

Is it the pleasure of the House that permission be granted to Kunwarani Vijaya Raje for remaining absent from all meetings of the House, during the current session?

(No hon. Member dissented.)

MR. CHAIRMAN: Permission to remain absent is granted.

THE INTER-STATE WATER DISPUTES BILL, 1955

THE DEPUTY MINISTER FOR IRRIGATION AND POWER (SHRI J. S. L. HATHI): Sir, I beg to move:

"That the Bill to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys, as reported by the Joint Committee of the Houses, be taken into consideration."

Sir, the House has already passed the previous Bill which dealt with the development and regulation of the river valleys in different parts of the country. This is another Bill which aims at setting up of a machinery for adjudicating the disputes about the utilisation of waters and such other questions. This Bill, Sir, was referred to the Joint Select Committee and although the time at their disposal was comparatively short, the Joint Committee has been able to complete its deliberations and submit its report on the due date. It would be in the fitness of things that I should express my sense of gratitude to the Members of the Joint Committee for the valuable advice and very sincere co-operation that they gave us throughout the deliberations of the sittings of the Committee.

Sir, as the House will see, the present Bill, as it has emerged after the deliberations of the Joint Committee, does not contain many changes. There are only a few changes—some three or four—which may be mentioned here.

The first change of significance occurs in clause 4. Clause 4 as it

originally stood provided that the Central Government may appoint a tribunal on the request of the parties to the dispute. But the Committee felt that once a request has been made for an adjudication of a dispute that is existing between the States concerned, it should not be left to the discretion of the Central Government, but that it should be obligatory on the Central Government to appoint the tribunal. At the same time, it was thought that when a disputing State approached the Central Government, the Central Government should have an opportunity of trying to settle that dispute by negotiations, if possible, and if that method of negotiation failed, then the Central Government shall appoint the tribunal. The change, therefore, that is sought, is only to this extent, that the Central Government shall appoint such a tribunal after first trying to settle the issue by negotiations. The clause as it now stands aims at making that change only and that is only fair, as I hope the House will agree, that there should be some scope for bringing the parties together and settling the dispute amicably rather than bringing them up directly before the tribunal. The amended clause therefore, reads thus:

"When any request under section 3 is received from any State Government in respect of any water dispute and the water dispute cannot be settled by negotiations, the Central Government shall, by notification in the Official Gazette, constitute a Water Disputes Tribunal for the adjudication of the water dispute"

The other change that has emerged out of this Joint Committee's deliberations is with regard to clause 6. But before I take up that change, I shall deal with sub-clause (2) of clause 4 which relates to the constitution of the tribunal.

Sub-clause (2) says:

"The Tribunal shall consist of one person only nominated in this behalf

by the Chief Justice of India from among persons who are, or have been, Judges of the Supreme Court or are Judges of a High Court."

So far as this clause is concerned, there was not a unanimity of agreement. There was one minute of dissent. One Member disagreed with this particular provision and what he wanted to say was that instead of having one member on the tribunal, there should be two members on it. The Minute of Dissent recorded by that Member is attached to the report. The point to be considered is whether the tribunal should consist of one member or two members.

SHRI H. P. SAKSENA (Uttar Pradesh): Two or more.

SHRI J. S. L. HATHI: Yes, whether it should consist of one member, or whether it should consist of two or more members. But I shall first deal with the question of having two members, and then go on to deal with having more members than two. As we see in the present provision, the tribunal is to be appointed by the Chief Justice of India, from among the persons who are or have been judges of the Supreme Court, or are High Court judges. The appointment is restricted to a particular category of persons. This category is firstly divided into two sections, namely, Supreme Court judges and High Court judges. Then again, the Supreme Court judges, are divided into two parts—the existing judges and those who have retired. So far as the High Court judges are concerned, the choice is restricted to serving High Court judges. Originally, the idea was to have only the services of Supreme Court judges. The choice was restricted to that category only, and did not extend to the High Court judges.

12 Noon

It was felt that it would not be possible to get the required number of Supreme Court judges for these tribunals and that we can have the

benefit of the High Court judges, perhaps, even where the number may not be great. Therefore, provision for the serving High Court judges has also been incorporated. The idea, however, is not to go beyond that. This is not purely a question of the opinion of this Ministry but the opinion of the Chief Justice of India with regard to the availability of the judges. That is why we have restricted the principle. If we are to have two members, then the question arises as to what happens when there is difference between these two members? Therefore, without thinking of two or three, we have restricted it to one. Having regard to the possibility of not being able to get sufficient number of Supreme Court judges, the Joint Committee has come to the conclusion that we should have one member. Of course, he will be assisted by the assessors.

The next one is clause 6. This provides for the decisions of the tribunal to be published in the Official Gazette. The clause as it originally stood provided for the decision to be published "in such manner as it thinks fit." Instead of that, we have got a provision which is definite and this makes the position very clear as to the Central Government publishing the decision in the Official Gazette. The decision shall be binding on the parties to the dispute.

I then come to clause 13 which empowers the Central Government to make rules to carry out the purposes of this Act. The Committee felt that the Central Government should frame rules after consultation with the State Governments. As the House knows, the House had accepted, in regard to the previous Bill also, this principle that the rules should be framed in consultation with the State Governments.

There are, of course, other amendments to the Bill made by the Joint Committee which are of a very minor character or of a drafting nature. At the time of the introduction, the

[SHRI J. S. L. HATHI]
object and the theme of the Bill was explained at great length to the House and I do not think I need take the time of the House now in dealing with it again. I have restricted myself to the important changes made in the Bill and to clause 4 which provides for the appointment of tribunals, as some amendments have been given notice of with regard to this clause. The Joint Committee considered all these aspects and it was only after a good deal of discussion that this decision of having a one-man tribunal was arrived at. There are not very complicated questions involved in this Bill and I hope that the House will, while giving consideration to the whole Bill, give its support to this measure.

MR CHAIRMAN: Motion moved.

"That the Bill to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys, as reported by the Joint Committee of the Houses, be taken into consideration."

SHRI J. S. BISHT (Uttar Pradesh)
Mr Chairman, I welcome this Bill. On Friday last, we passed the River Boards Bill and this Bill merely supplements that. I could not quite follow the line of reasoning which prompted the Government to split up one subject into two separate Bills, instead of having two chapters and calling it the River Boards and Water Disputes Bill. However, as a Bill with regard to the River Boards has been passed, this has necessarily to come in as a corollary to decide disputes relating to inter-State waters.

With regard to clause 4, Sir, I submit that the changes that have been made require some further clarification and I would request the Government to put in the necessary changes here. The clause only mentions about the disputes not being settled by negotiation but there is no mention of the time within which it should be done. Our experience, for instance, with regard to the water dispute that

has been going on between India and Pakistan is that it takes a long time, it drags on for a long time.

SHRI J. S. L. HATHI: That is an inter-State matter. This Bill relates to internal disputes.

SHRI J. S. BISHT: I quite agree that it is an inter-State matter. I am merely giving it as an illustration. What is there to prevent a dispute between Andhra and the Madras States or between Bombay and Hyderabad dragging on for years together? There should be some time limit fixed and power should be given to the Central Government to fix such a time limit. The Central Government is not a party to the dispute. The dispute arises only when a State Government comes up with a complaint before the Central Government. In that case, the Central Government should fix a time limit, say, six months or one year, for the parties to come to a settlement through negotiation. I know that the Central Government acts only as an intermediary but then there should be a time limit. Otherwise, the interests of the people of those States will suffer, if these negotiations drag on for an indefinite period, may be years and years together.

There is another point with regard to sub-clause (2). The hon. Deputy Minister has said that it is the opinion of the Chief Justice that the judges are not available in sufficient numbers. The disputes are very big and complicated and are of a big magnitude. Those who have experience of law courts, specially of riparian rights, know how difficult and complicated these things are. There are a series of appellate courts where these disputes are fought out. Here, you are giving this power to one single individual. In a dispute which may relate to the distribution of waters of such big rivers like Jumna, for instance, between Punjab and U.P. you are vesting one person with unlimited power over the distribution of

these waters which may affect millions of people on either side. Therefore, I submit that there must be a tribunal consisting of at least three persons. My hon friend Shri Jaspat Roy Kapoor, has given notice of an amendment number 3, which says that the tribunal shall consist of three persons nominated in this behalf by the Chief Justice of India, the Chairman whereof shall be from among persons who are or have been judges of the Supreme Court or a High Court. That seems to be a very reasonable proposition because that solves the difficulty which the Government is facing, namely, dearth of Judges of the Supreme Court or of the High Court to man such tribunals. Out of the three Members only the Chairman need be a Judge of the Supreme Court or of the High Court. Another member can necessarily be a Chief Engineer, past or present and the third man will depend upon the nature of the dispute, if it is in relation to water rate, it may be advisable to bring in somebody like a Chartered Accountant, if it relates to interpretation of agreements, it may be necessary to have another judge, if it relates to something which deals with revenue matters of a complicated nature, it may be necessary to have somebody who has been a Member of the Board of Revenue of some State Government.

Therefore, there will be no difficulty in having a tribunal consisting of three persons and there should be a tribunal of at least three persons because the powers vesting in such a tribunal as proposed in the Bill are very vast. Especially when you refer to clause 6 it says, "***** and the decision shall be final", that is to say, you have left no power of appeal even to the Supreme Court. If you want to keep only one judge, then you must leave the door open for an appeal to the Supreme Court. That will be another solution of the problem, because, in that case, the matter could be argued and settled by the highest tribunal in the land, and that would be satisfactory to both the

parties, that is to say, to both the States. So I think it would be advisable for the Government to adopt one of these two alternatives, either to have a tribunal of three persons, if the decision of the tribunal is to be final, or, in the alternative, to leave the tribunal of one man as it is and allow an appeal to the Supreme Court.

With these suggestions I support the Bill.

SHRI KISHEN CHAND (Hyderabad) Mr Chairman, I fully support the suggestion made by Mr Bisht. This Bill really relates to matters which are not covered by the River Boards Act as can be seen from clause 8 wherein it is stated, "Notwithstanding anything contained in section 3 or section 5, no reference shall be made to a tribunal of any dispute that may arise regarding any matter which may be referred to arbitration under the River Boards Act, 1955". That means all these disputes are really about matters which have arisen before the constitution of the River Board, because anything which comes after the institution of River Boards cannot be referred to arbitration. Therefore, this is only for past acts in respect of, say, storage dams or hydro-electric power schemes which have taken place before the institution of River Boards. So may I suggest that, as this is going to be an Act for a limited period, because after a few years there will be no outstanding matters left, so there is no need for this Bill. But when this Bill has come in, I submit that reference to a tribunal of one person is most unfair and it has been very properly suggested by Mr Bisht that there should be three members. I would suggest that, of the three members, one may be a High Court judge, and if the other two members are the chief engineers of the two States between which there is dispute going on, it will be much better. We know, Sir, that in private arbitration, frequently both the parties nominate one person each and one independent person is agreed upon by mutual consent.

[Shri Kishen Chand.]

So here, that one judge may be appointed by the Chief Justice of India, but the other two members should be really nominated by the parties concerned, one on each side. The result will be that this tribunal will be equipped with all the information and will be able to examine carefully both the sides. The expert member will be sitting in that tribunal and will be able to really cross-examine the witnesses and sift the evidence in the proper light. Otherwise what will happen is that, this being a technical matter, the High Court judge may not be able to really cross-examine the witnesses and study the documents that are placed before him. At the time of interpretation and also in writing the judgment, if he gets the help of two other technical people, it will be much better. It may be stated here that provision has been made for assessors, but the assessors are of a lower status and they will not be helpful at the time of cross-examination, nor at the time of writing of the judgment. Therefore, instead of assessors or in spite of the assessors, if the number is raised to three, of which two are really representatives of the contesting States, it will add greatly to an amicable settlement of the dispute.

With these words, Sir, I support this Bill.

SHRI BISWANATH DAS (Orissa): Sir, I was delighted to see the River Boards Bill placed on the statute book. I would have been very glad if it were left to me to accord that reception and welcome to this Bill, but till now I have not been able to realise the necessity or utility of this measure. As it is to-day, we have to think of two different aspects of the question. The first is the substantial law which is difficult and complex. Law regarding riparian rights, river courses, beds of rivers, is always difficult, difficult viewed both from the point of view of national users as also of international riparian users. This

being the position, the Bill has not cared to touch this difficult problem. Therefore, the problem remains as before difficult and is left only to the judges, and it is being governed as before by judge-made law. The existing conditions are such as not to call for any legislation. Let me in this connection and context refer to article 131 of the Constitution. Sir, that article lays down that the Supreme Court shall have original jurisdiction with regard to all inter-State matters so that any dispute between one State and another or between one State and a number of other States are to be adjudicated and disposed off by the Supreme Court. Sir, in India to-day, you have got two different varieties of States. The one is coastal States and the other is inland States. A dispute, if at all any, regarding riparian rights, specially with regard to the riparian rights of the riparian users lower down, be they persons or States, relates only to States lower down, in the sense that they are coastal States. Therefore, this is a Bill which mainly concerns the States of Bengal, Orissa, Andhra, Madras and the like. Sir, speaking for myself, the State of Orissa has the misfortune of carrying and suffering from the excess water, the surplus waters of Madhya Pradesh and Bihar.

DR. W. S. BARLINGAY (Madhya Pradesh): Is it not good fortune?

SHRI BISWANATH DAS: Well, may be, if I can utilise them, and my trouble is that I cannot utilise them. Now you want to throttle. The suffering is all mine, but am I to be the sufferer being the lower riparian? The law gives me no protection. The law gives me absolutely no protection. On the other hand, I am called upon to face a complex machinery to dance to the tune of the Union Government. Why? Is it the position of my friends that the present set up is going to be there for all times to come? I am sure that so long as the present set up is there, no injustice will be done. As time goes on, as utility measures, in more and more degrees, are taken

by the Governments concerned, both the Union and the States, there is bound to be trouble about the riparian rights of river-courses between one State and another. To-day the sponsors of the Bill acknowledge, the Governmentmen acknowledges, that there are few cases. Yes, truly few, but you are to face the music some day. That no preparation is made in that regard is patent because the substantial law is left to take care of itself. Therefore, the position is what it was. That position remains. That being the position, I should like to know why the conditions laid down in the Constitution should be changed. Why should I, as a State, especially as a lower riparian having had to suffer all along, submit myself to a tribunal and thus pray one blessed God at whose mercy I have to pray for? Why should I do it leaving the sacred precincts of the Supreme Court? About that my friend is absolutely silent.

DR. W. S. BARLINGAY: There is a special provision in the Constitution with regard to river disputes.

SHRI BISWANATH DAS: I know; I have read it. My friend will do me a great injustice and to himself as well if he feels.....

DR. W. S. BARLINGAY: No; no. I do not feel that way.

SHRI BISWANATH DAS: Therefore, about river disputes the Government should have the power, but have you advanced a bit? You have not touched the law. That is what I said. Having stated so much about the legal aspects of the question, now let me come to the procedural position.

[THE VICE-CHAIRMAN (SHRI H. C. MATHUR) in the Chair.]

