

[Shri R. P. Das]
and anti-socials been allowed to hold
the University to ransom?

I also want to know whether it is a fact that the University authorities, the Vice-Chancellor and the teachers were anxious to restore discipline and academic norms in the classroom and examination halls and also in the campus of the University; and whether it is a fact that Prof. Irfan Habib, as the Dean of the Faculty of Social Sciences, sincerely wanted to implement the directive of the Vice-Chancellor and thus incurred the displeasure of a section of students who were agitating under the banner of AMU Action Committee.

SHRI S. B. CHAVAN: The hon. Member gave certain information about the conduct of the Dean of the Faculty of Social Sciences—that he was trying to implement the decision or directive given by the Vice-Chancellor. I can assure the House, on the basis of the information which was given to me by the Vice-Chancellor, that discipline is definitely going to be enforced; there is no question of relaxing any discipline. Prof. Habib was trying to do certain things which according to the hon. Member seemed to be quite laudable. I would not like to enter into any kind of controversy on this issue because the Inquiry Committee is inquiring into the matter; therefore, Government would not like to give any opinion either way.

The University Executive, in their meeting of 26-1-1981, had authorised the Vice-Chancellor to appoint an Inquiry Commission, and in view of this authority, the Vice-Chancellor appointed Mr. Khalil Ahmed, who is the retired Chief Justice of the Orissa High Court, to conduct the inquiry....

SHRI INDRAJIT GUPTA: He has been publicly campaigning against Prof. Habib for a long time....

(Interruptions)

What kind of an impartial inquiry will that be? (Interruptions)

SHRI S. B. CHAVAN: As far as my information goes, he was never a member of the Action Committee and he had never spoken in any public meeting as the hon. Member has referred to here. On the authority of the Vice-Chancellor and the local people, I am making this statement that he was never a member, he is not a member, and he never spoke in any public meeting. That is why, the Vice-Chancellor thought it fit that he should be made in charge of this inquiry, and he is proceeding with the inquiry. Unless he himself would take any other decision, the Government cannot interfere in the matter.

MR. DEPUTY-SPEAKER: The House stands adjourned to meet again at 2.05 p.m.

13.05 hrs.

The Lok Sabha then adjourned for lunch till five minutes past Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at eight minutes past Fourteen of the Clock.

(MR. DEPUTY SPEAKER in the Chair)

LIFE INSURANCE CORPORATION (AMENDMENT) BILL*

SHRI GEORGE FERNANDES: (Muzaffarpur) The Finance Minister should be asked to be present when such an important issue comes up.

THE DEPUTY MINISTER IN THE MINISTRY OF FINNACE (SHRI MAGANBHAI BAROT): Hon. Finance Minister is coming. As far as the initial formality is concerned, your objection is.....

SHRI GEORGE FERNANDES: We are opposed to the introduction of the Bill.

SHRI MAGANBHAI BAROT: Let me move.

SHRI ATAL BIHARI VAJPAYEE (New Delhi): For him, introduction may be a formality. But for us opposition is a formality.

SHRI MAGANBHAI BAROT: For me, it is a substantive thing. For you, it is a formality.

I beg to move for leave to introduce a Bill further to amend the Life Insurance Corporation Act, 1956.

MR. DEPUTY-SPEAKER: Several Hon. Members have given notice of their intention to oppose the introduction of the Life Insurance Corporation (Amendment) Bill, 1981. A member wants to oppose it on the ground of legislative competence of the House. I will allow members to make brief statement.

Motion moved:

"That leave be granted to introduce a Bill further to amend the Life Insurance Corporation Act, 1956."

Now, Shri George Fernandes.

SHRI GEORGE FERNANDES: Sir.....

PROF. MADHU DANDAVATE (Rajapur): It is not that only when you challenge legislative competence, you oppose. You can oppose the introduction of the Bill on a number of other grounds also.

MR. DEPUTY-SPEAKER: That is what I said. A member has done this also. It is only technical.

SHRI GEORGE FERNANDES: Sir, once again I lodge my protest at the absence of the Finance Minister when such an important Bill is sought to be introduced. His presence would be very necessary here. It is not a formality. It is a very serious matter.

SHRI MAGANBHAI BAROT: I am here.

SHRI GEORGE FERNANDES: He is a Member of the Cabinet whereas you are not. We want somebody who was there at the drafting and clearing stage in the Cabinet. I am on a technical point. We would very much want the presence of the Finance Minister here.

SHRI MAGANBHAI BAROT: The Finance Minister would come. You need not worry. (Interruptions)

SHRI GEORGE FERNANDES: Sir, I rise to oppose the introduction of this Bill. I would like to start by referring to the Constitutional powers of the President to have Ordinances. Article 123(1) says:

"If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require."

I emphasise the words 'immediate action' here. Here is an Ordinance which is now sought to be introduced as a Bill which did not necessitate the invocation of the powers which the President has under this Article. There was nothing immediate; there was nothing urgent. The L.I.C.'s wage structure, the L.I.C. bonus issue, the Supreme Court Judgment, all these, have been there. In so far as the wages and the conditions of service of the L.I.C. employees are concerned, these have been negotiated over a period of 20 years. On the eve of the promulgation of this Ordinance, the hon. Speaker of the House spoke in Bangalore and he referred to this tendency on the part of the present Government to rule by Ordinances, to introduce Ordinances when they were not really called for. As if to insult the Speaker and as if to tell the Speaker that they care too damn hoots about what you feel and so on, the Government, the very next day or the third day, came forward with this Ordinance. Now, Sir, what are the intentions of this

[Shri George Fernandes]

Government in bringing this Ordinance?

I would like to start by saying that they are not moral, they are not ethical. In fact, this is totally unethical and totally immoral. The Government is trying to set aside the judgment of the Supreme Court. The Government had gone in appeal to the Supreme Court against the judgment of the Allahabad High Court. The Supreme Court gave this judgment. The Attorney General, speaking on behalf of the Government, gave a certain assurance to the Supreme Court that the bonus for the years 1978-79 and 1979-80 shall be paid by the 15th April. I assume that the Attorney General acted on the instructions of the Government. I do not expect the Attorney General to act otherwise. So, the Attorney General came with this view of the Government. Here is the contempt petition which the employees have filed. The Government advised him to tell the Supreme Court on the L.I.C. employees petition that we shall be making the payment before the 15th April. Then comes this Ordinance by which the Government seeks to annul firstly what was negotiated and, secondly, what was fought in the Supreme Court with the best of legal talent by the Government and the employees with whatever they could possibly muster. This is one thing. That is why I say that this is unethical and this is moral. What is it that they are trying to do? The L.I.C. employees have negotiated for the last twenty years through collective bargaining. The L.I.C., I presume, is a little more than twenty years old. Now, in these twenty years, there have been Governments; there have been Finance Ministers and there have been Cabinets. The L.I.C. had its Chairman and the Board of Management. I assume that in the negotiations that you had, you had the clearance of the L.I.C. Board of Management that the Chairman and the Managing Director of the L.I.C.

must have concerned themselves with every concern and full stop of the agreements that were entered into with the Trade Unions and the L.I.C. employees.

I also assume, Sir, that every agreement after its clearance by the Board of Management of LIC, after being vetted by the legal department of LIC came before the Finance Minister and every Finance Minister who occupied that Chair over a period of twenty years offered his clearance and I assume, Sir, that the Finance Minister initialled the agreement and initialled the papers which came to him, that they were examined and vetted by his own financial advisers and finally put before the Cabinet and the Cabinet cleared those agreements.

Now, overnight you come with this Ordinance with which you seek to annual all that has been achieved and then in the process you put out facts which are distorted and also use the media of electronics and the newspapers to denigrate the L.I.C. employees to present a picture about them which is so divorced from reality as your Govt. is divorced from the reality of the country. We now see it.

Now, Sir, what do they put out! Here is an item that was put out by the PTI on the basis of a briefing by the Finance Ministry:

"LIC clerks gets more than Joint Secretary New Delhi Feb. 1: It pays to be a clerk in the LIC rather than be even a joint secretary in the Union Government, figures of emoluments reveal.

At a basic pay of Rs. 920, a class III LIC employee is computed to draw Rs. 3,412 in total emoluments, inclusive of Rs. 2042/- in DA and Rs. 450/- approximate in bonus.

He thus gets in a year more than the joint secretary at the maximum of pay, i.e., Rs. 2750/- plus a DA of Rs. 450/-, making a total of Rs. 3200/-."

Sir, before I refute the points contained here I would like to make an offer through you to the Finance Minister and through him to the government and through government to all the joint secretaries in the government of India as to whether they will be willing to change places with the class III employees in the LIC. Sir, although I have not talked to the class III employees in the LIC about it yet I am confident that I carry that much influence to persuade them to accept the change of places with the joint secretaries, under secretaries and all that you have so that it may put an end to this kind of argument and distorting figures and facts and trying to convey things which are not true.

