

(1) (i) Report of the Tariff Commission on the continuance of protection to the Electric Motor Industry.

(ii) Government Resolution No. 11 (I)-T.B./55, dated the 7th September, 1955.

(iii) Government Notification No. 11 (I)-T.B./55, dated the 7th September, 1955.

(iv) Government Notification No. 11 (I)-T.B./55, dated the 7th September, 1955.

(v) Statement under the proviso to sub-section (2) of section 16 of the Tariff Commission Act, 1951, explaining the reasons why a copy each of the documents referred to at (i) to (iv) above could not be laid within the period mentioned in that sub-section. [Placed in Library. See No. S-324/55.]

(2) (1) Report of the Tariff Commission on the Diesel Fuel Injection Equipment Industry.

(ii) Government Resolution No. 21 (I)-T.B./55, dated the 7th September, 1955.

(iii) Government Notification No. 21 (I)-T.B./55, dated the 7th September, 1955.

(iv) Statement under the proviso to sub-section (2) of section 16 of the Tariff Commission Act, 1951, explaining the reasons why a copy each of the documents referred to at (i) to (iii) above could not be laid within the period mentioned in that sub-section. [Placed in Library. See No. S-325/55.]

FIRST ANNUAL REPORT OF COIR BOARD FOR 1955

THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR): Sir, I also beg to lay on the Table, under section 19 of the Coir Industry Act, 1953, a copy of the First Annual Report of the Coir Board for the period ending the 31st March 1955. [Placed in Library. See No. S-326/55.]

FINAL ORDER BY THE DELIMITATION COMMISSION REGARDING U.P.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C C BISWAS): Sir, I beg to lay on the Table a copy of the Final Order No. 30, dated the 8th August 1955, made by the Delimitation Commission India, under section 8 of the Delimitation Commission Act, 1952, in respect of the State of Uttar Pradesh. [Placed in Library. See No. S-320/55.]

THE INTER-STATE WATER DISPUTES BILL, 1955—continued

MR. CHAIRMAN: We have already taken an hour and ten minutes on this Bill; we have fifty minutes' more. It is 11-30 now. Dr. Keskar will continue his speech on the motion to take the Press Commission's Report into consideration from 12-20. Discussion on this Bill should be over by that time

डा० डब्ल्यू० एस० बालिंगे (मध्य प्रदेश) : अध्यक्ष महोदय, पिछले दिन मैं यह कह रहा था कि अभी समय ऐसा है कि लांग आपस में काफी झगड़ें उत्पन्न कर रहे हैं और अगर उन झगड़ों में एक और झगड़ का निर्माण हुआ तो उसका नतीजा इस देश के लिए कुछ अच्छा नहीं होगा। झगड़ें भी किस्म किस्म के होते हैं। कुछ झगड़ें ऐसे होते हैं कि जिनकी वजह से एक स्टेट और दूसरे स्टेट के बीच कोई खास वैमनस्य नहीं पैदा होता। लेकिन कुछ झगड़ें ऐसे होते हैं कि जिनसे वैमनस्य या वैर बढ़ने की सम्भावना होती है। पानी एक ऐसी चीज है, जिस पर मैं समझता हूँ कि जो झगड़ें पैदा हो जायेंगे वे केवल स्टेट लेवल के ऊपर नहीं रहेंगे, ये झगड़ें शायद और नीचे चल जायेंगे, ये झगड़ें लोगों में होंगे न केवल स्टेट्स में। मैं समझता हूँ कि ये सब बातें एंटीरिपेट करके, ऐसी कुछ चीजें पैदा हो जायेंगी यह समझकर, स्टेटमेंट आफ आब्जेक्ट्स एंड रीजंस में यह कहा गया है :

"It is proposed to allow the State Governments only to refer disputes to the Tribunal for adjudication

and not the inhabitants of the States.”

