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Title: Combined discussion on statutory resolution regarding disapproval of Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (No. 3 of 2010) and Securities and Insurance Laws (Amendment and Validation) Bill, 2010 (Resolution Withdrawn and Bill Passed).

MR. DEPUTY-SPEAKER: Now, the House will take up item no. 15, Statutory Resolution.

Shri Basu Deb Acharia – not present; Shri Lalji Tandon – not present; Shri Radha Mohan Singh – not present.

Shri Prabodh Panda.

SHRI PRABODH PANDA (MIDNAPORE): I beg to move:

"That this House disapproves of the Securities and Insurance Laws (Amendment and Validation) Ordinance, 2010 (No.3 of 2010) promulgated by the President on 18 June, 2010."

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

"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, be taken into consideration."

SHRI PRABODH PANDA : Mr. Deputy-Speaker, Sir, at the very outset I must register my serious objection for promulgation of the ordinance. Now-a-days, it has become a practice of the Government of the day to promulgate ordinances on different issues.

There are three issues.

Sir there are three issues (a) Parliament was in session till May 7<sup>th</sup>, almost a month after the SEBI order was issued. The Government has not explained why it did not make the necessary legislative changes by introducing a Bill in Parliament at that time. (b) While the original order prohibited insurers from raising further funds under existing schemes (which could have created uncertainty for investors, thus requiring quick action), SEBI subsequently clarified that its earlier order applied only to new schemes, leaving existing products untouched. This would have gone some way towards mitigating the 'uncertainties' referred to by the Government in its statement. (c) On May 4, more than three weeks after the SEBI order, the hon. Minister of State for Finance told in the Rajya Sabha that the Government itself had asked the two regulators to get a legal opinion on the issue, following which the dispute was referred to the Supreme Court. While the matter was before the Supreme Court, the Ordinance was promulgated. So, it is quite unfair. When the issue is already before the Supreme Court, what was the urgency from the Government to promulgate such an Ordinance? Thus, the circumstances which made it necessary for the President to take 'immediate action' may not have existed.

Sir, not only that, it has appeared in different newspapers that the Governor of the Reserve Bank has expressed his strong reservation in this regard and he requested the hon. Minister of Finance not to bring it before the Parliament and it should be lapsed. Not only that, it is the question of diluting the autonomy of the SEBI. So, this is not an ordinary issue. I think this is not proper to promulgate any Ordinance. As there are strong reservations from different corners, even from the Reserve Bank itself, the Government should not press it for consideration and passing.

Sir, with these words, I move the Statutory Resolution for adoption.

SHRI PRANAB MUKHERJEE: Mr. Deputy-Speaker, Sir normally in the opening observations of the Minister, while requesting the House for a Bill to be taken into consideration, there is no need of making any detailed observations, but this time I would like to do so because, firstly, I would like to explain why it was necessary to have the Ordinance. That will be the issue which the mover of the Statutory Resolution and other Members are going to raise. Secondly, what were the reasons when all these facts, which the hon. Member moving the Statutory Resolution has mentioned, were known to the Government, then why the Government had to take this particular action and surely after that, I will respond to the other

points which the hon. Members will raise during the course of discussion.

The Financial Sector Regulation in India has become stronger with the emergence of Statutory, Autonomous and Independent Regulators. Presently there are four regulatory authorities. (i) the Reserve Bank of India (RBI), (ii) The Securities and Exchange Board of India (SEBI), (iii) Insurance Regulatory and Development Authority (IRDA) and (iv) the Interim Pension Fund Regulatory Development Authority (PFRDA). The former three are statutory regulatory authorities and the fourth one PFRDA is created by an Executive order by issuing a resolution by the Executive.

With the rising complications and expansions of the financial market, it was considered necessary that there should be independent regulatory institutions to deal with the issues in their respective jurisdiction. Unfortunately, what happened there? The question is that when one statutory authority enters or is alleged to enter into the jurisdiction of the other statutory authority, what should the Government do? There is one course, of course, left – a prolonged litigation, going to the competent High Court or going to the Supreme Court. But we shall have to keep in mind that in the financial market, if 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.

The hon. Members are fully aware of what happened. The SEBI issued some instructions in the month of January, 2010. Jurisdictional disputes arose between the SEBI and the IRDA in January 2010. The SEBI issued notices to show cause to some of the life insurance companies on the ground that the Unit-Linked Insurance Products are akin to the mutual fund schemes and consequently can be sold only by the entities which are registered with the SEBI and whose products meet with their approval. Further, on 9<sup>th</sup> April, 2010, the SEBI issued an order against 14 insurance companies prohibiting them from issuing new ULIPs or raising money from the existing ULIPs till they obtain the requisite certificate of registration from the SEBI.

On this issue, another statutory regulatory authority, the Insurance Regulatory and Development Authority, was of the opinion that the order of the SEBI issued without offering the 14 insurance companies any opportunity of hearing was bad in law and exercised without the necessary jurisdiction and would adversely affect the interests of the insurers and the investors in the market and put the policyholders to great loss. So, what did the IRDA do? The IRDA, in exercise of powers vested in the Authority under Section 34 (1) (a) and (b) of the Insurance Act, 1938, and after consultation with the members of the Consultative Committee issued an order dated 10<sup>th</sup> April, 2010 directing all the 14 insurance companies mentioned in the order of SEBI to carry out insurance and insurance business as usual. In other words, the SEBI is saying "do not carry on business." The IRDA is saying: "You carry on business." That was the position on that day.

Before that position came, I instructed the Finance Secretary to look into the matter. From January onwards, it is going on. The Finance Secretary took a meeting on 10<sup>th</sup> February, 2010 in which both the regulators also participated and it was agreed that both the regulators would discuss the issue and sort it out between themselves. That is on 10<sup>th</sup> of February. The regulators then met at Hyderabad on 12<sup>th</sup> of March, 2010 but the mutual discussions between the two regulators also could not resolve the issue. The High-Level Coordination Committee on Financial Markets also deliberated on the issue on 26<sup>th</sup> March, 2010.

In the meeting it was resolved that the issue of jurisdiction on ULIPs between the two regulators may be resolved by them bilaterally and the item was taken off from the agenda of the High Level Coordination Committee on Financial Markets. However, SEBI went ahead and issued its order on 9<sup>th</sup> April, 2010. Then I myself intervened. I held a meeting with the regulators on 12<sup>th</sup> April, 2010 in which the two regulators agreed to seek a binding legal mandate from a court of competent jurisdiction to settle the question of jurisdiction on ULIPs. The two regulators failed to file a joint petition in the court of appropriate jurisdiction.

Then SEBI issued a Press Release dated 13<sup>th</sup> April, 2010 to bring to the notice of investors that SEBI had decided to keep in abeyance the enforcement of the directions with respect to the ULIP schemes/products existing on the date of the order, i.e. 9.4.10. However, with respect to any new ULIP schemes or products launched after 9.4.10, SEBI's permission/registration was required.

SEBI's order dated 9<sup>th</sup> April, 2010 affected a large number of persons holding ULIPs and also the fate and future of these schemes. This created a feeling of tentativeness in the financial market and was not conducive to their smooth functioning.

Thereafter, I consulted the Law Ministry as to whether the Government has the power to issue directions to both the regulators under the SEBI Act and under the IRDA Act. The opinion of the Law Ministry was that when a statutory order is passed by a statutory body, it can be nullified only by the verdict of a competent court and it cannot be nullified by the

Executive by issuing a directive which is vested in the Executive by the Act of Parliament. Therefore, the advice was that we should issue an ordinance nullifying that and create an institutional mechanism which will look into this case so that in future the regulators do not quarrel among themselves in the area of jurisdiction.

I would not like to discuss the merits of the ordinance at this stage because I would like to hear the views of hon. Members. Thereafter I will respond to them and that was the reason why this ordinance was issued. For the benefit of hon. Members, when I laid the papers on the Table of the House after the opening of the Parliament, I also laid on the Table of the House a statement explaining as to why the ordinance was necessitated. The Parliament was not in Session at that time, i.e. on 18<sup>th</sup> June, 2010. The Parliament Session was called much after that, in the month of July. Keeping all these aspects in mind, we cannot allow the uncertainty and tentativeness in the financial markets to continue when the two regulators would go on quarrelling among themselves. I would like to repeat that I told them and I am not going to interfere in this matter. I told them that both of them agreed that they would go and file a joint application before a competent court – and in this case the competent court is the High Court – and they have to only say that they would accept the judgement of the court and it would be binding on them. That would have provided stability in the financial market. But if one authority issues an order saying, 'don't do this' and another authority issues an order saying 'do this', then the Government cannot remain a mute spectator.

That is the reason why this Ordinance was issued.

I will explain, while replying to the debate after listening to the hon. Members, on the merits of the Ordinance and certain amendments which I have brought in.

MR. DEPUTY-SPEAKER: Motions moved:

"That this House disapproves of the Securities and Insurance Laws (Amendment and Validation Ordinance, 2010 (No. 3 of 2010) promulgated by the President on 18 June, 2010."

"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, be taken into consideration."

