

[Shri Bansal]

Another difficulty of that area is that it is a slightly raised plateau if you see from the Punjab end with the result that although we have spent crores and crores of rupees on the Bhakra-Nangal irrigation project, not an ounce of water can be taken to that part of my constituency and the only source from where water can go there is from damming that Sahibi river in some place. The unfortunate position is that the Alwar State, at that time, tried to bund most of the waters with the result that the river completely gets dried up.....

Mr. Speaker: Are we now going into any particular case, regulating any particular river and suggesting that Government should take action?

Shri Bansal: What I am trying to suggest is that even these moribund rivers should be considered when forming these Boards. That is my short point and I am sure the hon. Minister will take this into consideration.

Shri Achuthan (Cranganore): Sir, I welcome this Bill. I hope this Bill will have many advantages for the country especially after reorganisation. In fact, Shri Chettiar was referring to the disputes between Madras and Travancore-Cochin. Practically, it is not very much of a serious thing. If both the Governments take up the question in a co-operative way, the difficulties of both Governments will be solved.

He was saying that there may be a possibility of not having a stable Government even after the general elections in Kerala and so Madras may have to suffer after one or two years. It is a far-fetched presumption and there is no foundation for it. I say let the River Boards be established wherever necessary; and if there are disputes they may be taken up later so that full advantage may be made of this.

Shri Nanda: I have nothing more to say. I will certainly take action on suitable occasions.

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INTERSTATE WATER DISPUTES BILL

The Minister of Planning and Irrigation and Power (Shri Nanda): 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 passed by Rajya Sabha, be taken into consideration."

On the 29th of September last year, this House adopted a motion for the reference of this Bill to a Joint Committee for submitting its report by the 21st November. As the House knows, the Joint Committee after taking into consideration all the suggestions made in both Houses of Parliament, arrived at decisions on all points except one which I will explain shortly.

There is a minute of dissent also regarding one point. I will explain very briefly the changes that were made in the original Bill by the Joint Committee. There are not many changes; one or two are of significance and the rest are only verbal changes.

A change is made in clause 4 with a particular object. In the clause, as it stood originally, the Central Government had the discretion to refer a matter to the Tribunal or not to refer it. The word used was 'may'. The Joint Committee thought that the Central Government should have no such discretion and that if a Government seeks the good offices of the Tribunal, they should be made available to it, so that a change was made in that. But, at the same time, it was provided that it should not be obligatory on the Central Government at once to refer a dispute to the Tribunal without having exercised its own function of trying to bring about

*Moved with the reconunendation of the President.

an agreement between the parties. Therefore a provision has been made that the Central Government will have the opportunity of trying to bring about an amicable understanding by negotiations.

In this Bill, as in the other one which we have just passed, the question was whether the Central Government should have the power to make recommendations regarding the appointment of assessors. The Joint Committee, in this case also, thought that the Tribunal should be free to choose its assessors whenever it thinks fit and the choice of assessors should not depend on the recommendation of the Central Government. In this case also they thought that the number of assessors should not be less than 2. This is covered by clause 4.

In clause 6, there is a small amendment that the decision of the Tribunal should be published in the Gazette of India.

These are two changes made by the Joint Committee to which I thought I should draw the attention of the hon. Members of this House. There is nothing else of any great importance and in the Rajya Sabha they did not make any substantial change.

Mr. Speaker: Motion moved:

"That the Bill to provide for the adjudication of disputes relating to waters of inter-State rivers and river valleys, as passed by Rajya Sabha, be taken into consideration."

Shri L. N. Mishra (Darbhanga cum Bhagalpur): I rise to support the Bill. I am sorry the Bill has been delayed for over 6 or 7 months. I support the Bill because of the fact that it will help us to exploit our water resources. You know our water resources are plentiful, yet we did not take full advantage of our resources. Till very recently, that is till the beginning of the First Five Year Plan, we were not able to utilise more than 5½ per cent. of our total water resources except the river Cauvery of which we utilised about 60 per cent. There are

very few rivers which we exploited. There is the river Brahmaputra of which we hardly utilised one per cent. The first Five Year Plan took advantage of the situation and laid much stress upon the water resources and they have tried to utilise it to some extent. But there have been some sort of impediments in the full utilisation of the waters and this Bill seeks to end one of these impediments.

