

Shri Jagjivan Ram: If you are thinking of odyssey others can also think of....

Shri Hari Vishnu Kamath: Think of it. Think of whatever you like. You do not know the meaning of odyssey. You do not know English even.

Shri Jagjivan Ram: It has travelled through the normal channels.

Shri Hari Vishnu Kamath: Odyssey is a fine word.

Shri Vasudevan Nair (Ambalapuzha): The Minister is always like that.

Shri Jagjivan Ram: Yes, I am always like that.

Sir, the decision of the International Labour Conference was to be examined on all its implications and also as to how many countries of the world who are members of the ILO have ratified the decisions of the ILO. Once we accept that we will have to see whether it is going to create some complications and whether we are in a position to implement all those provisions that we ratify. Naturally, all the ministries concerned and even the State Governments have to be consulted. It takes time when we have to consult all the State Governments.

NOTIFICATIONS UNDER DELHI LAND REFORMS ACT, 1954, KERALA PROHIBITION ACT, 1950 AND ALL INDIA SERVICES ACT, 1951.

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): Sir, I beg to relay on the Table a copy each of the following Notifications under sub-section (3) of section 191 of the Delhi Land Reforms Act, 1954:—

- (i) The Delhi Land Reforms (Amendment) Rules, 1966 published in Notification No. F.(4)/L.R.O./1966 in Delhi Gazette dated the 30th June, 1966.

- (ii) The Delhi Land Reforms (Amendment) Rules, 1966 published in Notification No. F.(3)/L.R.O./66 in Delhi Gazette dated the 8th July, 1966. [Placed in Library. See No: LT-6872/66].

I also lay on the Table:

- (i) a copy of Notification S.R.O. No. 416/66 published in Kerala Gazette dated the 1st November, 1966, under sub-section (3) of section 62 of the Kerala Prohibition Act, 1950, read with clause(c) (iv) of the Proclamation dated the 24th March, 1965, issued by the Vice-President, discharging the functions of the President, in relation to the State of Kerala. [Placed in Library. See No. LT-7388/66].
- (ii) A copy each of the following Notifications under sub-section (2) of section 3 of the All India Services Act, 1951:—
 - (a) The Indian Forest Service (Fixation of Cadre Strength) Regulations Phabeo published in Notification No. G.S.R. 1672 in Gazette of India dated the 31st October, 1966.
 - (b) The Indian Forest Service (Fixation of Cadre Strength Amendment Regulations, 1966, published in Notification No. G.S.R. 1673 in Gazette of India dated the 31st October, 1966. [Placed in Library. See No. LT-7389/66].

12.23 hrs.

RE: QUESTION OF PRIVILEGE
(Arrest of Member)

श्री मोर्य । (अलीगढ़) : अध्यक्ष महोदय, प्रिविलेज के इश्यू पर मैं ने एक पत्र लिखा था।

अध्यक्ष महोदय: श्री मोर्य आप। रुकावट डाल रहे हैं। मुझे चलने दीजिये। आप दरभ्यान में...

श्री मोर्य : आपका चलने कैसे दें। हम लोगों को सुन लीजिये। साधारण नागरिकों से भी बरा वत्ता है हम लोगों के साथ बाहर हो रहा है। कल प्रिविलेज इश्यू को ले कर आपको पत्र लिखा कि गृह मंत्री ने चालाकी करके उनको छोड़ दिया जिनके बारे में लिखा था। एस० डी० एम० है। वहां हम लोगों का हलाकिया बयान लगा हुआ है। पार्लियामेंट मेम्बर है, एक फिएट कार है, एक जीप है, 17 हजार रु० की और 10 हजार रु० की इसके बावजूद कहते हैं, कि हम आपको नहीं जानते हम बेरिफाई करायेंगे। उसमें लिखा हुआ है कि :

"The S.H.O. should verify the surities with in three days."

इन तमाम चीजों को उठाने दीजिये।

अध्यक्ष महोदय : श्री मोर्य क्या यह हाउस फैसला करेगा कि उस मैजिस्ट्रेट ने आपकी जमानत को मंजूर नहीं किया आपको कुछ और उसने कहा जो कि पोलाइट नहीं था।

श्री मोर्य : आप मेरी प्रार्थना सुन लीजिये, मैं हाथ जोड़ कर कहता हूं। जब मेरी गिरफ्तारी हुई थी तब स्वर्गीय पंडित जवाहर लाल नेहरू प्रधान मंत्री थे। उन्होंने स्वयं विश्वास दिलाया था कि इस तरह से गिरफ्तारियां नहीं होंगी। स्वयं आपने भी कहा था कि जब सदन होगा तब पार्लियामेंट के मेम्बर को इस तरह से नहीं गिरफ्तार कर लिया जायेगा। आज दफा 107 का प्रयोग हुआ है। 107 कोई क्राइम नहीं है। वह एक क्राइम न होने देने की व्यवस्था है। उसमें हम लोग जब जमानत के लिये जाते हैं तब हमसे कहा जाता है कि 25, 25 हजार की जमानत दो। जमानत देने के लिये जाते हैं तो मंजूर नहीं की जाती है। यह साफ जाहिर करता है...