What is the procedural advancement that you are giving to the States? I represent the State of Orissa and all our friends, each one of them, represents his own State. Why is it that you curtail the freedom of action, which today is enjoyed by the States, by means of this legislation? Sir, my hon. friend for whom I have always

a soft corner and blessings—I mean Mr. Hathi—has stated that clause 4 is a great boon. What is that boon? I am very sorry to say that clause 4 contradicts clause 8. Why do you throttle clause 4 by clause 8? The decision of the Select Committee is that once a State Government makes a request for the appointment of a tribunal, that tribunal shall be appointed, and in the same breath you put in clause 8 which says that notwithstanding anything contained in section 3, which relates to complaints by State Governments as to water disputes, or section 5, which is about adjudication of water disputes, no reference shall be made to a tribunal of any dispute that may arise regarding any matter which may be referred to arbitration under the River Boards Act, 1955. If you say that this is a matter for arbitration under the River Boards Act, I am nowhere in the picture. My rights will be referred to and be arbitrated by the River Board. That is not fair to me. That position must be made clear. I should at least have the satisfaction that my rights will be adjudicated—leave alone the Supreme Court—by the tribunal. That must be made clear.

There has been a tendency on the part of the legislatures to avoid the jurisdiction of courts. It is not my view; it is the view held by the All-India Lawyers' Conference; it is the view expressed by retired Chief Justices of the Supreme Court. Why should you close the sacred gates of the Supreme Court in such important matters? When I was trying to develop the Duduma water fall and have hydro-electric installations, Orissa and Madras were going together to take it as a joint concern. Never for a minute, Sir, did Madras consider that they were part owners of the scheme, but subsequently, while we were in jail, Madras lodged a complaint and the result was that a tribunal was appointed and the decision of the tribunal was that they were part owners. That means important decisions are taken by tribunals by which the prosperity of a

[Shri Biswanath Das.]

State is marred or safeguarded. Are you going to close the gates of the Supreme Court and the gates of appeal for all time to come, because a tribunal has been constituted? Because you cannot get judges of the Supreme Court, you have to appoint judges of the High Court. I think these are not fair to the States. When a dispute arises between one State and another, they do it with all seriousness. It is not a boy's play that each State conducts. They take it up in all seriousness. That being the position, I think, we should be doing a great injustice to the States and to justice as such, if you close the gates of the Supreme Court even though you appoint tribunals for purposes of adjudication. Important legal enactments should be tested by the highest tribunal and that tribunal cannot be any other tribunal than the Supreme Court for which we have got respect, reverence and regard.

Sir, there are certain other aspects of this Bill with which I cannot agree. I do not see why even in the case of a tribunal there should be only one man, that the decisions of the tribunal be the whims and fancies of one man. It may be just; it may be reasonable; it may probably be the best course of action. To get justice is one thing and to create confidence in men and States that justice and nothing but justice shall be given is another thing, and that is the most important aspect of judicial administration in any country. That being the position...

DR W. S. BARLINGAY: That is true only of criminal justice.

SHRI BISWANATH DAS: I see. Not of civil? That is a good consolation. Sir, these are some of the objections which I have and it is a matter of regret that owing to certain difficulties I was not able to give notice of some amendments that I wanted to give. Therefore, I have put them up now and I would beg of you to consider these aspects and

the difficulties and condone the delay and allow me to move my amendments in due course.

SHRI T. BODRA (Bihar): Mr. Vice-Chairman, while welcoming this Bill wholeheartedly, I would refer to clause 3 of this Bill and draw your honour's attention to the fact that it has not left any powers with the Central Government to take any action whatsoever on any issue. Clause 3 reads:—

"If it appears to the Government of any State that a water dispute with the Government of another State has arisen or is likely to arise by reason of the fact that the interests of the State, or of any of the inhabitants thereof, in the waters of an inter-State river or river valley have been, or are likely to be, affected prejudicially by—(a)... (b) (c), the State Government may, in such form and manner as may be prescribed, request the Central Government to refer the water dispute to a Tribunal for adjudication."

Now, as the Deputy Minister is well aware, because of these provincial bickerings—Bihar *versus* Bengal; Bengal *versus* Bihar; Orissa *versus* Bihar; or Bihar *versus* U.P.—some of the disputes are still left unsolved. At least I know of a few facts. And then, there are gigantic rivers like the Ganga, Damodar, Suvarnarekha, whose waters must be harnessed for the prosperity of the country. Now, the Central Government can take action under this Bill, only if Bihar comes with a complaint or if Bengal comes with a complaint, or if Orissa comes with a complaint. Suppose, these provincial Governments do not choose to refer the matter to the Central Government,—I have the audacity to put this question to the Irrigation Minister—as to what power is vested in him to take the matter into consideration or to expedite a solution of the water problem that India needs today? And, therefore, in clause 3, I would suggest at the end, that the

State Government may, in such form and manner as may be prescribed, request the Central Government to refer the water dispute to a tribunal for adjudication or, in the alternative, the Central Government can refer the matter to the tribunal at their own initiative.

SHRI V. PRASAD RAO (Hyderabad): Mr. Vice-Chairman, I think as far as the necessity of this Bill is concerned, there is no dispute and it has come none too soon. I do not want to deal at length as to how, in the absence of such a Bill, many of our major projects could not be undertaken, especially affecting our own Hyderabad State. For instance, the Tungabhadra project could not be taken for fifteen years because there has been a dispute between our State and the then Madras state.....

SHRI AKBAR ALI KHAN (Hyderabad): For nearly a century.

SHRI V. PRASAD RAO: I accept my friend's correction—for nearly a century. So, I think, the Bill has come none too soon. I also think that there is no dispute over the necessity of this Bill. But the question is, as my other friends have suggested, when we are dealing with a problem of such magnitude affecting the lives of millions, we cannot simply rely on the judgment of a single person, however competent or however eminent he may be.

As for other things, I do not think there is any difference of opinion as far as I am concerned. But as far as the constitution of the tribunal is concerned, I think, it is not correct to leave the whole thing in the hands of one single person. So, I have given notice of an amendment that the tribunal should be constituted with three persons, two of whom might be judges and the third might be a Chief Engineer of Irrigation, because it is a highly technical matter, and you cannot leave the whole matter solely in the hands of judges. Probably they might give a very rational judg-

ment, but at the same time, it **might** be very impracticable to implement that decision. Hence, I feel that engineers, some technical personnel, should definitely be associated with such tribunal. I know that our Deputy Minister might argue that there is a provision for assessors. Assessors are only assessors; they are not members of the tribunal.

As far as the availability of judges is concerned, when even an ordinary criminal case is being judged by a bench of judges, I do not understand why provision could not be made when millions of lives are affected, to procure judges for this purpose. The argument that there is a dearth of judges will not stand the test. I think, it is not correct to say that because we have a dearth of judges, we constitute this tribunal with only one judge. If that is the case, then we can appoint one or two more judges for this specific purpose, so that that should not stand in the way of constituting the tribunal with more judges.

My other amendments are consequential on the inclusion of three persons in the tribunal. So, I do not think I have to say anything more about them. I hope that the hon. Deputy Minister would agree to this and see that the tribunals are constituted with three persons.

DR. W. S. BARLINGAY: Mr. Vice-Chairman, I do not want to take much time of this House and I am going to refer only to a few things which seem to me very pertinent for the consideration of this Bill. I am now referring to clause 11 of this Bill. Clause 11 says:—

“Notwithstanding anything contained in any other law, neither the Supreme Court nor any other court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act.”

The plain meaning of this clause is that the Supreme Court will have no

[Dr W S Barlingay] jurisdiction in matters which would be referred to arbitration under this Bill—not even under article 136 of the Constitution. Now, with all respect to the hon Deputy Minister who is in charge of this Bill, I suggest that there is no justification whatever for this clause which takes away the right of the highest tribunal in this country to adjudicate in these matters—at any rate, where questions of law are involved. I am sure that when these matters will be referred to arbitration, questions of fact alone will not come before the tribunal, several very intricate questions of law shall come up before the tribunal.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh) How? How would the jurisdiction of the Supreme Court under article 136 be ousted by any law that is passed here. I mean, the Constitution overrides any law that we may make here. This must necessarily be subject to the jurisdiction of the Supreme Court under article 136. That stands.

DR W S BARLINGAY Well if Mr Jaspat Roy Kapoor is right in his interpretation, nobody would be more glad than I would be. But then, I do not think, with all respect to my learned friend, that he is right. If he is right, then I will immediately sit down. But it does seem to me that the plain meaning of this clause is that the jurisdiction of the Supreme Court in these matters is barred.

SHRI AKBAR ALI KHAN Under appeal it is barred. But the supervision that the Supreme Court exercises through its extraordinary power of issuing writ is not barred. That has been held in so many cases.

DR W S BARLINGAY That is very interesting. Here are two sets of lawyers—and I am certainly one of them—who have different interpretations placed upon this Clause 11 of the Bill. That itself shows that

there is no uniformity of opinion with regard to the interpretation of this clause. It is just possible, therefore, that my interpretation is correct and Mr Kapoor's interpretation is wrong, or his may be correct and mine may be wrong. If that is so, is it not right that, at any rate, the meaning of this clause ought to be made quite clear? I take it that my friend Mr Kapoor and all the other friends agree with me that it is right that the jurisdiction of the Supreme Court, at any rate under Article 136 of the Constitution, should not be barred in those cases. If they all agree with me that this should be so, it is perfectly plain that there is some lacuna here in clause 11 and at any rate, the meaning of clause 11 ought to be made plain. But, I will assume for the sake of my argument that neither my hon friend, Mr Akbar Ali Khan nor my friend, Mr Kapoor is right in their interpretation. I am prepared to be wrong. Then, is that a correction made by this Bill? Are you not going to use the highest tribunal in the land, which can adjudicate on the points of law, and are you going to use that tribunal more on adjudication than on points of law in regard to these very important matters? I may point out that even for a trifling application in the Supreme Court, three judges sit on a bench. It is not referred only to one person. I may point that out, and when these disputes under this Act will be referred, surely it will not be a trifling matter. These matters will involve the welfare of thousands of people. These will involve the welfare of almost the entire population of two different States who have set no limitation to the peculiar jurisdiction of this tribunal.

Therefore, when even for a very simple matter—for a trifling matter—in the Supreme Court, three judges sit on a bench and decide the issue, is it not extraordinary, is it not astonishing, that for these very important issues which will involve the lives of hundreds of people, you are going to

nave the decision of only one person and that too, not necessarily of a judge of the Supreme Court, but of a judge of a High Court?

It does seem to me, Sir, that this clause 11 requires radical alteration. Of course, as I said, if I am wrong in my interpretation, nobody would be happier. But I do not agree that the interpretation that is put on this clause by my learned friend is correct.

In this connection, I may also refer to clause 4, sub-clause (2). It says: "The Tribunal shall consist of one person only nominated in this behalf by the Chief Justice of India from among persons who are, or have been, Judges of the Supreme Court or are Judges of a High Court." Last time speaking on this very Bill and the connected Bill, I pointed out that here a very invidious distinction is being made between the Supreme Court judges and the judges of the High Court. A person can be a tribunal. He can sit as a tribunal, if not only he is an acting judge of the Supreme Court, but also if he is a retired judge. But so far as the High Court judges are concerned, a retired High Court judge cannot be a member of this tribunal or cannot be a tribunal—let us use the language of this Bill. Now, it does seem to me, Sir.....

SHRI AKBAR ALI KHAN:.....from among persons who are, or have been, Judges of the Supreme Court or have been Judges of a High Court."

Dr. W. S. BARLINGAY: The hon. Member is wrong, unfortunately. I will again read it out for his information. ".....from among persons who are, or have been Judges of the Supreme Court or are Judges of a High Court." With regard to High Court judges, it does not say "have been Judges of a High Court."

Now, it does seem to me that there is no relevant distinction and even the Joint Select Committee have

given no reasons whatever for making this distinction between the judges of the High Court and the judges of the Supreme Court. I, therefore, submit that both these clauses, namely, clause (4), sub-clause (2) and clause 11 need suitable modification. As I have stated last time, it appears to me—and here, I entirely agree with my learned friend, Mr. Das who spoke—that these are not matters in which any reference to arbitration or any provision for reference to arbitration is really necessary. If you conceive these River Boards in a proper manner, and if you can also invoke the authority of the Central Government properly, I do not think why all these matters should not be settled by negotiation.

SHRI V. PRASAD RAO: The River Boards can only give advice.

DR. W. S. BARLINGAY: I am talking about the River Boards being properly conceived. We have not really conceived the River Boards at all. That is what I have been submitting—and I have submitted at the last time also. It seems to me, Sir, that in all these matters, we ought to minimise these water disputes as much as possible so that there is no ill-feeling or no bickering between States and States or the States and the Central Government.

SHRI H. P. SAKSENA: Sir, I have been a member of the Select Committee on this Bill and, therefore, I want to remove certain doubts that are being expressed here by hon. Members. I am wondering why it was that the things which are being pointed out to us now did not strike us then.

Let me, with your permission, Sir, deal with the first speech delivered here with regard to this Bill and it was by my friend, Mr. Bisht. He made a complaint of the fact that no time-limit for negotiations was fixed in clause 4. "When any request under section 3 is received from any

[Shri H P Saksena]

State Government in respect of any water dispute and the water dispute cannot be settled by negotiations, the Central Government shall by notification in the Official Gazette, constitute a Water Disputes Tribunal for the adjudication of the water dispute." We will be happy if all disputes are settled by negotiations. But if unfortunately, the advocacy of the person who is conducting the negotiations fails and the suit is referred to a tribunal, in that case, the negotiations will take their usual course, their usual run-up time.

No time-limit can be fixed for conducting the negotiations. It is just possible that a certain set of negotiations may be completed within a month. It is also possible that another set of negotiations may take three months. So where was the point in fixing down a time-limit and saying that all the negotiation must be finished within six months or, say, within 12 months. So it was not thought of any importance to fix any time-limit for negotiations. The negotiations will take and should take their usual course, and as soon as the matter has been amicably settled through the instrumentality of negotiations, the negotiations will finish. There was no need for time-limit and I still do not see any necessity for fixing any time-limit.

The other point that my friend, Mr Bisht, referred to was with regard to the number of members of the tribunal. I do not know why my hon friends have just today become very fond of No 3. They want three members for the tribunal. They think if one person is made the member of the tribunal, the whole thing will be vitiated, all wrong decisions will be made by that one individual of the tribunal. On the basis of this argument, we should have three Presidents for the Indian Union, three Chief Justices for the Supreme Court

of India. Our life will become a hell. So many tribunals have got only one individual as the head of the tribunal. The matter is a small one. My apprehension is that my learned friends have been looking at this tribunal with the spectacle of a lawyer who day in and day out has to deal with matters relating to property. When they are dealing with this Bill, they should not forget that no property question is involved in it.

I am told that the lives of millions of people are being involved in these disputes. Who denies that? Who does not want that their lives should be spared and no injury should come to their lives, what to say of lives, not even to the water to which they are entitled? The Bill is intended to safeguard their rights to the water they are entitled to. If their right to that water is being disputed, assailed or questioned by anybody, the tribunal will be there to settle the matter.

Sir, neither do I see any necessity for raising the number of members of the tribunal from one to three, nor I see any necessity for fixing any time-limit for negotiations. After carefully reading the report of the Select Committee, not once but twice and thrice, I am still convinced that the Bill is a perfect one in all its aspects.

SHRI S. N. MAZUMDAR (West Bengal): Mr Saksena first stated he was a member of the Select Committee and later on he says, "after reading the report of the Select Committee I am convinced." Therefore, how can I reconcile the two statements?