**श्री निशिकांत दुबे (गोइडा):** महोदय, माननीय वित्त मंत्री जी, जिन्हें सुनते हुए मैं बड़ा हुआ हूँ, आज उन्होंने बहुत ही खुबसूरत शब्दों में कुछ बातें कही हैं, मुझे उनकी बातें सुनकर ऋणवेद का एक श्लोक याद आता है- अज्ञानः तिमिरन्ध्यास्य ज्ञानान्जलः शलाकया, यथा उन्नतिं चक्षुः तथ्यः नित्यः नमो नमः। मैं अज्ञानी हूँ, आप मेरे चक्षु को खोलने का प्रयास करें। जिस तरह से यह सुपर रेग्युलेटर बनाने की कोशिश है, आपको इसके बीच में आना पड़ा है, यह इस देश के लिए बहुत ही दुर्भाग्यपूर्ण घटना है। वित्त मंत्री जी यदि इसकी तरह तक जायेंगे तो अंदाजा लगेगा कि पिछले दस-पन्द्रह सालों में जो भी सरकार रही है, उन्होंने ब्लूचेर को नौकरी देने के नाम पर जो यह रेग्युलेटर किएट किया है, यह रेग्युलेटरी सिस्टम जो दिन-प्रतिदिन बढ़ता जा रहा है, इसका सबसे बड़ा कारण वही है। मैं बता सकता हूँ कि कितने, आरबीआई फाइनेंशियल महकमे में एक रेग्युलेटर हुआ करता था, उसके बाद आपने सेबी बनाया, पेंशन के लिए अलग रेग्युलेटर बना दिया, इश्योरेंस के लिए अलग रेग्युलेटर बना दिया, टेलीकॉम के लिए ट्राई बना दिया, पावर के लिए पावर रेग्युलेटर बना दिया, पेट्रोलियम के लिए पेट्रोलियम रेग्युलेटर बना दिया, उससे सुपर रेग्युलेटर कामपटीशन कमीशन ऑफ इंडिया बन गया। अब पॉल्यूशन के लिए एक पॉल्यूशन रेग्युलेटर बनाने की बात चल रही है, इसके बाद ब्रैंडकारिंग के लिए एक नये रेग्युलेटर की बात चल रही है, रीयल एस्टेट के लिए एक रेग्युलेटर की बात चल रही है, हेल्थ रेग्युलेटर की बात चल रही है, हो सकता है कि कुछ दिन के बाद आम आदमी के रेग्युलेटर की बात छिड़ जाये। ये जो रेग्युलेटरी सिस्टम है, क्या इसके पहले देश नहीं चल रहा था? यदि देश चल रहा था तो इतने रेग्युलेटर बनाने की आवश्यकता क्यों पड़ी? क्या आरबीआई इन चीजों को रेग्युलेट नहीं कर रहा था, ठीक है आपने अधिकार नहीं दिया था, लेकिन वह कहीं न कहीं अनऑफिशियली इन सारे कैपिटल मार्केट्स को, कहीं न कहीं बैंकिंग सेक्टर को, कहीं न कहीं फाइनेंशियल इंस्टीट्यूशंस को, कहीं न कहीं इश्योरेंस को, कहीं न कहीं पेंशन को वह रेग्युलेट करता था और उसकी चीकली मिटिंग होती थी। अनऑफिशियली आरबीआई वेयरमैन को आपने इस तरह का अधिकार दे रखा था। यदि आप दुनिया में देखेंगे तो जी-आठ देशों की यदि मीटिंग होती है तो जी-आठ कहता है कि अब इंटरनेशनल रेग्युलेटर बनाने की बात होगी। उसके बारे में हमारा क्या मानना है और इंटरनेशनल रेग्युलेटर होगा तो भारत का उसमें क्या रोल होगा? जी-आठ के जितने भी कंटीज़ हैं या वर्ल्ड की जितनी भी डेवलपड इकोनॉमी हैं, यदि हम यू.के., यू.एस., आस्ट्रेलिया, कोरिया, जापान की बात करें तो सभी जगह रेग्युलेटर हैं और सभी जगह सेंट्रल बैंक इस काम को बखूबी निभा रहा है। ऐसी क्या आवश्यकता पड़ गयी कि आप जैसे आदमी को इसकी आवश्यकता पड़ी, ठीक है आपके हाथ में देश सुरक्षित है, फाइनेंस मिनिस्ट्री आपके हाथ में सुरक्षित है, लेकिन आपके स्थान पर कोई दूसरा आदमी आ गया, जिसका बिजनेस इंटेरेस्ट हो सकता है, जिसका फाइनेंशियल इंटेरेस्ट हो सकता है तो वह किसके पास यह कहने के लिए जायेगा कि इन रेग्युलेटर्स के बीच जो लड़ाई हो रही है, आप उससे हमें मुक्त कर दीजिये। आपको आने की क्यों आवश्यकता पड़ी, आप तो सबसे बड़े अर्थॉरिटी हैं, आप इस देश के वित्त मंत्री हैं। पूरी फाइनेंशियल कंट्रोल करने की सबसे ज्यादा पावर आपके पास है। ये जितने भी महकमे थे, ये सब कहीं न कहीं आपसे कंट्रोल्ड हो रहे हैं। सारी मिनिस्ट्रियां कहीं न कहीं आपसे कंट्रोल हो रही हैं। भारत सरकार का एक बहुत बढ़िया सिस्टम है। एडिशनल सेक्रेट्री एंड एफ.ए. होता है, जो आपको सीधे रिपोर्ट करता है। सारे मंत्रालयों का कंट्रोल आपके पास है, बजट आपके पास है। जब आरबीआई इस काम को देख रहा था, पूरी दुनिया में यही सिस्टम है तो क्या ऐसा कारण था कि वित्त मंत्री जी आपको इसका वेयरमैन बनाया जा रहा है या आपने बनने की सहमति दी है। मेरा सबसे पहला यह सवाल है।

महोदय, दूसरा सवाल यह है कि खुदाय राजन कमेटी की जो रिपोर्ट है, भारत सरकार उस कमेटी की रिपोर्ट को कितना इंप्लीमेंट करने की स्थिति में है। उसमें आपके रोल को खुदाय राजन कमेटी, जो आईएमएफ के चीफ इकोनॉमिस्ट रहे हैं, उन्होंने किस तरह के रोल को वित्त मंत्री या वित्त मंत्रालय की बातों को लिखा है।

इसके बारे में हमारे मन में कुछ शंकाएं और आशंकाएं हैं और यह देश उन्हें जानना चाहता है, यदि आप बताएं तो अच्छा होगा।

मुझे लगता है कि यहां रैगुलेटर की आवश्यकता है। म्यूचुअल फण्ड में यदि लिक्विडिटी क्राइसीज़ हो जाता है तो आरबीआई को उसे समाप्त करना है, यह फैक्ट है। लेकिन म्यूचुअल फण्ड को यदि यह लगता है कि लिक्विडिटी क्राइसीज़ है तो वह सबसे पहले सेबी के पास जाता है। इसमें सबके काम करने के पैटर्न हैं, लेकिन सवाल यह है कि उसके लिए इस तरह का इतना बड़ा ड्रिस्टिक स्टैप लेने की आवश्यकता क्यों पड़ी?

आपने अभी कुछ बातें कोर्ट ऑर्डर की कही हैं। दिल्ली हाई कोर्ट का ऑर्डर आया है।

"The said contention has no merit. Life insurance policy serves a different purpose and object. Life insurance policies form a separate class and cannot be clubbed with mutual funds. SEBI does not control and regulate life insurance policy. It is well known that rate of return in LIC policy is substantially lower. The primary object of a life insurance policy is to secure and benefit beneficiaries on death of the insured, the rate of return on mutual funds is market driven."

कोर्ट के ऑर्डर को यदि आपका मंत्रालय रैगुलेट नहीं कर पा रहा है, डिपार्टमेंट आफ फाइनेंशियल इन्स्टीट्यूशन यदि रैगुलेट नहीं कर पा रहा है तो फिर आपका महकमा जो लड़ाई कर रहा है, सुप्रीम कोर्ट तक कैसे जा रहा है, देश में गलत संदेश जा रहा है, लोगों को लग रहा है कि म्यूचुअल फण्ड में वे जो पैसा दे रहे हैं, कहीं वह डूब तो नहीं जाएगा? कहीं वह इसमें पैसा लगाकर गलती तो नहीं कर रहे हैं? उसके लिए दोषी अधिकारियों को क्या दण्डित करने का कोई कार्य किया है? इसके बारे में वित्त मंत्रालय क्या सोच रहा है?

महोदय, मेरा अगला सवाल है कि जिस लड़ाई के कारण सुपर रैगुलेटर बनाने की आवश्यकता पड़ी, जहां तक मुझे जानकारी है, इसीलिए मैंने कहा कि मेरी अज्ञानता को आप सुधार देंगे, Section 11 of SEBI Act, 1992 and Section 14 of the IRDA Act, 1999 दोनों धाराएं यूएलआई के लिए क्लीयर हैं। दोनों का क्या ज्यूरिडिक्शन है, यह क्लीयर है। यदि दोनों बातें क्लीयरली मैन्शंड थीं, तो क्या हम किसी रैगुलेटर पर कार्यवाही नहीं कर सकते हैं? आरबीआई इस बारे में क्या करता रहा? इस संबंध में हाई लेवल कमेटी की मीटिंग्स में क्या होता रहा?

"Investment component in a ULIP is an integral part of the insurance contract and its existence does not change the nature of the concept."

यह क्लीयरली मैशन है।

"But the investment component helps the insurer transact in the securities market for which the insurer needs to abide by all the norms that govern the securities market."

दूसरा कहता है-

"IRDA will regulate the ULIPs as insurance contracts and SEBI will regulate the fund management done by the portfolio managers for insurers. This solution will work out best for the policy holders as they would get the best of both the worlds, IRDA will protect the interest as a policy holder and SEBI will protect their interest as an investor."

दोनों चीजें क्लीयरकट थीं। सभी रैगुलेटर्स के ज्यूरिडिक्शन आपने तय किए हुए हैं, सेबी क्या करेगा, इरडा क्या करेगा, पेंशन फण्ड क्या करेगा और मंत्रालय क्या करेगा। यह भ्रम की स्थिति पिछले 5-6 महीने बनी रही, जिसके कारण आपको अध्यादेश लाना पड़ा, क्योंकि उस समय संसद का सत्र नहीं था। अब आपको उसका चैंजरमैन बनना पड़ रहा है। आरबीआई गवर्नर वाईस चैंजरमैन बनेंगे। आपके स्थान पर जो दूसरा व्यक्ति आएगा क्या उसका इसमें बिजनेस इंटरैस्ट नहीं होगा? यदि बिजनेस इंटरैस्ट होगा तो उसकी एथोरिटी क्या होगी? वह किस प्रकार से अपील करेगा? आम आदमी को जब उससे समस्या होगी और वित्त मंत्री उसमें इनवाल्व होगा तो उस समय क्या होगा? मेरा एक ही सबमिशन है कि इन सभी बातों को ध्यान में रखते हुए, यदि आप देश को और संसद को इन सब बातों के बारे में जानकारी देंगे तो यह सभी के लिए अच्छा होगा।

SHRI MANISH TEWARI (LUDHIANA): Mr. Deputy-Speaker, Sir, it is invariably very difficult to find a unique selling proposition for his presentation after the very learned Leader of the House, who incidentally in this case is also the Finance Minister, has articulated the raison d'etre for bringing forth a particular Bill.

But after hearing my distinguished colleague from the other side, Shri Nishikant Dubey, allow me to try and find a method of expanding upon what the hon. Finance Minister has already articulated as the reason for bringing this particular Bill.

Before I set forth to do that, allow me to very clearly and unambiguously state that I stand in support of the Securities and Insurance Laws (Amendment and Validation) Bill, 2010.