अध्यक्ष महोदय : अब आप बैठ जाइये। आप ने तमाम चीजें कह दीं। आप ने मुझसे कहा, मैंने दे दिया है।

श्री मोर्य : पार्लियामेंट के मेम्बर के साथ बड़ा बुरा सलूक हो रहा है...

अध्यक्ष महोदय : आर्डर, आर्डर। मोर्य साहब अब आप बैठ जाइये।

श्री मोर्य : आप पुलिस राज को बढ़ावा दे रहे हैं। आप हमारी रक्षा नहीं करेंगे तो कोन करेगा। यह कांग्रेस वाले हमारी जान के दुश्मन हैं यह हमें गोलियों से मरवा दें। आप ही हमारे रक्षक हैं आप हमारे...

अध्यक्ष : बंध : मैंने आपकी बात सुन ली आप बैठ जाइये।

श्री मोर्य : आप उन से कहें कि क्यों यह दुष्ययोग हो रहा है कानून का...

अध्यक्ष महोदय : आपकी शिकायत है कि आप कचहरी में गये और आपसे अच्छा सुलूक नहीं किया उस मैजिस्ट्रेट ने। मैजिस्ट्रेट के सामने जो जायेगा वह मिटिडन है, मैं उसमें क्या संरक्षण दे सकता हूं।

श्री मोर्य : मैजिस्ट्रेट ने हमसे कि हमारी मजबूरी है। मैजिस्ट्रेट ने कहा कि ऐडमिनिस्ट्रेशन हमें रोकता है। मैजिस्ट्रेट ने कहा कि आज उनका राज है, जैसा वह कहते हैं वैसा कर रहे हैं। कल आपका राज होगा तब जो आप कहेंगे, वह करेंगे। मैजिस्ट्रेट ने सब कुछ कहा कि होम मिनिस्ट्री से टेलीफोन आते हैं, डिप्टी मिनिस्टर टेलीफोन करते हैं...

अध्यक्ष महोदय : आर्डर, आर्डर। मैं ने आपको बहुत सुन लिया।

श्री राबेलाल व्यास : (उज्जैन) : अध्यक्ष महोदय, क्या यह सारी चीजें जो माननीय सदस्य ने कही हैं वह रेकार्ड पर जायेंगी।

Shri Surendranath Dwivedy (Kendrapara): Sir, whether, under the rules, you permit him to make this point or not, the point that he has raised is very important from all points of view, because a Member of Parliament was arrested, he was to be released on bail, Rs. 25,000 security was demanded for release of the Member of Parliament on bail, another Member of Parliament offered security and that was not accepted in spite of the fact that he made a statement that he had this property and that property. This is something very wrong.

Shri Hari Vishnu Kamath (Hoshangabad): Atrocious.

Mr. Speaker: I got that information. The Members complained to me. I sent it on to the Home Minister saying that he should look into it. That was all that could be done. Members should also realise . . . (Interruption).

श्री मधु लिमये (मुंगेर) : यहां बहम होनी चाहिये मिनिस्टर को लिखने से क्या हां सकता है।

एक माननीय सदस्य : आप बहस का आर्डर दीजिये।

अध्यक्ष महोदय : मैं आर्डर कैसे दे सकता हूं।

Shrimati Renu Chakravartty (Barackpore): There are two points. One has been raised by Dr. Ram Monohar Lohia and another by my hon. friend over here. On very flimsy grounds Members of Parliament are arrested and as soon as the executive is going to be caught on the wrong foot in the court of law, either under a *habeas corpus* petition

or anything, they are released. At any moment of time they can stop our work on such flimsy grounds. If you take refuge under this that Members of Parliament are not above the law.. (Interruption).

Mr. Speaker: Would she kindly guide me as to what action I could take?

Shrimati Renu Chakravartty: You could tell them... (Interruption)

श्री मोर्य : उन्होंने दफा 107 का दुरुपयोग किया है। उस पर बहस करने दीजिये।

Shri N. C. Chatterjee (Burdwan): Mr. Speaker, Sir you have been good enough to inform the House that you have forwarded the complaint to the Home Minister. The Home Minister is expected to take prompt steps and explain to the House what is the real position. Why is the Home Minister not making a statement?

Mr. Speaker: Can I interfere in that?

Shri N. C. Chatterjee: You have got ample powers.

Mr. Speaker: Would he kindly tell me whether the Speaker or the House can act in this matter?

Shri Hem Baurua (Gauhati): The House can.

Mr. Speaker: No. Can we take up that question and interfere in that?

Shri N. C. Chatterjee: You have already asked the Home Minister to look into the matter.

Mr. Speaker: I have.

Shri N. C. Chatterjee: That means, he has to report to the House what is his reaction. He should tell the facts and give us the reasons.

Mr. Speaker: That, I am assured, I will get and I will inform the House

[Mr. Speaker]

what I get now. What further can be done?

Shri N. C. Chatterjee: May I know what is the Home Minister's reply to your letter?

Mr. Speaker: I have not so far received it.

Shri N. S. Chatterjee: This is a matter which is very important and it concerns the privilege of the House.

