

In the court, the police put a challan against him under sections 107 and 151 of the Criminal Procedure Code, with no other party. It is obvious that it is not possible against one person, because, in law, it requires more than one party under section 107.

Sir, the handcuffing of lawyers is not permitted. The Punjab Police Rules are applicable to Delhi. There are also complaints by them, of rude behaviour and indifferent attitude to their complaints by police officers.

Sir, I am sorry, when an important matter is being mentioned, the Leader of the House is engaged in some other discussion . . . (*Interruptions*). The Leader of the House and others are discussing another matter. Shri Shanti Bhushan is himself a lawyer. There are also complaints by lawyers of rude behaviour and indifferent attitude to their complaints by the police. Sir,...

SHRI K. K. MADHAVAN (Kerala): Sir, he cannot speak from this seat. Let him go to his own seat.

SHRI S. W. DHABE: The lawyer was taken from Police Station, Pahar Ganj, to Karol Bagh. He was beaten, abused and insulted in the Police Station. A challan was put under section 107 against him only, whereas, in law, it requires more than one party. In 1971, a similar complaint was made and the police officer was suspended. But the Police Commissioner took them very lightly and said that he would only transfer them and that nothing else could be done. In the circumstances, Sir, they have decided to have a 'Morchha' at the Raj Niwas today. Not only this. This attitude of the Police has annoyed all the lawyers in Delhi. The Delhi High Court Bar Association and other Associations are also joining it, and it may result in an indefinite strike. The matter is very important and serious. In a democracy, lawyers play an important role to champion the cause of liberty. They fought

against the emergency and the authoritarian rule for the last so many years. In fact, they are treated as a part of judiciary and, as such, they are always treated as officers of the court. If this is the humiliating treatment that is given to the lawyers, what will be the position of other citizens? This savage and tribal method of handcuffing lawyers and parading them must stop. I appeal to the Prime Minister who is also the Home Minister, to solve this matter expeditiously. The police officers concerned should be punished and this agitation must stop in the interest of law and order and proper functioning of the judiciary.

SHRI BHUPESH GUPTA (West Bengal): The Law Minister is here. He should say something.

MR. CHAIRMAN: Next item. Mr. Syed Nizam-ud-Din.

THE ADOPTION OF CHILDREN BILL, 1972—Continued.

SHRI SYED NIZAM-UD-DIN (Jammu and Kashmir): The hon. Law Minister is going to speak on the Bill. It is better that we hear him first.

SHRI SHYAM LAL YADAV (Uttar Pradesh): He should say something about the handcuffing of the lawyers. What is the position?

MR. CHAIRMAN: We have passed on to the next item. It is difficult to go back. Otherwise, he would have said something. We would get another opportunity.

SHRI BHUPESH GUPTA (West Bengal): If the hon. Minister does not want to take the opportunity, he will never take it. The hon. Member mentioned a serious matter.

MR. CHAIRMAN: Mr. Bhupesh Gupta will appreciate that Mr. Nizam-ud-Din was continuing with his speech

[Mr. Chairman]
on the Bill. He has now concluded it. The next item has already been taken up. The hon. Minister is intervening in the debate. Now, we are considering another matter. It is not possible to go back.

SHRI JAGJIT SINGH ANAND (Punjab): It is an extra-ordinary situation.

SHRI BHUPESH GUPTA: We are not concerned with the agenda. Some remarks have been made. He can give his reaction instantly.

MR. CHAIRMAN: We have gone to the next item. Hon. Shri Nizam-ud-Din has concluded his speech in one sentence. Now the Minister wants to say something. Let him finish it. Then he can say something on this also if he wants.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): Mr. Chairman, Sir, yesterday I had moved the Adoption of Children Bill, 1972, for consideration. I heard with rapt attention the various speeches which were made in this House yesterday. There were certain sentiments expressed and certain viewpoints made. I took careful note of all those viewpoints. I would like to say, at this stage, that the Janata Party was born out of its commitment for democracy and for its respect for public opinion. Therefore, I would like to make a handsome response to any sizable public opinion in this country. But before I do so and before I make the submission which I have risen to make, I would like to make certain observations on what was said yesterday. Sir, this Bill is a Bill of 1972 and it had been introduced in this House by the Congress Party. Therefore, it was the child of the Congress Party.

