REPORT OF COMMITTEE OF PRIVILEGES

SHRI BALBIR PUNJ (Orissa) : Sir, I present the Fifty-sixth Report (in English and Hindi) of the Committee of Privileges on a matter of allegedly lowering the dignity of the House and committing breach of privilege by publishing an article casting reflections on Members of Lok Sabha in 'Saamana'.

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): The House is adjourned for lunch for one hour.

The House then adjourned for lunch at three minutes past one of the clock.

The House re-assembled after lunch at four minutes past two of the clock

THE VICE-CHAIRMAN (PROF. P. J. KURIEN) in the Chair.

GOVERNMENT BILLS

The Securities and Insurance Laws (Amendment and Validation) Bill, 2010

THE VICE-CHAIRMAN (PROF. P. J. KURIEN): We shall now take up the Securities and Insurance Laws (Amendment and Validation) Bill, 2010.

THE MINISTER OF FINANCE (SHRI PRANAB MUKHERJEE): Sir, I beg to move:

That the Bill further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulations) Act, 1956 and the Securities and Exchange Board of India Act, 1992, as passed by Lok Sabha, be taken into consideration.

Sir, I would like to make a very brief observation on the background in which this Bill was brought. This Bill was brought in the form of an ordinance. I have explained the reasons why an ordinance was needed as per the requirement of the rules and laid it on the Table of the House.

Currently, there are four regulators. The Reserve Bank of India regulates banks. The Securities and Exchange Board of India regulates markets. The Insurance Regulatory and Development Authority regulates insurance companies. And the fourth one is the Interim Pension Fund Regulatory Development Authority. Of these four, three are statutory regulators. They have been vested with power by an Act of Parliament. So far as the Provident Fund Regulatory Development Authority is concerned, it was created by a Resolution of the Government and power of regulations has been vested in it by the terms and conditions of the Resolution. Because of the increasing complexity and innovation of financial sector, a need was felt to institutionalize the inter-regulatory coordination to address the gaps and overlaps. Therefore, a high-level coordination committee on financial markets was set up in 1990 which was chaired by the Governor, RBI. It has on it as members both Finance Secretary and Secretary, in charge of financial services.

I would just like to explain the reasons why the ordinance was needed. Recently, the jurisdictional dispute arose between SEBI and the IRDA over Unit Linked Insurance Policy. In January 2010, SEBI issued show cause notice to some of the life insurance companies on the ground that the ULIPs are akin to mutual fund scheme and consequently can be sold only by entities which are registered with the SEBI and whose products meet their approval. Further, on 9th April 2010, SEBI issued an order against fourteen insurance companies prohibiting them from issuing new ULIP or raising money from existing ULIP till they obtain the requisite certificate of registration from SEBI. On this issue the IRDA was of the opinion that order of the SEBI issued without offering the fourteen insurance companies any opportunity of hearing was bad in law and exercised without the necessary jurisdiction and would adversely affect the interest of the insurers and the investors in the market and put the policyholders to great losses. Hence, the IRDA in exercise of powers vested in it under section 34(1), sub-section (a) and (b) of the Insurance Act, 1938 and after consultation with the members of the Consultative Committee *vide* its order dated April 10, 2010 directed all the fourteen

insurance companies mentioned in the order of SEBI to carry out insurance business as usual. As a consequence, a situation was created where SEBI was ordering fourteen insurance companies not to proceed. The IRDA, another regulator, created by an Act of Parliament was instructing them to carry on their activity. Even before this situation arose, the Finance Secretary had a meeting on 10th February, 2010 in which both the regulators participated and it was agreed that both the regulators would discuss the issue and sort it out between themselves. The regulators met on 12th of March but the mutual discussion between the two regulators could not resolve the issue.

Sir, the High Level Coordination Committee on Financial Market which is chaired by the Governor, RBI also deliberated on the issue on 28th March 2010 and they also suggested to both the regulators to resolve this issue by discussing bilaterally and they decided to take off this item from the agenda of HLCCFM. Unfortunately, it was not possible to resolve the issue. SEBI went ahead and issued its orders on 9th April, 2010. Then, I held a meeting with the regulators on 12th April, 2010 in which both the regulators were present and both of them agreed to seek a binding legal mandate from a court of competent jurisdiction to settle the question of jurisdiction on ULIP. The two regulators, however, did not file the joint petition in the court of appropriate jurisdiction. SEBI issued a press release on 13th April, 2010 to bring to the notice of the investors that SEBI has decided to keep in abeyance the enforcement of the direction with respect to ULIP schemes and products existing on the date of the order, that is, 9.4.2010. However, with respect to any new ULIP schemes or products launched after 9.4.2010, SEBI's permission and registration was required. SEBI's orders of 9th April, 2010 affected a large number of persons holding ULIP and also the faith and future of the scheme. This created a feeling of tentativeness in the financial market and was not conducive to its smooth functioning. There was an urgent need to resolve this impasse. Section 16 of the SEBI Act, 1992 empowers the Central Government to issue directions. Similarly, Section 18 of the IRDA Act,

1999 has vested the power in the Government of India to issue policy directives. However, by issuing these directives, as per the legal opinion, the issues could not be resolved. What the legal experts pointed out including the Ministry of Law and Justice is that the issue can be resolved only through adjudication in the tribunal or by the court which was a time consuming process. In that context, it was suggested by the Law Ministry that a course be adopted to nullify it by amending the Act and creating an institution and mechanism through which this could be resolved. Keeping that in view, an Ordinance was issued. In the Ordinance, a joint mechanism has been suggested. That joint mechanism consists of the Finance Minister, the Governor of the RBI, Finance Secretary, Secretary in charge of Financial Services and the four regulators. I have also pointed out, while participating in the debate in the other House that there is no intention on my own part or on behalf of the Finance Ministry to be the super regulator. This joint mechanism will come into operation as and when the jurisdictional question will arise and that too, in respect of the hybrid products between the two regulators. The Members of the Joint Committee which consists of joint mechanism, which consists of all the four regulators, will decide when the questions will come up about jurisdiction between these four regulators. Then and then only, the joint mechanism will start looking into the issue and would try to resolve that. But before that, all other existing mechanism like bilateral discussions, mutual discussions, discussions in the high level committee chaired by the Governor, RBI will also be resolved and if the issues are not resolved, then, it will, come to the joint mechanism and joint mechanism will try to resolve that issue.

With these words, I commend this Bill for the consideration of this August House.

The question was proposed.

SHRI PIYUSH GOYAL (Maharashtra): Sir, I rise to speak on the Securities and Insurance Laws (Amendment and Validation) Bill, 2010. I thank you very much for giving me this opportunity to present my maiden speech as well as to lead the debate from the Opposition on this very important

subject. I have heard the hon. Finance Minister, a very senior Parliamentarian and Minister, who presented certain facts about the Ordinance, and now the Bill, and the thought process that went behind it. Sir, I shall come to those issues a little later.

At the outset, I would like to speak more about the big picture that the Bill has raised. There are two major issues that this Ordinance, and subsequently, the Bill, has raised in terms of the big picture. First is the joint regulation of the hybrid products. Obviously, the Bill relates to the hybrid products, and whenever there is a dispute between two regulators in the regulation of hybrid products, and second is the joint mechanism which has been proposed in this Bill, which, I believe, compromises the independence and autonomy of the regulators. I shall explain my thoughts a little more in detail.

First, the issue about the joint regulation of products. It is not something which is new in the realm of possibility in the Indian financial markets. We have had joint regulation of products in operation for several years in this country already. There are time tested practices in vogue and few disputes have arisen over the years. Regulators are not new in this country. We have had regulators for over 20 years and a multitude of regulators, probably, 15 in all now. But we have not had such type of disputes as has been witnessed between SEBI and IRDA, come to the public fora, public domain, very often. This is one such case, and Sir, I beg to submit that this case also could have been handled better, could have been managed better and there was no reason to have a knee-jerk reaction of an Ordinance or a Bill coming into Parliament just at the occasion of one instance. Usually, these disputes have been sorted out and handled at lower levels very efficiently. If they were not handled by bipartisan discussion, they were taken to the High Level Committee for Coordination in the Financial Markets (HLCCFM) and very amicably resolved over the years. An illustrious person as the RBI Governor, a very senior functionary in the Government scheme of things, heads the

HLCCFM and carries out his responsibility with due diligence. Joint regulation is also not new in the markets. Joint regulation has been happening for currency derivatives for several years now. Both SEBI and RBI have been jointly regulating currency derivatives.

In fact, very recently, the Raghuraman Rajan Committee on Financial Sector Reforms has proposed the establishment of a Financial Stability and Development Council, FSDC, which could be a *quasi judicial* body, headed by a judge or a legal luminary or a domain expert. Even the Planning Commission has said that it would solve most of the issues relating to regulatory competition. I believe the Government should have introduced the FSDC rather than a Joint Committee headed by the FM in which the powers of decision are taken away by the political and the Executive authority of the Government. I think the dispute resolution mechanism would have been better served by an FSDC type of body rather than going in for a Bill which has decided at the Government level who will regulate in the case of ULIPS and has also decided on taking over so many powers of the regulators.

What should be done in respect of hybrid products? Who should regulate? How should ULIPS be treated? International practices vastly differ in respect of ULIP type products. I beg to submit that in a country like UK which has been a role model for India and its Government and its Parliament, the FSA, if it has a dispute with any of the regulatory bodies which work under the FSA.

Sir, in U.K., they do not have separate regulators. The FSA has a Department which regulates all the products. There is a single Regulator. But occasions arise where a particular Branch, maybe the Securities Board; maybe the Insurance Authority, differs with the FSA. In such cases, the FSA first tries to resolve the dispute internally. It does not go to any outside authority. Like in India, it tries to resolve it internally. If unresolved, the mechanism there is an Independent Complaints Commission. It is not a super Regulator. It is not a Committee which the Government is involved in. It is not a Committee headed by bureaucrats and Ministers. It is an independent Complaints

Commission which takes these matters, addresses them, and if there is still a problem at the end of the day, you go to the courts of the land. The laws provide to go to the courts.

Sir, there is another difference in the international practice, and I draw the attention of the hon. Finance Minister to this very important aspect of how ULIPs are regulated in different countries. Sir, ULIPs, certainly, come under the regulation of the Insurance Regulator. But there is an important difference. All investments under the Investment Portfolio of ULIPs outsourced to Asset Management Companies (AMCs) which are under the regulation of their respective Securities Exchange Board. So, you have ULIP products, but there are two segments of it. One is the insurance part. And the whole ULIP is managed and regulated by the Insurance Regulator, but to the extent of insurance component. As regards the investment component, to avoid duplicity of Regulator, the investments are only operated by outsourcing the investment activity to an AMC, to a duly registered AMC which works under the guidelines and regulations of their Securities Exchange Bodies. In this case, the insurance companies do not do the investment functions themselves directly. And that is the fundamental difference which we, in India,' should address. This is a very simple formula which could have resolved all the problems of hybrid products, specially in the case of ULIPs. Insurance should have got to maintain its control on the insurance business. Investments would have been done through bodies who have domain knowledge, who are controlled and regulated by the Securities Board and there would have been no overlapping and confusion.

In fact, Sir, there would have been a major saving of costs. Instead of duplicating the entire effort, the whole organization to do investments by insurance companies could have been outsourced to people with domain knowledge and they would have been properly regulated by the Securities Board. I can quote a number of international companies which follow this practice. AVIVA,

Prudential PLC, Legal and General, ABBEY Insurance, Liverpool Victoria -- these are all in the U.K., Sir, and Met Life, New York Life, -- these are in the U.S., – – they are all partners with Indian companies. Private insurance companies are partners with most of them, and I am sure, none of them will have a hesitation in following the same system in India. But strangely, the IRDA has a problem in this mechanism. The Insurance Regulator has explicitly prohibited such outsourcing to competent, experienced and duly regulated AMCs. I completely fail to understand their logic.

The hon. Finance Minister, Sir, very often, Opposition Members are blamed for only criticizing the Government's policy and not offering solutions. I have, in my own humble way, tried to offer a specific solution which would have resolved this problem without any need to pass a law or go to the extent of deciding who will regulate these hybrid products. In fact, Sir, I would also like to mention here that in the seventies and eighties, the Unit Trust of india used to issue ULIPs. So, ULIPs are not something new. It is not as if it started seven, eight or ten years ago. The LIC offered the insurance component; they regulated the risk and the Capital Market Division of the Finance Ministry regulated the investment portion of the ULIP. And it was going smoothly. The Unit Trust of India came under the Capital Market Division of the Finance Ministry. Insurance was a product that the LIC took care of, and everything was running smoothly.