Mr. Speaker: I will ask the Home Minister that he should send an early reply to me.

डा० राम मनोहर लोहिया (फर्रुखाबाद)
अध्यक्ष महोदय, जिम्मे बहस उठाया है उसकी भी सलाह तो लीजिये। आप कहते हैं कि रास्ता बतलाइये। मैं रास्ता बतलाता हूँ आपके सामने, और यह रास्ता साफ है। जब सदन में पिछले छः सात दिनों में यह सवाल उठा था तब आपने और औरों ने यह कह करके इस सवाल को खत्म किया कि अदालत में यह मामला तय हो रहा है। जब अदालत में यह मामला तय होने पर आया तब गृह मंत्री साहब ने अदालती मामले को खत्म करके हर मामले को पहले ही खत्म कर दिया। नतीजा यह होता है कि सात आठ दस दिन तक नागरिक की स्वतन्त्रता का अपहरण हुआ है संविधान की धारा 21 और 22 के बिल्कुल खिलाफ। और दफा 107 का आज खाली दुरुपयोग नहीं, बजाये खुद संविधान को खत्म करने जा रहे हैं। उसको चुनौती दी जाती है। इस मौके पर आपका कर्तव्य हो जाता है कि ठीक उसी वक्त पर जब कि वहाँ दिल्ली की अदालत में यह सरकार कहने गई है कि चूँकि हमने छोड़ दिया इसलिये वह मामला नहीं रह जाता, आप यहाँ पर कहिये कि यह मुकदमा यहाँ आ जाता है क्योंकि आप कह चुके हैं कि दिल्ली की अदालत में यह मामला साफ करवाओ इसलिये यहाँ रास्ता रह जाता है कि हर एक मुकदमा साफ तौर से यहाँ आये। मैं कोई एक स्कूली बहस

में नहीं पड़ना चाहता। इसका सरकार के भविष्य से सम्बन्ध है।

मैं आपको एक और इत्तला देना चाहता हूँ कि एक आदमी के प्राणों के ऊपर घातक हमला 7 नवम्बर को हुआ। उसके घर के सामने यह सरकार बन्दूक वाला सिपाही रखती थी, 6 नवम्बर तक, और 7 नवम्बर को जो बन्दूक वाला सिपाही था उसके हाथ से बन्दूक हटा ली गई।

अध्यक्ष महोदय: यह चीज मैंने...

डा० राम मनोहर लोहिया: आप उस तर्क से बचराइये मत। नतीजा यह निकलना है कि इस तर्क का इस्तेमाल होता है

अध्यक्ष महोदय: अब मैंने आपको सुन लिया है, आप बैठ जाइये।

डा० राम मनोहर लोहिया: रास्ते पर तो जरा गौर करें, अच्छी तरह से सुनें तो, जब तक, ...

अध्यक्ष महोदय: अच्छी तरह से और नहीं चल सकता है। सुन लिया है आपको अब मैंने।

डा० राम मनोहर लोहिया: कहां सुन रहे हैं। अगर सुनते होते तो थोड़ी धीरज रखते। हम लोगों को तो गर्म होने का अधिकार है। लेकिन आप जिस कुर्सी पर बैठे हैं उस पर बैठ कर आपको गर्म होने का अधिकार नहीं है।

अध्यक्ष महोदय: हाउस की प्रोसीडिंज को चलाऊं न और बाहर चला जाऊं?

डा० राम मनोहर लोहिया: कानून की कार्रवाई चलायें, यह मैं कहना चाहता हूँ।

अध्यक्ष महोदय: कोशिश यही करता हूँ।

Shri Hem Barua: May I make a submission to you?

Mr. Speaker: Mr. Banerjee had risen earlier.

Shri S. M. Banerjee (Kanpur): May I invite your kind attention to the letter which Shri Y. B. Chavan had addressed to you on 21st November, 1966, a copy of which has been sent to us. Certain cases were referred as to how Shri Maurya was harassed by the police, how search took place in his house, how Shri Kishen Pattnayak's house, in his absence—his house was locked—was searched and how these three Members were arrested. Shri Y. B. Chavan has already written to you a letter giving certain factual statement which is virtually wrong.

Then, you asked us how this question can be raised and how you can possibly help us in raising the discussion in the House. Sir, you remember a judgment delivered recently by the Chief Justice of Delhi in the case of Shri Balraj Madhok in which the Judge has held that the orders passed by the Magistrate were patently illegal and that the Magistrate had not complied with the mandatory provisions contained in section 112 of the Criminal Procedure Code. He has said all these things. We wanted to raise a discussion in side the House because there was an apprehension that anybody can be arrested under section 107 and put in jail. Therefore, we wanted a discussion on this. Dr. Lohia raised this point of *habeas corpus* coming up . . .

Shri Radhelal Vyas: I rise on a point or order, Sir.

Mr. Speaker: Let me hear him. I will hear Shri Radhelal Vyas also.

Shri S. M. Banerjee: I am not agitated at all. I am trying to establish my point. We had given a Call Attention notice and that could have been admitted. But you, Sir, in your wisdom, did not allow it. Now, a dis-

cussion can take place. The Judgment delivered by the Chief Justice of Delhi in the case of Shri Balraj Madhok applies in the case of Dr. Lohia and others who were arrested under section 107....