SHRI MOHAMMAD YUNUS SALEEM (Andhra Pradesh): To be adopted.

SHRI BHUPESH GUPTA: This Government is now the father of many evils and deformed children of the Congress Party. It is one such deformed child. It contains a provision with which the minority community is not in agreement. There are many other provisions in the Bill. I am not going into them. It is a highly disputed Bill. Our friends are adopting all the babies.

(Interruptions)

SHRI SHANTI BHUSHAN: Sir, what I was saying was that it was a child produced by the Congress Party as long back as 1972. Sir, I have moved a motion yesterday because I found that the child had been abandoned, neglected and somebody should adopt it and, therefore, it was an Adoption of the Children Bill ... (Interruptions)

SHRI PILOO MODY (Gujarat): Adoption becomes necessary only when the mother deserts the child.

SHRI SHANTI BHUSHAN: Sir, yesterday we were told that those who had produced this child in 1972, those who nurtured it in a Joint Select Committee of the two Houses thereafter, now realised that they had conceived this child in sin and out of ignorance and they were not prepared to own this child. And they said, "How can we own this child when we were not even aware that we were going to conceive a child? And we conceived in some kind of sin, in some kind of inadvertent moment," and so on. Therefore, Sir, it becomes necessary for me to consider as to what will be my duty in regard to such a child, a child whom even those who had produced regard as a deformed child and so on. Sir, I have carefully said pondered over it. Something was said yesterday by the Members of the Congress Party that even long back some delegation had waited upon the then Prime Minister who was the undisputed leader of that Party to which hon. Shri Shyam Lal

Yadav has the honour to belong. He said that even as long back as 1973, perhaps, when a delegation had waited on the then Prime Minister, Mrs. Indira Gandhi, she had said, "No, no. We would not like to do anything. We would not like to make the provisions of this Bill applicable to the minority community, namely the Muslims." But, Sir, I am surprised that if that was the position, why was it that this Bill should have been pursued and pursued so vigorously by that Party from 1972 onwards . . .

SHRI BHUPESH GUPTA: Most of the children became delinquent children.

SHRI SHANTI BHUSHAN: But we propose to take care of those delinquent children also. Anyhow, Sir, it was said that an assurance was given that, "Yes, I did not know that this Bill was being applicable to the Muslims also, and it would be made in-applicable to the Muslims." This kind of assurance is said to have been given in 1973.

Now, Sir, the facts have to be examined because the nation is entitled to judge. And one of the matters which the nation is entitled to judge is, what the credibility is of the people who say one thing at one stage and then say another thing at another stage, and whether the Muslim community, the minority community, will at all in future take the words of the members of that Party seriously. In 1973, they said that they gave an assurance that this Bill will not be made applicable to the Muslim community. That is being claimed today. And what do we find? The then Law Minister, Shri H. R. Gokhale, was a member of the Joint Select Committee, and in August, 1976, a Report was produced by 42 out of 45 members of the Joint Select Committee with three dissenting notes.

AN HON. MEMBER: There were four.

SHRI SHANTI BHUSHAN: No. There were three. One is common in those two. So, three persons signed a minute of dissent saying that they had raised this question as to whether this Bill should have any application to Muslims and that they had just been over-ruled. And here in August, 1976, this Report is given saying, "No. Not only that the Bill should be made applicable to Muslims but also if the Muslims under some customs have a right to make an adoption under that custom and usage, they must not be allowed to avail of that right and they must be told to come and make adoption under this Bill alone." This is what the ruling party's stand at that time was, and today they come and tell us that they were very careful, very cautious about respecting the Muslim opinion, the opinion of the minority community. Now, Sir, what did we do? Let me tell you as to what was our attitude with regard to the minority community. We were aware of the fact that there was a dissent, that there were certain feelings, there were certain emotions, there were certain views . . . (*Interruptions*) We were all the time mindful; we wanted to respect those views and if the Muslim community felt that there should be no compulsion, all right, there should be no compulsion on the Muslim community, and to start with, even yesterday, I gave a notice of an official amendment. Before I moved the motion yesterday, I had given a notice of official amendment saying that we are not prepared to go to the extent to which the Congress Party was going, and that is, to completely shut out the sentiments of the minority community. We wanted that even the Bill as had emerged from the Joint Select Committee should be amended and we should concede the right of any community which according to its own custom had the right to make an adoption with different incidents. There is no question of taking away that right from them by making this Bill compulsorily applicable to all

