

COMMITTEE OF PRIVILEGES

(FIFTH LOK SABHA)

FIFTH REPORT

(Presented on the 4th September, 1973)



**LOK SABHA SECRETARIAT
NEW DELHI**

September, 1973/Bhadra 1895 (Saka)

Price : Rs. 2.00

Corrigenda to the Fifth Report
of the Committee of Privileges
(Fifth Lok Sabha)

<u>Page</u>	<u>Line</u>	<u>For</u>	<u>Read</u>
2	23	before the Takru Commi- ssion which contained <u>inter-alia</u> the	before the Takru Commi- ssion contain- ing an objection- able extract
4	Foot- note	pp. 28-53	pp. 20-34
5	Foot- note	pp. 54-81	pp. 35-53

CONTENTS

	PAGE
1. Personnel of the Committee of Privileges .	(iii)
2. Report .	I
3. Minutes of the sittings of the Committee .	8
4. Minutes of evidence	20
5. Appendices	54

39928(2)
31-8-73

**PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(1973-74)**

CHAIRMAN

Dr. Henry Austin

MEMBERS

2. Shri Frank Anthony
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Darbara Singh
6. Shri H. R. Gokhale
7. Shri Nihar Laskar
8. Shri B. P. Maurya
9. Shri H. N. Mukerjee
10. Shri K. Raghuramaiah
11. Shri Vasant Sathe
12. Dr. Shankar Dayal Sharma
13. Shri Maddi Sudarsanam
14. Shri R. P. Ulaganambi
15. Shri Atal Bihari Vajpayee.

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

FIFTH REPORT OF THE COMMITTEE OF PRIVILEGES (FIFTH LOK SABHA)

I. Introduction and Procedure

I, the Chairman of the Committee of Privileges, having been authorised by the Committee to submit the Report on their behalf, present this their Fifth Report to the House on the question of privilege raised by Shri Indrajit Gupta, M.P., and referred¹ to the Committee by the House on the 13th December, 1972, regarding an affidavit filed by Shri S. S. Khera, I.C.S., (Retired), before the Pipelines Inquiry Commission (Takru Commission), containing an objectionable extract from a letter received by Shri Khera from Shri P. R. Nayak, I.C.S. (Retired), in respect of the Sixty-Sixth Report of the Committee on Public Undertakings.

2. The Committee held eleven sittings. The relevant minutes of these sittings form part of the Report and are appended thereto.

3. At the first sitting held on the 13th December, 1972, the Committee desired that a memorandum on the matter might be circulated to them for their consideration at the next sitting.

4. At the second sitting held on the 24th January, 1973, the Committee decided that Shri P. R. Nayak might be asked, in the first instance, to state what he had to say in the matter.

5. At the third sitting held on the 15th February, 1973, the Committee acceded to the request of Shri P. R. Nayak to grant him some more time for sending his reply in the matter.

6. At the fourth sitting held on the 13th March, 1973, the Committee considered the reply received from Shri P. R. Nayak, deliberated on the matter and arrived at the conclusion that the matter might be dropped.

7. At the fifth sitting held on the 5th April, 1973, the conclusion of the Committee taken at their sitting held on the 13th March, 1973, that the matter might be dropped, was re-opened by some members with the permission of the Chairman and the Committee decided that Sarvashri P. R. Nayak and S. S. Khera be asked to appear before the Committee in person for oral examination.

1. L.S. Deb., dated 13-12-1972, cc. 210—212.

8. At the sixth sitting held on the 19th April, 1973, the Committee considered the matter.

9. At the seventh sitting held on the 9th May, 1973, the Committee examined Shri P. R. Nayak in person.

The Committee decided that in view of Shri P. R. Nayak having owned the authorship of the impugned letter and having apologised for the same, it was no longer necessary to call Shri S.S. Khera before the Committee for oral examination.

10. At the eighth sitting held on the 18th June, 1973, the Committee considered a letter dated the 17th May, 1973, addressed by Shri Indrajit Gupta, M.P. to the Chairman of the Committee, and decided that Shri S. S. Khera be also asked to appear before the Committee in person for oral examination.

11. At the ninth sitting held on the 4th July, 1973, the Committee examined Shri S. S. Khera in person.

12. At the tenth sitting held on the 9th August, 1973, the Committee deliberated on the matter and arrived at their conclusions.

13. At the eleventh sitting held on the 29th August, 1973, the Committee considered their draft Report and adopted it.

II. Facts of the case

14. On the 11th December, 1972, Shri Indrajit Gupta wrote a letter² to the Speaker, regarding an affidavit filed by Shri S. S. Khera before the Takru Commission which contained *inter alia* the from a letter received by him from Shri P. R. Nayak, I.C.S., in respect of the Sixty-Sixth Report of the Committee on Public Undertakings.

15. On the 13th December, 1972, Shri Indrajit Gupta raised the matter in the House. While raising the question of privilege, Shri Indrajit Gupta stated that Shri S. S. Khera had filed an affidavit³ before the Takru Commission which contained *inter alia* the following extract from a letter received by him from Shri P. R. Nayak:—

“I am grateful to you for your ready response to my request today. Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to

2. See Appendix I.

3. See Appendix II.

write a report in April, 1970 questioning the decisions and bonafides of Government, the Indian Refineries Ltd., and, in the main, of myself as Managing Director|Chairman of the Indian Refineries Ltd., from December, 1960 to August, 1964. Following this report, Government appointed a Commission of Enquiry in August, 1970."

Shri Indrajit Gupta also stated that:—

"You (Speaker) were at that time the Chairman of this Committee and this accusation is made that you and the Committee were induced by certain persons to write that famous Sixty-sixth Report. Mr. P. R. Nayak is the main person against whom charges are pending before the Inquiry Commission. I only request you to see that this matter is referred to the Privileges Committee, who are already seized of the matter. Let them go into this case. This also constitutes a breach of privilege."

16. Thereupon, the Speaker referred⁴ the matter to the Committee of Privileges.

III. Findings of the Committee

17. Shri P. R. Nayak, who was asked by the Committee to state what he had to say in the matter of the complaint against him, in his written reply⁵ dated the 19th February, 1973, stated *inter alia* as follows:—

"The communication addressed by me to Shri Khera was a strictly private and confidential communication not meant for publication and the purpose of the communication, as will be evident from the perusal of the whole letter, was solely to prepare my defence before the Takru Commission.....

The Parliamentary Committee (on Public Undertakings) before making the Report had not given me any opportunity to make my submissions and I sincerely believed that the Committee were persuaded by certain persons to come to some conclusions which I honestly considered to be based on incomplete evidence and appreciation and in respect of which conclusions the Government of India itself found it necessary to appoint a Commission of Inquiry for tendering further advice to the Government.

4. L.S. Deb., 13-12-1972; c. 212.

5. See Appendix III.

The word 'induced' was not used by me except to mean 'persuaded'....

...it is in the context of preparing my defence that the letter was written to Shri Khera. It was never in my mind that the letter should be published, I had not authorised its publication and I respectfully submit that for this reason I should be absolved of any blame for the publication and the resulting consequences, if any.

I meant no reflection whatsoever on the Members of Parliament who constitute the Committee on Public Undertakings or on the Committee as a whole and my sole purpose in writing the letter to Shri Khera was to ensure my own proper defence before the Commission of Inquiry.

...I would like to repeat that I had never meant any reflection on the Committee on Public Undertakings and had never intended that my letter to Shri Khera should be publicised. Nevertheless, in the circumstances that have arisen, if I am in any way considered to be blameworthy, I would respectfully request the Committee of Privileges to accept this my unconditional apology and agree not to pursue the matter in so far as I am concerned."

18. Shri P. R. Nayak, in his oral evidence⁶ before the Committee, on the 9th May, 1973, stated *inter alia* as follows:—

"...the word 'induced' was not used by me in any improper sense. It is inconceivable and entirely impossible that a Committee of the Parliament could be induced in any improper sense of that term, to do a certain thing. If at all the use of the word 'induced' gives rise to any misapprehensions, misgivings or misunderstanding, I have said that I am prepared to apologise to the Committee and I do reiterate my desire to offer that unconditional apology. I did not intend to suggest anything improper or unpleasant when I used this word... all I had in mind was that the Committee probably was persuaded to take certain views as a result of certain material supplied to it by certain persons. I did not suggest that the Committee came to improper conclusions though I have said that I sincerely believe that these conclusions were based on

6. See Minutes of evidence, pp. 28—53.

incomplete evidence and that, if I had had an opportunity of furnishing my evidence, the Committee might have come to some other conclusions.....Talking of the Committee as a whole, the statement that I have made was not correct. I might have felt that at that time. Today talking of the Committee, I am prepared to say that the Committee was not persuaded or induced or influenced by any extraneous persons...Now, I am prepared to concede that....the Committee came to this conclusion objectively on the basis of the evidence that it was in possession of ...I withdraw the words 'certain persons had joined together to induce the Parliamentary Committee on Public Undertakings'. In the circumstances that have arisen, I would request the Committee to accept my apology unconditionally."

19. Shri S. S. Khera in his oral evidence⁷ before the Committee on the 4th July, 1973, stated *inter alia* as follows:—

"I have the deepest regard for Parliamentary Committees... May I take the opportunity of stating forthwith that nothing could be farther from my intentions or my thought than being a party to committing any of breach of parliamentary privileges?...On reflection, I am quite sure that I should have thought of it (that the impugned affidavit would be circulated by the Takru Commission to various parties in India and abroad and that giving publicity to it was not correct)...I would not only wish to apologise and throw myself on the mercy of this Committee but I would request that I may be purged of any contempt that I may have committed. I think I should like to pay the price if I have committed, even unwittingly, a breach of privilege and I would be happy to be purged of it...What I shall proceed to do is subject to hon. Privileges Committee seeing nothing wrong in it, that I shall prepare a new Affidavit leaving this (impugned) portion in question. I shall send it along with a letter to the one man Inquiry Commission (Takru Commission). I shall send a covering letter and request the Commission to substitute my new Affidavit for the previous one...If unwittingly, I had been a party to any breach of privilege, I would like here and now to submit an apology, and make such amends

7. See Minutes of Evidence, pp. 54—81.

as the hon. Committee may direct and I shall carry out the instructions."

20. Subsequently, in response to the direction of the Committee, Shri S. S. Khera submitted the following documents⁸ for their consideration:—

- (i) A copy of the affidavit dated the 1st July, 1972, filed by Shri S. S. Khera before the Takru Commission;
- (ii) The letter (in original), dated the 27th February, 1971, received by Shri S. S. Khera, from Shri P. R. Nayak; and
- (iii) A copy of the letter written by Shri S. S. Khera in reply to Shri P. R. Nayak's letter, dated the 27th February, 1971.

Shri Khera also furnished to the Committee a copy of the revised affidavit⁹ submitted by him to the Takru Commission with the request to that Commission that the revised affidavit might be substituted for his original affidavit before the Commission.

21. The Committee observe that Shri Khera has omitted from his revised affidavit the following objectionable passage from Shri P. R. Nayak's letter to him, which he had quoted¹⁰ in his original affidavit:—

"Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a report in April, 1970, questioning the decisions and bonafides of Government, the Indian Refineries Ltd., and, in the main, of myself as Managing Director|Chairman of the Indian Refineries Ltd., from December, 1960 to August, 1964. Following this report."

22. In view of the unconditional apology tendered by Shri P. R. Nayak, the Committee are of the view that no further action need be taken in the matter of complaint against him.

