

for this Bill. Time is running out. In 2½ hours we have to finish the Bill. SHRI BHUPESH GUPTA: Under which rule?

THE DEPUTY CHAIRMAN: The Business Advisory Committee has allotted 2½ hours to this Bill and time is running out. So, please finish your speech now.

SHRI BHUPESH GUPTA: Under which rule it has been laid down?

SHRI M. GOVINDA REDDY: The Business Advisory Committee's recommendation was approved by the House. You have approved it.

THE DEPUTY CHAIRMAN: Please continue and be brief.

SHRI BHUPESH GUPTA: Here again I say I find discrimination, not by you, but we are making it ourselves, the Business Advisory Committee. Now, you have put in the List of Business that at 4 o'clock the Minister will make a statement. You have waived it.

THE DEPUTY CHAIRMAN: Please now finish your speech.

SHRI BHUPESH GUPTA: I am speaking about the Business Advisory Committee. What shall I say? "Yes, I know that many members do not like me to speak. I say it is an utter shame and dishonour, it is cowardice behind the back of the nation, that we are passing such a measure. We are letting down the people. We are insulting their intelligence in the name of ourselves being intelligent. I think it is an affront to the people that even before the debate on the food situation is over we are passing this Bill and we give to ourselves more money. And what else could be more dishonourable for us as public workers, I cannot understand. I am very sorry that we have lived here, after so many years, to pass this measure and that too at such a time. I hope that people will know how sometimes public men function when they are placed in high positions by their support and vote.

This Bill may be passed in this House and the other House, but it shall not pass the code of popular morality. People shall resist it. People shall resist it not in any violent form, but by expressing their moral indignation, moral revulsion to a measure of this kind. This is all what I say. Thank you.

THE DEPUTY CHAIRMAN: The question is: —

"That the Bill, as amended, be passed."

The motion was adopted.

STATEMENT RE THE RECOMMENDATIONS OF THE BONUS COMMISSION

THE MINISTER OF LABOUR AND EMPLOYMENT (SHRI D. SANJI-VAYYA): Madam Deputy Chairman, with your permission I would like to make the following statement:

The decisions of the Central Government on the Bonus Commission were announced in a Government Resolution dated the 2nd September, 1964. Copies of the Resolution were also placed on the Table of the Rajya Sabha on 8th September. As mentioned in the Resolution, Government had decided to accept the Commission's recommendations subject to the following:

(i) All direct taxes for the time being in force should be deducted as prior charges in the calculation of "available surplus" for purposes of bonus.

(ii) In addition, tax concessions given to industry to provide resources for future development should not be utilised for payment of larger bonuses to employees; on the other hand, it should be ensured by law if the existing tax law and regulations do not sufficiently safeguard this, that amounts involved in such tax concessions are in fact used only for the purposes for which the tax concessions are given. Further, subsidies paid by Government to certain con-

cerns like the Hindustan Shipyard should not be taken into account in working out the gross profits for the purpose of payment of bonus.

(iii) As regards return on capital that would be deductible as prior charge before calculating "available surplus" for purposes of bonus, the actual rate payable on preferential share capital, 8.5 per cent (taxable) on paid-up equity capital and 6 per cent (taxable) on reserves should be allowed in respect of establishments other than banks; in the case of banks, corresponding rates to be allowed¹ should be the actual rate payable on preferential share capital, 7.5 per cent (taxable) on paid-up equity capital, and 5 per cent (taxable) on reserves.

(iv) As regards the retrospective effect of the recommendations of the Bonus Commission as amended by the foregoing decisions, they should apply to all bonus matters, other than those cases in which settlements have been reached or decisions have been given already, relating to the accounting year ending on any day in the calendar year 1962, in respect of which dispute is pending.

Government considered it desirable that bonus beyond a certain level should be paid in the form of saving certificates or other suitable investments. It was accordingly proposed -to convene a meeting with the representatives of the parties concerned so as to reach agreement on the level beyond which bonus payment in cash would not be desirable and the various forms of savings in which bonus beyond that level might be invested.

In the light of above decisions Government propose to undertake legislation to embody the principles by which Tribunals or other judicial bodies should be guided if and when disputes relating to bonus come up before them. Government, however, expect that the parties would voluntarily give effect to the above decisions, in settling the question of bonus fill the proposed legislation is enacted.

Since the publication of the Resolution containing the decisions mentioned above, a large number of representations have been received from various labour organisations. It has been pointed out that, according to the decisions of the Government, in the case of certain industries or establishments, the bonus payable would be actually less than what the workers have been getting in the past. The decisions taken by Government on the Bonus Commission's Report will provide for the payment of bonus to a large number of workers who were not getting any bonus previously and also give enhanced bonus to many others who were getting less in the past. At the same time, it was not Government's intention that benefits which labour may have been enjoying in the matter of bonus in any establishment or industry should in any way be curtailed by the adoption of a new formula for the payment of bonus. In the circumstances, Government desire to clarify that in the legislation to be promoted to give effect to the recommendations of the Bonus Commission as accepted by Government suitable provisions would be included so as to safeguard that labour would get in respect of bonus the benefits on the existing basis or on the basis of the new formula, whichever be higher.