[Shri Shanti Bhushan]

communities. Therefore, I had given a notice of an official amendment and I made a reference yesterday, namely, that we were going to delete the existing clause 3 from the Bill as it emerged from the Joint Select Committee and substitute it by a different clause which would provide that nothing in this Bill will come in the way . . .

(Interruptions)

SHRI MOHAMMAD YUNUS SALEEM: Sir . . .

(Interruptions)

SHRI SHANTI BHUSHAN: The hon. Member will kindly bear with me. Let me finish and after that he can say what he wants to say.

SHRI MOHAMMAD YUNUS SALEEM: I am on a point of order.

SHRI SHANTI BHUSHAN: I am not yielding; I will complete what I am saying . . .

(Interruptions)

SHRI MOHAMMAD YUNUS SALEEM: I am on a point of order.

DR. RAFIQ ZAKARIA (Maharashtra): The Minister should respect the rules. It is very surprising.

SHRI MOHAMMAD YUNUS SALEEM: I am sorry to say that the Law Minister is trying to mislead the House. It is I who said yesterday . . .

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): This is no point of order.

SHRI MOHAMMAD YUNUS SALEEM: It was I who said yesterday in my submission before the House that a delegation of Muslims . . .

THE MINISTER OF STEEL AND MINES (SHRI BIJU PATNAIK): What is the point of order?

SHRI MOHAMMAD YUNUS SALEEM: Let me complete and you will know what is the point of order.

SHRI ERA SEZHIYAN (Tamil Nadu): Sir, a rebuttal can be made after the Minister has completed his speech.

MR. CHAIRMAN: Excepting during the Question Hour, a point of order can be raised. You cannot say that it cannot be raised. Let me hear it.

SHRI MOHAMMAD YUNUS SALEEM: I never said that . . .

SHRI MANUBHAI PATEL (Gujarat): He should at least quote under what rule he is raising a point of order. Under the guise of raising a point of order, he takes the liberty to make whatever statement he wants to make. Let him quote the rule and then you give the judgment.

SHRI MOHAMMAD YUNUS SALEEM: There is an incorrect statement of fact by the Law Minister that I said that the delegation of Muslims waited on the Prime Minister in 1973. My speech can be referred to. I never said that it was in 1973. This is an incorrect statement of fact. It was during the pendency of the Bill before the Select Committee; the Bill was pending before the Select Committee when the delegation waited on the Prime Minister and the delegation was led by Mr. Sheikh Abdullah. I said this yesterday.

MR. CHAIRMAN: We shall look into the records.

SHRI MOHAMMAD YUNUS SALEEM: It is a matter of record I never said that it was in 1973. It is his own invention. As regards the custom, my friend knows . . .

SHRI NAGESHWAR PRASAD SHAHI: This is a speech, it cannot be allowed.

SHRI MOHAMMAD YUNUS SALEEM: Sir, he says that he has brought forward this amendment to honour the sentiments of the minorities. But I would like to point

out that there are no customs in Muslim Law. I say with full responsibility, not as a Muslim, but as a student of law and as a practising lawyer, that there are no customs in Muslim Law. It is only for the non-Muslims that there is some Law of Customs.

MR. CHAIRMAN: There is no point of order.

