

13.53 hrs.

## ARREST OF MEMBER

(Dr. Ram Manohar Lohia)

**Mr. Deputy-Speaker:** I have to inform the House that I have received the following communication dated the 16th November, 1966 from the Sub-Divisional Magistrate, New Delhi:—

"I wish to inform you that Dr. Ram Manohar Lohia, Member, Lok Sabha, was taken into custody under section 107 Criminal Procedure Code. He was required to execute a bail bond in the sum of Rs. 25,000 with two sureties in like amount. Since he failed to do so, he was remanded to judicial custody till 28th November, 1966."

**Shri Hari Vishnu Kamath** (Hoshangabad): On a point of order. May I invite your attention to rule 229 of the Rules of Procedure and Conduct of Business of the Lok Sabha? It is a very serious matter that a Member of Parliament is arrested when the session is on, preventing him from discharging his duties in Parliament and to the people. The executive authority seems to ignore completely all norms, standards and values with regard to this matter.

**Mr. Deputy-Speaker:** It is something connected with the business at the end of the day.

**Shri Hari Vishnu Kamath:** I refer to rule 229. I will read out the rule for the benefit of those members who do not have the Rules of Procedure in their hands. It says:

"When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or the executive authority, as the case may be shall...."

They have already robbed the Speaker of his jurisdiction over a

territory over which he holds supreme authority by not consulting him before issuing the order. This is the second sin they have committed. The rule says:

"...shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out in the Third Schedule."

I do not know whether the place where he has been detained is mentioned there.

**Mr. Deputy-Speaker:** It says "judicial custody".

**Shri Hari Vishnu Kamath:** That is no place; it is an abstract concept in jurisprudence. So, they have infringed this rule in two matters. They have not given the reasons for the arrest nor have they mentioned the place where he has been imprisoned.

Now, please turn to the Third Schedule. It is very important. There a proforma is prescribed: It says:

"Dear Mr. Speaker,

I have honour to inform you that I have found it my duty..."

They need not even express regret for arresting a Member of Parliament, but they can simply say it is their duty—

"...in the exercise of my powers under Section...."

Is the section mentioned there, Sir?

**Mr. Deputy-Speaker:** Yes; it has been mentioned.

**Shri Hari Vishnu Kamath:** All right, Sir. Now comes the lacuna:

"of the ....(Act) be arrested detained for....(reasons for the arrest or detention, as the case may be)"

So, the reasons should be clearly given. Merely mentioning the section of the Cr. P. C. is not enough.

The reasons, whether he is acting in a prejudicial manner or it is apprehended that he may act in a prejudicial manner, etc., should have been given in this communication to you. Then it says further:

"Shri.....M.P. was accordingly arrested|taken into custody at.... (time) on.... (date) and at present lodged in the....jail, ....(Place)."

Merely saying "judicial custody" is not enough; that is no place. Have you seen this clearly and pondered over this, Sir? Under article 105, the rights and privileges of our Members of Parliament are coterminous with the rights and privileges of the Members of the House of Commons. In the House of Commons, it has been held that a Member of Parliament should be immune from arrest for 40 days before and 40 days after the session.

**The Minister of State in the Departments of Parliamentary Affairs and Communications (Shri Jaganatha Rao):** Not for criminal offences.

**Shri Hari Vishnu Kamath:** Here we have got a categorical and unequivocal rule which says that the reasons for the arrest should be given. (*Laughter*). It is not a matter for laughter. You are not going to be arrested, and you can laugh. You can go on laughing till your sides burst. (*Interruptions*). There is righteous indignation on our part about this matter. They infringe the rules every time and then they say the opposition is creating trouble. They are a pack of inefficient, I would not say 'fools' but something else.

14 hrs.

I hope, Sir, you have followed my point which is twofold. The reasons for the arrest have not been given and the place of detention has not been given. Therefore, this communication is completely out of order. Therefore, the authority who has sent the communication and the Minister to whom he is subordinate--the new Home Minister, he is new to the De-

partment and perhaps he does not yet know the ropes of the Ministry--both have committed a breach of the rules of procedure and thereby they have committed a breach of privilege. I hereby give oral notice--I will give a written notice later--straightaway to be taken up tomorrow.

