

16-46 hrs.

**Mr. Deputy-Speaker:** The bell is being rung.

There is quorum now. I shall now put the motion to the vote of the House.

The question is:

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

*The motion was adopted.*

#### ABDUCTED PERSONS (RECOVERY AND RESTORATION) CONTINUANCE BILL

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** Sir, I beg to move:

"That the Bill to continue the Abducted Persons (Recovery and Restoration) Act, 1949, for a further period be taken into consideration."

**Shri U. M. Trivedi (Chittor):** Sir, I rise on a point of order. This Bill is known as the Abducted Persons (Recovery and Restoration) Continuance Bill, 1956. It is a new Bill in itself and this provides for the continuance of a certain Bill of which a copy has not been supplied to us. That point I will raise later on. But the first question that arises is this. Any continuation of the work of recovery and restoration of abducted persons will require expenditure to be incurred from the Consolidated Fund of India. As such a recommendation for the consideration of this Bill—I do not know whether there was any recommendation at the introduction stage—from the President is required under article 117, clause (3). This is a very important provision of law which is wanting in this case. Therefore, I should say that this Bill cannot be considered at this stage.

**Mr. Deputy-Speaker:** It would not be beyond anything that we are incurring already. Does the hon. Member mean to say that because the previous Bill would expire and this one seeks to continue the work, therefore a certain expenditure shall have to be incurred?

**Shri U. M. Trivedi:** Certain expenditure will have to be met over and above that for which the Bill provided and for which consideration was made, when the original Bill was introduced. This is a new Bill. I would have accepted the proposition if the Bill's heading was "Abducted Persons (Recovery and Restoration) Amendment Bill", and I would not have raised this point at all. But now, this Bill has got a new name entirely. This is a new Bill—"The Abducted Persons (Recovery and Restoration) Continuance Bill, 1956". It is an entirely new Bill, and is not an amending Bill. So, within the spirit and letter of the law, I say that this Bill cannot be considered.

**Sardar Swaran Singh:** So far as the recommendation by the President is concerned, it is not a money Bill of the type which attracts the provisions of the Constitution. The expenditure which may be incurred for setting up the institutions is not of that type or case which comes within the purview of the relevant article of the Constitution which has been referred to by the hon. Member. The Bill will be enacted and if there is not already a provision in the budget, a supplementary demand or the like can be brought forward. It will be stretching this point too much, if one were to say that expenditure will be incurred. After all, whatever may be the legislative provision that is undertaken, some expenditure may be incurred. For instance, a larger number of offences may be created, as coming under the law, by an Act, but that does not mean that a larger number of courts are to be established and that therefore that legislation becomes a money Bill.

**Shri U. M. Trivedi:** I never said, "money Bill".

**Mr. Deputy-Speaker:** He will come to that, when he refers to the amendment.

**Sardar Swaran Singh:** So, there is no such contingency as is contemplated by the Constitution. As for the

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argument that this is a new Bill, I say that it is certainly not a new Bill, because the operative part is quite clear. It only changes the date up to which the Act will remain in force. The description of the operative part is, "Continuance". This is the "Abducted Persons (Recovery and Restoration) Continuance Bill." It is certainly not a new Bill because the operative part is very clear.

If the phraseology is something which shows that this is not an amending Bill, then that phraseology can be changed. After all, when the Bill is being considered, every part of it is before the House. Therefore, I submit that to say that this is a new Bill will not be correct. It is only an amending Bill. Therefore, I do not see what objection the hon. Member has.

**Mr. Deputy-Speaker:** So far as the question of the change in phraseology is concerned,—as was dealt with by the hon. Minister,—that is a matter which might be considered afterwards. But, for the present, we shall have to take the Bill as it is before us and whether it can be proceeded with. According to article 117(3) of the Constitution,

"A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill".

So, whether this Bill, if passed, would involve some expenditure or not is one thing. Apparently, it would seem that some expenditure would be incurred, but I am informed that even the original Bill did not require sanction of the President because additional expenditure was anticipated or envisaged. This thing has got to be examined. We can proceed with the Bill, because it is not going to be passed today, and so we can proceed with it without any hindrance. Mean-

while, it may be examined, and perhaps the House might also like to hear the Law Minister on this point, because it is an important question. So, we can proceed with the Bill as it is.

**Pandit Thakur Das Bhargava:** May I make a submission? In clause 2, the words are:

"In sub-section (3) of section 1 of the Abducted Persons (Recovery and Restoration) Act, 1949, for the words and figures "30th day of November, 1956", the words and figures "30th day of November, 1957" shall be substituted."