Sir, what is the total number of class III employees in LIC. The total number is 55,000. What is the starting salary scale of these employees? They start on a basic salary of Rs. 175/- and the total emoluments are in the vicinity of Rs. 600/- when they join service. Secondly, Sir, only 600 out of these 55,000 employees could go to the rank of superintendent after putting in thirty to thirty-five years of service. There are people who retire as Class III employees and even in respect of the 600 who are supposed to touch this fabulous figure—as they would like to believe—at the moment, are you aware of Mr. Finance Minister that there are only four employees who draw that salary. So, you make a notional calculation and put before the people and bluff the country and create mass hysteria against the LIC employees most of whom are in the vicinity of Rs. 600/- or Rs. 1,000/-.

MR. DEPUTY SPEAKER: You come to the point of opposition to its introduction.

SHRI GEORGE FERNANDES: Sir, I want to convince the Finance Minister. I do not want it to be allowed to be introduced.

MR. DEPUTY SPEAKER: You will have an opportunity to discuss it later.

SHRI GEORGE FERNANDES: Now, I take up another point. On the one hand you are attacking the employees and trying to create a wedge between them and the rest of the working class and on the other the working class do not support your cause. You are not going to fool us on that, you are not going to convince us on that. I would tell you that there is solidarity amongst us. You are not going to succeed in driving a wedge between a worker and a worker in this country. You take that from me.

There is another aspect to which I would like to refer to and it is this. Now, there is a propaganda built up that we are slicing down the wages, we are slicing down the emoluments in order to give to the policy-holders a better deal. I would like the Government to discuss the report of the Committee which was set up some years ago. It was submitted to the Government very recently. It is the Era Sezhan Committee Report. The Sezhan Committee has brought out a lot of facts about the LIC and some of the facts that they have brought out must be taken into account when you are introducing this Bill. If your concern is to do something to the policy holders, it is not that what you are paying to your employees is coming in the way of giving the policy holders better service. What is happening to your investments? Your monies are going into the sectors where you are not getting adequate returns. According to this Committee, the total policy holders' funds that the LIC is investing today are giving a return of 7.89 per cent. Now, if the same money is put in a Cooperative Bank or in a public sector Bank for a term of 5-years on fixed deposit, you would get a minimum of 10 per cent interest, in some cases 11 per cent. This is at one level. At another level the total investment in the LIC is

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Rs. 5 crores, that is, the money you have put in. What is the dividend you took out last year from the L.I.C.? You are concerned about the policy-holders. What was the dividend you took out on an investment of Rs. 5 crores? This Government took out last year as dividend Rs. 9 crores, something unprecedented, something unheard of. This does not happen in any other industry. Will you allow any other Corporations, on an investment of Rs. 5 crores, to take out Rs. 9 crores as dividend every year? I know this issue can be debated in a wider context and I am prepared to discuss it.

MR. DEPUTY-SPEAKER: It is not the Government taking, but it goes to the people.

SHRI GEORGE FERNANDES: So, Sir, let not the employees be brought out and crucified. Let not the present ordinance be used to drive a wedge between the policy-holders on the one hand and the employees of the LIC on the other by telling the people of this country that because we are paying a little more to the LIC employees, you are not getting higher rate of bonus. But you are taking out Rs. 9 crores as dividend. Now, look at the kind of negotiations that have taken place over a period of time. Let us assume that in certain areas they are paid a little better than certain other sections of the employees. But this has been brought out by collective bargaining. In collective bargaining, there is always certain give and certain take arrangement. The employees have accepted a lot of rationalisation. If their wages came to be improved at a certain time, at a certain period, due to negotiations, then invariably there is a certain amount of give on the part of the employees before there was a take on the part of the Government. In other words, there was a give from this side also. I will give two instances.

In 1974-75, the total renewal expense ratio of the LIC was 19 per

cent. But that renewal expenses ratio came down in 1979-80 to 14 per cent, that means, a drop of 5 per cent. Now, if this drop came about, it invariably means that the employees accepted certain work norms which made them produce more for getting perhaps a minor wage concession, a minor concession in regard to allowances, and so on and so forth. Similarly, the number of employees who were serving one lakh policies in the year 1958 was 502 and in 1979 it came down to 227. Now, how did this come about? It is because the workers and employees were doing much more than what they did. The policies are the same in number but the service period came down because the number of employees started doing much more work than they used to. There is the question whether the salaries are really much more than what they are made out to be. I have before me the Government statistics and these statistics point out that the LIC salaries index went up from 100 in 1968 to 414 in 1979. Between 1968 and 1979, if the salaries index went up from 100 to 414, the consumer price index in the same period went up from 100 to 371. Where is this so-called high wage island and this extraordinary payment that is sought to be made to these employees?

The Government is now, coming and telling us that they want to remove these disparities and put an end to high wage island and so on and so forth. If you want to discuss this question, we have said that there are disparities, we have always said that a national wage policy is needed, but how do you bring about that? Do you want to bring about that through ordinances, by annulling the Supreme Court judgement, or by annulling what has been achieved through 20 years of collective bargaining? If you want to go for a national wage policy, you should call the trade unions, call the national organisations of labour, call those who are concerned, discuss it with

them and then have a national wage policy. You should discuss the wages, the service conditions of the private sector also; discuss not only the high wage islands, but also the high living islands in this country. An executive of yours spends a sum of Rs. 1000/- a day in a five-star hotel; Rs. 595/- for the single occupancy tariff and another Rs. 500/- for his board, entertainment etc. You should deal with all these things also. Instead of doing that, you have the National Security Act and have started arresting trade unionists. They have now brought this Ordinance and are trying to bring about a wage freeze and from there they will go beyond and will attack the entire working class. I want to warn this Government that if they think that by attacking the Life Insurance Corporation employees, they are going to isolate them, attack them and beat the working class movement, they are mistaken.

In all earnestness, I would appeal to the Finance Minister to withdraw this Ordinance, call the trade unions for talks, call the central organisations for talks and if he wants to work out a national wage policy, I would like to tell him that we are prepared for the discussions, but he must come forward with proposals and not with these Ordinances. With these words, I oppose the introduction of this Bill.

SHRI CHITTA BASU (Barasat): Mr. Deputy-Speaker, I rise to oppose the introduction of this Bill. I also share certain views which have been expressed by Comrade George Fernandes. This Bill is the outcome of an Ordinance. This Ordinance was not necessary under the provisions of the Constitution because there was no immediate reason for this kind of Ordinance at all. This has been done primarily with the object—and it is to be clearly stated here—of defying the decision of the Supreme Court of India, the highest judicial body of our country. The Supreme Court had directed the Government to honour its commitment and pay the workers bonus with interest for

the years 1978-79 and 1979-80 before April 15. Parliament was summoned on January 9.....

THE MINISTER OF FINANCE (SHRI R. VENKATARAMAN): Are you reading from any part of the judgement? I want to get educated.

SHRI CHITTA BASU: It is not the actual language of the direction, but this was the effect. The meaning of the direction was that the Government should honour its commitment by paying bonus for the years 1978-79 and 1979-80 before April 15, with interest. This was done on the explicit undertaking given by the Attorney General on January 13, 1980. You cannot deny this. This undertaking was given by the Attorney General of the Government. Therefore, this Ordinance and the Bill in this form is nothing but an open, deliberate and promoditated defiance of the decision of the Supreme Court of India. As already pointed out, this is also in deliberate defiance of the express and explicit opinion of the hon. Speaker of the House that there should not be any ordinance when Parliament has already been summoned. In this particular case, Parliament was summoned on 9th January. The ordinance was promulgated on 31st January. So, it is a clear violation, a clear disobedience or clear defiance of the opinion of the hon. Speaker.

Coming to the other point: I think you would agree that the President has not got the powers, under Article 123, to promulgate any ordinance which subverts any law passed by Parliament. Here is a question where this ordinance has subverted the Industrial Disputes Act, a law passed by Parliament of India. Clauses 9(a) and (b) of the Industrial Disputes Act say:

"No employer who proposes to effect any change in the conditions of service applicable to any workmen in respect of any matter specified in the 4th Schedule...."

and so on; and then the say:

"..... without giving to the workmen likely to be affected by such a

[Shri Chitta Basu] change, a notice in the prescribed manner, about the nature of the change proposed to be effected.

Here I emphasize the point about giving a notice in a prescribed manner about the nature of the change proposed to be effected. There should be a process of change. Unilaterally, no employer can change the conditions of work and service of any employee. This is there in Clause 9(a) and (b). I don't want to quote it. But this ordinance and this Bill are a blatant example of an action which subverts the law of Parliament. Constitutionally, the President cannot promulgate such an ordinance which subverts any law passed by Parliament. So, it is unconstitutional.

Another constitutional aspect of the matter I want to point out. The principle of collective bargaining is associated in this matter. We have got the right of association as a Fundamental Right. The right of association is meaningless unless it is based on the principle of collective bargaining. When the principle of collective bargaining is negated, the right of association is also negated. So, it attracts the fundamental right of association. So, the very scheme of the Bill is to absolutely negate, unilaterally, the basis of the principle of collective bargaining. So, it is unconstitutional. We cannot accept it. It should not be allowed to be introduced in this House.