SHRI SHANTI BHUSHAN: Now Sir, what I said was this. I did not refer to the speech of Mr. Mohammad Yunus Saleem, I had said generally and even hon. Mr. Mohammad Yunus Saleem has just said that a delegation had met the former Prime Minister while the Bill was still before the Joint Select Committee. This is the only important point, namely, that when the Bill was still under the consideration of the Joint Select Committee, it is said that Mrs. Gandhi, the then Prime Minister, had given an assurance that the Bill would be made in applicable to the Muslim community. I would like to say this. Let the nation judge and let the people judge. If that had been so, would we get this kind of report from the Joint Select Committee saying 'No; there shall be clause 3 in the Bill.'

SHRI DEVENDRA NATH DWIVEDI (Uttar Pradesh): Sir, on a point of order. I would like to expect from the Law Minister this basic thing that when once a Bill is referred to a Joint Select Committee, the Prime Minister or the Union Cabinet has nothing to do with the deliberations of the Joint Committee and it is the property of the House. The Joint Committee, on behalf of the House, sits. Therefore, it is not open to the Law Minister . . . (*Interruptions*). He is saying something which is not correct. We do not expect this from somebody who knows the fundamentals of law.

SHRI SHANTI BHUSHAN: Yes, Sir, I had said that the then Law Minister was a member of the Joint Select Committee. Now, Sir, the Prime Minister gives an assurance on the policy of the Government and the Law Minister would be a party. There was a dissenting note also. I would have understood the then Law Minister being a party to a dissenting note and then saying that so far he was considered a member of the Government and since a member of the Government does not have an individual right, he can go and express views contrary to the views of the Government. Therefore, it is quite clear . . . (*Interruptions*).

SHRI DEVENDRA NATH DWIVEDI: No Law Minister had ever given a dissenting note in the past. You ask the Leader of the House. It is not the convention. You do not know the rules.

SHRI SHANTI BHUSHAN: This is a matter on which no argument, in my humble view, is possible. The facts are very clear.

DR. RAFIQ ZAKARIA: The Law Minister has come forward to withdraw the Bill. Why does he not say 'I withdraw the Bill'? We will welcome it and that will be the end of the matter. Why all this rigmole?

SHRI SHANTI BHUSHAN: The country and the people are going to judge. Sir, I wish to say this. Let them put their hands on their hearts and judge as to what is their credibility today. Their credibility is completely destroyed (*Interruptions*). It is quite clear that you say one thing and you do another. Today, it has been proved conclusively that you never mean what you say. Of course, the people of India had realised that you never mean what you say. Today, this stands proved conclusively.

DR. RAFIQ ZAKARIA: Sir, he is using this forum as a political plat-

[Dr. Rafiq Zakaria]

form and for political purposes. I think he owes it to the House to come forward and withdraw the Bill. Of course, yesterday, the Law Minister told me that he will not withdraw the Bill. What is the idea?

(Interruptions)

SHRI PILOO MODY: Where do you talk politics if not in Parliament?

DR. RAFIQ ZAKARIA: Yesterday, I requested him that he should accept this amendment. He was not prepared for it. Today, wise counsels have prevailed upon him. We welcome it. We are thankful to him. But let him not make use of this forum for political purposes.

SHRI PILOO MODY: Why not?

DR. RAFIQ ZAKARIA: Why? This is Government. This is not Janata Party. We are speaking on behalf of the Government. We are also a part of the Government.

SHRI SHANTI BHUSHAN: I quite appreciate that their conscience, if there is any conscience left in them, would be smarting under this exposure which those events have brought out.

DR. RAFIQ ZAKARIA: You would be blantly partisan.

SHRI SHANTI BHUSHAN: This Parliament is a very sacred institution. The people and the nation expect that they will speak what they believe and they will do what they profess. Now, this is the spectacle. The Congress Party, which considers itself as an important political party, has done this . . .

(Interruptions)

DR. RAFIQ ZAKARIA: Do not waste the time of the House. It is the Ramlila Ground which you could use for this. Go to the Ramlila Ground.

SHRI SHANTI BHUSHAN: The Janata Party Government was not prepared to go to that extent to which the then ruling party, the Congress Party, had gone.

MR. CHAIRMAN: Please conclude.

