the petition. One was blank, one was signed. Now it appears from the Home Minister's statement that the signed form has been whisked away, and only the unsigned form has been taken to the court. The original petition contained two forms.

Mr. Speaker: Then the only question for determination is this: if the police is searching in the discharge of its duties and if there is some form also, an application that can be and is intended to be used for a petition to Parliament, whether taking possession of that also is a breach of privilege. This much I will send to the Committee to see on that limited point whether this case really forms a breach of privilege.

Shri S. M. Banerjee (Kanpur): It should be ascertained whether other sections have been added after the privilege motion has been moved.

Mr. Speaker: I am not concerned with that.

(ii) RE. INTIMATION OF ARREST AND RELEASE OF LOK SABHA MEMBERS

श्री रामसेवक यादव (बाराबंकी) : अध्यक्ष महोदय, यह जो प्रक्रिया तथा कार्य संचालन सम्बंधी नियमावली है उस के अन्तर्गत नियम 229 और 230 में दिया गया है कि जब इस सदन का कोई सदस्य किसी मजिस्ट्रेट द्वारा पकड़ा जाएगा तो तत्काल उसकी सूचना इस सदन को दी जाएगी और जब वह जमानत पर रिहा किया जाएगा तो उसकी भी सूचना इस सदन को दी जाएगी।

इस सदन के दो माननीय सदस्य श्री मनीराम बागड़ी तथा श्री किशन पटनायक 16 अगस्त को गिरफ्तार किए गए, उसकी सूचना इस सदन को दी गयी, लेकिन जब वे 21 तारीख को रिहा हुए तो उसकी सूचना सदन को नहीं दी गयी । यह सदस्यों तथा सदन के विशेषाधिकारों को साफ अवहेलना है । मैं चाहता हूं कि इस पर उचित कार्रवाई की जाए ।

श्री स० मो० बनर्जी : अध्यक्ष महोदय . .

अध्यक्ष महोदय : उन्होंने एक सिम्पल फैक्ट रखा है । इसमें और ऐड करने की जरूरत नहीं है । दो मेम्बर गिरफ्तार हुए, उसकी सूचना यहां आयी, जब वह रिहा कर दिए गए तो सूचना नहीं आयी । इसमें ब्रीच आफ प्रिविलेज हुआ या नहीं, पर ब्रीच आफ ला जरूर हुआ, क्योंकि रूल के मुताबिक जब वह रिलीज हों तो उस की इत्तला भी दी जानी चाहिए । मैंने रिकार्ड को तलाश किया, हमारे पास उनके रिलीज की कोई सूचना नहीं आयी है । तो यह ब्रीच आफ रूल जरूर है, मगर ब्रीच आफ प्रिविलेज है या नहीं . . .

श्री स० मो० बनर्जी : मैं आपका ध्यान एक केस की तरफ़ दिलाना चाहता हूं । मेरी और मेरे मित्र इंद्रजीत गुप्त की जमशेदपुर कोर्ट में ट्राइल हो रही थी, उसमें हमारा बेल हो गया और हम छोड़ दिए गए, लेकिन उस की सूचना लोक सभा को नहीं दी गयी । उस वक्त श्री अनन्तशयनम आयंगर हमारे अध्यक्ष थे । मैंने प्रिविलेज मोशन उठाया और जहां तक मुझे याद है वह मामला शायद कोर्ट को भेजा या बिहार सरकार को उस बारे में लिखा गया और बाद में हमें सूचना मिली कि बिहार के गृह मंत्री ने और मजिस्ट्रेट दोनों ने माफी मांगी इस गलती के लिए और इस गलती को स्वीकार किया । मैं समझता हूं कि इस मामले को या तो प्रिविलेज कमेटी को भेजा जाए या सरकार को लिखा जाए और देखा जाए कि किस अफसर की यह गलती है या उसने जान कर इस नियम की अवहेलना की है ।

अध्यक्ष महोदय : मैं होम मिनिस्टर साहब के नोटिस में इस बात को लाऊंगा कि वह

[अध्यक्ष महोदय]

इस बात की जांच कराएं कि क्यों इत्तला नहीं दी गयी ।

प्रिविलेज कमेटी का एक डिसीशन श्री हलदर के केस में इस बारे में हुआ है । उसमें कहा गया है :

"The explanation furnished by the Judge, 3rd Tribunal, Alipore with regard to non-intimation to the Speaker of the fact of realease on bail pending trial of Shri Kansari Halder appears to be in accordance with the rules on the subject. Rule 230 of the Rules of Procedure and Conduct of Business in Lok Sabha does not make it incumbent upon the authority concerned to intimate the fact regarding the release of a Member of Parliament on bail pending trial, to the Speaker."