In that respect, Sir, I would just like to mention that there are, very often, hybrid regulations of a certain industry or a product or a person. It is not something new. Look at export-oriented units (EOU's)

Export-Oriented Units are not necessarily only exporting. They may export; they may do domestic production and sales. But their primary business is exports. Domestic sales are incidental, ancillary and often of a lesser quantity. I think that the restriction is 25 per cent. You are allowed to do 25 per cent domestic sale. But that does not mean that they are no more Export Oriented Units or

that does not mean that they have now become a domestic unit. It is possible that they can be regulated by the Commerce Ministry, as far as exports and their EOU status are concerned; they can be regulated by the Industry Department for registration and licensing, and they can be regulated by the Finance Ministry for excise, duty drawback and all sorts of tax issues. So, it would not be out of place to have hybrid products, but determine how they would be handled. In view of the above, I urge you to reconsider this Bill in its present form and implement the above suggestions as merely part of an Executive Order or recommendation which, I am sure, the SEBI and IRDA should have no objection in accepting because it satisfies both their concerns and I believe it is in the public interest.

Now, let me turn to the Joint Mechanism, not for the apprehensions that have been raised that a super Regulator is being created by the Government. The hon. Finance Minister has also mentioned it and I accept his contention that that is not his intention and that is not what he has tried to do. However, the Executive should not trespass on the functioning of the Regulators and their autonomy should be respected. With due respect the arbitration of such disputes can best be handled by a judicial mind in the courts of law and tribunals, and not by a Committee headed by the hon. Finance Minister which in all cases may not have the same expertise and knowledge to impart justice. We have a very illustrious Finance Minister. He could do a very wonderful job today. But who knows tomorrow everybody will have the domain knowledge and expertise to be able to impart justice and adjudicate on such important matters concerning the national economy.

Of course, there is another aspect also. This decision has to be taken in three months. Three months is not a long period. It will need several sittings. You will have to hear all parties' arguments. Experts will have to be consulted. Public opinion and debate will be required, I wonder how all this will be done in three months, especially when we have a situation that the hon. Finance Minister is busy as he heads scores of Group of Ministers, Empowered Group of Ministers, Committees, Sub-

Committees, etc. He has to handle so many things in the Government. I don't know what the other Cabinet Ministers are doing. But certainly he is a very busy man handling so many portfolios. I don't know how he gets time to dispose of such important issues that may come to this Committee. Also this Committee will have two bureaucrats of the Government and the RBI Governor, whose independence and authority are being unfortunately compromised, and it will have interested parties to the dispute. So, all co-regulators are in the Committee. If they could not resolve the matter amicably in the first place, will that not vitiate the atmosphere of the Committee when it deliberates on the issues? Will interested parties come into the actual deliberation and finalisation of the issue? I think patently this type of mechanism needs to be reviewed.

In page 3, para 4 of the Bill it has been mentioned that the Joint Committee shall give its decision thereon to the Central Government. I contest this point. It is a very dangerous trend. How can the Joint Committee give its recommendations to the Government? The Joint Committee is headed by the hon. Finance Minister. Who else will he give this recommendation to? In fact, the Joint Committee should communicate to the parties its decision and there lies the end of the matter.

Sir, There are two inconsistencies in this Bill under reference which I would like to highlight. It has been stated by the hon. Finance Minister that the RBI will be disciplined only to that aspect with its authority in the joint mechanism in respect of the regulation function, not the monetary function, think, this was stated in reply to the debate in the other House. But that has not been specifically provided in the Bill.

It has not been stated that the monetary function will not come under the purview of the joint mechanism. I think this should be specifically included in the Bill. Secondly, Sir, it has also been stated, right now, before I spoke, that first all matters will be discussed bilaterally; then the High Level Coordination Committee on Financial Markets will decide and only if it cannot be resolved by

the HLCCFM, would the matter come up before the Joint Committee. Again, this has not been provided in the Bill. I urge the hon. Finance Minister to review both these provisions before finalising the Bill.

There is a small observation which I don't think is relevant. But at page 3, Chapter IV, line 25, it may be appropriate to correct the grammatical error - 'whatever named called', should ideally be 'whatever name called'. That is not the point of debate here.

Let me now get into certain specific issues in the Ordinance and then the Bill. As the hon. Finance Minister stated, the issue started with SEBI issuing a Show Cause Notice to 14 entities in January, 2010. Sir, written replies were received from all the 14 companies by SEBI. Hence I believe a proper opportunity to be heard was provided before SEBI issued its order. And, that order was issued by a quasi judicial body, a single-judge bench of the Tribunal or whoever, under the SEBI. It has been mentioned that hearing was not given. Even in the Ordinance that has brought in this whole issue, it has been mentioned, the Government has said in the Statement, accompanying the Ordinance and in the Lok Sabha, that opportunity to be heard was not given. I think, Sir, from whatever little knowledge of law that I have, it is the prerogative of the adjudicating authority whether to rely on written submissions or to go in for a personal hearing. If the Government wants to amend the law and make personal hearing compulsory for adjudication, maybe, that would be a good method and it would help a lot of litigations, though may prolong it a little more. But once a show cause notice is given and written submissions are received, I think, they are heard in the matter and it is inappropriate to say that hearing was not given in the matter.

There were a number of behind the scene maneuvers, deliberations, discussions and meetings which happened between February and April. The hon. Finance Minister was a part of those deliberations and meetings. I am actually amazed that with the intervention of the hon. Finance Minister such a small dispute could not be resolved amicably. In meetings with the Government if the

regulators could not come to a settlement, then I wonder if there will ever be any respect even for this Committee which is going to be headed by the same Government and political authorities. It may have a legislative backing. But in any case, Section 16 and Section 18 of the Securities Act and the Insurance Act, quoted by the hon. Finance Minister, does provide the Government to give direction. Then why could it not be resolved at the lower level itself? I am even more surprised, How could the item be taken off the Agenda of the HLCCFM? I think it is gross impropriety. A matter is placed before the HLCCFM. They have to adjudicate. They cannot decide not to. It is like the Supreme Court or some court of law tomorrow deciding, "I cannot decide and let the matter go back to the litigants to decide out of court and in consent". How can the HLCCFM just decide to take it off the Agenda and the Government allows them to do that? They should have pulled up the socks of the HLCCFM that they cannot abdicate their responsibility. Anyway, the SEBI issued an order on 9th April. The SEBI itself gave very detailed reasons for its decision. I have the order of SEBI here. It is a very reasoned judgement explaining in detail the reasons why they believed that investment component of ULIP need to be regulated and must be registered under the SEBI guidelines. Very reasoned and well thought of decision was given before the SEBI by Mr. Prashant Saran, whole-time Member. However, on 10th April, IRDA contested. I have seen the statement by which IRDA contested on this issue. It is a cursory claim that insurance is my baby so I should regulate; can interfere. Well, there are many laws of the land. How can one body decide that no other body will regulate? Can the Finance Ministry decide that the Industries Department has nothing to do with an industry, or, with a company, that only the Finance Ministry will decide it? It is not possible. The IRDA has responsibility; so, does the SEBI. However, I grant that this did cause uncertainty in the market, but for a very, very short period, that is, from the 9th to 13th. When it was brought to the

notice of the SEBI, on the 13th, the SEBI issued an order clarifying that it is a prospective decision and not retrospective. All uncertainties of the past were removed. Anything, that had happened, or, which was issued under past policies, was not coming under the purview of this decision. Then, what was the necessity? Where was the chaos? Where was the uncertainty that caused Government to act in such haste and promulgate an Ordinance?

In fact, we are now informed that the Government advised both the parties to go to the appropriate Court. I believe, in the Lok Sabha, it was mentioned that the appropriate Court is the High Court in this matter. I very much respect that; it was a correct decision. It is unfortunate that both parties did not do that. But I wonder if it was possible. Could they go to the Court on their own? When they were fighting on such petty issues, how could they draft out a common petition and go to the Court for a joint decision? It is not possible. They have not seen eye-to-eye on anything. So, they didn't go to the Court. But two Writ Petitions were filed in the Allahabad and Mumbai High Courts, agitating on the same issues under consideration. The SEBI then realized that it was not possible for different High Courts to adjudicate on the same matter. Therefore, they approached the Supreme Court to transfer all petitions, on or about 27th of April; that was a full 50 days before the Ordinance was issued. A full 50 days before the Ordinance was issued, the matter had been put up to the Supreme Court to adjudicate on this matter. Actually, if the matter, I think, is in the Supreme Court, and the Minister of State for Finance, by his own admission, while answering Question No.4202 on 4th May, 2010, told the Rajya Sabha that the dispute had been referred to the Supreme Court, then, how the question arises that the parties did not refer to appropriate authorities. Fine, let them not refer to it. But the matters reached the Supreme Court, which is even higher than the appropriate authority. It would, in fact, save one layer of litigation. Once the Supreme Court, with all the knowledge and judicious bent of mind at its disposal, decided on this dispute, we could have seen an end to this matter.

In any case, the uncertainty was over, after the April 13th order of the SEBI. However, on June 18th, we were all surprised to see an Ordinance. It was all there in the Press. Critics, editorials, newspaper articles, all spoke about the Ordinance, and the way it was rushed through without due application of mind. Sir, in all judicial orders, the Constitution provides a process for dealing with disputes, which could be the High Court, or, which could be the Supreme Court, at the end of the day. How can a politically-led Executive dispose of judicial matters, matters under the realm of the Supreme Court, as it stood on 18th June? How could the political and executive leadership adjudicate and decide that ULIP would be regulated by insurance companies, and it would promulgate an Ordinance to that effect? In fact, without providing any rationale for its decision, to give the regulation of ULIPs to IRDA, the only thing which the Government did was to quote a certain paragraph, Para 21, of the Law Ministry's opinion while promulgating this Ordinance. I do not know what that Para 21 is. In fact, I would urge upon the hon. Finance Minister to lay the Report of the Law Ministry and the opinion of the Law Ministry on the Table of this House so that we can all know what really the Law Ministry's opinion is, because as I will go further, I will show you how the opinion of the Law Ministry has been twisted in this special case.

In the Lok Sabha, it was stated, and I quote: "That to save from prolonged litigation", and I further quote: "Keep in mind that in financial market, if the actions are not taken promptly, to have a remedial measure, then, that will harm the interests of the prospective investors. Had it been an ordinary matter, there would have been no need of it." This was stated while explaining the reasons for the Ordinance.

Sir, there are three issues which arise. The first is that of prolonged litigation. In financial market, action should be taken promptly, and it is not an ordinary matter. There are hundreds of disputes in courts of law, most of the litigation being started by the Government. I think we are all aware of the fact that the largest litigant in India is the Government itself. Whether it is in Income-tax,

excise or Sales Tax, you name the authority and we have a multitude of litigation. They all cause uncertainties, Sir. There are cases which have led to Foreign Direct Investment stopping in this country because the Income-tax Department thinks of some logic or some interpretation of the law and, then, that is being agitated in different courts and, for three years, there is uncertainty in the market. Does the Government come out with an Ordinance, a Bill or a law to provide for all such uncertainties? If the Government was worried about prolonged litigation, why did it, in the first place, suggest to refer the matter to the High Court and take the plea that since it was not referred to the High Court, we provided an Ordinance? Well, if prolonged litigation was the problem, the Government should have said in Parliament that 'no', we will bring an ordinance or a law; and Parliament was in session till May, 10th I think, they could have brought the law.

Sir, if it is not an ordinary matter, why rush it now? We are advised that it is not an ordinary matter. Then, I believe there should be proper application of mind. There should be a public debate. Let the people at large agitate on this issue and, then, it should be referred to the Standing Committee of Parliament and, then, brought to this august House for a decision in the matter. Of course, it is very unfortunate, but I want to mention this with due respect to the learned and wise hon. Finance Minister whom I looked upon as a very seasoned Parliamentarian. Sir, in the Lok Sabha, it was said about the Standing Committees, and I quote, "Yes, had it been a normal legislation, I would have no problem of sending it to the Standing Committee, though I know it very well as the Leader of the House and many of you are fully aware because you are all Members of the Standing Committees that how many Bills having recommendations of Standing Committees are pending for years, not for one, two or three years". Sir, I do not want to say further on this matter because it is very embarrassing; I am a very new Member. But I think, if that is the case, we must review the system of Standing Committees altogether, whether it is efficient or whether we should

discontinue sending any Bills to the Standing Committees since they only lead to delays and prolonged delay in finalizing and settling the legislation.

Sir, there are so many other disputes that need urgent legislation. Today morning, an esteemed and senior colleague, Shri Manohar Joshi was talking about the boundary issue. There are those river water disputes. So many other pressing problems are there. Does the Government want to issue Ordinances on those quickly so that we can be saved from prolonged litigation on all such matters? I would urge the Government to think over it.

Sir, I believe it would have been appropriate to wait for the Supreme Court order since SEBI had already clarified it was a prospective order and no uncertainties were caused as claimed by the Government.