23. Shri S. S. Khera has not only tendered an unconditional apology to the Committee during his oral evidence before them on the 4th July, 1973, for including the objectionable extract from Shri P. R. Nayak's letter in his affidavit filed before the Takru Commission but has also made an application before the Takru Commission withdrawing his earlier affidavit and filing a new affidavit deleting the said objectionable extract.

8. See Appendix IV (Annexure I to III).

9. See Annexure IV to Appendix IV.

10. See para 1 of Annexure III to Appendix IV.

The Committee are, therefore, of the view that no further action need be taken in the matter of complaint against Shri S. S. Khera.

IV. Recommendation of the Committee

24. The Committee recommend that no further action be taken by the House in the matter and it may be dropped.

HENRY AUSTIN,

Chairman,

Committee of Privileges,

NEW DELHI;

The 29th August, 1973.

MINUTES

I

First Sitting

New Delhi, Wednesday, the 13th December, 1972

The Committee sat from 15.30 to 16.00 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Dinesh Chandra Goswami
4. Shri Raj Bahadur
5. Shri Vasant Sathe
6. Shri Satyendra Narayan Sinha
7. Shri R. P. Ulaganambi

SECRETARIAT

Shri B. K. Mukerjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

2. The Committee took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding certain reported statements relating to the 66th Report of the Committee on Public Undertakings alleged to have been made before the Pipelines Inquiry Commission (Takru Commission) by the Counsel appearing for the Government and matters incidental thereto. The Committee decided that the comments of the Minister of Petroleum and Chemicals on the matter in the light of the discussion held by the Committee with the Speaker on the 1st December, 1972, might be awaited.

3. The Chairman, then, informed the Committee that the Speaker had referred to the Committee a connected matter raised by Shri Indrajit Gupta in Lok Sabha on the 13th December, 1972, arising out of an affidavit dated the 1st July, 1972, filed by Shri S. S. Khera, I.C.S. (Retired), before the Takru Commission, containing *inter alia* an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, I.C.S. The Committee desired that a Memorandum on this matter might be prepared and circulated to them for their consideration at the next sitting.

* * * *

The Committee then adjourned.

*Paras 4 to 6 relate to another case and have accordingly been omitted.

II

Second Sitting

New Delhi, Wednesday, the 24th January, 1973

The Committee sat from 15.00 to 15.50 hours.

PRESENT

Shri R. D. Bhandare—*Chairman*

MEMBERS

2. Dr. Henry Austin
3. Shri H. K. L. Bhagat
4. Shri Darbara Singh
5. Shri Jagannathrao Joshi
6. Shri Nihar Laskar
7. Shri H. N. Mukerjee
8. Shri Raj Bahadur
9. Shri Vasant Sathe
10. Dr. Shankar Dayal Sharma
11. Shri Satyendra Narayan Sinha
12. Shri R. P. Ulaganambi

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary.*

Shri J. R. Kapur—*Under Secretary.*

2. The Committee took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding * * * an affidavit filed by Shri S. S. Khera, I.C.S. (Retired), before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, I.C.S. (Retired), in respect of the 66th Report of the Committee on Public Undertakings.

* * * *

The Committee decided that Shri P. R. Nayak, I.C.S. (Retired), might be asked, in the first instance, by a letter, to state what he might have to say in the matter.

* * * *

The Committee then adjourned.

*These portions relate to other cases and have accordingly been omitted.

III

Third Sitting

New Delhi, Thursday, the 15th February, 1973

The Committee sat from 11.00 to 11.50 hours.

PRESENT

Dr. Henry Austin—in the Chair

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Darbara Singh
4. Shri Dinesh Chandra Goswami
5. Shri Jagannathrao Joshi
6. Shri Nihar Laskar
7. Shri Vasant Sathe
8. Dr. Shankar Dayal Sharma
9. Shri Satyendra Narayan Sinha
10. Shri R. P. Ulaganambi

Shri Dev Kanta Borooh, Minister of Petroleum and Chemicals, was also present.

SECRETARIAT

Shri J. R. Kapur—Under Secretary

2. In the absence of the Chairman, the Committee chose Dr. Henry Austin to act as Chairman.

3. The Committee took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding * * * an affidavit filed by Shri S. S. Khera, I.C.S. (Retired), before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, I.C.S. (Retired) in respect of the 66th Report of the Committee on Public Undertakings.

* * * * *

The Acting Chairman informed the Committee that Shri P. R. Nayak, I.C.S. (Retired), who was asked by a letter to state what he had to say in the matter, had requested for some more time to send his reply. The Committee decided to accede to his request.

* * * * *

*These portions relate to other cases and have accordingly been omitted.

5. The Committee decided to cancel their sitting scheduled to be held on the 16th February, 1973.

The Committee then adjourned.

IV

Fourth Sitting

New Delhi, Tuesday, the 13th March, 1973.

The Committee sat from 15.30 to 16.15 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Dinesh Chandra Goswami
5. Shri H. N. Mukerjee

Shri Dev Kanta Borooah, Minister of Petroleum and Chemicals, was also present.

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary*

* * * *

3. The Committee then considered the question of privilege raised by Shri Indrajit Gupta, M.P., regarding an affidavit filed by Shri S. S. Khera, ICS (Retd.) before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, ICS (Retd.), in respect of the 66th Report of the Committee on Public Undertakings.

The Committee noted that Shri P. R. Nayak, in his letter, dated the 19th February, 1973, had stated *inter alia* as follows:—

“...If I am in any way considered to be blameworthy, I would respectfully request the Committee of Privileges to accept this my unconditional apology and agree not to pursue the matter in so far as I am concerned.”

In view of the unconditional apology tendered by Shri P. R. Nayak, the Committee decided to recommend to the House that the matter might be dropped.

* * * *

The Committee then adjourned.

*Paras 2 and 4 to 6 relate to other cases and have accordingly been omitted.

Fifth Sitting*New Delhi, Thursday, the 5th April, 1973*

The Committee sat from 14.30 to 15.45 hours

PRESENTDr. Henry Austin—*Chairman***MEMBERS**

2. Shri Darbara Singh
3. Shri Dinesh Chandra Goswami
4. Shri Jagannathrao Joshi
5. Shri B. P. Maurya
6. Shri H. N. Mukerjee
7. Shri Vasant Sathe
8. Dr. Shankar Dayal Sharma

SECRETARIATShri B. K. Mukherjee—*Deputy Secretary*Shri J. R. Kapur—*Under Secretary*

2. The Committee took up consideration of their draft Fourth Report on the questions of privilege raised by Shri Indrajit Gupta, M.P. regarding:—

- (i) certain reported statements relating to the 66th Report of the Committee on Public Undertakings alleged to have been made before the Pipelines Inquiry Commission (Takru Commission) by the counsel appearing for the Government and matters incidental thereto; and
- (ii) an affidavit filed by Shri S. S. Khera, I.C.S. (Retired), before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, I.C.S. (Retired), in respect of the 66th Report of the Committee on Public Undertakings.

The Committee adopted the findings and recommendation contained in the draft Fourth Report relating to the question of privilege regarding statements made by Government Counsel before the Takru Commission. The Committee decided that a report be presented to the House on this matter and authorised the Chairman to finalise the report and to present it to the House.

The Committee also decided to present a separate report to the House on the question of privilege against Shri P. R. Nayak.

3. The decision of the Committee taken at their sitting held on the 13th March, 1973 on the question of privilege against Shri P. R. Nayak was, however, reopened by some Members with the permission of the Chairman.

The Committee felt that the apology tendered by Shri P. R. Nayak, in his communication dated the 19th February, 1973, was not an unqualified apology. The Committee, therefore, decided that Shri P. R. Nayak be asked to appear before the Committee in person for oral examination. The Committee further decided that Shri S. S. Khera be also asked to appear before the Committee in person for oral examination as he was responsible for publicising the impugned letter of Shri P. R. Nayak, by including an extract therefrom in his affidavit filed before the Takru Commission.

4. The Committee fixed Thursday, the 3rd May, 1973, for hearing Sarvashri P. R. Nayak and S. S. Khera.

* * * *

The Committee then adjourned.

VI

Sixth Sitting

New Delhi, Thursday, the 19th April, 1973.

The Committee sat from 15.00 to 17.05 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri Jagannathrao Joshi
5. Shri Vasant Sathe
6. Shri Satyendra Narayan Sinha

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary*

*Para 5 relates to another case and has accordingly been omitted.

8. The Committee then took up consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding an affidavit filed by Shri S. S. Khera, ICS (Retd.), before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, ICS (Retd.), in respect of the 66th Report of the Committee on Public Undertakings.

At the suggestion of the Chairman, the Committee decided that Sarvashri P. R. Nayak, ICS (Retd.) and S. S. Khera, ICS (Retd.) might be asked to appear before the Committee in person for oral examination on the 9th May, 1973 instead of on 3rd May, 1973.

10. The Committee then adjourned to meet again on Wednesday, the 9th May, 1973, at 15.00 hours.

VII

Seventh Sitting

New Delhi, Wednesday, the 9th May, 1973

The Committee sat from 15.00 to 16.45 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Dinesh Chandra Goswami
4. Shri Jagannathrao Joshi
5. Shri B. P. Maurya
6. Shri Vasant Sathe
7. Shri Satyendra Narayan Sinha

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary*

WITNESS

Shri P. R. Nayak

2. The Committee took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding an affidavit filed by Shri S. S. Khera, ICS (Retd.) before the Takru

*Paras 2 to 7 and 9 relate to other cases and have accordingly been omitted.

Commission containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak in respect of the 66th Report of the Committee on Public Undertakings.

3. Shri P. R. Nayak was called in and examined by the Committee on oath (*Verbatim record was kept*).

Shri P. R. Nayak withdrew the following objectionable remarks made by him in his impugned letter dated the 27th February, 1971, addressed to Shri S. S. Khera:—

“Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a report....”

Shri P. R. Nayak also tendered an unqualified and unconditional apology for making the above objectionable remarks in his impugned letter addressed to Shri S. S. Khera.

(The witness then withdrew)

4. The Committee then deliberated on the matter and decided that in view of the unconditional and unqualified apology tendered by Shri P. R. Nayak, no further action was necessary in the matter and that the matter might be closed. The Committee also decided that in view of Shri Nayak having owned the authorship of the impugned letter and having apologised for the same, it was no longer necessary to call Shri S. S. Khera before the Committee for oral examination.

* * * *

The Committee then adjourned.

VIII

Eighth Sitting

New Delhi, Monday the 18th June, 1973

The Committee sat from 15.00 to 16.30 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri H. K. L. Bhagat
3. Shri ~~Somnath~~ Chatterjee
4. Shri Darbara Singh

*Para 5 relates to another case and has accordingly been omitted.

5. Shri H. R. Gokhale
6. Shri H. N. Mukerjee
7. Shri Vasant Sathe
8. Dr. Shankar Dayal Sharma
9. Shri R. P. Ulaganambi
10. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri J. R. Kapur—*Under Secretary*

* * * *

8. The Committee then took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding an affidavit filed by Shri S. S. Khera, ICS (Retd.) before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak in respect of the 66th Report of the Committee on Public Undertakings.

The Committee considered the letter** dated the 17th May, 1973, addressed by Shri Indrajit Gupta, M.P., to the Chairman of the the Committee. The Committee decided that Shri S. S. Khera might be asked to appear before the Committee in person for oral examination on the 5th July, 1973.

The Committee did not, however, consider it necessary to ask Shri Indrajit Gupta to appear before them.