Mr. Speaker: The point before me this morning was that an adjournment motion had been given....

Shri S. M. Banerjee: I am coming to that.

Mr. Speaker: He should restrict himself to the point.

Shri S. M. Banerjee: There is an adjournment motion tabled by Dr. Lohia. He was arrested and put behind the bars. We requested, through you, the Home Minister, the Deputy Minister and everyone, that they should be released after this judgment in the case of Shri Balraj Madhok. They were not released. Shri Kishen Pattnayak made a definite statement that there was no trouble—the students' unrest is over; the 18th November is over—and still they were kept inside the jail and they were being tried. The moment they knew that a *habeas corpus* was coming and they knew the mind of the judiciary, that they are impartial, they have done this. I feel that this is not only the contempt of the court but this is absolutely wrong to have withdrawn that case now.

Shri G. N. Dixit (Etawah): Sir, the issue that is being raised is an important issue. The question is: What is the privilege of a Member of the House? Article 14 of the Constitution lays down that there shall be equality before law. Does a Member of Parliament enjoy a privilege before law outside the realm of this Parliament House more than a citizen of this country? That is a very important question because every citizen may have a grievance that the Members of Parliament are trying to become a special class of privileged people. So far as the privileges of the Members of Parliament within the

[Shri G. N. Dixit]

House or outside the House are concerned, they have been laid down in article 105 and in the Rules. Apart from the privileges that are laid down in article 105 or those obtaining in the United Kingdom or those which are laid down in Rules 232 and 233, there is no other privilege. Now, the Constitution has divided powers between the legislature, the judiciary and the executive. The powers of the judiciary, whether it is of the Magistrate or of the High Court or of the Supreme Court, are independent of the jurisdiction of Parliament. If a Magistrate has committed a mistake, it is open to a person who has a grievance to go up before the High Court or the Supreme Court. This is not the right place to raise what wrong or right has been done by a Magistrate. These are my submissions. Let not an impression go in the country that Members of Parliament are claiming privileges much more than an ordinary citizen; let there be equality before law let the privileges of the Members of Parliament be limited to those which are laid down in the rules or in the Constitution. This is what I have to say.

Shri Radhelal Vyas: On a point of order.

Shri Kashi Ram Gupta (Alwar): I rise on a point of order.

Mr. Speaker: Let me hear Mr. Vyas first.

Shri Radhelal Vyas: My point of order is under rule 377. Unfortunately this point has been raised here; the debate has started and so many members have spoken; my hon. friend, Mr. Dixit, has also spoken. This rule is very clear and I would specially invite your attention to this and request that it should not be allowed to be violated. The rule is being violated every day. The rule is specific; it lays down clearly:

"A member who wishes to bring to the notice of the House any

matter which is not a point of order...."

This was not a point of order.

"...shall give notice to the Secretary in writing stating briefly the point which he wishes to raise in the House together with reasons for wishing to raise it, and he shall be permitted to raise it only after the Speaker. . . ."

श्री मधु लिमये : बैठ जायों ।

श्री राधेलाल व्यास : क्या इनका हुकम चलेगा ? मैं बोल रहा हूँ बड़े श्रद्धा के साथ और ये कह रहे हैं बैठ जाओ । क्या इनका हुकम चलेगा ?

"...only after the Speaker has given his consent"

Mr. Speaker: I agree with Mr. Vyas, but he must understand and appreciate also that there are some points—this is about the arrest of Members of Parliament—for which sometimes we have to give that indulgence.

Shri Radhelal Vyas: They should be allowed to be raised according to the procedure. They must send a notice stating the reasons and then you have to allow it.

Mr. Speaker: I agree with him.

Mr. Kashi Ram Gupta.

श्री काशी राम गुप्त : दीक्षित जी ने जो वक्तव्य दिया है उस पर मेरा व्यवस्था का प्रश्न है। वास्तविक बात तो यह है कि जो मजिस्ट्रेट था उन्होंने हम लोगों को जिस वक्त हम वहाँ थे यह कहा कि मैं मुकदमा लूँगा, आप बैठ जाइये। फिर टेलीफोन आया उनके पास। टेलीफोन सुनने के बाद वह आए और आकर उन्होंने नई बात की। अगर टेलीफोन की बात न होती और इतनी देर हम न ठहरते तो जमानत वह ले र थे...

एक माननीय सदस्य: किसका टेलीफोन ?

श्री काशी राम गुप्त: सरकार का आता है और किसका आता है। हमने इस पर आपत्ति की। हमने कहा कि अगर आपके पास सरकार की कोई हिदायत आ गई है तो हमें कोई एतराज नहीं है। हम जा रहे हैं। वह चुप हो गए एक दम से। कहने लगे हम क्या करें। वास्तविकता यह नहीं है कि बाहर सदन के हमारे साथ किस तरह का बरताव किया जाता है। वास्तविकता यह है कि नया सरकार के दखल से इस तरह की बातें हों, इस तरह की कार्रवाई सरकार करे तो वह हाउस की कंटम्प्ट है या नहीं है ?