Mr. Deputy-Speaker, Sir, in many ways this legislation really celebrates the complexity and the maturity of the Indian economy, the evolution of our capital markets, and the robustness and vigour of our regulatory institutions. I remember that in the year 1991 when we started opening up the Indian economy, I was just a young student of a law school, and I do recall the very fascinating debates which took place both in this House and also in the public domain when the nascent Indian capital market structure was hit by what came to be known as the 'Harshad Mehta affair'. The Securities and Exchange Board of India was brought into existence in 1992. It was then at a very nascent stage. It was also trying to find its feet in a very complex and a liberalizing world. When in 1993, the *L'affaire* Harshad Mehta happened you had to further strengthen the Securities and Exchange Board of India. From 1993 to 2010 India had come a long way. India had come a long way because today when the entire world was buffeted by the economic meltdown, the one country which held out, the one country which was applauded across the world for its very robust regulatory mechanisms was the country in whose sovereign Parliament I have the respectful occasion of speaking.

Mr. Deputy-Speaker, Sir, I would like to take you back to 2008 when the arbitrage, derivatives and leverage-driven economic meltdown – it is nothing else but a *simono lono qu'on* for human greed – completely devastated the global economic order. You had banks and financial institutions around the world which went under and institutions which had a history going back almost a century. You had banks which had established global reputations shutting shop overnight. Here, in India – thanks to the multi-partisanship and that is a compliment to the Indian democratic system; it is a compliment to the manner that notwithstanding our political differences we are able to function collectively when required in the interest of this country – over a period of 18 years you built such a sound regulatory system that not a single Indian financial institution collapsed; not a single Indian bank went under, whether it was in the private sector or it was in the public sector. This was at a point in time when, for the first time around the world, the economy contracted by 1.3 per cent. After the Second World War, it was the first such occasion when the global economy ever contracted; when 62 million people in Asia alone, as a result of the economic meltdown, went below the poverty line, India, in terms of its regulation, stood out as the beacon of something which needs to be emulated even by the developed economies of the world.

Now, allow me to come to the genesis of this Bill, which, of course, has been explained very succinctly by our hon. Finance Minister and demystify the legalese which surrounds it.

As the Finance Minister very rightly pointed out, they are for regulators in the financial sector. You have the Securities and Exchange Board of India (SEBI), which looks at capital market; you have the Insurance Regulation and Development Authority of India (IRDA), which looks at the insurance sector; you have the PFRBA, which has been constituted by the Executive action, which looks at the development of pension funds; and you have the Reserve Bank of India, which looks at the banking sector as a whole.

Mr. Nishikant Dubey had actually raised a very relevant question with regard to what should be the role of a Central Bank in a liberalised economy. I would just like to take my hon. colleague back to a speech, which the Finance Minister had delivered after he presented his first Budget to the Board of Governors of the RBI; and he said that 'possibly, there is a need to reform the function of the Central Bank.' But because that is not the subject of the debate today, I would not dwell into it at length.

What has happened, Mr. Deputy-Speaker, Sir is that over the last 18 years, the complexity of financial products has increased. You have financial products, which in part have a certain mutual fund component to it; you have financial products, which have a certain insurance component to it. Now, when you have a financial product, which is a hybrid, which has an insurance component, which has a financial component to it, at that point in time, which is the regulator, which should be exercising jurisdiction? If for example, I was to extend the proposition, which my friend, Mr. Nishikant Dubey made that the SEBI should exercise regulation with regard to the mutual fund aspect of it and the IRDA should exercise jurisdiction with regard to the insurance component to it; well, it is all right; theoretically you can do this hair-splitting but practically when you come into the market to have a split jurisdiction over a single product, it is going to very badly impact on 1) the efficacy of that product and 2) more importantly, the confidence, which the investing public has in that particular product. Therefore, there is a need to work out a mechanism that you need to reconcile as to how different jurisdictions, which come on to bear on to a particular product can be reconciled, can be harmonised so that the investing public has the confidence; and regulation continues to remain robust so that the confidence in the Indian security market does not deteriorate.

Mr. Deputy-Speaker, Sir, the Finance Minister explained as to what triggered off this particular legislation. On the 9<sup>th</sup> April, you had the Securities and Exchange Board of India come out with an order, which said that 14 insurance companies

would not be allowed in prospective to sell the unit linked productivity products. On the 10<sup>th</sup> of April, the Insurance Regulator come out with another order, which says that the directions of SEBI should not be followed and these 14 insurance companies can go on functioning and selling these products as if it is business in usual. Now, where does that leave the investing public? If somebody approaches a common man and says that 'this is a unit linked scheme' and says that 'the IRDA has given the permission to sell it', the person will turn around and say: "But the SEBI has not allowed you to sell it." Here, it is not a question of regulators competing with each other. It, as I earlier pointed out, reflects the maturity of the Indian market that both the regulators – whether it is the IRDA, whether it is the SEBI – want to exercise jurisdiction to protect the investing public.

But if there is a conflict of interest, how is that going to be harmonised? Now, Mr. Nishikant Dubey raised a very interesting point. He said there is a court order and if the Government was to follow the court order, the matter would be reconciled and there would possibly be no need to come out with this legislation.

Allow me to respectfully point out just two things. The first is that all court orders are appealable and in a dynamic security market where decisions, as the Finance Minister pointed out, have not only to be taken promptly but have to be taken more than promptly. At times, intervention is required on the spot in order to ensure that the markets do not start tumbling and people do not lose money. This prolonged litigation is not in the health or does not suit the health of the economy.

The second more important thing is, if I recall correctly--because the books have come in just now and I have not had a chance to look at them--but from the top of my head, there is a Supreme Court order, which goes back to 1997 or 1998, and the Supreme Court order very clearly lays down a mechanism that in case there is a conflict between the Public Sector Undertakings, rather than coming to court, the Public Sector Undertakings should first go to a committee of the Government, which to the best of my knowledge, consists of the Cabinet Secretary and has a couple of other Secretaries to the Government of India, try and resolve a dispute amongst themselves and then, if the dispute cannot be resolved, come to the Supreme Court of India. The Supreme Court itself has told the Public Sector Undertakings that do not become chronic litigants; do not come to the court on any smallest of occasion; first try and resolve yourself through an intra-committee mechanism and if it cannot be resolved, we are always there as the institution of last resort and you can always come to us.

But what do you do in the case of Regulators? Here are Regulators who are empowered by Acts of Parliament, which have been passed by this House, by this august Assembly. Regulators, whose independence has been guaranteed by legislation passed by this House, embody and embed that independence. Therefore, if you have to reconcile the dispute between Regulators, obviously you have to legislate and that is precisely what the Finance Minister has done today.

He has brought a Bill before this House, which provides for the mechanism that in case there is a conflict between Regulators---and as I earlier pointed out, Regulators are not fighting amongst themselves but cautiously trying to discharge their duty to the best interests of the investing public---"how do we reconcile that dispute? That is why, a committee has been proposed in this legislation and since that goes to the heart of the entire matter, allow me to just read out that one provision which would make things clear itself.

"45Y (1) Notwithstanding anything contained in this Act or the Securities and Exchange Board of India Act, 1992 or any other law for the time being in force, if any difference of opinion arisesâ€¦"

Mr. Deputy-Speaker, Sir, that is the key word in this legislation. If any difference of opinion arises with regard to what is really the character of a financial instrument, then there is a committee which would consist of the Finance Minister, the Governor of the Reserve Bank, the Secretary in the Department of Economic Affairs, the Chairperson of IRDA, the Chairman of SEBI and the Chairperson of PFRDA who would sit down and resolve that dispute. I do not understand as to where the whole conception of a super Regulator really comes in, you know as was articulated by my learned friend.

He also raised a very interesting question, a question which really goes to the heart of Indian democracy. It is the question of integrity. No legislation, and I repeat, no legislation howsoever robust it might be, howsoever sound it might be, how many ever loopholes it may plug, can never substitute for the integrity of the person who is charged with the responsibility of implementing it. If, unfortunately, you have a person in a seat of office who has a vested interest, well, then that is a democratic causality and for that the nation has to pay the price and the nation has to learn to put proper people in proper jobs so that the responsibility can be discharged with efficaciousness, with a certain sense of discretion which a job as sensitive as this entails.

The last point I wish to make is, because the whole question of the super regulator was brought up, though it does not pertain to this Bill, it does bring to bear all these aspects as this Bill has provided an occasion to raise this matter.

If you go back to the economic crisis of 2008, all the developed western economies which bore the onslaught or which were the victims of this domino effect of this financial crisis had very well regulated structures. They had very robust regulatory bodies in the financial sector, leave alone the other regulators which my friend referred to. Then, why did the economic meltdown take place? Why were the regulators not able to discharge their responsibilities? The answer very simply is that each regulator had a very vertical focus. He was looking at his very narrow domain of responsibility. There was nobody stepping back and looking at the macro economic picture and trying to plug the loopholes which existed between those regulatory mechanisms. I think the hon. Finance Minister, given the fact that he has chaired the economy of this country over the years, realises that there is a need for a body to look at the economy from a macro economic perspective. That is why he proposed the constitution of a Financial Development and Stability Council. My submission to you, Mr. Finance Minister, before I conclude would be so as to enable India to continue to maintain its regulatory reputation, please bring the Financial Development and Stability Council into existence.

Thank you, Mr. Deputy-Speaker.

**श्री शैलेन्द्र कुमार (कौशांबी):** उपाध्यक्ष महोदय, इस सदन में सांविधिक संकल्प जिसे सम्मानित सदस्य बसुदेव आचार्य जी, लालजी टंडन जी, राधा मोहन जी और प्रबोध पांडा जी लाए हैं, उसी के साथ ही प्रतिभूति और बीमा विधि (संशोधन और विधिमाम्यकरण) अध्यादेश, 2010 पर एक साथ चर्चा में आपने मुझे बोलने का अवसर दिया, उसके लिए मैं आपका आभारी हूँ।

मैं अभी माननीय सदस्य निशिकांत जी की बात को सुन रहा था और माननीय सदस्य मनीष जी को भी मैंने सुना। जहां तक इस विधेयक को लाने की बात है, उससे साफ जाहिर हो रहा है कि सेबी और इरडा के बीच विवाद चल रहा है तथा टकराव हो रहा है, जिसे खत्म करने के लिए माननीय वित्त मंत्री जी ने अपनी अध्यक्षता में एक निपटारा समिति का गठन किया है, जहां तक यूलिप की बात है, यह इंश्योरेंस प्रोडक्ट है और इरडा इस पर नियंत्रण करेगा। अभी मैं इस विधेयक को देख रहा था। इसमें बीमा पालिसी से संबंधित मामले हैं। बीमा पालिसीधारक के हितों की रक्षा के लिए इस विधेयक पर यहां चर्चा हो रही है। हमें इसकी तरफ विशेष ध्यान देने की जरूरत है, वर्तमान समय में अगर देखा जाए, तो पता नहीं कितने विवाद हैं, जिनकी संख्या अपने जवाब में माननीय वित्त मंत्री जी बतायेंगे कि वर्तमान में इन दोनों के बीच कितने विवाद हैं और उनकी क्या संख्या है? मेरा ऐसा मानना है कि बचत और बीमा पूंजी बाजार पर इसका जो बुरा असर पड़ रहा है, उस ओर भी गंभीरता से विचार करने की आवश्यकता है और उस पर भी आप प्रकाश डालेंगे कि आपकी क्या योजना है?