Further, the Ordinance was a rush job. It was not very well thought of. It raised new controversies. Reverse Repo and Repo have never been a matter of debate in this country. But as an illustration, it has been brought into the Ordinance and the Bill. Sir, I dread to think, if some wise regulator decides to contest the RBI claim on regulating Repos and reverse Repos. So, we have brought new things in the realm of disputes now.

Sir, very sadly, I have to state that in the Ordinance, which I said was badly drafted, the RBI Governor was made only an *ex-officio* member. He was a member along with the Finance Secretary, along with the Secretary (Financial Services) and four regulatory heads. I believe it is very demeaning. It is very sad that the august body of the Governor of the RBI has been reduced to that level, Sir.

Fortunately, they did correct it in the Bill, and elevated him to the Vice-Chairman, and I am grateful for that. But, the damage has been done. The hon. Governor of the Reserve Bank is a hurt man, and he expressed his hurt and anguish to the hon. Finance Minister, as it is reported in the Press widely. I believe, the RBI Governor also wrote a letter to the hon. Finance Minister, pleading

that let the Ordinance lapse, and not bring a Bill on these lines. It is very sad that the Government did not heed the wise words, the words of wisdom of a wise man.

Sir, in the past, as I am given to understand, I would be happy to be corrected, if I am wrong, the hon. Governor of the Reserve Bank never came into such meetings, where seven-eight people were present. He would always meet the hon. Finance Minister on one-to-one independent basis. Whenever there were meetings with regulators, regulatory heads, the Deputy Governor would present the case of the RBI. Now, it is a new trend that the hon. Governor will be summoned, not summoned, but, let us say, will be called for a meeting by the Secretary, Financial Services to attend a meeting on these matters. It is very unfortunate.

Sir, this is a very important point. Without giving adequate reasons, the ULIPS have been included in life insurance. I fail to understand what the reasoning and logic behind that was. However, if they had to do that, the least the Government should have done was to provide the test or proportion or ratio between the insurance component and the investment component of this hybrid product. In the Statement, under rule 71(1) of the Rules of Procedure and Conduct of Business in the Lok Sabha, while issuing the Ordinance, the Ministry of Law and Justice has been quoted to opine, and I quote, "That is primarily" - I am sorry, I repeat, " That is primarily the product deals with insurance and incidentally touches upon the domain of securities, then, IRDA has the authority and jurisdiction to deal with the product". Sir, read this opinion very carefully. "If primarily the product deals with insurance and incidentally touches upon the domain of securities, then, IRDA has the authority and jurisdiction to deal with that product". It is a crystal clear opinion. It does not need any more deliberation or discussion or anything. It is crystal clear. "Primary" is the operative word. What is that product "primarily"? Is it an insurance product or is it an investment product? Is it incidentally touching insurance or is it incidentally touching investment?

Here, Sir, I would like to quote this. I have come across, and I am carrying with me four-five policies which I am happy to place on the Table of the House. Sir, most insurance policies under the ULIP have a single premium plan, in which there is a policy management charge, which could be as high as 40 per cent of the first premium. Then, there is a policy management fee, which handles all the administrative cost; brokerage commission, etc., and then there is a small component which is the premium for the life insurance. I will quote from a policy. A sum insured of Rs.1 crore, the policy's single premium was Rs.20 lakh. Because it was a high networth individual, and he could negotiate better with the insurance company, the policy management fees was only Rs.22,000, which is one per cent. The yearly premium for life insurance was Rs.33,000. Kindly note, Sir, it is one-and-a-half per cent of the single premium, it is Rs.33,000. Sir, 19.45 lakhs out of Rs.20 lakh was invested in securities, i-.e., 97.5 per cent went to securities. Sir, I would urge the hon. Finance Minister and the Government, please get these statistics from the insurance companies. You will find that most policies have an insurance component ranging from 2, 3, 5-10-12 per cent, and an investment component which is in excess of 80 per cent. This point was raised in the Lok Sabha by many Members. It was raised, at least, by three Members, as I read the debate, but it went unanswered, either in the beginning or at the end, or even after the clarification was sought by Shri Sk. Saidul Haque, a Member of the Lok Sabha, no clarification was given on this particular aspect.

I urge upon the hon. Finance Minister to kindly enlighten us on this particular opinion of the Ministry of Law and Justice. It has been bypassed; it has been misinterpreted to suit the proposed legislation and a contradictory stand is taken in the Ordinance and now in the Bill. Let us go into the letter and spirit of the legal opinion and then we will know what the Law Ministry meant.

Sir, it was also stated in the Lok Sabha and I quote from the Law Ministry record that was quoted there that the ULIPs are in operation since last more than ten years, but the SEBI has now come up with the proposition that entities offering ULIPs should get registered with SEBI in respect of the investment component. Sir, SEBI had clarified that all of this was only prospective; it was not affecting what had happened in the ten years. Then, I would urge the House to consider if a wrong comes to the notice of any authority, should they ignore it? Because by a passage of time, a wrong has become right, should they try to set right that wrong, even when it came to their notice, maybe, ten years late, maybe late, maybe, it was the fault of the SEBI? Castigate the SEBI, hold them responsible, and find out what they did for ten years when this product was freely finding place in the market causing anguish to thousands of investors and policy holders. But that does not mean the action now becomes vitiated.

Sir, in Para 6 of the statement attached with the Ordinance the joint mechanism is described without reference to the RBI Governor or the Finance Secretary being a part of the Committee. I think the Statement of Objects, while the Ordinance is introduced, is a very important document and it must be properly addressing all the issues that come with the Ordinance. As I mentioned earlier, the urgency of the Ordinance is not explained at all as there was no chaos caused to old policy holders and the matter was before the Supreme Court.

Lastly, Sir, I would like to say certain salient features of ULIPs, what are these hybrid products. In the Statement of Objects and Reasons, then attached to the Ordinance, ULIPs are hybrid or composite instruments which provide a component of investment and a component of insurance. Excellent, I fully endorse that. But then with 2 per cent or 5 per cent, maybe, 10 per cent in insurance, it is predominantly investment or is it predominantly insurance, that was the moot point which was ignored while framing this Bill. Then, Sir, there are nine types of charges that are charged

to unit holders when they take out ULIPs. There is a premium allocation charge, which is okay, that is the insurance component. But there is a huge-entry load, there is a commission, there is a brokerage, there is a management charge, then policy administration charges, there is rider premium charge and all of these are in the first policy month. It could be up to 40 per cent. I am told that on an average the commission is raised up to 18 per cent and the total debit was up to 30 to 40 per cent. That is again a matter for the Government to investigate. We are going by the Press reports and what knowledge we have. I must mention here, Sir, and it is a very important point, IRDA has now revised all these charges. In July suddenly it revised after ten years of looting the public that no, no, these are very high charges, mutual funds charges are zero, zero entry charges. Suddenly IRDA comes out with fixed commission, restricts policy management charge, restricts the administration charge, and restricts the brokerage. These are all afterthoughts. Thank God that SEBI raised this issue. At least, the unit holders will benefit now, if not anything else. Forget the autonomy of the regulators; forget what mechanism we provide, thank God, the unit holders will save some money now.

Sir, one very, very important thing came to my notice at 2 o' clock last night, when I was preparing for this debate and I saw it in a policy that I had myself taken up and I am absolutely disturbed and worried for it. Sir, in the case of ULIPs when there is a hybrid product with an insurance and an investment component, in the unfortunate event of death during the policy period, the claim that is given to the insured is the higher of the sum assured or the NAV.

It is not both. It is the higher of the sum assured or the NAV. In case a person takes out a policy of Rs. 15 lakhs and the premium is 1.5 lakhs every year for ten years -- I have actually taken it from a live policy, it is a live example the insurance portion is Rs. 7500 in the first year and Rs. 3000 each year for nine years thereafter. So, in the whole Rs. 15 lakhs, the premium for insurance is only Rs. 34500. The rest is all investment. Suppose, God forbid at the end of the fourth year the insured

dies. What happens? His NAV is certainly less than Rs. 15 lakhs because he has only invested one and a half lakh rupees in four years, say Rs. 6 lakhs. So, he will take Rs. 15 lakhs which is the sum assured. Family should be happy that with Rs. six lakhs he got Rs. 15 lakhs. Insurance feels that it has done a great job. But, Sir, this is cheating the public. Suppose, that same person had taken two separate investment products, he had taken out a pure term policy for ten years for Rs. 15 lakhs as an insurance product and separately an investment product invested in a registered, regulated by SEBI Mutual Fund of one and half lakh every year and he would have died unfortunately at the end of four years, you know what he would have got, Sir? He would have got Rs. 15 lakhs from the insurance company and he would have got the NAV of his of Rs. Six lakhs or five and a half lakhs or whatever he had invested from the Mutual Fund. So, the insurance companies are eating up the money of ULIP holders, especially those unfortunate people who died in the course of the policy in life. I think, this is a very dangerous trend and this should be stopped and proper attention should be taken in this matter.

Sir, unregulated investment is at the cost and risk of the investor. Insurance is supposed to protect the person from risks whereas investment creates risks. I think, insurance companies should delve on how the moneys are invested. There are two types of funds that an insurance company invests. One is their own funds out of the mortality premium that they collect. That money is their own. It is at their own risk and cost. They can invest it how they like. There is no regulation required. If I had some money in my pocket, I can invest it how I like. There is no regulation on that. But, Sir, the investors money with the insurance companies held as a part of ULIP, the investors' money is on their behalf, at the investors risk and cost. This needs to be regulated. This cannot be left without any regulation at all. Sir, more than 80 per cent of ULIP policies specially, the private insurers fail to complete their term and they lapse within the first two to three years. These are called persistence issues. I believe this is a very serious issue. In a lighter vein, what the insurance companies have

done is to reverse the business so that public at large insures the insurance companies. I am not stating that. A lawyer from the US said that. There is very poor compliance mechanism. They are a very small body, not competent, no domain knowledge to regulate investments. Further, policies are mis-sold by misrepresentation, false promises and tall claims. Sir, quaranteening investment returns under ULIP amounts to mis-selling. Tax breaks arising from entire investment in ULIP, both the insurance and investment portion, gets tax break. That is mis-selling and I am surprised that the hon. Finance Minsiter has not realized that the insurance-companies are profiteering at the cost of Government of India. So, you take out a policy of one lakh of rupees, you claim a tax break on it of Rs. 33,000, the Government subsidizes that. Some reason or the other, 60 per cent of the policies lapse in three years. So, insurance companies profit from that money and the Government is subsidizing the insurance companies. This is akin to para-banking. You pool the small amounts from a large base of people, let the accounts lapse and retain large sums of money which is basically cheating small and uninformed investors.

As Benjamin Graham had said, "investors are specially trained in resistance to counter the sales pitch by specially trained investment agents". Many insurance companies have used the single-premium ULIP to boost their financial performance. Sixty per cent increase in premium income is from the ULIP, mostly single-premium plans, where they get thirty per cent tax rebate. Before the IRDA regulated correctly in July, this year, some companies were charging hundred per cent of premium paid as penalty for surrendering the policy within five years.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): How much more time do you need?

SHRI PIYUSH GOYAL: Just seven minutes more, Sir. I think, a study should be carried out of. private insurance companies to show how much profit, how much revenue they have made out of

surrender of such policies. The ULIP states that policies are subject to market risks and customer shall be responsible for his decision. Hence, it is not a risk on human life, but a risk on share market. And, I don't think that the IRDA is the right authority to regulate the share market operations or share market risks.

Sir, I believe, you are asking me to conclude.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): No; no, I am not asking you. It is up to you.

SHRI PIYUSH GOYAL: Sir, in conclusion, I would like to humbly submit that, in the light of arguments put forward, the Bill should not be passed in its present form and due consideration should be given to my suggestions about how the IRDA and the SEBI can both exercise jurisdiction over the ULIPS, following the international practice where ULIPs, in respect of insurances, are handled by the insurance companies and the investments are outsourced through a duly regulated mutual fund. That is the international practice. And, it is in the best interest of investors and policy holders. Also, there should be a wider public debate by experts on the subject. Let us not rush, based on the mis-interpreted view of the Law Ministry. It has hardly been debated in the country. Three hours of debate in the Lok Sabha is all that we have had. I think, public opinion has completely been ignored. The comments of the RBI Governor have completely been ignored. Let us, now, take care and see that this does not happen. Take an example. In 2008, the Forward Markets Commission Ordinance was allowed to lapse and, till today, the Bill has not been introduced. Similarly, this Ordinance should also be allowed to lapse and the Bill should be referred to the Standing Committee and a wider debate should be held before it is passed by the House.

