the Government. I think the time has come when public money should not be utilised for this particularly for the sick sugar industry in U.P. and similiary all over the country. These industries cannot bear the cost of nationalisation at tremendous cost to our exchequer. They can only bear taken over at a minimal cost. I would reiterate that the period of ninety days would be suicidal for the Government and therefore I urge upon the Minister to reconsider the 90 days period and make it not more than the date of closure.

SHRI B. R. SHUKLA (Bahraich) : I extend my support to the general features of this Bill which seeks to replace the Ordinance promulgated sometime ago. It deals with three categories of cases. The first is industrial undertakings which are in the process of liquidation in a High Court or under its supervision. If the Government tries to take over the management of such undertaking, it may be considered that the Government is trying to interfere or obstruct the course of justice or commit contempt of court. To cover such cases provision has been made in the Bill that whenever an

undertaking is in the process of liquidation before a High Court or under its supervision, the Central Government may make an application for permission for investigating the possibility of restarting or running such an industry. The High Court would have no option but to accord its sanction for such investigation and thereafter if the Central Government comes to the conclusion that there is a possibility of re-starting such industries, such industry shall be taken over by the Central Government in the same way in which other industries can be taken over.

The second category is in respect of an undertaking which is run in a reckless manner so that it becomes detrimental or prejudicial to the interests of the industry itself. It has been the experience of the Government that certain owners or those who are in control of some undertakings are making reckless investments or diverting funds to other undertakings or they are creating encumbrances in such a way that it is prejudicial to the industry concerned. This is also a very welcome feature that in such a contingency it should be taken over, but I am afraid that a certain loophole has been left, because if the industry does not strictly fall within the conditions contemplated by this provision, it would not be open to the Central Government to take it over. Therefore I suggest that it should also be provided in this measure that whenever an undertaking is mismanaged in such a way that it creates a general situation of unemployment in the country, it should also be taken over.

Thirdly, it has also been provided that if an undertaking remains closed for three months, it can be taken over. My submission is that the industrialists can evade this provision by ordering a lockout for 50 days, and thereafter they may be inclined to reopen it. But in these days if an important undertaking remains closed for 60 days, it will result in the unemployment of thousands and lakhs of workers, creating also a climate of industrial uncertainty. So, my submission is that the Government should be empowered to take over an undertaking immediately if it finds that its closure results in a general unemployment situation.

Government should not wait for three months in order to step in, but should take over at the appropriate stage.

The fourth welcome feature, which I think is the most striking feature of this Bill, is that provision has been made to enable the Central Government to keep undertakings taken over under this Bill permanently with them. If the Central Government takes over an undertaking and puts it on a proper footing by making huge investments and putting in the necessary inputs, and then hands it over to the same sick and incompetent hands, the Central Government would be acting only as a Manager of a Court of wards or Taluqdari estates a system which was prevalent in this country. So, when such an industry is taken over, it should be retained permanently under the control of Government, and it should become part and parcel of public undertakings under the Government. I think this is the most substantial advance towards the socialist goal to which we pay our tribute and make references in this House time and again.

There is one disquieting feature in this Bill, and that is that a blanket ban is sought to be placed on the rights and privileges of the working class by empowering the Government to vary, adapt, modify or exclude the provisions of the enactments included in the Schedule. This is a drastic step, and I am afraid that the executive cannot be given these uncontrolled powers as they are likely to be struck down as unconstitutional in a court of law.

There is another disquieting feature which I want to bring to the notice of the hon Minister. A blanket ban has been placed on the enforcement of all legal remedies. This may be prejudicial to the interests of the poorer sections of society. Sugar Industry is a scheduled industry within the meaning of the Industries (Development and Regulation) Act. There is a talk that the sugar industry is not being run on sound lines and it can also be taken over under this Act. Lakhs of cane-growers have supplied cane to the mills and there are huge arrears outstanding against the mills, to which the cane-growers are entitled. If you are going to put a blanket ban on the enforcement of the legal remedies against mills which are being taken over, it means the cane-growers would be deprived of the money due to them

during the period of control being taken over. So, some modification should be made so that persons who have entered into genuine and honest transactions with these mills may not be deprived of the money due to them.

These are the features of the Bill to which I wanted to draw attention.

PROF. MADHU DANDAVATE (Rajapur : As a Socialist, I cannot extend my unconditional and unqualified support to this Bill, unless some of the anti-labour provisions which are thoroughly inconsistent with the unanimous recommendations of the Indian Labour Conference regarding the continued employment, emoluments and service conditions are completely changed. I would urge the Industries Minister to ensure that he gets for this Bill not merely the support of this Parliament but also the support of the organised working class and trade unions in the country. If that is to be done, some of these anti-labour clauses will have to be revised and some completely repealed.

In the original Act of 1951, there are provisions to take over sick industries, but there has always been an obligation that after a period of 15 years or less, those industries which are taken over had to be handed over back to those very persons who have mismanaged them. I am glad under this amending Bill, there are two provisions in respect of sick industries which will be taken over by Government. Firstly, Government will have the power to move for the sale of the undertaking at a reserve price or higher and secondly Government will have the power to move for the reconstruction of the company owning the industrial undertaking with a view to giving the Government a controlling interest in it. The House may recall that when I had tabled a calling attention motion on the closure of textile mills, I had demanded that certain amendments in the existing Act should be made to see that the sick mills are not handed over to those who have mismanaged it. At that time, the Minister of Foreign Trade, Shri L. N. Mishra, gave the assurance that such an amendment would be brought forward. I am glad it has ultimately come.

There are many industrialists who have been making Government at some stage of

[Prof. Madan Dandavate]

a health centre or sanatorium. When their undertakings are sick, they hand them over to the Government. At the hands of Government, the industries are put on a proper footing and their profitability increases. Then, the undertakings are handed back to those who have mismanaged them. I am happy that this state of affairs will completely change after the amendment of the original Act.

One aspect I would like to raise, which is very relevant, to the implementation of the Bill. I would like to point out that like the Constitution Amendment Bill this Bill is also an enabling Bill. It only gives certain powers to the Government. How the Government will utilize those powers is a very relevant factor.

In this connection, let me quote certain experiences in connection with governmental policies and their implementation. On the 31st November 1971 an Ordinance was promulgated for the take over of the industries. However, when certain important engineering concerns which are also defence-oriented, for instance, when Alcock Ashdown, Mackenzies, Bharat Barrel and Drums Structural Engineering, were closed down, not one of them was taken over by taking advantage of the power that was given to the Government under the Ordinance. The Bill is only an enabling one. Will they implement or utilize the provisions of the Bill is very important.

For instance, in the case of Alcock Ashdown I will narrate a very interesting incident. If no decision is taken by the 20th of this month, either at the Central or State level, this particular concern is likely to go into liquidation. Remember this is an industry which is defence-oriented. Unless prompt steps are taken probably that industry will go into liquidation.

In this connection, let me tell you that even though powers are given by this amending Bill there is no proper coordination between the various Ministries and there is no proper coordination between the State Governments and the Centre. So, even after the passing of this measure it is quite likely

that you will fail miserably. Therefore, we want an assurance that certain progressive provisions of the Bill will be vigorously implemented.

In the case of Alcock Ashdown engineering undertaking the State Government of Maharashtra has made a strong recommendation, especially in view of the emergency, that this particular undertaking should be taken over by the Government. I met the hon. Minister of Industrial Development. He is very sympathetic towards the workers. He said he also wants that the workers should not be rendered unemployed, but he pointed out his own difficulty in view of the Bangladesh problem, in view of the problem that was created by the influx of refugees. He pointed out his difficulties and suggested that the State Government should take over the industry. The State Government said that in that case the Finance Ministry will have to come to their rescue. Whereas the recommendation of the Maharashtra State Government is that the Centre should take over the industry, the Minister of Industrial Development at the Centre feels that the State Government should take over the industry in consultation with the Finance Ministry, while the Finance Ministry feels that the Ministry of Industrial Development should do the job. This is how the coordinated functioning of the three Ministries is going on. I wish they will coordinate their activities. Fortunately or unfortunately, the State Government and the Central Government in this particular case belong to the same party. In spite of that, there is no coordination. Therefore, I would very much urge that in the interests of industrial development, in the interests of defence production, in the interests of trade unions and the employment of labour, they should look into the matter and ensure that on the 20th December this important engineering concern does not go into liquidation. That will be a test case of the implementation of the powers which were given to government under this Bill.

Here I would like to make a reference to the closure of textile mills. We feel that the sections of this Bill are quite enough and no further enlargement is needed; enough powers are there but they must be properly used. In the case of the textile industry we are finding it that textile industrialists have been creating a scare of artificial scarcity of cotton and they trying to purchase

the government through block-closures to see that they agree to import a large quantity of cotton, a strategy by which they want to pressurize the government to bring down the indigenous price of cotton. If the indigenous price of cotton comes down then their margin of profit will go up. That is why they are pressurising the government. I feel that this is a conspiracy on the part of the textile magnates. Therefore, the provisions of this Bill should be utilized in such a manner that the textile mill owners who have been responsible for this misconduct and block-closures should be treated as guilty of misbehaving with the working classes and harming the national interests. When such industrial units are taken over under the provisions of this Bill, they should not afterwards be handed over to those people who are responsible for mismanaging the industry.

I do not want to spend much time on whatever things have already been said. I would once more repeat that while the progressive provisions of the Bill should be properly utilised, all anti-labour provisions of the Bill which are inconsistent with the recommendations of the Indian Labour Conference should be completely removed.

One hon. Member pointed out over here in the name of rural population that the urban-area people should take note of the problems of rural areas and, he said, that we should not insist about minimum wages, various facilities and security about emoluments. Let me point out to the hon. Member that if you are not prepared to assure the security of employment and emoluments, then the Government has no business to run the industries at all. What even the most retrograde awards have said, how those who profess in the name of socialism are rejecting by coming forward with a plea that no security need be offered, no minimum wages clause should be respected and no security of continued employment should be there. I shudder to think about the socialist character of these so called socialist Members.

With these reservations and with these qualifications, we will support the progressive features and aspects of the Bill and, at the same time, vigorously, oppose all anti-labour provisions. If those provi-

sions are pressed for vote, my party will be forced to vote against the provisions which are anti-labour.

श्री नाथूराम मिर्चा (नागौर) : माननीय अध्यक्ष महोदय, इण्डस्ट्रीज प्रोव्हेनमेंट बिल, जिसके बारे में आज यहां सदन चर्चा कर रहा है, मैं उसका पूरी तरह से समर्थन करता हूँ। वह बिल बहुत देर से लाया गया है, हालाँकि इस देश में जब से यह लोक सभा बनी है, इस कांग्रेस पार्टी का राज्य रहा है और यह कमी जो इस कानून में आज पूरी की जा रही है, अच्छा होता यह कमी पहले ही पूरी कर दी गई होती। लेकिन उस समय कुछ और मूड था और भ्रम पिछले चुनाव के बाद इस पार्टी का दूसरा मूड है, उसमें परिवर्तन हुआ है और हम ने इस बात का अपने हाथ में बीड़ा उठाया है कि हमारे समाजवादी कदम अब तेजी से आगे बढ़ेंगे। इस प्रकार के कई कानून पिछले दिनों इस सदन में पास हुए हैं, संविधान में संशोधन हुआ और यह एक बहुत बड़ा संशोधन है जो हमारे समाजवादी कदम को आगे की दिशा में बढ़ाता है।

हमारे देश के अन्दर इन योजनाओं के काल में बहुत से उद्योग लगे हैं, कई कारणों की वजह से, कई परिस्थितियों की वजह से, सास तीर से जिनका जिऊ किया गया है, बहुत से उद्योग जो चालू थे, वे बन्द हो गये। जहाँ तक बन्द होने का कारण है, इसमें कोई सन्देह नहीं मीनेजमेंट भी इसका बहुत बड़ा जिम्मेदार होता है, जो उसको लगाता है, जो उसमें धन खर्च करता है...