विधेयक में है कि बीमा और निवेश पर आधारित इन मिली-जुली योजनाओं को निवेशकों के लिए अधिक आकर्षित बनाने के उद्देश्य से नए दिशा-निर्देश तैयार किए जाएं। यदि इसे देखा जाए तो जैसे अभी हमारे सम्मानित सदस्यों ने कहा कि सुप्रीम कोर्ट में करीब 14 मामले जिन पर शीर्ष अदालतों ने बीमा कम्पनियों को नोटिस जारी किया है, उनका निपटारा कब तक हो जाएगा जो अभी लंबित पड़ा हुआ है, उन पर भी सरकार को विशेष ध्यान देने की जरूरत है। इस परिप्रेक्ष्य में सेबी ने जो 14 बीमा कम्पनियों पर रोक लगाने की बात कही है, उसे इरडा नहीं मान रहा है। चूंकि आपकी अध्यक्षता में निपटारा की समिति बनी है, इस पर आप विशेष ध्यान दें। 14 बीमा कम्पनियों पर जो रोक लगाई गई है, उसे इरडा नहीं मान रहा है, इनका फैसला कैसे करेंगे।

आपने इस विधेयक में एक बात और रखी है कि जो बेहतर कार्य नहीं करेंगे, उनके एजेंटों के लाइसेंस रद्द किए जाएंगे। यह बहुत अच्छी बात है कि जो इंश्योरेंस कम्पनियां बेहतर काम नहीं कर रही हैं, उनके एजेंटों के लाइसेंस रद्द कर देंगे। लेकिन आपके पास बहुत सी ऐसी शिकायतें आई होंगी कि इंश्योरेंस कम्पनी में जो कर्मचारी हैं, उनके सगे संबंधी जो एजेंट के तौर पर कार्य कर रहे हैं, उनकी नियुक्ति पर रोक लगाने की जो बात आपने कही है, मेरे ख्याल से यदि आप इसे गंभीरता से लेंगे तो इस विधेयक का मकसद और लक्ष्य पूरा हो जाएगा।

मैं यह भी कहना चाहूंगा कि इरडा ने एक प्रस्ताव किया है और कर्मचारियों के रिश्तेदारों पर सीधा निशाना भी साधा है। वित्त मंत्री जी, अगर आप इस पर विशेष ध्यान देंगे तो मेरे ख्याल से जो तमाम तरह की दिक्कतें हैं, उन पर फैसला हो जाएगा और हम इस विधेयक के मकसद पर कामयाबी हासिल कर सकेंगे।

इन्हीं सुझावों के साथ मैं अपनी बात समाप्त करता हूँ।

**SK. SAIDUL HAQUE (BARDHMAN-DURGAPUR):** Thank you Mr. Deputy-Speaker, Sir, for giving me the time to speak on this Bill. I oppose this Bill at this moment. I feel that this should have been referred to the Standing Committee for a detailed discussion. The proposed mechanism of forming a joint mechanism is nothing but a knee-jerk reaction, not a product of a deep and serious study of existing arrangement for addressing intra contradictions of the regulatory authorities in the market economy.

My other question is this. Why such an emergent situation has arisen to issue the ordinance? The explanation given by the hon. Finance Minister is that the dispute began from January. On 10<sup>th</sup> February the Finance Secretary discussed it. On 12<sup>th</sup> March there was mutual discussion in Hyderabad. The High-Level Committee on Financial Market discussed it on 26<sup>th</sup> March. On 9<sup>th</sup> April, SEBI had given the order and on 10<sup>th</sup> April IRDA had given another order. All these things were going on. Hon. Finance Minister knows all these things. I am talking all these things because at that time Parliament Session was going on and up to 7<sup>th</sup> May the Parliament Session went on. At that time, why did the Government not bring this thing in

Parliament itself instead of issuing an ordinance on 18<sup>th</sup> June? This should have been brought up at that time in Parliament because Parliament was in session up to 7<sup>th</sup> May.

My second point is that why have we not waited for the verdict of the hon. Supreme Court. In reply to Question No. 4202 in the Rajya Sabha put on 4<sup>th</sup> May, 2010 the hon. Minister of State for Finance said – "The Government had asked the two regulators to get a legal opinion on the issue" – following which the dispute was referred to the hon. Supreme Court. When the matter was before the hon. Supreme Court and the apex body has not given any verdict till now, why was this ordinance promulgated? The legal verdict should also have been taken into account.

My next question is this. Why in the ordinance which is to be replaced by the Bill, the Government has not offered any reason as to why ULIPs are to be regulated by IRDA rather than SEBI?

What is the guideline of SEBI? On 9<sup>th</sup> April, SEBI directed 14 insurance companies, most of which are private life insurance companies belonging to ICICI and Reliance Ambani groups, 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 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 (HLCC FM). They referred the matter on 26.3.10 to take a legal opinion. They should have played a more important role.

My next objection 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? Our strong objection is there not to keep PFRDA there in this manner.

In the Union Budget, hon. Finance Minister had proposed setting up of an apex level committee, that is, Financial Stability and Development Council. Now the Ministry of Finance has since attempted to provide concrete shape to the proposed Financial Stability and Development Council by circulating a Discussion Paper. It envisages the FSDC to operate through two committees –Financial Sector Regulatory Coordination Committee to be chaired by the RBI Governor and Financial Sector Stability Committee to be chaired by the Finance Secretary.

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 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 this 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 should send this Bill to 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.

SHRI B. MAHTAB (CUTTACK): Mr. Deputy-Speaker, Sir, I stand here before you in this House to deliberate on the Securities

and Insurance Laws (Amendment and Validation) Bill, 2010. This Bill will be amending 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.

It is not a trivial issue. It is not only an issue concerning two regulatory institutions; it is an issue which has far-reaching affect. It has tremendous impact on the regulatory mechanism that is in place today in our country.

### **15.00 hrs.**

The Government of India promulgated the Securities and Insurance Laws (Amendment and Validation) Ordinance precisely 54 days ago. It is said that it was triggered by jurisdictional dispute between the Securities and Exchange Board of India (SEBI) and the Insurance Regulatory and Development Authority (IRDA) over the regulation of Unit-Linked Insurance Policies (ULIPs). Initially, they were advised to go to the court of law, but it was aborted by the direct intervention of the Finance Minister.

The question primarily is this. Was the Ordinance necessary to validate the procedure? Here, I would like to draw the attention of the House to the fact that this Bill replaces the Ordinance, which clarifies that ULIP shall be regulated by IRDA and not by SEBI. The next point in this Bill is that a Joint Committee chaired by the Finance Minister has been established to resolve disputes over "hybrid instruments." Therefore, two key issues are to be dealt with in this House. Firstly, the law was issued as an Ordinance and not through a Bill. I have gone through the statement of the Finance Minister and I have also heard him today. It is not clear whether there was an urgent and emergent situation that necessitated an Ordinance. Secondly, the Government has offered no reason as to why ULIPs should be regulated by the IRDA rather than SEBI?

Firstly, I would like to deal with the question of the need for an Ordinance. Under the Constitution, the power to make laws rests with the Legislature. The Supreme Court has clarified that the legislative power to issue Ordinance is in the nature of an emergency powers given to the Executive only and "to meet the emergent situation." According to an explanatory statement, it is mentioned that "in order to clear uncertainties on the differences of opinion" between SEBI and IRDA, it had become necessary to clarify the ULIPs issue.

There are two issues involved here. Firstly, the Parliament was in Session till 7<sup>th</sup> May, almost a month after the SEBI order was issued. The Government has not explained as to why it did not make necessary legislative changes by introducing a Bill in the Parliament at that time. If it had come, then it could have gone to the Standing Committee or we could have at least deliberated here if it was of emergent nature. Secondly, three weeks after the SEBI order, the Minister of State for Finance on 4<sup>th</sup> May to an Unstarred Question No. 4,202 in Rajya Sabha asked the two regulators to go for a legal opinion on the issue, following which the dispute was referred to the Court. It was while the matter was before the Court that the Ordinance was promulgated. Thus, the circumstances clearly demonstrate, which made it necessary for the President to take immediate action does not arise.

In that event, the greater issue is that it goes much beyond. It seems a new institutional mechanism is created to settle all future jurisdictional issues under the regulatory jurisdiction of RBI, SEBI, IRDA, PFRDA or the Central Government.

The purpose, scope and content of the Bill, the manner in which the Ordinance has been promulgated, and the Bill that is being rushed through today raise serious issues.

There is little basis for the presumption that there are or will be numerous jurisdictional disputes among regulators in the financial sector. Such disputes among them have been very rare. Very few have so far got out of hand. Ambiguities and grey areas have been handled quite well under existing mechanism, both formal and informal, for dealing with any disputes that arise.

There is already a high-level Coordination Committee comprising representatives of all regulatory bodies and Finance Ministry, and Finance Ministry gets ample opportunity to convey its view point and resolve issues through informal discussions.

There are also other avenues, particularly the frequent meetings of regulators with the Ministry for informal and continuing exchange of views on emerging issues relating to monetary policy and more generally regarding the health of the finance sector which are in the domain of the Reserve Bank of India in relation to Government's fiscal and exchange rate policies.

It is worth noting that deliberations in world forums such as Summits of G-8 and G-20 Countries and among academics in the wake of the recent world wide economic crisis, the financial meltdown, show near universal agreement on the need for

stronger, stricter and more transparent mechanisms that are independent of the Government to regulate the financial sector and coordinate among regulators. On-going regulatory reforms in most of the developed countries reflect this consensus.

This Bill not only goes against these trends, but also violates the fundamental pre-condition for effective regulation, namely, vesting it with autonomous bodies which function transparently and in professional manner insulated from external pressures.