Not only this. There are political aspects of this thing once the principle of collective bargaining is negated, the entire industrial relations which have been built up during all these years, is likely to collapse. Does the Government was that the entire edifice of industrial relations should collapse at this stage?

This is the aim of the Government. They want to destroy the very basis of collective bargaining. The attack has come on the LIC. It is apprehended that this attack will be followed subsequently on the bank-men, on the GIC employees and all other sectors of working population of our country. This danger is imminent. It is not

only a question of wage freeze but also a deliberate attempt to wage cut, to bring into force the policy of wage cut. This cannot be accepted by anybody.

This Bill is reminiscence of the emergency days. During the emergency, I think, you also remember, the entire House also knows and the countrymen also know and working class outside also knows that bonus was cut; there was a wage freeze. The incremental D.A. was also impounded. Here, it is a similar case of wage cut, reduction of D.A., taking away a substantial portion of the bonus. Therefore, it is nothing but a similar kind of an attack of the dark days of emergency. It is a dangerous signal. The entire working class is today on the road to oppose it. As a matter of fact, I am sorry, we have to disappoint the hon. Finance Minister, who is a very good friend of us, he cannot get this Bill passed as peacefully as he wants without meeting the bitter resistance within the House and outside also.

In the end, I once more request him to see a reason and withdraw the Bill. I oppose the introduction of the Bill with all the emphasis at my command.

PROF. MADHU DANDVATE (Rajapur): I am quite conscious of the fact that we are at an introduction stage. When we go to the merits of the Bill we will have again another concerted attack on the Bill. But I would like to raise certain important issues connected with the introduction of the Bill. I have not the least doubt that this is an issue which cuts across party lines, and if the old concept of conscience vote is revived, I am sure that even the introduction will be defeated in this very House. But, of course, that conscience vote is not going to be revived.

I wish to draw the attention of the House to the fact that in this very House our present Speaker had made certain observations, and if not anything else at least the observations of the Speaker must have a certain amount of sanctity. Here he pointed out that when Parliament Session was going to meet, the Government should not indulge in the exercise of promul-

gating a large number of ordinances. As far as the first Speaker of the Lok Sabha is concerned—I am referring to the late Mr. Mavalankar; he was described by the late Pandit Jawaharlal Nehru, after his death, as the father of the Lok Sabha—he was very much allergic to ordinances; leave aside six or ten ordinances, even a single Ordinance which was sought to be brought, he was a very much opposed to that. But now that has been the tradition of this House for years. Now that tradition is sought to be reversed. I am sorry about it.

As far as this Bill is concerned, it emanates from the Ordinance that was promulgated on 31st January. Unfortunately, the year ended with the worst possible calamity. The Bill is already there. If this Bill which is sought to be introduced is introduced and ultimately if it is passed and become an Act, in that case, the orders, decrees, judgments of various courts, existing laws including the Industrial Disputes Act, all of them will be thrown to the winds and there will be no sanctity of collective bargaining at all. Therefore, you will find that our Government which wants a healthy industrial climate to be built up will be contributing to disturbing the industrial peace and climate in the country. You may recall that the Allahabad High Court had already given a judgment in favour of the L.I.C. employees. Then they wanted to go in appeal to the Supreme Court. And they in their wisdom went to the Supreme Court. The Supreme Court in its wisdom gave a judgment against the Government, because they found that the case so obviously against the Government. How can they stand by the Government? Therefore, their judgment was to confirm the judgment of the Allahabad High Court. Then they went in for judicial review and that review petition is already pending.

Sir, you have been not only a Deputy Speaker, you also been a trade unionist and you know very well that even when the best judgments of the High Court and the Supreme Court are there, even when the review petition is pending in the Supreme Court they

have got a tendency to bring in an Ordinance and once the Ordinance is there, of course the logical corollary is that they have to bring in this resolution; and a logical corollary on our part is to resist the introduction of this Bill.

As far as this Bill is concerned, already on the 31st the Ordinance was promulgated. After that they flouted the judgment of the Court. They have already gone in for review. The real fear in the minds of trade unions in this country and particularly those in the public sector units is that this is only the thin end of the wedge. They have made a beginning with the L.I.C. and it is very possible that other public sector units will be gradually covered. As far as the Constitution is concerned, it gives us certain Fundamental Rights. Those Fundamental Rights are not abstract rights. One of the Fundamental Rights is the right to organise unions and form associations. What are the associations and unions for? These unions and associations are not like clubs or some associations which organise festivals. They are associations and unions which are formed to defend and protect the rights of the workers and this Fundamental Right guaranteed by the Constitution to organise and form association will have to be translated into a right to have the collective bargaining on the strength of the worker. That is a corollary of that Fundamental Right guaranteed by the Constitution. I dare say that this Fundamental Right guaranteed by the Constitution is sought to be negated by this Ordinance and by the Bill which is sought to be introduced in this hon'ble House.

What has been the reaction to this? There have been trade unions of different persuasions but all of them have united because they see the danger. This is not the end. It will not end with the L.I.C., but other sectors also will be covered and it will be extended to all the public sector units, and they have unitedly decided that they would resist this onslaught on the right of collective bargaining. The object of this particular Bill has been to evolve a national integrated wage policy. We

[Prof. Madhu Dandvate]
 are all for a national wage structure. It has been the demand of all the trade unions, no matter to which sector they belong. But there should be a method by which the integrated wage structure is evolved. Unless you take the trade unions and the workers into confidence, it will not be possible for the Government to evolve any integrated wage structure or a unified wage policy and till they are aware what kind of uniform wage structure is going to be evolved, we cannot impose a wage structure on them, because it has to be evolved in consultation with the trade unions and organisations of this country and so I must make a reference here to the Bhoothalingam Committee appointed by the last Government of which I was part and parcel. I want to go on record that even the Cabinet of the last Government made it clear that we would not accept the Bhoothalingam Committee's recommendations unless the interests of all the trade unions were protected and they are taken into confidence. That has been the policy and I hope that the same policy will be followed.

There is one more point to which I would like to make a pointed reference, i.e., on the eve of the Parliament Session—whether it is the Budget Session or any other session—if this procedure is allowed to be followed, without any pressure from the Members of Parliament and without any resistance from the working classes and the country as a whole, then it may happen that our democracy will be reduced to a farce and not only on this measure but on a number of measures in the inter-session period Ordinance will be promulgated and when we meet here probably the legislations will be coming. And, with a command majority, those legislations will become law and the interests of the working class, of the people and of the peasantry will be completely destroyed. I do not want that to happen. That is why I am opposing the introduction of this Bill and I would like that this Bill is withdrawn by the Minister. I hope that wisdom will dawn on him and at

the very introduction stage, he will announce that "in defence to the wishes of the members of this House, I am withdrawing this."

SHRI BAPUSAHEB PARULEKAR

(Ratnagiri): I rise to oppose the introduction of this Bill. While doing so, I support the submission and contentions made by my hon. colleagues. The judgment of the Supreme Court was delivered on 10th November, 1980 and we find that through the action taken by the Government and its officers have shown one thing and that is, their utter disregard to our Supreme Court and total contempt of the judiciary.

If we take into consideration some four or five events chronologically, we find that the undertaking was given by the Advocate General for the Government that the conditions laid down by the judges of the Supreme Court would be implemented. But within 24 hours, it had been reported that the Deputy Secretary of the Government tried to take certain steps so as to annul the findings and directions given by the judges of the Supreme Court. Thereafter, we find this particular ordinance. Immediately after the ordinance, on the next Wednesday we find that rules have been framed by the Government in terms of the particular ordinance. We find that contempt proceedings were launched by the L.I.C. workers and their associations. With all that, when the contempt proceedings are pending and when the ordinance is challenged, we find the hon. Deputy Finance Minister laying today the rules on the Table of the House. Now we are coming to the stage of the introduction of this particular Bill. I feel that the Government is insulting our judiciary. The people of this country will feel that you have absolutely no respect and if I may say so, you have total disrespect for our judiciary and the Supreme Court. With reference to contempt court proceedings, when a request was made that at least a stay be granted, I would like to tell the House what reply the Advocate General gave. That shows the conduct and view of our Government towards the Supreme Court. When the question was asked by the judges of the Supreme Court, the Advocate General

has gone on record to say, "If we aggravate the contempt, we must be punished". That is the tendency of the Advocate General and I believe he must have said it on the instructions of the Government. I would, therefore, initially make a submission that in order that there should be no feeling among the citizens of this country that this Government has no respect for our judiciary, this Bill need not be introduced at least for some time, till the matter is heard by the Supreme Court. That day is not far off, the matter is to be heard on 15th March. This is my first point.