श्री उपरोक्तियय बसु : मन्वर्नेमेट का कर्षा भी होता है।

श्री नाथूराम मिर्चा : ठीक है, जनता का भी बहुत ज्यादा खर्चा होता है। उसमें खर्च

[श्री नाथूराम मिर्जा]

एम्प्लॉय की जाती है, लेकिन जब वे कारखाने बन्द हो जाते हैं तो लेबर बेकार हो जाती है। देश को अन्दर जो ऐसे कारखाने होते हैं वे लेबर को पूरा कन्ट्रोल नहीं कर पाते, उनके साथ अच्छा रिजेशन नहीं रख पाते और नतीजा यह होता है कि वे कारखाने बन्द हो जाते हैं। कई बार उनकी ऐसी भी लालसा होती है कि ज्यादा से ज्यादा लाभ कमाया जाय, धन कमाया जाय और उस धन को कहीं और लगाया जाय। जब मशीनें पुरानी हो जाती हैं तो नये तरीके से उनको रेनोवेट करने की इच्छा नहीं होती है, तब ऐसी परिस्थितियां बन जाती हैं कि वे कारखाने अपने आप बन्द हो जाते हैं। लाखों मजदूर बेकार हो जाते हैं, देश का उत्पादन घट जाता है। नतीजा यह होता है कि हम पुराने कानून के अन्तर्गत उनकी कोई सहायता नहीं कर पाते थे। अगर वे लिक्विडेशन में जायें तो भी नहीं ले सकते, अगर बन्द पड़े हों तो भी नहीं ले सकते थे। लेकिन अब इस कानून में ऐसी व्यवस्था की गई है कि सरकार उनको ले सकेगी। मैं तो यह समझता हूँ कि यह बहुत अच्छा हुमा है, देर-आयद-बुख्त-आयद। इससे देश का उत्पादन बढ़ेगा, जो मजदूर बेकार हो गये हैं उनको वापस काम मिलेगा।

कुछ लोगों को जो मजदूरयूनियनों में काम करते हैं, उनका प्रतिनिधित्व करते हैं, उनको ऐसी चिन्ता है कि यह कानून जो बनाया गया है, उसमें सरकार ने जो धाराएँ रखी हैं, वे उन के हक में नहीं हैं, बल्कि उनसे मजदूरों को कुछ नुकसान पहुंच सकता है। माननीय अध्यक्ष सहोदय, मुझे तो ऐसा लगता है कि उनकी धाराएँ कुछ अपॉर्टीकलसी हैं। उनका ख्याल यह है कि इसमें जो कुछ भी धाराएँ उनको फायदा देने वाली हैं, उनसे मजदूरों के हित पक्ष रोक सकती हैं, ऐसा नहीं करना चाहिये। लेकिन यहाँ एक ही समस्या है, इसके विषे

थोड़ा बैलेंस-यू रखना होगा। यह सरकार एक अच्छे इरादे से इस कानून को यहाँ पर लाई है, इसका उद्देश्य यह नहीं है कि उनको काम नहीं देना चाहत या उनको कम तनक्वाह देना चाहते हैं। अगर यह कहा जाय कि सबको रख लिया जाय, किसी को कम तनक्वाह न दी जाय, यह चीज तो अलग-अलग कारखानों की अलग-अलग परिस्थितियों पर निर्भर करेगी। अगर हम ऐसी व्यवस्था इसमें नहीं रखेंगे तो नतीजा यह होगा कि वे कारखाने चालू नहीं हो पायेंगे। शुरू-शुरू में तो सरकार को उनके अन्दर इन्वेस्टमेंट भी करना होगा, खर्च करना पड़ेगा। हो सकता है, उनके अन्दर पहले से ही बहुत ज्यादा मजदूर भरे हों, तो कुछ लोगों को थोड़े दिनों के लिये ठहरना होगा। अगर ऐसी व्यवस्था आप नहीं करेंगे तो कारखानों को सही लाइन पर लाने में कठिनाई होगी। सरकार ने पहले ही इसमें ऐसी व्यवस्था की है कि कं डि-टर्स को रकना पड़ेगा, कुछ मजदूरों को भी रकना पड़ सकता है, कुछ काम में लगाये जा सकते हैं, इसके लिये सरकार को बैलेंस-यू लेना होगा। हमारी ट्रेड यूनियन्स के लीडर्स अगर इस बात के लिये जोर देते हैं कि मजदूरों की सारी बातों को माना जाय, उसके साथ ही उत्पादन बढ़ाने की बात भी कही जाय, कारखाना चालू रखने की बात भी कही जाय, उसके लिये प्रैक्टिकल यून न लें, तो यह उचित बात नहीं है। लेबर लीडर्स लेबर की बात कहें तो कुछ रैशनल्टी और रीजनल पर कहें। मैं उनसे निवेदन करना चाहता हूँ कि इस विषय में जिन धाराओं की व्यवस्था की गई है, वे प्रैक्टिकल रूप में हैं, जो परिस्थितियां बहुत बिगड़ी हुई होंगी, उनको सुधारने के लिये है, ताकि देश का उत्पादन बढ़े, जो बेकार मजदूर हैं, उनको काम मिले, अगर उनमें से कुछ को थोड़े दिन काम न मिले, तो कोई बात नहीं है, लेकिन बहुत से लोगों को काम मिलेगा। यह कहना कि सब काम धारिदारी ही मानना,

किस्की चाहेंगे लगा लेंगे, जिसको चाहेंगे निकाल देंगे, ऐसी बात मान लेना उचित नहीं है। वहाँ पर जो कस्टोडियन बनाये जायेंगे, चाहे वे उसी मेनेजमेन्ट में से हों, लेकिन वहाँ इम्पानियल आदमी भी होंगे जो उस चीज को देख सकेंगे। यह कहना कि सबको सीनियोरिटी बेसिज पर ही लिया जाय या कुछ कायदे बनाकर इस कानून में डाल दें, तो मेरे ख्याल से इस तरह से सरकार का बहुत ज्यादा हाथ बांध दिया जायगा। ऐसी सूरत में बहुत से कारखानों को जिनको भासानी से चलाया जा सकता है, उन को वे चालू नहीं कर पायेंगे। शुरू-शुरू में इस में पूंजी-बिनियोजन करना पड़ेगा, नई राशि खर्च करनी पड़ेगी, इसलिये हो सकता है कि हमारे लीडरों में जोश और उत्साह हो और वे अपनी दृष्टि से ऐसा व्यू ले सकते हैं, लेकिन सरकार तो इस प्रकार का व्यू नहीं ले सकती, सरकार को तो उन सारी चीजों को समझकर चलना पड़ेगा।

मेरे ख्याल से यह कानून, चाहे देर से आया है, लेकिन बहुत अच्छे वक्त पर आया है। यह समाजवाद की तरफ एक और कदम है। इससे बन्द उद्योग चालू होंगे, मजदूरों को काम मिलेगा। इससे मजदूरोंके हक पर कुठारा घात होगा, मैं ऐसा इसको नहीं मानता, इससे मजदूरों का भला होगा और जो लोग बेकार हो गये हैं, उनको वापस काम पर आने का मौका मिलेगा। इसलिये मैं इसका हृदय से स्वागत करता हूँ।

SHRI VIRENDRA AGARWAL
(Moradabad): Mr. Speaker, Sir, I support the objectives as contained in this Bill. But the Bill, in the present form, will simply perpetuate industrial stagnation, unemployment and price spiralling and it will in no case serve the objectives for which it is meant. As several hon. Members have already repeatedly pointed out the working classes must have certain protection in terms of their

tenure of wages but this has not been found in the Bill. It seems that the Bill has got a large number of flaws and deficiencies which need to be looked into.

Therefore, I suggest, that if you really want a Bill of this kind to serve the objective as contained in the Bill, then it should really be referred to a Select committee. The select committee will definitely go into these problems and they will see that a complete and comprehensive Bill is brought forward before the House to solve all these problems, to foster industrial revival and to relieve unemployment.

We, as a nation, are determined to meet the challenge posed by the twin requirements of defence and development.

The rigours of Mr. Chavan's mini-budget, the cuts in foreign aid, the multiple strains of the war, and the expected cost of putting Bangla Desh on its feet, have all been taken up in the right perspective.

The impact of the war on the economy cannot be considered a temporary phenomena but this will actually be felt when the war is over. Defence preparedness necessarily implies as to whether the economy is capable enough to shoulder the losses incurred in the war. To win a war, it is imperative that production and savings are maximised and price-stability becomes a matter of faith not to the consumers alone but to the trading community.

Rapid industrialisation or industrial growth at the rate of 20 per cent, as against 1.5 per cent in the current year, appears to me to be the lasting solution for laying the foundations of a sound and self-reliant economy.

Since Mr. Meinel Haque Choudhury assumed charge, the Government deserves to be congratulated for applying its mind to the problems of industrial growth. Relaxation in the licensing policy is an indication in which direction the Government is thinking. This Bill is another instance to show that the Government is trying for this industrial revival. The Government proposes to attempt the powers for reviving the industrial production. It is rather too

[Shri Virendra Agarwal]

naive to hope that industrial revival could be brought about by a mere take over of closed mismanaged units. The Government must analyse the reasons why such a large number of units are closed down. And, if we try to define 'mismanagement' it appears to me that the entire public sector in the country fall under the category of sick or mismanaged units. We should better realise this when we talk about mismanagement and sick units. The reasons due to which these units are closed and there is this type of industrial stagnation are due to certain factors. I would like to enumerate a few factors. Of course, these are well-known to the Government and to the people. These are :

- (1) Credit squeeze following the notification of banks ;
- (2) Scarcity of raw materials ;
- (3) Recurring labour troubles
- (4) Delays in licenses ;
- (5) Adverse fiscal policy ; and
- (6) Short-fall in public sector investments.

These are the six basic reasons which are largely responsible for the industrial stagnation in the country today. If you analyse only one aspect, you will find that in 1970 alone, nearly 17 million man-days were lost, and in West Bengal alone, more than 11.5 million man-days were lost, with the result that a large number of industrial units had to be closed down. This is the time when the Government must find satisfactory solutions to these very problems rather than charge the industry that it has gone on strike or it is not producing the desired results. At the moment, there are more than 24 units closed down in the country, and if we see the figures which have been revealed by Government themselves; we shall find that in Calcutta alone, between January 1 and August, 31, there were more than 55 industrial units closed, and out of the 55, 38 are permanently closed and they are closed largely because of labour-management problems and shortage of raw materials.

SHRI JYOTIRMOY BOSU : I have already given the figures given by the West Bengal Government.

SHRI VIRENDRA AGARWAL : While considering to the Bill, generally we say so many things on principles, but when it comes to the implementation of the Bill, we should see that we do not take over such units as are not viable, for otherwise, Government will have to incur heavy losses from the exchequer. I understand that the Maharashtra Government are spending at the moment more than Rs. 19 crores every year to keep the 13 textile mills going. It is equally true that the Union Government have appointed a controller to manage 23 textile mills, and the Public Accounts Committee in their 28th report have indicated that these mills have accumulated losses from Rs. 16 crores to Rs. 26.36 crores after their take-over. How long do Government want to continue with these losses ? This is a question which nobody wants to answer whenever a measure of this nature is brought before this House, I would request Government to indicate whether Government are interested in incurring heavy losses from the xchequer and perpetuating poverty in this country rather than prosperity. Let Government assist the units with finances through an Industrial Reconstruction Corporation, as has recently been set up in Calcutta. At the moment, while the emergency is on, the trade unions which are second to none in their patriotism, should come forward and have some sort of industrial truce, so that we could have maximum production in our industrial units. At the moment, the people in the country have tremendous enthusiasm for playing a constructive role in the emergency, but it needs to be utilised by such immediate steps as eliminating delays in processing the applications or expanding the capacity or output in all cases. History remembers those who act at the right moment in the national interest. A growing State intervention is a must, but it should be positive and it should bring desired results.

SHRI P. M. MEHTA (Bhavnagar) : I welcome this measure. But at the same time I oppose the provisions which Government have brought forward to

deprive the workers of their basic rights. Today, we cannot imagine that the workers of any undertaking could be deprived of their basic rights. They must have the appropriate machinery for the redressal of their grievances. If we do not apply the Industrial Disputes Act to the undertaking taken over by Government, it will lead us nowhere and it will ultimately deprive the workers of their basic rights and it will lead to State capitalism. Therefore, I oppose those provisions and welcome the other features of the Bill.

I would like to bring one example to the notice of this House. My hon. friend Shri Madhu Dandavate has already pointed out that there is one engineering concern, a very good engineering concern working at Bombay and Bhavnagar, namely the Alcock Ashdowns.

This is a company which manufactures engineering structures, railway crossings, rail points, shipbuilding parts and other things. The whole platform for the offshore drilling was constructed by this company. Because of maladministration, the company has been closed down. It was in the hands of Mr. Mundhra. The Mundhras are famous for their activities and maladministration in the country. They always mismanage their concerns.