SHRI D. L. SEN GUPTA: (West Bengal): There was formerly a Full Bench formula for the determination of the quantum of bonus out of profit. I am not talking of the customary bonus. I am not talking of the condition of service bonus. I am talking about the bonus payable to the workmen according to the Full Bench formula. Now a new formula is emerging. We do not know what

I shape it will take exactly, but the Government's decision is now given to us. Is it the position, as stated by the hon. Minister, that if according to the Full Bench formula anybody is entitled to get more bonus¹ than what is envisaged in the present

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scheme, then the rate of bonus according to the Full Bench formula will be given?

SHRI D. SANJIVAYYA: Yes, that is made clear. If workers are in a position to get more under the L.A.T. formula than under this formula, certainly they will get the higher bonus under the earlier formula.

SHRI P. K. KUMARAN (Andhra Pradesh): I have not clearly understood what is the difference between the present modification and the earlier resolution. It was already there in the report of the Bonus Commission that if the existing formula, existing anywhere, brings higher emoluments to the workers, they will not be affected by the recommendations of the Bonus Commission formula. It was already there.

SHRI D. SANJIVAYYA: That is not correct. If there is any mutual agreement, that will stand.

SHRI P. K. KUMARAN: While modifying the Bonus Commission's report the Government has introduced a new procedure. Here a Commission consisting of seven members including an hon. Member of this House have given a majority report, except one dissenting note by Mr. Dandekar. Now the Government considers it and modifies the majority report on the lines of the dissenting note submitted by one dissenting member. That means practically the Government has insulted the Commission. If this is going to be the practice, what would happen to all the tripartite meetings which are taking place in the country where all the parties are represented? But then if every time this is going to be the practice, what is the necessity for a Commission? For two-years this Commission has been sitting, spending its labour, studying reports and going about the country, and then it produces the report. The whole report has gone to the wind, and the dissenting note of Mr. Dandekar has come into play. If this is going to be the practice I am very I

sorry to say that the workers have already decided, and you may take it for granted, that they will revert back to their original demand which they raised before the Bonus Commission.

SHRI D. SANJIVAYYA: He has put a number of questions. It is better I answer them. So far as the existing agreements between the workers' unions and managements are concerned, this Bonus Commission formula will not upset them. But after all these agreements are entered into year after year. If an agreement is not entered into mutually, naturally this Bonus Commission formula will come into operation. With regard to the recommendations of the Bonus Commission, it is not correct to say that we have not accepted them. All the unanimous recommendations of the Bonus Commission have been accepted. So far as the points on which there was difference between the six members and the other member, Mr. Dandekar, we have examined them in the interests of the general economy of the country, in the interests of the future growth of the country and above all in the interests of the workers also, because according to the new formula as many as 45.8 lakhs of workers will get bonus, who were never getting bonus at all, and even if the minimum of Rs. 40 is taken into consideration, they will get as much as Rs. 18 crores.

SHRI D. THENGARI (Uttar Pradesh) : May I know whether the acceptance of all direct taxes and tax concessions as prior charge was not demanded even by employers, that is, by Mr. Dandekar? That is one thing. Secondly, where there is no agreement will the L.A.T. formula prevail?

SHRI D. SANJIVAYYA: What is the last portion?

SHRI D. THENGARI: Where there is no agreement, will the L.A.T. formula prevail?

SHRI D. SANJIVAYYA: Yes, if there is no agreement, the bonus will be calculated both on the basis of the I.A.T. formula and the present formula; whichever is higher, the worker will get it.

Then with regard to the direct taxes, in the Minute of Dissent by Mr. Dandekar, he has certainly made a mention of that.

SHRI BHUPESH GUPTA: He said that we have given effect to all the unanimous recommendations of the Commission. That is what he tried to make out. But these are not just unanimous recommendations being given effect to in that form. It is misleading. That is what I want to point out, and I should like to have a clarification. They are going to give effect to these recommendations, even if they are unanimous, subject to modifications. Modifications will have their impact on the implementation of the unanimous recommendations even. For example, in the matter of deduction and so on that will now be made, all these have been altered to the advantage of the employer and to the disadvantage and detriment of the worker and the employee. Therefore, when it comes to getting the benefits, the workers will suffer and on the other side the employer, will gain. Therefore, I say that it is misleading to say that unanimous recommendations will be given effect to. The point here is—and will he deny it—that actually the Note of Dissent coming from the employers* representative has nullified the recommendations; not only damaged them but some of the work of the Bonus Commission, and it has betrayed the workers. That is very clear. Otherwise, the workers would have accepted the recommendations. I should like to know from the hon. Minister what central trade union representatives told him either by correspondence or by meeting him—the INTUC, the AITUC, the Hind Mazdoor Sabha and other organisations which are affiliated to the all-

India organisations. It appears that all of them are unanimous at least in regard to the opposition to the modification that they have made. Thirdly, the basis of tripartite system works. Here was a tripartite arrangement. The workers had their representatives, the employers had their representatives through their organisations, and also the Government was represented. The State sector undertakings also came, and all came to certain major conclusions. I understand from reports that the trade union representatives made accommodation, they became generous enough as far as possible.

