

14.13 hrs.

**Title:** Introduction of the Companies (Third Amendment) Bill, 2001.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): Sir, I beg to move for leave to introduce a Bill further to amend the Companies Act, 1956.

MR. SPEAKER: Motion moved:

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

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I have given a notice for objection for introducing this Bill. Though it is entitled to replace an ordinance, the ordinance itself is *ultra vires* of the Constitution. That is my view because the Companies Act was passed as early as in 1956. The basic concept of the law was giving powers to the shareholders and they must have a voice in the policy decisions of the company. That power is being taken away all of a sudden and that too by an ordinance. The ten per cent buy-back power is vested with the Board of Directors. Now, the Board of Directors are given unbridled powers, thereby the shareholders are put at the mercy of Board of Directors. They are given the power to buy-back without a decision of the General Body of Shareholders meetings, without summoning a shareholders meeting. They have taken a decision now that such a power is not at all with the common shareholders. The Board of Directors, who are big businessmen, are given unbridled powers to take decision at the mercy and at the risk of the common shareholders.

This is a matter of privilege that they speak of democracy but they are killing democracy in the Company Law that after it has been decided in the House

itself, as a policy matter, the Executive has no power to issue an ordinance at this juncture. So, I oppose because it is against the concept of fundamentals of the Company Law, concept of democracy inside the company. That is taken away in the name of urgency and that too by an ordinance. It is against the principles of natural justice and against the principles of our Constitution. That is my view. That too they are doing it in the name of liberalisation.

SHRI ARUN JAITLEY: Sir, the amendment proposed is really intended for the benefit of the investors and the shareholders of a company. Within the Companies Act itself there are provisions and there are some powers, which are exercised by the Board and some powers exercised by the shareholders through AGM. The mere fact that one of powers is to be exercised by the Board, in no way alters the scheme of the Companies Act and this itself cannot be an objection at the stage of the introduction of the Bill.

MR. SPEAKER: The question is:

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

*The motion was adopted.*

SHRI ARUN JAITLEY: Sir, I introduce the Bill.

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND NATURAL GAS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SANTOSH KUMAR GANGWAR): Sir, I beg to lay on the Table of the House an explanatory statement (Hindi and English versions) showing reasons for immediate legislation by the Companies (Amendment) Ordinance, 2001.

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