इसका अर्थ यह है कि ये झगड़ें होंगी तो इनमें रिफर करने की जो शक्ति होगी, जो पावर होगी वह केवल स्टेट्स को रहेगी उनके लोगों को नहीं रहेगी। लेकिन अगर आप बिल देखेंगे तो उसमें क्लॉज ५(१) में यह कहा गया है कि :

“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”

यद्यपि इस क्लॉज में यह कहा गया है कि सेंट्रल गवर्नमेंट ऐसे डिस्प्यूट्स रिफर करेगी, लेकिन जहां तक मैंने बिल को पढ़ा है, I speak subject to correction, मैंने कहीं भी वह बात लिखी नहीं पाई जो कि स्टेटमेंट आफ आब्जेक्ट्स एंड रीजंस में लिखी हुई है। इस बिल में मुझे कहीं भी ऐसा कोई प्रोहिबिशन या कोई प्रोहिबिटरी क्लॉज देखने को नहीं मिला कि एक सामान्य आदमी जो कि पानी में इंटरस्ट है वह किसी डिस्प्यूट को आर्बिट्रेशन को रिफर नहीं कर सकेगा। अगर मैं गलती कर रहा हूँ तो मिनिस्टर साहब मुझे दुरुस्त कर देंगे।

मैं यह कह रहा था कि कोई भी बड़ी नदी आप ले लीजिए, गंगा नदी है, गोदावरी है, कृष्णा है, कावेरी है, हम तो सब को नदी कहते हैं। लेकिन आप जानते हैं कि नदी का जो बेसिन होता है वह नदी का पूरा पूरा पानी एक जगह ले आता है। अब गोदावरी का बेसिन लीजिए, गंगा का बेसिन लीजिए, उसका बड़ा भारी बेसिन है, पटना तक उसका पानी चला जाता है। मान लीजिए कि आपने बंगाल में कोई बड़ा भारी बैराज तैयार कर लिया। बैराज तैयार करने से पहले भी बर्ड बर्ड कॉन्क्लूशंस होते हैं, वह बैराज कितना बड़ा हो, कौन कौन उसका उपयोग करे, उसमें पानी कितना आना चाहिए, बगैरा बगैरा। यह भी उन कॉन्क्लूशंस पर निर्भर करता है कि उस जगह पर पानी का फ्लो

कितना है और एक सेकेंड में कितना पानी उस जगह से जाता है। अब आप सोचिए कि आपकी ऐसी भी एक योजना है कि केवल बड़े बड़े बैराज ही आप नहीं बाधने वाले हैं बल्कि जगह-जगह बाधे जायेंगे, जितने ज्यादा बैराज बनाये जायेंगे जगह छोटे बैराज भी बाधने वाले हैं। आपका यह आइडियल है, ध्येय है कि देश में जितने ज्यादा उत्तनी अच्छी बात होगी। अब मान लीजिए कि कुछ तादाद में ये बैराज पूरे देश में, थूआउट दी कंट्री, उत्पन्न हों, और होने ही वाले हैं, तो उनकी वजह से नदी के आखिर में जो बैराज होगा और उसके पानी का जो फ्लो होगा, क्या उसमें कोई फर्क नहीं आयेंगा? फर्क जरूर आयेंगा। अब मैं आपको आन्ध्र प्रदेश की मिसाल देता हूँ गोदावरी का सारा पानी वहां जाता है। मान लीजिए कि गोदावरी के ऊपर के प्रदेशों में कुछ बैराज कई जगह उत्पन्न कर दिये गये, तो उनकी वजह से हो सकता है कि आन्ध्र प्रदेश में गोदावरी नदी के पानी का जो फ्लो है उसमें फर्क आ जाय। इसलिए क्या चूंकि आन्ध्र प्रदेश में कुछ बैराज आपने पहले ही उत्पन्न कर दिये हैं आप यह कहेंगे कि गोदावरी के ऊपर के क्षेत्रों में जो देश है वहां उस किस्म के बैराज नहीं होने चाहिए। तो मैं समझता हूँ कि इस तरीके से इस प्रश्न को हल करना उचित नहीं होगा। मेरे ख्याल से, ये झगड़े जितने कम हो सकें उतने हमको कम करने चाहिये। गोदावरी का डेवलपमेंट करना है या गंगा का डेवलपमेंट करना है तो यह जो बात है वह स्टेट्स की तरफ रहे क्यों? गोदावरी का पानी पूरे देश का पानी है, गंगा का पानी पूरे देश का पानी है, कृष्णा का पानी पूरे देश का पानी है उसमें भगडा फसाद की बातें लाते ही क्यों हैं, यह बात मेरी समझ में नहीं आई। आप कहते हैं कि नाम से क्या होता है, झगड़े उत्पन्न होने वाले हैं तो होंगे ही। मैं आपसे कहना चाहता हूँ जैसा कि हमेशा कहा गया है कि नाम में बहुत कुछ है। जैसे राम नाम में बहुत कुछ है वैसे ही और नाम में भी बहुत कुछ है। आप हमेशा यह कहते रहे हैं कि यह डिस्प्यूट है यह झगड़ा है, यह फसाद है, तो केवल इतना करने से झगड़े जरूर पैदा हो जाते हैं। जैसे