"The Committee are of opinion that no breach of privilege had been committed under the existing rules by the authorities concerned in not sending the intimation of release of Shri Kansari Halder on bail pending trial, to the Speaker."

श्री रामसेवक यादव : अध्यक्ष महोदय, जो यह नियम बनाया गया है कि जब कोई सदस्य पकड़ा जाएगा तो उसकी सूचना इस सदन को दी जाएगी, उसका कोई उद्देश्य है, और फिर जो यह नियम है कि जब वह सदस्य रिहा किया जाए तो उसकी भी सूचना दी जाए, उसका भी उद्देश्य है, इस सूचना के न दिए जाने के कारण इस केस में श्री बागड़ी को तकलीफ हुई । रिहा होने के बाद श्री बागड़ी अपना भत्ता इत्यादि यहां से लेना चाहते थे लेकिन इस कार्यालय को उनकी रिहाई की सूचना नहीं थी, इसलिए उनको अपना भत्ता लेने में दिक्कत हुई ।

इसी तरह से मेरा निवेदन है कि संसद् के सदस्य होने के नाते हमारे कुछ अधिकार हैं । हमारा यह अधिकार है कि हम सदन में बैठें और सदन की कार्रवाई में हिस्सा लें और इसीलिए इस सदन ने यह नियम बनाया है । उनका पालन होना चाहिए । आप कहते हैं कि उन्होंने रिहा होने की सूचना नहीं भेजी इसमें कोई विशेषाधिकार की अवहेलना नहीं हुई । अगर ऐसा है तो पकड़े जाने पर सूचना भेजने का क्या मतलब है ? इसलिए मेरा निवेदन है कि इस मामले को विशेषाधिकार समिति को पुनः सौंपा जाए और इस की अच्छी तरह छान-बीन की जाए क्योंकि यह इस तरह का दूसरा वाकया है ।

Shri Hari Vishnu Kamath: Mr. Speaker, Sir, rule 230, to my mind, makes it obigatory that the fact of release on bail shall be communicated to the Speaker. Now, may I submit that when it is so mandatory, it means that the House is entitled, by way of communication to the Speaker, to know what has happened to a particular Member. Therefore, it is the privilege of the House to konw what has happened to that Member after his arrest. So, when the House is deprived of the privilege of knowing what has happened to the Member, I submit in all humility, but in all earnestness, that there has been a breach of privilege of the House in so far as the House has been deprived of the right and privilege of knowing the fate of the Member concerned, and I do submit that this matter may be referred to the Committee of Privileges.

Dr. L. M. Singhvi (Jodhpur): I would request you to reconsider and review the position because I feel that the rule can be a legitimate and proper source of privileges. After all, it is through the rules that our privileges are protected. Otherwise, if it is held to be a mere breach of the rules, then the rules have not any binding force on those officers. At least they are not attended by any penalties unless it is considered a breach of privilege. The officers who are guilty, if they are guilty wilfully of a breach of the rule, they should

be punishable and they should be punishable only if this is considered as a breach of privilege. As a matter of principle, therefore, the matter should be reviewed and in my opinion it should be considered as a breach of privilege.

Shri D. D. Puri (Kaithal): There is some difficulty about the interpretation of this rule. It says:

> "When a member is arrested and after conviction released on bail pending an appeal or otherwise released..."

So, the question is whether the Member is first convicted and then he is released on bail or otherwise; it may become mandatory only in that case. Or, will the word "otherwise" cover cases where a Member is not convicted also? (*Interruption*).

Mr. Speaker: Order, order. Has the Minister anything to say?

The Deputy Minister in the Ministry of Law (Shri Jaganatha Rao): As rule 230 stands at present, and as you have rightly pointed out the previous decision of the Committee of privileges, it is not mandatory. It becomes mandatory only when the Member is arrested and after conviction remains on bail. (*Interruption*). That is the meaning of the rule. If you want to amend it, that is another matter, but the rule, as it stands, is open only to this interpretation. (*Interruption*).

Some hon. Members: The Word "otherwise" is there.

Mr. Speaker: Order, order. Hon. Members should allow me first to understand it. What is the meaning or significance of "otherwise"?

Shri Jaganatha Rao: The rule says, "after conviction released on bail" and then, "otherwise". Supposing he may be released There are in- is released otherwise on parole.