There are and will be jurisdictional disputes and turf wars. In the case of electricity and telecom, the law specifically provides for resolution of disputes through independent Tribunals or the Court. In the case of the financial sector, these have been handled, by and large, smoothly through informal mechanisms. Any significant ambiguities or grey areas could have been taken care of by suitable amendments of the relevant statutes and by appropriately strengthening the existing institutions without compromising the autonomy of regulators.

The regulatory agencies do function within the framework of policies decided by elected Governments and laws enacted by Parliament. The existing law empowers the Government to give directions to the regulators. Therefore, there is no warrant to abandon the cardinal principle of separation of power between the different branches of Government of which regulatory agencies are a part.

Therefore, I am of the opinion that this Bill should be killed and allow the Ordinance to lapse.

There are two levels at which the RBI status is being diminished. One is the RBI's autonomy will be eroded. RBI is not independent, but should be autonomous and continue to be.

RBI should continue to be the financial market regulator. Why is it that the Finance Ministry is setting itself up as a super regulator? The existing mechanism of the High Level Coordination Committee on Financial Markets chaired by the Governor of RBI was evolved keeping in view the pre-eminent role and responsibility of the Central Bank in preserving the financial stability. However, this Bill empowers the Finance Minister to preside. The RBI Governor will be one of the *ex-officio* members or Vice Chairman along with others as its members. This raises a fundamental question on the role and responsibility of the RBI.

The question today is, whether the rift between the SEBI and the IRDA would have been settled without the Ordinance. If there was any lacuna or limitation in the working of HLCC, would it not have been set right by an Executive Order? One may cite the Financial Stability Oversight Council presided over by the Treasury Secretary under the Financial Sector Reforms approved by the United States Congress. The FED Chairman is a member along with other functionaries. But the objectives of the Council are very different from those that are spelt out in our Bill. Let us not copy what United States has done. I am reminded of another instance of United Kingdom.

MR. CHAIRMAN : Will you kindly conclude now?

SHRI B. MAHTAB : Yes, Sir. The Chancellor of the Exchequer of the United Kingdom Mr. George Osborne – The Finance Minister is very much aware about it – has recently said that they would abolish the Financial Services Authority (FSA) and give most of its powers to the Bank of England which is the major financial regulator of the United Kingdom including the undoing of the regulatory system set up by Mr. Gordon Brown in 1997. What we are doing today is repeating what Mr. Gordon Brown had done in 1997. They are undoing it now. He blamed FSA for failing to prevent the financial crisis. I am not going into those details now. There are 15 regulators in India today. The Joint Mechanism as has been proposed in this Bill is proposed to be a mega body. But they will be duplicating the work of other regulators in terms of data collection, interpretation and dissemination. The Bill says that in the case of any difference of opinion among the regulators covered, the Joint Mechanism will have the final say. But we all know that if any party has a dispute with the Central Bank, the proper forum for its resolution is the court of law and not the Joint Mechanism. Firstly, I do not understand as to what was the unnecessary hurry for the Government to come out with an Ordinance on this issue? It was the Government which advised both the regulators to go to a court of law and settle the dispute between them. When they went to a court of law, the Government pre-empted the judgment of the court with an Ordinance and now the Bill is before us. The Government is keen to legislate without referring it to the Standing Committee on Finance. Why are they rushing it? I find it incomprehensible. Why would the Finance Minister preside or should head a Committee called Joint Mechanism as it is called, that would resolve disputes or differences of opinion among the regulators?

These are the three questions I would like to be educated upon. If the primacy of an instrument is security and insurance is incidental tell me what the Law Ministry's view was on it. Did they not say that the regulatory jurisdiction should be with

the SEBI? But what has come through in this Bill is something different. Is it not completely contrary to the view which the Law Ministry had given?

SHRI PRANAB MUKHERJEE : Can you tell me where you got this information from that the Law Ministry gave a different view? Can you give me any proof or your source of information?

SHRI B. MAHTAB : I would give it to you.

SHRI PRANAB MUKHERJEE: I would love to have it.

SHRI B. MAHTAB : This is the information which I have. If the Leader of the House insists, I would place it before the hon. Chair.

SHRI PRANAB MUKHERJEE: You give it me. I am not saying that you should give it to the Chair.

SHRI B. MAHTAB : If you want it privately, I will give it.

**श्री चंद्रकांत खैरे (औरंगाबाद):** सभापति महोदय, प्रतिभूति और बीमा विधि (संशोधन और विधिमान्यकरण) विधेयक, 2010 का समर्थन करने के लिए मैं खड़ा हुआ हूँ। सार्वजनिक निवेश संबंधी विभिन्न प्रकार के निकायों का संबंध भारत की विविध संस्थाओं से जुड़ा है। इसमें सेबी, आरबीआई, इडरा, पेंशन फंड रेग्युलेटरी एंड डेवलेपमेंट आथोरिटी हैं। इनमें आपस में बहुत विवाद सामने आने लगे हैं। इन विवादों का निपटारा करने के लिए मंत्री जी ने एक समिति की स्थापना की है। मंत्री जी ने समिति की स्थापना की है, उसका मैं इसलिए एप्रिंशिएशन करता हूँ, क्योंकि इनकी कार्य पद्धति बहुत अलग होती है। मंत्री जी की सोच अर्थ विभाग के प्रमुख होने के नाते ऐसे विवादों का निपटारा करने की होगी, इसलिए उन्होंने समिति बनाई है। इसमें आरबीआई भी है तथा अन्य दूसरे प्रमुख विभाग भी हैं, इसका भी मैं समर्थन करता हूँ।

मैं कहना चाहता हूँ कि भारत में यूएलआईपी के नाम से जब से हाईब्रीड प्रोडक्ट आया है, तब से लेकर आज तक यूएलआईपी में बहुत से विवाद चल रहे हैं। यूएलआईपी ने शुरुआत में ग्राहकों को बहुत अच्छा प्लान बताया और खूब लुभाया। प्रोडक्ट कम्पनीज़ ने भी इनकी बहुत मार्केटिंग की, लेकिन जब प्रोडक्ट कम्पनीज़ के एजेंट कमीशन के तौर पर मोटी रकम लेने लगे और प्रशासनिक खर्च के लिए उपभोक्ता से पहली किस्त में काटने लगे। कमीशन और खर्च का प्रतिशत 51 प्रतिशत तक रहा। धीरे-धीरे उपभोक्ता को समझ में आया कि यूएलआईपी में बड़ा घोटाला है। इस कारण इसमें जो वृद्धि हो रही थी, वह कम हो गई और सारी बातें सामने आने लगीं।

मैं कहूंगा कि यह बहुत अच्छा बिल है, लेकिन यूएलआईपी में जिसे-जिसे धोखा हुआ है, उनकी जो पूंजी लगी है, उसकी सरकार कैसे रक्षा करेगी, यह मैं आदरणीय मंत्री जी से जानना चाहता हूँ? आने वाले दिनों में शेयर से रिलेटिव यूएलआईपी से लाइफ इंश्योरेंस को भी हटा देना चाहिए, ऐसा मेरा कहना है। यह जो बिल आया है, उसका कार्य क्षेत्र कौन-सा है, यह भी बताना चाहिए? मैं मंत्री जी कहूंगा कि यह जो नियामक आयोग कबैरह बनाते हैं, उसके बारे में जैसा हमारे साथी ने कहा है कि रिटायर व्यक्ति या जिनकी कन्टीन्यूटी सर्विस में होती है, भले ही आयोग के माध्यम से, उनकी सोच अगर पोजिटिव होगी, तभी किसी का भला हो सकता है।

अगर पोजिटिव नहीं रही तो कई सालों तक ऐसे ही विवाद चलते रहेंगे। इसके लिए जहां जहां भी ये हैं, जैसे यहां आदरणीय मंत्री जी ने बताया है कि निपटारा समिति के माध्यम से अध्यक्षता करके वे निपटारा करेंगे, ऐसी हमें उम्मीद है। उसी तरह से और भी जो आयोग हैं, उन आयोगों में भी इसी तरह से निपटारा करने के लिए भी प्रथा रखी जाए, ऐसी मेरी विनती है। मैं फिर एक बार इस विधेयक का समर्थन करता हूँ।

SHRI VIJAY BAHADUR SINGH (HAMIRPUR): Mr. Chairman, Sir, in this regard, I have only two submissions to make. Firstly, kindly see that this is a composite formula – there is an Act known as the Reserve Bank of India Act, 1934. Then, there is another Act, which is called the Insurance Act, 1938. Then, we have the Securities Contract Regulations Act, 1956 and the Securities and Exchange Board of India, 1992. These old Acts have lost their life. Their shell life has been finished. What I want to focus is that the time is very ripe and that the global economy and many matters are coming up. Why not the hon. Finance Minister with a mechanism should make a comprehensive Act covering all these matters? Otherwise we would be going for amendment after amendment which is like operation was successful but the patient died. In so many amendments, the real soul is lost. I would like to make a respectful suggestion that let us think on the line – draft an Act which caters to the latest economic needs and financial necessities.

Secondly, I totally agree that when Parliament was not in sessions, there is a catena of Supreme Court cases which says that they have a power to issue the Ordinance. Since the money matters are very sensitive, the Government has taken this step. There is nothing wrong about it. The intention is good because we have a feeling that there were a lot of spurious insurance companies siphoning off the money from the poor people, etc. and there was no security as to whether they would be able to pay or not repay and the poor people were suffering. There is no doubt about it. But what I want to say is this. I just want to say only a line. In the Statement of Objects and Reasons which the hon. Minister of Finance has said

that the Securities and Exchange Board of India Act, 1992 was enacted *inter alia* to protect the interests of investors. Then, another Act, the Insurance Act says that it is to protect those who are insured. All these Acts are there to protect the depositors. I would read out hurriedly the persons in the Joint Mechanism, which is headed by the hon. Finance Minister, an ex-officio Chairman. At (a) the hon. Finance Minister, at (b) the Governor, Reserve Bank of India, at (c) the Secretary, Department of Economic Affairs, at (d) the Secretary, Department of Financial Services, (e) the Chairperson, Insurance Regulatory Development Authority, etc. In these six, investor is missing. All those four Acts are focusing to protect the interests of investors and depositors. I would like to request the Government to have a thinking or to have a relook. Let some representatives or economists or anybody from a Forum of investors be part of this Joint Mechanism. Otherwise, we have an experience of wrong investment policy in the past during the NDA Government - UTI 1964. All the investors, about three crores, were in difficulty. So, I would like that in this Joint Mechanism, the investor, who is the real soul for which the entire exercise is going on, should be there.