SHRI JASPAT ROY KAPOOR: Sir, I feel particularly satisfied today to find that the Select Committee accepted many of the suggestions which I had made during the course of the discussion on the Bill, when it was being referred to the Select Committee. I can easily understand why it is like that, consisting as the Select Committee did of wise and sagacious Members like my hon.

friend, Mr. Saksena. But my satisfaction is only to the extent of 50 per cent. because I had made eight suggestions out of which four have been incorporated in the amended form of the Bill *in toto*. The rest have neither been accepted nor,—during the course of the remarks made by my hon. friend Mr. Saksena, who so enthusiastically supported the report of the Select Committee, as he ought to—any reasons given why those suggestions were not accepted. It appears to me that my hon. friend, Mr. Saksena, and along with him the other hon. Members of the Select Committee, forgot all about those suggestions. Mr. Saksena was just now asking as to why we did not make the suggestions, which are now being made on the floor of the House, during the discussion on the Bill when it was being referred to the Select Committee. I do not find him here, but I might remind him that all these suggestions, which have been made today by my predecessors during the course of the discussion, were made by me and also by some other Members of this House at that time also. I am sure if Mr. Saksena and other members had not forgotten all about those suggestions, they would have given their serious consideration to them and would have accepted them just as they have found it possible to accept the other four suggestions which I made.

Sir, I find that a new record has been established by the Ministry of Irrigation inasmuch as they have framed this Bill and allowed amendments to be accepted in the Select Committee in a very democratic manner. This spirit pervaded throughout this Bill when it was presented originally, and this spirit continued to pervade during the discussion in the Select Committee. We find that they have now agreed in the Select Committee to consult the States even in the matter of framing of their rules. That is what they have provided here, that even when the Central

Government proposes to make rules, before they become part of this Act, they will in advance consult the State Governments. That is what it ought to be.

Another fine and encouraging thing that we find is that they have deliberately decided to consider all employees of the Board as of the same status. They have designated all of them as "officers". In sub-clause (e) of clause 13 of the Bill, whereas formerly the words were "the terms and conditions of service of officers and other employees of the tribunal", now we find that the words "other employees" have been deleted. From the report of the Select Committee, I find, that the reason for this deletion is that they do not like to make any distinction between one employee of the Board and another employee. It is a welcome change in the attitude of the Ministry, and if I may say so, in the attitude of the hon. Members of this House that they would like no distinction to remain between one class of officials and another class of officials. They would like to treat them on equal level except, of course, the distinction of pay, etc.

THE VICE-CHAIRMAN (SHRI H C MATHUR): I think you are likely to take more time.

SHRI JASPAT ROY KAPOOR: Not very much, but of course, a little more time.

THE VICE-CHAIRMAN (SHRI H C MATHUR). The House stands adjourned for lunch till 2-30 P.M.

The House then adjourned for lunch at one of the clock till half past two of the clock

The House reassembled after lunch at half past two of the clock, THE VICE-CHAIRMAN (SHRI H. C MATHUR) in the Chair.

SHRI JASPAT ROY KAPOOR Sir, before we rose for lunch, I was submitting that this measure has been based on the foundation of a very good spirit of negotiation, discussion, and ultimately, arbitration

A viewpoint has been strongly pressed by certain hon Members that the jurisdiction of the Supreme Court should not be ousted. In the first place, Sir, in the ultimate analysis of things, the jurisdiction of the Supreme Court has not been, and cannot possibly be, entirely ousted. My hon friend Dr Barlingay, referred to article 136 of the Constitution, which runs as follows:

"Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."

Now, Sir, it need hardly be said that no article of the Constitution can be overridden by any law which we may enact here unless we are so authorised to do by the Constitution itself. There are, of course, some articles in the Constitution which we can override, but provided only if we are so authorised to do by some article of the Constitution itself. For example, Sir, here, only an hour or so hereafter, we shall be enacting a law with regard to citizenship in the country. And there, Parliament has been specially authorised in the chapter dealing with the rights of citizenship, to enact a law which may even modify and alter article 5, 6, 7, 8 or 9. So, Sir, unless Parliament is specially authorised by the Constitution itself to override any of the provisions of the Constitution, the articles of the Constitution shall stand. And the present law that we shall be enacting shall of course, be subject to article 136 of the Constitution. The question then arises, why should we have clause 11 in this Bill in its pre-

sent form, for it might be argued, as it has been, that it is inconsistent with article 136 of the Constitution. Not at all, Sir. Clause 11 only says that the order of the tribunal shall be final, and neither the Supreme Court, nor any other court shall have, or exercise, jurisdiction in respect of any water dispute which may be referred to a tribunal under this Act. This means that ordinarily the order of the tribunal shall be final, and as of right, it will not be open to any State to go in appeal, against that order of the tribunal, to the Supreme Court. As of right, no State can approach the Supreme Court. But then, so far as the Supreme Court is concerned, it is open to it to grant special leave under article 136 to appeal against that order. So obviously, Sir, there is a great distinction between the State having a right and the Supreme Court having a discretion in the matter. Therefore, I submit, that clause 11 is not inconsistent with article 136 of the Constitution, but it is only subject to article 136, and only in rare cases, where it appears to the Supreme Court that great injustice has been done to any State, that it will come to the aid of that particular State so adversely affected.

Then, Sir, my hon friend, Mr Biswanath Das, I was considerably surprised to find it, was today so much enamoured of having things decided in a court of law, even though it be the Supreme Court. I have always been of the view created by the previous expressions of Mr Biswanath Das that he would like to have things decided by panchayats and by arbitration. Today, he has sprung on us a surprise by expressing his view that he would be more satisfied if things are decided in a legal way by a court of law, and that a decision or an award given by a tribunal or a panchayat if I may say so, would not give him satisfaction. That is extremely surprising.

SHRI BISWANATH DAS On a point of explanation, Sir. On important

issues of this nature I have never preferred, in all my life, to a panchayat decision, to a decision of the Supreme Court, which will be binding on all courts of India, and which will create a positive and substantive law in the country

SHRI JASPAT ROY KAPOOR So it comes to this, Sir, that if a matter is of a very trivial nature, virtually of no significance to anybody, we can trust a tribunal or a panchayat, but if it is a matter of some consequence, then it is only the law court judgement that will satisfy us. I cannot, Sir, with all respect for my hon friend, subscribe to this view. I attach, of course, considerable importance to a case being decided by a court of law, but on that account, I cannot rule out the advantages that accrue from a decision given by a panchayat or a tribunal, where things can be decided more on the basis of equity and good conscience rather than on the basis of legal quibbling only. I, therefore, submit that it is good and proper that disputes between States should be referred to a tribunal and not to a court of law. A tribunal, while exercising its judicial discretion and doing things in its judicial wisdom, should not feel fettered by any legal formalities and formalities of technical rules or regulations

There is one thing, however, Sir, with which I am in agreement with some of my hon predecessors who have already spoken, and that is that this tribunal should not consist only of one person, but it should consist of more persons than one, and that is three. These three persons, Sir, need not necessarily be judges either of the Supreme Court or of a High Court. One of them, the Chairman, of course, must necessarily be one who is a judge of the Supreme Court or has been a judge of the Supreme Court or is a judge of the High Court. Originally, Sir, my view also was that judges of the High Court who have retired may not be excluded

from being appointed. But having given a little more consideration to this subject, and having had the viewpoint of the hon Minister in charge of the Bill in my talk with him during the lunch interval, I am prepared to concede that this might remain as it is, namely that the Chairman of the tribunal may not be a retired judge of a State High Court. But then, so far as the number of persons constituting the tribunal is concerned, I continue to hold the view that it should not be a one-man tribunal, but it should be a three-man tribunal, because, firstly, its decision is final, not appealable, and secondly, Sir, we know, as has been pointed out by other hon Members of the House, that even in civil cases and criminal cases, which are not of as great consequence as a case of inter-State dispute with regard to a river or a river valley, we have ordinarily two or more judges, both in the High Court and in the Supreme Court.

In a matter of such great importance, I see no reason why we should not have at least three persons sitting on the tribunal. This is very important and I hope and trust that the hon Minister will seriously consider this suggestion, and more so, because it has received the support of almost every Member of the House who has so far spoken, a support which, I am sure, will be lent by other Members of the House while casting their votes in respect of the amendment which I have submitted with regard to this clause.

There is one more suggestion which I have to make, but which need not be incorporated in this Bill but which may be kept in view as a matter of policy both by the Central Government and by the hon the Chief Justice of the Supreme Court when he appoints either one or more persons on the tribunal in accordance with our decision, and that suggestion is, that none of the members whether three or one as the case may be, should belong to the State which is

[Shri Jaspat Roy Kapoor.]
a party to the dispute. If the dispute is between, say, U.P.—I won't say U.P. because U.P. never wants to quarrel with any other State—say, between Bihar and West Bengal, than none of the persons who are appointed to the tribunal should belong either to Bihar or West Bengal. That should be the policy which must guide the appointment of members of the tribunal by the Chief Justice of India.

SHRI H. P. SAKSENA: My hon. friend wants to dictate to the Chief Justice of the Supreme Court.

SHRI JASPAT ROY KAPOOR: Far be it from me to dictate to the hon. the Chief Justice of the Supreme Court. I thought I was one of the very few Members

SHRI AKBAR ALI KHAN: We are here to lay down provisions which the Supreme Court will obey.

SHRI JASPAT ROY KAPOOR: I would not go to that length. I thought that I was one of the very few Members who were hard of hearing but I find that this company is increasing and that my hon. friend, Mr Saksena, is also coming to that fold. What I was submitting was

SHRI H. P. SAKSENA: My considered view is here.

SHRI JASPAT ROY KAPOOR: It should be the policy of the hon. the Chief Justice not to appoint one from the State which is a party to the dispute, and this is a suggestion for the consideration of the hon. Chief Justice of the Supreme Court. I have no doubt, Sir, that even if this suggestion had not been made by me, in all probability, the Chief Justice would have acted in the same manner, but then, since the subject is under discussion, I thought that there was no harm even if we gave expression to this view in the House.

Then, I would submit that the Joint Committee has accepted the

view that, if a dispute arises between two States, the Central Government shall necessarily appoint a tribunal; i.e., it should not be open to the Central Government to exercise discretion in the matter, a discretion which we had allowed it to exercise according to the phraseology of the original Bill, because therein we have said that the Central Government *may* appoint a tribunal, but now we have substituted the word 'may' by the word 'shall', which is as it should have been. This was a suggestion which I had made previously. Similarly, I would like to add that, when the tribunal has been appointed, the subject matter of the dispute in all its aspects, in its entirety, should necessarily be referred to the tribunal, which according to the present phraseology of clause 5 is not the case. What clause 5 says is:

"When a Tribunal has been constituted under section 4, the Central Government may, subject to the prohibition contained in section 8, refer the water dispute or any matter appearing to be connected with, or relevant to, the water dispute to the Tribunal for adjudication."

Now, Sir, to be consistent, we must lay it down positively that, when a tribunal has been constituted under section 4, the Central Government shall refer the water dispute and so on, because there is no meaning in making it obligatory on the Government to appoint a tribunal and then leaving it to the discretion of the Government either to refer or not to refer the points of dispute to the tribunal. The Central Government would not constitute a tribunal merely for the fun of it. The matter has got to be referred to the tribunal, and therefore, we should make it obligatory on the Central Government to do so. Even though I do not think that the Central Government, after appointing a tribunal, would not refer the matter of dispute to the tribunal, we must properly frame clause

§ of the Bill. What is more important is that, while referring the dispute, the whole of it must be referred, and it should not be open to the Central Government to pick and choose particular items therein, and therefore, we should specifically lay it down that the water dispute and not 'or any matter appearing to be connected with, or relevant to, the water dispute', but 'the water dispute and any other matter pertaining to it, should be referred to the tribunal'.

Then, Sir, only one point more and I have done, and that is with regard to clause 13 of the Bill, a point which I shall never be tired of repeating unless and until it is conceded by the Government in respect of all Bills, and that is, whenever rules are framed by the Government under any law, the rules must not only be placed on the Table of the House, but it should be open to the House within a fixed period either 15 or 30 days to amend or modify them. This must always be there. Otherwise, there is no meaning in the rules being placed on the Table of the House if, by reason of their being so placed, we are not seized of them fully and we are not in a position to amend them.

Sir one thing I had forgotten while I was arguing on the point that the tribunal should consist of more than one person. It appears to me that initially it was even the wish of the Government or the draftsman of the Bill to have more than one person as members of the tribunal, because under clause 2 of the Bill, they have defined 'member' as meaning a member of a tribunal and including its Chairman. Obviously, that means that there were to be some members on the tribunal other than the Chairman, but in the subsequent clauses of the Bill we do not find any mention of any member. As a matter of fact, the word 'member' does not appear in any of the subsequent clauses of the Bill, and therefore, if the other sections remain as they

are, then this definition of 'member' has to go, because you need not define a word which does not appear anywhere in the substantive portion of the Act. As I submitted, I think, the initial idea was that there should be also a member in addition to the Chairman, and that being so, I find there a support to my contention and the contention of my other friends that the tribunal should consist of more than one person. I have done, Sir. I have only to express my satisfaction once again at the proper form that has been given to it by the Select Committee and the spirit on which the whole Bill has been based throughout.

SHRI H. P. SAKSENA: But the Chairman himself will be a member. My friend Mr. Kapoor thinks that there will be no member on the tribunal.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, I support the Bill which is before the House for consideration with certain observations. I have heard good many speeches criticising the various clauses of the Bill. I would also say a few words with regard to some of the clauses of this very important Bill. It has been suggested that this Bill should have better formed part of the River Boards Bill. But I do not agree. I think it was necessary that there should have been a separate Bill of this type. This Bill seeks to decide cases of very great importance between two States. In fact, the importance of the decision on such questions cannot be over-emphasised, but at the same time I find, that the Bill is halting in certain respects. Whereas the importance of the decision on such questions needs a separate Bill, the Government seems to have not given due weight to the fact that the tribunal that they think of constituting would consist of one man only. In ordinary cases, whenever a tribunal is constituted, the point that has to be taken into consideration is the importance of the question referred

[Shri R C Gupta]

to the tribunal. As I said, the question which would come up before the tribunal would be of very great importance, as my friend Shri Biswanath Das pointed out. It would, therefore, be very proper that the tribunal should consist of more than one individual. The Deputy Minister, while explaining the case on behalf of the Government, pointed out only to one difficulty *viz*, the required number of judges would not be available. I do not agree with it. Even for ordinary disputes where the valuation is above Rs 5,000, even in the High Courts, a Division Bench is constituted. Before the Supreme Court, at least 3 judges, and generally more than 3 judges are appointed to decide matters between two individuals of much lesser importance. Therefore, to say that these judges would not be available to decide a few cases that would arise under the Bill, I think is something which cannot be understood. The number of cases, under this Bill, would not be too many and the judges of the Supreme Court as well as the judges of the High Court would easily be available, and there would be no dearth of such judges to decide a few cases that are likely to arise under this law. Even if there may be some encroachments upon their time and the ordinary duties which they perform as judges of the Supreme Court or the High Court, I think it would be worthwhile to request the Supreme Court or the High Court to spare the services of a few judges to decide these very important questions that may arise under this Bill.