[श्री डब्ल्यू० एस० बालिंग]

हम सबके surnames हैं, किसी को कहते हैं नन्दा, किसी को कहते हैं बालिंग, किसी को कहते हैं हाथी, तां बात यह है कि हम सब लोग सामान्य आदमी हैं लेकिन चूंकि हम को surname दिया जाता है इस लिये एक को कहते हैं कि अरुं यह इस फ़ैमिली का है, दूसरा दूसरी फ़ैमिली का है और फिर उनमें एक जातीय भावना उत्पन्न हो जाती है। तां मैं यह कह रहा हूं कि यह झगड़ों का आप नाम ही क्यों लेते हैं। आप देखिये कि कांस्टिट्यूशन में जैसा आर्टिकल २६२ है वैसे ही आर्टिकल २६३ भी है। मैं आपको वह पढ़ कर सुना देना चाहता हूं। मैं जानता हूं कि नन्दा साहब ने उसके बारे में काफी सोचा होगा, लेकिन मेरा जो संशय है उसको मैं आपके सामने पेश कर रहा हूं। आर्टिकल २६३ यह है :

"If at any time it appears to the President that the public interests would be served by the establishment of a Council charged with the duty of—

- (a) inquiring into and advising upon disputes which may have arisen between States;
- (b) investigating and discussing subjects in which some or all of the States, or the Union and one or more of the States, have a common interest; or
- (c) making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for the President by order to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure."

मैं आपसे एक विनती यह कर रहा हूं कि आप २६२ का आधार लेने के बदले २६३ का आधार क्यों नहीं लेते।

अब इस सम्बन्ध में मैं और भी थोड़ी सी बातें आपके सामने रखना चाहता हूं। शेट्टी ७, आइटम नम्बर ५६ भी आप देख लीजिये। जो मैं कह रहा हूं उसकी पुष्टि आपको इस में मिल जायगी :

"Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest."

अब इस सम्बन्ध में आप लिस्ट २, आइटम नम्बर १७, भी देख लीजिये। यह आइटम नम्बर १७ आर्टिकल २६२ के वास्ते रिलेवेंट है।

Seventh Schedule, List II, item 17:—

"Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage, and water power subject to the provisions of entry 56 of List I."

मेरा विश्वास है कि आपने यह सब बातें जरूर सोची होंगी। लेकिन मेरा कुछ संशय है और वह मैं आपके सामने पेश कर रहा हूं। मैं यह कह रहा हूं कि अगर आप शेट्टी ७, लिस्ट १, आइटम नम्बर ५६ के अन्दर एक कायदा बना दें या २६३ के अन्दर एक कोर्ट बना दें और ये सब डिस्प्यूट, झगड़ें, फसाद उनके सामने आप रख दें, तो शायद २६२ की कोई खास जरूरत नहीं रहेगी। यह मुख्य बात मैं आपके सामने रखना चाहता था।

जो इंटर स्टेट वाटर डिस्प्यूट बिल है उसमें कुछ क्लोज़ के बारे में मेरे मन में जो सन्देह हैं वे मैं आपके सामने पेश करना चाहता हूं। क्लोज ४ लीजिये। क्लोज ४(१) ऐसा है :

"Clause 4. (1).—On a request received in this behalf from any State Government, the Central Government may, for the adjudication of the water dispute, by notification in the Official Gazette, constitute a Water Disputes Tribunal consisting of one

person only nominated in this behalf by the Chief Justice of India."—and now this is the relevant portion—"from among persons who are, or have been Judges of the Supreme Court or are Judges of a High Court."