Lastly, what are the powers that the regulator needs to be autonomous? He should be able to draft and issue regulations. He should have full autonomy to regulate the markets. He should take note and decide on inconsistencies, misdeeds and misconducts. He should develop the market in an

orderly manner. By this Bill, you have undermined the authority of regulators by saying, "We decide". You have no authority. This will set a precedent for the future and judicial powers of regulators will be compromised. Thus, the proposed mechanism of a Joint Committee should be dropped altogether and the few disputes, which may emerge in the future, can be referred to the courts, as a last resort, with a request to take an urgent view in the matter. Thank you very much.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Mr. Goyal, it was a good speech; delivered as if from an experienced Member. Now, Dr. Natchiappan. ...*(Interruptions)*...

SHRI RAVI SHANKAR PRASAD (Bihar): Sir, what is important for his intervention was, with due respect to hon., Finance Minister, as an experienced Finance Minister, he has also to get up and go to the officers to seek some clarifications. That by itself is a great testimonial to the quality of intervention.

SHRI RAJIV PRATAP RUDY (Bihar): It was inspiring also, Sir.

DR. E.M. SUDARSANA NATCHIAPPAN (Tamil Nadu): Mr. Vice-Chairman, Sir, I support the Securities and Insurance Laws (Amendment and Validation) Bill, 2010. I have to first congratulate our new Member, who has come with all the material and more things about the various products also. He has given a comparative study on various issues. But, I would like to confine myself to the Bill, where we can very easily find the maturity and experience of the hon. Finance Minister to tide over the situation which has arisen among the three regulators.

Sir, in India, we are now having a regulatory system which has been borrowed from the USA and in some or the other way from the UK. When the private sectors are coming into play, they will expect some autonomy in each and every issue. They feel that if there is no control of the

Government, then, everything will be proper. But very often we find that it is not true. Even in the USA, the Government has to interfere and tie up the situation in financial markets. They saved their country by making the investment of the Government to the banks thereby saving the people's employment and financial position. This was done by Madam Indira Gandhi as early as in 1974, 1976 and many of the issues were opposed at that time. When the banks were nationalized, certain people were opposed to that but it is because of the nationalization of the banks and financial institutions of certain categories that we are now able to stand the flood of the uneven society which is available in Western countries. We are now followed by even the USA in certain category of things. Sir, when there was so much of ambiguity among the shareholders and investors, the Government rushed to solve the problem. No doubt, everything can be pushed to the courts. That is the mentality of the colonial system which we have borrowed. If there is any dispute, just throw the ball into the courts; do not solve it. I appreciate the hon. Minister and also our bureaucrats for bringing forward this proposition. If there is a dispute between your own organization, then, you can solve it yourself rather than throwing the ball into the courts. I appreciate the bureaucracy for having come forward with this proposition -- to solve the problem themselves. We are not here to push everything to the courts, or, to be decided by the courts and keep on waiting for 10, 20 years, blaming each other. We have to solve it ourselves. Here are the small investors, retail investors and the people who feel that if both the products, the mutual fund and also the insurance, are available in two-in-one form, then, we will go for that. The people are going like that. But, at the same time, when the SEBI, a statutory authority, says, " I have got the jurisdiction", another statutory authority, IRDA, says, "No, no I am having the jurisdiction, if that is the situation, Sir, then, it is a reflection of how the system is working. The Parliament has created, by statutes, these organizations, these regulatory authorities and appoints matured persons for Chairmanship and other memberships to see that the situation is

properly regulated. They have to solve the problem. But they themselves have become the problem now. When they themselves have become a problem, is there a system available.in India, more specifically, in our system, to solve the problem? Yes, Sir, there is a system which is properly working under the high-level coordination committee, chaired by the Governor of the RBI. For the last 20 years, the same members are there, the Revenue Secretary and the Secretary for the Financial Products. The same persons who are now members of this Committee, which is constituted under this Bill, were there – the Secretary for Department of Economic Affairs and also the Department of Financial Services. At that time, they might have felt that their status was reduced. No it is the system, Sir. When there is a problem between the institutions, they have to sit and solve the problem. Everything has to be reported to the public. We are a democratic country. We are doing everything for the people, by the people and of the people. We are having that system. Why do we say that I am of very much high status, I should not sit with them? This type of mentality should not be there in a democratic process. Sir I have come across many of the things. Even the UPSC used to say that we are a Constitutional authority and we are not answerable to the Parliamentary Standing Committee.

The Parliamentary Standing Committee went into this and gave a very detailed report as to how it has to be accountable to the Parliament and to the people. It may have been created by a constitutional authority; it may be having certain authorities' exclusions, but, at the same time, it is answerable to the public, to the-people, to the Parliament and to the Parliamentary Standing Committees. That is the system that we are following.

I am very glad to see how this problem is solved here. Sir, I refer to clause 45Y of the Bill. It considers every aspect. I will just show how the autonomy is maintained here. Sir, this is not a regular Committee which is going to meet in every three months. I find from the Bill that this

Committee is more or less an ad hoc Committee which will come into force only when there is a problem and when that problem is reported by the Regulatory Authority itself. It is not something which is initiated by the Secretary, Department of Economic Affairs or the Secretary, Department of Financial Affairs. They may be members of the Committee but they don't have a right to bring the matter before the Committee. That is very clearly mentioned in clause 45Y (3). I am just quoting it. It says, "in case of any difference of opinion referred to in sub-section (1), any Member of the Joint Committee referred to in clauses (b), (e) (f) or (g) of that sub-section may make a reference to the Joint Committee." Any Member of the Joint Committee can do it. It is not that only the representatives of the Secretaries or the representatives of the hon. Minister can do it. This is the clause which saves the autonomy of the regulatory authority. If you can't solve the problem, then you can refer the matter to this Committee and a meeting of the Committee will be convened by the Secretary, Department of Financial Services in which this matter will be looked into. There will be a discussion on this and whatever verdict that Committee wiii give that will be considered final and binding. This is a very democratic way of functioning and hereby a very quick remedy is also provided in case of an emergency.

Sir, one may argue that for everything the RBI Governor is sitting. But it doesn't mean that his status is downgraded by this in any manner. Sir, the RBI is also created by a statute of Parliament. He is also answerable. In American system, the Federal Bank Authority has to depose before the Financial Committee to explain why they increased the Repo Rate or Reverse Repo Rate. They have to explain everything to the Committee and only then they can act upon it. But we have given the authority to the Governor of Reserve Bank to take this decision. Even though a Parliamentary Standing Committee may seek a clarification from him, but he has got the authority to take a decision on his own. In our system, the suggestions of the Parliamentary Standing Committee are

only recommendatory in nature. It doesn't have a command over it. At the same time, we give sanctity to the authority of the RBI Governor because we feel that he acts according to the expectation of the people. Therefore, we make the laws and give advice to them. The RBI Governor would never say that he is very sacrosanct and if he is brought under the Finance Minister, his authority is degraded. Actually, when I read the Bill, Sir, I felt that we are degrading the status of the Finance Minister. The Finance Minister is a big man. I don't understand why he should sit as a Committee Chairperson. He has got every right to call the concerned people and. ask them as to why they are not settling the dispute among themselves. There is no need of making the Union Finance Minister the Chairperson of such Committees. There is no need of reporting the matter to the Department because the Finance Minister is representing the whole country. He is representing the Cabinet. Therefore, he is a higher authority and when a higher authority is ready to solve the problem for the sake of the people, why can't the RBI Governor sit as Vice-Chairperson to solve a problem? This is done only for solving a problem and nothing more than that. We can very easily find it out in the Bill.

Then, Sir, the issues which can be drawn in here are very well explained in Clause 45Y (1) (i). The different issues which can be solved by this particular Committee, the different areas into which this Committee can look into, etc., are also mentioned there.

Sir, I find that it disposes issues in a very time-bound manner. It has given three months' time, that is, within three months from the date of reference made under sub-section 3, its decision thereon to the Central Government. Therefore, it is time-bound. It is for a specific issue. It is not a permanent committee that interferes with every aspect, unless otherwise it is properly referred to by the regulatory authorities themselves, if they cannot solve the problem on their own. Nobody is going to say, 'you solve the problem; why are you coming before us?'

One hon. Member asked, why not it be referred, as decided earlier, to the Supreme Court? Now, what is the use of sending it to the Supreme Court? We are here to decide it. We have our own acumen to work out a solution to the problem. When no solution can be found, then it could be

referred to the Court. Even the Court does not have a solution to all the problems; it has a lot of problems too. Therefore, we cannot carry on issues like this. The Executive sending every matter to the Judiciary is not a Constitutional obligation.

Sir, the amendment to clause 3 of the Insurance Act, 1938, clarifies, "...by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause 9 of this Section...", which would become a matter to be considered by the Insurance Act. Similarly, Sir, it is also clarified by way of amending the provisions of the Securities Contracts Regulation Act which explains, 'securities shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a combined benefit risk on the life of the persons and investment by such persons and insured by insurer referred to in clause 9 of Section 2 of the Insurance Act, 1938'. Therefore, it is very clear, which are not the securities. Similarly, Sir, amendment to the Securities and Exchange Board of India Act, where the problem of jurisdiction had come and which was also solved by this provision, gave the explanation for removal of doubts, 'it is hereby declared that for the purpose of this section a collective investment scheme or mutual fund shall not include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment, besides the component of insurance issued by an insurer'.

Therefore, amendment to these three provisions has made things very clear and the issue is resolved. But, the joint mechanism or the constitution of seven members' committee is for the future, in the event of any such problem coming in; it comes into the picture only then. Otherwise, it does not have any role in the day-to-day affairs.

Sir, I would like to draw the attention of the House to certain other matters. We are giving powers to the regulatory authorities by way of a statute. At the same time, the departments have the financial control over these regulatory authorities. Therefore, they feel that they should also be given

certain powers and they should be given money out of the Consolidated Fund of India and have the liberty to spend money out of the annual budget, so that they do not have to seek permission even for funding the tour of a Member or Chairman. They have to seek the Department's permission every time for that. But, as per the present system, the regulatory authorities are not directly accountable to the Parliament, except in certain sections which say that under the Insurance Act and the IRDA Act, the Department can issue circulars and directions. But they would be submitting Annual Reports. This is including the RBI. All the regulatory authorities would be accountable to the Parliament. Presently, they are not accountable; they are only submitting certain annual reports. Our Parliament is the supreme authority that can raise issues of the working of RBI, the regulatory authorities of Insurance and SEBI.

None of us including the opposition are raising this issue on the basis of the Annual Report. Even though our own rules permit us that Annual Reports can be taken up for discussion in the House, but we waste much of the time in shouting and adjouring the House. We are not utilizing that opportunity given by the present statute. Therefore, every authority has begun to think that they are big; they should not be challenged by anybody. They are very accessible to the private sector. Therefore, they can very easily leak out the matter and write articles in the print or electronic media telling that they are controlled by the Government and they are taking political decisions. Yes, we are taking political decisions and that is why we have come to power for five years. If we are doing it properly then the people will assess that this Government has done it properly. People cannot not differentiate the work done by autonomous bodies and the Government. They will say that your Government has done it properly. Therefore, this position is coming up. Therefore, my submission that regulatory authorities should be accountable and all of their transactions should be transparent so that people can understand it. Sir, the Planning Commission has already initiated a Regulatory

Authority Bill which was circulated two years ago. I feel that it is high time that these regulatory authorities should be made accountable and their day-to-day decisions should be transparent so that people can understand what is happening in SEBI. At the same time, I would also like to draw.the attention of the hon. Minister that the products which are coming out with insurance companies are very attractive for the common men. Mr. Goel was also referring to incidents where many of the products may not fetch large amount in the event of death of an individual. Even though we need not discuss those things here in this particular Bill, I feel that I have to draw the attention of the hon. Minister to take the advantage of this time. Sir, now different companies are coming forward with different products and schemes and they are increasing their amount of their average assets under management. I can quote certain companies. The Reliance is having more than Rs. 101,320,000; HDFC is having Rs.86,648,000; ICICI is having Rs.73,795,000; UTI is having Rs.64,445,000; Birla Sun Life is having Rs.63,111,000. Of total 38 AMCs, it will come around Rs.675,863,000 as the average assets under the management. Such a huge money is in the hands of the private companies. In the event of the clubbing of insurance and also the investment part, how they are going to give the guarantee to the common men? Sir, it may be different for the SBI Life Insurance which can have the Government support and security. But when we are giving rights to private companies to compete in this business, we have to be very careful and see whether things are happening properly or not. Sir, only 87.66 million households invest in gold and the life insurance industry has 59.7 million households covered by insurance policies. Similarly, households investment in equity is very minimum, that is, .39 per cent which comes to 920,000 households.