Then the original idea, as Mr Kapoor pointed out, and which I was also going to point out, was, that this tribunal would consist of more than one person. The definition of the word 'member' as given in sub-clause (a) of clause 2 suggests that the original idea was to have more than one person to constitute the tribunal. The word 'includes' in this clause is very significant. It says

member means a member of a tribunal and includes its Chairman". That means that there would be at least two persons a Chairman and another member, otherwise the word 'includes' should not have been there. Then, if we refer to another clause—clause 10, we will come to the same conclusion. It says

"The presiding officer of a Tribunal and the assessors shall be entitled to receive such remuneration, allowances or fees as may be prescribed."

The words 'presiding officer' again suggest that the idea was to have more than one individual, otherwise there is no question of mentioning presiding officer because, if the tribunal consists of one man, he would be the presiding officer if you like to call him so, otherwise there is no question of presiding officer. The functions of the assessors are only advisory and they don't constitute the tribunal.

SHRI J S BISHT But we use the words 'presiding officer' in the case of Courts also, even if it consisted of only one magistrate.

SHRI R C GUPTA It was not necessary to all 'presiding officer'—that is all what I say. He will be the presiding officer because he is the only officer—you may call him presiding officer, an officer or a member, or a tribunal, or whatever you like but the use of the word 'presiding officer' suggests that the original intention of the Government was to have more than one individual on the tribunal. This is what I said.

Then, the fact that a finality has been given to the decision of the tribunal under clause 6 also raises the question of very great importance that the tribunal should be such as to inspire the fullest possible confidence in the minds of the contending parties. It is true that the one individual who will be appointed by the Chief Justice of India would also inspire confidence, but if cases of such

far-reaching importance are to be referred to the tribunal, it would be much better that more than one judge should decide that matter, and especially in view of the fact that under clause 6, the finality is being given to the decision of that individual. Therefore, in view of the provisions of clause 6, I suggest that it is absolutely essential that there should be at least three persons to constitute the tribunal.

I do not however agree that the decision should not be by a tribunal but by a court of law, because in a court of law, we all know that the proceedings are unduly protracted and the disputes may last very long. The tribunal would have one advantage that it would be seized of one case and the matter would be decided very soon. A certain amount of finality to the decision of the tribunal is also necessary, but I cannot understand the provision of clause 11 which reads as follows:

"Notwithstanding anything contained in any other law, neither the Supreme Court nor any other court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act."

If this clause is legal and *intra vires*, then it will oust the jurisdiction of the Supreme Court altogether, although some of the speakers who have already spoken, said that it does not oust the jurisdiction of the Supreme Court. Then, what is the idea behind it that this clause is being enacted? There can be two things which might be intended to be covered by clause 11. Number one is that ordinarily every dispute of a civil nature can be litigated in a court of law. If clause 11 were not here, then one of the two contesting States would be perfectly justified to go to a court of law and have the matter decided. If it is the intention to cover only those cases, I am in agreement. But if it is the intention of the Government

to curtail the rights of the losing State from going to the Supreme Court under the provisions of article 136 of the Constitution, then I disagree entirely.

SHRI JASPAT ROY KAPOOR: Even if that be the intention, can it be implemented by any law?

SHRI R. C. GUPTA: Yes. There is one other matter to which I would like to refer and draw the attention of the hon. Minister and the hon. Members of this House and that is this. We have to be definite if clause 11 is not against the provisions of article 131 and whether there is a possibility of this clause being declared *ultra vires*. Under Article 131 of the Constitution, the Supreme Court has been vested with the powers of original jurisdiction and it says:

"Subject to the provisions of this Constitution, the Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute....."

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Parts (a) and (b) relate to the Government of India and part (c) relates to two or more States. Under article 131 of the Constitution, the original jurisdiction has been conferred on the Supreme Court. Can you take away that jurisdiction? Can you do that by clause 11 of this Bill? That is the point to be considered. In my opinion, Sir, this will create a great deal of confusion and it is possible that it may be ruled out by the Supreme Court as being *ultra vires*, if you provide a clause like clause 11 in this Bill. Therefore, if you wish to make it legal, then you will have to delete the words "neither the Supreme Court nor". You can only take away the jurisdiction of the ordinary civil court. You can say that no ordinary civil court shall exercise jurisdiction under the provisions of this Act, if the dispute is a water dispute, as defined under this Act. That would be perfectly legal. But you cannot take away the original jurisdiction of the Supreme Court

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which has been conferred by the Constitution under article 131.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Will you please refer to article 262 of the Constitution?

SHRI R. C. GUPTA: Yes, Sir. Article 262 says:

"(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley.

(2) Notwithstanding anything in this Constitution, Parliament may by law provide that neither the Supreme Court nor any other court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1)."

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): That has a direct bearing on the present question.

SHRI R. C. GUPTA: Yes, in that case, it is perfectly all right, I think.

SHRI AKBAR ALI KHAN: And so article 131 will not come in here.

SHRI R. C. GUPTA: Article 131 may not come in, but then, there will be another difficulty. There is still the question whether under article 136, an appeal would lie or not. That will be another matter for consideration.

SHRI M. GOVINDA REDDY (Mysore): Article 262 bars that.

SHRI R. C. GUPTA: What I submit is, it is all right if article 262 applies, as I feel it does apply. In that case article 136 will not apply and if article 136 does not apply, then article 131 also will not apply. And the contention of Mr. Biswanath Das holds water, that you are completely shutting out the jurisdiction of the

Supreme Court. You are completely shutting out the jurisdiction of the Supreme Court by clause 11, and under clause 6 of this legislation, the decision of the single individual who will compose the tribunal shall be the final decision for all purposes. That makes the argument very strong, that the tribunal should consist of more than one individual and should consist of at least three individuals, as has been suggested by many of the speakers.

I have to submit one thing more. Will it not be better to widen the scope of the definition under clause 2 (d) (i)? It reads as follows:

"(i) the use, distribution or control of the waters of, or in, any inter-State river or river valley; or"

As it is, it applies only in case the dispute is about an inter-State river or river valley; and it will not be proper for us to include the case of a canal or water channel. I submit, a dispute with regard to water channels may come up between two States, a channel may flow in two or more States and a dispute may arise. I do not at present know of any concrete case, but.....

SHRI AKBAR ALI KHAN: A river or river-valley.

SHRI R. C. GUPTA: No, I submit, the words "river or river-valley" will not cover such a case. I am just mentioning this point so that the hon. Minister may take note of it and if such a matter is likely to be in dispute, he may agree to widening the scope of the definition.

Sir, this is all I have to submit.

SHRI M. GOVINDA REDDY: Mr. Vice Chairman, I wish to accord my support to this Bill.

One of the points which has been debated at length in this House is the question of how many persons

should compose the tribunal. Except my hon. friend Shri H. P. Sak-sena, all hon. Members who have spoken on this point have pleaded for increasing the number to three. I must confess, Sir, that I have not been convinced by all the persuasive arguments of the hon. Members who had advocated such a stand. This measure, it will be agreed, has been brought forward in order to bring water disputes to a speedy settlement. If Government wanted this matter to take its normal course, they need not have brought up this measure, for in case of any dispute between the States, they would have gone to a court of law and got it adjudicated. The idea in bringing up this Bill is to speed up the whole procedure of settling these water disputes so that the parties may not suffer... ..

SHRI J. S. BISHT: How is it delayed if there are three.....

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Please listen to him.

SHRI M. GOVINDA REDDY: I can understand the suggestion, if it were a matter of arbitration. If it is to be an arbitration board, as was suggested by, I think Mr. Kishen Chand or Dr. Barlingay, one member may represent one party, another member may represent another party and there may be a third who is an impartial individual. That would suit a case where there is arbitration contemplated. But here it is not arbitration but it is a tribunal that is to be provided for, I dare say that both these hon. Members and others also who have spoken would agree that this matter should be speedily settled. If we look at the nature of the disputes that may arise and see how far the tribunal can handle them speedily, from the point of view of settling the matter quickly, we will have to analyse the nature and extent of the problem of disputes. These disputes about water, these inter-State water disputes, do not relate to a mere question of documents. It

is not a question of taking evidence from the parties and then settling the dispute. These disputes entail visiting places, the exact spots concerned, they involve the gathering of data and all that personal inspection. In such a case, if there is more than one man, necessarily, it means delay. First of all, as the hon. Minister himself pointed out, there is the difficulty of obtaining the competent men, fulfilling the descriptions given here. My hon. friend Mr. Gupta said there was no fear on that score that there are such men available. Maybe they are. I concede that point to him, that in this country, there are such retired judges available. But if we provide for more than one, necessarily, it would involve delay. If the tribunal is to meet, all the three persons will have to be consulted. If the tribunal is to fix an itinerary, then again, it should suit the conveniences of all the three.

Then, all the three people should find it convenient to examine the witnesses. As anybody could rightly concede, we would get through the matter easily with one man rather than with three men. That is one thing. Mr. Kapoor suggested that we must have men on these tribunals, who do not belong to the disputant States. That means that we must get all the three—provided, of course, we agree to this number—members from outside the disputant States. In a country like ours where there are few States, and with more than one tribunal sitting, it would be very difficult to find persons not belonging to the disputant States.

SHRI J. S. BISHT: The Bill does not provide that. That is only the personal opinion of the hon. Member.

SHRI M. GOVINDA REDDY: I am answering the point raised by hon. Shri Kapoor.

From the point of convenience and speedy settlement, it would be better to have one man as Mr. Gupta

[Shri M. Govinda Reddy.] was pointing out: although he pleaded for three, he gave cogent reasons for one-man tribunals. One man can easily get seized of the matter and devote himself with a singleness of purpose and then decide the matter. That is easier. This question, as the hon. Deputy Minister pointed out, was debated at length, in the Joint Select Committee. In fact, this was the only point which was debated at great length in the Joint Committee. This point was considered in all its bearings and a minute of dissent also has been appended to the report of the Joint Committee. Although the Government may have had the intention, as hon. Members have pointed out, of appointing more than one member on these tribunals, still, I would urge upon them to consider this from the point of view of speedy settlement. If so done, it would become apparent that it would be better to have one man. After all, we cannot attribute any motive to that gentleman; he will be a retired judge of the Supreme Court or a sitting judge of the Supreme Court or a sitting judge of the High Court. With regard to these judges, there is one point to be considered. A Supreme Court judge can go up to 65 years and a High Court Judge—the limit has recently been raised—up to 60 years and it is very difficult for us to find people beyond 60 years of age who will be able to actively assist in the matter of working these tribunals. Hence the provision for sitting judges of High Courts. I do not believe that many judges would be available, who would be retired and, at the same time, who would be active enough to undertake the strenuous task of these tribunals. From all these points of view, it would be better to have one man.

The next point which received great attention on the floor of this House is the question of jurisdiction, whether clause 11 is valid or not. As you rightly pointed out, Sir, article

262 expressly provides for Parliament to make any arrangement for adjudication of water disputes. It also expressly provides, in clause (2) of article 262, that Parliament can make law providing for the Supreme or any other court not having jurisdiction in cases such as these. Any matter that is referred to by the Central Government for a decision by the tribunal will be barred in any court, even including the Supreme Court. As I observed, when a matter is to be settled, and if it is to go through the normal legal process of the court, there will be endless delay and complication. Therefore, to cut short the delay that would take place, this device has been made use of. So, there is no point in this. As far as the fundamental point raised by Mr. Das, whether it is proper for us to debar the Supreme Court from exercising its jurisdiction is concerned, there is constitutional provision for it and the Constitution has authorised such a procedure.

SHRI BISWANATH DAS: The constitutional provision is not against you but it gives you an alternative. In that view of the question, I said that there is absolutely no need for this Bill. In fact, you put a rider on the Constitution if you have this Bill. Otherwise, the position is free and the States could go before the Supreme Court, have the matter adjudicated and create a set of positive rules.

SHRI M. GOVINDA REDDY: Mr. Das will concede that we have powers to do so; whether it is right or wrong is a different matter altogether.

After all, this is not a question of individuals, a dispute arising between A and B in regard to life or property. If that were so, we could agree that it is a curtailment of power. This is a question not between the individuals but between States, and even here, in regard to matters which do not ordinarily come within the purview of the Courts. This will be a

question mostly of facts, whether the case of that State is right or not. There will be very few documents and it will be a question of deciding on facts relating to the matters in dispute. So, it will be seriously inconvenient to bring in any court into these matters. If the courts' jurisdiction is to be extended to this, it means that the courts will have to take endless time.

SHRI J. S. BISHT: Does the hon. Member realise that this tribunal will come into play only when negotiations fail? That means that it is a serious state of affairs; the States are at loggerheads and are not prepared to settle the matter by negotiations. This is a serious matter and you entrust the decision of such a serious matter to one man. Couldn't you find a better way to decide this?

SHRI M. GOVINDA REDDY: When you entrust it to a court, why not entrust it to a judge? After all, what is the difference?

SHRI AKBAR ALI KHAN: It cannot be entrusted to any court excepting the Supreme Court.

SHRI M. GOVINDA REDDY: The difference between a tribunal and a court is only with regard to the procedure. In the courts, there will be a prescribed procedure which will have to be followed. It will have to take that tortuous course whereas a tribunal is free to prescribe its own procedure, or the legal enactment which appoints such a tribunal can prescribe the procedure. The procedure is short, speedy and simple. Excepting in the matter of procedure which involves a question of time, I want to know, in the matter of the exercise of judicial discretion, where the difference is between a High Court judge appointed to a tribunal—or even a Supreme Court judge appointed to a tribunal—and a court?

SHRI JASPAT ROY KAPOOR: This important difference should not be

ignored that if the matter goes in appeal to the Supreme Court, there will be more than one judge sitting in decision. That is the main point. The question is whether the tribunal should have one man or more than one.

SHRI M. GOVINDA REDDY: I concede that in the case of appeals, it would be on a different footing; there will be more than one judge sitting but, would it be worthwhile in the case of disputes between the States in such matters to take them to a court and keep them hanging for ever to come?

SHRI JASPAT ROY KAPOOR: That is not at all the contention.

SHRI M. GOVINDA REDDY: It will be necessarily cumbersome. The whole of the documents will have to be produced and there is the question of the whole procedure to be gone through.

SHRI JASPAT ROY KAPOOR: We agree there; it need not go to the Supreme Court, but the main point is whether you will have one man or more than one. We would like to have the hon. Member's view on this, since he was an important member of the Select Committee.

SHRI M. GOVINDA REDDY: As I said, time is the most essential element in the matter of disputes.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Mr. Govinda Reddy, you have already stated this point.

SHRI M. GOVINDA REDDY: Yes, Sir, but I am answering his point.

From the point of view of time, one man is better than three. One man will dispose of more quickly than three men.

Another point that was made was with regard to the conflict between clauses 4 and 8. This was mentioned.

[Shri M. Govinda Reddy.]
by Mr. Das. There is no conflict between the clauses; I believe there is a misconception. Clause 8 relates to matters which come under the River Boards Bill. River Boards are conceived of in the 'case of development project or a river valley development. In such cases, if any State does not follow instructions or if there is dispute between States in the matter of such a project, the question of arbitration comes in. The matter referred to in this Bill has nothing to do with the River Boards; disputes may arise independently of any river valley development. Therefore, there is no conflict at all. In order to see that an argument should not be extended, that disputes under this Bill may also be referred to a tribunal under the River Boards Bill, that this safeguard is provided for here. There is no conflict. I believe he has understood the point.