Secondly, the Government has no powers in my respectful submission, to modify the terms and conditions of the services of Class III and Class IV employees for two reasons: firstly because of the undertaking given by the Advocate General in the Supreme Court on behalf of the Government, because that would be a breach of the undertaking and it may amount to contempt and secondly, the point to which reference was made by my esteemed colleague, Mr. Chitta Basu that this is being done without following the procedure under the Industrial Disputes Act. Secondly, why I oppose the introduction is that when the matter is pending in the Supreme Court, namely, the contempt proceeding and challenging the Ordinance, and the matter is subjudice, the introduction even if it is not illegal, is highly improper. Therefore, I challenge it on the ground of impropriety. Even if this Bill is not introduced, what is going to happen? Apart from the fact to which repeated references were made that Ordinance was issued after the summons had been issued, the heavens are not going to fall if this Bill is not introduced. There is a feeling among the workers that this is the beginning of the imposition of certain structure of wages on the public sector in the country, to which a reference was made by my colleague, Prof. Dandavate. Again, if the Bill is not introduced, breach of industrial peace can be averted among 50,000 industrial employees in the L.I.C. Assuming for a moment that if the Bill is not introduced and the Finance Minister waits

upto 15th of March, the Government and L.I.C would not lose anything by way of giving benefits to the employees because payments would be subject to adjustment in the event of a court decision. On the other hand, if the Bill is introduced, the citizens in the country will feel that the Government has no respect for the judgment, the judiciary, employees industrial peace and also the laws laid down for making this kind of an amendment in this particular Act. This particular amendment which is sought to be introduced by this Bill i.e., deletion of clause CC in Section 49, was introduced in 1957. If you read the debates of that particular time, you will find that the Finance Minister at that time had given sufficient reasons to why this inclusion of clause CC was necessary. I do not know any reason why the present Government and the present Finance Minister should take a different view from the view that was taken by the Finance Minister in 1947. Therefore, I oppose the introduction of this Bill with all emphasis at my command.

SHRI K. A. RAJAN (Trichur): I stand to oppose the introduction of this Bill. This legislation has been brought with an evil intention. It cuts at the very root of industrial relations. Sir, as you know, industrial relations are built on three important pillars i.e. right to organise, right to collective bargaining and right to strike. This right to collective bargaining is being scuttled. This legislation is going to bring havoc to the working class of this country. In place of bilateralism, unilateralism is being brought. In place of democracy, despotism is being brought.

While coverage of the Industrial Disputes Act is being widened by an order of the Supreme Court making it applicable to several other sectors of employees, we find this surprising move on the part of the Government to curtail the rights of the workers. If my understanding is correct, it is the Industrial Disputes Act which must prevail over other Acts in the matter of industrial relations. By this Act, the Government has got this illegal, immoral, unjust and unfair power just

[Shri K. A. Rajan]
to scuttle the very rights of the working class.

Here, I am not concerned with rupees, afnas and pies involved in the wages of LIC employees or what they are getting. But I am more concerned with the major issue involved, that is the right of Collective Bargaining, you bring the question of 'High Wage Island' etc. to dupe the people and split the Working Class. That point has rightly been repudiated by Mr. George Fernandes. Therefore, it is a question of the very right for which the working class has fought for the last so many years. They have fought a bitter battle to sustain their rights. Now one fine day they find that they have lost all those valuable rights. This is quite atrocious. I will just end with a quotation from Shakespeare "Et tu Brutus" Mr. Venkataraman.

SHRI R. K. MHALGI (Thane): Sir, I stand to oppose firmly the introduction of this Bill. Government have taken this stand in open defiance of the judgment of the Supreme Court, and the commitment made before the Court by the Government, to pay bonus to the LIC workers by April 1981. In fact, the Court had ordered the Government on 10th May, 1980 to pay the amount immediately. But the Government begged for time and undertook to pay the amount by 15th April, 1981. Instead of fulfilling that undertaking, Government have now taken the extraordinary step of nullifying the judgment of the Supreme Court. By this Ordinance not only the judgment of the Supreme Court has been flouted, but all the agreements and the service conditions that the LIC employees have won over the years, stand scrapped.

The LIC Bonus Agreement is a quarter century old, having been signed at the time of the setting up of the Corporation itself. Thus, the very base of collective bargaining had been cynically destroyed. It is a serious blow to industrial relations. The Ordinance and the Bill, it appears to me, is not an

isolated action, but it is a part of the wholesale offensive Government have unleashed to take away the rights of the working class under the existing laws.

Lastly, Government have come out with the argument that the higher wage level of the LIC employees would adversely affect the interests of the policy holders. We are glad to hear that the Government of India recognise the existence of the policy-holders. But that argument is nothing but a crude bid to pit the policy-holders against the LIC employees. The struggle of the LIC employees is not only for their benefit, it is a struggle of all those interested in a rational, basic income, wages and prices policy. First Government must take steps in that direction. Then only the Government have any moral or legal right to introduce such a piece of legislation.

SHRI INDRAJIT GUPTA (Basirhat): Sir, I think you will agree with me that it is not necessary for me to repeat all the very cogent arguments which have been advanced by my colleagues here.

SHRI G. M. BANATWALLA (Ponanji): You need not repeat, but you can endorse them.

SHRI INDRAJIT GUPTA: I will do more than endorsing them, I hope.

The first thing that I want to say is about the relationship between the hon. Speaker of this House and the Government in respect of the propriety or otherwise of promulgating Ordinances shortly before the Parliament is convened and after the summons has been issued. Well, I leave it to the Speaker to deal with the Government. Because, the blatant way in which they not only ignore his observations but, I should say, really slight him in this regard is a matter for him to take up with the Government. We can only point it out. Everybody in the country knows what is happening. The hon. Minister of Parliamentary Affairs is

amused. I think it is not a very good thing that is being done, especially when, as other friends have pointed out, there is no earthly reason why this Ordinance should have been brought in such a hurry, why they could not wait till Parliament was convened, when they could have brought in a Bill straightway, if they wanted to.

When Shri Chitta Basu was speaking, Shri Venkataraman asked him whether he was quoting from the judgment of the Supreme Court. We all know that there were three hon. Judges on the Bench and the majority held in favour of the right of the employees. I do not want to take up your time. My basic contention, on the basis of which I am opposing the introduction of this Bill, is the fact that, apart from the fact that they are subverting the judgment of the Supreme Court and all that, which they are welcome to do, in season and out of season, **15.00 hrs.** they are talking about the independence of judiciary, rule of law must prevail and so on. So long as these things suit them, they are willing to abide by the rule of law and the independence of judiciary. The moment those things go against them, then not that law but law of jungle should prevail. That seems to be their philosophy. That is the most cynical philosophy.

I can only quote two or three sentences. The point is that they are trying to substitute, replace the Industrial Disputes Act by the Life Insurance Corporation Act. It is on this point that the Supreme Court has held against them and says it is not possible to do this. You cannot exclude the Life Insurance Corporation employees from the purview of the Industrial Disputes Act unless you come forward with a specific amendment to the Industrial Disputes Act providing for exclusion of the LIC employees from its orbit. You cannot do this in this surreptitious manner by the backdoor.

Mr. Justice Krishna Iyer in his judgment says—

"Whichever be the powers of regulation of conditions of service, including payment or non-payment of bonus enjoyed by the employees of the Corporation under the LIC Act, subject to the directives of the Central Government, they stem from a general Act and cannot supplant, subvert or substitute the special legislation which specifically deals with Industrial disputes between workmen and their employers. In this view other questions which have been argued at length and considered by my learned brother do not demand my discussion."

Mr. Justice Pathak held—

"In my opinion it is difficult to resist the conclusion that the industrial Disputes Act is a special law and must prevail over the Corporation Act, a general law, for the purpose of protecting the sanctity of transactions concluded under the former enactment."

So on this point the Supreme Court is very categorical but they do not seem to be bothered about it at all. If you are going to tinker and play about with the Industrial Disputes Act in this fashion, I may tell the Government that this is the most serious instigation to industrial unrest and the breach of the industrial peace. Already five federations of employees of the LIC owing allegiance to different political views including the INTUC Federation, the five federations have sat together in Bombay on the 14th of this month and took the decision that if this Bill is introduced in this House, the day on which it is introduced, the very next day all the LIC employees throughout the length and breadth of this country again will go on strike. Knowing this fully well you are provoking and instigating them. You cannot say that there is political motive on the part of the employees because that federation which was allegiance to your party, they are fully in this. It is a question of defending the basic rights of the workers and I may also inform you, you will be glad to hear that in a short

[Shri Indrajit Gupta]

while in a Press Conference which is taking place in another part of this town where I should be, but unfortunately I am held up here, all the Central Trade Union Organisations and all the Central Federations of employees of the public sector are jointly announcing that as a protest against this illegal and unconstitutional Ordinance and Bill which is being brought, they are going to organise one day All India general strike of all public sector employees on the 11th of March. This is the result; this is what is happening.