**Mr. Deputy-Speaker:** The information given is incomplete. I request the Home Minister to give the necessary information regarding the place of detention and also the reasons for the arrest. The Home Minister will give a reply tomorrow.

**Shri A. K. Gopalan (Kasergod):** Sir, I have given a Calling Attention notice about the arrest of members of SSP, workers of the Socialist Youth....

**Mr. Deputy-Speaker:** I will enquire into it.

**Shri A. K. Gopalan:** Please hear me for two minutes. From the very beginning, from the 1st of this month when the House assembled, we have been giving calling attention notices and other notices about the student unrest in the country. In Madhya Pradesh 23 colleges are closed. In other places also colleges are closed for 3 months. When we want a discussion on it, it is not allowed. Members of Parliament are arrested. Tomorrow any member of the Opposition can be arrested without any reason under section 107. How can we function here? They are using not only preventive detention and DIR but section 107 also where no reasons are given. Any member can be arrested at night and on the next morning when we ask, it can be said that he was arrested under section 107 for breach of the peace. It is becoming very difficult for us to function in this House and also outside. Outside, if you raise anything, there is no answer. Inside, if we give calling attention and other notices, they are not answered. This is a very important matter. For months schools and colleges are closed. Instead of talking to the students and understanding their demands chivalry is shown by arresting Opposition Members without any

[Shri A. K. Gopalan]

reason under section 107. As Mr. Kamath said, no reasons for the arrest are given. The position today is that a Member of Parliament is not able to discharge his responsibilities not only outside but inside the House also. If he opposes the ruling party, he will be sent to jail. So, let us know the reasons for which they are arrested.

**Shrimati Renu Chakravartty** (Barrackpore): We have all given calling attention notices. Today we have seen Dr. Lohia's statement that before he was arrested he was persuading them that it would be a perfectly peaceful demonstration. On top of that, he has been arrested under section 107. All these questions should come up before the House. Instead of a one-sided statement, we also should be allowed to ask certain questions on the basis of the calling attention notices. (Interruptions). \*

**Mr. Deputy-Speaker:** Order, order. Please sit down. I do not know what has happened to the Calling Attention Notice. I will look into it. If it is not disallowed, we will see what to do with it tomorrow. As regards the discussion, I recall hon. Members' notice to bulletin No. 1927 wherein it is said that the following motion: "Students' unrest and trouble in recent months be taken into consideration" by Shri Harish Chandra Mathur has been admitted. It has been recommended by the Sub-Committee and it is for the Government to find time. So that may come up for discussion.

**Shri S. M. Banerjee** (Kanpur): Sir, I rise to a point of order.

**Mr. Deputy-Speaker:** No, Sir.

**Shri Ranga** (Chittoor): Mr. Deputy-Speaker, Sir, I draw your attention to one fact. Just now four of us, leaders of groups, have sent a representation to the Speaker requesting him to give us at the earliest a satis-

factory opportunity to discuss the points raised.

**Mr. Deputy-Speaker:** It is already there. It has been admitted. The Sub-Committee has recommended it.

**Shri Ranga:** That is a different thing. What is the notice given by Shri Mathur, Sir?

**Mr. Deputy-Speaker:** "That the students' unrest and trouble in recent months be taken into consideration". Anything can come in there.

**Shri Ranga:** What we have given notice of is something different. Our notice is about the point that was raised by the Home Minister today stating their new policy and giving a kind of orders.....

**Shri Hari Vishnu Kamath:** Encroaching upon your jurisdiction.

**Shri Ranga:** They have stated their new policy, giving a kind of orders in regard to people's demonstration before Parliament. Our notice is about that.

**Mr. Deputy-Speaker:** I have got it here. It has come now. It will be placed before the Speaker and it will be considered.

**Shri S. M. Banerjee:** Sir I want to raise a point of order under Rule 229.

**Mr. Deputy-Speaker:** On what?

**Shri S. M. Banerjee:** On the arrest of Dr. Lohia.

**Mr. Deputy-Speaker:** No point of order can be raised now. I have already disposed of it.

**Shri S. M. Banerjee:** You have not disposed of it.

**Mr. Deputy-Speaker:** I am not allowing any point of order.