The workers had repeatedly approached the concerned Ministry of the Central Government and the State Government, but they have not got anything. The concern is economically viable. The concerned Ministry at the Centre says that if the State Government desire to take it over, they may. The State Government say that it is for the Industrial Development Ministry to decide the issue. Now proceedings are pending before the Bombay High Court. If the concerned Ministry here does not take the appropriate step, the High Court may pass an order to take the company to voluntary liquidation. This will result in loss in production of goods which are vital to us at this juncture. At this time, we cannot afford this. Besides, it will render thousands of employees and workers who are in permanent employment out of their jobs. The hon. Minister has stated that he has seized the matter. I would appeal to him to expedite it and

take the correct decision of take over this company.

I welcome the Bill which is a long-felt need.

SHRI RAJA KULKARNI (Bombay-North East): The Bill, good-intentioned as it is, is vitiated by very bad provisions in its scheme which has created discontent among the working class. The working class had itself agitated and asked Government to take the power to take over the closed industrial units. They have been doing it for the last two or three years. Now Government have come forward with that power. We welcome the good intention of the Bill. Government want to take the power to take over the management even during liquidation proceedings. We welcome it. Government seek power to reconstitute the undertaking. That is also a good provision. Government want power to sell and not give an undertaking taken over to its original owners who had frittered away the assets of the unit. That is also a good provision.

But coming to the anti-labour provisions of the Bill, we feel strongly against them, not only because we are emotionally attached to the organised working class, but we feel that with these provisions as they are, the very objective of the Bill will be defeated.

We have been told that our objective of industrial development has been economic growth with social justice. The President of the nation has said at the inaugural address to the fifth Parliament that we want that industrial relations should remain as important as capital and technology. But here is a Bill which says or indicates that it is a negation of the very principle which was enunciated by the President of the country, and it is a negation of the whole labour policy of this country. This Bill says that the application of the Minimum Wages Act, the application of the Industrial Disputes Act and the application of the employment (Standing Orders) Act come in the way of taking over and running these industries smoothly. If the Government wants to take them over and run them smoothly, if the Government wants to run these industries which have to be taken over, economically, if they see to modern

[Shri Raja Kulkarni]

nised, it cannot be done without the willing co-operation of the working class. Does the Minister of Industries expect the willing co-operation of the working class without the application of those fundamental rights of the working class? If the working class is asked to accept this, what does this mean? It means you are asking the workers to co-operate in making the industrial undertakings a success by asking the custodians of those undertakings to deal with the workers as they like. The custodian can charge sheet a man without holding any enquiry; he can fire a worker without any enquiry. That is the meaning of non-application of the Employment (Standing Orders) Act; without giving any cause, a man can be sent out. If there are no Acts like the Employment (Standing Orders) Act, the manager becomes a boss and he becomes another man who has got absolute powers to hire and fire a man. The Employment (Standing Orders) Act at least gives the workers that much protection that if a worker commits any misconduct, a charge-sheet should be given and an opportunity for his explanation should be given, and then the discharge or dismissal should be ordered after holding an enquiry. If the custodian is to be exempted from all these powers, he holds an absolute power which no working class will agree.

11.58 hrs.

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

Similarly, there should be the right of collective bargaining, where we find that the working class should voluntarily restrict its right in the case of essential industries. Here is a third category where the working class is statutorily asked to abdicate its rights to collective bargaining. This is a negation of the labour policy of this country. Therefore, we want the Minister of Industries to assure us that he will agree to delete this clause namely, clause No. 10. He should not attack the working class. The working class cannot give full co-operation for production and productivity. How can we have production and productivity when the right of collective bargaining to the working classes is taken away? If there is no minimum wage, if the wages in the undertaking are not even the minimum, if there are no collective bargaining rights, if the unions

cannot go to arbitration, if the unions cannot go for adjudication, if the unions cannot go in for an agreement, how can production in the industry or undertaking be increased? I want these clauses to be deleted, and then alone the working class can welcome this measure wholeheartedly. Otherwise, it would be slavery for the working classes. It is only under good employment conditions that the working classes will work. Giving the worker a job means it must be a job in keeping with the new policy of economic growth with social justice and not depriving the workers of all the rights which were achieved during the last 50 years of the struggle by the organised working class.

12 hrs.

SHRI R.D. BHANDARE (Bombay Central) : This Bill could be divided into three parts : first, an undertaking which is likely to affect production, affect the interests of the workers, displace them, making them unemployed must be taken over by the Government. It is an enabling provision. Secondly, if an undertaking is taken over it need not be returned to the company or the organisation from which it has been taken over. So far as these two aspects are concerned, I welcome and appreciate the efforts of our Government. It is a forward step towards socialism.

As for the third part, the drafting is defective. It seeks to abolish, curtail and destroy the rights of the workers. You are aware of the fact that in different States there are legislations which seek to give relief to the workers if they are unemployed, such as giving them doles. The provision that these three Acts may not be made applicable is there : standing orders or industrial employment standing orders Act, the Industrial Disputes Act and the Minimum Wages Act. This provision is copied from the relief measures legislation and is put in such a piece of legislation which is a step towards socialist or egalitarian society. What is the lacuna? Or what do these Acts seek to achieve? I want to ask the question.

So far as the industrial employment standing orders Act is concerned, does the Government want some provision relating

discipline in an industry or not? What does the Government want? That there should be no disciplinary provisions for taking disciplinary action? If disciplinary action is to be taken should it be arbitrary or should it be according to rules of natural justice? What does the Government want?

The second point is this. If the Industrial Disputes Act is not made applicable. What does the Government want to achieve? What does the Industrial Disputes Act seek to achieve? The Industrial Disputes Act first deals with arbitration and adjudication.

So, the Government is sufficiently empowered in the case of illegal strikes, but in the case of arbitration or adjudication, the consent of the Labour Minister is required. If the consent of the Labour Minister is required, why is such a provision incorporated in the Bill itself which is a benevolent measure?

So far as the Minimum Wages Act is concerned, I think there is misunderstanding or misconception. The workers in these industries which may be taken over have fought for their rights and secured what is known as fair wage under the Wage Board. Therefore, why is it necessary to incorporate it in the Bill itself that the Minimum Wage Act may not be applicable to the undertakings taken over. Therefore, it is not wise to copy this from somewhere else as it mars the very face and destroys the benevolent purpose of the Bill.

With these words, I support the Bill.

SHRI AMARNATH VIDYALANKAR (Chadigarh) : I support the Bill, but no trade unionist can give unqualified support to it. Many hon. Members have pointed out the undesirable provisions which affect trade unions and the working classes. In one breath this Bill accepts socialism, and in the next breath it denies the implications of socialism to be applied to the working class. I do not understand why it is provided in Clause 18FB that the Acts mentioned in the Schedule would be suspended. Private employers always allege that labour laws come in the way of production. I do

not know if the Government agrees with that theory by putting in this provision. This is really a very serious matter, and no one who is a real socialist and knows how labour should be treated in socialist regime, can accept it. Some hon. friends have already pointed out that these laws ensure the basic rights of labour and also the basic conditions in which the workers can work. We have always felt that they are not enough, but they are the minimum. For instance, if you think that you can increase production only by denying minimum wages, it is a very strange thing. So, I think the Bill will get full support of the House if the provisions mentioned in Clause 18FB are removed, and I hope the Minister will reconsider it. I am not very sure whether the Industries Ministry consulted the Labour Ministry on this provision and whether the Labour Ministry subscribes to the view that these are useless Acts and that they impede industrial production. That is the implication. Therefore, I hope the Labour Minister will use his influence with the Industries ministry and the Industries minister will take care to see that this provision is removed.

Without this provision, I give my full support to the Bill.

SHRI MOINUL HAQUE CHOUDHURY: Sir, I have heard with great attention the suggestions and criticisms offered by hon. Members from both sides of the House. The crux of the suggestion relates to securing the interests of labour. This is no doubt a paramount consideration and Government shares with all the hon. Members the belief that whatever is done should be done in the best interests of labour who toil hard to make production possible in those undertakings. Government will always keep in mind the interests of labour in administering the provisions of the Act. However, when considering the suggestions made by hon. Members, difficulties of a legal and practical nature arise and they cannot be lightly brushed aside. The suggestions made by hon. Members can be classified under certain broad headings and I am dealing with them accordingly.

Some of their suggestions are that in

[Shri Moinul Haque Choudhury]

the taking over of undertakings without an enquiry and in reconstructing the company owning the undertaking, the considerations of continuity of employment of the labour which previously worked in the undertaking should be specifically brought in, in this Bill. There are some legal difficulties in doing so. Firstly, this is an amending Bill, which has to be within the framework of the Industries (Development and Regulation) Act and cannot be independent of it or run contrary to it. The purpose of the original Act as passed in 1951 by Parliament is to provide for the development and regulation of certain industries listed in the schedule to the Act. The stress is on the development and regulation aspects of industries and the employment consideration has not been specifically cited as a consideration governing the provisions of the Act. Secondly, it should be noted that whatever amendments have been introduced now are those which arise as a corollary to the existing provisions of the Act, more particularly sections 15 and 18A. Obviously the framework of the Act being the development and regulation of industries, the consideration of a fall in employment has not been specifically cited in section 15, when such is the case, we cannot introduce either under the proposed section 18AA or under other provisions of the amending Bill, a specific and explicit enumeration of the factor of employment, although, I say with reiteration, safeguarding of public interest and securing of proper management of an undertaking do include *inter alia* the welfare of the employees.

Thirdly, it may also be added that some of the provisions of this Act relating to liquidation or reconstruction of companies have been adopted from the Cotton Textiles (Management of undertakings and Liquidation or Reconstruction) Act, 1967.

This Act itself has been repealed so that the cotton textile industry as well as other scheduled industries will now be covered by the proposed amendment. In the Cotton Textiles Act also there is no mention in any of its sections of the consideration of employment as such. There is also a constitutional reason for doing so. I will invite the attention of the hon. Members to article 31A of the Constitution.

SHRI JYOTIRMOY BOSU: Sir, on a point of order. We see that the Minister is reading out from a prepared speech. No doubt, that was prepared before he had heard us. It is something very strange. I have never seen it earlier.

SHRI MOINUL HAQUE CHOUDHURY: If my intellect is such that I can anticipate what you are saying then you must congratulate me instead of being panicky about it.

I was referring to article 31A of the constitution which provides for taking over the management of a property, amalgamation of two or more corporations etc. but only for a limited period and in the public interest or in order to secure its proper management.

31. (1) (b) says:

"the taking over of the management of any property by the state for a limited period either in the public interest or in order to secure the proper management of the property."

(c) says:

"the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations."

In the amending Bill, as well as in the original Act, I have referred to, we have kept in view the wording of the constitutional provision. But I repeat, as I have said, no public interest or securing of proper management of any undertaking can exclude the well-being of the labour. I hope nobody will ask me to go beyond the scope of Article 31A and get the Act struck down as *ultra vires*, for having provided for extraneous considerations in taking over the undertakings. These difficulties have been pointed out to us. We have not provided for this, not because government do not attach importance to the consideration of employment but because we should not enact something which will be declared

ultra vires, to the existing legislation or the Constitution and thereby render the risk of these provisions being struck down. This does not also mean that in practical terms the government will have no interest in maintaining employment in these undertakings. Public interest has been cited as an important consideration for many of the decisions to be taken by the government under the proposed amendments in the Bill. I for one can not conceive of public interest being considered without the interests of labour being taken fully into consideration. The interests of labour will have to be very much in the mind of the government in taking decisions on the ground of public interest. Even in practical terms, neither the government nor anybody else can secure the restarting of the industry or its continued production without the willing co-operation of labour. Hon. Members can, therefore, rest assured that while we administer the amended Act we will always keep the interests of labour in mind, and certainly the employment aspect of it.

Now, a lot of abuse has been hurled on the government about.....

SHRI JYOTIRMOY BOSU : Not on the individuals but on the class character.

SHRI MOINUL HAQUE CHOUDHURY : May be, the class character of the Government. A lot was said about the suspension of certain provisions, about the powers proposed to be vested with the government for notifying the suspension of certain Acts for limited periods. They also want to make it clear that all the erstwhile employees of the undertaking should be taken back into the undertaking with all their previous services intact. It is necessary to appeal to the hon. Members to look at this point from a broader perspective. After all, the whole legislation is to ensure the revival of production, which would also mean concurrently the revival of employment. But the process of revival should not be hampered or made impossible by creating circumstances adverse to the orderly running of an undertaking. Unless this done, the long-term interest of labour will not be secured and they would be subjected to intermittent and uncertain employment. If the bread-winner of the family who is sick has to be nourished back to the state

of health so that he can once more earn and feed the members of the family, surely, it is the duty of all the members of the family not to do anything that will retard regaining of his health. I would request the hon. Members to look to the proposition from that point of view. The spirit in which we have to look to the revival of the closed undertakings should be very much the same.