The other point raised in this connection was that this is a temporary matter. This Bill, Mr. Kishen Chand pointed out, was not necessary at all because it referred only to past cases and as we are going to have River Boards, the future cases would go before those Boards to be set up under the other Act. There is again a misconception there. River Boards apply to river projects; whereas even after the appointment of a River Board, any dispute may arise, which is independent of the River Board. Therefore that point has no bearing.

Therefore I say, Sir, from all these points of view, the Bill, as it is, is quite satisfactory and I give my support to it.

श्री कन्हैयालाल दाँ० बँस (मध्यभारत) :
उपसभाध्यक्ष महोदय, बिल का जहाँ मैं समर्थन करता हूँ वहाँ माननीय श्री रंङ्गडी और दूसरे सदस्यों ने जो विचार इस विषय में व्यक्त किये हैं उनको भी बड़ा आवश्यक मानता हूँ।

जहाँ तक कि इस बिल का सम्बन्ध है, धारा ३ को यदि हम पढ़ें तो इस प्रकार है :

"If it appears to the Government of any State that a water dispute with the Government of another State has arisen or is likely to arise by reason of the fact that the interests of the State, or of any of the inhabitants thereof, in the waters of an inter-State river or river valley have been, or are likely to be, affected prejudicially by.... "

यानी, प्रश्न यह है कि यह कानून केवल ऐसे साधारण भगड़ों के लिए नहीं है जिनमें यदि दूरी हो तो उससे कोई गंभीर स्थिति पैदा नहीं हो सकती। जैसा कि अभी माननीय बिष्ट ने कहा कि मान लीजिये कि दो स्टेट्स इस विषय पर बड़ी जिद्दू-मज्दूद पर आ जायें तो क्या होगा, इसलिए यदि निश्चितरूप से हम ऐसी व्यवस्था नहीं करेंगे जिससे जल्दी फैसला हो तो स्थिति बहुत बिगड़ जायगी। यह पानी का मामला है। मान लीजिये, किसी नदी का पानी एक स्टेट ने रोक दिया या और कोई व्यवस्था कर दी, क्योंकि आजकल कई तरह की चीजें नदियों के पानी से की जा रही हैं, जैसे बड़े बड़े लोग कारखाने खोल देते हैं और कारखाने खोल कर नदी का पानी खींच लेते हैं, तो ऐसी दशा में यदि दूसरी स्टेट में पानी की योजनाएँ चल रही हैं या सिंचाई का काम होता है, वह रुक जायगा और लाखों एकड़ भूमि में फसल सूख जायगी। जो मित्र यह दलील देते हैं कि संविधान ने जो हमें अधिकार दिया है उसके अन्तर्गत हम यह कानून न बनायें और इस तरह की व्यवस्था सुप्रीम कोर्ट के ही हाथों में रखें तो वह अधिक उपयुक्त होगा। उन्हें यह याद रखना चाहिये कि ये नदी के पानी के ऐसे भगड़ हैं कि यदि समय पर इनका फैसला न हुआ तो बहुत से लोग बरबाद हो जायेंगे। सुप्रीम कोर्ट के फैसलों के विषय में मैं एक उदाहरण दूंगा कि चुनाव सन् १९५१ में हुये थे और तब से पार्लियामेंट के बहुत से मेम्बरों के भगड़ सुप्रीम कोर्ट के सामने पड़े हुये हैं। चार वर्ष से एक मेम्बर साहब मेम्बरी कर रहे हैं। जिस प्वाइंट पर मामले सुप्रीम कोर्ट में गये हैं यदि उसका फैसला पहले ही हो जाता तो कभी

की मेम्बरी खत्म हो जाती। (अन्तर्वाधा) में किसी को रिफर करना नहीं चाहता। मैं केवल इतना कहना चाहता हूँ कि वह मामला अभी भी लटक रहा है और कानूनी दांव पेच खेले जा रहे हैं। मैं यह इसलिए निवेदन कर रहा हूँ कि चुनाव के सम्बन्ध में एलेक्शन ट्रिब्युनल बने हुये हैं जो कि चुनाव के भंगड़ों का फैसला करते हैं। लेकिन चूंकि कुछ विषयों में सुप्रीम कोर्ट के सामने जाने की संविधान में छूट है, इसलिए उसका परिणाम यह हुआ है कि चुनाव की अदालतों के द्वारा जो लाभ हमें जल्दी मिलना चाहिये, वह नहीं मिल रहा है। इसलिए ऐसी स्थिति का जब तक हम यहां भी अन्त नहीं करते हैं तब तक हम कोई विशेष लाभ नहीं उठा सकेंगे। इस विधेयक में विशेषरूप से यह कहा गया है कि :

“The Tribunal shall consist of one person only nominated in this behalf by the Chief Justice of India from among persons who are, or have been, Judges of the Supreme Court or are Judges of a High Court.”

जहां तक हाई कोर्ट के जजेज का प्रश्न है, या ऐसे जजेज का प्रश्न है जो सुप्रीम कोर्ट से रिटायर हो गये हैं, मैं समझता हूँ कि माननीय मंत्री जी को इसमें कोई दिक्कत नहीं होगी, यदि ऐसी नीति निर्धारित कर दी जाय। चीफ जस्टिस से इस विषय में आग्रह किया जाय—इस विषय में माननीय मंत्री जी कोई आश्वासन दे सकें, तो अच्छा है—कि जहां तक हो चीफ जस्टिस ऐसे जज को मुकर्रर करेंगे जो सुप्रीम कोर्ट में काम करता हो। तो मैं नहीं समझता कि सुप्रीम कोर्ट के अधिकारों के विषय में ऐसी स्थिति उत्पन्न की जा रही है जिससे न्याय नहीं होगा। सुप्रीम कोर्ट के ही जज के हाथ में हम मामले सौंप रहे हैं। केवल स्थिति यह है कि पानी का एक महत्वपूर्ण विषय है, जिससे लाखों लोगों के जीवन का और लाखों एकड़ जमीन और फसल का सम्बन्ध है। इसलिए ऐसी व्यवस्था होनी चाहिये, जिससे जल्दी निर्णय हो सके। जो

वर्तमान व्यवस्था है उसके अन्तर्गत जो मैंने सुझाव दिया है उसको स्वीकार करने में मैं समझता हूँ कि माननीय मंत्री जी को कोई आपत्ति नहीं होगी और सदन में जो विचार व्यक्त किये गये हैं उनको ध्यान में रखकर चीफ जस्टिस ऐसे सदस्य को मुकर्रर करेंगे जो सुप्रीम कोर्ट का उस वक्त जज होगा।

जहां तक कि असंसर्ग का सम्बन्ध है, यह स्पष्ट दिया हुआ है कि गवर्नमेंट के रिक्मेंड करने का या गवर्नमेंट की तरफ से थोपे जाने का प्रश्न नहीं है। ट्रिब्युनल के जज को स्वतंत्रता होगी कि वह अपनी पसन्द से असंसरों की नियुक्ति करें। यह ठीक है कि वे सलाहकार के रूप में काम करेंगे और उनका काम फैसला देना नहीं होगा, लेकिन यह भी निश्चित है कि वे साधारण व्यक्ति नहीं होंगे। ग्राम पंचायत की चर्चा की गई कि वहां से असंसर आ जायेंगे जिनको कोई ज्ञान नहीं होगा। लेकिन मैं समझता हूँ कि इसमें चिन्ता करने की आवश्यकता नहीं है। हम संविधान की अवहेलना नहीं कर रहे हैं। संविधान में जो सदन को अधिकार है उसी का हम प्रयोग कर रहे हैं। इतना कह कर मैं इस बिल का पुनः समर्थन करता हूँ।

SHRI AKBAR ALI KHAN: Mr. Vice-Chairman, the Bill is simple, at the same time very important, and I am glad it has been thrashed out. But I feel that on two or three points it needs a little more clarification. For example my learned friend, Mr. Biswanath Das, referred to the question whether it is advisable to bring such a Bill or not, while all other Members were agreed on the necessity, the imperative necessity of this Bill. Regarding that, I may only say, Sir, it is obvious that no State can take cognizance of this case because it is a matter of an inter-State dispute and the only course open under the Constitution is to go to the Supreme Court. Naturally, for the Supreme Court with all its responsibilities to take a case on the original

[Shri Akbar Ali Khan.] side and go into it, it will be an uncalled for and undesirable strain on the valuable time of the Supreme Court. It is for that purpose, and to avoid delay, that this Bill has been brought forward. As to delay, as was mentioned by my learned friend, Mr. Prasad Rao, in the case of the Tungabhadra, for nearly a century, the dispute was going on between Hyderabad, Madras and Mysore, and as I mentioned on the last occasion, it was to the credit of Rajaji and the late Nawab Ali Yawar Jung that this matter was settled a few years back. So the desirability and the imperative necessity for such a Bill, I think, must be admitted.

Now, coming to the other aspect of it, Sir, the question is whether it should be entrusted to one gentleman or more than one gentleman. This is all. It is admitted on all hands that this is a serious affairs; it is an important matter. It is a matter between two States and it is a matter where the use of the water which directly benefits the people of both States is involved. Naturally, Sir, it deserves much more consideration, much more serious thought, much more attention, than the ordinary disputes that go from the Munsiff or from the District Court to the Supreme Court.

So far as adjudication is concerned, it is not only necessary, Sir, that justice should be done, but it is equally important that the people should feel that the justice is done, and if there are more than one person, certainly there will be greater confidence than in one person howsoever eminent he may be. I fail to agree with my learned friend, Mr. Reddy, about the question of delay involved in having a tribunal of three persons. I think there is no question of delay. Three members sitting together certainly can expedite matters in the same way as one man. So I strongly recommend to and request the Government to consider this point that there

should be three members. And one more rider, Sir.

SHRI H. P. SAKSENA: Too many cooks spoil the broth.

SHRI AKBAR ALI KHAN: I think we had better entrust the matter to my hon. friend Mr. Saksena. That will be the best thing.

SHRI H. P. SAKSENA: I am not going to leave my membership of Parliament in order to be the head of that tribunal.

SHRI AKBAR ALI KHAN: So my respectful submission is that there should be no question of having one man. In all important cases relating to constitutional matters they go to the Supreme Court, where five judges sit and you want this matter to be entrusted to a one-man tribunal when there are two States—and not two individuals and the matter relates to thousands of people on both sides. I would, therefore, strongly urge that the work should be entrusted to more than one man. I would also suggest that there should be one engineer, because I have had something to do with such inter-State disputes. An engineer of all-India repute should be there and the third man may be left to the choice of the Government, according to the particular requirements and necessities of the case. It may be that a finance man may be required; it may be that a Revenue Board member may be required. The choice of the third man may be left to the discretion of the Government. I would strongly urge that there should be three men. I am surprised that the Select Committee did not give consideration to this aspect of the matter. So there should be one judge, one engineer and a third man to be put according to the necessities of the case.

Now, I am coming to the last and the ticklish point about Supreme Court. It is true that under 262, power has been given to bring forward legislation to deal with this

subject but I very much doubt, and very seriously doubt, whether that does away with the provisions of article 136. Article 136 provides for special leave to appeal from any decision by any court or tribunal. There is not only that provision, but by bringing in the words 'Supreme Court' in clause 11 there will be unnecessary conflicts. And I think, the words 'Supreme Court' should be removed from that clause. Not only that; I would go a step further and say that in matters of such importance, there should be a final appeal to the Supreme Court and an express provision should be made to this effect. I can understand that it should not go to any other court but I think it is the definite policy of the Constitution that in all judicial matters, the Supreme Court should be the last tribunal and the word of the Supreme Court should be the last word.

SHRI JASPAT ROY KAPOOR: Even if it were a three-man tribunal?

SHRI AKBAR ALI KHAN: Even then I would say that, because in matters like these, as a matter of policy, we should see that in such legislation we do not encroach on the powers and privileges of the Supreme Court and that the final decision should remain with the Supreme Court. I entirely agree that in matters that go from the lower courts to the Supreme Court there is delay and sometimes inexcusable delay which we all regret and deeply regret but in matters which are entrusted directly from the tribunal to the Supreme Court, I am sure that if statistics are taken I can convince my learned friend and this hon. House that there is not such delay which could be considered undesirable. In view of this, my respectful submission is that the Bill drastically needs amendment in these respects.

One more word and I will finish, Sir. My friend Mr. Biswanath Das referred to a very pertinent thing when he said that, though this is a procedural measure, we must say

something about the substantive part of the law. I would remind the House that when this Bill was first discussed before it was entrusted to the Select Committee, I submitted that in view of all the decisions that have taken place mostly in the United States, it is the final and unanimous conclusion that the economic use of the waters is the final and the most important criterion in matters of inter-State disputes. It is very necessary that where you have said "to provide for distribution of waters" this expression "economic use of water" must have been there. We cannot afford to allow the legal argument, that because the length of the river passes in one State, that State should have a greater share; or that so and so has been using the waters for a certain time—although most uneconomically and to the detriment of other people—they should be allowed the use. We have to give a direction of policy and that policy is that we should see that the best economic use of the water is made to the advantage of all people living in India, no matter in which State they live. With your permission, Sir, I would urge that this expression "the best economic use of water" should find a place in this Bill. With these observations, I commend the Bill for the approval of the House.

DR. RADHA KUMUD MOOKERJI (Nominated): Sir, it is admitted on all hands that the subject-matter of this Bill is of very great national importance. We are called upon to decide upon the procedure and the machinery which would be most appropriate in deciding disputes between two States. Now, the very character of such inter-State disputes implies that the machinery to be devised for a satisfactory settlement of these disputes must be of a very high order. In my opinion the tribunal should be so constituted that it can command the implicit confidence of the States concerned. Whenever there is a dispute between two States, that dispute should rightfully belong to the jurisdiction of the Supreme Court. Now, as regards the

[Dr. Radha Kumud Mookerji.] composition of this tribunal, it is suggested that even High Court judges may be made members of such a tribunal. Without casting any aspersion on the status of High Court judges, I am afraid that High Court judges belong to certain States, and therefore, they have got this local flavour in them. It is for better that when the disputes between two States are very acute, they are settled more satisfactorily by judges who are above all kinds of partisanship.

Now, the question of delay has been raised by my hon. friend Mr. Govinda Reddy. Probably, he has got some bitter experience of such delays in the settlement of river water disputes. I happened to be in Mysore at the time when there was a very serious dispute going on for years as to the share of the waters of the Cauvery, between the Madras Government of those days and the Mysore Government. Both the Governments appointed their own experts to go into the dispute.

SHRI BISWANATH DAS: May I say that the delays referred to by my friend refer to the times of Pax Britannica when Britain was ruling and not to the present times?

DR. RADHA KUMUD MOOKERJI: But I think the delay is inevitable when scientific facts in regard to the share of the waters etc. are involved. I know that for certain, because I happened to know very intimately one of the engineers deputed by the West Bengal Government as one of the arbitrators in the dispute. And Mysore was being governed by the great Dewan Shri Mokshakundam Visweswarayya. Even in those days, we were unable to solve such disputes. So I think that the main provision of the Bill, namely that the status of the tribunal must be raised, is quite correct but my humble suggestion is that we should not try to include in that tribunal judges who may not be above board, without casting any reflection on their impartiality.