Other impediments or difficulties, one can understand. But this difficulty arising out of parochial considerations or narrow interests of some States cannot be understood. India is one united India and all the natural resources are to be utilised for the development of that great country. But there are more than half a dozen water disputes where progress has been held up and projects cannot be taken up because the interested States would not agree. I will come to some of these disputes later.

There has been difficulties of finance. We can solve the financial difficulty. There is the difficulty of statistics; we can solve this too. We had no organisation; we are having organisations. There is shortage of technical personnel; we are trying to make that good. But these disputes can be settled only if the Centre takes some more power in its hands and tries to solve them.

So far as the River Boards Bill was concerned, I may say, we have supported that Bill; all right. But, I am not very optimistic about that Bill since I feel that for the first 10 or 15 years we would have to press hard for the utilisation of the water resources. We have seen the debates on the S. R. Bill. Sometimes we felt that we were nothing but parochialists; we believe in our State interests and not in the development of the whole country. There is interest of Bengal, Bihar, Maharashtra and all that; we have seen that. Therefore, we should not imagine the States always to be so good as to agree or accept all the advice given by the River Boards.

[Shri L. N. Mishra]

So far as the Inter-State Water Disputes Bill is concerned, I think we should try and have more control over the States in the future. We know that in our country there are very recently or even today several water disputes and I wish to draw your attention to some of them.

There is the Periyar Hydro-electric Scheme, where the dispute is between the Government of Madras and the Government of Travancore-Cochin. The second is Mekadatu Hydro-electric Scheme where the dispute is between Madras and Mysore and it has been pending for 20 years and yet not been resolved. The third is the Araniyar Project. The fourth is the Rajoti Hunda Project between Hyderabad and Andhra. The fifth is the Sikru Hydro-electric Scheme, the dispute being between Andhra and Orissa. The sixth is the Vamsadhara Project and the dispute is between Andhra and Orissa. The seventh is the Tungabhadra between three States, Madras, Andhra and Mysore. These water disputes have arisen not only in our own country, but there are also instances in foreign countries. I may refer at least to one or two such countries, Australia and America, where the disputes were between the States of New South Wales, Victoria and South Australia over the Murry River water, and between the States of Colorado, Nevada, New Mexico, Arizona, California etc. over the Colorado River water.

Whenever there is development in the country and when fresh efforts are made to utilise the water resources, there are differences and clashes of interests. It has been found that some machinery to meet the situation has been necessary in such cases. Here is the machinery that this Bill seeks to provide, and I feel that this will go a long way to resolve the problems. But I do feel that the time is not yet ripe to give full autonomy to the States in the matter of water resources.

Till 1919, water was a Central subject. After 1919, it became a provincial subject under reserved list and under the 1935 Act it became a provincial subject. Our Constitution gives still more powers to the States. But we must see that the development of the nation does not suffer on account of these vested interests or clash of interests of the States. One instance of this is the river Kashi in Bihar to which West Bengal took some objection and there have been some differences between Bihar and West Bengal. There is Gandak also; although there is no difference between Bihar and U. P. on other issues, some dispute or differences may arise on account of this.

In these two Bills Government should have some machinery so that it can, if persuasion fails, have recourse to some other measure also to force the State Governments to rise equal to the occasion and help the Union Government in utilising the water resources to the full. In the flood control measures we have succeeded, but there have been instances where a few State Governments have not fully co-operated and they have not set up any adequate machinery for the collection of data, etc. Therefore, I feel that this exploitation of the water resources is of the utmost importance for our country and we cannot have it unless and until the Central Government has better control of the water resources of the country. Therefore, I feel that for ten or fifteen years' time we should explore some avenues by which we could have more control over the States in this matter.