The investment in equities is also going down because of the fluctuating things and undependability on certain issues. Though there are 17 million DMAT accounts with NSDS and CDSL, only handful of them seem active. Among the top five Mutual Fund Houses which have been

there for over four decades, had slightly over ten million folios, the highest. The other four are Reliance which is having a mutual fund of 7.40 million and about HDFC, I have already given the figures. Therefore, when we are making these issues, we have to be very careful to secure the precious money which is invested by the ordinary citizens of India.

Sir, after bringing the DMAT system and other systems and enforcing the financial restraint in certain ways, we have reduced the number of persons who are participating in the share business. Some people may come and the reduction shows the inefficiency of the system. But I feel that it is a correct one because we are regulating it properly so that the sincere people alone are doing this business in stockholding and other things. I submit that the hon. Minister can consider that there should be a law by which the regulating authorities are subject to the Parliamentary scrutiny and also the credibility, legitimacy and effectiveness of different regulating authorities, even the RBI, should be subject to the Parliamentary scrutiny; then only I feel that this type of creating a new system that so and so cannot be touched, so and so institution cannot be touched, they are above all, that type of thinking should not be developed in a democratic system. Thank you very much.

श्री ब्रजेश पाठक (उत्तर प्रदेश) : उपसभाध्यक्ष महोदय, आज हम सदन में देश की अर्थव्यवस्था से जुड़े एक बहुत ही महत्वपूर्ण विधेयक, प्रतिभूति और बीमा विधि (संशोधन और विधिमान्यकरण) विधेयक, 2010 पर चर्चा कर रहे हैं।

माननीय उपसभाध्यक्ष जी, यह संशोधन विधेयक हमें सदन में क्यों लाना पड़ा? बीते दिनों में बीमा क्षेत्र को कंट्रोल करने वाली संस्था IRDA और शेयर मार्केट को कंट्रोल करने वाली संस्था SEBI के बीच एक विवाद ने जन्म लिया। ULIP जैसी जनता के लिए एक बहुत ही लोकप्रिय योजना अपने देश में आई और उसमें देश की आम जनता ने ढेर सारे रुपए निवेश किए। उस निवेश को शेयर मार्केट में लगाया गया। इसके बाद SEBI ने एक पत्र जारी कर सभी कम्पनीज़ को कहा, जो कि निजी क्षेत्र में थीं, कि जो कम्पनीज़ ULIP का व्यवसाय कर रही हैं उनको हमारे

यहां रजिस्ट्रेशन कराना पड़ेगा। IRDA ने इसका कड़ा प्रतिरोध किया और कहा कि इसकी कोई आवश्यकता नहीं है। यह विवाद वित्त मंत्रालय में पहुंचा। वित्त मंत्रालय ने न्यायालय में जाने की सलाह दी। लेकिन, परिणाम कुछ नहीं निकलते देख कर माननीय वित्त मंत्री जी को इस विधेयक को लाने से पहले इस विवाद को समाप्त करने के लिए अध्यादेश भी लाना पड़ा। माननीय वित्त मंत्री जी ने इस बार के बजट भाषण में भी इसका उल्लेख किया था कि हम इस संबंध में एक कानून लाएंगे।

उसी का परिणाम आज यह संशोधन अधिनियम है। हम इस अधिनियम का स्वागत करते हैं और चाहते हैं कि कानून कोई भी बने, उस कानून में आम जनता का, गरीबों का, मध्यम वर्ग का ख्याल रखा जाए ताकि उनका धन डूबने न पाए, फंसने न पाए और वे लोग ऐसी महत्वपूर्ण योजनाओं से अपने-आपको विमुख न कर पाएं।

(उपसभाध्यक्ष (श्री प्रशांत चटर्जी) पीठासीन हुए)

इस संबंध में ज्यादा वक्त न लेते हुए मैं अपनी बात समाप्त करता हूं।

जय भीम, जय भारत।

SHRI N.K. SINGH (Bihar): Sir, I wish to make just a couple of observations on this proposed Bill since a lot has already been written and considerably commented upon by experts and analysts. My problem with this Bill, Sir, is not what it proposes to do, but what it has, rather, failed to do. I will come to that in a couple of minutes.

As some of the other speakers, firstly, have pointed out that given the first mixed ingredient in the hybrid products and the larger proportionality of security *vs.* insurance premium in the products and that it could have been referred to a judicial process if bilateral efforts had, really, failed, and I have a considerable sympathy with the fact that you cannot have a penumbra of uncertainty surrounding the behaviour of financial markets which would have far-reaching implications for the working and the health of the financial system and, therefore, expeditious steps by the Finance Ministry was something which, I believe, was unavoidable reflecting itself in the proposed Bill.

Clearly, Sir, there have been worries, secondly, on what it does to the erosion of independent regulatory entities. After all, these entities were created, principally, with fire welling them from political interference. Of course, the Finance Minister has been at pains to explain that he has no intention of, in any way, eroding on the autonomy of the Reserve Bank of India and that this should not be read as an intrusion in the autonomous functioning of these independent regulatory entities. Of course, there is a proverbial saying that once you open a little door and a little ajar, then, of course, the door could be begun to be pushed to be wider open and whether, perhaps, the Peeping Tom would not have been better than leaving a little door ajar which could be then opened a little wider with a little gusto of breeze is something on which the Finance Minister, I am sure, is more competent to comment than I am. There is one important reason which the Finance Minister has given in the Lok Sabha, and I have considerable sympathy for that reason of how he had to resort to this. He has explained, and with considerable force, that the RBI combines in it two functions. He has no intention of, in any way, eroding the monetary functions of the RBI, but, rather, because the RBI also performs the function of being a banking regulator itself, a player in the securities market, there is an inherent conflict in the RBI's functioning, and that part of the RBI's functioning, which relates to security management and which relates to supervision of the banks, is the only component which might come under the purview of the proposed Council. Mr. Finance Minister, however, there was an option. That option was that you could take away this part of the function of the security management of the RBL into another entity. Indeed, some other countries, Sir, have done that in avoiding this kind of a contradiction in the RBI's functioning. That, Sir, brings me to the important points which I wish to make.

One was, perhaps, your most distinguished predecessor, Finance Minister Dr. Manmohan Singh, has once, privately, told me, and I have no hesitation in mentioning that.

But before we push more reforms and more changes, two entities require a lot of reforms which have collected a lot of baggage over time, that is, the Ministry of Finance itself and the Reserve Bank of India, both of which he presided over with a great deal of distinction.

Sir, what are these economic reform functions? That is what I feel the Finance Minister had an opportunity to do when he brought forward this Bill. The Reserve Bank of India today has three functions, namely, first, the function of presiding over the monetary policy, second, the function of being the principal debt manager of the Government and managing the portfolio of the Government and, third, the act of banking supervision. The Finance Minister will rightly concede that there are inherent conflicts between being a principal debt manager and portfolio manager, and the manager of monetary policy and also banking supervisor. I am not going to say that whether the impossible trilogy is possible or not, and the other so-called impossible trinity having a comparable open capital account with the exchange rate to Joe more or less market determined and also conducting the monetary policy with a certain degree of latitude. I am not going into the possibility of the congruence of the so-called impossible trilogy which economists talk about, but I am certainly on a more limited point: How to reform the Reserve Bank of India to be able to prevent this inherent conflict of interest between debt management and portfolio management, between banking supervision and conductor of monetary policy. How has the rest of the world handled it? My friend, the first speaker there, has mentioned about wanting to emulate the Financial Services Authority. I am afraid, the Financial Services Authority has been abolished because one of the first act which the new Chancellor of Exchequer in the United Kingdom did in his Press Conference was to say that the FSA had not served the purpose for which it was really created and decided to abolish the FSA beginning from 2012. Instead he has created two other entities, one is an entity called a Special Financial Committee within the Bank of England itself which will take away or obviate these conflicts of interest and the

other a Banking Commission to go into the management and evaluation of risks. I put it to you, Mr. Finance Minister, that in the overall matrix of a larger reform of financial institutions and the working of the financial institutions, you might like to bear in mind how your present proposal can be nudged in a more definitive direction of bringing about more fundamental and abiding changes in the working of these institutions with the dynamics of the current economic policy entail upon us. When you begin to create and fulfil your Budget promise of "Financial stability and Oversight Council" you might like to see how the present proposal can be meshed into the working of the Council and when you begin to operate on your other proposal which you brought in the Budget, namely, rewriting the current legislation in the financial domain, how some of these ideas can be reflected, how far, for instance, the Finance Ministry itself, can be reformed by having what has been debated for long, namely, a separate Debt Management Office within the Ministry of Finance, outside the RBI, to prevent that kind of conflict which arises.

Sir, I end by saying that I very much hope that the present proposal of the Finance Minister is the incipient beginning for much larger reforms which these institutions, some of them have had nascent and some of them have had long historical baggage, will begin to be re-crafted and restructured to meet the contemporary challenges which face the Indian economy. Thank you.

SHRI TIRUCHI SIVA (Tamil Nadu): Thank you, Mr. Vice-Chairman, Sir, I rise to support this Bill, namely, the Securities and Insurance Laws (Amendment and Validation) Bill, 2010 which is introduced to replace the Ordnance allowing insurance companies to sell unit linked insurance plans without seeking the approval of the market regulator, SEBI. Since I realise that it is my duty to support this Bill, on this occasion, I wish to put forth one or two points only.

The traditional insurance market is in shambles as insurers are not interested in marketing a class of insurance under which the shareholders share a major portion of the investment risk, but get

only 10 per cent of the profit. In the case of unit-linked insurance, while the entire investment burden is passed on to the policyholders, the entire profit also goes to the shareholders.

With regard to the Indian scene I would like to cite one very important thing. During the period 1990 to 1999, the Bombay Sock Exchange Sensitive Index, Sensex rose steadily from 783 to 3,060, an average growth rate of 16.4 per cent. The ULIP entered the Indian life insurance market in a significant way only in 2003. Between January 1, 2003 and January 1, 2008, helped by fund flows from ULIP and foreign institutional investors, the index rose from 3,391 to 20,301, an average growth rate of 43 per cent. The peak of 20,827 was reached on January 11, 2008. In this context, when a turf war arose between the SEBI and the insurance sector, it became essential for the Government to formally set at test the turf war between SEBI and the Insurance Regulatory and Development Authority. This Bill which has been brought forth to replace the Ordinance, accords jurisdictional powers to the insurance regulator over ULIPs - hybrid products which combine life insurance cover with market investments through mutual funds. It also provides for setting up a joint mechanism -- this is the most important thing to be welcomed -- headed by the Finance Minister to resolve any such differences in future among the country's financial regulators, namely, the Reserve Bank of India, SEBI, IRDA and the Pension Fund Regulatory and Development Authority. So when the Government or the country is focusing on the future economy, this becomes inevitable and this is a very prudent step taken by the Government this clause in the Bill. Alongside, the Bill has also sought to address the apex bank's concerns over hierarchy and autonomy by naming the RBI Governor as the Vice-Chairman of the Joint Committee instead of making him just a member. There is one more important thing. It is proposed to provide that the Governor of the Reserve Bank of India shall be the Vice-Chairman of the Joint Committee instead of a member. As per the Bill, apart from the Union Finance Minister as Chairperson and the RBI Governor as Vice-Chairperson, the other members of

the Joint Committee would be Secretary, Department of Economic Affairs; Secretary, Department of Financial Services and the Chairmen of SEBI, IRDA and PFRDA. It may be construed as a deviation from the Ordinance but the Bill has stated that in case of any differences of opinion among the regulators, reference may be made to the Joint Committee only by any of the respective regulators and not by the Government. So the Government and the Finance Minister would not take any suo motu step. Only whenever any regulator brings to the knowledge of the Joint Committee, then only they act. So this Bill, which has been brought to replace this Ordinance, is very essential one focusing on the development and progress of the country's economy. With these words, I welcome this Bill. Thank you.

श्री आर.सी. सिंह (पश्चिमी बंगाल) : सर, मैं समझता हूं या विश्वास करता हूं कि हमारे माननीय मंत्री जी बड़े सक्षम मंत्री हैं और मंत्री जी को संकट मोचक कहा जाता है। लेकिन यह समझ में नहीं आ रहा है कि मई महीने में जब session शुरू होने वाला था, उस समय मंत्री जी या सरकार को अध्यादेश क्यों लाना पड़ा, जब कि वे खुद सक्षम हैं? उस समय दो regulators को कहा गया था कि सुप्रीम कोर्ट के decision के बाद उस पर अगली कार्रवाई की जाएगी।

इसी बीच मंत्री महोदय या सरकार ऑर्डिनेंस लाई जबकि वह मामला सुप्रीम कोर्ट में लंबित था। तो क्या और ब्यूरोक्रेट्स को नौकरी देने के लिए यह विधेयक लाया गया है?