May I remind you, in 1978, when the Janata Government tried to bring an Industrial Relations Bill in this House, all the trade unions in the country including the trade unions represented by people who were politically allied to the Janata Party stood together in protest against that Bill which sought to seriously curtail the rights of trade unions? At least that Janata Party faced with the confrontation of trade unions had the good sense not to come forward with that Bill. But I do not know what is going to happen now.

AN HON. MEMBER: They have lost all sense.

SHRI INDRAJIT GUPTA: Nowhere have they stated in the Statement of Objects and Reasons or anywhere also that the purpose of this Bill is to bring about some kind of a rationalisation of wages or a wage policy. What they have stated is that the purpose, firstly, is to control the cost of administration in the interest of the LIC and, secondly, in the interest of the policy holder. This is what is stated. This is what the House is being told; this is what the country is being told.

In addition to what my hon. friend, Shri George Fernandes has said, I would remind you that their own figures show that the ratio of the employees' salaries to the total expenses of the Life Insurance Corporation which was 14.65 per cent in 1978-79 has come down to 13.64 per cent in 1979-80.

The share of employees' salaries is going down in the total expenses of the LIC. The renewal expenses ratio has also come down from 15.4 per cent in 1978-79 to 13.01 per cent in 1979-80. What is this great need to reduce the cost of administration by passing executive orders or rules, cutting down the emoluments of the employees? For what reason? Is the money which is being spent on the employees becoming a bigger and bigger share of the LIC expenses? The figures do not bear that out.

The investments of the LIC are mainly in the public sector. They have invested Rs. 3,915.49 crores in the public sector. 74 per cent of all investments of the LIC are in the public sector. What is the rate of interest that they get on these investments? It is 7.44 per cent. As a large-scale investor who gets such a paltry return on the investments, why are you blaming the employees? You have invested the bulk of your money in the public sector. You are getting interest of only 7.44 per cent. But it seems to be a part of Government's policy that in order to now meet their own deficits, their financial difficulties and so on, the axe must first be applied on the necks of the employees; their pockets must be cut. Of course, this is a familiar practice we see in other countries also which swear by the philosophy of capitalism. They are trying to do the same thing in other countries too.

What I see is that this LIC Bill cannot supplant the Industrial Disputes Act. You cannot do it. It is illegal. Apart from the unconstitutionality of subverting the Supreme Court judgment in the most cynical and immoral way, you are trying to lull the Supreme Court into complacency by sending the Attorney-General there to give an assurance to the Supreme Court and, all the time, you are hatching a conspiracy behind their back, preparing this Bill which at one stroke of their pen nullifies the whole Supreme Court judgment.

What is the worth of this independence of judiciary that you talk so much about? As a logical consequence of this, I ask you, how will the people regard any offer of an arbitration for a dispute? What will be the fate of an arbitrator's award? What will be the fate of a tribunal's award? What will be the fate of any High Court or Supreme Court judgment in future which does not suit the purposes of the Government? They just get round it by an Ordinance. A few days ago, they did the same thing with the General Insurance Corporation employees, not by means of an Ordinance even but simply by an executive order. Just an executive order was passed that from such and such date reductions in their emoluments will be carried out. They have also gone to the court now. They are also preparing for a strike. I am charging this Government with bringing about a situation where industrial relations in the entire public sector are being systematically destroyed and undermined and if industrial relations are destroyed in the public sector, the public sector can never survive (*Interruptions*). [

Therefore, I totally oppose the introduction of this Bill. The objects and reasons given here in the Bill are totally misleading. It has been made out here that the policy holders interest can only be protected by taking this action. I have with me the figures to show that it is not so. Secondly, they have subverted the supreme Court judgment. They are trying to put the LIC Act in a superior position to the Industrial Disputes Act whereas the judges have annulled any such case of confrontation between these two because where it is a question of service conditions or emoluments of employees the Industrial Disputes Act will prevail and no other Act can prevail. This is clearly put here. There is no time to dilate on it, now. Therefore, I would join my voice with those of my other friends here to appeal to the Government while there is still time, they should not rush like a bull in a China shop. Please do not rush ahead with

this thing, because you will only stir up an hornet's nest and the organised working class is not going to tolerate this kind o' thing. You can use National Security Act, Police arrests and firings and lathis and anything you like. It won't work now. Please don't try to take away the basic right of collective bargaining. It is something which is not done in countries which profess to call themselves democratic. So, please think over it again. Do not rush ahead with it and if you insist on trying to introduce a Bill, we have no other alternative but to oppose it with all the vehemence at our command.

SHRI SUNIL MAITRA (Calcutta North East): Sir, till November, 1979, I was an LIC employee and after serving 35 years in the Life Insurance Corporation right from the post of Clerk, I entered this House.

MR. DEPUTY-SPEAKER: I know.

SHRI SUNIL MAITRA: I am told by my esteemed colleagues that the use of the word 'lie' is unparliamentary. Nor can I use the word 'liar'. Therefore, instead of using the word 'liar', let me submit to this House that the press hand-out given out by the Government while promulgating the Ordinance was a tissue of untruth and grossest distortion. Our esteemed colleagues Shri George Fernandes and Shri Gupta and others have already given the figures. I am saving the ammunitions for the debate. You have got a clear majority and you are going to introduce it. Only for the last one year, I am a professional politician. I have been an employee. You say in your press hand-out that a LIC Class III Clerk gets Rs. 3,400/- and odd.

MR. DEPUTY-SPEAKER: What salary are you getting?

SHRI SUNIL MAITRA: I was getting Rs. 1,900/- after serving 35 years.

MR. DEPUTY-SPEAKER: I think, more than this salary.

SHRI SUNIL MAITRA: In the Class III category of employees of Life Insurance Corporation, there are Superintendents, Assistants, Section Heads, Assistants and Record Clerks. In the Class III Category, Superintendent is the highest grade. You can check up with your Department. I am sure the bureaucrats who are presiding over the Department also know that in 1971, an agreement was signed between the management of the Life Insurance Corporation and the employees unions. There it was agreed to by the management of the Life Insurance Corporation that the Superintendents in the Life Insurance Corporation would be placed in Class I officers' cadre. There is a signed agreement. But, subsequently, when it went to the Tribunal to come out as an award, both the Government and the Life Insurance Corporation management sabotaged the whole thing. Today you are talking about Superintendents who, you allege, are getting salary of Rs. 3,400. Out of 44,000 Class III and Class IV employees, the Superintendents are 600 in number, and out of these 600, let me tell you, only four had reached the maximum of the grade and were getting Rs. 3,412; out of these four, two have already retired; one will be retiring this year and the other will be retiring next year. So, know the facts first and then come to the House and tell us. Unfortunately, the voice of the LIC employees is not covered by the newspapers; it is not getting publicity. Therefore, Government gets away with impunity after saying all these untruths and spreading canards and Calumnies against the employees of the LIC. Because you are so insistent on spreading canards and calumnies, the employees have also decided to fight. Today you are introducing this Bill, and tomorrow 45,000 employees of the Life Insurance Corporation will be going on strike. Next time when

you come again with this Bill, the LIC employees are going to fight it again. (*Interruptions*)

I am not going to cover the same ground which has already been covered by my other colleagues.

I have given notice on the ground of this House lacking legislative competence to go in for this legislation. In support of my contention, let me quote article 32(2) of the Constitution which says:

"The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*..."

and so on and so forth. On the 10th November, the Supreme Court did not only dismiss the appeal of the Government and the Life Insurance Corporation management but also issued a writ of *mandamus*. The writ petition of the Calcutta High Court was transferred to the Supreme Court. The Supreme Court not only dismissed that but also issued a writ of *mandamus* asking the Life Insurance Corporation management to pay the bonus...

SHRI R. VENKATARAMAN: To do what? Please read that portion.

SHRI SUNIL MAITRA: I will read. You bear with me. Article 32(4)...

SHRI R. VENKATARAMAN: Read the judgment carefully.

SHRI SUNIL MAITRA: You go through it very carefully. Under article 32(2), the Supreme Court has the power to issue a writ of *mandamus*, and the Supreme Court issued a writ of *mandamus* thereby conferring some right on the LIC employees.

Article 32(4) reads:

"The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution".

Through this Ordinance and through this Bill, they are now trying to take away the right conferred on the LIC employees by the writ of *mandamus* of the Supreme Court. Therefore, your Bill is violative of article 32(4) of the Constitution.

Now, in the judgment, Justice Krishna Iyer has held:

"The L.I.C. Act is not a law for employment or disputes arising therefrom, but a nationalisation measure which incidentally, like in any general take-over legislation provides for recruitment, transfers, promotions and the like. It is special vis-a-vis nationalisation of life insurance but general regarding contracts of employment or acquiring office buildings, Emergency measures are special for sure. Regular nationalisation statutes are general even if they incidentally refer to conditions of service".

That means Justice Krishna Iyer has held that the L.I.C. Act is a general Act and the Industrial Disputes Act is a special Act. The Industrial Disputes Act is only competent to determine the terms and conditions of service of the L.I.C. employees.

