

**THE INDIAN COMPANIES (FOREIGN INTERESTS) AND THE
COMPANIES (TEMPORARY RESTRICTIONS ON DIVIDENDS) REPEAL
BILL, 2000.**

THE DEPUTY CHAIRMAN: There is one repealing Bill that Mr. Arun Jaitley has brought. I don't think that this is a controversial Bill.

There is nobody who will speak from the Congress Party. There is only Mr. Manohar Kant Dhyani from the BJP. Then we have Dr. Biplob Dasgupta.

Dr. Biplob Dasgupta, you missed two buses already. We passed two Bills in your absence. So, I request you to go out so that we can pass the third Bill also. We can do it in your presence too. I have no objection. We have only three Members who want to speak on this. I am happy.

THE MINISTER OF STATE OF THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): Madam, with your permission, I move:

"That the Bill to repeal the Indian Companies (Foreign Interests) Act, 1918 and the Companies (Temporary Restrictions on Dividends) Act, 1974, as passed by Lok Sabha, be taken into consideration".

Madam, I want just to submit that it is on the recommendations of the Commission for review of *administrative* laws that these two legislations are sought to be repealed,

The first one, that is, the Indian Companies (Foreign Interests) Act, 1918, provided for protection of the British interests in certain shareholdings in companies. By virtue of corporate democracy, the shareholders could not amend the articles of those companies having a certain set of British shareholders and shares.

THE DEPUTY CHAIRMAN: So, it is redundant.

SHRI ARUN JAITLEY: Today, there is no company notified in this category.

The second is the Companies (Temporary Restrictions on Dividends) Act, 1974, under which a certain set of companies could be notified, and they would not declare any dividend for a period of two years from 1974 onwards. So, that period also lapsed in 1976.

These are really obsolete legislations on the statute book, and they are required to be repealed.

The question was proposed.

THE DEPUTY CHAIRMAN: Dr. Biplab Dasgupta, in any case, they are redundant. Do you want to speak on something that is redundant? Would you support the British Act framed in 1918?

DR. BIPLAB DASGUPTA (West Bengal): Madam, may I make a few points?

THE DEPUTY CHAIRMAN: Sure.

DR. BIPLAB DASGUPTA: Number one; what the Minister has stated is only part of the truth because many companies, which have been brought under the restriction under this Act, are companies of a special type. Number two; the restriction relates to the amount of dividend they cannot declare. The restriction is about the amount of dividend having some relationship with the profit made with the undistributed profit in a particular year. If a dividend is declared, which is more than the profit in a particular year, that is bad. It may not be very good for the future of the company. This restriction is applicable to the undistributed profits, which are less than the amount of the dividend declared. So, the restriction is quite good. If a company pays a dividend, which is more than the undistributed profit, the company may become bankrupt at some stage. It might have become bankrupt if it gave too much of dividend by not having any relationship with the amount of profit. I don't say that there is anything wrong in the restriction. A restriction, which is imposed on the amount of dividend declared and the amount of dividend is to have some bearing on the amount of profit made by the company. What is wrong in it? I do not understand any ground for repealing this particular provision,

Secondly, if you look at the Act, it applies to a certain category of companies. It does not apply to all the companies. Companies have been specified in Section 3. That Section relates specifically to certain categories of companies which are important from a certain point of view. So, it is not an omnibus restriction on the dividends, but is a restriction on certain types of companies and on certain types of dividends. The Statement made by the hon. Minister does not make it clear why these provisions should now be repealed. I feel there has to be a relation between the dividend declared and the profit of the company. If the hon. Minister can clarify this to my satisfaction, I might certainly change my opinion. He must clarify this to me.

THE DEPUTY CHAIRMAN: Are you referring to 1918 or 1974?

DR. BIPLAB DASGUPTA: I am referring to the Companies Restrictions on Dividends (Amendment) Bill, 1975.

उपसभापति: सुन लीजिए पूरा क्या कर रहे हैं Is it 1974 or 1975 ? वे बता रहे हैं आप बैठिए...(व्यवधान) ...

SHRI ARUN JAITLEY: Madam, the issue which has been raised in relation to 1974 Act is that under the 1974 Act, the dividend could be paid out of the profit for that current year.