रानी उसमें डिफिनिशन यह है कि जहां तक सुप्रीम कोर्ट के जजों का मामला है, वे आज हों तो भी अप्वाइंट हो सकते हैं और अगर वे रिटायर हो जायें फिर भी अप्वाइंट हो सकते हैं। लेकिन जहां तक हाई कोर्ट के जजों का मामला है वे अगर आज हाई कोर्ट के जज हैं तो अप्वाइंट हो सकते हैं, लेकिन अगर रिटायर हो गये तो अप्वाइंट नहीं हो सकते हैं। मैं यह समझ नहीं सकता कि ऐसा फर्क क्यों किया गया है। मुझे इसकी कोई खास जरूरत नहीं मालूम होती। जब तक वह हाई कोर्ट का जज है तब तक वह एक ट्रिब्यूनल का हैड (अध्यक्ष) बन सकता है और जब वह रिटायर हो जाय तो फिर वह अध्यक्ष क्यों न बने ? यह क्या बजह है, मेरी समझ में नहीं आयी।

रीवर बोर्ड्स एक्ट तो आज हमारे सामने है नहीं, इसीलिये मैं उस सम्बन्ध में कुछ कहता नहीं, लेकिन केवल एक बात क्लोज 5 के बार् में कहना चाहता हूँ कि रीवर बोर्ड्स बिल में जो प्राविजन हैं उनके मुताबिक आपने ये एक्सपेक्शंस लगा दिये हैं लेकिन जहां तक मुझे पता है ऐसा कोई क्लोज नहीं है कि एक सामान्य आदमी भी अपने डिस्प्यूट्स इसमें रफर कर सके।

अध्यक्ष महोदय, मुझे इस बिल के बार् में जो सूचनाएं करनी थीं वे इतनी ही सूचनाएं थीं।

MR. CHAIRMAN: Yes, Mr. Ranga. You can go on till 12-5 at the most. I shall ask the Minister to reply at 12-5.

PROF. G. RANGA (Andhra): I shall take only five minutes, Sir.

Mr. Chairman, I am wholeheartedly in favour of this Bill. The only thing is that it should have been brought forward a long time ago. Even when the British were here, we were faced with such river disputes and many of our projects, especially the Tungabhadra project, could not be taken up during all those years just because at that time the Central Government was not prepared to legislate in the manner in which this Bill seeks to do now and was not prepared to use its good offices to bring about an agreement between Mysore, Madras and Hyderabad Governments. So we know only to our own bitter cost how much we have lost because of the absence of such legislation. Even recently, Sir, we have been anxious to push forward with the development of the Tungabhadra high level channel.

But most unfortunately there arose some disagreement between the Mysore Government, and the Andhra Government and the previous Madras Government and as a result of that difference of opinion so much of delay has been caused. Similarly my hon. friend, Dr. Barlingay, has instanced the Godavari problem. It is the duty of the Union Government to have an over-all picture of the various possibilities for the development of the waters of every one of our rivers and then try and bring about an agreement between all the Governments concerned and then have a consolidated plan for the development of various barrages and dams and other flood control measures. Thereafter the State Governments should be encouraged to go ahead with their various construction projects. Now, it is quite possible that when a barrage is constructed in one particular State for the benefit of the people of that particular State the waters that come to be dammed lead up to that and may cause complications for the States which lie behind that in the upper reaches of the river. Therefore their interests also will have to be considered. It would be no

[Prof. G. Ranga.]