Now, the tribunal of course must be aided by experts and they may be called assessors because the judges will require all the expert knowledge that may be available as regards the course of waters etc. Now, I come from a State, somewhat down-trodden State, because it is a maritime State which lies in the down country.

PROF. G. RANGA (Andhra): What about U.P.?

DR. RADHA KUMUD MOOKERJI: And we find that all the headwaters of the rivers Ganga and Jamuna are being drained away lavishly and on a very extravagant scale by canals being excavated all round. I have no quarrel with the States that are enjoying the waters of these up-country streams, but Bengal has suffered very much. For instance, the Jumna merges its course at Allahabad and the combined waters of the two great rivers are being further drained off by means of other devices. And so naturally, I feel that perhaps the case of a proper share of the waters higher up—the case of Bengal for a proper share in the waters higher up—will really require an impartial consideration in the hands of a tribunal of a Status to which I have referred. So, on the whole, I say that the disputes, which have caused the occasion for bringing forward this Bill, are of such a great national significance that they should be decided only by a tribunal whose status will be quite in keeping with the character of these disputes.

SHRI J. S. L. HATHI: Mr. Vice-Chairman, I am really thankful to the Members of this House for the very keen interest and the very valuable and useful contributions they have made in the course of the discussions today. The question is naturally one which would engage the attention of hon. Members so far as it relates to a very vital question, namely, the settlement of disputes about the use, control or distribution of the waters of inter-State rivers. There is no

doubt—and it is admitted on all hands—that the use of water is not the right of any individual State; when the river flows through more than one State, naturally the people of the different States are interested in the use of the waters. Not only it is the people of that particular area, but really the people of the country as a whole that are interested. If a particular river has got irrigation potentialities, the benefits of the irrigation may not be restricted to that particular small State. The food products that are the result of this irrigation may well be consumed by the rest of the country as well.

Similarly, if a river has power potential, that power would not be utilised simply in that particular State or States concerned, it would be available to parts far away. We envisage a day when we can have a grid system not for a State or two, but for a number of States. So, it is but natural that great attention has been paid and is being given as to how these disputes should be solved. And it is admitted on all hands that a machinery is necessary. We have seen instances where disputes have been pending for a very long time and have not been settled. It is chiefly because of this that this Bill was introduced and I need not dwell at length on this subject. I feel there is not any difference of opinion so far as the importance or the utility of the present Bill is concerned. I am also thankful to several other Members who have given certain suggestions which I have considered and, I think, some of them may be accepted to the extent that is possible.

Now, the question which has been discussed at length is the one about the composition of the tribunal. And the second is the constitution of the tribunal itself—the establishment of the tribunal. There has been a variety of opinions expressed from different quarters. From one group we have heard that it is not necessary at all to have such a tribunal. The other group has expressed the view

that there may be a tribunal, but the tribunal should consist only of judges. There is a third view expressed that the tribunal should consist not only of lawyers but also of engineers. Another view was that there should be no lawyers at all. There are thus conflicting views coming from different sections of this House. Now, it is really difficult for anybody to co-ordinate and combine all the different views and make up a picture which would satisfy every section, one hundred per cent. That is really the difficulty.....

SHRI AKBAR ALI KHAN: But the majority view is for three.

SHRI J. S. L. HATHI: That is one view. The first, question could be divided into two parts—whether it should be a tribunal at all or should it be left to the Supreme Court? The second point that I would come to is, if it is a tribunal, what should be the number? I am dealing with part one—part one is whether there should be a tribunal at all? Shri Biswanath Das in his speech, suggested that under the Constitution, article 131, the States have got a right to go to the Supreme Court. Why do we bar the rights of these States? Why not allow them to have recourse to the Supreme Court and have their cases settled by the existing machinery of the Supreme Court? That is, well, as an argument. But as against that argument other views have been expressed that in a court of law—however expeditious—the proceedings of the court are likely to cause delay and delays are inevitable. In a court of law, the rules of procedure are such that whatever may be the push of the presiding officers, delays are inevitable. It is none of my business to blame or to say how judicial reforms are necessary. It is not for me to say it here. But the other view—and a strong view—also has been expressed that it is better that such disputes should be referred to a tribunal. And, Sir, we have been passing through stages where we want that these disputes should be settled, as far as possible,

[Shri J. S. L. Hathi.]

either by arbitration, or tribunal, or *panchayat*, or by somebody whom you trust, or to whom you can hand over the matter for an amicable settlement.

Maybe, the settlement may not be to the satisfaction of both the parties. I do not know whether, in every case, if both parties go to the Supreme Court, they will come out satisfied. One of them feels that something still remains to be done. From the Munsif's court, one would like to go and appeal to the district court; from the district court, he would go to the High Court; from the High Court—when there is a provision and the law allows it—naturally he will go to the Supreme Court. If there is a higher court and if there is a provision, naturally he will go beyond the Supreme Court, because that is the psychology. A man never wants to stop at a particular stage so long as the remedy is open to him.

(*Shri Biswanath Das stood up to speak.*)

Sir, I do not want to yield. I shall reply to any point that the hon. Member raises.

There is that psychology. But there should be some finality at some stage and where should that finality be? Dr. Radha Kumud Mookerji said that a tribunal would be better, but in that case, he says that the standard should be reached. Exactly that was the intention of the Government and that is the intention of the Government. And it was for that purpose that the Minister in charge, when he introduced the Bill, did express it very clearly that the original idea was to have only a Supreme Court judge in the tribunal and the Irrigation and Power Ministry had no intention to include even High Court judges. That was for a reason as Dr. Radha Kumud Mookerji suggested.

Now, the difficulty was, as I explained in the beginning and as the Minister had also explained in the beginning—and I am still repeating

that—whether we would be able to get Supreme Court judges—serving Supreme Court Judges, not retired, I mean—for this purpose. As it stands today, with the present number of judges in the Supreme Court, it may not be possible to get three at a time. Maybe, you may get one today, the other after sometime and the third later on, but it will not be possible for the Chief Justice of India to spare three judges at a time. Then, if you cannot have Supreme Court Judges, it may be that the retired Supreme Court judges may be availed of. But it was not found possible by the Chief Justice that we should entrust this to the retired High Court judges also. Although we wanted Supreme Court judges—that was the original idea—we were told that it would not be possible to make available more than one. We did not want to extend this to the retired High Court judges and therefore, the number was to be restricted. I appreciate the anxiety of the Members—and I also see their viewpoint—that it would be desirable if we have more than one judge and that was also our original idea. An hon. Member said that according to clause 2 (a), a member includes chairman. Well, I shall be frank and it is always better to be frank. Our idea was to have more than one member. It is, therefore, that the clause does remain. But that clause is of no use now, and I am myself going to move an amendment for the deletion of it, because it is no use my saying that it is rather not desirable not to have more than one member. Well, we have to move in a practical way. If you say four people and we do not get them.....

SHRI R. C. GUPTA: What is the difficulty in having one Supreme Court judge and two judges of the High Court from so many High Courts?

SHRI JASPAT ROY KAPOOR: The suggestion is that there should be only one Supreme Court judge, either sitting or retired. So far as the other two members are concerned, they

need not be Supreme Court judges or even High Court judges. One of them may be either an engineer or somebody else.

SHRI J. S. L. HATHI: Now, these questions do involve technical matters also, and in technical matters, engineers will come.

I may also draw the attention of the Members to another provision, that is clause 4 as it originally stood and as it now stands. Originally, the scope for settlement of negotiation was not there. As the original Bill stood, it did not include these words: "When any request under section 3 is received from any State Government in respect of any water dispute and the water dispute cannot be settled by negotiations". Now, we thought that it would always be better to settle such disputes by negotiation. The Central Government will be there which will try to bring the parties together and settle the issue. A question may arise: Why should the Central Government not be able to decide such disputes till now? Why are they pending? The reply is—I may inform the House—that it has been possible for the Central Government to settle the disputes, and in a number of cases, it has been possible to achieve that object. But the only point was that there was some delay. That is because when certain investigations had to be made and when certain States were required to give certain information, naturally they took some time, and the Central Government had no authority or power to say that unless you do this, well we will have a machinery which will decide the issue. Now, under article 256 of the Constitution, the Central Government has been given that power and under that power, this machinery will be able to dispose of the case. So, in the first instance, all such disputes will be settled by negotiation, or the Central Government will make sincere efforts to bring the States together and resolve such disputes by amicable settlement. In most of the cases this may be possible, but

there may be certain cases where there is some delay. It is not a question of the States not agreeing because, after all, as you know, at present there is what we call the National Plan—the Five Year Plan. All the schemes have to be approved by the Planning Commission. Schemes cannot be included unless the Technical Committee approves them. And that means that, whenever a river water has to be utilised, that has to be seen. I may cite for example the project at Gandak which is between Bihar and Uttar Pradesh. Now, one State has suggested one project for the particular river. The Planning Commission told them, "Well, this is a river whose waters could be utilised by the other State also. Therefore, unless you have a scheme in co-ordination or in consultation with the other State, this may not be included." Now, these two States have come together and they are trying to come to an amicable settlement. It may take time—four or five months or an year. But this can be possible if there is some machinery and the States feel that if they endeavour, there may be a settlement. That is a psychology which will expedite the bringing of amicable settlement and getting the desired results.

4 P.M.

That is a point which I should like the Members to take into consideration. Let us not feel that the States are like individuals who are out after their personal interests which will fight out to the last drop. That is not so. On the contrary, if you see the number of cases during these seven years.....

SHRI AKBAR ALI KHAN: The agitation over S.R.C. contradicts you.

SHRI J. S. L. HATHI: S. R. C. agitations are different things.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Let us not go into that.

SHRI J. S. L. HATHI: Although there is a provision under article 131, how many States during these seven years have gone to the Supreme

[Shri J. S. L. Hathi.]

Court for—adjudication of their rights? I would be very much pleased to find a single instance where a State has gone to the Supreme Court. It is all well and good to say that the doors of the Supreme Court are closed against us, but let us be practical. I do not think during the seven years any particular State has gone to the Supreme Court. That does not mean that if there is a dispute there should not be a remedy. There should be a remedy. But what that remedy should be is only a matter to be considered. The remedy which was considered a sufficient remedy, adequate remedy and a expeditious remedy by the Constituent Assembly was that the Parliament should be empowered to have a law which would set up a machinery to settle disputes, and not that the matters may go to a court of law. Otherwise there is no meaning in enacting article 262. So when we say that article 262 is meant for settling disputes, it is not with a view to shut the doors of the States, compelling them to come to this machinery for the recourse, but it is with a view that such a machinery would be able to settle the disputes more speedily and more expeditiously than it should be possible to be done under normal procedure of the Supreme Court. Hence the necessity of having the tribunal.

Thus, I have dealt with two parts of the question: Whether there is a necessity of a tribunal and what should be the number of the members. On these points this is all that I have to say.

There are other points also raised and, I think, in fairness I shall reply to those minor points as well.

DR. P. C. MITRA (Bihar): Under clause 11, you have taken away the appellate jurisdiction of the Supreme Court or any other court.

SHRI J. S. L. HATHI: I am coming to that. I will now come to clause by clause points raised by several hon. Members

In regard to clause 2, mention was made about clause 2(a):

“‘member’ means a member of a Tribunal and includes its chairman;”.

I have replied that.

So far as clause 3 is concerned a suggestion has been made for a provision that the Centre should be given power to initiate these proceedings. Supposing, the States do not approach the Centre for appointment of such a machinery, is it suggested that there should be a machinery? Since this machinery is meant to settle the disputes; it presupposes the existence of a dispute. A dispute means something over which two States do not agree. If the two States agree, there is no dispute and none of the States has any grievance, the Centre need not appoint any machinery because there is nothing to settle at all. Unlike the River Boards' Bill, under a provision if the Centre feels that waters of a particular river could be used in a particular way, the Centre by itself will appoint a Board to see how best the waters of the rivers could be utilised and to prepare a plan—this does not refer to the future plans; this refers only to the existing uses of the water of a particular project in a particular way—if the States do not have any grievance, it is not necessary for the Centre to do that.

Under clause 4, Mr. Bisht suggested the fixation of a time-limit for the expeditious settlement of a dispute. But each case will depend on its own merit. In a certain case investigations alone may take two years. For that case a time-limit of six months would not do. If you fix two years, the parties may take advantage of that period and might prolong the matters unnecessarily. Therefore, it is better that each case should be decided on its own merit. But, I think, his point will be sufficiently met if we insert that if the Central Government is of opinion that the matter could not be settled by negotiations, then it shall appoint a tribunal or something of

that sort. It means no specific time-limit, because it would not be proper to say five, six or three months. A case may take two years. If you fix two years, the State may take time of two years. So to meet that point, I wish to move an amendment to the effect that if the Central Government is of opinion that the matter could not be settled by negotiation, it shall appoint a tribunal.

In regard to clause 5, Mr. Kapoor wanted to substitute "shall" for "may". I think it may be "shall". That will dispose of the amendment itself.

In regard to clause 11, jurisdiction of the Supreme Court, the intention is to bar the jurisdiction of the Supreme Court for all purposes—for the purpose of appeal and for the purpose of article 136 also. That is what the Law Ministry advised us. That is why clause 11 has been introduced.

DR. P. C. MITRA: I think the Government is doing some wrong. Therefore, you have taken away the powers from the Supreme Court.

SHRI J. S. L. HATHI: It is not that Article 266 gives that power. Another point was raised whether this would be *ultra vires* under article 262? It is given there.

I think, I have replied to almost all the points raised in regard to the composition of the tribunal and the jurisdiction of the court. If there is any other point that requires clarification, I shall be very happy to reply to those points.

SHRI J. S. BISHT: As the hon. Minister has decided that there is going to be only one-man tribunal what is the objection in allowing at least an appeal to the Supreme Court?

THE VICE CHAIRMAN (SHRI H. C. MATHUR): That he has already answered.

The question is:

"That the Bill to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys, as reported by the Joint Committee of the Houses, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): We shall take up the clause by clause consideration now. Clause 2.

SHRI JASPAT ROY KAPOOR: May I suggest that clause 2 may be taken up after we have disposed of clause 4, because if under clause 4, we decide to have a three-men tribunal, then, of course, clause 2 would remain as it is. If we decide that clause 4 should remain as it is, then, of course, sub-clause (a) of clause 2 will have to be deleted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): I think, I will agree to Mr. Kapoor's suggestion, because there is an amendment by Mr. Hathi. So we shall take up clause 3 first.

Clause 3—Complaints by State Governments as to water disputes

SHRI S. C. KARAYALAR (Travancore-Cochin): Sir, I move:

15. "That at page 2, after line 22, the following proviso be inserted, namely:—

'Provided that the State Governments concerned may settle the dispute by negotiation, after giving notice to the Central Government in case a request has been made.'

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The clause and the amendment are open for discussion.

SHRI S. C. KARAYALAR: Sir, my object is exactly what the hon. Minister emphasised during the course of his speech that an opportunity should be given to the States concerned to

[Shri S. C. Karayalar.] settle their disputes, and the State which feels offended should not necessarily move the Central Government for the appointment of a tribunal. Of course, I am likely to be confronted with the answer that there is reference to such a possibility in clause 4. But I say, Sir, that emphasis should be laid upon this particular aspect, namely that the States concerned should be in a position to settle their disputes, and there must be some specific provision to that effect. It is necessary therefore to make that position absolutely clear. And this is the appropriate place where it can be provided for. Unless you make that provision, the words "and the water dispute cannot be settled by negotiations" appearing in clause 4 will not be intelligible. There must therefore be such a provision in the previous clause which is the appropriate place.