अध्यक्ष महोदय: मैंने कहा है कि जब कोई मੈम्बर या ईवन दी प्रिजाइडिंग आफिसर अदालत में जाता है, मैजिस्ट्रेट के सामने जाता है और कुछ बात कहता है तो वहां तो सिटिजन और किसी मੈम्बर का कोई फर्क नहीं हो सकता है और अदालत के अन्दर वह सिटिजन ही होगा जिस तरह बाकी सिटिजन हैं। अगर अदालत ने कुछ अच्छा सुलूक नहीं किया है, तो उसकी जो रेमेडी एक आर्डिनरी सिटिजन को हासिल है, वह पार्लियामेंट के मੈम्बर को भी हासिल है। इसलिए अगर हाउस में इस बात को उठाया जाये कि मैजिस्ट्रेट ने क्या कहा और क्यों कहा, तो यह नहीं हो सकता है।

श्री श्रीयः अध्यक्ष महोदय, पार्लियामेंट के मੈम्बर का हलफिया बयान शक की नजर से देखा जाता है और पुलिस अफसर को उसको बैरीफाई करने के लिए भेजा जाता है।

अध्यक्ष महोदय: यह बात कई दफा कह दी गई है। इसलिए माननीय सदस्य का इस तरह बीच में बोलना ठीक नहीं है। माननीय सदस्य बैठ जायें।

श्री श्रीयः मैंने यह बात उठाई है, लेकिन आप मुझे नहीं सुनते हैं। अदालत ने पार्लियामेंट के मੈम्बर का हलफिया बयान मन्जूर नहीं किया और पुलिस को उसको बैरीफाई करने के लिए भेजा, इसकी सवाल यह है।

अध्यक्ष महोदय: श्री हॅम बरुआ।

Shri Hem Barua: May I make a submission to you? You must not forget the fact that you are the custodian of the rights and privileges of this House and also of the Members here and by no means, do I want you to abdicate your rights. In that context, I have to make a humble submission to you.

The very fact that you have sent a complaint of the hon. Members to the Home Minister establishes the fact that there is a *prima facie* case, or else you would not have sent it to the Home Minister. At the same time, if these things are allowed to continue, there would not be any peace for the Members of Parliament, particularly for the Members of the Opposition. The magistrate said that a bail of Rs. 25,000 with two sureties of like amount might be provided by those Members who were arrested. When those Members were arrested, I drew your attention to a very relevant thing, namely your own ruling in the House.

You have ruled on many an occasion in the House that no Member should be arrested during the session unless and until there are grave allegations of a criminal nature against that particular Member. In violation of that, Members were arrested....

Mr. Speaker: Those were not the words that I used. The hon. Member's memory is very strong, but at this time I must tell him that those were not the words that I used.

Shri Hem Barua: But the sense was the same. I remember that.

Mr. Speaker: These words should not be put into my mouth.

Shri Hem Barua: There is another thing also. Here is the Member Shri Maurya who has raised a very relevant thing. He went to the magistrate and offered to stand bail for the Members of Parliament who are arrested and he said that he was also a Member of Parliament. But the magistrate refused to believe that he was a Member of Parliament.

May I draw your attention to certain things which happened here in this House when Mr. Mudgal from Bombay was expelled, there was a resolution tabled against him by Mr. Nehru because of his misconduct outside the House. If a Member of Parliament can be charged for telling a lie to a magistrate, the House could take action on that and the House is competent enough to take action on that. But that does not give the right to the magistrate or the petty minions of the law and the Home Ministry and the policemen to disbelieve a Member of Parliament.

For instance, I do not carry my identity card wherever I go.

Shri Maurya: I took the identity card with me. I had taken it and showed it to him also.

Shri Hem Barua: I do not carry my identity card. Supposing I come to your chamber without my identity card and a policeman challenges me and says that 'You are not a Member of Parliament', what defence can I have?

Therefore, as you are the custodian of the rights and privileges of the Members of the House, you have to look at this matter from a different angle altogether and not from this legalistic angle from which you are looking at it.

श्री श्रीराम : पायंट ब्राऊन आर्डर, सर ।

अध्यक्ष महोदय : माननीय सदस्य अपनी न कह चके । अब वह बैठ जायें ।

श्री श्रीराम : मैं पायंट ब्राऊन आर्डर उठाना चाहता हूँ । इस समय प्रश्न यह है कि एक