So, the Act has not expired yet. The Act is yet subsisting. When the existing Act continues, this Bill can certainly be considered as an amending Bill. What is the connection of expenditure, on this question? It is nothing but an amending Bill. 'Continuance' bill can also be an amending Bill. Therefore, I do not think that article 117(3) of the Constitution is attracted at all.

The hon. Member who raised this point also said that if it was an amending Bill, he would not have raised the point. I am submitting that in effect, this is an amending Bill. The only operative part of this Bill is clause 2 which seeks to amend the Act. The only point is, the word "Continuance" is there. But it does not change the nature of the Bill. The Bill is an amending one. There is absolutely no doubt about it. There is only one operative clause which seeks to amend the present Act. Therefore, my submission is that this Bill does not require the sanction of the President. It can be taken up and discussed as it is.

**Shri U. M. Trivedi:** May I make one submission? The whole position is this. My learned friend and lawyer, Pandit Thakur Das Bhargava has suggested that this is an amending Bill. With very great respect, I will draw his attention to the portion

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printed in the Statement of Objects and Reasons. There have been three amendments to the Abducted Persons (Recovery and Restoration) Act, 1949. The Statement of Objects and Reasons says:

"The Abducted Persons (Recovery and Restoration) Act, 1949 (65 of 1949), as amended by the Abducted Persons (Recovery and Restoration) Amendment Act, 1952 (7 of 1952), the Abducted Persons (Recovery and Restoration) Amendment Act, 1952 (77 of 1952)—

These were known as the Abducted Persons (Recovery and Restoration) Amendment Bill when they were presented before this House—and then we have:

"the Abducted Persons (Recovery and Restoration) Amendment Act, 1954, (4 of 1954)".

Therefore, I say with great emphasis that this is a new Bill. You may try to get out of it by offering some explanation that the phraseology may be changed and all that, but that is a different thing.

Here, the fact remains that the Bill has been headed with the title "The Abducted Persons (Recovery and Restoration) Continuance Bill, 1956". So, it is a new Bill, pure and simple. There is no question as to what its effect will be. It is not the effect that will be considered, but it is the letter, and the provisions of article 117(3) of the Constitution are effective in this context and they are attracted. Therefore, this is not an amending Bill but a new Bill. So, my contention would be that this Bill hits completely the provisions of article 117(3) of the Constitution.

**Mr. Deputy-Speaker:** As I have remarked earlier, in my opinion it might be considered as a new Bill. The real object might be to amend a particular part, but unless the phraseology is changed, as it appears on the face of it, we will have to judge it as a new Bill. In these cir-

cumstances, certainly there is a difficulty, and it might be examined. As I have said, the hon. Minister may proceed, and meanwhile, it might be examined. We need not wait for it.

**Sardar Swaran Singh:** Mr. Deputy-Speaker, I do not propose to make any long speech with regard to the substance of the provisions of the Bill. This matter has been before the House from time to time, and the life of the Act had been extended on three or four earlier occasions. The life of the present Act expires by the 30th November, and by this amending Bill, the intention is to give it a further lease of life for one more year.

The subject-matter is quite familiar to the hon. Members of this House. I have circularised for their information a brochure which contains the relevant information and the various figures relating to the recovery and restoration both in India and Pakistan. All that I want to say is that the work has not yet been concluded, although the volume of work has considerably decreased. The time has not yet come when we can say that no further recoveries of abducted persons be made either in India or in Pakistan. It is, therefore, intended that the life of the Act may be extended for one year more.

I may add for the information of the hon. Members that so far as Pakistan is concerned, the relevant provision there is on a permanent basis, whereas here, the existing Act expires on the 30th November, 1956. A fact-finding commission has been constituted to examine two matters—firstly to assess the work that remains outstanding and secondly to suggest suitable means for expediting the work. Certain investigations had been made by officers who had been appointed to assist the members of this fact-finding commission, but the commission as such has not been able to present a report. A conference at which the Governments of India and Pakistan were represented was held at Karachi in July last and certain

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agreements were arrived at under which it was agreed that the work may be continued and assistance may be obtained from the village lambar-dars and from other limbs of district administration. That work is continuing.

17 hrs.

One other point I want to mention particularly with regard to the working of this organisation and the implementation of the provisions of this Act is this.

**Mr. Deputy-Speaker:** Is the hon. Minister likely to take some more time?

**Sardar Swaran Singh:** Yes, Sir; I may require five minutes more.

**Mr. Deputy-Speaker:** He may continue tomorrow. The House stands adjourned till 11 A.M. tomorrow.

17.01 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Thursday, the 22nd November, 1956.*

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