Pandit C. N. Malviya (Raisen): I welcome this Bill because I have been feeling that on account of the want of this machinery many of our projects could not be successful, and different States on account of different narrow considerations could not co-operate fully with the schemes that were incorporated in the Five Year Plan.

I am one of those who strongly believe in the unity of India and, therefore, I have been advocating a proposition that in the Constitution there should be only two Lists—Union List and Concurrent List. Unfortunately the experience has been that the different States are not co-ordinating and co-operating, and I am glad that this Bill has come now. Although it is late, I should say that it is better late than never.

I am also of the view that the Central Government has been slow in controlling and supervising the works that are going on under the Five Year Plan. I hope that the Central Government will fully utilise this Bill when it is passed and will not devote much of their time in arriving at negotiations. There is a provision here that before appointing a tribunal, there should be an effort for negotiations. It is a welcome idea. We must try for negotiations, but we should not allow prolonged negotiations. It is not proper to accept any other idea whereby any time limit may be fixed although the time limit has been proposed by means of an amendment whereby the negotiations may not be prolonged. Sometimes when the matter becomes technical, it is not possible to arrive at negotiations. Supposing two States are interested and one of them thinks that by means of negotiations its interests will suffer, then it may prolong the negotiations. Supposing we put some time limit, say, three months or six months or one year, it may be passed very easily. Therefore, I do not support any time limit, but at the same time I am sure that the Minister of Planning will take care that the negotiations are not prolonged.

There will be a tribunal in which there will be one person. I fully support the idea that the member of the tribunal may be a Judge of the Supreme Court—either an existing Judge or one who has been a Judge of the Supreme Court—because we

have to utilise such personnel. At the same time there is the provision for the appointment of assessors. In clause 4, sub-clause (3) it is stated "The Tribunal may appoint two or more persons as assessors to advise it in the proceeding before it". The word used is "may" and I want that the Government should accept an amendment here and substitute it by the word "shall". Unfortunately there is no such amendment given in this list, but if such an amendment is incorporated here, then it will mean that the appointment of the assessors will be compulsory and it will therefore be advantageous. Only one Judge sitting as a Tribunal will be assisted by two other persons and that will be a sort of a collective decision. I believe that generally it is the case that once the individual gets some sort of leaning towards fulfilling his interests, then he is not able to do justice fully. Therefore, I do not support the idea that there should be compulsorily more than one member on the Tribunal, but I am sure it will be approved that there should be compulsorily at least two assessors who should be appointed by the Tribunal.

With these suggestions I welcome this Bill.

Shri B. Y. Eddy: (Karimnagar): It is long overdue. We have been waiting for this since a long time. There were a number of disputes to be settled. A number of problems may arise again, in view of the reorganisation of States, with regard to the share of the water and fixation of the quantum to the different States. Such a Bill is necessary to settle these disputes. Otherwise, things drag on for years together. It happened in the past. In Hyderabad State, we had a bitter experience with regard to this problem. The disputes relating to the waters of Tungabhadra took decades to be settled; there was a dispute between Hyderabad State and the other States.

[Shri B. Y. Reddy]

We have got two important rivers passing through our State; they pass through a number of States—not two or three but four or five States. That is why, when others did not agree to come to an agreement, the dispute drags on for decades or even centuries together.

Take, for instance, the Godavari river. It passes through Bombay, Hyderabad, Andhra—formerly, Madras—and even Madhya Pradesh State. Agreement could not be reached about the sharing of the waters of this river for a number of years. So, the project for the utilisation of the waters of this river could not be taken up. Later on, agreement was reached but it was too late. The time has changed. The project was to be taken up but on account of certain changed conditions—I refer to the Police Action in Hyderabad—it could not be taken up. After Police Action, the first phase of the project was taken up. In the Second Plan, we do not find any mention about the second phase of the project; the second phase is a very important phase in the whole scheme. We suffered a lot and that is why I say that I welcome this Bill as being necessary for the settlement of disputes.