By and large, I do not think that there is anything wrong in this matter. Only thing is that investor should be included. With this, I want to conclude my speech.

SHRI S. SEMMALAI (SALEM): Thank you Chairman, Sir, for giving me this opportunity. The Securities and Insurance Laws (Amendment and Validation) Bill, 2010 seeks to put an end to the un-seeming conflicts between IRDA and SEBI which started in April 2010. The recent quarrel between insurance regulator and capital market regulator is proposed to be resolved by an authority. A Joint Committee is proposed to be set up under the Chairmanship of Union Finance Minister. By bringing an amendment to the Insurance Act, 1938, Securities Contracts Act, 1956 and Securities and Exchange Board of India Act, 1992, the Unit Linked Insurance Policies shall be made part of the Life Insurance business.

I need not dwell upon the fact that the RBI Governor raised objection to the Bill in its earlier form as it robs away the independence of the banks. However, as the Governor RBI has been made as Vice Chairman of the Joint Committee, I think the autonomy of Reserve Bank of India will not be diluted. I would like to bring to the notice of the hon. Finance Minister the feeling that is there in certain quarters that the Bill takes away the independence of the regulator. I also fear that the Union Finance Minister heading the Joint Committee may dilute the regulator's autonomy. But one could draw some comfort from the fact that the status of the Reserve Bank of India Governor is proposed to be elevated as the Vice Chairman. I am sure the Government will not act in an overbearing manner in resolving disputes. I am sure that the Chairperson will not refer too many cases to the Joint Committee for resolution of disputes.

Finally, I would say that investors' confidence will not be shaken and the capital market will function effectively. As many Members are aware, it is not the first time that the dispute or the conflict between the two regulators has arisen. In the past also there were disputes and they were resolved through relevant appellate

tribunal or by the judiciary. So, I would like to bring to the notice of the Finance Minister the doubts expressed by some of the Members that the Bill takes away the independence of the regulator. I think this should not happen and hope that the Finance Minister will take care of this.

\*SHRI PRASANTA KUMAR MAJUMDAR (BALURGHAT): Hon. Chairman Sir, we all know that our country has a system of parliamentary democracy. Though in the Indian constitution there is a provision for ordinance, yet it is not proper to bring and pass such ordinances which bypass or overlook the legislature altogether. This practice is anti-democratic. Therefore I rise to oppose this Securities & Insurance laws (Amendment & Validation) Ordinance, 2010 and want to assert that it should be referred back to the parliamentary standing committee for its well thought and well considered opinions. The economy and welfare of the people of the nation are involved in this Bill. So it should be re-introduced in this august House after due deliberations. If need be, Hon. Finance Minister may bring another ordinance and pass it at that point of time.

Securities and Exchange Board of India (SEBI) controls the entire share and debenture market of the country. On the other hand IRDA regulates the insurance sector. Pension Regulatory Authority deals with the pension issues. Reserve Bank of India looks after the monetary policies. Suddenly what happened that compelled Hon. Minister to say that he had no option but to bring this ordinance at such a short notice? The fact is that, the banks have floated such shares in the market which will extend the facilities like insurance, pension and share to the people who purchase those. As a result, there has been conflict of interests between the two regulatory organizations. Both SEBI and IRDA along with the pension authority actually are trying to claim supremacy over the monetary and fiscal sectors of the country. They are trying to exercise more

and more power.

Now the question is, which body is going to have control over the hybrid system? Therein lies the real problem. All the regulatory bodies have become 'Larger than life'. Their business have expanded to such an extent that now what is prevalent is merely ego clash. This is my view. So the Government should adopt a strong measure and refer this Bill back to the standing committee, as I had said before. After much debate and discussion and proper in-depth analysis, it should be returned to this House. Hon. Minister must not rush through and pass this Bill immediately in a hurry.

Another point is that the matter is still *sub judice* and thus we should have waited for the verdict of the Supreme Court in this regard.

The Reserve Bank can evolve an appropriate mechanism and formulate policies to tackle this issue. RBI could bring all the regulatory bodies under one umbrella to hold discussions under the leadership of Hon. Finance Minister to tide over this crisis. Some more time could have been devoted to this Bill since it is going to ultimately have a bearing on the ordinary people. The Government must not act only in the interest of the big regulators who have flourished like anything in the last few years. With these few words, I reiterate my demand of referring the Bill to the standing committee and once again oppose this Bill.

**डॉ. श्यामशंकर प्रसाद सिंह (वेशाली):** सभापति महोदय, अभी सरकार ने दावा किया है कि हिन्दुस्तान दुनिया में एक उभरती अर्थ-व्यवस्था है जिसका कभी अमरीका के साथ, कभी चीन के साथ और कभी ब्राजील के साथ कंटेस्ट है। ऐसी स्थिति में यह विधेयक आया है। इस विधेयक से पहले अध्यादेश आया जिसमें यह दावा किया गया है कि - भारतीय रिजर्व बैंक अधिनियम, 1934, बीमा अधिनियम, 1938, प्रतिभूति संविदा (विनियमन) अधिनियम, 1956 और भारतीय प्रतिभूति और विनियमन बोर्ड अधिनियम, 1992 - इन चारों कानूनों में संशोधन करके यह कानून लाया गया है और अध्यादेश कर दिया गया। आपने देखा होगा कि ये चारों कानून कितने पुराने हैं और जो संशोधन आया है, वह अध्यादेश के रूप में आया है। आम आदमी पूछते हैं कि जब अपरिहार्य स्थिति होती है, तब अध्यादेश आता है लेकिन जल्दबाजी में संशोधन लाने के लिये यह अध्यादेश आया है। यह अध्यादेश लाने की क्या जरूरत थी, उसके पीछे क्या उद्देश्य है? इसके पहले जो अध्यादेश था, कैसे मामला चलता था। सदन को विश्वास में लिये बिना ही जल्दी से कानून लाकर अध्यादेश को कानून का रूप देकर लागू कर दिया जाये।

आपने देखा है कि इस में बीमा का व्यापक हिस्सा हुआ है। पहले पूंजीपति और धनी लोग अपना पेट काटकर और गरीब आदमी भी अगर मर जाये तो बीमा करा रहा था। जनश्री बीमा योजना के अंतर्गत गरीब आदमी भी बीमा करा रहा था। आज आम आदमी तक बीमा योजना पहुंचने जा रही है। दुनिया में बीमा कंपनियों के बीच में आपसी होड़ लगी हुई है। आज इरडा और सेबी के बीच टकराव की स्थिति है। कोर्ट में मामला चल रहा है। यूनिप यूनिट लिंक बीमा पोलिसी के बीच में टकराव है। वे कहते हैं कि हम आपको लागू नहीं करने देंगे, उसके लिये आपसे स्वीकृति लेनी होगी। इस प्रकार 3-4 संस्थाएँ आपस में टकराव की स्थिति में हैं। सरकार ने दावा किया है कि इन चारों के आपस में जोड़ने का काम कमेटी में होगा जिसकी वित्त मंत्री जी अध्यक्षता करेंगे और उन चारों संस्थाओं के उसमें सदस्य रहेंगे ताकि आपसी विवाद को हल कर सके। रिजर्व बैंक ऑफ इंडिया भी उसमें है। रिजर्व बैंक ने वित्त मंत्री जी से मिलकर चिन्ता व्यक्त की है। ये चारों स्वायत्त संस्थाएँ हैं लेकिन चारों आपस में टकराव की स्थिति में हैं। उन सब की संयुक्त कमेटी हो जायेगी जिसके अध्यक्ष माननीय वित्त मंत्री होंगे। जब वित्त मंत्री उसके अध्यक्ष होंगे तो उस स्वायत्तता का क्या होगा? यह सवाल अभी बना हुआ है। हालांकि वित्त मंत्री जी ने आश्वासन दिया है कि उसमें झगड़ा नहीं होगा और अगर उन चारों में से कोई मामला रेफर करेंगे तो वह देखेंगे। क्या यह आश्वासन होने से कानून में सुधार हो गया? हम यह सवाल उठा रहे हैं कि क्या केवल आश्वासन से किसी कानून में जोड़ घटाव हो जायेगा? कानून तो सदा के लिये होता है। कोर्ट क्या समझेगी कि अगर आपस में विवाद होगा?

जब वित्त मंत्री जी ने आश्वासन दिया था कि हम हस्तक्षेप नहीं करेंगे।

महोदय, यह बड़ा भारी सवाल उठ रहा है। यह इंश्योरेंस वाला अभी हाल ही का सवाल है। गरीब आदमी का हेल्थ इंश्योरेंस हो गया तो वह निश्चित हो जाता है कि अगर अब हम बीमार होंगे तो हमारी दवा-दारू का इंजाम हो गया है, जो हमारी दवाई में खर्चा लगेगा, वह हमें कंपनी से मिल जायेगा। उसमें कहा गया है कि नहीं, आप नगद खर्चा कर लीजिये और इलाज करा लीजिये तब हम री-एम्बरसमेंट करेंगे, तब हम पैसा देंगे। जब गरीब आदमी के पास पैसा होगा और उसका इलाज हो जायेगा तो उसे इंश्योरेंस का क्या लाभ होगा। यह बड़ा भारी हाहाकार मचा हुआ है, चूंकि यह आठ-दस दिन पहले की ही बात है, इसे रोक दिया, अब उसे पैसा नहीं मिलेगा, अगर उसमें कोई गड़बड़ी है, हेराफेरी है तो उसकी छानबीन कीजिये। पहले तो यह था कि गरीब आदमी का हेल्थ इंश्योरेंस हो गया, रोजगार गारंटी योजना में माननीय वित्त मंत्री जी ने घोषणा की कि रोजगार गारंटी योजना के प्रत्येक बेनीफिशरीज का अनिवार्य रूप से हेल्थ इंश्योरेंस होगा। अब गरीबों के इलाज के लिए इस तरह का वैलफेयर मेजर्स लिया गया है। कहा गया है कि पहले इलाज करा लीजिये। अगर उसके पास पैसा होगा तो वह गरीब कैसे हुआ, जिसके पास पैसा है, वह इलाज कराने में सक्षम है, अगर हमारे पास पैसा है तो हम अपना इलाज कैसे नहीं कराएंगे। पहले उसे मदद थी, वह इलाज करायेगा और जो उसका दाम लगेगा, वह पैसा उसे कंपनियां देंगी और उसका अपना पैसा नहीं लगेगा। अब कहते हैं कि अपने पास से इलाज करा लीजिये और उसके बाद हम पैसा देंगे। यह कितनी भारी गड़बड़ हो रही है, क्या इसे कोई देख रहा है, ये चार-चार संस्थाएँ हैं और ये सब आपस में एक-दूसरे के दुश्मन की तरह झगड़ा करती हैं।