सर, आर.बी.आई. के फाइनेंशियल महकमे में केवल एक रेग्युलेटर हुआ करता था, अभी हर संस्था को रेग्युलेटर दिया जा रहा है। SEBI, पेंशन, इंश्योरेंस, टेलीकॉम, पावर, पेट्रोलियम, पॉल्यूशन, ब्रॉडकास्टिंग आदि के तमाम रेग्युलेटर्स आ गए हैं, जबकि पहले एक जगह से आर.बी.आई. सारा काम करता था और काम ठीक भी चल रहा था। तो इसके बारे में मंत्री जी जरूर बताएं कि इसे क्यों लाना पड़ा?

सर, मैं यह भी चाहूंगा कि जो रघुराज कमेटी बनी थी, उस कमेटी की सिफारिश को कितना इंप्लिमेंट किया गया है, इसके बारे में ज़रा जानकारी दें। सर, सुप्रीम कोर्ट में 14 मामले लंबित पड़े हुए हैं। SEBI ने इन कंपनियों पर रोक लगाई थी और IRDA ने उसको नहीं माना, जबकि वित्त मंत्री जी इसके अध्यक्ष हैं, इनको ही फैसला करना था। यदि वे शीघ्र फैसला कर देते, तो शायद यह नौबत नहीं आ पाती।

सर, जहां तक Joint Mechanism का सवाल है, वित्त मंत्री जी उसके चेयरमैन रहेंगे। जिसके रिज़र्व बैंक के गवर्नर रहेंगे, Secretary in the Department of Economic Affairs रहेंगे, Chairman, IRDA रहेंगे, Chairman, SEBI रहेंगे, Chairman, PFRDA रहेंगे आदि, तो इन सकको मिलाकर एक कमेटी बनाने की व्यवस्था की गई है, जो कहां तक सफल हो पाएगी, इसमें हमको संदेह लगता है।

सर, हम निजी बैंकों से वह अपेक्षा नहीं रख सकते हैं, जो सरकारी बैंकों से रख सकते हैं। फिर सरकार अपना शेयर 55 परसेंट से घटाकर, पब्लिक सैक्टर बैंकों का 51 परसेंट करने जा रही है, जबकि आप शेयर को disinvest करके पैसे का जुगाड़ करने की बात कहते हैं, लेकिन तमाम बैंकों ने 99 परसेंट पैसे गांव और गरीब लोगों के जमा होते हैं, जो उनके उपयोग में नहीं आ पा रहे हैं। वे अगर कर्ज़ लेना चाहते हैं, तो वह उनको नहीं मिल पाता है और बहुत कम रेट पर अगर कोर्ठ इंडस्ट्री लगाना चाहता है तो उसको दिया जाता है। गांवों में अगर हम कर्ज़ लेना चाहत हैं तो हमको 12 से 14 परसेंट पर लोन देते हैं और इंडस्ट्री लगाने जाएंगे तो हमको 2 परसेंट पर मिलता है, जबकि उनका उसमें कुछ भी धन नहीं रहता है। इनकी तरफ सरकार का ध्यान नहीं जाता है और कर्ज़ लेने के बाद जब किसान अपनी फसल अच्छी नहीं होने पर suicide करते हैं, कर्ज माफी की बात कही जाती है, तो उन गरीबों को कर्ज़ तो मिलता नहीं है, जिनको असल में मिलना चाहिए, उस धन का उपयोग कहीं और होता है। इसलिए इस बिल में इस बात का ध्यान रखा जाना चाहिए था। 1969 में श्रीमती इंदिरा गांधी ने बैंकों का राष्ट्रीयकरण करवाया था और राष्ट्रीयकरण के बाद बैंकों का पैसा देश के डेवलपमेंट

(THE VICE-CHAIRMAN (PROF. P.J. KURIEN) in the Chair)

के लिए खर्च करने की बात थी और देश के हित में काम हुआ है। सर, एक बात की ओर और ध्यान दिलाना चाहूंगा। 2015 तक बैंकों से 1,07,958 कर्मचारी रिटायर करेंगे और इनकी जगह पर दूसरे नए कर्मचारियों को लेने की अभी तक कोई व्यवस्था नहीं की गई है, जैसा ए.के. खंडेलवाल जी की कमेटी ने रिपोर्ट में दिया था, उसकी तरफ मैं ध्यान दिलाना चाहता हूं।

सर, जो प्राइवेट सेविंग एजेंसीज़ हैं, वे लोगों को आज भी धोखा दे रही है, पता नहीं किस तरीके से उनको परमिशन मिलती है?

उपासभाध्यक्ष (प्रो. पी.जे. कुरियन) : पांच मिनट हो गए हैं।

श्री आर.सी. सिंह : सर, दो मिनट ...

उपासभाध्यक्ष (प्रो. पी.जे. कुरियन) : दो मिनट ज्यादा हो गए हैं।

श्री आर.सी. सिंह : सर, ज्यादा नहीं होगा। तो वे लोगों को धोखा देते हैं और कहते हैं कि ढाई से तीन साल में तुम्हारी रकम को डबल कर देंगे। वे कहते हैं कि बैंक हमारी गारंटी दे रहे हैं, सरकार दे रही है, जबकि लोगों का पैसा डूबने की सारी संभावना है। फिर किस तरीके से सेविंग एजेंसीज़ को परमिशन मिलती है, इस बात को ध्यान में रखा जाना चाहिए, धन्यवाद।

SHRI PRASANTA CHATTERJEE (West Bengal): Sir, at the outset, I express my displeasure at the Bill not having been put before the Standing Committee, as demanded in the other House also by my esteemed colleagues.

Sir, the proposed mechanism of forming a joint mechanism is nothing but a knee-jerk reaction and it is not a product of a serious study of the existing arrangement for addressing intra-contradictions of regulatory authorities in the market.

Sir, the hon. Finance Minister in his explanation has said that the dispute began in January. On 10th February, the Finance Secretary discussed it. On 12th March, there was a mutual discussion in Hyderabad. The High Level Committee on Financial Market discussed it on 26th March. On 9th April, SEBI had given the order and on 10th April, IRDA had given another order.

Sir, the Parliament was in session till May 7th. But the Government did not bother to bring this Bill when the Parliament was in session and, instead, issued an Ordinance. I want to know from the Government what had prompted the Government to issue the Ordinance when it could bring this Bill during the last session.

Sir, my next question is what had prompted the Government to wait for the verdict of the Apex Court? On 4th May, the hon. Minister of State for Finance in his reply to Question No.4202 has said, and I quote, "The Government had asked the two regulators to get a legal opinion on the issue"? But strangely, the Government felt no necessity to wait for the verdict of the Apex Court, which is still to come.

My next question to the Government is: why had the Government not explained in the Ordinance the reasons for regulating ULIP by IRDA rather than SEBI?

What is the guideline of SEBI? On 9th April, SEBI directed 14 insurance companies, most of which are private life insurance companies belonging to ICICI or Reliance Ambani group, to stop dealing in ULIPs. SEBI's explanation is that the amount received under ULIP is invested in two ways -- one part is for insurance cover and the other is investment in the securities' market. According to SEBI, in some ULIP products, premium to buy insurance is as low as two per cent of the total amount whereas the balance is being invested in securities' market.

Our question is: in an insurance-linked scheme, why should they invest a part of premium in the securities' market? What is your experience in the global scenario? The same thing had happened in America where investment in the stock market brought a big depression and created a global crisis. Such a kind of crisis may also come to our country, if we allow the insurance related schemes to invest in the stock markets. Rather, it should have been invested in developing the social sector. That should be brought into account.

The RBI had constituted two committees. One was a Standing Technical Advisory Committee on Financial Regulation, which was constituted in 2003. The other was a Working Group on Conflict of Interest in the Indian Financial Services Sectors to identify the sources and nature of potential conflicts and suggest possible measures and actions to be taken for mitigating them. So, the RBI

should have played an important role. Then, there is a High Level Committee on Capital and Financial Market (HLCCFM). They referred the matter on 26.3.2010 to take a legal opinion. They should have played a more important role.

My next question is on the inclusion of Provident Fund Regulatory and Development Authority, PFRDA. This PFRDA itself is constituted under an Executive Order. The PFRDA Bill is still pending and not passed in the Parliament.

We have every objection to the formation of PFRDA also. So, when it is not at all a statutory body, then, why is PFRDA kept in the joint mechanism?

At this juncture, it would have been better that without placing the Bill here, the whole matter should have been referred to the Standing Committee on Finance so that it could go into the details of the issue and get to the root of this kind of a problem and conflict and so that there is no recurrence of such things. The interest of the investor must be looked into. We are very much concerned about the interest of the investor. At the same time, we are also very much concerned that the insurance related schemes must not invest funds in stock markets. All these things could lead to a crisis.

The Governor of the Reserve Bank of India himself, after meeting the hon. Finance Minister, expressed publicly that the proposed Bill was going to dilute the role of the RBI. That should not have been done. At this juncture, when there is a difference of opinion, my concrete proposal is that the hon. Finance Minister may please withdraw the present Bill and bring another comprehensive Bill before the Standing Committee to have a detailed discussion and, then, bring a new legislation before Parliament because Parliament is the highest authority and Parliament should take a decision on this.

With these words, I thank you and conclude my speech.

THE VICE CHAIRMAN (PROF. P.J. KURIEN): Dr. Ashok Ganguly. Please take only five minutes.

DR. ASHOK S. GANGULY (Nominated): Sir, given my position in this House, I have made it a practice to be brief. It is not that I can't speak for 70 minutes, but I restrict myself to a very short speech. First of all, I think, I must say that the Finance Minister must have been compelled to bring this Bill to the House. It is a great pity. Because one would have expected that the regulatory authorities in their good sense would have solved this problem, and this issue would not have arisen. Now, that it has arisen, there is no solution to it, rather than finding a mechanism going forward, if such a situation were to happen again. However, having been on the Board of the Reserve Bank of India for nine years under three very eminent Governors including the present Governor, I must say that the RBI has used its independence, its discretion with maturity prudence and foresight, all the time in consultation with the Finance Ministry. They have done a tremendous job during the global financial crisis. This has to be acknowledged, and we must not use this Bill as a process of denigrating a great institution. Be that as it may, in spite of the Finance Minister's suggestion that the IRDA and the SEBI go to the court and seek a solution, they did not do it. It is not very clear why they did not do it. They have brought it upon themselves. As a matter of fact, the Reserve Bank of India has every right to persuade them to find a solution, it is not very clear why they failed to find the solution. Under the circumstances, I think, as far as hybrid financial instruments are concerned, the Finance Minister was left with no choice but to bring this Bill forward. My hope is that such a situation will not arise in the future and the Finance Minister may not have to preside on such a situation in the future, and the regulatory authorities would have learnt their lessons to find solutions by their own wisdom and goodwill. My only suggestion to the hon. Finance Minister before I conclude is this. Mr. Finance Minister, since the Vice-Chairman of this Committee is the Governor of the Reserve Bank,

and since in your absence, he is likely to preside over the meetings. I would suggest to protect his impartiality that the Deputy Governor responsible for banking supervision may be inducted into this Committee to act as the representative of the Reserve Bank of India, in case the Vice-Chairman has to preside over this Committee. With that minor modification, and not with great excitement, but to be practical knowledge that this was the only solution that was faced by the Finance Ministry because of the regulators themselves, I support this Bill as a caution to the other regulators that if they wish to retain their autonomy, they must act in wise and honourable manner. Thank you, Sir.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, Shri Mysura Reddy. You can follow the example of Gangulyji, with regard to the time.

SHRI M.V. MYSURA REDDY (Andhra Pradesh): Sir, since we are in "Others" category, we would get one minute extra, *i.e.,* six minutes.

Sir, this is an Ordinance which was brought to resolve the dispute between two regulators. But, both the regulators are fighting for the control of small investors' money. In this issue, even though it may be personal, I don't want any redressal of my grievance. But, I want to bring this issue to the notice of the hon. Minister as to what is going on in this ULIP so that some redressal mechanism can be created, instead of keeping the redressal mechanism among two regulators.

Sir, my son took ULIP from Bajaj Allianz Life Insurance Company Limited and paid rupees one lakh every year for three years. But the insurer put his investment up to Rs.2,85,00, which means 95 per cent is put in instrument and only 5 per cent in insurance. What the Minister may call or what Bajaj Allianz can say whether it is insurance policy or the instrument which is more. But, ultimately, after three years he surrendered his policy. He got only Rs.2,73,000 which means his NAV is

Rs.3,45,000. So, he has lost his net gain also, he lost Rs.15,000 in net. The net gainer is the Bajaj Allianz of Rs.87,000. So, these are unfair trade practices. One Mr. Rangasamy from Coimbatore paid Rs.1,00,000 in SBI Life which is a public sector undertaking. He might have gone for some loan and he might have been forced to take this insurance scheme. He discontinued and surrendered his policy. After three years, he got only Rs.10,000 for investing Rs.1,00,000. But if an individual had done this thing, we might have said that this is a cheating. But IRDA, the regulator regularizes by some kinds of regulations and guidelines. There are 14 companies which are in the insurance business. So, I request the Minister to furnish before this House the number of policies taken, the number of policies discontinued or surrendered since 2005 only. More than that I do not require and I think the House also does not require. Insurer might have done share trading and might have made some shares out of small investors' money.