DR. BIPLAB DASGUPTA: Why do you say 1974? It is very clearly written as 1975. Why do you keep on saying 1974? Are you referring to two different Acts? Are you proposing to repeal an act which is not a fact?

SHRI ARUN JAITLEY: It is of 1974.

DR. BIPLAB DASGUPTA: It is of 1975.

SHRI ARUN JAITLEY: It is Act No.35 of 1974. This Act was enacted on 31st August 1974. It provided that the dividend could be paid out of the current profits and not out of the earned profit of the previous year, which might have been reserved. This was intended, to promote savings because of the economic considerations obtaining at *that* time. This Act defined on an appointed day, which was 6th July, 1974. Each of

the restrictive provisions was given an applicability for a period of two years from that appointed day. That applicability period ended on 6th July, 1976. For example, Section 3 gave applicability to certain companies. Section 4 says: The same as otherwise provided in Section 5(A), for a period of two years from the appointed day, no companies have declared dividend. Section 5 again says: Same as otherwise provided in Section 5 for a period of two years from the appointed day no dividend shall be declared. Section 5(A)(2) again says: Where after the commencement of Companies Temporary Restrictions (Amendment) Act, 1975 -- there was a subsequent amendment -- a company to which the Act applies declared dividend in a financial year, which in aggregate exceeds profit for the financial year, such company shall not for a period of two years from the appointed day...

DR. BIPLAB DASGUPTA: Madam, I am just on a technical point. He is referring to 1974. The 1974 Act cannot provide something about 1975.

SHRI ARUN JAITLEY: There is a 1975 amendment incorporated in it. Each of the provision, which was a restriction on payment of dividend, applied for a period of two years. That period of two years expired on 6th July, 1976. These restrictions are no longer applicable today. Only an obsolete statute remains on the Statute Book.

SHRI N.K.P. SALVE (Maharashtra): Can you pay dividend excepting out of the profit? They may be out of undistributed profit of the earlier year. Madam, he seems to ask a question whether he can pay dividend in a company today as a result of this repeal out of anything other than the profit? Is that a current profit or an undistributed profit of the earlier year?

SHRI ARUN JAITLEY : What Salveji has asked is, whether this restriction applies today. Under this Act, the restriction was applicable.

SHRI N.K.P. SALVE: I know that this Act is obsolete. But there is another question, a larger question, which he has raised — of the Companies Act. It will be better, if you tell us.

SHRI ARUN JAITLEY: That is an issue which relates to the Companies Act. That has no bearing on this Act. That would be regulated by the provisions of the Companies Act.

SHRI N.K.P. SALVE: I *will be* grateful if you just clarify that no dividends can be paid, except out of profits, whether from current year's or undistributed.

THE DEPUTY CHAIRMAN: It is only a matter of satisfaction.

SHRI ARUN JAITLEY: There are two different questions. The *payment of dividend* is not regulated by this Act. Under the Companies Act, dividend can be paid out of profits either current year's profits or undistributed profits which come up by way of reserves. That is an area which is regulated by the Companies Act. The restriction under this Act was applicable for a two year period from 1974. That restriction, in any case, *cannot be* applicable today. Therefore, this requires to be repealed.

THE DEPUTY CHAIRMAN : What the Minister is trying to say is that this Act was specifically amended in 1975, which you thought was of Act. Now this particular clause has become redundant. The Act of has become redundant, inapplicable. Today, what *is being* applied is from the Companies Act which has superseded every other Act which has become redundant. Have I made myself clear?

DR. BIPLAB DASGUPTA : If this is true, you are flouting the convention of the House. The convention of the House is that when you move a Bill, and if it is a repeal Bill, you highlight the provisions, which you are repealing or adding or amending, at the end of the Bill. Now, if this Bill is having an overlapping jurisdiction *vis-a-vis* the Companies Act, a particular provision of the Companies Act, that should have been mentioned in that particular proposal which has been given. No information has been given as to what you are repealing or what you are replacing.

THE DEPUTY CHAIRMAN: It has two things. *...interruptions...* I am not a lawyer, but I have understood it.