THE DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, you are asking for clarification, you are not making a statement. You put to the Minister all that you want to ask.

SHRI BHUPESH GUPTA: What happens to the tripartite arrangement? It has been violated. Their agreement has been violated. The Bonus Commission was itself a kind of contract between the three parties to come to an agreement. And after discussion they arrived at some conclusions. There was one Dissenting Note. Now, the entire basis has been violated by the Government, without reference to the working class, in order to please the employer and the capitalist. Therefore, he should tell us. Time has been taken by the Government not to improve upon it but to tamper with it in a manner which is prejudicial to the working class, to subserve and appease all the employers and the capitalists.

SHRI D. SANJIVAYYA: Normally these tripartite bodies like the Wage Boards or this Bonus Commission would submit or would give unanimous reports. That was why when the Bonus Commission was appointed or constituted, my illustrious predecessor, Shri Gulzarilal Nanda. Made it very clear that he was not going to accept the recommendations of the Bonus Commission and implement them unless the recommendations

[Shri D. Sanjivayya] were unanimous. Unfortunately, in this case, their recommendations are not unanimous.

Now, taking up the other point with regard to the Minute of Dissent of Shri Dandekar, he made out four points. Firstly, he wanted that direct taxes should be deducted before we arrived at the available surplus. Government, on examination, felt that it was very reasonable because when the Government imposes a tax and asks the employers not to deduct that tax before anybody arrives at the available surplus, it will be very unfair. Therefore, we have accepted it. Then with regard to rehabilitation, Shri Dandekar wanted that the money to be spent on rehabilitation should also be deductible from the profits before they could arrive at the available surplus. We did not consider this as a fair proposition because according to the L.A.T. formula also, we found that it would not be practicable and that it would lead to a lot of litigation and dispute. Therefore, we did not accept it. Then with regard to jute plantation, coal mining and other mining industries, Shri Dandekar wanted that the minimum bonus should be 2 per cent, and the maximum 10 per cent. We did not agree with him and we have accepted the majority recommendation, namely, 4 per cent minimum and 20 per cent maximum for all industries without any discrimination whatsoever.

SHRI P. K. KUMARAN: You converted the surplus into 40 per cent. You have not considered the main things.

THE DEPUTY CHAIRMAN: Mr. Arora, do you want to say something?

SHRI ARJUN ARORA (Uttar Pradesh): Madam, I want to point out that by accepting the Minute of Dissent of one party or one half of the party, the Labour Ministry has created ...

SHRI P. K. KUMARAN: Not one-half: but one-seventh.

SHRI ARJUN ARORA: ... a very bad precedent. The Wage Boards are able to arrive at unanimous recommendations because each party realises that it has no power of vetoing. Now by giving the employers the right to veto and the right to create confusion by merely writing a Note of Dissent, the Ministry of Labour has created a very bad precedent which may jeopardize the achievements of the tripartite machinery. I want to know whether the Labour Minister realises the seriousness of the situation.

SHRI D. SANJIVAYYA: We have fully realised . . .

SHRI BHUPESH GUPTA: No.

SHRI D. SANJIVAYYA: ... the seriousness of the situation. We know that we have got to accept the unanimous recommendations of all the tripartite bodies. That is why, as I said, earlier, my predecessor, Shri Gulzarilal Nanda, made it very clear that only unanimous recommendations would be accepted. Therefore, there is no question of disregarding any recommendations of any tripartite body. There is no serious situation.

SHRI BHUPESH GUPTA: A bad thing you have done, Mr. Sanjivayya.

THE COMPANIES (AMENDMENT)
BILL, 1962 (to amend Section 293 and
insertion of new Sections 13A and 624C)

श्री ए० बी० वाजपेयी (उत्तर प्रदेश) :
महोदया, मैं प्रस्ताव करता हूँ कि :

“कम्पनी अधिनियम १९५६ को संशो-
धित करने पर विचार किया जाये ।”

मेरे विधेयक का उद्देश्य बिल्कुल स्पष्ट है ।
आज के कानून के अन्तर्गत कम्पनियों को
इस बात की छूट दी गई है कि वे राजनैतिक
दलों को चन्दा दे सकें, राजनैतिक कोषों में
धनराशि दे सकें । मैं चाहता हूँ, कम्पनियों
को इस प्रकार की छूट से वंचित कर दिया
जाय ।

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