: पार्लियामेंट जो हलफिया बयान दे, उस पर शक किया जाये । इस चाहिए ।

अध्यक्ष महोदय : श्री बड़े ।

श्री बड़े (खारगाने) : यह बड़ा महत्वपूर्ण प्रश्न है । प्रश्न यह है कि क्या स्पीकर मैम्बरों के राइट्स एंड प्रिविलेज का कस्टोडियन है या नहीं । हाउस आफ़ कामन्स में कहा गया है कि वह है । मैं श्री दीक्षित से एग्री करता हूँ कि लाइब्ररी रेस्पेक्टर ब्राऊन परसन्ड, लेकिन आप देखिए कि पार्लियामेंट का एक मैम्बर कोर्ट के समने जाता है, अपना आईडेंटिटी कार्ड दिखाता है और पच्चीस हजार रुपये की जमानत देता है, लेकिन उस पर विश्वास नहीं किया जाता है । आप खद जज रहे हैं । आप जानते हैं कि सैकशन 107 और 151 के ब्राऊन्स बेलेबल हैं । हम लोग बाहर से, बिहार, केरल या आसाम आदि से, आते हैं । यदि कोई पार्लियामेंट का मैम्बर यहां पर पकड़ा जाता है, तो वह पच्चीस-पच्चीस हजार की दा जमानत कहां से लाए ? माननीय सदस्य ने कहा है कि मेरी मोटर है, लेकिन अदालतने कहा कि हम उनको नहीं पहचानते हैं और वीरिफिकेशन के लिए तीन दिन की मियाद दे दी । क्या इस तरह हमारे राइट्स और प्रिविलेज का हनन नहीं होता है ? आपने कहा है कि यह पायंट यहां पर रेंज नहीं किया जा सकता है । मैं मानता हूँ, लेकिन जब यहां पर डिपुटी होम मिनिस्टर के खिलाफ़ एली-मेशन लगाए गए हैं कि उन्होंने टेलीफोन किया है, तो होम मिनिस्टर साहब को यह नहीं कहना चाहिए कि हम ने कोई प्रैर नहीं डाला है ।

अध्यक्ष महोदय : यहां पर ो दफ़ा यह इल्जाम लगाया गया है कि डिपुटी होम मिनिस्टर ने टेलीफोन किया । क्या वह दुरुस्त है ?

श्री बड़े : यह बिल्कुल सही है ।

श्री हुकम चन्द कछवाय (देवास) :
यह बिल्कुल सही बात है ।

The Minister of Home Affairs (Shri Y. B. Chavan): Neither I nor the Deputy Minister had made any phone calls.

श्री हुकम चन्द कछवाय : वह मंत्री
महोदय से पूछे बिना काम करते हैं । वह
इन को भी ले डूबेंगे ।

डा० राम मनोहर लोहिया : राजा
हरिश्चन्द्र बोले हैं !

Shrimati Renu Chakravartty: It is very clear then that you are not in a position to help us in this

Mr. Speaker: It is clear when the matter is before the court and the magistrate does that and he demands a surety I cannot reduce it.

Shrimati Renu Chakravartty: But you are leaving out the other point entirely. Suppose the arm of the law is used against me maliciously, what are you to do? Here are policemen who may arrest me under section 107; I do not have the benefit of the *habeas corpus*, because just on the last day when the *habeas corpus* petition comes up, they will release me. They are doing this again and again, and you are so helpless.

Mr. Speaker: I do not find any powers vested in me in that behalf. Now, Shri Kapur Singh.

Shri N. C. Chatterjee: You have. May I make a submission?

Mr. Speaker: If they release some Member at the time when the *habeas corpus* petition is being heard, then I should interfere?

डा० राम मनोहर लोहिया : प्रायः
को यहां बहस करवाने की ताकत है ।

Shri N. C. Chatterjee: I want to make one submission.

Mr. Speaker: I have called Shri Kapur Singh already.

Shri Kapur Singh (Ludhiana): The point which is agitating the House can be stated in quite simple terms. The essence of our grievance is that the liberties and privileges of a Member of this House to function as a Member of this House have been interfered with by an abuse and wrong use of certain vague and dubious provisions of the law.

When this point was raised before you at the stage when Dr. Ram Manohar Lohia was arrested you did not allow us to have a discussion on that point on the ground that the matter was *sub-judice*. When the matter was taken to the court and the court was almost about to examine the matter and pronounce on this point, Government had adopted the subterfuge of releasing Dr. Ram Manohar Lohia.

Your difficulty as you have expressed it is that there is no provision under which you can come to our rescue against the kind of treatment which is being meted out to us. In that connection, I may point out that there are provisions in the book of rules which is before you and such a contingency was actually thought of by the rule-makers. The last rule of the book of rules says that wherever no specific provision exists, the residuary powers inherent in the Speaker on behalf of the House, so that the House may be seized of that matter and take whatever action it is competent to take.

The power of discussion and the power of conveying our displeasure and our censure on the misdeeds of the executive is one of the most fundamental functions of this House. I would, therefore, request you to come to our aid and help us by making use of those powers which are in-

[Shri Kapur Singh]

herent in you and thus convey our displeasure to those who have thus abused the law and have thus tried to destroy our liberties as Members of this House.

Mr. Speaker: Shri Kapur Singh has struck the right note that it is an abuse of the powers, according to them, by the executive. Then, the remedy is either a no-confidence-motion or a censure motion.

Now, Shri N. C. Chatterjee.

Shrimati Renu Chakravarty: Then, the adjournment motion should be admitted.

श्री मधु सिन्घे : यहाँ पर विशेषाधिकार के भंग का प्रश्न उठाया जा सकता है ।

Shri S. N. Chaturvedi (Firozabad): We should also be given a chance.