The Committee then adjourned.

IX

Ninth Sitting

New Delhi, Wednesday, the 4th July, 1973

The Committee sat from 15.30 to 17.10 hours.

PRESENT

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri Nihar Laskar

*Paras 2 to 7 relate to other cases and have accordingly been omitted.

**Appendix V.

5. Shri B. P. Maurya
6. Shri H. N. Mukerjee
7. Shri K. Raghuramaiah
8. Shri Vasant Sathe
9. Shri Maddi Sudarsanam
10. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary*

WITNESS

Shri S. S. Khera, I.C.S. (Retd.)

2. The Committee took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P., regarding an affidavit filed by Shri S. S. Khera, I.C.S. (Retd.) before the Takru Commission, containing an objectionable extract from a letter received by him from Shri P. R. Nayak, in respect of the 66th Report of the Committee on Public Undertakings.

3. Shri S. S. Khera was called in and examined by the Committee on oath (*Verbatim record was kept*).

4. The Committee directed Shri S. S. Khera to submit the following documents for their consideration:—

- (i) A copy of the affidavit dated the 1st July 1972, filed by Shri S. S. Khera before the Takru Commission;
- (ii) The letter (in original), dated the 27th February, 1971, received by Shri S. S. Khera, from Shri P. R. Nayak; and
- (iii) A copy of the letter written by Shri S. S. Khera in reply to Shri P. R. Nayak's letter, dated the 27th February, 1971.

(The witness then withdrew).

The Committee then adjourned.

Tenth Sitting*New Delhi, Thursday, the 9th August, 1973*

The Committee sat from 16.00 to 17.10 hours.

PRESENTDr. Henry Austin—*Chairman***MEMBERS**

2. Shri Somnath Chatterjee
3. Shri B. P. Maurya
4. Shri H. N. Mukerjee
5. Shri Maddi Sudaranam
6. Shri Atal Bihari Vajpayee.

SECRETARIATShri B. K. Mukherjee—*Deputy Secretary*Shri J. R. Kapur—*Under Secretary*

2. The Committee took up further consideration of the question of privilege raised by Shri Indrajit Gupta, M.P. regarding an affidavit filed by Shri S. S. Khera, I.C.S. (Retd.), before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, in respect of the 66th Report of the Committee on Public Undertakings.

The Committee observed that Shri Khera had tendered an apology to the Committee when he appeared before them on the 4th July, 1973, for including the objectionable extract from Shri P. R. Nayak's letter in his affidavit filed before the Takru Commission. The Committee also noted that Shri Khera had subsequently made an application before the Takru Commission withdrawing his earlier affidavit and filing a new affidavit deleting the objectionable extract from Shri P. R. Nayak's letter.

In view of the above, the Committee decided to recommend to the House that no further action be taken in the matter.

* * * *

The Committee then adjourned.

*Paras 3 to 7 relate to other cases and have accordingly been omitted.

XI

Eleventh Sitting

New Delhi, Wednesday, the 29th August, 1973

The Committee sat from 16.00 to 17.30 hours.

PRESENT

Dr. Henry Austin—*Chairman*.

MEMBERS

2. Shri Nihar Laskar
3. Shri H. N. Mukerjee
4. Shri K. Raghuramaiah
5. Shri Vasant Sathe
6. Dr. Shankar Dayal Sharma
7. Shri Maddi Sudarsanam
8. Shri Atal Bihari Vajpayee.

SECRETARIAT

Shri B. K. Mukerjee—*Deputy Secretary*.

Shri J. R. Kapur—*Under Secretary*.

* * * *

5. The Committee then considered the draft Fifth Report of the Committee on the question of privilege raised by Shri Indrajit Gupta M.P. regarding an affidavit filed by Shri S. S. Khera, I.C.S. (Retd.), before the Pipelines Inquiry Commission (Takru Commission), containing an objectionable extract from a letter received by Shri Khera from Shri P. R. Nayak, I.C.S. (Retd.), in respect of the Sixty-sixth Report of the Committee on Public Undertakings. The Committee adopted the draft Report.

6. The Committee authorised the Chairman and in his absence, Shri H. N. Mukerjee, M.P., to present their Fifth Report to the House on the 4th September, 1973.

* * * *

The Committee then adjourned.

*Paras 1 to 4 and 7 and 8 relate to other cases and have accordingly been omitted.

**MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE
OF PRIVILEGES**

Wednesday, the 9th May, 1973

PRESENT

Dr. Henry Austin—Chairman.

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Dinesh Chandra Goswami
4. Shri Jagannathrao Joshi
5. Shri B. P. Maurya
6. Shri Vasant Sathe
7. Shri Satyendra Narayan Sinha.

SECRETARIAT

Shri B. K. Mukherjee—Deputy Secretary.

Shri J. R. Kapur—Under Secretary.

WITNESSES

Shri P. R. Nayak, I.C.S. (Retired).

(The Committee met at 15.00 hours).

EVIDENCE OF SHRI P. R. NAYAK, I.C.S. (Retired).

(The witness took the oath).

Mr. Chairman: Mr. Nayak, you have filed a statement on the 19th February on the Affidavit filed by Shri S. S. Khera before the Takru Commission?

Shri P. R. Nayak: I have written a letter in response to a request for any explanation that I may wish to give in this matter.

Shri Satyendra Narayan Sinha: In your communication to Mr. Khera you used the expression "induced" whereby it is clear that you intended that the Committee Members were influenced by some outside persons in coming to a certain conclusion, on the basis of which this Pipeline Inquiry has been started. Are we not correct in assuming it so?

Shri P. R. Nayak: I have tried to explain that the word "induced" was not used by me in any improper sense. It is inconceivable and entirely impossible that a Committee of the Parliament could be induced, in any improper sense of that term, to do a certain thing. If at all the use of the word "induced" gives rise to any misapprehensions, misgivings or misunderstanding, I have said that I am prepared to apologise to the Committee and I do reiterate my desire to offer that unconditional apology. I did not intend to suggest anything improper or unpleasant when I used this word.

Shri Satyendra Narayan Sinha: What did you mean by saying that the Parliamentary Committee did not give any opportunity to you to tender evidence before coming to its conclusions?

Shri P. R. Nayak: I was not heard by the Committee.

Shri Satyendra Narayan Sinha: Was it necessary for the Committee to give you an opportunity for this purpose?

Shri P. R. Nayak: That is a matter entirely within the discretion of the Public Undertakings Committee. I was still an official of the Government at that time and if the Committee wished to summon me, it could have. All I said was that before arriving at a conclusion I had no opportunity of placing my point of view or the facts as they were in my possession before it.

Shri Satyendra Narayan Sinha: But the Committee have not made any adverse comments against you personally.

Shri P. R. Nayak: Yes, they have. Very serious strictures have been passed and it is against those strictures that I have sought to defend myself before the Commission of Inquiry.

Shri Satyendra Narayan Sinha: While you have tried to explain in paragraph 4 that by the use of the word 'induced' you did not mean to suggest that the Committee members were influenced by any outside persons or that any extraneous influence was brought to bear on them in coming to a conclusion, you have said in para 2, "Various parties before the commission and I myself in proceedings before the Delhi High Court have urged that such consideration of the 66th Report by the Commission in open session can lead to awkward situations and hamper, through the hazard of a possible breach of privilege of Parliament, the defence which parties may have to put forward before the Commission" which means that you had apprehension in your mind that whatever defence is put forward may, in some way, reflect upon the Public Undertakings Committee members?

Shri P. R. Nayak: As a matter of fact, long before I raised this issue in the Delhi High Court, various other parties had already

submitted to the Commission that it would not be desirable to make the Report of the Parliamentary Committee a part of the open proceedings of the Commission.

Shri Satyendra Narayan Sinha: That is true; but here, while replying to the notice sent to you by this Commission, you have again reiterated the belief, which lends strength to our feeling that when you used the word 'induced' you had this feeling in your mind that the Members of the Committee were guided by some extraneous considerations.

Shri P. N. Nayak: All I had in mind was that the Committee probably was persuaded to take certain views as a result of certain material supplied to it by certain persons. I did not suggest that the Committee came to improper conclusions, though I have said that I sincerely believe that these conclusions were based on incomplete evidence and that, if I had had an opportunity of furnishing my evidence, the Committee might have come to some other conclusion. All I had suggested was that certain material was brought to the notice of the Committee by certain persons and as a result of the consideration of that material,—and other evidence, of course—the Committee came to certain conclusions.

In para 2, I have drawn attention to the fear in the minds of a number of persons, including myself, that if the Report of the Parliamentary Committee is to be discussed before the Commission of Inquiry, a situation may arise where some breach of privilege of the House may be committed; and it was only that apprehension, I urged, that should be taken into consideration. We had all urged that the Report of the Parliamentary Committee should not be made part of the proceedings of the Commission, that the Commission had independent terms of reference and that the Commission should judge the issues on the basis of these independent terms of reference. It was not necessary—on the other hand, it was undesirable that the Report of the Parliamentary Committee should be made part of the proceedings of the Commission and should be open for discussion in public.

Shri Satyendra Narayan Sinha: Reading against the background of what you have explained in para 2, the word 'induced' acquires a significance which might not have been intended.

Shri P. R. Nayak: That is why I have said that perhaps this word need not have been used or should not have been used, but I would also like to make one statement. I had made a number of affidavits

myself before the Commission of Inquiry—about half a dozen of them—and in none of these have I made any reference whatsoever to the Report of the Parliamentary Committee. I have only tried to give the Commission what I believed are the facts and I have not made any reference to any of the conclusions of the Committee or any reference to the Report of the Committee. That I acted so only reinforces my statement that I have acted *bona fide* and I had no improper motive at that time. I have not referred to the Committee's Report in any of my documents.

Shri Dinesh Chandra Goswami: In para 3 of your letter you have mentioned this and it was your belief that the Committee was persuaded by certain persons to come to certain conclusions. Do you still maintain that belief?

Shri P. R. Nayak: This was the belief I had when I wrote that letter to Mr. Khera and I am only recounting here what was in my mind when I wrote that letter.

Shri Dinesh Chandra Goswami: Do you still maintain that belief or you have changed that belief now?

Shri P. R. Nayak: It is a very difficult question to answer. I would submit in this way since the question is in what circumstances I wrote this letter.....

Shri Dinesh Chandra Goswami: In your letter you have mentioned in paragraph 3 that at the time when you wrote the letter to Mr. Khera, you were influenced to believe that the Committee was persuaded. Do you still hold that belief now?

Shri P. R. Nayak: Let me think about this. Yes, I would say that talking of the Committee as a whole, the statement that I have made was not correct. I might have felt that at that time. Today talking of the Committee, I am prepared to say that the Committee was not persuaded or induced or influenced by any extraneous persons.

Shri Dinesh Chandra Goswami: What are the reasons to change your attitude now?

Shri P. R. Nayak: I have found that the Committee has again gone into this matter fully. In a very recent Report, the Committee has reiterated many of its conclusions after the submissions made to it by Government and now, in the light of the latest Report of the Committee on Public Undertakings, I feel that the Committee came to these conclusions in its own judgement and in its own discretion.

Shri Dinesh Chandra Goswami: Suppose the earlier conclusion of the Committee was correct.....

Shri P. R. Nayak: The Committee reached its conclusions in its own judgement but whether they are correct conclusions or not is a separate matter. The correctness of those conclusions has been referred by the Government to the Takru Commission of Enquiry. Therefore, I would say that the correctness or otherwise of the conclusions is a matter on which I do not wish to express my opinion at this stage.

