The Indian **EXPRESS**
NEW DELHI ■ MONDAY ■ JANUARY 8, 2001

GUESTCOLUMN

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Shareholders taken for a ride

A major objective of the much touted Companies Act (Amendment) Bill recently passed by Parliament was to protect the interest of small shareholders. The Government has sought to achieve this by inserting a clause which provides for inclusion of their Nominee (a small shareholder is defined as the one who holds shares worth Rs 20,000) in the Board of Directors. A close scrutiny would reveal that the decision to include a representative of small shareholders has been left to the discretion of the management.

The captains of Indian industry who were opposed to the concept from the word go, in all probability, will opt against giving representation to them (in fact, by doing so, they will not be violating the provision of the Act). Thus, the very objective will be defeated. Having done much propaganda at the stage of drafting of the Bill and championed the cause of small shareholders in the overall interest of furthering corporate democracy, the Government has done a volte face. It has virtually acquiesced to what the Indian honchos wanted and owes an explanation to the people. Ironically, even the parliamentarians have put stamp on a loosely worded clause.

It is not proper for the industry captains to ignore small shareholders representation on the board of directors

It is naive to believe that they do not understand the distinction between 'may' and 'shall'. The implication here is far more serious. What it really means is that despite full knowledge of the fact that the provision could be misused, they have willfully made way for this by not insisting on 'shall'. The industry's stand on the issue has been articulated by the Kumarmangalam Birla Committee.

It argued that a representative of small shareholders could misuse his position by blocking important policy decisions and would therefore, not be in the best interest of corporate democracy. Before imputing motives to what a nominee of the small will do, there is need for some introspection as to what the promoters are already doing? What has been their score card in regard to management of funds — including sizable funds contributed by the small shareholders — and overall running of the enterprise?

There have been umpteen cases of the management acting in a manner detrimental to the interest of shareholders thereby leading to substantial financial loss. This was indeed,the trigger point for initiating necessary steps including amendments to Companies Act. It is therefore, not proper on the part of the industry captains to turn the tables on small shareholders and deny them their due on imaginary grounds. Perhaps, what they have at the back of their mind, is the fact that the nominee of small whose own investment is Rs 20,000 or a negligible 0.0000002 per cent of total share capital of say Rs 100 crore, cannot be treated on par with the promoter who puts in substantial funds of his own say, 20 per cent of the total share capital.

We need to talk of principles. The basic issue here is that the nominee of the small shareholders is representing a sizable chunk of equity capital which, in some cases, could even be higher than that of promoter. Non-inclusion of a nominee of small shareholders in the Board will militate against basic principles of corporate democracy. The Government should take a re-look at the clause on giving representation to small shareholders and make it mandatory. The
hould appreciate things in the right perspective and get
ve mode. Due to diligence may however, be exer-
ng/choosing representative of the small. This will
te commitment of Indian industry to corporate democracy in true sense of the term.

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