The reason why we have provided for an enabling power to suspend for a limited period the operation of Acts is only to ensure that once the undertaking re-opens, it should be able to run for a period without its energies being distrae ad by disputes. We have provided for a moratorium on all the liabilities so that financially the running of the undertaking becomes possible. In the same way, a moratorium over disputes is also necessary. If all the dues of past and present are to be paid immediately, it will be impossible alone for financial reasons to tackle even a fringe of the problem. I hope, the hon. Members will keep this in mind.

Coming to the question of some of the Acts the operation of which will be kept in suspension, I may point out that, in fact, many of the Acts passed by the State Governments do contain such provisions. Many State Governments including West Bengal, Maharashtra, Tamil Nadu, Kerala, Madhya Pradesh and Rajasthan have passed legislation for relief undertakings wherein similar provisions exist. In fact, the Relief Undertaking Act of West Bengal, Kerala Rajasthan, Tamil Nadu, and Madhya Pradesh provide for the suspension of all or some of three Acts we have mentioned in our Schedule.

Here, I may point out the Kerala Act. In the Kerala Act, it is said, where to an undertaking the Government has given loan not only take-over but even where loan has been given—in that undertaking, the Government by notification can do the following, namely :

"4. Notwithstanding any law, usage, custom, contract, instrument, decree, order, award, submission, settlement, standing order or other provisions whatsoever, the

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Government may by notification in the Gazette direct that—

- (a) in relation to any relief undertaking and in respect of the period for which the relief undertaking continues as such under sub-section (2) of Section 3—
- (i) all the provisions of the laws specified in Schedule to this Act which involve any financial commitment or expenditure shall not apply (and such relief undertaking shall be exempted therefrom) or all or any of such provisions shall, if so directed by the Government be applied, with such modifications (which do not however affect the policy of the said clause) as may be specified in the notification ;
- (ii) all or any of the agreements, settlements, or awards made under any of the laws specified in the Schedule to this Act which may be applicable to the undertaking immediately before it was acquired or taken over by the Government or before any loan guarantee or other financial assistance was provided to it by or with the approval of the Government for being run as a relief undertaking shall be suspended in operation or shall, if so directed by the Government, be applied with such modifications as may be specified in the Notification ;
- (b) during the period in which the relief undertaking continues as such under sub-section (2) of Section 3 any liability or obligation of the undertaking accrued or incurred before the undertaking was declared a relief undertaking and any remedy for the enforcement thereof shall be suspended and all proceedings relative thereto pending before any court, Tribunal, Officer, or statutory or authority shall be stayed. "

The provisions I have proposed is nothing more than this and actually a little less. I can tell hon. Member Mr. Jyotirmoy Bosu that this Act came into force by a notification of the Kerala Government on 27.4.68 when, if I am not mistaken, Shri Namboodiripad was the Chief Minister of Kerala and I hope you will agree with me, when he hurls abuses on me and my Party, that if these amendments show the class character of mine, then, our class character is the same as that of Mr. Namboodiripad. So, we are not doing anything which is extra-ordinary. He is simply playing to the gallery...(Interruptions)

Not only that, Sir, I was telling...

SHRI JYOTIRMOY BOSU : Then follow Mr. Namboodiripad in other matters also, Mr. Haque Choudhury.

SHRI MOINUL HAQUE CHOU-DHURY : The Tamil Nadu Government which is under a Party different from my Party, the DMK Party, have also thought that such a provision is necessary in order to give some employment to the people where they are not having any employment and not to over-burden the State in such a manner that they are not in a position to take over even one industry. You cannot certainly strain the State to such an extent that ultimately by putting all the liabilities on the State you create a situation in which the State is not in a position to open even one industry. Then, you will say that this is not a socialist State. If the States wants to give a little succour, then you come and say that by temporary suspension you have created a situation that you are anti-labour.

As I say it, apart from many of these State Government.....

SHRI JYOTIRMOY BOSU. You have misled the House. This Bill was enacted by Mr. K. Damodaran belonging to the Congress Party.

SHRI MOINUL HAQUE CHOU DHURY : But in the Bill it is written that it can be given effect to by a notification and I have been advised that notification is Kerala Government, Notification No. 11399-44/68/ID

dated 27-4-68 on which date Mr. Namboodiripad was the Chief Minister. He gave effect to a Bill which his previous Chief Minister thought was correct and he also thought that this was correct.. (*Interruptions*)

SHRI JYOTIRMOY BOSU : This is his class character.

SHRI MOINUL HAQUE CHOUDHURY : I will ask the hon. Member to read the proceedings, I spoke about the notification also earlier.

SHRI C. M. STEPHEN : May I just submit to the information of the hon. Minister one thing ? I am asking one thing. Now that these two Acts are being compared, may I know whether the Minister does not appreciate the fact that as between these two Acts, there is a distinction, namely, that the Bill now before the House has got the purpose of taking over and converting it on a permanent basis as a running concern whereas the relief undertakings have got the limited purpose of taking care of a unit for some time and to give them doles and for the purpose of giving doles to the workers, taking some work back. That is the purpose behind that. There is a material difference between the two.

SHRI MOINUL HAQUE CHOUDHURY : According to this Act, it will be returned back to the industrialists. So far as my Act is concerned after looking after everything, including the labour and rehabilitating them, I don't necessarily give it back as a prize to the defaulting industrialists. I either liquidate it or reconstruct it. In some of the cases I might myself enter and take it over. In appropriate cases we may take the controlling interest in it. In some other cases, we may give it to some other person at a price fixed.

This is again not a blanket provision. This is an enabling provision. Government will have to exercise its mind and examine case by case and decide it. It does not mean that as soon as this Act comes all the provisions will be suspended ; in some cases it may be necessary, in some cases it may not be necessary. In some cases with some modification and adaptation it may be applied. This is what I

would like to point out. We have put a further brake. It is this. These notifications will be coming into force only for one year. At the end of the year, the Government is compelled under the provisions of this Act to again consider the matter.

SHRI INDRAJIT GUPTA : It can be extended upto 5 years.

SHRI MOINUL HAQUE CHOUDHURY : It can be extended, but its life is not beyond one year. At the end of one year, the Government will have to consider the condition of the industry and all these factors and they will have to decide whether it should be extended as it is or with any modifications as may be necessary. The case of the labour can be reviewed within that period. Even earlier than one year this can be reviewed, within one year it shall have to be reviewed under the provisions of the Act and nobody can delay that. Therefore, to say that these provisions are anti-labour is not correct. What we try is to help the labour so that they come out of the difficulty and impasse. Nothing has been done all this time for them because of the difficulties of the Act and we are now trying to remove those difficulties in the Act itself. That is the position.

SHRI RAJA KULKARNI : You are not replying to my point raised that this provision is creating an impression that labour legislation is a nuisance for industrial growth.

SHRI MOINUL HAQUE CHOUDHURY : That is not the idea. I will give an analogy. An industry may be a bread-giver. If that industry is sick of that sick unit is to survive, it is the duty of all the people in the factory to help its recovery. It should not be taken as a nuisance. That is not the attitude at all.

SHRI M. RAM GOPAL REDDY (Nizamabad) : They, on these benches, want to kill the goose which lays the golden eggs.

SHRI MOINUL HAQUE CHOUDHURY : We are not only giving this with respect to labour ; but with regard to

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debts due to the Government and this is for a temporary period till the industry recovers. Hon. Members know the financial restraints which we have with the present war on two fronts and our position with regard taking over of large number of industries. As hon. Members know, if we can have production, there will be more employment; it is moving in a circle.

SHRI RAJA KULKARNI : Industries which are useful for defence production like Alcock Ashdown and Mc Kenzie's, Bombay are not being taken over.

SHRI MOINUL HAQUE CHOU-DHURY : That is a different question; I am not on that. I am talking about the provisions of the Bill.

SHRI JYOTIRMOY BOSU : Why do you want to penalise the worker for the misdeed of the employers? I have quoted the figures from the Bengal Government's survey.

SHRI MOINUL HAQUE CHOU-DHURY : I have repeatedly said that we are not penalising anybody. We are trying to rehabilitate the industry. May I ask whom Shri Namboodiripad wanted to penalise? Did he want to penalise anybody? He had the same good intentions to rehabilitate the industry, just as the Tamil Nadu Government had also the same intention.

PROF. MADHU DANDAVATE : Why does he quote Shri Namboodiripad as if we accept everything that he says?

SHRI MOINUL HAQUE CHOU-DHURY : I have said this because this point has been made by hon. Members and they have repeatedly said that this Bill shows the class character of the Congress party, and that too came from the hon. Member who belongs to the party of Shri Namboodiripad himself. That was why I had to refer to it. Otherwise, I would not have referred to it at all.

MR. DEPUTY-SPEAKER : It has been made by other Members also.

PROF. MADHU DANDAVATE : We have no love for Shri Namboodiripad.

SHRI MOINUL HAQUE CHOU-DHURY : One hon. Member had asked why we should hand back an industry after we have taken it over and reconstructed it. Our difficulty is that under the powers given in article 31A of the Constitution, we can take over an industry only for a limited period.

Therefore, if we take over an industry under article 31A, we can take it over only for a limited period, and after taking it over, we can reconstruct the company but we shall have to part with it afterwards. But that does not stop the Government from the going in for nationalisation of the industry in selected cases, and that cannot be ruled out. I can assure the hon. Member of that much.

One hon. Member said that the power for the suspension of the operation of the Act or its provisions is a blanket power given to the officer who will be in charge of the undertaking. I would request hon. Members to look into the provision itself and they will find that this power is not given to the officer but it rests with the Government of India. It is the Government of India who will have to suspend the operation or do the modification.

A suggestion has been made in regard to the sugar industry. As the hon. Member himself has said, if blanket power is given to the officer, it would be discriminatory. Again, if we classify only one class of debt, then also it would be discriminatory. But in a case of payment, certainly when we decide about lifting the moratorium and making the payment, we can take such cases into consideration.

There is just one more point that has to be replied to. It has been said that in the case of Alcock Ashdowns, there has not been sufficient coordination between the Finance Ministry and my Ministry and the State Government.

I may tell hon. Members that we have called a joint discussion of all concerned

and we shall certainly look into the Matter and decide it.

PROF. MADHU DANDAVATE : Will it be before 20th December ?

SHRI MOINUL HAQUE CHOUDHURY : Ob, yes, certainly. In order to do that, we have taken time from the High Court, as suggested by the hon. Member himself to me; we have asked for time from the High Court.

As regards Mackenzies, I had explained the position to the hon. Member himself. As against the liabilities of this company which run to several crores of rupees, the assets run only to a few lakhs of rupees.

SHRI JYOITRMOY BOSU : All under his supervision. He has a Company Law Department. What is the revenue intelligence doing ?

SHRI MOINUL HAQUE CHOUDHURY : I cannot say anything offhand about it. These are individual cases and I do not have them with me here. But I can give this much of information that as far as I remember, as against several crores of liabilities of this company, this company has assets worth only a few lakhs of rupees. Therefore, the case will have to be examined very closely.

There has been a suggestion that this Bill should be sent to a Select Committee...

MR. DEPUTY-SPEAKER : But those motions have not been moved and are there fore not before the House.

SHRI INDRAJIT GUPTA : May I ask the hon. Minister to reply to one question which had been raised. Why is it that he is now raising the difficulties of financial obligations which may have to be taken into account ? Why is it that under section 15FF (3) and (4), it is provided that the new scheme which will be drawn up in each case for re-establishing an industry will be submitted to the members and creditors of the company for their suggestions and ob-

jections, and the High Court will do the same also, but at the same time the workers and their trade unions are studiously and religiously excluded even from being asked to give their suggestions and objections ?

SHRI MOINUL HAQUE CHOUDHURY : There is an amendment tabled by Shri Stephen I have already indicated that if the wording is changed, I will accept it so that workers are also consulted.

SHRI C. M. STEPHEN : Could I take it that we have an assurance that in spite of the Third Schedule being there, that being only an enabling power, the policy of Government will be, as far as possible, not to implement and to seek exemption unless it is absolutely and inescapably necessary in the interest of the industrial undertaking and the continued employment of the workers ?

SHRI MOINUL HAQUE CHOUDHURY : I have already said so and I repeat that these enabling provisions would be used only when there is an inescapable situation.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill further to amend the Industries (Development and Regulation) Act, 1951, be taken into consideration".

The motion was adopted.

• Clause 2—(Amendment of section 3.)