Dinesh Chandra Goswami: The Public Undertakings Committee reached its own judgement and had come to the same conclusions. Is it the only factor which changed your attitude?

Shri P. R. Nayak: Yes, Sir. That has been the basic feeling that the Committee reached its conclusions in its own judgement without any extraneous or outside persuasion.

Shri Dinesh Chandra Goswami: Then before the conclusions were reached by the Committee, did you maintain that the Committee was persuaded?

Shri P. R. Nayak: I had reason to feel that there were certain materials placed at the disposal of certain Members by certain outside persons and some of this, of course, are borne out by the Report of the Committee itself.

Shri Dinesh Chandra Goswami: Therefore, your view is that some of the Members were persuaded, though not the entire Committee.

Shri P. R. Nayak: I had said that they were furnished certain materials and whether the furnishing of the materials can be treated as a part of persuasion, is, perhaps, open to argument. May be my view is erroneous. May be furnishing of such materials had not influenced the Committee at all.

Shri Dinesh Chandra Goswami: Therefore, without knowing the fact fully, you came to the conclusion that the Committee was persuaded.

Shri P. R. Nayak: Yes at the time I wrote that letter and I have explained that that letter was intended to be a purely private and personal letter. It was not meant for publication. It was a personal letter.

Shri Dinesh Chandra Goswami: It does not make any change in your view. It only confirms that this was a correct view.

Shri P. R. Nayak: This was the view that I held at that time but I have tried to explain what exactly I had in mind and I had reason to believe that certain materials were supplied to certain Members. As a result of those materials, certain conclusions may have been drawn but it is possible at the same time to hold the view that the supply of those materials had not influenced at all and that my view in this matter was erroneous. I am prepared to concede that.

Shri Dinesh Chandra Goswami: Is it that the Public Undertakings Committee held you guilty of charges or any other Committee also held such a view?

Shri P. R. Nayak: No other Committee has held me guilty of charges.

Shri Dinesh Chandra Goswami: Was there any Inquiry made?

Shri P. R. Nayak: No Inquiry was made. An inquiry was started but it became infructuous as a result of the judgement of the Supreme Court.

Shri Dinesh Chandra Goswami: Was there an inquiry conducted by Mr. Tandon?

Shri P. R. Nayak: Yes, there was an inquiry conducted by Mr. Tandon.

Shri Dinesh Chandra Goswami: What were the findings of this inquiry?

Shri P. R. Nayak: I have not read the findings of this inquiry. The Supreme Court held that no such an inquiry was illegal.

Shri Dinesh Chandra Goswami: Did the Takru Commission of Inquiry hold you guilty?

Shri P. R. Nayak: The Takru Commission did not hold me guilty. It said that further inquiry in the prescribed statutory manner should be held.

Shri Dinesh Chandra Goswami: Did the Takru Commission not come to the conclusion that since there was a *prima facie* case involved a departmental proceeding should be made against you?

Shri P. R. Nayak: The Committee came to the conclusion that a *prima facie* case existed for further departmental enquiry but it was not a question of finding guilt.

Shri Dinesh Chandra Goswami: In that enquiry, you were given the opportunity to defend yourself?

Shri P. R. Nayak: I was given the opportunity of being heard.

Shri Vasant Sathe: What was your objective in writing a personal letter to Shri Khera?

Shri P. R. Nayak: In that letter, I explained that a commission had been appointed in which I had to defend myself. You (Shri Khera) and four or five other persons who had occupied key positions in the Government, could give evidence which would help the Commission to arrive at a right conclusion. If the letter is read as a whole, it will appear that I was requesting Shri Khera to give evidence on certain stated matters. That was the main purpose of writing this letter.

Shri Vasant Sathe: Did you expect Shri Khera also to give evidence before the Takru Commission supporting your belief that certain Members were supplied with information which might have been taken into consideration?

Shri P. R. Nayak: No, Sir. Certainly, it was not my desire or intention that he should confirm or deny this assumption on my part. Actually, in paragraph 3 of my letter which I wrote to Shri Khera, I had listed about four matters.

Shri Vasant Sathe: How would have you ensured Shri Khera restricting himself only to those four matters and not to other part of your letter?

Shri P. R. Nayak: I had said the points on which I would like to seek your evidence are as follows:

Shri Vasant Sathe: That we know. As the things stand now, Shri Khera made an affidavit before the Takru Commission in which he had quoted that part of your letter.

Shri P. R. Nayak: The whole letter.

Shri Vasant Sathe: That part of the letter which you did not intend Shri Khera to quote.

Shri P. R. Nayak: I never intended Shri Khera to quote any part of my letter at all. In the main part of his affidavit, he defended himself against the allegations made by Mr. Arun Roy Choudhury. The main purpose of that affidavit was to defend himself. It was entirely irrelevant for the purpose of his defence to introduce my letter into his affidavit.

Shri Vasant Sathe: You were an experienced senior official and when you wrote such a personal letter inviting Shri Khera to come to your aid, were you not aware that this letter might be used for some purpose or published by Shri Khera?

Shri P. R. Nayak: I never thought that this would happen. I said I requested three or four persons who occupied very high position in the Government.....

Shri Vasant Sathe: Did you request Shri Khera orally or otherwise not to use this letter anywhere in his affidavit or otherwise before the Takru Commission?

Shri P. R. Nayak: I did not make any such request. I did not even know that he had introduced this letter in his affidavit until I read the proceedings of the House (December 1972). Until then, I was not aware that he had filed such an affidavit.

Mr. Chairman: You had earlier stated that quoting of your letter for the purpose of his defence was irrelevant. What do you think about it? What are the reasons for incorporation of your letter?

Shri P. R. Nayak: I am not able to understand this at all, Sir. If I may explain, this Commission issued a notice to Shri Khera saying that the Commission proposed to enquire into his conduct. If he had to say anything about it, please file an affidavit. Then Shri Khera asked what were the matters on which the Commission wished to enquire into his conduct? Then the Commission furnished to Shri Khera certain bulky affidavits filed by Mr. Arun Roy Choudhury in which he had made various allegations against Shri Khera.

Mr. Chairman: What was he at that time?

Shri P. R. Nayak: He was the Cabinet Secretary. When this letter was written, he had already retired. He retired in 1964 or so.

Shri Vasant Sathe: When did you join the Ministry of Petroleum as Secretary?

Shri P. R. Nayak: In January 1965.

Shri Vasant Sathe: When did you leave the Ministry?

Shri P. R. Nayak: In February 1969.

Shri Vasant Sathe: As a Secretary of the Ministry, were you aware that the Parliamentary Committee on PU had commenced examination of the IOC Pipeline Division some time in 1967?

Shri P. R. Nayak: I was aware that some study of the Pipeline Division of the IOC had been made in 1966. Again in 1967-68, I was aware that a further study had commenced. Although I was Secretary at that time, I was not called to give any evidence before the Committee.

Shri Vasant Sathe: Were you aware of the procedure of PUC for examination of public undertakings by means of a questionnaire seeking information regarding all undertakings which were under examination?

Shri P. R. Nayak: I was aware of this procedure.

Shri Vasant Sathe: Were you aware of the fact, when you were the Secretary, that your subordinate officers in the Ministry, including the Chairman, IOC, were called to tender oral evidence before the Committee on Public Undertakings when IOC Pipeline Division was under examination by PUC?

Shri P. R. Nayak: As far as my knowledge goes, while I was the Secretary in 1968, the officers of the Indian Oil Corporation had certainly been examined by the Committee. I am not able to recall that any officers of the Ministry were examined at that time by the Committee. But officers of the Indian Oil Corporation had been examined in the middle of 1968.

Mr. Chairman: At that time, when officials of the Ministry of Petroleum and Chemicals were examined it, what was your position?

Shri P. R. Nayak: I was the Secretary in the Ministry of Works, Housing and Urban Development.

Shri Vasant Sathe: I, therefore, ask you whether you know that the personnel or the officers of the Ministry of Petroleum—when you were not there—were called and examined orally.

Shri P. R. Nayak: That was much later, Sir; not while I was the Secretary in the Ministry. Later, I knew that the officers of the Ministry were also called.

Mr. Chairman: Since you were not connected with the Ministry of Petroleum and Chemicals at the time when the Committee was working, how can you say that you had not been given an opportunity?

Shri P. R. Nayak: I was there in some parts of 1968 and part of 1969 when the Committee could have called me. But later, I was not in the Ministry; and my only point here is that before serious accusations affecting my character and work are made, it might have been, in the discretion of the Committee, considered proper to call me.

Mr. Chairman: You also say—and it is borne out by the facts—that the concerned officials dealing with the subject, were examined by the Committee. You said you were no longer connected with it. But probably, in their own discretion, they might have reached the conclusions with the heap of material facts available with them; or could not reach a right conclusion on the materials or evidence available to them. If that were so, how can you say that some persons have persuaded the Committee to reach certain conclusions?

Shri P. R. Nayak: This was on the basis of my belief, or knowledge at the time I wrote that letter to Mr. Khera. I had some reasons for believing them. They may not be reasons which will stand the test of scrutiny. I had also explained that I was, at that time, under a great emotional stress and strain. I had been subjected to a great deal of humiliation. It is possible that the impressions that I had at that time, were influenced by my own emotional stresses and strains; but I did honestly believe them at that time. I would like the Committee to appreciate the fact that for a considerable period of time, almost 11½ years, I worked under very great stress and strain and considerable emotional upset.

Shri Vasant Sathé: Were you made aware of the fact that on 3.2.1968, i.e. one year before you left the Petroleum Ministry, the IOC board of directors had passed a resolution censuring the managing director of the erstwhile Indian Refineries Ltd., for by-passing the IRL board of directors in many vital matters concerning the Haldia-Barauni pipeline project?

Shri P. R. Nayak: I cannot say off-hand, what exactly the resolution of 3-2-1968 was about. I do not know. I certainly remember much later becoming aware of a view of the board of this nature; but whether this was the identical matter, or whether I was aware of it in February 1968, I cannot say now.

Mr. Chairman: Is this relevant?

Shri Vasant Sathé: It has relevance to the issue in the sense, that Mr. Nayak is stating here that he was not aware of many facts that

were brought to the PUC's notice; and, therefore, the PUC had come to a conclusion which, as he believed then, was due to some extraneous matters. That is why I am asking this pertinent question.

Shri P. R. Nayak: May I submit that that is not what I wish to convey? I only meant to inform the Committee, that before the PUC came to certain conclusions, on whatever material. . . . (*Interruption*).

Shri Vasant Sathe : Let us not get into an argument. Based on the statements which were made earlier in answer to other questions, I want to elicit the information, as to what was your awareness. This is a material part; that is why I am asking it. Anyway, all right. What action have you taken, as the Secretary of the administrative Ministry, on the resolution of the IOC board?

Shri P. R. Nayak: I do not remember this matter being brought to my notice.

Mr. Chairman: But you put it up for necessary action by your Ministry.

Shri P. R. Nayak: I do not remember this matter to have been brought to my notice. I would also submit that in the Ministry, at that time, all matters connected with pipelines were being taken up directly to the Minister, by a special Secretary to Government. I was not concerned with the subject of pipelines, refining and a number of other matters.

Shri Vasant Sathe: Did you, as Secretary of the Petroleum Ministry, preside over the meetings called at your initiative, in regard to this diversion through the coal-bearing area?