Sir, one case is with regard to HDFC dealer's share trading fraud which is a classical example. In small trade only within 20 days they made rupees two crores out of the small investors' money by way of ULIP only. Since these kinds of things have been going on, the Government might have brought in a good legislation after giving thought and care. In these cases both the regulators failed. IRDA failed and SEBI failed. They were unable to protect the small investors. What is the purpose of resolving the dispute between the regulators? The Government might have given much thought and care for protecting the small investors, instead of doing that, they have done this. Regarding Ordinance also if I speak it will be repetition of what Mr. Goyal has already told. So, there is no use of arguing on this Ordinance. But one small incident I would like to bring to the notice of the Minister. Sir, there are many hybrid products which are coming. In the joint mechanism, the RBI, SEBI, IRDA are the members. But if somebody has brought a hybrid feature like a steel company where FMC is involved, it is among these four regulators only. If FMC comes, again he has to bring a new

legislation. This is the issue in these hybrid instruments. You might have given a lot of thought how to resolve this problem also. But one thing that I would like to bring to the notice of the House is the reply of our Finance Minister on price rise on 5.8.2010. I will quote only this and then conclude my speech within the given time. He said, "I cannot forget the days of 1990s when the country's gold was to be placed to a foreign bank just to borrow a few hundred million dollars, when the Finance Minister of this great country had to go to a foreign country, a rich country, to meet the Finance Minister of that country, but had to wait for some time to get the appointment. I would not like if any Finance Minister of this country has to face that type of a humiliation situation. ..."

I am very happy and proud of that. We should not forget that for this economic growth, hundred crore people are paying six lakh crores of taxes to the exchequer and are also silently paying toll tax on all infrastructure projects. The Finance Minister is only the fund manager. The Aam Aadmi's economic power is the sole economic strength of this country, not the strength of a few corporate houses. The ULIP business is one percent of GDP. The Government might have been given a lot of thought and care in bringing this piece of legislation which may protect the interest of innocent investor instead of throwing the common man to the vultures of corporate sector. Thank you.

DR. BHALCHANDRA MUNGEKAR (Nominated): Sir, I support the Bill for the following reasons. Sir, as we understand there is fundamental difference between a controlled economy and a regulated economy. We have also clearly acknowledged that the global financial crisis in Us in 2008 arose primarily because that the financial sector of the US economy was not regulated and it engulfed the entire western economy and no economy of the world could remain insulted from this. Under this condition I think, this legislation had to be viewed in the context of the requirement of economy at a given point of time. This is not the legislation which will be there permanently for 50 years. Even our

Constitution was amended immediately after two or three months. The question is: as the economy is to be regulated, the regulators of the economy also need to be regulated. And it is in this context the Insurance Act, 1938, the Securities Contract (Regulations) Act, 1956 and The Securities and Exchange Board of India Act, 1992 clearly specify the distinction between the life insurance business and the securities on the one hand and the collective investment for mutual fund on the other. I think, this is the need of the hour and as far as the insulation of the financial sector which constitute the nerves of economy is concerned, I support the Bill with all caution that we shall be able to take care of prevention of unfair practices. Thank you.

SHRI RAJEEV CHANDRASEKHAR (Karnataka) : Sir, as we all know the financial markets and financial sectors of our country are today valued at tens of thousands of crores and has shown systematic and solid growth over the past two decades since liberalisation. But more than the size growth, the markets have grown in terms of its transparency, governance and regulation -- making our markets one of the best regulated markets in this part of the world. As we enter this debate, we must not forget what made this possible. It was the independent regulation of the financial markets and the independence and capability demonstrated by RBI and SEBI over these years and the independence and capabilities of men like Dr. Y. V. Reddy, and Mr. Damodaran in the RBI and SEBI. And as we all know India escaped most of the trauma of the recent 2008 global economic reset because our economic regulators had managed our financial markets well and sensibly, resisting populist and fashionable trends and bureaucratic pressures that were constantly proposed in the guise of reforms. It is precisely this orderly transformation of our markets into a transparent and well regulated market that we are today throwing into question, with this back door intrusion of the political and bureaucratic executive into the realm of independent regulation. Sir, I have spoken in this House many times on Independent Regulation and as a proponent of strengthening Independent

Regulation, I can say this with all the power at my command, that this Bill sets a very bad precedent. The problem that the Bill is attempting to solve is neither a unique problem nor is it new. As a matter of act, as more and more independent regulators are introduced into our scheme of governance, the problems, and, therefore, the challenges of regulatory overlap and regulatory disputes will arise. We must realize that. So, if a sectoral regulator like IRDA or TRAI attempts to regulate a sectoral entity and a functional regulator like the markets regulator like SEBI or competition regulator like CCI attempts to regulate the function qua the markets of competition -- there will be potential regulatory conflict.

However, the solution cannot be and must not be the type suggested by this Bill. Regulatory disputes and regulatory adjudication cannot compromise the concept of independent regulation of the sector or the function, as this Bill, very obviously, ends up doing. Sir, let us acknowledge it openly. This Bill brings in bureaucratic and political oversight into a critical and sensitive area of regulatory dispute adjudication which is undesirable and retrograde.

Sir, let me give you an example of what will happen in future if this precedent is followed. The TRAI is the Telecom Regulator. It is also tasked with managing competition in telecom. If it regulates competition and, at the same time, the Competition Commission intervenes in the telecom sector to manage competition, there is potentially going to be a conflict between these two regulators. So, is it the case of the Government that the dispute arising between the TRAI and the CCI will be adjudicated by the Department of Telecom or the Minister of Telecom? It is clearly not in keeping with the Government's view of strengthening independent regulation.

It is similar in the case of ULIPs. As my colleague, Mr. Piyush Goyal, has said that ULIPs should be regulated on issues of insurance by the IRDA and when it comes to markets and investments, it cannot but be regulated by the market regulator. If there is this kind of a dispute -- real or imaginary -- it must be still settled through an appropriate independent body with no bureaucratic interference and involvement.

If the Government is, for some reason, averse to courts resolving this dispute, then the solution should be, as Mr. Piyush suggested, to have an independent appellate body of whatever type or form, without compromising with the word 'independent.'

Brining bureaucracy into the sensitive area of financial sector regulation is contrary to the Government's own stated object of strengthening independent regulation in this country.

I request with all humility at my command the hon. Finance Minister to re-look at this Bill again. The creeping influence of the Government is bad news for the future of independent regulation in this country. I am sure, he does not want it to be a part of his legacy and I hope sincerely that he would look at creating an independent regulatory disputes appellate commission or some such idea that could replace the current structure or proposal. Thank you.

श्री प्रकाश जावडेकर (महाराष्ट्र) : वाइस चेयरमैन सर, मुद्दा यह नहीं है कि बिल क्या है, मुद्दा यह है कि संदेश क्या कहा गया है। What is the message? I will just stick myself to that. संदेश यह है कि आपने आरबीआई की स्वायत्तता पर चोट की है। You have compromised with the autonomy. और जैसे लोगों ने कहा कि RBI has conducted itself over the years so maturely that we should not have denigrate it like this. अभी हम इज़राइल में गए थे। वहां हम इज़राइल के सैंट्रल बैंक गवर्नर स्टेनले फिशर से मिले, जो दुनिया के बहुत बड़े अर्थशास्त्री हैं। Passionately, he was telling us what is the importance of the Central Bank which can, in situation of economic difficulties and perils, bring the nation out of it. He gave examples how that country conducted itself with independence. That is the reason why we hurt. इसलिए मेरी पहली बात यह है, मुझे पता नहीं है लेकिन यह न्यूज़ आई है कि आरबीआई गवर्नर ने आपको चिट्ठी लिखी है, मेरी पहली मांग यह है कि वह चिट्ठी आप टेबुल करिए, जिससे सभी लोग यह जान सकें कि उनका दु:ख क्या है। क्योंकि पब्लिकली उन्होंने एक रिऐक्शन भी दिया था और वह आपसे मिले भी थे, इसलिए वह चिट्ठी आप सार्वजनिक कीजिए। The Reserve Bank of India, over the years, has always been dealing with all currency management. It is always a banker's bank. It is the supervisor as far as the words 'banking',

'finance' and, lastly, 'fiscal discipline' are concerned. So, if you have any problem with inter-regulatory mechanism, you could have created an improved mechanism under the RBI. You could have provided teeth, as suggested by my friend, Mr. Piyush, to the HLCCFM, or, even entirely a new mechanism could have been created. He should have through about it.

The last point is, the Bill is based on the opinion of the Law Ministry. Many times reference has come.

So, my second demand is this. Please table the legal opinion, given by the Law Ministry. Let us judge what you have drafted as a Bill and what the legal opinion, from the Law Ministry, says. Are they in tandem? Or, are they just opposite to each other? And, why should we not send it to the Standing Committee. We have created a mechanism. मैंने दो सालों में पार्लियामेंट्री डेमोक्रेसी में यह देखा है जितनी चर्चा यहां होती है तो प्रेस वाले भी होते हैं, तो मैं अपनी पार्टी की लाइन बताउंगा, वे अपनी पार्टी की लाइन बताते हैं, लेकिन जब स्टैंडिंग कमेटी में इकट्ठा होते हैं तो सबकी भलाई किसमें है और larger interest क्या है, इसको देखते हुए चर्चा होती है। इसके साथ ही उसके testimonies होते हैं, उसमें लोग साक्ष्य के लिए आते हैं, witnesses आते हैं। वह mechanism हम क्यों छोड़ दें? हमें वह mechanism छोड़ना नहीं चाहिए। इसके साथ ही जो हमने तैयार किया है, उसे standing committee को दे दें, इससे क्या बिगड़ने वाला है? अभी तो आप एक Ordinance से उस dispute का हल हो गया और अभी तुरंत दूसरा कोई dispute तो पैदा नहीं होता। अगर यह लगे कि इसकी टेक्निकल जरूरत है तो आप उस ordinance को और आगे भी बढ़ा सकते हैं। उसके lapse होने से भी कुछ नहीं होगा, यह मेरा argument है। अगर उसको lapse नहीं होने देना है तो इसे कर सकते हैं, लेकिन बिल जाने दीजिए। ऐसा नहीं कि हर बिल को तीन महीने में ही करते हैं। स्टैंडिंग कमेटीज़ every week मिलती है। हम अभी HRD कमेटी में हैं, उसके पास मिनिस्ट्री में नौ-नौ बिल्स भेजे हैं। हम एक-एक बिल को हर सप्ताह तैयार कर रहे हैं। चार-चार सप्ताह में, एक-एक महीने में बैठकर, यह हो सकता है। इसलिए मुझे लगता है कि यह होना चाहिए। I am very confident that you will agree to these suggestions. Thank you very much.

THE MINISTER OF FINANCE (SHRI PRANAB MUKHERJEE): Thank you, Mr. Vice-Chairman, Sir. First of all, I would like to congratulate my friend, Mr. Goyal. I knew his father. But, no doubt, his presence in the House will add to the deliberating and debating quality of this House. The way he presented his case in his maiden speech, studied the entire gamut of the subject, speaks well of it. And, that should be the job of a parliamentarian. I commend him, as an elderly chair, that he has prepared his case so thoroughly. It is not necessary that all of us will agree with him. This is the Chamber, this is the system where we agree to disagree. There will be divergence of views; there will be differences of opinion. And, through those divergences, through those differences of opinion, through discussion, we will arrive at a solution. Therefore, I would like to take this opportunity to compliment him. He has his certain issues. But I am confining myself to three aspects of the issue. So far as the areas are concerned, whether it should be regulated by the IRDA or by the SEBI; what the nature is, what the percentage is, what the component is, all these issues are to be decided by the regulators themselves. You look at the chronology of the events. First of all, as I mentioned in the other House, neither I had an intention nor the purpose of this Bill is to interfere with the autonomy of the regulators. Regulators have not come on their own. Whether you are in Government, or, whether we are in Government, we bring the Bills; we discuss them in the Parliament. We clear the statute to institutionalize the regulator. Therefore, regulators are the creation of the Parliament, of the Executive. Last fifteen years, almost twenty years, since the economic reforms, various regulators have come into existence.