SHRI SHANTI BHUSHAN: I am concluding, but they would not want me to conclude. If they let me conclude I would conclude. If they want me to expose them further, I will be willing to do that. (Interruptions).

شری سود احمد ہاشمی (اُتر پردیس):

میں آپ سے پوچھنا چاہتا ہوں کہ رام لیلا گراؤنڈ ہے یا راجیہ سبھا کا اجلاس - اگر رام لیلا گراؤنڈ ہے تو آپ ضرور اجازت دیجئے اور اگر رام لیلا گراؤنڈ نہیں ہے تو پھر اس کا احترام کرنا چاہئے -

†[श्री संयद अहमद हाशमी (उत्तर प्रदेश): मैं आपसे पूछना चाहता हूँ कि यह राम लीला ग्राउन्ड है या राज्य सभा का इजलास। अगर राम लीला ग्राउन्ड है तो आप जरूर इजाजत दीजिये और अगर राम लीला ग्राउन्ड नहीं है तो फिर इसका एहताराम करना चाहिए।]

SHRI SHANTI BHUSHAN: Let me conclude. In view of the sentiments which were expressed in the House yesterday and in view of the fact . . .

SHRI BHUPESH GUPTA: I can well understand my friend Shanti Bhushan's temptation to get involved into politics. After all, he does not get much chance. Now that he has got a chance, he wants to make use of that. All that we want to say is

†[] Devnagri transliteration.

that there is a little controversy over certain provisions which Mr. Shanti Bhushan himself has noted and that is why he has brought forward a particular amendment. Now, is it not possible for him and the members of the minority community and others to sit together and resolve that controversial point? That will be more . . .

SHRI SHANTI BHUSHAN: The hon. Member will just bear with me for another two-three minutes.

DR. RAFIQ ZAKARIA: You are spoiling the impact of your action.

SHRI SHANTI BHUSHAN: You worry for yourself, do not worry for us.

SHRI BHUPESH GUPTA: He is trying to interrupt me. Mr. Biju Patnaik never understands . . .
(Interruptions)

SHRI SHANTI BHUSHAN: Now, Sir, having noted the sentiments which were expressed yesterday . . . (Interruptions). As I said earlier the Janata Government would like to respond to those sentiments which were expressed yesterday and, therefore, in deference to those sentiments expressed by various Members from both the sides yesterday, I would like to move for leave to withdraw this Bill.

SHRI MOHAMMAD YUNUS SALEEM: I congratulate the Law Minister for such a bold approach to the problem.

(Interruptions)

AN HON. MEMBER: On a point of order.

MR. CHAIRMAN: There is no point of order.

SHRI SHYAM LAL YADAV: Sir, the Law Minister said that I made certain observations. I want to say that what was said regarding the past Bill is totally wrong.

MR. CHAIRMAN: That is all right. (Interruptions). No point of order. Please resume your seat. Now I will put the question to the House. Has the Minister leave of the House to withdraw the Bill.

SOME HON. MEMBERS: Yes, yes.

MR. CHAIRMAN: The Bill is withdrawn by leave. Now the Minister of Education will move his Bill.

SHRI B. N. BANERJEE (Nominated): Sir, it is to be put as a motion.

MR. CHAIRMAN: That is all right. Now I put the question:

"That the Mover of the Adoption of Children Bill, 1972, be granted leave of the House to withdraw the Bill."

The motion was adopted.

SHRI SHANTI BHUSHAN: Sir, I withdraw the Bill.

The Visva-Bharati (Amendment) Bill, 1978.

THE MINISTER OF EDUCATION, SOCIAL WELFARE AND CULTURE (DR. PRATAP CHANDRA CHUNDER): Sir, I beg to move:

"That the Bill further to amend the Visva-Bharati Act, 1951, be taken into consideration."

Sir, may I point out that Visva-Bharati is one of our most prestigious institutions in the country. It is hallowed by the memory of poet Rabindranath Tagore and is associated with the memories of . . .

[Mr. Deputy Chairman in the Chair]

SHRI BHUPESH GUPTA (West Bengal): Sir, I want to seek a clarification from the hon. Minister. This Bill deals with an academic institu-