good at all for the Union Government to go on waiting until the State which lies at the lower levels of a river thinks of a particular barrage or a dam and then creates problems for the States which lie ahead. It is no good waiting till the dispute arises and then to come into the picture and say, "we are going to appoint a tribunal". Therefore it is the duty of the Union Government really to pay special attention with the help of its own experts to the various plans that can be made for the fullest possible exploitation and development of the water resources of every one of our own important as well as minor rivers. And in the light of that, let them suggest to the State Governments various schemes which can be developed. And in the course of attempts made by the various States in order to develop these schemes, disputes may arise and it is at that stage that this Bill, when it comes to be placed on the Statute Book, will come to be handy for the Government. But then what is it that the Government of India propose to do in order to make the necessary arrangements for all the preliminary planning that has got to be done before they reach the stage when there could possibly be a dispute at all? That is why I think it is necessary for the Select Committee to consider whether it would not be in the interests of the country to give power to the Union Government to refer, on their own initiative, any one particular matter as to the utilisation of the waters of any one particular river to a tribunal like this instead of having to wait until a dispute actually arises and until one of the States takes it into its head to request the Union Government to decide this matter with the help of a tribunal. There are many such matters which will have to be taken up by the Select Committee but one thing is clear. And that is that this Bill is needed, and very badly needed. The sooner it comes to be placed on the Statute Book, the better it will be for the country.

SHRI V. PRASAD RAO (Hyderabad): Mr. Chairman, I welcome this measure, for it is long overdue. I am not going to dilate on how, due to the absence of such a measure, proper utilisation of our waters could not be made. The hon. Minister has himself referred graphically to them, nor am I going to repeat the points that were made by my friend, Shri Ranga. But one cardinal thing, I think, should be taken into consideration when this water distribution is taken up and that is that the States Reorganisation Commission is going to announce its findings very shortly. Now, for some rivers the quotas had already been fixed. For instance, the Godavari is there and for that the quantum of water has been fixed between Bombay, Hyderabad and Andhra. Suppose the States Reorganisation Commission is going to recarve the States, then what will be the position? Would it not be better to appoint a Commission to go into the whole matter of redistribution and reallocation of waters?

Another thing that I would like to suggest is that both these Bills, the River Boards Bill and this Disputes Bill may be clubbed together, as has been suggested by our friend Mr. Kapoor. With the recarving of the States so many new disputes and so many matters already settled are going to come into the picture again for resettlement and in view of that, it is better that the Central Government itself establishes a Commission to go into the whole problem thoroughly.

There is another point which was referred to by the hon. Minister but he left it there and that is about the submerged area and the quantum of compensation that is to be paid to other States. The hon. Minister did not elaborate the point. I do not know whether the question of compensation could also be brought within the purview of this Bill. If, for instance, the Hyderabad State is going to be disintegrated, the Godavari

project is going to be located in the Telangana area and the submerged portion will be in the Marathwada area, then a big question arises about compensation and I do not know whether disputes of that nature can also be brought within the purview of this measure. If it cannot be done, then I suggest that such cases about the quantum of compensation to be paid to the submerged area if that area happens to be in another State should also be included within the purview of this enactment.

Lastly, I do not understand why only a judge could decide on such matters efficiently and properly. Of course, I know that there is a provision for technical assessors and that technical engineers could be brought in, but after all they are only assessors; they have no right of vote. Sir, it is not merely a question for a judge to decide as to how much of water could be allocated or what should be the quantum of compensation but technical factors should also be taken into consideration. I think therefore that the tribunal must consist not only of a judge but also of a qualified engineer and a third eminent person. I hope the hon. Minister will consider all these things and club both the Bills together into one and bring forward a consolidated Bill.

SHRI H. C. DASAPPA (Mysore): Mr. Chairman, Sir.....

MR. CHAIRMAN: Just five minutes only.