MR. DEPUTY-SPEAKER. There is an amendment No. 27 by Shri Jyotirmoy Bosu. I am told it is acceptable to Government as modified. What is the procedure ? When an amendment is moved and it is acceptable with an amendment, there should be moved another amendment as modified with the permission of the Chair. How can you modify an amendment? Another amendment may be moved and I can give special permission to move it.

[MR. Deputy Speaker]

Government should study these amendments and decide which they want to accept and take action in time, 24 hours before and either move an amendment or do some thing about it. But this practice has been too frequent; everything becomes *ad hoc*. I would request Government to keep this in mind.

SHRI MOINUL HAQUE CHOUDHURY : Our difficulty is that even today we are receiving amendments.

MR. DEPUTY-SPEAKER : The amendment of Shri Bosu has been printed and circulated and therefore this should have been done in time.

SHRI MOINUL HAQUE CHOUDHURY : They were given yesterday.

MR. DEPUTY-SPEAKER : I would ask Government to take note of this. Shri Bosu's amendment says that after the words 'time necessary' a period of not more than twelve months should be there. It is only addition of the period. Government have intimated that this is acceptable to them. I will put the amendment as modified to vote.

Amendment made :

Page 2, Line 2,—

after "time" insert—

"period of not more than twelve months" (27, as modified)

(Shri Jyotirmoy Bosu)

MR. DEPUTY-SPEAKER : The question is :

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clause 3—*Insertion of new section 15 A.)*

MR. DEPUTY-SPEAKER : Now, clause 3. There are a number of amendments.

Mr. Stephen, Are you moving your amendments ?

SHRI C. M. STEPHEN : I am not moving.

SHRI JYOTIRMOY BOSU : I move :

Page 2, line 27—

After "continued," insert—

"Or being carried on the purpose of the beneficial winding up of the company," (28)

Page 2, line 32—

After "undertaking," insert—

"Or continuing or carrying on the business thereof," (29)

Page 2, line 39—

after "for" insert—

"as expeditiously as possible" (30)

SHRI RAMAVATAR SHASTRI (Patna): I move :

Page 2, line 35—

after "persons" insert—

"other than industrialists and their agents," (64)

SHRI JYOTIRMOY BOSU : Sir, this is a case where we can say that it is post-drafting. The proposed section 15 A seeks to confer power on the Central Government

to direct the investigation in the case of a company which is being wound up, and the business of such a company is not being continued. Under section 457 (b) of the Companies Act, 1956, the Court has power to authorise the liquidator of a Company to carry on its business for the beneficial winding up of the company. If section 15 A is adopted as proposed, then, in such a case, where business is carried on under the order of the Court, no investigation can be directed by the Central Government and that will leave a large number of companies outside the purview. Therefore, I press this amendment.

श्री रामावतार शास्त्री : मेरा संशोधन नम्बर 64 है। जिन कम्पनियों या कारखानों का लिक्विडेशन होगा उनको फिर से चालू करने के लिए, उसका पता लगाने के लिए तथा उसकी जांच करने के लिए सरकार कुछ लोगों को नियुक्त करेगी। मैं यह चाहता हूँ कि लाइन 35 में जहाँ परसंज शब्द आया है उसके बाद अदर देन इन्डस्ट्रियलिस्ट्स एण्ड देअर एजेंट्स शब्द जोड़ दिये जायें। जिन लोगों की वजह से उस इन्डस्ट्री या अन्डर-टेकिंग की ऐसी हालत होती है, उसकी जांच करने के लिए उस इन्डस्ट्री के एजेंट्स को या उसके आकरों को उसमें शामिल नहीं किया जाना चाहिये। इस एमेंडमेंट के जाँचने में उनका रास्ता बन्द करना चाहता हूँ। ऐसे लोगों को उसमें नहीं लेना चाहिये। आज पूर्णपति या उनके अपने भादमी क्या करते हैं, इसको आप जानते ही हैं। मेरा जो संशोधन है वह बहुत ही स्पष्ट है। सरकार को इसको मानने में कोई एतराज नहीं होना चाहिये। अगर सही मार्गों में आप चाहते हैं कि इस तरह की कम्पनियों या कारखानों जो बन्द कर दिये गये हैं और आप चाहते हैं कि वे अगले तरह से बर्ज को पूर्णपतियों या उनके एजेंट्स

को उसमें रखने की कोई आवश्यकता नहीं है। अगर इस तरह के लोगों को फिर से उसमें रखा जाएगा तो वे इस में घुस कर फिर से बढ्यंत्र करके उसे चलाने में बाधा पहुँचा सकते हैं। इस वास्ते मैं चाहता हूँ कि मेरा संशोधन आप मान लें और परसंज के बाद अदर देन इन्डस्ट्रियलिस्ट्स एण्ड देअर एजेंट्स जोड़ दें ताकि किसी को किसी प्रकार की शंका न रहे और आसानी भी हो कारखाने और कम्पनी को चलाने में।

SHRI MOINUL HAQUE CHOUDHURY: Sir, I will not be able to accept any of the amendments. So far as the amendment of Shri Ramavatar Shastri is concerned, he says, "other than industrialists and their agents". It is so vague. First of all, if it means the "concerned industrialists," then certainly government is not going to make a man his own judge. I has never been done."

SHRI INDRAJIT GUPTA : All the custodians whom you have appointed up to now are the same people. (Interruption)

SHRI MOINUL HAQUE CHOUDURY: The words used are, "industrialists and their agents."

Secondly, it is unthinkable for the Government to appoint the very men, whose industrial undertaking will be enquired into, as a member of the enquiry committee. That will never be done.

Thirdly, the words are, other than industrialists and their agents'. I do not know what it means. There may be a scientist in employment of somebody else. His services may be required for technical assessment; we shall be prevented from bringing him in; such a man may not be available with the Government. Therefore, it is not possible to accept that amendment.

SHRI S. M. BANERJEE (Kanpur) : If it is only the word industrialist, it has not been defined. The agents are known, they

[Shri S. M. Banerjee]

are concerned with the undertaking. This is a modification made by Shastriji. Is he going to object to it ?

SHRI MOINUL HAQUE CHOUDHURY : With regard to the amendment of Shri Bosu to section 15 A which provides for investigation into a company under liquidation, it says 'being carried on for the purpose of the beneficial winding up of the company'. This is redundant according to us. When a business is carried on whether fully during the winding up or to a limited extent as laid down under section 457 or 487 of the Companies Act for the beneficial winding up of the company there is no case for interference. After all the provisions in the Companies Act provide ample safeguards against mala fide winding up of the companies and the Government do not envisage a situation in which they are to prevent the healthy death of some companies under equally justifiable circumstances. If the closure is mala fide and unjustifiable and if the circumstances listed under section 15A are there, Government will investigate after taking the permission of the court. That is the position.

MR. DEPUTY-SPEAKER : I shall now put amendments Nos. 28, 29, 30 and 64 to vote.

Amendments Nos. 28, 29, 30, and 64 were put and negatived.

MR. DEPUTY-SPEAKER : On account of very special circumstances, which will be made known to the House in due course, we shall keep on sitting beyond 1 O' Clock.

AN HON. MEMBER : How long?

MR. DEPUTY-SPEAKER : We do not know, we shall decide that later on.

The question is :

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY-SPEAKER : The question is :

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Cause 5—Insertion of New Action 18 AA.

SHRI B. R. SHUKLA : I am not moving my amendment.

SHRI C. M. STEPHEN : I am also not moving.

SHRI JYOTIRMOY BOSU : I am moving my amendments 31 to 37.

SHRI RAMAVATAR SHASTRI : I beg to move:

Page 3, line 14, for "three" substitute "two" (65)

मेरा अमेंडमेंट बहुत ही सीधा है और मेरे ब्याल में भंजी महोदय को इसे स्वीकार करने में कोई एतराज नहीं होना चाहिए। नाट लेस देन श्री मंभूस को हम नाट लेस देन टू मंभूस करना चाहते हैं ताकि कारखाना जल्दी से जल्दी बच सके, समय बरबाद न हो, उत्पादन हो सके और लोगों को बेकारी से छुटकारा मिल सके। तो यह बहुत ही इन्फ्लेण्ट प्रमेंडमेंट है। कई एक सदस्य कांभूस पार्टी के जब बोल रहे थे तो उन्होंने कहा कि 90 दिनों तक मौका देना उचित नहीं है, उस को जितना कम किया जाय उतना ही अच्छा है। ऐसे तो हम और कम करना चाहते थे। लेकिन सरकार की श्रुती प्रधीनरी है जिस कन्वन्शन्स में यह बचती है उस को देखते हुए मैं

वो बर्हीने करने की बात कही है यानी प्री कुछ की सल्टीटपुटेड बाइ टू। मेरा बिस्वास है कि मंत्री महोदय इसको जरूर मान लेंगे।

SHRI JYOTIRMOY BOSU : I beg to move—

Page 3, line 4—

for "documentary or other evidence"

substitute "materials or information" (31)

Page 3, line 8—

for "reckless" substitute "improper" (32)

Page 3, lines 11 and 12—

after "undertaking" insert "upto its full capacity" (33)

Page 3, lines 12 and 13—

omit, "and that immediate action is necessary to prevent such a situation" (34)

Page 3, line 20—

for "is" substitute "may be" (35)

Page 3, line 21—

for "necessary in" substitute—likely to be beneficial to" (36)

Page 3, line 22—

add at the end—

"and for providing employment to the workmen of such undertaking" (37)

Regarding my amendment No. 31, I want to say, in section 18AA, the language used is "documentary or other evidence". These words may be construed to limit the power of the Government to look into various materials or information. It may be contended by interested parties that evidence should be such as would be admissible in a court. The proposed amendment will give greater source to the Government for the purpose of forming its satisfaction.

SHRI MOINUL HAQUE CHOU-DHURY : The powers proposed to be given under section 18AA are certain extraordinary powers. Ordinary power to take over under certain circumstances is already there under section 15. Therefore, if section 18AA is watered down and the provisions made the same as that of section 15, there may not be a case for the use of the extraordinary power. That is why Government want to strictly confine the use of powers under section 18AA to certain circumstances, which we have clearly defined. We are not in favour of watering down its provisions.

With regard to Mr. Shastri's amendment, it is not that Government will be required to wait for three months. Government can start enquiring into the affairs of any unit, whether it is closed or not, if Government is of the opinion that it is being mismanaged. That power is already there. When the extraordinary power is to be used, in that case, it is said that if it is already closed for three months, we can take it over even without an enquiry. Even before that, a company can be taken over because if there is an urgency, the enquiry can be completed quickly.

SHRI JYOTIRMOY BOSU : Regarding my amendment No. 32, I want to say, the word "reckless" in law means "gross negligence" and leaves out improper investments. The word "reckless" will only limit the power of Government. There may be investments which are not made negligently but may have been improper. Hence this amendment.

SHRI MOINUL HAQUE CHOU-DHURY : We want to restrict the general

SHRI MOINUL HAGUE CHOUHDURY : power. Even if that meaning is there, we have taken it voluntarily on ourselves that the general power should not be used in every case. Special power should be used in special circumstances.

SHRI JYOTIRMOY BOSU : I now come to my amendment No. 33. It is necessary that power should be taken by the government to take the management where the company deliberately does not carry on production up to the full capacity of the undertaking. So, it is necessary that it should be expressly provided.

My amendment No. 34 says that lines 12 and 13 should be deleted. Otherwise, it will considerably whittle down the power of the government and that will also open the door of challenge in courts of law.

Amendment Nos. 35 and 36 are proposed because the Bill indicates that government must come to a definite conclusion and will leave the door open for the court to intervene. Amendment No. 37 is self-explanatory.

SHRI MOINUL HAQUE CHOUHDURY : I have already given the grounds why we should not water down the provisions of this section.

MR. DEPUTY-SPEAKER : I will put all the amendments moved by Shri Jyotirmoy Bosu and Shri Ramavatar Shastri to the vote of the House.

Amendments Nos. 31 to 37 and 65 were 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.

Clause 6—Insertion of new Chapters IIIA, IIIAB and IIIAC

MR. DEPUTY-SPEAKER : I find that Shri B.R. Shukla is not here. Is Shri Stephen moving his amendments ?

SHRI C. M. STEPHEN : I am not moving my amendments.

MR. DEPUTY-SPEAKER : I notice from my papers that certain amendments which he has given notice of are acceptable to government. So, I would have expected him to move them. As the presiding officer it is my duty to guide and regulate the proceedings. I would request the members and also the Minister to be a little more alert and more watchful.

SHRI C. M. STEPHEN : I would be moving amendment Nos. 20 and 68.