Mr. Speaker: Is that restricted? It says, "after conviction released on bail".

Shri Jaganatha Rao: "Pending an appeal or otherwise released,"—so, even if it is not pending, there may be a conviction (*Interruption*) and there may not be an appeal. Still, he may be released. There are instances, and circumstances.

Mr. Speaker: If after conviction there is no appeal....

Shri Jaganatha Rao: He can be released on parole. There is a clause in the Jail Manual.

The Minister of External Affairs (Shri Swaran Singh): I recollect that a person who is convicted by a court of law, if he says that he wants to appeal, he may be released on bail to enable him to prefer an appeal. There is an amended provision in the Code of Criminal Procedure. It appears that he may be released on bail in order to file an appeal and also in anticipation of his desire to file an appeal. There is a provision in the code. (*Interruption*).

Mr. Speaker: Order, order. I am trying to understand it.

Shri Jaganatha Rao: May I refer to the Prevention of Corruption Act 1947, section 5. There, if a person is convicted he can be released on bail because the offence is bailable, when he intimates to the court that he is prepared to go in appeal.

Mr. Speaker: I can very well visualise a certain circumstance as described by Sardar Swaran Singh that he can apply to the convicting court at that moment when the conviction order is made that he wants to go to a court of appeal and he can be released. But here "or otherwise" is only qualified by "appeal" or..

Shri Jaganatha Rao: "Otherwise" qualifies everything.

Shrimati Renu Chakravartty: What has been the actual position in this House? Almost on every occasion, as far as I can remember, when we have

[Shrimati Renu Chakravartty]

been in jail and then we are released, the interpretation by all officers is that they have to intimate this House. I remember very clearly the case of Mr. Indrajit Gupta and Mr. S. M. Banerjee also. That was referred to the officers and the government and they made an apology. From all points of view, the majority of people have expressed their opinion that this is a matter of privilege of this House.

Shri Kapur Singh (Ludhiana): In the matter that is being discussed by this House, two propositions have been asserted. One is that a breach of the rules should be deemed *ipso facto* a breach of privilege of this House. It has been rightly ruled by you that this cannot be the case, because a breach of the rule is not logically a breach of privilege and they are not identical things.

Another proposition that is urged is that even though it cannot be logically supported, unless we support this proposition, the consequences will be that in future we shall not be able to enforce our rules outside this House. This proposition is that although logically a breach of the rules is not a breach of the privilege, yet on paramatic grounds and grounds of expendiency, it should be deemed so by this House.

I am not inclined to agree with it for the reason that there is not only one way of enforcing a rule, namely through punitive action. There are other ways known to governments and to others whereby rules can be enforced. I may suggest one or two. One is through indirect or direct suggestion by the authority. We have the Home Minister here who can see to it that our rules are observed. There is another way known—the way of lifted eyebrow from those who are in a position to harm those who do not conform with the wishes of the people in authority. These methods can be taken recourse to instead of taking recourse to punitive action. I, therefore, say that we should not insist on setting up a precedent which ultimately lays down a proposition that every breach of our rules is tantamount to a breach of privilege of this House.

Shri Nanda: You are, of course, looking into this aspect whether it is a breach of privilege or not. But as far as I am concerned, I take it that it is mandatory on us to ensure that this is done and I shall take all the steps to see that this is carried out.

Mr. Speaker: I think that should satisfy us. I do not think this is more than a breach of the rule. The Home Minister would kindly ensure that in future all the courts do send this information, because it is mandatory.

Shri Hari Vishnu Kamath: May I submit that though the Home Minister was good enough to say that there has been in fact a breach of the rule, he was not good enough to express an apology or regret to the House? May I remind you, Sir, that on a previous occasion, in the Provisional Parliament, when my friend, Mr. Shibbanlal Saxena was removed from Delhi during the session, both Prime Minister Pandit Nehru and Home Minister Sardar Vallabhbhai Patel apologised to the House. Has he not the grace to express his regret now?

Mr. Speaker: I will be writing a regular letter to the Home Minister. First the Home Minister should call for the explanation of the magistrate why it has not been done and then we will see.

12:35 hrs.

Re: SHRI A. K. GOPALAN

Mr. Speaker: There was a telegram received by me which I have passed on to the hon. Home Minister. There were three telegrams today, probably they might not have reached him yet. I have also been asked by Shri Mukerjee and other hon. Members also, some of whom have received those telegrams, about the condition of Shri Gopalan in his illness. Has the hon. Home Minister got any further information?