SHRI H. C. DASAPPA: Yes, Sir. I will not take very much time. I join with my hon. friends in welcoming this measure because naturally with the formation of various States, especially linguistic States, these disputes are growing in number and my own reading is that with the reorganisation of the States in the offing, possibly these disputes will be on the increase more and more. Sir, we have had rather acrimonious discus-

sions with regard to the use of the waters of these rivers and I think this measure has come none too early and I hope it will prevent the various States from making rather unfavourable, unjustifiable and unwarranted allegations against their own good neighbours. My hon. friend, Mr. Ranga, referred to some of them. It is very necessary to prevent unnecessary wranglings between the various States. But one thing I wish to say in this connection. In certain States in the upper regions the river valleys have been well utilised by judicious forethought and I hope that this Bill does not mean that those rights which they already enjoy will be abrogated. I mean in 12 NOON the sense that if they have already launched on certain schemes and projects, the Bill here does not in any way come in the way of the completion of those projects. All that I plead for is that whatever has happened up till now will be a thing which will not be lightly disturbed. With these words, I welcome this measure.

SHRI AKBAR ALI KHAN (Hyderabad): Mr. Chairman, I just beg to point out one thing in the Inter-States Water Disputes Bill. I am sorry I was not present when the hon. Minister moved this Bill for consideration. There is a clause which precludes the Supreme Court from dealing with this matter and that is clause 11. I am very doubtful if the right that we have given to the Supreme Court under article 32 of the Constitution—which is one of the Fundamental Rights in the Constitution—can be taken away by anyone.....

DR. W. S. BARLINGAY: Article 262 of the Constitution is there. Sir, may I read the article so that the hon. Member would feel satisfied?

“Disputes relating to Waters.—(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use,

[Dr. W. S. Barlingay.]
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)."

SHRI AKBAR ALI KHAN: Sir, even after hearing Dr. Barlingay I feel that article 262 does not refer to the Fundamental Rights. It does not relate to the right given under the Fundamental Rights Chapter in the Constitution. Certainly Parliament can do it, but the point I contest is that Parliament has to go through the process that is required for the amendment of the Constitution. Article 262 of the Constitution gives power to Parliament to take away the jurisdiction of the Supreme Court. But the question is whether the rights given under Fundamental Rights Chapter can be taken away by the ordinary legislation? I beg to place this point for the consideration of the House and hon. Members—as it is a constitutional issue.

SHRI B. M. GUPTE (Bombay): Mr. Chairman, I have one suggestion to make. I entirely agree that on important matters a single Judge's judgment should not be altogether final. The suggestion, therefore, has been made that two or three persons should be appointed on the Tribunal. I have an alternative suggestion to make, and that is, if the Joint Select Committee is not inclined to increase the personnel, then the supervisory jurisdiction of the Supreme Court under article 136 should be retained. Either of the two alternative methods may be selected and the Joint Select Committee may decide accordingly.

SHRI GULZARILAL NANDA: Sir, I welcome the unanimity of opinion in this House in favour of the proposed

legislation. I see here that there is very clear and very keen appreciation of the need and purpose of this legislation. There have been points made mostly touching on procedure, a slight recasting of the wording of one clause here and there. These are certainly things which the Joint Select Committee might consider.

There are one or two points of substance and I will deal with them first. First of all, an important point was raised about the scope of this legislation. Why confine it to disputes only as they arise, at the instance or initiative of one State or another? Why not bring within its scope the whole question of development in a rational, integrated manner? This aspect has been fully kept in view and for this purpose there is another Bill which has been introduced, the River Boards Bill. The River Boards Bill makes that provision, that is, on the basis of proper surveys and investigations, the water potential available, the requirements of the different areas, the relative merits and demerits, a proper scheme has to be framed. It has to be approved; and then it has to be carried out. The procedure is laid down. So, Sir, this point has been fully covered.

Connected with the same point, there were certain other suggestions. Regarding clause 3 it was asked whether questions relating to denudation of forests and of soil erosion could not be brought under the term "control" in that clause. It is doubtful; but that, again, can come under the other legislation. Similarly, with regard to the question whether pollution of water can constitute a dispute, the opinion that I have obtained is that it does, even in this Bill; but in any case it would come in the other Bill proposed.