But we must keep in mind that regulators will have to operate, will have to function within the powers vested in them by Parliament, by passing a law. Here you look at the chronology of the events. It started from January. Not only the Government advised them, but the Ministers also advised them. We may delegate the political institutions but can you have a Parliamentary system

without political institutions, without political executives? Can the Chamber of Commerce, can the economic guilds run the Parliamentary systems? Can you have Hamlet without Prince of Denmark? It is the political institutions, political party or the leaders of the system who create the regulators; regulators are not created by the Resolutions of the trade bodies or the Chambers of Commerce or of the Economic Guilds; it is the creation of a political institution like Parliament. The Parliament is nothing but consisting of the representatives of political parties. Therefore-, in our approach, we should not create confusions. Here, the question is that two regulators disputed. When they disputed, they were asked to settle themselves, because it is not good for the financial market, it is not good for the investors, it is not good for the health of the economy. There is an existing mechanism. There is a high-level coordination committee on Financial Matters. Mr. Goel was dealing with it. It was referred to them. It is chaired by the Governor RBI. From 1990, it is in existence. They advised them, "you settle among yourselves bilaterally." That is why, it was taken off the agenda. It is not that it was not referred to them. The High-Level Coordination Committee is chaired by the Governor, RBI. Thereafter, they were advised that, well, if you cannot sort it out yourselves, you agree to file a joint petition to the competent court which will decide and you accept their judgement. They agreed. My grievance is, they agreed. They made me to make a public announcement that both of them have agreed to file a joint petition to the competent court and they will accept the verdict of that. What do you expect me to do? I will just remain a mute spectator in honouring the autonomy of the institutions. If they quarrel like peculiar children, I am afriad, my concept of autonomy is not like that. Nobody else but here I alone am accountable to you. No independent regulator is accountable to Parliament and through Parliament to the people. We do not have that system. It is not like American Senate. We have our own Parliamentary system.

We have our own mechanism and we shall have to work in that. I cannot look at things like what should have been or what could have been. When it will happen, it will happen. Nobody is

going to interfere with the autonomy of the RBI. Why has the RBI Act been amended? It is because the RBI has two roles as monetary policy maker, as a totally independent monetary advisor to the Government of India. Nobody is interfering with it; but what would be branch expansion policy of the banks for which the RBI is the Regulator? Are you not asking me questions day in and day out about the branch expansion? As a regulator of the banks, as regulator of the security market, if there is a conflict between the regulators, what is the scheme? It is not related to conflict between the Government and the regulator, not disagreement between Government and regulator. If there be a disagreement between the regulators, then only the regulator can make reference to this joint mechanism. Originally, it was thought that any member, including the official members, could make a reference to it. But, thereafter, it was thought that 'no'; it will be interpreted as my young friend Javadekar said; I was very much concerned with what message I would like to convey, I did not want it; I have no intention because many of these were enacted by us when we were in Government. We created it and they were created with good intentions but that doesn't mean that they will transgress the jurisdiction of the others. What is the role of the Executive? The role of the Executive is also to look into such things. If one authority transgresses the jurisdiction of the other authority, the Executive cannot remain a silent spectator in the name of autonomy, in the name of honouring the autonomy. That is an Utopian idea to my mind. - That is not accepted. What we have done in the Bill is that as and when such a situation will arise when two regulators will quarrel on jurisdiction, not on other matters, then, the first effort will be to let them sort it out bilaterally. If they fail to do so, let them go to the high level coordination Committee chaired by Governor, RBI. If they fail to do so, then it will have to come here, if they feel. They will have to make recommendation; it is not suo motu. The aggrieved party will have to make a reference to this Joint Mechanism, and, in that case, the Joint mechanism will take the decision. The Joint Mechanism is chaired by the Finance Minister. I am not

talking of the individuals; I am talking of the institutions. The Finance Minister is accountable to you. You can dismiss him in no time by simply passing a No Confidence Motion. He represents the people and he is accountable to the people through you. If somebody feels -- and with due respect to him -- that he is above the Finance Minister in the matter of money and finance, he may believe so. I have respect for his belief but I cannot accept it. It is not practicable. These aspects ought to be kept in. I entirely agree. Our Reserve Bank has done a wonderful job.

In every statement, I repeat like a parrot that Government and RBI had worked in tandem, in close cooperation, to overcome the financial crisis. But does that mean that when legislation is to be made covering the financial regulators, the RBI will have to be excluded? From where does this logic come in? If they did not have any regulatory role, there would have been no occasion for that; but there is a regulatory role. The Ordinance was brought in to see to it that when two regulators come into conflict in respect of jurisdiction, this mechanism would be in place. Mr. Javadekar, my young friend, had asked for two documents to be placed on the Table of the House. He knows the functioning of the Government very well; these can never be laid. But I can assure him that everything in the Bill, right from the title, sub-title, clause 1, to the last point, is drafted by the Law Ministry. The administrative Ministry does not draft the Bill. The administrative Ministry only states its intention, but so far as the drafting is concerned, it is to be done by the Law Ministry. That is always the case and not only in this case. And what transpired between me and the Governor, RBI, is definitely classified. Nowadays, it has become a practice to go to the media, but I cannot go to the media; I can only come to you and unburden myself before you. But there is no question of compromising the autonomy of any regulator. If they come into conflict or there is a difference of opinion or they enter come into the jurisdiction of the other, then, this situation would arise.

Certain questions have been raised as to why we did not wait for the Supreme Court? Now, what was the nature of the Supreme Court's judgement? The first one was about transferring all the

cases. How much time would that have taken? There was a need for urgency. Question has been raised, 'why not in the Parliament?' All of us are working in the Parliament. We all know what the parliamentary calendar was during this period of time. If we wanted to sort it out, was it possible to have a regular legislation in the Parliament? Did we pass the legislations which were pending before the Parliament during that period? During the Budget Session, we could not give much time even to discussions on the working of the individual ministries here and discussions on the demands-for-grants in the other House. We could not give enough time. Therefore, it was almost impossible to have this piece of legislation passed. I do agree that all Bills must be scrutinized by the Standing Committee, and that has been the practice, but an Ordinance is not an ordinary piece of legislation. An Ordinance is brought because there is urgency, and as and when an Ordinance is brought, it is put into operation immediately. Therefore, it requires Constitutional propriety and Parliamentary authority; it requires to be ratified and approved by the Parliament within six weeks of the beginning of the next Session. The Ordinance is being issued during the interregnum. Therefore, my young friend, Mr. Javadekar, would agree with me on the very rationality of an Ordinance. An Ordinance does not make a major law; Ordinance amends certain provisions of the law -- it could also be more than one law -- which appears to be absolutely necessary to be put into immediate effect.

It is not a major law. This was debated.

I myself was the Chairman of the Parliamentary Standing on Home Affairs. At that point of time, we discussed it in detail and -- there must be records of those discussions -- I myself gave the view, being the Chairman, that don't bring the ordinance. If an ordinance has an urgency, it has to be implemented. What I am to do as the Chairman of the Standing Committee, I am to give it ipso facto approval or I am to make some suggestions which you cannot do immediately but which you can do prospectively in a much later date. That is the problem of sending an ordinance to the

Standing Committee. If there is any major substantial change in the spirit, letter or concept of the law, and if you very strongly feel that the autonomy is going to be challenged by the provisions of this law, then surely you can think of it. I can think of what type of regulatory mechanism could be here or what appellate jurisdiction could be here because all of them are statutory authorities. Now we can go on creating tier after tier but when the net result comes it shows that it consumes time and quick decisions are not taken when they are required. Keeping that in view, this was thought necessary. A question has been raised why PFRDA has been brought. Yes, it is not statutory. Parliament could not pass the law, but that does not mean that it is not a regulator. It is conducting all the functions of a regulator. When it is conducting as a regulator and if there is a conflict, it will have to be kept outside, it is not possible. That is why we have PFRDA also. Now I come to the substantive part why ULIP should be treated as the insurance. I am not going into the percentage of it or I am not going into the individual cases which some hon. Members have referred to; surely those will be looked into and I will ask the Department to look into them. I am just quoting why it should be treated as insurance and within the jurisdiction of IRDA. The SEBI Act recognizes that the mutual fund is in the nature of a collective investment scheme and that SEBI is authorized to look into that aspect. But Section 11 AA (iii) of the SEBI Act expressly states that a contract of insurance which comes under the Insurance Act shall not be deemed as collective investment scheme. Section 11AA of the SEBI Act keeps categories such as public deposits raised by a company and NBFC out of its purview and the rational clearly being to avoid the multiplicity of regulatory authority on the same product and on the same subject matter. Now where it went wrong? It had ignored the fact that the units issued under ULIP do not have one undivided share in assets of a scheme but for much more than undivided share. They include a death benefit which is linked to the premium paid and in case of pension it is annuity contracts, and they are based on traditional policies which do not issue any unit under the said policies.

Therefore, the main argument that it is one undivided share, does not hold good in this case. ULIPs are significantly different from units of the Mutual Fund. Benefits under ULIPs in case of a death of a policy-holder are higher of the sum assured or the fund value as on the date of death. In a Mutual Fund on the other hand, the benefit is limited only to the fund value and not to the death of the unit holder. Thus, ULIPs are not inexplicably linked with the life of a policy-holder and the sum assured. They are like a compound and not a mixture where individual components would be segregated. It is not possible in case of ULIPs. That is the rationality of what we have suggested.

Some other question was raised that in the amendment we have made, there are some corrigendum also because it was found after the Ordinance, as per the internal practice in the Ministry of Finance that the senior-most Secretary becomes the Finance Secretary. On the other hand, Controller of Capital Issues and Capital Issue Division come under the Department of Economic Affairs. It may not be always possible to have the Secretary Economic Affairs to be the Finance Secretary. The Finance Secretary would be the senior-most Secretary in the Ministry of Finance, maybe Expenditure Secretary, maybe Financial Services Secretary, maybe Revenue Secretary. So, we have made it that Secretary who will be the in charge of Financial Services and who will be the in charge of the Department of Economic Affairs. That amendment we have already indicated. A reference has been made about clause 6. Clause 6 is a validation clause. It was needed because to make it clear that the amended sections of the various Acts, SEBI Act, Insurance Act and IRD Act, have been in force at all material times and it shall not be called in question in any court. To avoid that, a validation provision has been provided in clause 6.

Now, another question was raised by Mr. N.K. Singh. Of course, that is a major reform outside the purview of the discussion of this Bill. But we are also going to have an FSDC which I

announced in my Budget speech. The discussion paper I have put in the website. It is in the domain of the public knowledge, and then, I am awaiting the comments. Some comments have come, but I am awaiting for more comments, and there I would like to see that what mechanism we could have. It is proved that there are a large number of regulators who are in different fields and there will be conflicts with the growing economy, with expansion and with the complexity of the system, there will be conflicts. I do believe that the arrangement which I have made is not a knee-jerk, but it is not a very long term arrangement. It is some sort of *ad hoc* arrangement and I had to do it for the time being to overcome the crisis. But it requires that what type of institutional arrangement we could have where these types of conflict resolution is possible without wasting time.

So far as the writ jurisdictions of the High Courts and Supreme Court are concerned, it is supreme. Nobody can restrict that. Whatever mechanism we have, we cannot put restrictions on the writ jurisdictions of the High Court and Supreme Court.

That will always prevail. But short of that, what type of mechanisms we can think of and whether FSDC can meet our requirements, that will depend when I come out with the proposal to the House. Whether it will be a statutory body or not, that also we are debating on. But there should be a mechanism which will take care of the problems which are emerging. Because Indian economy is emerging, capital market has developed substantially and in various other radius, we are growing, more and more regulators will come to exist, and they will operate. There may be overlapping. Keeping that in view, a permanent institutional mechanism is needed, and let us collectively think what type of mechanisms we can provide in the system. Thank you, Mr. Vice-Chairman.

With these words, Sir, I request my colleagues to give their seal of approval to the proposals made in the Bill. Of course, the Ordinance has already been replaced by the Bill passed by the Lok

Sabha. Here, the proposal is that the Bill, as passed by the Lok Sabha, be taken into consideration and I propose that it should be approved.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Thank you, Mr. Finance Minister.

Now, the question is:

That the Bill further to amend the Reserve Bank of India Act, 1934, the Insurance Act, 1938, the Securities Contracts (Regulation) Act, 1956 and the Securities and Exchange Board of India Act, 1992, as passed by Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 7 were added to the Bill.

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

SHRI PRANAB MUKHERJEE: Sir, I move:

That the Bill be passed.

The question was put and the motion was adopted.

The Foreign Trade (Development and Regulation) Amendment Bill, 2009

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): Now, we will take up the Foreign Trade (Development and Regulation) Amendment Bill.

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI ANAND SHARMA): Sir, I move:

That the Bill further to amend the Foreign Trade (Development and Regulation) Act, 1992 be taken into consideration.