I beg to move :

Page 12, line 13,—

after "company" insert—

" , to the registered Trade Unions, if any, of the employees thereof" (20)

Page 12, line 19,—

add at the end—

"and the registered Trade Unions, if any, of the employees thereof" (68)

SHRI R. V. BADE (Khargone) : I beg to move :

Page 5, line 34,—

for "entered into a fresh contract of" substitute—

"been continued in" (24)

Page 6, line 11,—

after "order" insert—

"but before taking any step under Schedule III specified, the management should hold negotiations with

the workers' representatives and whatever modification in the implementation of these laws specified in Schedule III are deemed necessary should be first made acceptable to them." (25)

SHRI SOMNATH CHATTERJEE
(Burdwan) : I beg to move—

Page 4, line 12—

after "public" insert—

"or for providing employment to the workmen of the said undertaking," (38)

Page 4, line 19—

after "order" insert—

"as expeditiously as possible" (39)

Page 4—

omit lines 38 to 40 (40).

Page 5, line 15—

after "part" insert—

"on the security of the assets of the company owning the industrial undertaking" (41)

Page 5, line 15—

for "and may, for that purpose, create" substitute "including" (42)

Page 5, lines 21 to 23—

omit, "on such terms and conditions and subject to such limitations or restrictions as may be prescribed," (43)

Page 5, line 30—

for "may" substitute "shall" (44)

Page 5, line 34—

for "have entered in to a fresh contract of service with the company"

substitute "be continuing in service on the previously existing terms and conditions of service with the company" (45)

Page 6—

omit line 7 to 12 (46)

Page 6, line 13—

omit "(b)" (47)

Page 6, line 14—

omit, "settlements, awards, standing orders" (48)

Page 6, line 39 and 40—

omit "or of any submission, settlement or standing order" (49)

Page 7—

after line 42, insert—

(aa) in the interests of providing employment opportunities or continuing the employment of the workmen of the said undertaking, or" (50)

Page 8, line 1—

for "prepared" substitute—

"put into operation" (51)

Page 8, line 40—

for "and thereafter" substitute "until" (52)

Page 9, line 10—

for "terminal benefits" substitute "dues" (53)

Page 9, line 10—

after "employees" insert—

"including dues on account of provident fund" (54)

Page 9, line 20—

add at the end—

"which shall be disclosed only to the Court and not to any other party" (55)

Page 9—

after line 29, insert—

"Explanation—For the purpose of sub-section (2) to (5), the words authorised person will mean the Official Liquidator where he has taken over as such in terms of clause (e) of sub-section (1)." (56)

Page 10—

after line 3, insert—

"(10) All the employees of the industrial undertaking sold under sub-section (6) or purchased under sub-section (7) will continue in employment under the purchaser on the existing terms and conditions as on the date of the sale or purchase as the case may be." (57)

Page 11, line 37—

omit "of such" (58)

Page 11, lines 36 and 39—

omit "as the Central Government may specify in the scheme" (59)

Page 11, line 40—

for "as the Central Government thinks fit"

substitute—

"not less beneficial to then existing terms and conditions" (60)

Pages 11 and 12, line 48 and 1, respectively,—

omit "and to other employees whose services have not been continued on the reconstruction of the company" (61)

Page 13, lines 27 and 28—

for "on account of terminal benefits" substitute "of all kinds" (62)

SHRI RAMAVATAR SHASTRI : I beg to move :

Page 4, line 14, and wherever it occurs in the Bills,—

after "persons" insert—

"other than Industrialists or their agents who may be concerned with the undertakings" (65)

SHRI JYOTIRMOY BOSU : I beg to move :

Page 5, line 30,—

for "may employ such of the former employees"

substitute—

"shall employ all of the former employees" (69)

Page 6, line 8,—

omit "shall not apply or" (70)

Page 6, lines 13 and 14,—

omit "contracts, assurance of property." (71)

Page 6, line 15,—

after force" insert—

"other than concerning workers and employees" (72)

Page 6, line 40,—

add at the end —

"not involving workers and employees" (73)

MR. DEPUTY-SPEAKER : I would suggest that when hon. Members speak on their amendments they should speak on all the amendments to the clause so that there will be no repetition.

SHRI SOMNATH CHATERJEE : This clause deals with three chapters and those chapters deal with different aspects. So, we must deal them chapterwise. Therefore, they will be different speeches.

MR. DEPUTY-SPEAKER : That is irregular under the rules. A member who has made a speech on particular clause cannot make a speech again on the same clause. That would be a second speech. So, when he speaks on one clause let him refer to all his amendments.

श्री श्री. श्री. बड़े (सरगोन) : उपाध्यक्ष महोदय, मेरा जो अमेंडमेंट है वह पेज 5 लाइन 34 में इस प्रकार से है :

for "entered into a fresh contract of" substitute "been continued in"

इस में मुख्यतः यह बात है :

"For the purpose of running the industrial undertaking, or exercising functions of control in relation to the concerned part, the authorised person may employ such of the former employees of the industrial undertaking whose services became discharged by reason of the winding up of the

company owning such undertaking and every such person employed by the authorised person shall be deemed to have entered into a fresh contract of service of the company."

मेरा मंत्री जी से मुख्यतः यह कहता है कि अगर मजदूरों को फिर से नये कान्ट्रैक्ट में एन्टर कराया जायगा, तो इससे उनकी सिम्प्ले-रिटी लूज हो जाती है, उनका पेन्सन, प्राविडेन्ट फण्ड और ग्रेचुइटी के लिए क्लेम समाप्त हो जाता है। यह कठिनाई मेरे सामने आई, इसी लिये मैंने इस अमेंडमेंट को सूच किया है। इस लिये मैं चाहता हूँ कि उनको फिर से जब काम पर लगाया जाय तो पिछली सर्विस की कन्टीन्यूएशन में लगाया जाय। यह गरीबी हटाओ सरकार है, इस लिये उसको इस तरफ देखना चाहिये। इस समय जो व्यवस्था आपने रखी है, वह कर्मचारियों के लिये न्यायकारक नहीं है।

दूसरे संशोधन में मैंने कहा—

"Page 6, line 11,—

after "order" insert—

"but before taking any step under schedule III specified, the management should hold negotiations with the workers' representatives and whatever modification in the implementation of these laws specified in schedule III are deemed necessary should be first made acceptable to them."

इसके शर्तक 3 में जिसने साज है, वे कर्मचारियों के फायदे के वास्ते हैं, जैसे इण्डियन एम्प्लायमेंट डिस्प्यूट्स एक्ट, मिनिमम वेजेस एक्ट, वेजिन में यह चाहता हूँ कि उसके विनाश जब कोई एवधान होने जो जो एम्प्लायमेंट डिस्प्यूट्स एक्ट, उसको विनाश में लेकर,

[श्री भार० बी० बडे]

तब एक्शन लेना चाहिये, वरना आप का जो नारा "गरीबी हटाओ" है, वह "गरीबों को हटाओ" हो जायगा। इस लिये मुझे विश्वास है कि आप मेरे संशोधनों को स्वीकार करेंगे।

SHRI SOMNATH CHATTERJEE (Burdwan): Mr. Deputy-Speaker, Sir, I would like to make my submission on some of my amendments, particularly, Amendment Nos. 34, 44 and 45 so far as they deal with the proposed Section 18 FA.

The hon. Minister in his opening speech and also in his reply, anticipating the arguments, and submissions that would be made on the proposed amendments, said that the proposed amendments may be violative of article 31A of the constitution. This is the only reason that has been given.....

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF ELECTRONICS, MINISTER OF HOME AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRIMATI INDIRA GANDHI): Sir, I heard that the House was excited about some news. There is no such news. I thought I would just share with the House what we have.....

AN HON. MEMBER: She can make it a little later. Many of the Members are in the Central Hall and they are coming.

MR. DEPUTY SPEAKER: All right.

SHRI SOMNATH CHATTERJEE: Sir, one of the proposed objects of this legislation is to provide employment and providing employment for the workmen is one of the matters of public interest, what my amendment seeks to do is to make clear in Section 18 FA that one of the objects for taking over the management will be to provide employment to the workmen of the undertaking. How it can violate article 31A of the constitution has not been explained.

Now, the hon. Minister also said that a definite time-limit has been prescribed. If

you will kindly go to the proviso to the proposed sub section (2) of Section 18FA, what my amendment seeks to do is to delete the proviso because the time-limit has already been prescribed in Section 18FA (1) and (2). What I have proposed is that it is not necessary to fix a final time-limit as in the proviso because initial time-limit is already provided and the court has been given powers. This is the power which has been given to the court, not to the Government. Under Proviso to sub-section (2) time may be extended further by court. Therefore, it will not violate article 31A of the constitution. The only reason that has been put forward is that it will violate article 31A of the constitution. That does not stand to reason. I submit that when the intention, as has been explained that it is also to be applicable for greater employment, for securing employment, in the undertaking which is to be taken over, these amendments should be accepted.

Then, I come to the other amendments which I am pressing very much. They are amendments 44 and 45, regarding the two lines 30 and 34 on page 5, clause 6. These deal with the taking over of the industry and the employment that the workers will have after the undertakings have been taken over. It has been provided—my hon friend, Mr. Bade, also pointed out—that the employees that are to be taken over, but who will be taken over has not been specified. It has been left entirely to the discretion of the Government to take back into employment some of the employees or not. It is also provided that these employees taken over will be deemed to have entered into a new contract of service. I would say that they should be given all the benefits of their past employment and they should not be treated as having entered employment employment for the first time missing all the past benefits.

I will continue later on.

SHRIMATI INDIRA GANDHI: As I was saying when many Members were out side, I have no great news at this moment. But a message was conveyed to

me that the hon. Members were very anxious to hear whatever we did know. So, I thought that I should come and share the little piece of information that we have.

We heard a shortwhile ago that one of our columns entered into Dacca at 10.48 hours this morning and Maj. Gen. Mohd. Jamshed of the 36th Division has surrendered. This is just flash news. We have received no details yet. I shall make a statement to Parliament when we hear anything further.

SHRI JYOTIRMOY BOSU : To-day, Madam Prime Minister ?

SHRIMATI INDIRA GANDHI : I said, when we hear anything further.

SHRI SOMNATH CHATTERJEE : The other amendment on which I wish to make some submission and which is a very important amendment is amendment No. 46. This is a provision in the Bill which has been opposed by all sections of the House including the Treasury Benches.

MR. DEPUTY-SPEAKER: Order please Hon. Members may kindly go out as quietly as possible. Let us continue the business.

SHRI SOMNATH CHATTERJEE : It is very important to note that neither in his opening speech nor in the Statement of Objects and Reasons, it has been said as to what is the necessity of incorporating such a provision. It will amount to the denial of all the cherished rights, some of the rights which have been earned by the working class after long struggle. The only reason in reply the supposed reason put forward by the hon Minister is that for the purpose of orderly management it may be necessary to stop the operation of some of these somewhat beneficial legislations for the employees. He has taken pains to refer to some of the State legislations as if to justify this anti-labour Stand which is being taken in the proposed Bill. But if you deny these little rights which the workers have got for themselves, how can you get the co-operation of these employees ? How can you maximise the production if you take this stand ? The industrial unit the management of which is taken over will be put in difficulties. How

will the application of the Minimum Wages Act possibly affect the proper working of the undertaking the management of which is taken over ? Merely referring to some analogies which may or may not be justified does not justify the Government to make all sorts of draconian legislation.

It has been rightly said that it is a retrograde measure. It has been opposed by the working class and all the political parties including some of the hon. Members in the Treasury Benches themselves.

Nobody has supported it. We should keep the minimum rights of the employees which have been guaranteed under various statutes. Merely saying that it will apply in exceptional cases will not do. We are not carried away by such assurances. They have been given in the past. They have not been complied with. We are not enamoured of Government assurances. We strongly oppose this provision. Then we come to page 6, lines 7 to 12. We want this to be deleted. This amendment is serial No. 50, at page 7. This deals with Chapter 3 A (C) relating to proposed reconstruction of companies going into liquidation. In sub-clause (2) of section 18FD reasons have been put forward for the Government to reconstitute or prepare a scheme for reconstituting. It is stated here, in the interest of the general public, in the interest of shareholders proper, management of the company owning the industrial undertaking etc. The workers' interests are conspicuously absent. That is why we say that this clause should be amended. For the purpose of providing employment a scheme for reconstruction may be drawn up. That will be in the public interest and it will not violate any of the provisions of the Constitution and this is what the Minister seems to have been advised though I am sure he does not himself agree with the advice.