Mr. Justice Pathak also, in his judgment, says:

"In my opinion, it is difficult to resist the conclusion that the Industrial Disputes Act is a special law and must prevail over the Corporation Act, a general law, for the purpose of protecting the sanctity of transactions concluded under the former enactment".

You see the 1974 agreement with the L.I.C. Management and the Employees' Associations. This was entered into under the provisions of the Industrial Disputes Act. So, when the majority of the judgment of the Supreme Court says that these two Acts conflict with each other for the purpose of determining the terms and conditions of service of the employees you are now trying to amend the L.I.C. Act and

you are seeking to make in the L.I.C. Act as a special Act overriding the provisions of the Industrial Disputes Act which is a special Act and which can only determine the terms and conditions of service of the employees.

Therefore, I submit, Sir, that this is a violation of the Constitution. In the case of nationalised companies and nationalised sick textile industries, the Industrial Disputes Act is applicable. Therefore, through this piece of legislation, you are trying to take away the L.I.C. employees from the purview of the Industrial Disputes Act. This is a violation of Article 14 of the Constitution. You are discriminating against the L.I.C. employees. The employees belonging to the nationalised enterprises are covered by the Industrial Disputes Act. You are taking away the L.I.C. employees out of the frame of the Industrial Disputes Act. This is nothing but a discrimination and is a violation of the provisions of Art. 14 of the Constitution.

Lastly, you have amended Sec. 3 of the L.I.C. Act. In its place, you have put in Section 2(c) to Section 48 of the Act. Through this new section, you are trying to give Extraordinary powers of rule making to the executive. Therefore, my submission is that in the Subordinate Legislation, you cannot delegate so much of powers. Whereas the subordinate Legislation cannot override the benefits derived under the substantive Industrial Disputes Act, you cannot delegate such powers as to override the benefits and privileges of the employees from the Industrial Disputes Act. This is too much. This is excessive delegation of powers to the Executive.

Therefore, it is bad in law. I submit that this legislation is beyond the competence of this House. I think the introduction of this Bill is not correct and I would appeal to the Finance Minister to withdraw this Bill.

MR. DEPUTY-SPEAKER: Shri Ram Vilas Paswan. We are going to com-

[Mr. Deputy-Speaker]

plete 1-1/2 hours at the initial stage itself.

श्री राम विलास पासवान (हाजीपुर) : उपाध्यक्ष महोदय, सर्वप्रथम तो मुझे इस बात का दुःख है कि सारा का सारा जितना गड़बड़ बाला काम है वह सब हमारे वयोवृद्ध सम्मानित वित्त मंत्री के द्वारा करवाया जा रहा है जो कि उनके सम्मान के प्रति भी उचित नहीं है। अभी हमारे साथी ने कहा कि एक तरफ तो व्हाइट कालर के लिए और दूसरी तरफ ब्लैकमनी को सफेद करने का बिल आप ला रहे हैं। (ठांबधान) एक तरफ तो आप लोगों में इतने गढ़स नहीं हैं कि इसका विरोध कर सकें। इसलिए आपको कुछ कहने का क्या अधिकार है? इसलिए आप चुप ही रहें। इसी सदन में ब्लैकमनी को सफेद करने वाला आर्डिनेन्स रखा गया है। इसी सदन में रोज फाइब स्टार होटलों की बात भी चल रही है। इसी सदन में एशिया गेम्स की बात भी चल रही है और इसी सदन में ड्राउट की बात भी चल रही है, भूब से लोगों के मरने की बात भी चल रही है। इसलिए मैं कहना चाहता हूं कि अगर आपकी नीयत साफ है तो बैसा कि जार्ज साहब ने यहां पर कहा है आप हिम्मत करके नेशनल वेज के लिए एक कांप्रिंहेंसिव बिल लायें। हम तो हमेशा कहते हैं कि चाहे राष्ट्रपति का बेटा हो या चपरासी का बेटा हो या प्रधान मंत्री हों, एक और दूसरे के बेतन में एक और दो का फर्क नहीं होना चाहिए। हम तो कहते हैं आप इसको कीजिए लेकिन आप में इसको करने की हिम्मत नहीं है।

मैं यहां पर बुनियादी चीज कहना चाहता हूं और वह यह है कि यह संविधान का मिस्यूज है। संविधान के अनुच्छेद 123 के सब क्लाज (1) और (2) में जो बात कही गई है उसके अनुरूप अध्यक्ष द्वारा बार बार निर्देश देने के बाबजूद जिस ढंग से उसका

उल्लंघन किया गया है वह मैं समझता हूं अध्यक्ष के प्रति अपमान है और इस सदन के प्रति अपमान है। अध्यक्ष और सरकार में क्या सम्बन्ध है यह चेयर की ओर से बतलाया जाना चाहिए। हमारे गर्जियन के रूप में अध्यक्ष सर्वोपरि होता है। जब अध्यक्ष सदन की ओर से बार बार निर्देश देता है कि जब हाउस को समन कर दिया गया हो तब जबतक कोई अत्यावश्यक चीज न हो जाए तब तक अध्यादेश नहीं लाया जाना चाहिए इसलिए मैं समझता हूं यह संविधान के अनुच्छेद 123 का मिस्यूज है।

दूसरी बात यह है कि सुप्रीम कोर्ट के सामने एक बार नहीं कई बार, 10 नवम्बर, को और 13 जनवरी को भी टाइम बाउन्ड कर दिया गया कि 15 अप्रैल तक अदायगी कर दी जाए लेकिन 31 जनवरी को आर्डिनेन्स लागू कर दिया गया और वह 30 जून, 1979 से लागू किया गया। मैं इसके बेरिट्स या डिमेरिट्स में न जाकर इतना ही कहना चाहता हूं कि इस तरह की यह जो कार्यवाही है वह कांस्टीट्यूशन के प्रति अपमान है और इस सदन के प्रति अपमान है। कांस्टीट्यूशन के जो हेड हैं हमारे राष्ट्रपति भवोदय, उनके सम्बन्ध में मैं कोई अपमानजनक बात नहीं कहना चाहता लेकिन सरकार जिस ढंग से उनके द्वारा आर्डिनेन्स पास करवाती है उससे इस सर्वोच्च पद भी प्रश्नवाचक चिन्ह लगता है।

जो सदस्य व्हाइट कालर की बात कहते हैं मैं उनसे मांग करूंगा कि वे सरकार से मांग करें कि वह इस सदन में एक बिल लाएं कि हायस्टं पद से लेकर चपरासी तक उनके बेतन में कितना अन्तर रहना चाहिए और अभीर से लेकर गरीब तक उनकी सम्पत्ति में कितना अन्तर रहना चाहिए। बिल लाकर यहां पर इस बात का फैसला हो जाए लेकिन हम जानते हैं सरकार कभी ऐसा नहीं करेगी। पिछले 35 वर्ष में भी उसने कुछ नहीं किया है जब तक

यह सरकार रहेगी, तब तक वह इसको कभी नहीं करेगी। इसलिए मैं इसका विरोध करता हूँ और सरकार से मांग करता हूँ माननीय वित्त मंत्री जी से, जिनके प्रति हम लोगों का सम्मान है, कि वह इसको वापिस करें। उपाध्यक्ष महोदय, राष्ट्रपति जी को भी अधिकार है और संविधान की धारा 123 की सब-क्लाज 2 में लिखा है कि :

"...may be withdrawn at any time by the President".

आप अपने यहां से लौटा दीजिए और उनको कह दीजिए, अपने यहां से लौटा देंगे, मसाला समाप्त हो जाएगा और फिर एक नए तरीके से बिल लाइए। अमीरी और गरीबी को खत्म कीजिए इसको बगैर खत्म किए, कोई काम नहीं बनेगा। इसलिए मैं इस का कड़ा विरोध करता हूँ।

SHRI R. VENKATARAMAN: Mr. Deputy Speaker, Sir I think we have had full debate on the legality, validity, propriety, equity and everything concerned with the Bill. In fact, I had a half mind to request if rules would permit that we may go in for consideration clause by clause. I will take the question of legality first.

At the introduction stage, as you are aware, the question of legislative competence is taken into consideration. The Ordinance seeks to amend the Life Insurance Corporation Act of 1956. The Amendments to the existing Statutes are carried out by legislation as well as by ordinance. Therefore, strictly from the procedural point of view, there is no lack of legislative competence so far as the Ordinance is concerned.

The second point I would like to mention is that under the Constitution, the Ordinance has to be replaced within 6 weeks and the fact that something is pending in the Supreme Court or in other Courts does not necessarily

lead to extension of the time. The Ordinance has to be replaced by an Act. Therefore, many of the suggestions which have been made by the Members that the matter is pending in the Supreme Court and therefore this may be considered after the Supreme Court has disposed of, has, I submit, no relevance because the Constitution makes it imperative for the Government to enact by legislation the Ordinance which they have issued, within 6 weeks.