So far as the scope is concerned, various other suggestions have been made; but the provision exists either here or in the other companion Bill. With reference to the suggestion made "Why not have these two Bills together" or to the point of criticism

"Why was not this Bill brought in earlier", I may point out this. It is a very valid and legitimate point. It should have been brought in earlier if it had been at all possible for us to do so. When this originated, it originated as a single draft Bill. Since then it has taken different forms and shapes. It has been redrafted and revised. It has gone to the States and has come back, and gone to the Planning Commission. It has been reconsidered because of various viewpoints urged, modifications suggested and legal and constitutional issues raised. Ultimately it was felt that it would be better to put under one Bill all those provisions which are non-contentious altogether. With regard to the points on which there may possibly be a little more debate and a little difference of opinion, we said, "Let us put them in another Bill." Therefore, these two Bills have arisen. I have also answered the question with regard to the delay which has occurred.

Then, regarding the rest of the points, as I said, mostly relating to points of procedure, of clarification, I will take them in their serial order. What happens if no State refers the dispute? Why not the Centre be empowered to refer to the Tribunal? This arises out of clause 3. The position is that ordinarily if any State is affected by any inter-State water dispute, it is not going to sit back it will raise the issue; but if there is any general interest of the country involved, that comes within the purview of this clause 3. Therefore, we have armed ourselves with necessary powers for this purpose.

There was the question about the composition of the Tribunal. It is an important point. Two or three suggestions arose. "Why have only one judge; why not have three?" "Why retired judges at all only in the case of the Supreme Court?" "Why not permit the High Court Judges also to be retired Judges?" But in this case it is not our opinion so much as the opinion of the Supreme Court Chief Justice. We referred this matter to the Supreme Court

and this was the advice received from that quarter. There are not too many judges available therefore it may be that we may have to have recourse to retired judges also in the case of the Supreme Court.

SHRI H. C. DASAPPA: May I know, Sir, if he is a sitting High Court Judge, that Judge will not belong to either of the disputing States?

SHRI GULZARILAL NANDA: The appointment is to be made by the Chief Justice. Therefore, that power is not taken by the Executive. It lies with the Supreme Court.

Sir, I am coming to the other connected point, "Why not have three members of whom one will be a technical man and there may be a financial man or some one like that?"

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Have the Supreme Court given any reasons for excluding retired High Court Judges from being appointed?

SHRI GULZARILAL NANDA: The reasons may be of common import. But there are practical difficulties also. It is better to have a working judge rather than a retired judge in the case of the Supreme Court Judges also. If you cannot help it in this case it does not mean that we should allow it in the case of a High Court also. About the question of having a technical man also, Sir, we have made a provision, as hon. Members know, for the appointment of assessors in regard to that.

There was this suggestion: "Why confine that power to the Central Government?" I believe the intention was not that. The intention was that the names of the assessors will be recommended by the Central Government. But if there is any ambiguity about it, it should be made clear and I hope it will be taken up in the Select Committee. But the intention is quite clear. The point is whether there should be a technical man or not. Technical

[Shri Gulzarilal Nanda.]

opinions will be available through the assessors. If there are three persons, two of whom are technical men and the third is a judge, I think it is better to leave the judge by himself to decide and let him have the benefit of technical opinion.

There was a slight reference to Clause 5(3) and Clause 12—that they are not easily reconciled. The former provides for reference back to a tribunal which may confirm or modify its decision. Under the latter, any State can immediately inform the Central Government if they propose to make a reference and certainly the Central Government is not going to dissolve the Tribunal; but if necessary, this clarification also can be made. It is not a very difficult matter.

It was also suggested that the two Bills should be referred to the same Joint Committee. I do not know whether they can be the same; but, at any rate, the personnel should be the same. Of that, there is no doubt.

Another suggestion was that the word "may"—this has reference to Clause 4(1)—should be replaced by "shall", making it obligatory on the Central Government to appoint a Tribunal as soon as a State brings to its notice a dispute between itself and another.

PROF. G. RANGA: It generally means "shall".