There is another amendment at No. 51. This is a case of faulty drafting. It says, no such scheme shall be prepared in relation to a company which is being owned, etc. etc. The proposed section 18(FF) refers to a scheme which has to be placed before the court; but this proviso says, no scheme shall be prepared until it is being sanctioned by the court. This creates an anomaly. No scheme is prepared until the court sanctions it. This is really an anomalous position. What I

[Shri Somnath Chatterjee]

suggest is this, that the scheme may be prepared by the Government, it need not be put into operation until it is sanctioned by the court, like the schemes under Sections 391, 394 etc. of the Companies Act. It is only a case of bad drafting.

Regarding the amendment at Serial No. 57, this relates to Government taking over or purchasing an undertaking. This is sub-section 6 or 7 of 18 (FF). The employees of the undertakings should continue in employment under the terms and conditions which are already existing. Therefore, it will be a reconstructed company which is either purchased by the Government or sold to some other concern or company, but that should continue to employ the workers already there, and there should not be any retrenchment. This is the least of which the workers can be assured, and we are pressing our amendments in this regard.

As regards amendments Nos. 58, 59 and 60, they deal with continuation of the employees who are already there on the same lines as before. Under the proposed legislation, it is laid down that the Government will continue in employment such of those employees as the Central Government may specify. This leaves open the door of discrimination and picking and choosing without any rational basis being laid down in the statute, by some administrator or some under-secretary or some authorised officer, of some employees whom they like. There is no basis laid down. So, there would be picking and choosing without a proper basis. Therefore, I would submit that it is necessary in the interests of the proper management and proper industrial co-operation between labour and management that the workers should be given an assurance that they will continue in employment as before.

I do not wish to take up the time of the House in elaborating my amendments any further. I am placing all the amendments that I have moved for the consideration of the House, particularly amendments Nos. 38, 44, 45, 46, and 57, 58, 59 and 60, I am particularly pressing them, and I would

request the hon. Minister to deal with my submissions and indicate the mind of Government in regard to these amendments.

श्री रामबतार शास्त्री : उपाध्यक्ष महोदय, मेरा संशोधन नं० 66 क्लज नं० 6 के सम्बन्ध में है। जहाँ केन्द्रीय सरकार के अधिकार की बात कही गई है यानी जो कम्पनियाँ औद्योगिक संस्थान लिक्विडेशन में चली जायेंगी उनको चलाने के लिए सरकार हाई कोर्ट से प्रार्थना करेगी कि वह कम्पनी मैनेजमेंट के लिये एक आदमी या एक से अधिक आदमियों की बाड़ी बनाने की इजाजत दे। जब क्लज 3 पर हम बहस कर रहे थे तब भी मेरा इसी तरह का मिलता जुलता संशोधन था, जिस के बारे में उस समय मंत्री महोदय ने कहा था कि वह स्पष्ट नहीं है, वह गोल है और इसीलिए उम्होंने स्वीकार नहीं किया था। लेकिन अब जो मेरा संशोधन है वह यह कि 18 (एफ) (ए) में जहाँ पर 'Person or body of Persons' छाया है, ठीक उसके बाद में यहाँ जोड़ना चाहता हूँ :

"Other than industrialists or their agents who may be concerned with the undertakings".

अब बिल्कुल डे फिनिट बात हो गई। फर्ज कीजिये कि किसी कारखाने को प्राप चलाना चाहते हैं। उस को चालू करने के लिए आप किसी व्यक्ति को या कुछ व्यक्तियों को अधिकृत कर रहे हैं। मेरा यह कहना है कि उन में आप ऐसे लोगों को न रखें जो उस उद्योग से सम्बन्धित उद्योगपति हों या उन के अपने आदमी हों। अगर आप इस तरह से कर दें तो यह बात संक हो जायेगी और किसी को भी इस में बाध करने की सुझाव नहीं होगी, साथ ही

पिछली बार जो तर्क आप ने दिया था उस का समाधान हो जायेगा ।

मैं जाहूंगा कि मंत्री महोदय इस संशोधन को मान लें क्योंकि यह बहुत ठोस है, इस में किसी की अनिश्चितता या हवा की बात नहीं है कि सम्बन्धित उद्योग धन्धे या कम्पनी या व्यवसाय के व्यक्तियों को आप इस में न रखें भले ही वे सीधे रूप से सम्बन्धित हों या घुमा फिरा कर हों ।

मैं आशा करता हूँ कि आप इस संशोधन को स्वीकार कर लेंगे ।

SHRI JYOTIRMOY BOSU : I thought the hon. Minister at least knew the common saying that you can force a man to go to a place at an appointed time, and you can force him to go through certain muscular movements, but you cannot force him to put his heart at the work. If he had known this saying, he would have been a much better man for us today. In the older days, when the Britishers wanted to keep alive the zamindars, whenever the zamindars had mismanaged the zamindari, they used to take it over under the court of wards to keep the zamindari system and the feudal system alive. This particular clause which we are dealing with at the moment is an atrocious one and it shows that Government are anxious to keep the industrialists alive as owners of these assets.

But do they not realise that an industry minus the workers is no industry at all ? Are they thinking in terms of giving a lesser cost of paint or a shade of paint or grease less in quantity ? Why is the axe falling so heavily on the workers ? An industry without workers will be like a temple without the deity. It is very painful for us to face such a Bill where the axe has fallen so heavily on the workers. I cannot conceive of an industry without the workers. Let the Minister at least come down and accept our amendments.

The other points have been covered by my colleague.

SHRI C. M. STEPHEN: With regard to amendment No. 20 and amendment No. 68, I have just given a slightly modified form for the sake of grammatical elegance. The substance is the same. In amendment No. 20, it is like this:

“Page 12, line 13, after ‘to the company’, insert ‘to the registered trade union, if any, of which the employees of the company are members’”.

This is a slight modification only for grammatical elegance.

Then in amendment No. 68 : “Page 12, line 18, for ‘company and from’ substitute ‘company’ from the registered trade unions of which the employees of the company are members and from”.

MR. DEPUTY-SPEAKER : If the Minister accepts the spirit of this, these can later be put to the House. Meanwhile, he may reply to the arguments.

SHRI MOINUL HAQUE CHOU-DHURY : I will first take the amendment of Shri Ramavatar Shastri. His language this time is all right, but it is put in a place which if accepted may have the meaning that we will take those of the industries which are producing articles or class of articles related to the scheduled industries needed by the general public other than industrialists or their agents who require them. That means we can take only those industries which are not consumed by the industrialists or their agents connected thereto. I cannot accept it. It is put in here ‘needed by the general public’ to which this suffix is added ‘other than industrialists or their agents who may be connected with the undertaking’. That means we can take the industry needed by the general public but not needed by those of the industrialists. There can be a case where some goods or other is needed by even a defaulting industry...

SHRI RAMAVATAR SHASTRI : It is said ‘wherever it occurs in the Bill’.

SHRI MOINUL HAQUE CHOU-DHURY : Therefore, it is not possible for me to accept the amendment.

[Shri Moinul Haque Choudhury]

Now I come to Shri Bade's amendment No. 24.

Sir, this clause refers to the undertakings which are in liquidation and as soon as undertaking is under liquidation, by the process of law, employees will be unemployed. This is one situation, because, if it is in the liquidation process, the court has allowed it to do a limited amount of business for the beneficial winding up. There will be a limited number of employees. Some of them will not be in employment. That is why the words used here are "former employees." It is not the present employees. You will find in the third line of sub-clause (9) that the word used are, "may employ such of the former employees....." It is not the present employees. The former employee who had already got themselves discharged or whose services have already been terminated are the employees who should be given preference. That is our idea.

SHRI R. V. BADE : If they have gone in liquidation and if the liquidation proceedings are not complete, and you have taken the industry in your hand, what will be the future of those employees ?

SHRI MOINUL HAQUE CHOU-DHURY : I am coming to that. Therefore, it relates to the former employees who had already been discharged or whose services had already been terminated. If they are to be taken, there must be a fresh contract. Without a fresh contract, they enter the company because in the mean-time many of them might have entered some other company and might have gone to some other vocation and might have taken up some other job. It cannot be presumed otherwise. There are companies which are closed for three years in this country. So, if you say that the man should be given the continuous benefit, that is not possible. The words used are, "former employees."

SHRI R. V. BADE : What about the fate of their seniority, provident fund claims and other things ?

SHRI MOINUL HAQUE CHOU-DHURY : Let me be allowed to complete my point. It relates to the former employees. I am answering the first point. So, the former employees should be given preference

and a fresh contract of service will be given. Now, it depends on the condition of the company, the number of jobs and the terms that can be offered to the people, etc. As I have said, depending on the condition of the company, we will be required to suspend the operation of some law, suspend payment of the debts....

SHRI JYOTIRMOY BOSU : There will be a great temptation on the part of the industrialists today to have a temporary closure and get into your hands and go out again and get rid of the workers. Where is the precaution that you take ?

SHRI MOINUL HAQUE CHOU-DHURY : In order to have no temptation for the industrialists, this Bill provides—need not repeat it that the industrial undertaking need not be going back to that industrialist. It is reconstructed; or it is liquidated. These are the provisions. Therefore, it is no use repeating certain things which are not germane to the situation or which are fallacious.

SHRI JYOTIRMOY BOSU : You are constantly misleading the House. You are very brilliant at that.

SHRI MOINUL HAQUE CHOU-DHURY : I am sorry. Nobody is trying to mislead the House.

SHRI JYOTIRMOY BOSU : You are doing it.

SHRI MOINUL HAQUE CHOU-DHURY : Coming to the question of labour, Shri Somnath Chatterjee probably did not hear me fully. I did not give only article 31 (A) as my reasoning. I said something more also. (Interruption) that is one of the reasons, and that come last of all.

SHRI SOMNATH CHATTERJEE : Clause 18 FA to which I have given my amendment only deals with the companies being wound up. The previous Act did not deal the companies. 13 A is for a completely different set of situation. Therefore, there will be no anomaly with the existing law.

SHRI MOINUL HAQUE CHOU-DHURY : I gave other reasons also. I said the basic principle or the concept with which the main Act was passed related to production and the general good of the public. So, I have already covered those points.

About the point made by Shri Stephen that when a company is reconstituted and a scheme is made for that, labour should be associated. I fully agree with him. I concede that this was an omission. As a result of the reconstitution of a company or formulation of a scheme, people will be affected; labour is one of the parties affected. It is only proper that they should be heard and their views should also be taken into consideration while the views of the company shareholders and creditors are taken into consideration. That is why I am prepared to accept those two amendments of his. Only, there will be some drafting changes. The hon. Deputy Speaker has already permitted them; they are the same words but they will be put in a different place in the same clause; the spirit is the same.

Objection has been taken that even preparation of schemes cannot be done. What is intended in the section is that the scheme should be prepared after taking the permission of the court. That is our intention.

The changed amendment which have I accepted will be like this. Mr. Stephen in his amendment No. 20 suggested that it should come at the end of sub-para 3 on page 12. Instead I am suggesting that it should come at the second line after the word "company" that is, line 13 on page 12, after the word "to the company", the words "to the registered trade unions, if any, of which the employees of the company are members" This is only transposition of that, nothing more than that, so that it will avoid any confusion in future.

The next amendment is a consequential amendment consequential to the acceptance of the amendment in sub-clause 3. In (b) also he suggested originally an amendment to come at the end of the sentence

and we are suggesting that in line 18 on page 12 for "company and from" these words should be substituted; "company, from the registered trade unions, if any, of which the employees of the company are members and from". The substance is the same.

MR. DEPUTY-SPEAKER : It creates great procedural difficulties. The modified amendments submitted to me by Mr. Stephen reads something different from what you have read just now. Why cannot you settle on an amendment on which you are agreed?

SHRI MOINUL HAQUE CHOUDHURY : It is already agreed...*(Interruptions)*

MR. DEPUTY-SPEAKER : There is some procedural irregularity. Mr. Stephen has submitted to me modified amendments after he has said that the Government had accepted his amendment. And as a very special case, I have accepted these amendments, and they are before me. I shall read them when they are taken up. But they will have to send some wording in which they are agreed.

The question is :

Page 12, line 13, --

after "to the company" insert.—

"to the registered trade union, if any, of which the employees of the company are members" (20, as modified)

The motion was adopted.

MR. DEPUTY-SPEAKER : The question is :

Page 12, line 18—

for "company and from" substitute--

"company, from the registered trade unions of which

the employees of the company are members and from" (68, as modified)

MR. DEPUTY-SPEAKER : The question is :

The motion was adopted.

"That clause 8 stand part of the Bill."