SHRI J. S. L. HATHI: Sir, actually that is the intention of clause 4. The idea is to give a chance to the States concerned. The Central Government would also help them, and it is only when the Central Government finds that it cannot be done, a tribunal will be appointed. So I do not accept the amendment.

SHRI S. C. KARAYALAR: Sir, I beg leave to withdraw my amendment.

*Amendment No. 15 was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

*For text of amendment vide col. 2262 *supra*.

Clause 4—Constitution of Tribunal

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Now we take up clause 4. There are some amendments.

SHRI BISWANATH DAS: I do not wish to move amendment No. 1.

SHRI V. PRASAD RAO: Sir, I move:

2. "That at page 2, for lines 28 to 31, the following be substituted, namely:—

'(2) The Tribunal shall consist of three persons nominated in this behalf by the Chief Justice of India, two of whom shall be from among persons who are, or have been, judges of the Supreme Court, or are judges of a High Court and one from among those persons who are, or have been, Chief Engineers of Irrigation.'

SHRI JASPAT ROY KAPOOR: Sir, I do not move amendment No. 4. But I would like to move amendment No. 3, subject to one further amendment, with your premission, Sir. Since I am not moving amendment No 4, to be consistent with that, I would like the last line of my amendment to read "Judges of the Supreme Court or are judges of a High Court."

Sir, I move:

3. "That at page 2, for lines 28 to 31, the following be substituted, namely:—

'(2) The Tribunal shall consist of three persons nominated in this behalf by the Chief Justice of India, the Chairman whereof shall be from among persons who are, or have been, Judges of the Supreme Court or are judges of a High Court.'

SHRI V. PRASAD RAO: Sir, I move:

5. "That at page 2, lines 32 and 33 be deleted."

SHRI BISWANATH DAS: Sir, I do not wish to move Amendment No. 6.

SHRI J. S. L. HATHI: Sir, I move:

24. "That at page 2, line 24, after the word 'and' the words 'the Central Government is of opinion that' be inserted."

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The clause and the amendments are open for discussion. Be very brief, Mr. Prasad Rao.

SHRI V. PRASAD RAO: Yes, Sir. Even after hearing the Deputy Minister, I am not convinced that a one-man tribunal should be there. He has agreed in principle, and he has also stated, that it is desirable to have more than one judge, if only they are available. Sir, in our country, there are not more than half a dozen inter-State rivers. In the case of many of these rivers, no dispute may arise at all. So we are not going to have a dispute over the inter-State rivers every day. There may be hardly a few disputes. To provide for them, certainly we can find a number of judges. In my amendment, I have said that the High Court judges also could be there. And another point is this. The third man should be a Chief Engineer. It is not a matter only for judges to decide. There should be some technical advice also available, because sometimes the judgment may be rational, but it may be impracticable, as I said earlier.

SHRI JASPAT ROY KAPOOR: Sir, I would not have said one word more on this amendment, if the subject matter of it were not very important. In fact, that is the one matter which is of greater importance in the whole Bill than any other. And though the discussion has been sufficiently long, I think, it has been quite useful, because it has clarified several matters. And the one great clarification that it has brought about is that whereas formerly we thought that article 136 of the Constitution would come to our aid, even if it were a one-man tribunal, it has now been made abundantly clear that, with the

existence of article 262(2), even that little ray of hope has disappeared. And now, even this little silver line that we were banking upon with reference to article 136, disappears into the clouds. Therefore, Sir, I submit that the case for a three-men tribunal becomes stronger still. I would earnestly request my hon. friend, Mr. Hathi, to seriously consider this proposition; because even his own arguments, I venture to submit, Sir, go to lend support to the view that there should be a three-men tribunal.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Mr. Kapoor, do not repeat all this.

SHRI JASPAT ROY KAPOOR: Sir, I would not repeat what I have already said.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Mr. Hathi has all that before him.

SHRI JASPAT ROY KAPOOR: In view of what he said, he should accept amendment No. 2. What he said, and quite rightly, was that this dispute will not be between two private individuals actuated by selfish considerations. The dispute will be between two States, each State looking to the interests of the citizens within it, and also looking to the all-India aspect of the question, keeping in view the interests of the neighbouring States also. And so, we should assume that, if one State is at loggerheads with another State, it is not on account necessarily of any selfish considerations. If two States do not agree with one another, it will be because each State will be taking into consideration the interests of its own citizens and also the interests of the neighbouring State. Even then, only when the Central Government also fails to bring about a settlement between the States concerned, the dispute will be referred to a tribunal. Now, let us picture a situation like that. Say, Bengal and Bihar.....

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): I am sorry I cannot allow you more time. All these points have been gone into thoroughly.

SHRI JASPAT ROY KAPOOR: I will finish within a couple of minutes.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): We are left with only ten minutes now.

SHRI JASPAT ROY KAPOOR: If you cannot allow me even two minutes, then I will sit down. Then, my hon. friend, Mr. Saksena, said that too many cooks spoil the broth. I do not dispute it, but here it is a question of a dispute between two States, not between one man and another. It is a dispute between one cabinet in a State and another cabinet in another State. When so many persons sitting together, even with the intervention of the Central Government, the Prime Minister and the Central Minister for Irrigation, cannot come to a settlement, would it then be fair to let the whole thing be decided by just one individual sitting over the combined wisdom of the cabinet ministers in one State, the cabinet ministers in the other State, and the Central Government Ministers? Let us imagine a picture like that. It will not be proper to let the whole thing rest with one man. We must have three-man tribunals. There should not be any difficulty in finding three suitable persons, one only being a Supreme Court judge and the two others being other desirable persons. I feel very strongly on this point, not only I, but you have seen so many Members are feeling very strongly on this. I would, therefore, submit that the hon. Minister should accept this. Nothing will be lost. Not only justice should be done, but people must feel that justice has been done. Even if you think that not much purpose will be served by having three, surely nothing will be lost.

SHRI J. S. L. HATHI: I have already submitted at length what I have to

submit. I do not accept the amendment.

SHRI N. D. M. PRASADARAO: Can we extend the sitting of the House beyond 5?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): If the House wants to sit beyond 5, I have no objection.

SHRI N. D. M. PRASADARAO: Just now we have taken up the clause by clause consideration of the Bill.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Is the House agreeable to sitting beyond 5?

MANY HON. MEMBERS: No, Sir.

SHRI M. GOVINDA REDDY: We have other business—a meeting.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): I have permitted free discussion of the question. The question is:

2. "That at page 2, for lines 28 to 31, the following be substituted, namely:

'(2) The Tribunal shall consist of three persons nominated in this behalf by the Chief Justice of India, two of whom shall be from among persons who are, or have been, Judges of the Supreme Court, or are judges of a High Court and one from among those persons who are, or have been, Chief Engineers of Irrigation'."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

3. "That at page 2, for lines 28 to 31, the following be substituted, namely:—

'(2) The Tribunal shall consist of three persons nominated in this behalf by the Chief Justice of India, the Chairman whereof shall be from among persons who are, or have been, Judges of the

Supreme Court or are judges of a High Court."

The motion was negatived.

*Amendment No. 5 was, by leave of the House, withdrawn.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Then, Mr. Hathi's amendment. The question is:

24. "That at page 2, line 24, after the word 'and' the words 'the Central Government is of opinion that' be inserted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is.

"That clause 4, as amended, stand part of the Bill".

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 2—Definitions

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Then we will go back to clause 2. There is one amendment by Mr. Hathi. The question is:

23. "That at page 1, lines 7 and 8 be deleted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

SHRI M. GOVINDA REDDY: The sub-clauses should be renumbered.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): That is only consequential. That will be done.

*For text of amendment, vide col. 2264 *supra*.

Clause 5—Adjudication of Water Disputes

SHRI BISWANATH DAS: There is no amendment to clause 5. I want to bring to the notice of the House..

SHRI S. C. KARAYALAR: There are many amendments. He is proceeding on the assumption that there are no amendments.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): There are many amendments to clause 5.

SHRI JASPAT ROY KAPOOR: Sir, I move:

7. "That at page 2, line 35, for the word 'may' the word 'shall' be substituted."

8. "That at page 2, line 36, for the word 'or' the word 'and' be substituted."

9. "That at page 3, line 2, for the word 'forward' the word 'submit' be substituted."

11. "That at page 3, line 11, for the word 'forward' the word 'submit' be substituted."

SHRI S. C. KARAYALAR: Sir, I move:

16. "That at page 2, lines 36-37, the words 'or any matter appearing to be connected with, or relevant to, the water dispute' be deleted."

17. "That at page 3, line 4, after the words 'consideration of' the words 'the report and' be inserted."

18. "That at page 3, line 8, for the words 'or the State Government, as the case may be' the words 'at the request of the State Government' be substituted."

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The clause and the amendments are open for discussion.

SHRI BISWANATH DAS: I have one suggestion to make.

SHRI S. C. KARAYALAR: But he has not moved any amendment.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Does not matter. Let him speak.

SHRI BISWANATH DAS: My submission is this: In sub-clause (3), you have said that Government, when necessary, may refer any case to the same tribunal. Now, the High Court holds a different view in this. The same tribunal means tribunal with the same personnel. I take it that the intention of this House is that it should be referred to the same tribunal even though the personnel may be different.

SHRI M. GOVINDA REDDY: He should see the language here.

SHRI BISWANATH DAS: There have been some High Court decisions. Therefore, I would ask the hon. Minister to make this point clear. Otherwise, he may land himself into trouble. I have nothing more to add.

SHRI JASPAT ROY KAPOOR: I understand that amendment No. 7 is acceptable to the hon. Minister. I will submit that amendment No. 8 is only consequential to that. Does the hon. Minister agree?

SHRI J. S. L. HATHI: Not necessarily. I do not accept it. No. 8 is not necessary.

SHRI JASPAT ROY KAPOOR: To me, it appears that amendment No. 8 is very necessary. Otherwise, there is virtually no meaning in accepting No. 7. If the word 'or' is there, it will read like this:

"When a Tribunal has been constituted under section 4, the Central Government may, subject to the prohibition contained in section 8 refer the water dispute or, any matter appearing to be connected with or relevant to, the water dispute to the Tribunal for adjudication."

If the word 'or' is there, it will mean that it is not necessary to refer the whole dispute. If you accept the word "shall", as has already been accepted, then the natural consequence of it would be that this amendment also should be accepted, so that the whole matter should be referred. These two go together. One goes with the other.

My third amendment is a very simple one. I only want that the word 'forward' should be substituted by 'submit' so that we may have the same word throughout in this Bill. May I draw the hon. Minister's attention to the fact that the word 'submitted' has been retained in clause 12 which says:

"The Central Government shall dissolve the Tribunal after it has submitted its report.....",

whereas previously you say that the report will be 'forwarded'. So as to remove any ambiguity, as all sorts of arguments are advanced in the courts, either you have 'submit' throughout, or have 'forward' throughout. Personally, I would like to have the word 'submit', because 'forward' in a sense means that the tribunal is merely a formal agency or a post office as it were. The report is drawn up and then it is submitted to the Central Government. Anyway, either you have 'submit' throughout or 'forward' throughout. It is better if you have the word 'submit'. I hope the tribunal will not suffer from any inferiority complex if you have the word 'submit'.

SHRI S. C. KARAYALAR: Sir, I move my amendment No. 16. The amendment is to delete the words "or any matter appearing to be connected with, or relevant to, the water dispute". My object is that the words 'water dispute' have been used consistently in clause 3 and in clause 4. Under clause 4, the appointment of the tribunal is for settling water disputes. If you retain these words 'or any matter appearing to be connected with or relevant to' it will not be

consistent with the provisions in the previous clauses 3 and 4, and otherwise also, it would lead to difficulties in construction and would create complications. So for the sake of consistency, and for the sake of avoiding any possible dispute regarding interpretation, I suggest, that these words be dropped. Even if you don't have these words, it would mean the same thing. The object will be the same. Because when the tribunal settles the water dispute, it will have to take into consideration any matter appearing to be connected with or relevant to it. So the dropping of the word will not be of any consequence. So, for the reasons stated *viz*, for the sake of consistency and uniformity of language, and for the sake of avoiding any dispute likely to arise on account of interpretations, I suggest that these words be dropped—that is amendment No. 16.

Regarding amendment No. 17, I move that at page 3, line 4, after the words 'consideration of', the words 'the report and' be inserted. Because the previous sub-clause (2) refers to the report and the decision. The tribunal is supposed to send the report setting out the facts and give its decision. So under sub-clause (3), it is the report and the decision of the tribunal that will come up for consideration and not the decision alone. To be consistent with the previous sub-clause, you have to add the word 'report'. That is, it will read: "If upon consideration of the report and the decision of the Tribunal, the Central Government etc." So it is only to be consistent with the previous sub-clause, that I have proposed to add the words 'the report and' in the first line.

Regarding my amendment No. 18, the object is to delete the words "or the State Government, as the case may be" and to substitute the words "at the request of the State Government" for those words. The idea is that under the scheme of this Bill, it is the Central Government that appoints the tribunal and it is to the

Central Government that the tribunal sends up its report etc. The State Government does not come into the picture in regard to calling on the tribunal to make a report or any such thing. It is through the Central Government that the report or the decisions are submitted and the State Government as such has no initiative in the matter of calling for any report. So, to be consistent with the previous provisions, the Central Government alone may be empowered to call for a report and the words 'or the State Government, as the case may be' should be deleted.

SHRI M. GOVINDA REDDY: The State Government is there and it is for expression of opinion.

SHRI S C KARAYALAR: This portion relates to calling for a further report. The words used are: 'again refer the matter'. The question of reference does not rest with the State. It always rests with the Central Government. So to be consistent with the previous portion, I suggest that the Central Government may be retained there. The State Governments may not be empowered to refer the matter again. It is only the Central Government that can refer the matter. That is only consistent with the previous provision as in this case, it is a second reference, but it must be at the request of the State Government. So, to be consistent with the previous provision, and to provide that the Central Government alone may refer the matter to the tribunal and not the State Governments, I now seek to delete the words 'or the State Government' and I seek also to provide that it may be done at the request of the State Government.

SHRI H. P. SAKSENA: Sir, I have a word to say with regard to amendment No. 17. Now, instead of the words 'consideration of' the amendment says it should be 'the report and'. Now, I would beg the hon. mover of this amendment to see that the word 'decision' contains the word

[Shri H. P. Saksena.]
 'report'. The decision of the tribunal means, the tribunal will give the decision and that decision will be reported to the Central Government. Now whether it is 'forwarded' or 'submitted'.....

SHRI M. GOVINDA REDDY: 'Decision' includes 'report'.

SHRI H. P. SAKSENA: Yes. Therefore, there is no necessity of changing the word 'consideration of the decision' into any other words.

SHRI J. S. L. HATHI: Sir, so far as amendment No. 7 is concerned, I have said that I accept it. I would also accept amendment No. 8. I don't accept amendments 9, 10 and 15.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): What about Nos. 17 and 18?

SHRI J. S. L. HATHI: It is not necessary to accept them, because, as has been said, the tribunal shall send the report and the decision, but really when you consider the decision, the report includes the decision after all.....

SHRI S. C. KARAYALAR: May I point out that there is a distinction made between 'report' and 'decision' in the same clause?