Shri P. R. Nayak: Yes; in 1965 and 1966, I had convened certain meetings on my own initiative.

Shri Vasant Sathe: Was not the decision to divert the pipeline taken in early 1966, when you were the Secretary?

Shri P. R. Nayak: The actual decision was taken, if I remember correctly, sometime later in 1966 at a meeting which I had convened; we had come to the conclusion that the diversion was desirable.

Shri Vasant Sathe: What I am saying is that this is the main attack on the PUC—I mean about this diversion. He is making out

here that he is not aware of so many things and was taken by surprise by the PUC; and was not given an opportunity to be heard. I say, it is not correct.

Mr. Chairman: Our main concern should be with the witness coming to a conclusion that the Committee has been induced by the material supplied by certain people.

Shri Vasant Sathé: Mr. Nayak, were you given any opportunity to defend yourself when a pre-verification enquiry was conducted against you by Shri Takru, Chairman of the Pipeline Enquiry Commission?

Shri P. R. Nayak: Yes; I was given an opportunity of making my representation.

Shri Vasant Sathé: On how many counts did Mr. Takru hold you *prima facie* guilty?

Shri P. R. Nayak: I do not think he held me guilty. I think the use of the term "guilty" is inappropriate. "On these matters, the truth may be as Mr. Nayak says, or may be different. Truth can be ascertained only by a proper departmental enquiry. I think there is a case here for a proper departmental enquiry". He said this is in respect of 12 different charges.

Shri Vasant Sathé: When did you appear before Mr. B. R. Tandon, Special Commissioner?

Shri Somnath Chatterjee: Are we not exceeding our jurisdiction? Are we going to find out whether he was justified in saying that or not?

Shri Vasant Sathé: Even today, he says that that was his *bona fide* belief. That is why I am pursuing this line of argument.

Shri P. R. Nayak: I may re-state what I said in my letter or what I intended to say. If you read the first sentence of my letter, I referred to a request which I had made orally at that time. I was of the opinion that certain material had been furnished to certain Members of the Committee and that material had a bearing on the conclusions of the Committee. I have also explained that it may be that my impression in this matter that that material had any bearing at all may be an erroneous conclusion and I have said that I would request the Committee to take into account the condition in which I was working at that time.

Shri Vasant Sathé: Do you say today that that opinion or *bona fide* belief, as you say, which you held then, was on account of strained emotional condition in which you were there?

Shri P. R. Nayak: No, Sir. It may be that my strained emotional condition had some bearing on the conclusions I reached. I do not suggest that it was the whole reason. I feel there were certain other reasons also.

Shri Vasant Sathé: I am asking you, apart from your emotional matter, that belief which you held then that some members were supplied with some information by certain outside persons and that they were influenced by that material, do you hold that belief independently, consciously even today?

Shri P. R. Nayak: Insofar as members having been influenced by that material I am prepared to say that perhaps it did not have any influence on the conclusions of the Committee.

Shri Vasant Sathé: Do you hold that those members to whom that material was supplied were influenced by that material?

Shri P. R. Nayak: I do not suggest. I only say that certain material was supplied at that time that I believed that the material might have had an influence on the minds of certain members. Now, I am prepared to concede that that impression of mine might have been erroneous. And as I said, the Committee came to this conclusion objectively on the basis of the evidence that it was in possession of.

Shri Somnath Chatterjee: Are you prepared to go on record and say that the statement made by you in your letter about Mr. Khera was wrong and you should not have said that?

Shri P. R. Nayak: I regret the use of the word 'induce' in that regard.

Shri Somnath Chatterjee: About certain persons having been influenced, do you stick to that?

Mr. Chairman: Please answer yes or no. Do not give your elaborate reply.

Shri P. R. Nayak: I had said that after reading the second Report of the Public Undertakings Committee I felt that the conclusion I had reached about influence, persuasion, inducement, etc. was incorrect and that the Committee had come to these conclusions objectively in its best judgment.

Shri Somnath Chatterjee: Therefore, you agree that you should not have used those words.

Shri P. R. Nayak: I agree.

Shri Somnath Chatterjee: Are you prepared to withdraw those words unhesitatingly?

Shri P. R. Nayak: Yes, I am.

Shri Jagannathrao Joshi: When Mr. Khera filed an affidavit using your part of the letter what was the necessity on your part to write a letter to Mr. Khera?

Shri P. R. Nayak: As I said, I wanted him to give evidence on certain matters before the Takru Commission. I wated him and some others to give evidence and tried to explain by these letters which I wrote, what were those matters on which I wished them to give evidence. Mr. Khera was going out of India at that time and he asked me to write to him as to what were the matters I would expect him to give evidence in due course. So, I wrote this letter to him.

Shri Jagannathrao Joshi: So, in para 2 of your letter you explained that this report of the Public Undertakings Committee should not have formed part of the proceedings because thereby there will be breach of privilege of the Parliament.

Shri P. R. Nayak: This fear I had in my mind.

Shri Jagannathrao Joshi: You did not want the report to form part of the proceedings but when it formed part of the proceedings, the Committee held you guilty of certain charges. So, naturally, you had to defend even against the Committee's Report.

Shri P. R. Nayak: The Commission was an independent body.

Shri Jagannathrao Joshi: If there would have been an independent enquiry with certain facts, I could have understood that. But so long as the report formed part of the proceedings and the Committee hold you guilty of certain charges, naturally, you would have to defend yourself. The letter which you wrote to Mr. Khera was private and confidential and you never intended to make it public. Also you never expected on the part of Mr. Khera to behave like this. So, I do not understand, why you are hesitant to say so. You did not want to say it publicly. It was on the part of Mr. Khera that he committed breach of faith.

Shri P. R. Nayak: May I explain in this way? The Commission of Inquiry had certain terms of reference. I shall confine myself only to those terms. I have filed half a dozen affidavits before the Commission. I would have scrupulously refrained from referring to the Report of the Committee.

Shri Vasant Sathe: In your letter to Shri Khera which is dated 27th February, 1973 you have used the words "certain persons had joined together to induce the Parliamentary Committee on Public Undertakings". Now the question is, today do you say that all this statement is completely erroneous, wrong and you are withdrawing it?

Shri P. R. Nayak: As I said earlier, in the light of the recent happenings.....

Shri Vasant Sathe: Do not make it qualifying. The moment the person qualifies, then it becomes conditional.

Are you to-day saying before the Committee that these words 'certain persons had joined together to induce the Parliamentary Committee on Public Undertakings' which you wrote to Shri Khera in a personal letter are wrong, erroneous and you are withdrawing these words unconditionally?

Shri P. R. Nayak: I withdraw the words 'certain persons had joined together to induce the Parliamentary Committee on Public Undertakings'.

Shri Vasant Sathe: It is all right.

Shri B. P. Maurya: Do you submit unconditional apology before this Committee without putting ifs and bus?

Shri P. R. Nayak: In the circumstances that have arisen I would request the Committee to accept my apology unconditionally. I remove the qualifying remarks which I have put in the last sentence of my letter. I withdraw these words.

Mr. Chairman: That is all.

Shri P. R. Nayak: May I have your permission to leave?

Mr. Chairman: You may leave.

(The witness then withdrew)

Wednesday, the 4th July, 1973

PRESENT

Dr. Henry Austin—Chairman

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri Nihar Laskar
5. Shri B. P. Maurya
6. Shri H. N. Mukerjee
7. Shri K. Raghuramaiah
8. Shri Vasant Sathe
9. Shri Maddi Sudarsanam
10. Shri Atal Bihari Vajpayee

SECRETARIAT

Shri B. K. Mukherjee—Deputy Secretary.

Shri J. R. Kapur—Under Secretary.

WITNESSES

Shri S. S. Khera, I.C.S. (Retd.).

(The Committee met at 15.30 hours)

EVIDENCE OF SHRI S. S. KHERA, I.C.S. (RETIRED)

(The witness took the oath)

Mr. Chairman: Mr. Khera, were you in the Government service?

Shri S. S. Khera: I was.

Mr. Chairman: Did you appear before the Inquiry Commission in what is known as the Pipeline case or did you file any statement before that Commission?

Shri S. S. Khera: I did not appear before it, but sent an affidavit.

Shri Vasant Sathe: Are you referring to the affidavit of 1st July, 1972?

Shri S. S. Khera: Yes, Sir.

Shri Vasant Sathe: Did you, in this affidavit, quote a letter addressed to you by Shri P. R. Nayak on 27th February, 1971?

Shri S. S. Khera: Yes, Sir.

Shri Vasant Sathe: Did the Takru Commission give you any notice either to appear before it or to give a certain statement or make a submission before the Commission?

Shri S. S. Khera: I received a notice.

Shri Vasant Sathe: Was that notice under Section 7 of the Commission of Inquiry Act?

Shri S. S. Khera: I cannot say offhand, but it is quoted in full in my affidavit as far as I remember.

Shri Vasant Sathe: Were you directed to refer to or make a statement relating to the PUC's 66th Report of April 1970?

Shri S. S. Khera: I cannot recall offhand but, as I have submitted, whatever was contained in the notice was quoted in full in my affidavit. I received no other notice in any other terms. Unfortunately I do not have my affidavit with me now.

Shri Vasant Sathe: Was there any correspondence between you and Mr. P. R. Nayak, apart from this letter which Mr. Nayak had addressed to you?

Shri S. S. Khera: The letter which I quoted, I believe, was the letter which I had quoted in the affidavit which was sent to you. With your permission, can I have a copy of my affidavit from you, so that I will be able to explain in detail.

(Then a copy of the affidavit was given to Shri Khera)

Shri Vasant Sathe: This is only an extract from your affidavit.

Shri B. P. Maurya: Mr. Chairman, he must know that he is coming to appear before the Committee. He must come fully prepared and bring all the documents.

Shri S. S. Khera: I am very well aware of the contents of my affidavit.

Mr. Chairman: When you had written to us from London, you knew that you had been summoned to appear before the Committee in connection with your affidavit which you had filed, naturally, you must have thought about all these documents. You should have presumed all these things and you must know the facts contained in your affidavit.

Shri S. S. Khera: I know, sir.

Shri Vasant Sathé: Therefore, I asked you, was there any other correspondence between you and Mr. Nayak apart from this letter which Mr. Nayak had addressed to you.

Shri S. S. Khara: I cannot recall that.

Shri Vasant Sathé: You are not aware of it.

Shri S. S. Khara: No, sir.

Shri Vasant Sathé: The letter which he addressed to you was of a private nature?

Shri S. S. Khara: It was a personal letter.

Shri Vasant Sathé: In this letter, did Mr. Nayak formulate certain points on which he wanted you to give evidence supporting his case before the Takru Commission?

Shri S. S. Khara: To the best of my recollection, he posed four questions on which he wished me to provide testimony on his behalf. I wrote back to him setting out to what extent I could do so and requested him to place this before the Commission.

Shri Vasant Sathé: Have you got a copy of that letter?

Shri S. S. Khara: It is quoted in my affidavit and I hope that is part of your record.

Mr. Chairman: That cannot be a defence in support of your arguments.

Shri S. S. Khara: I will try to get a copy, sir.

Mr. Chairman: I am reading out from Memorandum No. 14:

“Subject: Question of privilege raised by Shri Indrajit Gupta, MP, re: an affidavit filed by Shri S. S. Khara, ICS (Rtd.) before the Takru Commission, containing an objectionable extract from a letter allegedly received by him from Shri P. R. Nayak, in respect of the 66th Report to the Committee on Public Undertakings.”

So, you are already informed.