DR. BIPLAB DASGUPTA : Why is such information not being carried by the proposed Bill? Please highlight the points as to what it is amending, what it is repealing and what it is replacing. No such information is there *in the Bill*.

THE DEPUTY CHAIRMAN; What I have understood is that there are two different issues. The issue which the Minister has brought before the House is limited; two years, from 1974. Since then this Bill is not applicable. That provision to protect the rights of the shareholders is through the Companies Act. As Mr. Salve *has* substantiated, through the Companies Act dividend can be paid from the accumulated money or from the earned money, current year's money. So, that is a different matter. When that comes, you can take it up. But here, it has a very limited scope; two years period from 1974, This Act has ceased to *function* from 1976.

SHRI ARUN JAITLEY: The current position is regulated entirely by section 205 of the Companies Act, it can be paid out of the profits *of* the current year or *the* profits accumulated from the previous year.

DR. BIPLAB DASGUPTA: The position is absolutely right. But what I am saying is this. The procedure is the Bill should indicate what it is amending, what it is repealing and what *it* is replacing. The Bill doesn't contain this information. At least, in future, you follow it. *...(Interruptions)...* What is this? Let me speak. The Bill should contain the information. But the Bill does not contain such information. What you are now referring to is the Companies Act. What prevented you from putting it in the Bill? Did the Bill become redundant because of this?

SHRI ARUN JAITLEY: May I clarify? The point made by Dr. Biplab Dasgupta is well taken. Normally, in a repeal Bill or a short Bill, the reasons are indicated in the Statement of Objects and Reasons, which has also been circulated. The details are given as to why the repeal is taking place. The Bill itself *does not give* the detailed provisions of the earlier Act. It merely mentions that the earlier Act is being repealed. The Statement of Objects and Reasons will say as *to* why it is being repealed.

4.00 P.M.

DR. BIPLAB DASGUPTA: But the Bill does not say that it has already been covered by the Companies Act. by such and such provision. There is no mention.

SHRI T.N. CHATURVEDI (Uttar Pradesh): That is not the reason.

SHRI ARUN JAITLEY: Madam, I may clarify the two reasons I have mentioned. With regard to the earlier Bill, it is *no* longer applicable because no company is notified, for this particular Bill, the reasons mentioned are that this has no relevance, that there is no company which, under this provision, can be notified: and, in any case, the provisions have lapsed on 6.7.1976,

THE DEPUTY CHAIRMAN: This is what he wanted to say because there is already a Bill which is redundant because it lapsed in 1976. What is the point in keeping anything which is redundant? My fear is, if he has mentioned the Companies Act, we would have had a full-fledged discussion on the provisions of the Companies Act. (*Interruptions*). Now, anyway, Biplab Babu has done it. wrpff, ^\amr ^ fu qteRi t? No. Thank you very much.

Shri Sankaralingam. Do you want to say something, after so much of discussion? Even I have understood. I am not even a lawyer. I am neither a shareholder, nor a lawyer, nor even a company owner.

PROF. M. SANKARALINGAM (Tamil Nadu): Madam, I am supporting the Bill.

THE DEPUTY CHAIRMAN: Yes.

PROF. M. SANKARALINGAM: Madam, the economic scenario of this country has been changing very fast. To suit the present trend in the economic development of our country, laws and procedures have to be changed and obsolete laws have to be repealed, abrogated or merged with the new laws. That is the intention of this particular enactment.

Till 1991-92, the Indian economy was a commanded economy. That is, the commanding heights were occupied by the public sector. But, at the present stage, it is a market-oriented economy. When you go into

the market-oriented economy, we *have* to think of new procedures and new enactments. Madam, as you are aware, the Law Commission, in its 159th report, had advised that many of the obsolete laws should be changed.. Keeping in view its recommendations, the Jain Commission was set up in 1998 itself under the chairmanship of one Shri Jain, a retired IAS Officer. The Jain Commission, in its report, has indicated that some of the laws have to be changed so that the economy that is taking a different trend altogether may cope with the requirements of the people.

As all of us know, laws must facilitate the social and economic progress of our people within the set-up. Many of the enactments which have been passed earlier need to be changed. While changing these laws, the policy process has *to* be kept in mind. The present difficulty of the policy process is four-fold. There has been a declining autonomy as a result of which there is an increasing interference of the multi-lateral agencies. Secondly, there is *an* increased centralisation. Third is the crisis of self-denunciation. And the fourth crisis is the privileged Acts. The laws which are being repealed now relate to the last category of privileged Acts.