SHRI J. S. L. HATHI: I have nothing to add.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

7. "That at page 2, line 35, for the word 'may' the word 'shall' be substituted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

8. "That at page 2, line 36, for the word 'or' the word 'and' be substituted."

The motion was adopted.

*Amendments Nos. 9 and 11 were, by leave, withdrawn.

*For text of amendments, vide col. 2270 *supra*.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That at page 2, lines 36-37, the words 'or any matter appearing to be connected with, or relevant to, the water dispute' be deleted."

The motion was negatived.

*Amendments Nos. 17 and 18 were by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6 and 7 were added to the Bill.

Clause 8—Bar of reference of certain disputes to Tribunal

SHRI BISWANATH DAS: Sir, I have an amendment No. 19. I move.....

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Amendment No. 19 is a negative amendment. I will put the clause.

SHRI BISWANATH DAS: May I know whether it is accepted or rejected?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): It is a negative amendment. So it is out of order.

The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 9—Powers of Tribunal

SHRI BISWANATH DAS: Sir, I move:

12. "That at page 4, lines 8 to 13 be deleted."

*For text of amendments, vide col. 2270 *supra*.

THE VICE-CHAIRMAN (SHRI H C MATHUR) The clause and the amendment are open for discussion

SHRI BISWANATH DAS: Sir, I move for the deletion of the sub-clause and then, the clause may be re-arranged. Here, the clause wants to follow the ordinary procedure as in the case of the litigant public, namely, that court expenses and all that should stand. It means that the power is vested in the tribunal to give directions regarding the expenses of the tribunal and also about the costs incurred. I feel, and I hold very strongly, that this is very unfair to the States. You bar the States of the regular procedure. You confine or limit their liberty again and then treat them as ordinary individuals. This is unfair. This is neither just nor desirable. The sub-clause takes away not only the valuable legal rights, but also it does not give them that security and protection, that depth of security and protection of law which the States as such enjoyed before this Act. Having done this, you saddle the States with the cost. That is not at all fair. And then you lay layers upon layers without having a clear notion, while framing the Bill. Under clause 4 you say, whenever there is an application, it shall be referred to a tribunal. Then, under clause 8, there is to be arbitration. So you have arbitration, then tribunal, and then expense. What are the expenses to be paid for? Are they to pay for the expenses of the tribunal? Then you cannot make the States pay also the expenses of the arbitration. But the clause, as it is, is comprehensive enough to saddle the States with all expenses. I consider these as indignities heaped on the States. Therefore, I take it that my hon friend will concede this little thing and thus save the States from disgraceful treatment.

SHRI J S L HATHI: Sir, Government is prepared to save the States from all expenses. Under clause 4, this is an honest and sincere attempt on the part of the Central Govern-

ment to settle disputes by negotiations. There is no question of arbitration there. Secondly, if it could not be settled, then naturally, it goes to the tribunal. And it is common knowledge that when there is a dispute between two parties, the court decides which party should bear the cost. It will be decided on merits. It is not then saddling the States with the intention of burdening them with the cost. That is just the natural consequence which always follows in a court of law. While discussing this Bill, the hon Member was inclined to think that the States should be allowed to go to the Supreme Court, but that would have meant more cost than is involved in this procedure. This will be more speedy and less costly. Sir, I am not inclined to accept the amendment.

THE VICE-CHAIRMAN (SHRI H C MATHUR) Does Mr Biswanath Das press his amendment?

SHRI BISWANATH DAS: Sir, it is not my intention. But I do not at all agree with the views expressed by the hon Deputy Minister.

THE VICE-CHAIRMAN (SHRI H C MATHUR): But you withdraw your amendment?

SHRI BISWANATH DAS: Yes.

Amendment No 12,* was by leave withdrawn.

THE VICE-CHAIRMAN (SHRI H C MATHUR): The question is:

"That clause 9 stand part of the Bill

The motion was adopted.

Clause 9 was added to the Bill.

THE VICE-CHAIRMAN (SHRI H C MATHUR): There are no amendments to clause 10.

Clause 10 was added to the Bill

*For text of amendment, vide col 2276 *supra*

Clause 11—Bar of jurisdiction of Supreme Court and other courts.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): There is an amendment to this clause, in the name of Shri Biswanath Das.

SHRI BISWANATH DAS: Sir, I move:

20. "That at page 4, lines 19 to 22, for the words 'neither the Supreme Court nor any other court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a Tribunal under this Act' the words 'a direct appeal shall lie to the Supreme Court from the decision of the Tribunal within sixty days after its publication under section 6' be substituted."

Sir, after having heard the hon. Deputy Minister, I still hold that I stand unconvinced. I do not see any reason why he should not be inclined to accept this modest amendment. We have gone with him to agree to the appointment of an individual gentleman as the tribunal. We have also agreed to bar the freedom of the States to proceed direct to the Supreme Court for adjudication.

SHRI S. C. KARAYALAR: Sir, this is a negative amendment.

SHRI BISWANATH DAS: We have agreed also to saddle the State with the expenses. Having agreed to all these I think my hon. friend will be giving us absolute failure if he denies this very reasonable suggestion. Sir, it looks to me as if my hon. friend would say, as a good grandma, "My good boys, I love you very much. I will agree to do what all you say. But I have nothing more to help you". That seems to be the attitude of the hon. the Deputy Minister. Here, I plead in the name of justice, I plead in the name of substantive law which we so badly need. Even in this Act, to make

attractive, my hon. friend has not taken power so necessary for himself, namely, to regulate the economic use of the waters of this country. What has he taken? This Act to me is not worth the paper it contains. It is nothing. There is nothing to call it useful or helpful to this country. I feel, Sir, that even at this stage he should not refuse. If you appoint the tribunal, how will the question be decided? The High Court may not accept the decision. No court of law will accept it. But if you allow this matter to go before the Privy Council and have the question discussed and disposed of in the highest court.

SHRI AKBAR ALI KHAN: He means Supreme Court.

SHRI BISWANATH DAS: then that means you create a set of laws to guide all these subordinate courts. That would minimise litigation. Litigation would be minimised and you save the people and also the States from expense. Sir, not to speak of States, even private individuals take to litigation regarding riparian rights. What is the guidance? If you take these cases to the Supreme Court and finally decide law, it sets at rest all trouble and it gives you substantive law. Sir, some hon. friends stated, "well, the Supreme Court will decide questions of legality." I was very sorry to hear that even from honourable lawyer Members of this House. Sir, a court of law is also a court of equity. Can you think of equitable adjudication of anything of a higher nature than the Supreme Court?

The Supreme Court in a country so learned as America have expanded the Constitution, made it workable and made it useful, and I look to the day when the Supreme Court of this country will do no less than what the American judiciary has done. This court claims the best and the highest reputation in the world. Do not talk of India alone, but of the whole world, for my countrymen as members of the international judiciary have earned high reputation

Under these circumstances, I plead with my hon. friend to accept this simple amendment and thus take the House into his confidence.

SHRI AKBAR ALI KHAN: I want one minute, Sir.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): You have already stressed this point in the general discussion. You referred to this particular clause at length.

SHRI AKBAR ALI KHAN: Yes, Sir, but I have to say something more. In the reply that my hon. friend gave, he admitted that very rarely and very few cases would come up before such a tribunal. He does not like even such cases to come before the Supreme Court. As my learned friend said, he should lay down a law for these special cases. I appeal to him with all the emphasis that I can command that this is a matter not to be treated lightly but is a matter in which we want the highest tribunal, the Supreme Court, to have the last word. I do hope that he will reconsider this matter.

SHRI J. S. L. HATHI: I have heard the observations of Shri Biswanath Das with great respect. It is not my intention to lightly brush aside any suggestions made by Members, nor is it in a lighter mood, or without giving due consideration to the arguments that I replied in the earlier part of the day. The matter had been carefully considered; the point raised is whether the jurisdiction of the Supreme Court should be barred or not. That was a point which was considered at great length. The only question that is before us is whether we want a finality at any particular stage, and whether we want expeditious decisions. We know that delays are caused and that is why we want that there should be some way by which we could have some finality in regard to these matters. After all, we have been praising the standard of our judiciary. In whom are we confiding? To whom are we entrusting this

work? It is not to an engineer or a technical person—as was suggested by somebody—that this work is entrusted. We are entrusting this work to a person belonging to the institution which has the greatest confidence of our country. Even the selection of the candidate is done not by the executive—the Government—but by the Chief Justice of India, in whom all of us have confidence. That Chief Justice of India will appoint the proper man. Therefore, let there be no misunderstanding or apprehension on our part that there will be no justice done. I, therefore, request my hon. friend not to press his amendment but to withdraw it.

SHRI BISWANATH DAS: It is such an important one, and I am sorry, I cannot withdraw it.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

20. "That at page 4, lines 19 to 22, for the words 'neither the Supreme Court nor any other court shall have or exercise jurisdiction in respect of any water dispute which may be referred to a tribunal under this Act' the words 'a direct appeal shall lie to the Supreme Court from the decision of the Tribunal within sixty days after its publication under section 6' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12—Dissolution of Tribunal

SHRI JASPAT ROY KAPOOR: Sir, I beg to move:

21. "That at page 4, line 24, for the word 'submitted' the word 'forwarded' be substituted."

[Shri Jaspat Roy Kapoor]

22. "That at page 4, line 25, for the words 'on its decision' the words 'in the matter' be substituted."

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The clause and the amendments are open for discussion.

SHRI JASPAT ROY KAPOOR: I hope they are acceptable, Sir.

SHRI J. S. L. HATHI: I accept them, Sir.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

21. "That at page 4, line 24, for the word 'submitted' the word 'forwarded' be substituted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

22. "That at page 4, line 25, for the words 'on its decision' the words 'in the matter' be substituted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13—Power to make rules

SHRI JASPAT ROY KAPOOR: Sir, I beg to move:

14. "That at page 5, at the end of line 9, after the word 'Parliament' the following be added, namely:—

"for 14 days during which it is in session and the Parliament may modify them in such manner as it may like."

SHRI N. D. M. PRASADARAO: amendment No. 13 refers to "members". It is barred, Sir.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Yes, it is barred.

The clause and the amendment are open for discussion.

SHRI JASPAT ROY KAPOOR: I would only say a couple of words and I will not say them merely to waste my breath but I will say them in the belief that the adage is correct, namely, if once or twice one does not succeed, he should try and try again. I have found this adage to be useful and hammering has proved to be useful even when I had to deal with hard-headed persons. I, therefore, hope that it will succeed all the more when I have to deal with such a soft and sweet personality as the hon. Minister in charge of this Bill. I have hardly anything further to add to this suggestion of mine than what I had already said the previous day in respect of another Bill and that is that we must always have the right, merely by the fact of a thing being placed on the Table of the House, to suggest amendments to it. That has been accepted in various other Bills; let the Government be consistent and have uniformity throughout in all Bills.

SHRI J. S. L. HATHI: It would have been better if this amendment had been suggested by the hon. Member in respect of the other Bill also which was passed last week.

SHRI JASPAT ROY KAPOOR: I had suggested but my only difficulty then was—as it now appears to be a genuine difficulty—that important things are not well attended to.

SHRI J. S. L. HATHI: So far as I am concerned, naturally, there can be no hesitation on the part of Government to place the rules on the Table of the House for getting the approval of Parliament. I accept that amendment.

THE VICE-CHAIRMAN: The question is:

14. "That at page 5, at the end of line 9, after the word 'Parliament' the following be added, namely:—

'for 14 days during which it is in session and the Parliament may modify them in such manner as it may like.'

The motion was adopted.

SHRI JASPAT ROY KAPOOR: The drafting may be done more properly, Sir.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Yes. The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

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

SHRI J. S. L. HATHI: Sir, I beg to move:

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

I do not think I have anything to add to what I have stated already.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Motion moved:

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

PROF. G. RANGA: Sir, I wish to congratulate the hon. Minister upon the success he has achieved not only in getting through this Bill but also in giving satisfaction to as many Members as possible who had tabled amendments. There was only one matter over which some heat was generated and that was whether we should have one judge or three on the tribunals. This question, in fact, was discussed in the Joint Committee also, and we came to the conclusion that in view of the fact that we wanted these tribunals in order to avoid

delays, we had better go ahead with only one judge. Secondly, it would have been so very difficult to get these judges to come away from their own usual work and devote their time and energy for such special activities as these. As you know, in our democracy, we are creating more and more of these special responsibilities wherein the energies, the attention and thought and study of these judges are being pressed into service. Therefore, we thought that it would not be proper really to have more than one and that there would be no harm at all in restricting the number to one. That was why we favoured this particular proposition.

I wish to congratulate the Minister also for having the resilience of mind to such an extent as to be willing—even while almost on his feet—to accept some of the amendments which appeared to be reasonable and which had been given notice of truly to the spirit of the Bill.

5 P.M.

SHRI N. D. M. PRASADARAO: Just a minute, Sir. I am very glad that this Bill is being passed now with a few amendments which are for the better. In fact this Bill should have been passed long ago. When the Minister introduced this Bill some time ago and when the reference was made to the Select Committee, he mentioned a number of cases where the disputes lasted for a very long time. I hope that, after the passing of this measure, the Government would see that the tribunals are immediately formed and the disputes are settled quickly. If these settlements are not immediately made, what harm will be done is already known. I do not want to dilate on this point at this stage. With the reorganisation of States, these questions will be coming up and therefore, it is all the more necessary that these disputes are immediately settled by the tribunals that are formed. Now that this is made more or less non-justiciable we cannot go to the Supreme Court, but in forming this tribunal, one thing has to be

[Shri N. D. M. Prasadarao.]
done. We cannot dictate to the Supreme Court, but I hope that the Supreme Court would take the views expressed in this House and see that the tribunal formed would consist of such judge who would not come from the disputing States.

With these few remarks, Sir, I congratulate the Minister for bringing forward this Bill.

SHRI H. P. SAKSENA: I want half a minute. That is all. Sir, I devoutly hope that all our inter-State river water disputes will be settled through negotiation and there will be no necessity for appointing tribunals for which we have provided in this Bill, and this will remain a dead letter. So far as settlement of disputes is concerned, we are a peaceful nation and we do not want to enter into disputes. We want to settle all our matters amicably and the same thing will, I hope prevail in the case of disputes between the various States.

SHRI J. S. L. HATHI: Arising out of the amendment No. 14 of Shri Jaspat Roy Kapoor adopted to clause 13, I beg to move the following amendment in substitution of the said amendment:—

"That at page 5, for lines 8 and 9, the following be substituted, namely:—

'(3) All rules made under this Section shall, as soon as practicable after they are made, be laid for not less than fourteen days before both Houses of Parliament, and shall be subject to

such modifications as Parliament may make, during the session in which they are so laid'."

SHRI H. P. SAKSENA: Has it been drafted in the proper form?

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Yes. The question is:

"That the following amendment be adopted in substitution of amendment No. 14:—

That at page 5, for lines 8 and 9 the following be substituted, namely:—

'(3) All rules made under this Section shall, as soon as practicable after they are made, be laid for not less than fourteen days before both Houses of Parliament, and shall be subject to such modifications as Parliament may make, during the session in which they are so laid'."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): Now the question is:

"That the Bill as amended be passed."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI H. C. MATHUR): The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at four minutes past five of the clock till eleven of the clock on Tuesday, the 13th December 1955.