Mr. Speaker: I have called Shri N. C. Chatterjee:

Shri N. C. Chatterjee: I want to point out that the argument of my learned friend, Shri Dixit, is wholly untenable. We are not claiming any privilege outside the Constitution. The Constitution under article 105 has given us some rights and privileges which we are asserting. We are not going beyond the countours of those rights and privileges. Under article 105, Parliament as the sovereign legislature has got the right to make proper legislation in regard to its rights and privileges. Until that is done, until Parliament exercises that power, that is the law? The rights and, privileges, shall be those of the Members of the House of Commons, of the British Parliament. What is the right in this case? 40 days before the session, during the session and until 40 days after the session, no Member of Parliament shall be arrested unless there is a criminal

charge of any cognizable offence preferred against him.

An hon. Member: There has been a ruling on that.

Shri N. C. Chatterjee: What is the ruling. On that basis, we have been asking all along for the same thing. You and I have been here since 1952. You know we have got the same right as the British Parliament or the House of Commons.

What is the position? The Chief Justice of the Delhi High Court accepted my argument and Shri Trivedi's argument. What is the argument? That you cannot arrest a Member under sec. 151 because there is proceeding under sec. 107 of the Code. What is sec. 151? I will read it.

"A police officer knowing of a sign to commit any cognizable offence may arrest, without orders from Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented".

The Chief Justice asked the Government Pleader, when we put forward this argument, 'You cannot arrest him, when there is no question of commission of any cognizable offence. when you simply think that he may violate the peace hereafter or do something' and therefore want to proceed under sec. 107.

Therefore, sec. 107 is the only thing left. The Chief Justice asked, 'what is the cognizable offence which he was going to commit? The police officer must have knowledge of it. Where is that? Neither in the police officer's statement nor in the Government officer's affidavit nor in the Magistrate's affidavit, was there any indication of it. You will be amazed to know that the Magistrate himself affirmed on affidavit. The Supreme Court strongly deprecated a Magistrate exercising judicial powers affirming an affidavit! But that was done.

Therefore, this kind of arrest was declared to be illegal. We are simply saying is that you, as the custodian of the rights and privileges of this House, should deprecate this transgression. We are not saying that we should be deprived of the rights and privileges to which we are entitled under the organic law of the country, under art. 105 of the Constitution. We do not want to arrogate any right which is not given to us by the Constitution-makers of India. We affirm that that is the supreme law and demand that that should be enforced, and no Member of Parliament while Parliament is in session should be deprived of his freedom and arrested under sec. 151 simply because there is proceeding under 107.

Shri Hari Vishnu Kamath: It is not a criminal charge. I said so the other day.

Shri N. C. Chatterjee: The Chief Justice of the High Court of Delhi has clearly laid down that it is illegal and it is a breach of the law.

I therefore submit that, you, as the custodian of the rights and privileges of the House, should see that that privilege is honoured and the Constitution is not violated in this blatant manner.

Shri Hari Vishnu Kamath: You can condemn the executive.

Shri S. N. Chaturvedi: I think the release of Dr. Lohia does not make any difference in pursuing the matter; if he is aggrieved, he can certainly bring a charge of illegal detention even now against whosoever arrested him. And if it is established that he was illegally detained, then he can also make it a question of breach of privilege. If members have evidence in their possession that the Deputy Minister rang up the Magistrate and interfered in the discharge of his duties, they can certainly bring in a charge of contempt of court against the Deputy Minister also.

But these charges should be brought up not here in this forum but in a court of law. If they are established, other things follow. It is easy enough to make any sort of allegation here under the cover of the privileges that we enjoy in this House. But these charges should be levelled in the forum of the judiciary, and if it is established that something wrong has been done, then the question of privilege will also arise. This is, therefore, not the proper place to do those things, for here you can make any kind of statement and get away with it.

The Minister of Law (Shri G. S. Pathak): It is true that the Members of Parliament have got certain rights so far as the question of arrest is concerned. But those rights cannot avail against the right of the Magistrate or that of the police, if that is exercised under the law. If any illegality has been committed, then resort must be had to the court. As in this particular case of Balraj Modhok there was an illegality alleged to have been committed, they went to the court and the court granted the remedy.

Shri Surendranath Dwivedy (Kendrapara): Before it was decided in the court, you released him.

Shri S. M. Banerjee: The court passed strictures.

Shri G. S. Pathak: It is not a question of privilege of the House or privilege of any member thereof, if the Magistrate or the police purports to act under the law. If any illegality is committed, if something is done without jurisdiction, then the aggrieved cannot, as a Member of this House, come to this House for relief. He has got to obtain it from the court, relief against the commission of any illegality.

This is illustrated by what Shri Chatterjee has said, namely, that in Balraj Madhok's case, there was a complaint that illegality has been committed; there was a complaint that

[Shri G. S. Pathak]

the police had no power to arrest. They went under *habeas corpus* to the High Court and the High Court granted relief. Otherwise, this House and the remedies of this House will become a substitute for *habeas corpus*. This is one point.

Shri Surendranath Dwivedy: This is a complete misrepresentation of what we want in this House.

Shri Kapur Singh: This is not the issue before the House.