महोदय, जहां भी आप जाइये, इंश्योरेंस सेक्टर में जो भी आफसर और एजेंट हैं, वे सभी एक-दूसरे के रिश्ते वाले हैं। सबको धड़ाधड़ कमीशन मिल रहा है। क्या इस सबको कोई देखेगा, इरडा, सेबी, शेयर बाजार में आपने देखा ही है कि गरीब आदमी का पेट काटकर कैसे पैसा जमा होता है। अपने देश में इतिहास है। यूटीआई कितना बड़ा है। इन सभी संस्थाओं का कोई रेग्युलेशन आपस में होगा या नहीं होगा। इन सबको मिलाकर, इन सबके झगड़ों की वित्त मंत्री जी पंचायती करेंगे, सुलह करेंगे, उसका फैसला करेंगे। इस कानून से हम लोगों की आशंका बहुत बढ़ गयी है। सेबी, इरडा और एक और उसमें है, पेंशन फंड डेवलपमेंट अथॉरिटी, इन सब संस्थाओं का उसमें घटमेल है।

महोदय, हम खासकर गरीब आदमी का सवाल उठाते हैं कि जो हेल्थ इंश्योरेंस का पैसा रोका गया है कि कैशलेस मैडीवलेम नहीं होगा, यह सब क्या हो रहा है, क्या इसे कोई देखने वाला है, जानने वाला है? सदन की यह चिंता है और इसे स्पष्ट किया जाये। यह बहुत ही खतरनाक स्थिति हो रही है। हमें गरीब की चिंता करनी

पड़ेगी। गरीब की चिंता करने वाले लोग यहां बैठे हुए हैं, हम इसे छोड़ने वाले नहीं हैं। हर मुद्दे पर गरीब की बात करने का जहां-जहां मौका आयेगा, वहां-वहां हम लोग नजर लगाये हुये हैं। गांव के लोगों का प्रतिनिधित्व करने वाले सदन में बैठे हैं, वे देख रहे हैं कि गरीब की बात हो रही है या नहीं हो रही है। जब तक गरीब की बात नहीं होगी, तब तक इस सदन की कोई सार्थकता नहीं है। बड़ा आदमी तो सुप्रीम कोर्ट तक जाकर अपना न्याय ले लेता है, लेकिन गरीब आदमी का क्या होगा जो कोर्ट में भी नहीं जा सकता है। वह न तो ऑफिस, न कचहरी जानता है, वह गांव में बैठा हुआ है, उसके लिए इस सदन में जरूर विचार होना चाहिए। हमें यह बहुत ही पेचीदा कानून लगता है और हमें इस पर बहुत चिंता है। इन सब बातों को माननीय वित्त मंत्री जी साफ करें। नहीं तो ये सब तरह की जितनी भी संस्थाएं हैं, जीडीपी है, जब तक गरीब का कुछ नहीं होगा तब तक इनका कुछ मतलब नहीं है।

इन्हीं शब्दों के साथ आपको बहुत-बहुत धन्यवाद।

SHRI PRANAB MUKHERJEE: Mr. Chairman Sir, first of all, I would like to express my gratitude and appreciation to all the hon. Members who have made their contributions by participating in this debate.

Sir, while introducing the Motion for Consideration, I had stated in little detail the reasons for promulgating an Ordinance and why it was felt necessary that a joint mechanism should be created. Some hon. Members have supported it. Quite a few of them have given some suggestions. First of all, I would like to deal with the parliamentary propriety and procedure whether it could have been brought through regular legislation during the parliament session. The Parliament's Budget Session was adjourned on 7<sup>th</sup> May. I brought this Ordinance on 18<sup>th</sup> June. First of all, let us not deceive ourselves. We could not pass a regular slated legislation of the Winter Session in the Budget Session. Therefore, to say that that it would have been easier for us to get it done through a regular legislation is an argument for argument sake.

Secondly, look at the chronology of events. The SEBI issued the order on 9<sup>th</sup> April and the IRDA issued another order. The SEBI says, "Oblige me and comply with my instructions." The IRDA says, "Do not comply with the SEBI's instructions, but comply with my instructions." Then, I took a meeting of both of them on 12<sup>th</sup>. In that meeting – for the information of Shri Mahtab I would like to say this – both of them agreed to my suggestion. What was my suggestion? I suggested to them, as per the provision in the Civil Procedure Code, both of them approach the competent court and the judgement of the competent court will be binding on all. That decision was taken on 12<sup>th</sup> in my presence. Both of them agreed to it. But unfortunately it was not complied with. Therefore, the whole argument which is attempted to be built on as to why we did not give a chance to the judiciary to look into it, is not correct. This is exactly what I suggested. I suggested to them that both of them can approach the competent court – in this case the competent court is the High Court – to decide the jurisdictional issue whether it belongs to the SEBI or the IRDA and whatever the High Court will say we will accept it.

Had they done it, there was no need for this Ordinance. But they did not do it. Then, what should I do? I had to consult the Ministry of Law. The Ministry of Law had given a detailed opinion. I have that copy with me. I am not going to read the whole thing. I will be reading out only paragraph 21 on the basis of which I issued this Ordinance, not on my whims and caprice. The Ministry of Law's opinion say:

"It emerges from the aforesaid discussion that ULIPs offered by these fourteen entities are primarily a life insurance product. However, incidentally it also contains an investment component. ULIPs are in operation since the last more than ten years. But the SEBI has now come out with the proposition that entities offering ULIPs should get registered with the SEBI in respect of the investment component. "

Shut your eyes and imagine what chaos that would have created in the market. They have been offering these products for the last ten years and now you start *de novo* having a registration! Therefore, there was no scope of introducing it in the later part of the Budget Session and I had to wait for this Session. 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 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 the Standing Committees are pending for years, not for one, two or three years. But that is a different issue and I am not going into that aspect. Therefore, by merely asking it to be sent to the Standing Committee, one need not come to the conclusion that legislation will be hastened. It is not happening whatever be the reason. I am not going into that.

I have made certain amendments. It is true that there were a lot of apprehensions whether we are going to dilute the autonomy of the regulator or not. I have no such intention. I have expressed my intention in public and I have also made the institutional arrangement. Therefore, I am limiting the activities that it will be only in the case of jurisdictional issue and not on other matters. If two regulators claim jurisdiction over the same product and if they are unable to resolve it, it will

not come to the joint mechanism automatically. The first effort will be to resolve it bilaterally. In fact, the Reserve Bank tried this. It was in the agenda. I have stated it in the High-level Committee chaired by the RBI. They discussed it and after discussing it, they advised both the regulators to settle it; sort it out bilaterally. Thereafter, they said that this is now off the agenda. We have advised them to settle it bilaterally. It was not complied with. Therefore, what we are proposing in the new scheme is that efforts will be made to persuade them to resolve it bilaterally; if not then it will be referred to the High-level Committee chaired by the Governor of the RBI. If it fails then any of these members, but not the government members, may feel that the matter should be referred to the Joint Committee. It was in the Ordinance but we have improved it in the Bill. You must have noticed it with regard to any of the four institutional members -- RBI, SEBI, IRDA, PFRDA -- any one of them, may feel that the matter should be referred. Normally, the common sense says that disputes between the two, who will have disputes, either of them will refer and others will not have any interest in it.

Sir it is not a super regulatory body. The Parliament is creating it. Please remember that we are the creation of the Constitution. All the regulators are the creation of Parliament by enactment. If Parliament considers that it is necessary to amend it, to regulate it, to restrict it, to limit it, it is the Parliament which is doing that. The Executive *suo motu* cannot do it. The Executive will have to do it with your consent, with the approval of the House. But if the regulator starts thinking that nobody will have any accountability and they can do whatever they like, that is not possible. Here, it is not a dispute between the Government and the regulator. It is a case of dispute between the two regulators in respect of the jurisdiction.

Another minor amendment we have made in the Ordinance was about the Finance Secretary. Actually the subject comes under the Capital Market Division of the Ministry of Economic Affairs. Now, our practice in the Ministry of Finance is that the senior-most Secretary becomes the Finance Secretary. It may happen that the Banking Secretary may be the Finance Secretary because of his seniority. The Revenue Secretary, may be the Finance Secretary; the Expenditure Secretary may be the Finance Secretary because of the seniority. That is why, we are specifically mentioning that in this Committee, the Secretary who is in charge of Economic Affairs will be the Secretary, who is in charge of the financial services – that means, the banking, he will be there and four regulators will also be there. As the Reserve Bank of India enjoys the autonomy, what is the role of the Reserve Bank of India? Please remember that there are two roles. One role is about the monetary authority. Nowhere are we interfering with the monetary authority of the Reserve Bank of India. The Reserve Bank is supreme in respect of the monetary authority. It decides the monetary authority, monetary policy and advises the Government on the monetary policy. Nowhere are we interfering with the authority to determine the monetary policy. But they have another role – they are the regulator. As the IRDA is regulating the insurance companies, as the SEBI is regulating the markets, as the PFRDA is regulating the Pension Fund, the RBI is regulating the banks; branch expansion policy, new licensing policy for the banks. The Reserve Bank will be disciplined only to that aspect of its authority, the joint mechanism in respect of the regulatory functioning, not the monetary functioning. Like any other regulator will be subjected to the discipline of this joint mechanism, the RBI will also be like that. Otherwise, who will be the Chairman? Naturally, the Chairman should have been the RBI. But if the RBI, in its regulatory capacity in banking comes to dispute with the other regulator, would you like to give the authority to chair the joint mechanism to the RBI? It is not possible. That is why, it has been decided that the Finance Minister would be the Chairman. Definitely, to recognise the fact that the RBI Governor is not equivalent to the Departmental Secretary, his status has been raised by indicating that he would be the Vice-Chairman of the joint mechanism.

An issue has been raised in respect of the multiplicity of the regulators. A large number of regulators are coming into being nowadays. If there be a contradiction about the jurisdiction which affects the larger interests of the economy, only then will the Government have to come and interfere with it. Who is responsible to Parliament? No regulator comes to Parliament and explains his or her business to you. It is the Minister who is accountable to Parliament. Therefore, there must be a place where the buck stops. It is the Minister where the buck stops. He is accountable to you. He is accountable to the people of this country through the Parliament. But there is no question of interfering with the autonomy in respect of exercising the functions of the regulators.