Shri S. S. Khara: Of course, sir. I must humbly throw myself on your kindness and mercy. I agree that I should have brought a copy as an abundant caution.

Shri Vasant Sathé: If we need and find that it is necessary to have that one, then we will do whatever is necessary, Subject to

that, on what Mr. Nayak wanted you to help him relating to the enquiry before the Takru Commission? Was it on those four points? How is it that you decided to use that part in his letter which referred to "inducement" of the PUC?

Shri S. S. Khara: As soon as I received the notice from the One Man Enquiry Commission, immediately I took legal advice and the legal advice which I received is as follows: (1) This amounted to a legal duty and legal compulsion on me to say whatever I knew and to speak the truth, the whole truth and nothing but the truth. The affidavit was, therefore, drafted giving all the information that was available with me from the very start beginning with Mr. Nayak's telephoning to me. From that point, I quoted full facts within my knowledge. I felt that I was under legal compulsion to do so.

Shri Vasant Sathe: That means, prior to your letter, Mr. Nayak had a telephonic conversation with you.

Shri S. S. Khara: Yes, sir.

Shri Vasant Sathe: What did he ask you to do in that telephonic conversation?

Shri S. S. Khara: What is stated in the first paragraph of my affidavit?

Shri Vasant Sathe: You need not now reply to my question: You need not reproduce your affidavit. That is not the object of this examination. You can only use it for the purpose of refreshing your memory. That is what we are allowing you to do. After doing that, you answer my question. You need not quote para by para from your affidavit, because it is you who placed this affidavit before us. Therefore, kindly do not do that. You only tell us what did he ask you to do?

Shri S. S. Khara: He asked me whether I would be able to testify on his behalf in some matter which was before the One Man Enquiry Commission. I was not familiar with it because I was out of touch. I told him to write to me and I would be glad to do whatever I could and he wrote to me in response to that.

Shri Vasant Sathe: Kindly tell me, in the telephonic conversation which you had, did he tell you anything about his impression that the PUC was induced by certain persons to come to the conclusion? Did he say anything about inducement?

Shri S. S. Khera: Not to the best of my recollection, sir.

Shri Vasant Sathe: Now, therefore, after the telephonic conversation, he wrote you that letter in which he had formulated those 4 major points to which you had replied. In your reply, did you say or did you write to him saying that you would also give your evidence or say whatever you know, about this inducement, to which he made a reference? Did you refer to that in your reply?

Shri S. S. Khera: No, Sir. Not to the best of my knowledge.

Shri Vasant Sathe: Therefore, before the Takru Commission, why did you quote that particular para about PUC being induced to come to the conclusion? This was in Mr. Nayak's letter. What was it that made you quote that?

Shri S. S. Khera: I was advised that I should reproduce the whole letter. It was not a quotation from the letter. I reproduced the whole letter.

Shri Vasant Sathe: When you reproduced the whole letter, you said you consulted legal opinion. Is that correct?

Shri S. S. Khera: In my affidavit.....

Shri Vasant Sathe: For preparing your affidavit, in which you quoted the whole letter, you consulted and got legal opinion. Is that so?

Shri S. S. Khera: Yes, Sir.

Shri Vasant Sathe: While doing that, you knew that this portion which was in the letter was contemptuous of the PUC?

Shri S. S. Khera: I must confess that I was so anxious to protect my own position, which was under attack, that it did not occur to me, to deal with this aspect. It certainly did not. It should have. I am conscious that it should have.

Shri Vasant Sathe: Did your lawyers not draw your attention to this fact that this portion in Mr. Nayak's letter was derogatory and contemptuous of the PUC?

Shri S. S. Khera: No, Sir.

Shri Vasant Sathe: You also did not apply your mind to it?

Shri S. S. Khera: No, Sir.

Shri Vasant Sathe: Mr. Khera, how long have you been in Government service?

Shri S. S. Khera: I was in Government service from 1927 until November 1964.

Shri Vasant Sathe: Is it a fact that you occupied high positions in the Government while you were in service, namely, Cabinet Secretary, Member of the Atomic Energy Commission, Secretary, Planning Commission, Chairman of the ONGC etc.?

Shri S. S. Khera: Yes, Sir.

Shri Vasant Sathe: Is it a fact that some of these posts, you had the privilege to hold simultaneously?

Shri S. S. Khera: Some.

Shri Vasant Sathe: As Chairman of the ONGC, was Mr. Nayak working as your subordinate?

Shri S. S. Khera: I am not able to recall. I believe I was Chairman of the ONGC for a short period when Mr. Malaviya resigned and it was a purely temporary charge. It might have been a month or two or more, but, off hand I am not able to recollect it.

Shri Vasant Sathe: How long have you known Mr. Nayak?

Shri S. S. Khera: As a serviceman, for many years.

Shri Vasant Sathe: Were you quite close to him?

Shri S. S. Khera: I must explain that I was not close to him or to many Servicemen.

Shri Vasant Sathe: Were you at any time Chairman of the HAL?

Shri S. S. Khera: Yes, sir.

Shri Vasant Sathe: Did the PUC ever visit MIG Nasik when you were there?

Shri S. S. Khera: I am not able to recollect. But on reference, I will certainly give you.....

Shri Vasant Sathe: I will refresh your memory. Is it true that the PUC, when they came to Nasik, expressed a desire to meet you and hear you?

Shri S. S. Khera: Had I been aware of such a desire, I would have deemed it a privilege to meet them.

Shri Vasant Sathé: There is a complaint from a responsible member of the PUC then, that you were indifferent to the PUC and you did not even care to meet them.

Shri S. S. Khara: On the contrary, I have the deepest regard for Parliamentary Committees. I have appeared many times before Parliamentary Committees, like the Estimates Committee, Public Accounts Committee etc. I never had any difficulty of any kind. I have had nothing to worry about because I have always followed the simple rule of putting forth the facts. I am completely taken by surprise by your question.

Shri Vasant Sathé: Is it not a fact that you were summoned and you did not appear?

Shri S. S. Khara: It is not conceivable in my mind to be summoned by a Parliamentary Committee and not appearing before it. If such a thing had happened, it must have been either without my knowing it or absolutely unwittingly. This is not conceivable in my mind.

Shri Vasant Sathé: Have you been publicly aware that this issue about the offending portion in Mr. Nayak's letter through your affidavit, figured in the Parliament in December 1972 and then this was referred to the Committee of Privileges?

Shri S. S. Khara: I was away in December. I subscribe to one newspaper, that is, Hindustan Times. I might have seen it. I am not sure. I would not like to swear one way or the other.

Shri Vasant Sathé: When did you come to know of this matter being raised as a matter of breach of privilege in the House?

Shri S. S. Khara: Soon after I received the letter, together with some information.....

Shri Vasant Sathé: I think this was on 7th April.

Shri S. S. Khara: It must have been in April, because, I have a copy of my letter dated 23rd April. I replied to the letter immediately.

Shri Vasant Sathé: Now, Mr. Khara, as you said just now, you did not apply your mind to the fact that this portion which you reproduced in the entire letter was contemptuous of the PUC?

Shri S. S. Khara: Quite true, Sir.

Shri Vasant Sathé: When this letter came to you about this matter, did you give a thought to this immediately; and what was your reaction then?

Shri S. S. Khera: It is set out in my letter itself. If you permit, I can read it out.

Shri Vasant Sathe: In which letter and to whom?

Shri S. S. Khera: It is a letter to Shri B. K. Mukherjee, Deputy Secretary to the Lok Sabha Secretariat. I thought it should have an immediate reply, because I considered it a serious matter.

Shri Vasant Sathe: You mean, it is dated the 23rd April? Is this all?

Shri S. S. Khera: This is the immediate reply. With your permission, I would like to read this much portion of it: (Reads):... "Believing as I do in upholding our parliamentary processes as a vital safeguard for our liberties and security, it is with reluctance that I am compelled to make this request, the request for an alternative date. Although I have not received your letter and any enclosures that might be with it. I think that it has to do with an affidavit which I filed before the enquiry commission in what is known as the Pipeline Case. May I take the opportunity of stating forthwith that nothing could be farther from my intentions or my thought than being a party to committing any breach of parliamentary privileges?"

Shri Vasant Sathe: When you wrote this letter, you were aware of the fact that this was in reference to the affidavit which you had filed and which contained that particular quotation as a part of the entire letter of Shri Nayak.

Shri S. S. Khera: The information, if you will see the first paragraph, was received by me from my wife who was in Delhi. Mr. Mukherjee's letter and its enclosures were delivered in India. I saw these enclosures for the first time, when I returned. I have mentioned this in my letter.

Shri Vasant Sathe: When you received the communication from Mrs. Khera were you aware that it had reference to the affidavit.

Shri S. S. Khera: Yes Sir.

Shri Vasant Sathe: When you say that it was far from your intention or thought to commit any breach of parliamentary privilege, what was it that you thought to be derogatory, or as a breach of privilege—i.e. which part of your affidavit was derogatory?

Shri S. S. Khera: The very fact that the letter was received from the Deputy Secretary in the Lok Sabha, on behalf of the Privileges

Committee of Parliament, obviously raised a question of privilege in my mind. I could not, off-hand, identify my affidavit with it. Nor did I have the enclosures to Mr. Mukerjee's letter, with me. Therefore, I thought it best to reserve whatever my thoughts were, except that obviously some question of privilege was involved; and obviously, there was a reference to the affidavit which I had filed. Therefore, I felt it right that I must take the very first opportunity to state my position to the respected Parliament, with my confidence in Parliament and the fact that nothing could be farther from my intention, or my thought, than of committing any breach of privileges. It is stated in general terms. I had no occasion to be more specific.

Shri Vasant Sathe: When did you return to India?

Shri S. S. Khera: Soon after my return, I got in touch with Mr. Mukherjee. I think it was the middle of May, because I have a letter from me to Mr. Mukherjee, dated the 17th May, making a reference to my telephone call to him. I probably arrived on the 15th or 16th.

Shri Vasant Sathe: When you wrote that letter, you became aware of the exact nature of the objection raised in the House. Is it so?

Shri S. S. Khera: Yes, Sir.

Shri Vasant Sathe: That is roundabout 15, 16 or 17th of May. Do you agree to-day that that portion of Mr. Nayak's letter would be derogatory, i.e. about inducement, which by way of an affidavit you published and had made known to the world through the Commission?

Shri S. S. Khera: I beg to submit that I was no party to publication. I submitted it to the court.

Shri H. N. Mukerjee: You are a civil servant of long standing. When you gave an affidavit, did you not know that it would be circulated by the Hakru Commission to various parties in India as well as abroad, including even foreign contractors? If that was so, did you not feel that giving publicity to that scandalous observation was not correct? You should have known that publicity was actually being given by your having included scandalous material in your affidavit which would be part of the record of the court and would be communicated to different parties in India and abroad.

Shri S. S. Khera: On reflection, I am quite sure that I should have thought of it. I have no doubt in my mind at all, on reflection. At that time, it was certainly a mistake.

Shri Vasant Sathe: You, as an experienced civil servant, were fully aware of the fact that that affidavit which you were making,

would not be a confidential document only for the Commission, but would become known publicly to the parties and through the parties, all over the world and broadcast. Were you not aware of it?

Shri S. S. Khera: I was not consciously aware. I was so pre-occupied with protecting my position.

Shri Vasant Sathe: You wanted to protect your position? Kindly tell me how it had become relevant for you to defend your position by quoting this part of the letter from Shri Nayak.