The two enactments are very old. One is of 1918 and the other is of 1934, that too redundant after 1976. There has been an on-going process of economic liberalisation relating to the foreign investment, foreign trade, and there has been a substantial increase in the last two years in the foreign trade. I mentioned above that policy crisis as the fourth crisis. Rationalisation of tariffs, current account convertibility, liberalisation of Indian investment abroad, increased access to external commercial borrowings and participation of foreign institutional investors, all these things have to be changed in the economic scenario. Those obsolete laws which are inapplicable to the changing conditions have to be replaced so that we can go ahead with the smooth functioning of the reforms.

With these words, I support the Bill on behalf of my party, the DMK.

THE DEPUTY CHAIRMAN; Thank you, Good suggestions. We will have to make a lot of changes in our Companies Act because of the new situations arising. I am at least happy about the 1918 Act being

repealed, and I remember, the Information and Broadcasting Minister brought a Bill to repeal the 1935 Act by which we were covering our television. It was an Act passed in 1935. I do not have any exact idea. I think it was about telephone or radio and it is totally redundant in today's context.

Now, the question is:

That the Bill to repeal the Indian Companies (Foreign Interests) Act, 1918 and the Companies (Temporary Restrictions on Dividends) Act, 1974, as passed by Lok Sabha, be taken into consideration".

The motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up clause- by-clause consideration of the Bill.

Clause 2 was added to the Bill.

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

SHRI ARUN JAITLEY: Madam, I move:

That the Bill be passed.

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: Now, one more repeal is there. Savita Shardaji, do you want to come in new dresses?

SHRI ARUN JAITLEY: Madam, I had given notice that I wanted to make a statement on the decision which the Government had taken. If you permit me to do that either today or tomorrow, I will do that.

THE DEPUTY CHAIRMAN: I think, you have given notice about the uplinking policy. That is a new policy.

SHRI ARUN JAITLEY: Notice has already been given. I wanted to make a statement,

THE DEPUTY CHAIRMAN: Let Mr. Kashiram Rana repeal his Bill if the House so agrees, श्रीमती सविता शारदा सपोर्ट कर रही है

श्रीमती सविता शारदा (गुजरात): कर रही हूँ।

उपसभापति: तो कह दीजिए you agree to repeal this Bill. कोई दूसरा है ही नहीं बोलने वाला। एक सीपीआई एम के मिस्टर सी.ओ. पॉलोस हैं।

श्रीमती सविता शारदा: इस तरफ से मैं अकेली हूँ। मैं इस विधेयक का समर्थन करती हूँ।

उपसभापति: चलिए Very good, everybody does it.....

सी.ओ.पॉलोस, अभी नहीं बाद में। मिनिस्टर को बुलाऊंगी। पहले मामला सेटिल कर दूँ ...(व्यवधान) ... पॉलोसजी आप भी करेंगे सपोर्ट? बोलेंगे। ...(व्यवधान)

...

Now. Shri Kashiram Rana to move the Bill.

THE COTTON CLOTH (REPEAL) BILL, 2000

THE MINISTER OF TEXTILES {SHRI KASHIRAM RANA}: Madam, I beg to move:

"That the Bill to repeal the Cotton Cloth Act, 1918, as passed by Lok Sabha, be taken into consideration .

Madam, the Cotton Cloth Act was enacted in 1918, with a view to encouraging and maintaining the supply of standard cotton cloth manufactured in the country, at reasonable rates, to the weaker sections of society. This Act, has jurisdiction to the whole of India. Under the Act, the State Governments are empowered to appoint a Controller for implementation of its provisions and also an Advisory Committee to assist the Controller. The State Governments are also empowered to fix the price of the standard cloth, prescribing the authority for grant of licences for sale of standard cloth and rule-making power for giving effect to the provisions of the Act. The Controller so appointed, is empowered to make general or special orders for manufacture, transport, distribution and sale or purchase of cotton cloth. The Controller is also empowered to fix the