SHRI SUNIL MAITRA: In the Business Advisory Committee, it was decided that after the Supreme Court disposes of this case, this will come up for discussion.

SHRI R. VENKATARAMAN: I do not think there is such a decision and even if there is such a decision, it will be contrary to the Constitution and the Bill will lapse. This is my legal opinion on this subject.

MR. DEPUTY-SPEAKER: It was the view-point expressed by one of the Members of the Business Advisory Committee.

SHRI R. VENKATARAMAN: It won't be correct. A lot of fire was pouring forth from the Opposition that we had insulted the Supreme Court, modified the Supreme Court and set at naught the Supreme Court and all that.

AN. HON. MEMBER: Defied the Supreme Court...

SHRI R. VENKATARAMAN: Yes, defied the Supreme Court. But I invite the Hon. Member to tell me what exactly the Supreme Court decided and what is it that the Government had defied or set at naught. Mr. Chitta Basu would not oblige me.

SHRI CHITTA BASU: What I said was: "You pay the bonus of 1978-79 and 1979-80 with interest before April. Is it not correct?"

SHRI R. VENKATARAMAN: That is why I wanted you to commit to this. And it is not correct. I had invited Mr. Maitra to tell me what exactly the decision of the Supreme Court was. I am sorry, on a misunderstanding of the decision of the Supreme Court, you will have unnecessarily worked yourself up into a frenzy. The Supreme Court, in its order dated 10th November, 1980 has stated as follows:

"The writ will issue to the Life Insurance Corporation directing it to give effect to the terms of settlement of 1974 relating to bonus until superseded by a fresh settlement, industrial award or relevant legislation."

SHRI SUNIL MAITRA: This is not a relevant legislation. It is illegal.

SHRI R. VENKATARAMAN: The Supreme court said that this would remain valid until it was set aside by a direct negotiated settlement or an industrial tribunal award or a legislation in this behalf and this is exactly the legislation in this behalf.

SHRI R. K. MHALGI: Did the Supreme Court direct you to bring this legislation?

SHRI R. VENKATARAMAN: You are a lawyer; there is no difference between ordinance and legislation. Ordinance is also legislation..(Interruptions) You have been caught in your own words.

(Interruptions)**

MR. DEPUTY-SPEAKER: It will not go on record.

SHRI R. VENKATARAMAN: The second point which the hon. Members from the opposition have strenuously contended before the House is that the Attorney-General gave an undertaking before the Supreme Court that he will pay bonus before the 15th April, May I read the undertaking of the Attorney-General; Upon hearing the counsel, the court passed the following order:

"The learned Attorney-General who appeared on behalf of the Life Insurance Corporation of India has made a statement before us that the orders passed by the court in its judgement dated 10th November, 1980 shall be complied with before 15th April, 1981."

The order of the court is that the award will remain valid till it is replaced by settlement, industrial award or legislation. He never said at any time that he would pay bonus by 15th April. If you have been misled, I am not responsible. If you read too much into it, it is your mistake..
(Interruptions)

SHRI SUNIL MAITRA: At what stage did he say this? Was it at the stage of payment of bonus for two years?

SHRI R. VENKATARAMAN: On the 13th January 1981, i.e. the day on which you said that the Attorney General gave an undertaking that he would pay bonus—mark the word 'bonus', underscore the word 'bonus' he did not say that he would pay bonus. He said that he would comply with the directions of the Court before the 15th April 1981. The directions of the Court did not say "Pay Bonus". They only said: the agreement shall prevail until it is modified by an agreement, adjudication or legislation.

Now, in pursuance of this, we have brought this legislation. We have brought it by an ordinance. There has been no failure on the part of the Attorney General, there has been no failure on the part of the Government. At no time did Government undertake that they would pay bonus. If you misread the documents, or if you give your own interpretation of the document, then I am not responsible for your misunderstanding.

Now, I will go to the equity part of it. The Allahabad High Court gave a judgement upholding the agreement

between the parties. That was given on 11th August 1978. It is not this Government which went in appeal. It is your Government which went in appeal against it. It is the Janata Government which went in appeal against that decision. And now they charge me with not having implemented the agreement, and so on.

DR. SUBRAMANIAM SWAMY (Bombay North East): But we protested at that time also. (*Interruptions*)

SHRI R. VENKATARAMAN: Dr. Swamy is a man with ready wit. And he always invents things for the occasion.

DR. SUBRAMANIAM SWAMY: It is a very unkind cut.

SHRI R. VENKATARAMAN: If you did protest, we did not know at that time. That is all I would say.

I again go into the merits of the case. We have not done any harm to the LIC Class III and Class IV workers. We have only tried to bring it on a par with others. It is true that they are now having certain rights over and above what other people are getting (*Interruptions*). Government servants, public sector employees, bank employees, and even the employees of the Reserve Bank of India. (*Interruptions*). I am going to answer to the debate on another occasion, and I am going to give as effective an answer as I give now.

Now, the employees in the public sector get Rs. 1.30 as D.A. per point. Government servants get, for every 8-points annual increase, on an average in the consumer price index, 4 per cent in the case of Class IV and 3 per cent for others with a ceiling of Rs. 15/- for 4 point. Reserve Bank employees who are the highest paid, get DA with a rate of 1.58 per cent for every four points-rise in the consumer price index.

But the Class III and Class IV employees of the Life Insurance Corporation of India get a D.A. without

any ceiling whatsoever. Now is that equal pay for equal work I ask? If we are saying that we must have equal work, can a LIC employee in the Class III service ask for higher D.A. than what the other people are getting? Therefore, the Government acted on it and brought them on par not with the Government servants, not with the public sector employees but with the highest points, namely, the Reserve Bank and Bank employees with the maximum ceiling at Rs. 15.80 for every increase in four points.

Take bonus. Under the Bonus Act, the eligibility for bonus applies to those who draw a salary of Rs. 1800 and less but limited to the salary of Rs. 750, if it is 15 per cent of the salary as bonus. Even though they are getting Rs. 1200 their bonus will be calculated on the basis of Rs. 750; that is the ceiling for calculation. All the trade unions leaders know this. This has been accepted by all of us. But so far as the LIC is concerned, there is no such thing. Anybody getting Rs. 2000 or Rs. 3000 will also get 15 per cent. (*Interruptions*) How on earth can any person say that he should be treated differently from other class or Class III employees I ask? (*Interruptions*)

SHRI SUNIL MAITRA: What about medical allowances? What about the house rent? You give only Rs. 40 (*Interruptions*).

SHRI R. Venkataraman: Your contention that there should be equal pay for equal work must apply not only to the minimum but also to the maximum; it should apply to the maximum as well.

SHRI SUNIL MAITRA: What about the city compensatory allowances? What about the house rent? (*Interruptions*)

SHRI R. VENKATARAMAN: When you are not able to answer the points, you side track to another—what about your medical expenses; what about your travel expenses and all that? We are dealing with questions which

[Shri R. Venkataraman]

are the subject matter of the Ordinance, namely, D.A. and bonus. I have brought bonus on the same level with all other employees. I have brought D.A. rate on the level of the highest paid D.A. namely, the Banks. I wonder what harm have I done to the LIC employees? I cannot in all conscience ask community to allow only one sector of people to go on getting any amount of allowances without ceiling and without limit while other sectors are not able even to reach half or even one quarter of that position. I thought it is the imperative duty of Government to bring together all these matters relating to D.A. and bonus at least on par and, therefore, this Government have decided as a matter of equity to see that there is a ceiling put to D.A. and the bonus.

(Interruptions)

SHRI SUNIL MAITRA: You please inform the House what medical expenses you are giving. (Interruptions) There are seven or eight items. (Interruptions)

SHRI R. VENKATARAMAN: I am not negotiating with the hon. member on the wages and medical allowances and all that now. (Interruptions) I am justifying a legislation which I have brought forward before the House and which is fully justified. The only one point which has remained to be answered is what is the need for this kind of Ordinances when the House is about to meet. There have been interminable litigations on this matter. There was an appeal; there was a review petition, then there was a contempt application; then all these things were jumbled and were going on. Once the Government have decided that a particular set of employees should not get more than other similarly placed employees, I think it is the duty of the Government to come forward and make it

clear that this is all they will get so that all litigations may be set aside. If this legislation is upheld there would be parity amongst the people of the L.I.C. employees—Classes III and IV—with other employees similarly placed. Now, therefore, there will be no further litigation on this. If it is not upheld, it is for the courts to decide, and we have not said anything. Therefore, I submit, at this stage,.....(Interruptions)

PROF. MADHU DANAVATE: If you permit,.....

SHRI R. VENKATARAMAN: I will permit.

PROF. MADHU DANAVATE: I will just make one point. What was the hurry in promulgating the Ordinance when already Parliament was meeting? What was the hurry about promulgating the Ordinance? That point you have not replied at all.