Shri G. S. Pathak: Dr. Lohia made this point that since he has been released, release for an ulterior motive, he has got to complain to the Speaker and to this House. That is wrong. He mentioned art. 21. If somebody's liberty is taken away by the State, then alone art. 21 would apply.

Shri Hari Vishnu Kamath: What happened here?

Shri G. S. Pathak: It says:

"No person shall be deprived....

Mr. Speaker: I may point out one thing to the Law Minister. It is not the question that Dr. Lohia was arrested or other Members were arrested, and they have the privilege that they should be immune from arrest. That is not the issue. The question, so far as the discussion that has taken place shows—and this is one thing that is worrying me—is only this, which I want to bring to the notice of the Home Minister and the Government: Parliament is sitting. Proceedings are started against some Members under 107 and 151....

Shri Hari Vishnu Kamath: Atrocious.

Mr. Speaker: No, no.

Shri Hari Vishnu Kamath: Nothing wrong. I will say monstrous.

Mr. Speaker: That is for the executive—for me to say—when it finds that such a thing has happened.

But when those proceedings have been started and the Member goes in a *habeas corpus* petition to the High Court, the Government releases him. What Members feel agitated about is that this can be resorted to for limiting the privileges of the Members of Parliament or for depriving them of those rights that they enjoy.

13 hrs.

Shri Kapur Singh: I wish to say that they are trying to overawe us, not merely limit our liberties.

Mr. Speaker: Whether this is the interpretation that is being put that is to be cleared by the Government—and the Members might be utilised in saying that this was done simply to keep them behind the bars for sometime though there was no offence and it might be resorted to again and again and the Members must have that freedom to work as Members which is their right. That is the only thing.

Shri G. S. Pathak: When their allegation is that the release was for ulterior motives, how can that be cleared up unless the Home Minister makes a statement? I submit to you that you have very rightly asked the Home Minister to make a statement and when the Home Minister makes a statement, he will satisfy you that the reason for ordering the release by the authorities was a proper and justifiable reason and that no discussion will arise.

Mr. Speaker: I will just have consultations with the Home Minister and the Law Minister and I will sit with them and then I will try to bring home to them what the complaint and the grievances of the Members are.

Shri S. M. Banerjee: You allow a discussion.

Shri Ranga (Chittoor): Sir, apart from these legalities which are very important there are one or two other small points also. I come from this House but many people may not know me. Suddenly the police come and arrest me on a bailable charge and they do not accept my personal surety. They ask the magistrate there who is supposed to be ignorant of politics and politicians; he says: I am not prepared to recognise you and accept your personal surety; I want you to bring another surety. Now, I bring another; he can only be a non-Delhi person because no Delhi person would be prepared to stand surety when I am charged before a magistrate for some alleged or actual criminal complaint and so I bring somebody whom I know from this House. His personal surety is also not accepted and he is asked to give surety to the extent of Rs. 25,000. He makes an affidavit but the magistrate does not recognise. In such circumstances, where is the guarantee for our liberties and for our freedoms? Are we to understand that we have to be placed at the sweet mercy, tendered mercies of these non-political, ignorant magistrates of Delhi—all those Members who come from all over India? This is a very important matter because at this rate they can impound the freedom of people who do not belong to Delhi at all. Secondly, there is a Member of Parliament and ordinarily even his personal surety is accepted provided the magistrate is satisfied. Are we to understand that under this regime they should have magistrates who are not prepared to accept the personal surety of Members of Parliament?

There is another thing. He brings in another Member of Parliament also and he shows his identity card; even then he is not satisfied; he wants to have a surety of property. Is this the indignity to which Members of Parliament ought to be subjected? At this rate where would be any kind of freedom at all left?

Shri Hari Vishnu Kamath: It is most idiotic.

What is your decision, Sir?

Mr. Speaker: I have said that I would sit with the Home Minister and the Law Minister and discuss this matter with them and then I will inform the House.

श्री श्रीरंग : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। यदि मैं इसको नहीं उठाता तो यह चर्चा यहां नहीं होती, लेकिन जिन बात पर मैं चर्चा चलाना चाहता हूं...

अध्यक्ष महोदय : आप बैठ जाइये, मैं आपकी बात सुन चुका हूं।

श्री श्रीरंग : श्रीमान मेरा एफिडेविट उन्होंने स्वीकार नहीं किया, मेरी बात सुन लीजिए, मेरा व्यवस्था का प्रश्न है।

Mr. Speaker: He should resume his seat now; I have heard him enough.

श्री श्रीरंग : आपने मेरी बात नहीं सुनी है।

अध्यक्ष महोदय : मेरी प्रार्थना है कि अब आप बैठ जाइये।

13.05 hrs.

RELEASE OF MEMBERS

(Dr. Ram Manohar Lohia and Shri Bagri)

Mr. Speaker: I have to inform the House that I have received the following communication dated the 22nd November, 1966 from the Sub-Divisional Magistrate, New Delhi:—

"I have the honour to inform you that Dr. Ram Manohar Lohia and Shri Mani Ram Bagri, Members, Lok Sabha, were arrested on the night of the 15th/16th November, 1966 and 17th November, 1966 respectively, as there was apprehension of breach of public peace on account of their open