SHRI GULZARILAL NANDA: It is quite open to the Centre, even after a State has made a reference, to resolve that dispute by its good offices. Why stop that discretion?

There was a very small drafting point about re-wording Clause 5 to make it obligatory on the Central Government to refer all points in dispute to the Tribunal. If the word is "may", can it mean that the whole dispute may not be referred and only a point connected with it be referred? That will be absurd. Therefore, the intention could never be that and cannot lend itself to that inter-

pretation. But if we can make it further clear, to make things doubly sure, there is no objection to that.

Then there was a small point. Well, I consider it is a fairly important point. That is in regard to Clause 6. Why should the Tribunal's decision not be published in its entirety and in the Official Gazette in such manner as the Central Government thinks proper? Possibly, it is the usual phrasing. But this is what is intended and the Joint Select Committee may consider re-wording it in that manner.

There was another point about the Tribunal being embarrassed if the Central Government refers any of its decisions back to the Tribunal for reconsideration. I am rather surprised. There are many cases between the Government and the people and, therefore wherever Government interests are involved, are the courts going to give a decision which will not be a just decision? Sir, that suggestion I would not like to entertain because this undermines the whole conception of our judicial administration.

SHRI JASPAT ROY KAPOOR: Will he please make this point a little more clear? The point raised was: Why should it be open to the Central Government or even to the State Government to request the Tribunal to reconsider and modify the Tribunal's decision as a whole?

SHRI GULZARILAL NANDA: These are technical points. Some points may have to be made more clear; some new points may arise. These are affairs of life being dealt with by the Tribunal and there should be that much elasticity in it. It is not only technical justice, but it is real justice being done.

SHRI JASPAT ROY KAPOOR: That was not my point. So far as referring back of a new question is concerned, it is all right. My point was that the substantivity of the decision should not be reconsidered.

SHRI GULZARILAL NANDA: I certainly could not imagine that although everything is all right except the particular point which requires any further consideration, we will ask the Tribunal to go again into the whole matter. That is never intended, probably as far as I can see, it is not the meaning which can be put into the words. But, well, this can also be looked into again.

There was Mr. Barlingay's point: "Why mention 'dispute' at all?" I personally also rather do not like disputes at all. But it happens that there are disputes. There is a provision in article 263 which is of a general character. But when there is a specific provision made for a certain kind of disputes arising, why not make use of that specific provision rather than resort to a general clause? The other article is a question of co-ordination between States whereas this relates to water disputes. So, it is very obvious that this is the proper provision of the Constitution to be utilised for this purpose. The question of organization and of things which might be needing consideration regarding the manner of utilization of the waters, will be capable of being dealt with in the other Bill because, there, the whole view is taken of the entire situation

Regarding the question of subvention and compensation etc., well, compensation is a matter which is dealt with under special laws. There are practically uniform laws. There we have the procedure for compensation, the quantum of compensation and all other things. Where there is a specific provision which gives certain powers which enable certain things to be done, then we look into that part of the Constitution.

DR. P. C. MITRA: I want to know

MR. CHAIRMAN: No question, this is not question hour.

DR. P. C. MITRA: May I know whether the dispute includes fisheries and navigation rights?

71 RSD.—3.

SHRI GULZARILAL NANDA: Sir, in this case of uses, it is all types of uses.

MR. CHAIRMAN: That is all. The question is:

"That the Bill to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this House, namely:—

Prof. G. Ranga
Shri M Govinda Reddy
Shri S. Venkataraman.
Shri Jagannath Prasad Agrawal
Shri H. P. Saksena
Shri Krishnakant Vyas
Syed Mazhar Imam
Shri M. H. S Nihal Singh
Shri Jagannath Das
Shri Vijay Singh
Shri N. D. M. Prasadarao
Shri Surendra Mahanty
Shri S. N. Dwivedy
Prof. N. R. Malkani, and
Shri J. S. L. Hath†;

and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees will apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of Members to be appointed by the Lok Sabha to the Joint Committee; and that the Committee shall make a report to this House by the 21st November 1955."

The motion was adopted.