My good friend Shri Nishikant always speaks well. Here too, he mentioned about one particular aspect: What are you going to do about the Raghuram Rajan Committee? Yes, I am aware of it. They have made as many as 35 recommendations which are under the active consideration. Some of the recommendations such as the constitution of UID Authority are there. We have already established the UID Authority.

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**16.00 hrs.**

We have already accepted it and it is in place. Regarding relaxation of licences for bank branching network, the Reserve

Bank of India has done it. With regard to delicensing of off-site ATMs and allowing more entities of the business correspondence in the financial inclusion model, these are already being implemented. As regard having a single regulator for the whole country, the Raghuram Rajan Committee has observed that it is premature to have a single regulator for the country due to the multiplicity of regulatory functions and, I think, it is appropriate.

Then, the third issue which emerged in the course of this discussion is this. Why has the PFRDA been made a part of the Bill when the PFRDA Bill has not yet been passed? I want the PFRDA Bill to be passed. But that does not mean that the PFRDA has not come to exist. From 2004, we are trying to get this Bill passed, but because of divergence of political views it has not been passed. But the Pension Fund has been created. It is in existence, huge amount of money is being invested and there must be an authority. So, the authority has been created by an executive order, by passing a Resolution and when the regulator has been created, should not that regulator be accountable if there is a divergence of views between two regulators in respect of jurisdiction?

I am not going to expand the scope of this discussion. The overall insurance policy, the coverage, addressing of social security issues through insurance, I am not going into all these aspects. The scope of this Bill is extremely limited in the sense that there will be a joint mechanism. The composition of the joint mechanism has been worked out in the Bill. There will be four regulators like now plus the Finance Minister and two Secretaries would be part of this joint mechanism.

A question was raised and it was discussed in the media also that if the Government wants to be inclusive and if the Finance Secretary or the Economic Affairs Secretary want to raise the issue, what would happen? That is why we are stating very clearly that issues will not be raised by them and they will be raised only by the regulators whose jurisdictions are in question. For that, if it is not in the Bill, then some of these provisions will form part of the guidelines which will be issued and we want to restrict them. I myself stated it and there is no intention to expand it because I have not brought out a piece of legislation saying that I am withdrawing the SEBI Act, 1992 or the IRDA Act, 1999. I have not come for that. I have come before this House with a limited objective that these are the regulators, in their regulatory activities, if they try to encroach upon the jurisdiction of the other regulator – and that is not the assessment of the Government, that is the complaint of the regulator whose jurisdiction has been encroached – and if all other mechanisms have failed to resolve the issue, then only this joint mechanism will come into the picture.

Some points have been made about the withdrawal of the cashless medical insurance by public sector insurance companies. Now, the public sector general insurance companies have not – I am emphasizing 'have not' – revised or withdrawn the facility of cashless medical treatment. However, the companies have started rationalising of empanelment of the hospitals and standardisation of the rates and specified procedures followed by these hospitals. I think Raghuvansh Prasadji or somebody else has brought this matter to the attention of the House.

We have given a detailed reply to one of the questions in the Parliament.

In respect of the another point which Shri B. Mahtab has raised about the first suggestion, my suggestion to them was to have the legal solution to give the court to decide through joint application which will be binding. When it failed then this question came. It is not that I did not allow the courts to look into it, but they themselves did not want to have. They wanted to have when I find, as an aggrieved case, that I have a case in the law, I (Regulator) go to the court. But here the proposition was both of you go, whatever the court says you give the undertaking that it will be binding so that the time is not wasted. Time is a factor because for ten years ULIP is in operation. After ten years a new order comes and there are a lot of confusions. To avert those confusions, it was done, it was considered extremely necessary.

Mr. Chairman, Sir, I am extremely grateful to the hon. Members for making their valuable and significant contributions. I would also like to take some of their suggestions which they have noted not in the context of this regulatory Bill alone, but also in respect of the other broad economic issues which will get the time of discussion and by responding to them in the course of time.

With these words, I thank them and I propose that the Bill be passed without any problem.

SHRI PRABODH PANDA (MIDNAPORE): Hon. Chairman, Sir, in the course of my initiation on the disapproval motion, I raised several points. Hon. Finance Minister touched upon the points and he assured that some suitable amendments will be made and one guideline can be made to improve this legislation.

But one point has not been answered with regard to IRDA disputed SEBI's order and then the matter was referred to the

Supreme Court. Before the case was decided why the Ordinance was issued? But even then, I will not stand in the way and I will not place it. So, I would beg to withdraw my resolution.

SHRI B. MAHTAB (CUTTACK): Sir, the hon. Finance Minister has said that ULIPs were there for the last ten years. ULIPs were there, but seldom it was invested on securities. This is my information. I may be wrong. Once it is invested on securities, SEBI has given in its order of April 7<sup>th</sup> or 8<sup>th</sup>, why it has transgressed its term and has encroached upon the IRDA terms? That is the grey area. That is why the hybrid mechanism has to be enforced where both the insurance sector will be investing in securities and securities aspect also will be investing in insurance. He had asked me to show him that order.

My question was, if the Law Ministry has come out with a proposal as he has quoted here and also he has mentioned in his statement that because these are insurance units and they have invested partly or marginally on securities that is why it should be and that is what the Bill is, if it is a securities unit and it has invested in insurance, should the Government say that it will be controlled by SEBI. This was my question. We would like to be enlightened on that.

SHRI PRANAB MUKHERJEE: I have stated that from the beginning in ULIP there is an investment component, but its overall business is insurance simply because a component is investment related to market, that is why the jurisdiction of SEBI should not come, the jurisdiction of IRDA should be there. That is the basis of the whole argument on which it has been there.

I have never denied that there is not an investment component. I have never denied that SEBI's major role is to control the market because SEBI was created seven years earlier than IRDA. But when IRDA was created, and it was looked into, why SEBI kept life insurance out of its jurisdiction? Life insurance has its investment component. Therefore, ULIP has its investment component from day one.

MR. CHAIRMAN : Shri Nishikant Dubey ji, do you want to have some clarification?

**श्री निशिकान्त दुबे (गोड्डा):** वित्त मंत्री जी, मैं पूछना चाहता हूँ कि जितने रेगुलेटर्स हैं, उसमें मिनिस्ट्री का कोई न कोई आदमी आप वहां ज्वाइंट सैक्रेटरी बिठाते हैं, क्या इस तरह के डिस्प्यूट के बारे में उन्होंने कभी आपको जानकारी दी थी? यदि दी थी तो मिनिस्ट्री ने इसके बारे में कभी रिस्पॉंड किया था?

दूसरा प्रश्न जो चर्चा के क्रम में लोग कह रहे हैं, वह यह है कि जब हम रेगुलेटर बनाते हैं तो एक इंडीपेंडेंट बॉडी होती है। वह सरकार से दूर होता है और अपने आप डिजिजन लेता है। सारे सदस्यों को लगता है कि यदि वित्त मंत्री जी बैठ जाएंगे तो फिर रेगुलेटर की आवश्यकता नहीं है। मेरा बेसिक प्रश्न है कि इतने रेगुलेटर बनाने की नहीं चाहिए। जब मंत्रालय को ही सब कुछ करना है और फाइनली मैंने अनुभव किया है कि मंत्रालय को करना पड़ता है, तो सारे रेगुलेटर्स की आवश्यकता क्या बचती है। मंत्रालय अच्छा काम करता है। मेरा एक सुझाव है कि आप कृपा करके सारे रेगुलेटर्स को एंबॉलिश कर दीजिए, सारे ब्यूरोक्रेट्स को नौकरी देना बंद कर दीजिए, इस देश का भला हो जाएगा।

SHRI PRANAB MUKHERJEE: I do not think so. The regulators are doing good job. In most of the areas, they are doing good job. There is no quarrel with the regulators. I do appreciate that they are making very valuable contributions. With the complexities of the economy, complexities of the market, complexities and expansions of the various products which are coming, experts and experienced persons handling of it are absolutely necessary. Keeping that in view, with due respect to my young friend, I would say that it would be too drastic. I do not have intention of interfering with it. That I have explained in details. It is not the question of individual; it is the question of the institutional mechanism. After all, the accountability is to the country through the Parliament; in these matters it is ultimately that of the Finance Minister.

SK. SAIDUL HAQUE (BARDHMAN-DURGAPUR): Sir, I would like to seek a few clarifications from the hon. Finance Minister. Firstly, ULIP has two components – one is insurance cover and 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. The insurance component is gradually being brought down to as low as two per cent in spite of it being an insurance product. What will happen, then?

The next clarification that I would like to seek from the hon. Minister is this. In the Union Budget, hon. Finance Minister had proposed setting up of a Financial Stability and Development Council. In his speech at the Reserve Bank of India's Platinum Jubilee Celebrations, hon. Finance Minister has stated:

"FSDC is not a super- regulator. It will achieve its mandate without undermining the autonomy of the regulators. FSDC will be doing only what is not currently been done in the existing set up. "

What has the Minister of Finance done? He has attempted to provide a concrete shape to the proposed FSDC by circulating a discussion paper. This discussion paper emphasises FSDC to operate through two Committees: one on financial sector, a Regulator Coordination Committee.

MR. CHAIRMAN: Please seek only the clarification.

SHRI PRANAB MUKHERJEE: You have already stated it; I am answering your question. All these points you have stated. While making intervention, you made all these points. We are not discussing today FSDC. I have circulated a discussion paper to get the opinion of the various stakeholders.

I adhere to what I have stated in my Budget speech and also what I have stated in RBI function. It is not going to be the super regulator. Every regulator will have its own function. I have repeated it several times in today's discussion also.

So far as FSDC is concerned, as and when FSDC will come to exist, then we will discuss. We are not going to waste the time of the House on discussing a Discussion Paper wherein all the inputs have not yet come to me.

MR. CHAIRMAN : Is it the pleasure of the House that the Resolution moved by Shri Prabodh Panda be withdrawn?

*The Resolution was, by leave, withdrawn.*

MR. CHAIRMAN: 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, be taken into consideration."

*The motion was adopted.*

MR. CHAIRMAN: Now, the House will take up clause-by-clause consideration of the Bill.

The question is:

"That clauses 2 to 7 stand part of the Bill."

*The motion was adopted.*

*Clauses 2 to 7 were added to the Bill.*

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

SHRI PRANAB MUKHERJEE: I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

*The motion was adopted.*

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