Shri S. S. Khera: I may have been mistaken, but I was quite sure in my mind that the term "the truth, the whole truth and nothing but the truth" would imply the necessity of my quoting the letter in full. If I quoted the letter at all, I felt it my legal compulsion to quote in full whatever it contained.

Shri Vasant Sathe: When you came here you become aware of the fact that this part of the letter had created a position by which, through your affidavit, the PUC has been brought into contempt. That is the result, whatever your original bonafides were.

Shri S. S. Khera: Yes, Sir.

Shri Vasant Sathe: Kindly tell me what steps you have taken till todate to rectify this position before the Takru Commission.

Shri S. S. Khera: On the 17th May, when I telephoned Mr. Mukherjee and he told me over the phone that the Committee decided that I need not appear, I confess that it lulled me into a state of mind where I thought that the Committee on Privileges had decided that I had no part in the contempt. I may have been wrong.

Shri Vasant Sathe: I am not talking of that. I did not ask you about the Privileges Committee's proceedings. What I am asking you is this: before the Takru Commission your affidavit stands till todate. You knew on the 15th May that that affidavit, by being on record, had brought the PUC in contempt because of that quotation. Otherwise, it would not have before us. What steps have you taken before the Takru Commission to remedy the damage that has been done through your affidavit?

Mr. Chairman: Before you answer, you may relate the question to your earlier statement that on reflection you felt that perhaps you should have avoided it.

Shri S. S. Khera: I am really at a loss. I would be grateful for guidance as to what I should do to remedy the situation.

Shri Vasant Sathe: Have you not consulted any lawyers in this matter?

Shri S. S. Khera: Once I was told that I should appear before the Privileges Committee I decided to consult no other lawyers but look to the Privileges Committee only without benefit of legal opinion.

Shri Vasant Sathe: But before you appeared before the Committee, you did not think it necessary that you should make a counter-affidavit before the Commission withdrawing that portion?

Shri S. S. Khera: No, Sir.

Shri Vasant Sathe: You did not think it necessary?

Shri S. S. Khera: It did not occur to me.

Shri B. P. Maurya: At least now you know the realities.

Shri S. S. Khera: I do.

Shri B. P. Maurya: Would you like to give a counter-affidavit, which may cure the damage done?

Shri S. S. Khera: I would not like to give a counter-affidavit. I would not only seek guidance in respect of anything to do with the Takru Commission, I would not only wish to apologise and throw myself on the mercy of this Committee but I would request that I may be purged of any contempt that I may have committed. I think I should like to pay the price if I have committed, even unwittingly a breach of privilege and I would be happy to be purged of it.

Shri B. P. Maurya: So far as I am concerned, whatever damage has been done to the prestige of the Parliament because your affidavit to the Commission brought to light whatever was mentioned by Mr. Nayak in a personal letter to you, is certainly a question of breach of privilege. So, whatever damage has been done should now be remedied. My senior Hon. colleagues who are here can also give you their suggestions, but can you give a counter-affidavit to remedy the situation?

Shri S. S. Khera: I would naturally be guided by the instructions of the Hon. Privileges Committee to remedy it and I would do everything in my power to restore the prestige and privileges of the PUC and of Parliament.

Mr. Chairman: What do you, on your own, feel about it? What is your own judgment of the situation?

Shri S. S. Khera: One thing I can think of—and I should have thought of it earlier myself—is to go to the one man Commission and say that I was not aware that this may constitute contempt of Parliament and therefore I would request that this part of my affidavit may be held secret. I do not know why I did not do it earlier, but it can be done now, thereby the scope of the mischief can be limited.

Shri B. P. Maurya: You have every right to give a counter-affidavit and you can withdraw that part of the affidavit which is objectionable and raises a question of privilege. So far as the law is concerned it is quite clear. So my suggestion would be that you may give a counter-affidavit and withdraw any part of it.

Shri S. S. Khera: I should certainly be very glad to be guided by you and do accordingly.

Shri Somnath Chatterjee: You now say that on reflection you find that you should not have included that letter. In any event, it was not relevant to the subject matter of the inquiry; you now realise that?

Shri S. S. Khera: Yes, Sir.

Shri Somnath Chatterjee: Did you ever think it necessary to apply to the Commission to have that offending portion expunged? Did you take legal advice in this regard?

Shri S. S. Khera: With due respect I would say that I do not require legal advice. I shall take this step in any case.

Shri H. N. Mukherjee: When one has to defend oneself, one has a branded feeling and that is why, perhaps, you had included an apparently contemptuous observation in your affidavit.

You were asked to appear before the Taktu Commission and to defend yourself in regard to something or the other in relation to certain matters. I am not asking about them. But was there any relevance between whatever defence you were going to make and the 66th Report of the Public Undertakings Committee?

Shri S. S. Khera: I was sent a notice with two volumes of very voluminous affidavits without any portions of it being specified and I was asked to submit whatever I had to submit in explanation

within a very short time. The two volumes contained such a comprehensive list of allegations that involved everybody concerned including Mr. Nayak and it included the four points on which he asked for my testimony. To my mind these two things were inseparable. I was fully aware that the one man Enquiry Commission had been set up in pursuance of a recommendation of a Parliamentary Committee.

Shri H. N. Mukherjee: What has disturbed us is apparently irrelevant reference to Report of Parliamentary Committee and you now realise that it was done in a frantic moment and you had not thought of its implications. You have already told us that you will be taking legal advice to find out how you can rectify the damage that has been done so far as the image of Parliamentary Committee is concerned and that you would get the affidavit amended or altered partly, deleted or whatever legal advice is. That is what you have to decide now.

Shri S. S. Khera: I must agree with you, with every word that you said. As for taking further action, I do not think I require legal advice. What I shall proceed to do is subject to hon. Privileges Committee seeing nothing wrong in it, that I shall prepare a new Affidavit leaving this portion in question. I shall send it along with a letter to the one man Enquiry Commission. I shall do now what I should have done at that time. I do not wish to run away from my responsibility.

I shall send a covering letter and request the Commission to substitute my new Affidavit for the previous one. I am grateful for the suggestion. I require no legal advice.

Shri B. P. Maurya: Again, a reference of this Committee should not be made in the new Affidavit, otherwise it will create difficulty.

Shri S. S. Khera: I am fully aware of this.

Shri B. P. Maurya: About these proceedings that have taken place to-day should not be referred to in the new affidavit.

Mr. Chairman: You have to do at your own responsibility and on your own assessment of the situation.

Shri S. S. Khera: I shall do so on my own responsibility.

Shri Atal Bihari Vajpayee: In reply to a question you said that the letter which you received from Shri Nayak was a personal letter. Was it necessary for you to insert that letter in your affidavit?

Shri S. S. Khera: Yes, Sir. I thought so.

Shri Atal Bihari Vajpayee: You must have gone through this Nayak before inserting that letter in the affidavit?

Shri S. S. Khera: I did not think it necessary.

Shri Atal Bihari Vajpayee: What do you mean to say that it was a personal letter?

Shri S. S. Khera: It was addressed to me. The letter of Shri Nayak requested me to testify.

Shri Atal Bihari Vajpayee: You must have gone through this para of the letter written by Shri Nayak which cast aspersions on the Parliamentary Committee of Public Undertakings. Did you find out from Shri Nayak what did he actually mean by 'inducement' in this case?

Shri S. S. Khera: Not at all. If I had asked him I would have been obviously conscious of it. My submission is that I did not make myself aware as I ought to have done. It never occurred to me.

Shri Atal Bihari Vajpayee: Did you go through the letter?

Shri S. S. Khera: Of course.

Mr. Chairman: In reply sent to you by Mr. P. R. Nayak he has among other things stated—"the communication addressed by me to Shri Khera was a strictly private and confidential communication and not meant for publication and the purpose of the communication, as would be evident from the perusal of the whole letter, was solely to prepare my defence before the Takru Commission." That is what he (Shri Nayak) has written to us. Did it occur to you from the nature of the communication that he intended to it be 'confidential' and that you were duty bound to keep it confidential or atleast to seek his consent before you thought it advisable on your own, perhaps for defence, to make it a public document and bringing the whole Parliament and this Committee in disrepute, especially your being an experienced civil servant. Besides, you also stated that you sought legal advice. Did it on the basis of your own considerable experience in Government and other Parliamentary work and on the basis of your legal advice, occur to you that you should consult him and examine the implications of terms of Privileges?

Shri S. S. Khera: I would have, perhaps, written a letter to him if it had occurred to me at that time. As I submitted, it did not occur to me and if I may say so I have not seen Shri Nayak. I am not in communication with Shri Nayak or with any other officer involved

in the Pipeline Enquiry. This is in keeping with my normal practice of keeping away from anything that involves an inquiry, except to the extent I am involved.

I submit, I should have written to Mr. Nayak, if I had been conscious of the implications.

Mr. Chairman: I think Shri Nayak has shown a certain element of courtesy and decorum in trying to establish a contact by way of dialogue. You did not seem to have responded him in the same manner.

Shri Atal Bihari Vajpayee: Did Shri Nayak want the letter to remain confidential?

Shri S. S. Khara: There was nothing in the letter to say so.

Shri Somnath Chatterjee: Was the letter marked 'confidential'?

Shri S. S. Khara: Not to my best recollection.

Shri Vasant Sathe: This is not clear to me yet. You said, in response to letter of Shri Nayak you wrote him back on those four points. Kindly tell me if while writing that reply you had this letter before you?

Shri S. S. Khara: I had it, sir.

Shri Vasant Sathe: When you read that letter, did it not strike you that Mr. Nayak was making very serious allegations against the PUC while saying that here there was the PUC which was induced?

Shri S. S. Khara: It simply did not occur to me. I think there were four points on which he wished me to provide testimony.

Shri Vasant Sathe: Have you got that letter?

Shri Atal Bihari Vajpayee: The difficulty is that we have not received the entire letter by Mr. Nayak nor have we got a copy of the letter that was written to Mr. Nayak by Mr. Khara. We have got only the extract from the affidavit that was filed by Mr. Khara. How can we judge whether Mr. Nayak wanted that his letter should be treated as confidential? Mr. Khara says that the word 'confidential' was not written on the letter.

Mr. Chairman: We do not have the copy of the original letter as such.

Shri Atal Bihari Vajpayee: Kindly ask Mr. Khara to send to the Committee copies of both the letters—the letter which he received from Mr. Nayak and the letter which he wrote to Mr. Nayak.

Shri S. S. Khara: I do not know whether I have got the original letters with me. I shall try to trace the original letters.

Mr. Chairman: There is no question to trying. You have to produce them before the Committee.

Shri S. S. Khara: But if I am not able to find them?

Shri B. P. Maurya: It was a personal letter and it was retained as confidential.

Shri S. S. Khara: But, certainly, I did not check.

Mr. Chairman: That is a question of your interpretation.

Shri Vasant Sathe: Mr. Khara, I am reading out this letter: "I am grateful to you for your.....Indian Refinery, etc. etc." When you read this, apart from being an experienced civil servant, what was your reaction to this? That certain persons had joined together to induce the Parliamentary Committee? That is what we want to know.

Shri S. S. Khara: As I said earlier, it did not simply occur to me to apply my mind to that portion of the letter.

Shri Vasant Sathe: You thought it necessary, in your evidence to put the entire thing and publish it. You also took the legal advice as to whether this should be done. But it did not occur to you that it was a highly derogatory remark against the PUC. That is what I wanted to know?

Shri B. P. Maurya: What was the most important part which tempted you to make this letter part of your affidavit barring this portion? Can you quote that portion?