MR. DEPUTY-SPEAKER : I shall now put all the other amendments to clause 6.

The motion was adopted.

Amendments Nos. 24, 25, 38 to 62, 66 and 69 to 73 were put and negatived.

Clause 8 was added to the Bill.

MR. DEPUTY-SPEAKER : The question is :

Clause 9 was added to the Bill.

"That Clause 6, as amended, stand part of Bill."

MR. DEPUTY-SPEAKER : Mr. Stephen is not moving any of his amendments.

The motion was adopted.

So, I will put the remaining clauses together.

Clause 6, as amended, was added to the Bill.

MR. DEPUTY-SPEAKER : The question is :

The question is :

"That Clause 7 stand part of the Bill."

"That clauses 10 and 11, clause 1, the Enacting Formula and the Title stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

The motion was adopted. Clauses 10 and 11, Clause 1, the Enacting Formula and the Title were added to the Bill.

CLAUSE 8-- (Insertion of new section 29 D.)

MR. DEPUTY-SPEAKER : Clause 8.

SHRI MOINUL HAQUE CHOUDHURY : I beg to move :

SHRI JYOTIRMOY BOSU : I beg to move :

"That the Bill, as amended, be passed".

Page 14, line, 8--

after "debts," insert--

MR. DEPUTY-SPEAKER : Motion moved :

"other than debts due to its employees," (63)

"That the Bill, as amended, be passed".

MR. DEPUTY-SPEAKER : I put amendment No. 63 to the House.

Amendment No. 63 was put and negatived.

श्री रामाबल्लार झास्नी (पटना) : उपाध्यक्ष महोदय, सरकार बात तो करती है समाजवाद की स्थापना करने की लेकिन हमारे देश

में पूँजीवाद का निर्माण चल रहा है। पिछले 25 वर्षों से तो यह चल ही रहा था अभी भी चल रहा है। इस बिल में भी इसी तरह की बात कही गई है। यों जहां तक बन्द पड़े हुए औद्योगिक संस्थानों को या कम्पनियों को चालू करने के लिए नई व्यवस्था करने की बात कही गई है यह बात तो ठीक है, यह करना चाहिये क्यों कि हमारे देश में पूँजीपतियों की मर्जी पर कारखाने चलते हैं और उत्पादन होता है। पूँजीपतियों की मर्जी पर मजदूरों की नौकरी और उनके सारे काम होते हैं। तो वे इस तरह से करते हैं कि जब चाहा कारखाना बन्द कर दिया। ज्यादा से ज्यादा मुनाफा उन को नहीं मिलता है तो कारखाने को बन्द कर देते हैं और उनका एक मात्र मकसद ज्यादा से ज्यादा मुनाफा कामना ही होता है। हमारे देश में यह व्यवस्था होनी चाहिए कि हम अपनी आवश्यकता के अनुसार उत्पादन करें और समाजवादी मुक्तों में ऐसा ही होता है। लेकिन हमारे देश में मैक्सिमम प्राफिट के लिए उत्पादन होता है और उस से भी हमें, हमारे देश की जनता को और मजदूरों को पूँजीपतियों की मर्जी पर चलना पड़ता है। वह जब चाहते हैं कारखाना बन्द कर देते हैं तो ऐसे कारखानों को लेने की बात जो आप कर रहे हैं वह एक ठीक बात है, उन को लिया जाय। हमारा प्रान्त बिहार खुद इस का मुक्तभोगी है। वर्षों से हिन्दुस्तान बेहिवेस्स कम्पनी लिमिटेड जो वहां साइकिल का एकमात्र कारखाना है वर्षों से बन्द है। एक बार बिहार काटन मिल को भी बन्द कर दिया गया था। वर्षों तक आपस में मालिक लड़ते रहे और मजदूर बेकार रहे, उत्पादन ठप रहा। आज भी गया में काटन मिल बन्द है। इस तरह के बहुत से उदाहरण दे सकता हूँ गया। जिले में बारिसलीगंज की

मोहिनी शुगर मिल कई वर्षों तक बन्द रही। पूरे हिन्दुस्तान में इसी तरह से मिलें बन्द होती हैं। तो ऐसी मिलों को, ऐसे कारखानों को चालू करने के लिए आप जो कानून बना रहे हैं, अधिकार ले रहे हैं, यह तो बात बिलकुल सही है। इस सिलसिले में मेरा एक ही निवेदन है कि इस के मुताबिक आप जो कानून पास कर रहें हैं इस को चलाने की कोशिश कीजिए ताकि उत्पादन भी बढ़े, मजदूरों को काम भी मिले और हमारे देश की आवश्यकता की पूर्ति भी हो। खास तौर से आज की संकट की इस स्थिति में तो यह और भी जरूरी है।

लेकिन दूसरी तरफ आप मजदूरों के अधिकारों पर कुठाराघात कर रहे हैं। इस लिए मैं ने शुरू में कहा था कि आप नाम तो लेते हैं समाजवाद का और निर्माण करते हैं पूँजीवाद का। उस का सबूत यही है कि आप मजदूरों के अधिकारों को ले रहे हैं। सवाल यह उठाया गया कि अगर कोई कारखाना बन्द हो जाता है, उस में मजदूर पहले काम करते थे, आप ने फिर से उसें चालू किया तो पुराने मजदूरों को आप लेंगे तो जरूर लेकिन उन की जो नौकरी थी, उन को जो सहूलियतें मिलती थीं प्रोमोशन की या सेक्योरिटी आफ सविस या प्राविडेंट फंड की, इन तमाम से आप उनको वंचित रखना चाहते हैं और नये सिरे से उन्हें बहाल करेंगे। तो यह उन्हें अधिकार देना तो नहीं हुआ। यह तो उन के अधिकारों को लेना हुआ। आप ने यह दलील दी कि वह किसी दूसरी जगह 3 साल तक काम करते रहे, तो जो मजदूर अन्यत्र काम करेगा वह आपके कारखाने में फिर वापिस नहीं आयेगा वहीं लोग आएंगे जो कहीं काम नहीं करते रहे हैं। मेरा निवेदन है कि मजदूरों के ऊपर नौकरी मिलाने और उनके अधिकारों पर कुठाराघात करने की जो

[श्री रामावतार शास्त्री]

बात आपने इस बिल में की है, उसे खत्म करें। यह नहीं होना चाहिये और नहीं तो गरीबी हटाओं और समाजवाद बनाओ, का केवल नारा ही रहेगा। नारे से काम नहीं चलेगा। उसको कार्यरूप में परिणत करना होगा। समाजवाद का नारा बहुत से लोग देते हैं लेकिन समाजवाद कीसे आयेगा, देखना यह है। समाजवाद का आधार तो मजदूर होगा लेकिन उसी मजदूर पर घाय कुठाराघात करना चाहते हैं, उसके अधिकारों पर अंकुश लगाना चाहते हैं। इसे खत्म करें और उन्हें अधिक से अधिक अधिकार दें ताकि वे समझें कि देश हमारा है, कारखाना हमारा है, हमें ज्यादा से ज्यादा उत्पादन करना है और अपने देश को विकास के रास्ते पर ले जाना है। इसलिए ये दोनों बातें आप साथ साथ करें, कारखाने सेने के साथ साथ मजदूरों पर हमला न करें, उनकी मदद करें, यही मेरा निवेदन है।

श्री आर. बी. बड़ (खरगोन) : यह जो बिल पास हो रहा है, यह तो मजदूरों को बलि का बकरा बनाया जा रहा है। अभी तक यह था, उनका कहना है कि जो सिक मिलज है, जो लिक्विडेशन में चली गई है उनको हम लेना चाहते हैं और उनको फिर से नालू करना चाहते हैं, उत्पादन बढ़ाना चाहते हैं लेकिन पूरे विश्व में देखा कि इंटेशन तो अच्छी है लेकिन जो रास्ता है उस में उद्योगपतियों को तो साथ में लेंगे लेकिन कर्मचारियों का बलिदान किया गया है। इस में लिखा है कि जो कर्मचारी होंगे उनको प्राविडेंट फंड, प्रेंचुइटी इत्यादि नहीं मिलेगी और नौकरी जो मिलेगी वह नए सिरे से मिलेगी। मिनिमम वेजिज एक्ट या जो

दूसरे कानून हैं, उनके साथ मजदूरों को ले कर काम करने का इरादा दिखाई नहीं पड़ता, ऐसा मंत्री महोदय के भाषण से मालूम पड़ता है। हमारे यहां जो सिक मिलज है जैसे इन्दौर की काटन मिल है, उस में जो मिसमैनेजमेंट होता है, वहां के पूंजीपति धीरे-धीरे उस में से फायदा उठाकर उस को सिक मिल कर देते हैं या लिक्विडेशन में चले जाते हैं तो फिर वे खादी पहनना शुरू कर देते हैं और जो जितनी मोटी खादी पहनता है वह उतना ही बड़ा कांग्रेसी समझा जाता है, फिर वह कांग्रेस (आर) में शामिल हो जाता है और धीरे-धीरे चक्कर खाते उस मिल को लिक्विडेशन में लाने की कोशिश करता है। भीपाल की सूती मिल क्लोज की गई। उसके कर्मचारी इधर उधर भटक रहे हैं। तो मैं चाहता हूं कि मंत्री जी प्राश्वासन दें कि कर्मचारियों का मामला वेजिज एक्ट के अन्तर्गत आयेगा तो उनको साथ में लेंगे और उनको क्रान्फिडेंस में लेंगे, उनकी सबिस कंटिन्यूट मानेंगे, तब तो यह बिल ठीक है बर्ना वह बिल पास करना कर्मचारियों को फांसी पर लटकाना है।

SHRI MOINUL HAQUE CHOU-DHURY : Sir, I can assure the hon. Members that it is not the intention of the Government to penalise labour. We are trying to retrieve from the difficult position in which we are there today as a result of the closure of a large number of industries. We will do our utmost to see that they are not unnecessarily put to difficulties. I say once again that we will do our utmost to see that wherever possible we do not suspend the provisions of the laws which will shrink the benefits that are being given to the labour. It is only where it is inevitable in a particular circumstance that we will do so and that too for the minimum period of time.

14 hrs.

I agree with the feelings of the hon. Member, Shri Shastri about the mismanagement done by a large number of industries and some industrialists. That is why we have tried to plug the loopholes of the earlier Act, and that is why we have made these provisions so that whenever any company is under liquidation we will be able to take it over and make that a good company. After that we will not return it back to him as a prize but will reconstruct that company and sell it to somebody else.

All these are penal measures against such kind of mismanagement and inefficient management. I hope, the hon. Members will agree with us that there is the good intention to penalise people who will be mismanaging the affairs of companies or who will be misappropriating the funds of companies. I, once again, assure the Members that we will administer this law passed by the House with the utmost consideration and sympathy for labour.

MR. DEPUTY-SPEAKER : The question is :

"That the Bill, as amended, be passed."

The motion was adopted.

14.02 hrs.

RESTATUTORY RESOLUTION ON
DELHI ROAD TRANSPORT LAWS
(AMENDMENT) ORDINANCE
AND DELHI ROAD
TRANSPORT LAWS
(AMENDMENT) BILL

MR. DEPUTY-SPEAKER : The House will now take up Statutory Resolution disapproving the Ordinance and the Delhi Road Transport (Laws) Amendment Bill.

SHRI JYOTIRMOY BOSU (Diamond Harbour) : Sir, I rise on a point of order. Rule 69(1) reads as follows :

"A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to

the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law."

Here, we have a Financial Memorandum all right. But in this Financial memorandum what is lacking is a clear estimate of recurring and non-recurring expenditure. Therefore if this Bill is taken into consideration without that will be irregular.

THE MINISTER OF PARLIAMEN-
TARY AFFAIRS AND SHIPPING AND
TRANSPORT (SHRI RAJ BAHADUR) :
It is not physically possible to indicate an exact amount. The recommendation is there in specific terms. The budget is passed from year to year, from period to period.....

SHRI JYOTIRMOY BOSU : May I invite the attention of the House to Rule 69 (1) again ? It says :

"A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law."

You cannot violate this rule. It clearly says that without showing an estimate of recurring and non-recurring expenditure involved, the Bill cannot be taken into consideration. In spite of that, if it is taken into consideration, that will be quite irregular.

SHRI RAJ BAHADUR : May I read the Financial Memorandum itself ?

SHRI R.V. BADE (KHARGONE) : He has not given an actual figure. He can give at least some figure that this much will be recurring expenditure and this much will be non-recurring expenditure. (*Interruptions*)

SHRI RAJ BAHADUR : May I say that necessary precaution has been taken.