There are certain defects in this Bill and I have moved certain amendments to remove those defects. Clause 4 refers to negotiated settlements. How long will this negotiated settlement take? It may drag on for years. Even with regard to Tungabhadra High Level Canal, it has taken two years to settle the dispute. We have this bitter experience. Only at a latter stage, after two years, a settlement could be effected. If we keep that provision without any time-limit, I am afraid that it will take years together for any settlement. Some time-limit must be put in here.

The second thing is about the number of judges in the proposed tribunal. Only one judge is provided. I think it is not enough. There

may be small disputes; there may be important disputes involving a number of States and big issues. If you hand over such disputes to a tribunal of one judge only, then people will lose confidence. Besides, full justice may not be done. One person may not be able to give a correct judgment in such cases. If there are no important problems, one judge will do. If we say 'one or more persons', then more judges could be appointed in cases where necessary. We should not bind our hands and feet by saying that the tribunal shall consist of one person only. It should be flexible. If we change it to 'one or more persons', it is flexible. I appeal to the hon. Minister to make this change.

There are other amendments also and I shall move them at the appropriate stage.

Pandit Thakur Das Bhargava (Gurgaon): I want to make one or two observations in relation to this Bill.

Clause 11 of this Bill 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."

I read article 136 of the Constitution and it reads thus:

"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."

I think there is contradiction between the two. The words used in the Constitution are very weighty. The Supreme Court has got the last word in respect of every cause or matter which is decided by any

court in India. Clause 11 says, on the contrary, that the Supreme Court will have no jurisdiction. Therefore, I do not know how far we are justified in enacting this clause 11.

1 P.M.

The Deputy Minister of Irrigation and Power (Shri Bhat): To cut the matter short, may I draw your attention, Sir, to article 262 (2) which says:

"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)."

Clause (1) of article 262 says:

"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."

Pandit Thakur Das Bhargava: What is that article?

Mr. Speaker: Article 262—Disputes relating to waters. The hon. Member may resume his seat and leisurely look into it. In the meantime I will call the hon. Minister in the Ministry of Home Affairs to present a report of the Joint Committee.

BIHAR AND WEST BENGAL (TRANSFER OF TERRITORIES) BILL

PRESENTATION OF REPORT* OF JOINT COMMITTEE

The Minister in the Ministry of Home Affairs (Shri Datar): Sir, on behalf of Pandit G. B. Pant I beg to present the Report of the Joint Committee on the Bill to provide for the transfer of certain territories from

Bihar to West Bengal and for matters connected therewith.

Shri Subodh Basda (Midnapore-Jhargram—Reserved--Sch. Tribes): Sir, I wish to raise a point of order. I am a member of the Joint Committee. Yesterday, during the final Sitting of the Joint Committee on the Bihar and West Bengal (Transfer of Territories) Bill, the report was adopted unanimously. No member of the Committee objected or called for a vote to be taken. Having accepted the report without any objection, I submit, members of the Joint Committee are barred from submitting any minute of dissent.

Shri K. K. Gasa (Diamond Harbour): Yesterday, when extension of time was given, we were given to understand by the hon. Minister that there has been a certain minute of dissent and they want to reconsider the thing I want to know whether there has been any material alterations since then or whether it remains what it was yesterday.

Shri Datar: It remains as it is.

Shrimati Renn Chakravarty (Basirhat): While what the hon. Member has stated is substantially true, certain members did move some amendments and they were defeated. Therefore, they have every right to submit a note or dissent.

Mr. Speaker: Now we are not deciding all those things. I thought a point of order was raised regarding the submission of the report. It was fixed that the report would be submitted yesterday, but I understand late in the evening, when the hon. Deputy-Speaker was here in the Chair, a motion was made for extension of time till today and the motion was adopted by the House. Therefore, there is no more point of order. When the Bill comes up, then the hon. Members may say whether minutes of dissent ought