SHRI R. VENKATARAMAN: That is exactly what I was telling. There are many litigations and cases going on. There was a contempt application saying that the Government had not complied with the order. There was a review application by the Government, because there were two Judges for and one against and it was very difficult to find out in what things they agreed and in what they differed. That was also before the Court. If all these things are allowed to continue there will be continuous litigation and therefore we wanted to have legislation. And we can ask the Court, that as we were bringing a legislation after the Parliament meets, till then they should not take up the cases. Therefore it had to be done urgently. Sir, I think there is no substance in the objection.

MR. DEPUTY-SPEAKER: The Minister has clarified the position. I have also looked into the matter.

It has been held that a Bill seeking to replace an

ordinance can be discussed in the House notwithstanding it is fact that the Ordinance has been challenged in a court of law. The fact that the present Ordinance has been challenged in the court of law would not bar the introduction of the Bill seeking to replace the Ordinance.

16.00 hrs.

As regard the question of legislative competence of this House, it is the accepted practice in Lok Sabha that the Speaker does not give any ruling on the point whether a Bill is constitutionally within the legislative competence of the House or not. It is open to Members to express their views in the matter and to address arguments for and against the vires. Members take this aspect into consideration in voting on the motion for leave to introduce the Bill or on subsequent motions on the Bill.

I shall now put the motion to the vote of the House.

SOME HON. MEMBERS: We want a Division.

MR. DEPUTY-SPEAKER: Let the Lobbies be cleared—

The lobbies have been cleared.

The question is:

"That leave be granted to introduce a Bill further to amend the Life Insurance Corporation Act, 1956."

The Lok Sabha divided.

Division No. 1]

[16.01 hrs.

AYES

Arakal, Shri Xavier
 Baitha, Shri D. L.
 Baleshwar Ram, Shri
 Banatwalla, Shri G. M.
 Bansi Lal, Shri

Barot, Shri Maganbhai
 Bhagat, Shri H. K. L.
 Bhagwan Dev, Acharya
 Bhakta, Shri Manoranjan
 Bhatia, Shri R. L.
 Bhole, Shri R. R.
 Bhuria, Shri Dileep Singh
 Brar, Shrimati Gurbinder Kaur
 Brijendra Pal Singh, Shri
 Chandra Shekhar Singh, Shri
 Chaturvedi, Shrimati Vidyawati
 Chavan, Shri S. B.
 Chennupati, Shrimati Vidya
 Choudhari, Shrimati Usha Prakash
 Daga, Shri Mool Chand
 Dalbir Singh, Shri
 Dalbir Singh, Shri
 Dennis, Shri N.
 Desai, Shri B. V.
 Dev, Shri Sontosh Mohan
 Dhandapani, Shri C. T.
 Digvijay Singh, Shri
 Dogra, Shri G. L.
 Dubey, Shri Ramnath
 Gadgil, Shri V. N.
 Gandhi, Shrimati Indira
 Gireraj Singh, Shri
 Gowda, Shri D. M. Putte
 Jain, Shri Virdhi Chander
 Jamilur Rahman, Shri
 Jena, Shri Chintamani
 Kamla Kumari, Kumari
 Khan, Shri Arif Mohammad
 Mahabir Prasad, Shri
 Mallick, Shri Lakshman
 Mallikarjun, Shri
 Mayathevar, Shri K.
 Mishra, Shri Ram Nagina
 Misra, Shri Harinatha
 Misra, Shri Nityananda
 Mohite, Shri Yeshawantrao
 Mukhopahyay, Shri Ananda Gopal
 Mu^{thu} Kumaran, Shri R.

Naidu, Shri P. Rajagopal
 Naik, Shri G. Devaraya
 Nair, Shri B. K.
 Namgyal, Shri P.
 Nihal Singh, Shri
 Palaniappan, Shri C.
 Panday, Shri Kedar
 Panigrahi, Shri Chintamani
 Panika, Shri Ram Pyare
 Parashar, Prof. Narain Chand
 Patel, Shri Amrit
 Patil, Shri Chandrabhan Athare
 Poojary, Shri Janardhana
 Potdukhe, Shri Shantaram
 Quadri, Shri S. T.
 Rane, Shrimati Sanyogita
 Ranga, Prof. N. G.
 Rao, Shri Jagannath
 Rathod, Shri Uttam
 Reddy, Shri K. Brahmananda
 Sahi, Shrimati Krishna
 Saminuddin, Shri
 Satish Prasad Singh, Shri
 Scindia, Shri Madhav Rao
 Sethi, Shri Arjun
 Sharma, Shri Chiranjit Lal
 Sharma, Shri Kali Charan
 Sharma, Shri Nawal Kishore
 Shastri, Shri Dharam Dass
 Shastri, Shri Hari Krishna
 Shiv Shankar, Shri P.
 Shivendra Bahadur Singh, Shri
 Sidnal, Shri S. B.
 Sivaprakasam, Shri D. S. A.
 Sparrow, Shri R. S.
 Tayyab Hussain, Shri
 Tewary, Prof K. K.
 Tytler, Shri Jagdish
 Venkataraman, Shri R.
 Venkatasubbaiah, Shri P.
 Virbhadra Singh, Shri
 Vyas, Shri Girdhari Lal
 Yadav, Shri Ram Singh

Zainul Basher, Shri

NOES

Acharia, Shri Basudeb
 Agarwal, Shri Satish
 Azmi, Dr. A. U.
 Basu, Shri Chitta
 Bhattacharyya, Shri Sushil
 Biswas, Shri Ajoy
 Chakraborty, Shri Satyasadhan
 Chaudhuri, Shri Tridib
 Choudhury, Shri saifuddin
 Dandavate, Prof. Madhu
 Dandavate, Shrimati Pramila
 Das, Shri R. P.
 Fernandes, Shri George
 Goyal, Shri Krishna Kumar
 Hannan Mollah, Shri
 Harikesh Bahadur, Shri
 Hasda, Shri Matilal
 Jagpal Singh, Shri
 Jethmalani, Shri Ram
 Jha, Shri Bhogendra
 Madhukar, Shri Kamla Mishra
 Maitra, Shri Sunil
 Mandal, Shri Dhanik Lal
~~Mandal~~, Shri Sanat Kumar
 Mehta, Prof. Ajit Kumar
 Mhalgi, Shri R. K.
 Pandit, Dr. Vasant Kumar
~~Pandit~~, Shri Bapusaheb
 Paswan, Shri Ram Vilas
 Patnaik, Shri Biju
 Rajan, Shri K. A.
 Rajda, Shri Ratansinh
 Roy, Dr. Saradish
 Roy Pradhan, Shri Amar
 Saha, Shri Ajit Kumar

Saha, Shri Gadadhar
 Sarangi, Shri R. P.
 Shamanna, Shri T. R.
 Shastri, Shri Ramavtar
 Shewalkar, Shri N. K.
 Suraj Bhan, Shri
 Swamy, Dr. Subramaniam
 Tirkey, Shri Pius
 Unnikrishnan, Shri K. P.
 Vajpayee, Shri Atal Bihari
 Verma, Shri Chandradeo Prasad
 Verma, Shri R. L. P.
 Yadav, Shri Vijay Kumar

16.04 hrs.

MATTERS UNDER RULE 377

(i) STEPS TO CONTAIN INCIDENTS OF DACOITY

SHRI MADHAVRAO SCINDIA
 (Guna): Under Rule 377 I would like to draw the attention of the Government to the rising incidence of dacoity in some regions of the country. Organised gangs of dacoits are operating in the ravines of Madhya Pradesh, U.P., Rajasthan and there is an atmosphere of great insecurity in the affected areas.

I would, therefore, with all emphasis at my command, request the Government to tackle this dacoity menace on war footing.

The motion was adopted.

SHRI GEORGE FERNANDES: As a protest, we walk out of the House.

[*Shri George Fernandes and some other hon. Members then left the House.*]

SHRI R. VENKATARAMAN: I introduce the Bill.

16.03 hrs.

STATEMENT RE.: LIFE INSURANCE CORPORATION (AMENDMENT) ORDINANCE, 1981.

THE MINISTER OF FINANCE (SHRI R. VENKATARAMAN): I beg to lay on the Table an explanatory statement (Hindi and English versions) giving reasons for immediate legislation by the Life Insurance Corporation (Amendment) Ordinance, 1981.

16.05 hrs.

[**SHRI HARINATH MISRA** in the Chair]

(ii) In the dacoity areas, there ought to be a permanent strength of about a hundred SAF Companies. This strength has gradually been reduced because of commitments elsewhere. Unless the strength is built up adequately, no successful encounters on a large scale are possible.

(iii) The resources in the shape of vehicles and wireless sets have been depleted. Replacement have not been made of irreparable equipment.

*The following Members also recorded their votes:

AYES: Sarvashri Bhagwant Jha Azad, Krishan Dutt Sultampuri, Bhiku Ram Jain, Harihar Soren and K. A. Swami.

NOES: Sarvashri A. Neelalohithadasan Nadar and A. K. Balan.