Shri S. S. Khara: I can only submit that I was not conscious and aware as I should have been. If I had the least suspicion about anything being deliberate on my part, I would not have done it.

Shri Vasant Sathe: I am not on the point of your bonafide or otherwise. I am on the point of normal conduct of a person. You had a telephonic conversation with him on this and you also wrote a letter to him. He was grateful to you for giving him ready response. Why did you not consider it necessary to ask Mr. Nayak what was the inducement? This is my question.

Shri S. S. Khara: I do not know anything else except again to say what I said before.

Mr. Chairman: What was your answer to Mr. Maurya's question?

Shri S. S. Khera: I was not tempted by anything whatsoever. I only felt that I was under legal compulsion.

Shri Somnath Chatterjee: Did you quote Mr. Nayak's letter in full in the affidavit?

Shri S. S. Khera: Yes, sir.

Shri Somnath Chatterjee: Is that the whole letter?

Shri S. S. Khera: Yes, sir.

Shri Somnath Chatterjee: Therefore, you quoted the entire letter.

Shri S. S. Khera: Yes, sir and my reply.

Shri Darbara Singh: By quoting this letter, did your case strengthen?

Shri S. S. Khera: I quoted the whole letter, but.....

Shri Darbara Singh: Did it help you in defending your case?

Shri S. S. Khera: I don't think so.

Shri B. P. Maurya: I am now putting my question otherwise. Whatever little portion I have seen of this letter, I think, if you read this portion, the letter was not to be quoted in the affidavit; that letter was not to be made part of the affidavit.

Shri Somnath Chatterjee: We do not know about the whole letter. It is only an extract from the letter.

Shri Atal Bihari Vajpayee: Mr. Khera, apart from inserting the whole letter of Mr. Nayak in your affidavit, did you have any discussion with Mr. Nayak regarding the serious allegation?

Shri S. S. Khera: No, Sir, none at all.

Shri H. N. Mukerjee: Mr. Khera, do you wish us to believe that you were so desperate and frantic in regard to defending your own honour? Perhaps, there is also a spirit of brotherhood with fellow ICS members. Do you want us to believe that you never wanted to make a defence which would be valid, relevant and satisfactory and that all this personal correspondence went on, without any kind of personal contact between yourselves?

Shri S. S. Khera: I am quite sure that Mr. Nayak will testify that we have had no discussion at all, whatsoever. I have not met Mr. Nayak. I have not discussed it with him nor with any of the others.

Shri H. N. Mukerjee: But, you used large chunks of correspondence which your correspondent Mr. Nayak says 'was confidential and you used this without even a reference to him.

Shri S. S. Khera: There was only one letter from Mr. Nayak and one reply from me to Mr. Nayak. We have had no discussion whatsoever.

Mr. Chairman: First, there was a telephone call to you by Mr. Nayak. In response to the telephone call, did you not phone to him or write to him?

Shri S. S. Khera: Not before I had his letter. My letter was only in reply to his letter.

Mr. Chairman: You have produced that letter?

Shri S. S. Khera: Certainly, it is part of the affidavit.

Mr. Chairman: I would suggest, therefore, that the full text of the affidavit filed by you.....

Shri Vasant Sathe: I would suggest that we have the original letter written by Mr. Nayak to him, and a copy of the letter written by Mr. Khera to Mr. Nayak and the whole affidavit, before us, so that we can compare the three....

Mr. Chairman: That is what I was saying. The full text of the affidavit, the letter which Mr. Nayak wrote to you and a copy of the letter you wrote to him—all these three documents may be produced.

Shri S. S. Khera: I shall do my best to get them.

Mr. Chairman: I think for further examination, these documents are relevant and material.

Shri Somnath Chatterjee: If he has anything else to say, let him say. We may not decide to call him again.

Mr. Chairman: Mr. Khera, I think you have understood the position and you have also answered some questions. The documents that I referred to, are also relevant. Perhaps, on the basis of the documents and on perusal of the documents, we may not decide to cross-examine you again. Perhaps, you may be called or you may not be. In the light of that, if you like to make any other statements other than the answers you have given, you are free to do so.

Shri S. S. Khera: If unwittingly, and it could be only unwittingly of that I am sure, I had been a party to any breach of privilege,

I would like to here and now submit an apology, and make such amends as the hon. Committee may direct and I shall carry out the instructions.

Shri Somnath Chatterjee: Are you not sure that there is a breach of privilege? Why do you qualify it?

Shri S. S. Khera: I only qualified it by the words 'unwittingly'. I am quite sure that there was a breach of privilege of Parliament. On my part, it was unwitting.

Mr. Chairman: You may leave now.

(The witness then withdrew).

APPENDIX I

(See para 14 of the Report)

INDRAJIT GUPTA
MEMBER OF PARLIAMENT
(LOK SABHA)

48, Western Court,
New Delhi.
December 11th, 1972.

To

The Speaker,
Lok Sabha.

Sir,

With reference to my Privilege motion (still pending before the Committee of Privileges), arising out of the remarks made by a Government Counsel, appearing before the Pipelines Inquiry Commission, and which, in my opinion, are derogatory to the Committee on Public Undertakings in respect of its 66th Report, 1970, on the Indian Oil Corporation, I have to bring to your attention another serious consequential matter in this connection.

2. I enclose herewith a true copy of extracts from the Affidavit dated 1-7-1972 filed before the Pipelines Inquiry Commission, by Shri S. S. Khera, I.C.S. (Retd.). Copies of the said Affidavit have been made available by the Commission to the various parties appearing before it. I would respectfully draw your attention to the last paragraph of the enclosed document, in which a letter from Shri P. R. Nayak, dated 27-2-1971, to Shri Khera has been quoted by the latter.

3. It is astonishing to find Shri Nayak alleging that "certain persons had joined together to induce the parliamentary committee on Public Undertakings to write a report in April 1970. . . .", etc. etc.

4. Here is a slanderous and highly objectionable statement (now made public) imputing that the Committee on Public Undertakings and you, as its then Chairman, could be "induced" by "certain persons" to do certain improper things.

5. I submit that these allegations by Shri P. R. Nayak fall in the same category as the remarks which have been referred to the Committee of Privileges to the effect that the Committee on Public Undertaking's recommendations need not be taken seriously as they represent only the emotional "feelings" of some members. Both are equally subversive of the dignity and status of the Committee on Public Undertakings and hence, of Parliament.

6. Since the Committee of Privileges is already seized of the earlier matter, I would urge that Shri Nayak's remarks (as cited in Shri Khera's affidavit) be added to its scope of inquiry. Before that, kindly permit me to make a brief reference on the lines of this letter in the House.

Yours sincerely,
Sd/-
INDRAJIT GUPTA.

APPENDIX II

(See para 15 of the Report)

Extracts from the Affidavit dated 1-7-1972 of Shri S. S. Khera, I.C.S. (Retired), filed before the Pipelines Inquiry Commission

"Some time in February, 1971, Shri P. R. Nayak telephoned to me and asked if I would be able to testify on his behalf in regard to some matters concerning him in an inquiry then pending. I did not know the details of any inquiry, although I had some vague knowledge that there had been some reference in the newspaper to which I subscribed to the meeting up a Commission of Inquiry about a Pipeline project, following some adverse remarks against Shri Nayak in the report of a Parliamentary Committee.

I replied to Shri Nayak that I was out of touch with events in Delhi and the Government since I left Delhi after my retirement from service, and did not know what the matters he was referring to might be; but that he might write to me and that in any case I would be glad to testify to any facts within my knowledge that might help the Commission.

Thereafter, I received a letter from Shri Nayak, dated 27-2-1971, as follows:

"I am grateful to you for your ready response to my request today. Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a report in April, 1970 questioning the decisions and bonafides of Government, the Indian Refineries Ltd., and, in the main, of myself as Managing Director|Chairman of the Indian Refineries Ltd., from December, 1960 to August, 1964. Following this report, Government appointed a Commission of Inquiry in August, 1970."

* As furnished by Shri Indrajit Gupta, M.P. for full text of the affidavit. Please see Appendix IV.

APPENDIX III

(See para 17 of the Report)

P. R. NAYAK

346E, Sing Co-op. Housing Society,
Aundh, Poona 7.
19th February, 1973.

Dear Sir,

I write in continuation of my letter of 10th February, 1973, in which I had promised to furnish, as soon as possible, my statement on the question of privilege raised by Shri Indrajit Gupta, M.P., on the affidavit filed by Shri S. S. Khera before the Takru Commission. I am grateful for the opportunity given to me and herein below is my statement.

2. The communication addressed by me to Shri Khera was a strictly private and confidential communication not meant for publication and the purpose of the communication, as will be evident from the perusal of the whole letter, was solely to prepare my defence before the Takru Commission. That Commission has agreed that the 66th Report of the Parliamentary Committee on Public Undertakings would be taken into consideration during its proceedings and the Government of India has also stated that that Report was the genesis of the Commission. Various parties before the Commission and I myself in proceedings before the Delhi High Court have urged that such consideration of the 66th Report by the Commission in open session can lead to awkward situations and hamper, through the hazard of a possible breach of privilege of Parliament, the defence which parties may have to put forward before the Commission.

3. The Parliamentary Committee, before making the Report, had not given me any opportunity to make my submissions and I sincerely believed that the Committee were persuaded by certain persons to come to some conclusions which I honestly considered to be based on incomplete evidence and appreciation and in respect of which conclusions the Government of India itself found it necessary to appoint a Commission of Inquiry for tendering further advice to the Government.

4. The word "induced" was not used by me except to mean "persuaded". The Oxford English Dictionary defines the word "induce" to mean, amongst other things, "lead by persuasion", "persuade" and "lead to the belief or opinion". Similarly, Webster's Third New International Dictionary defines the word as "move and lead as by way of persuasion", "persuade" and "conclude or infer from particulars". In this sense, no improper significance attaches to the word "induce" and it is in the foregoing sense only that the word was used by me and in no other sense.

5. I would earnestly request the Committee of Privileges to imagine my position as having to defend myself against allegations made by such a high-powered body as the Committee on Public Undertakings. I had, in the circumstances, no option but to seek the help and assistance of all persons who were in the know of the facts and it is in the context of preparing my defence that the letter was written to Shri Khera. It was never in my mind that the letter should be published, I had not authorised its publication and I respectfully submit that for this reason I should be absolved of any blame for the publication and the resulting consequences, if any.

6. I meant no reflection whatsoever on the Members of Parliament who constitute the Committee on Public Undertakings or on the Committee as a whole and my sole purpose in writing the letter to Shri Khera was to ensure my own proper defence before the Commission of Inquiry.

7. I hope that the foregoing explanation will satisfy the Committee of Privileges about my *bona fides* and will be regarded by the Committee as appropriate for exonerating me from any charge of breach of privilege. I would like to repeat that I had never meant any reflection on the Committee on Public Undertakings and had never intended that my letter to Shri Khera should be published. nevertheless, in the circumstances that have arisen, if I am in any way considered to be blameworthy, I would respectfully request the Committee of Privileges to accept this my unconditional apology and agree not to pursue the matter in so far as I am concerned.

Yours faithfully,
Sd/-
(P. R. NAYAK).

Shri B. K. Mukherjee, Deputy Secretary, Lok Sabha Secretariat,
Parliament House, New Delhi.

APPENDIX IV

(See para 20 of the Report)

S. S. KHERA

3, Eastern Canal Road,
Dehra Dun, U.P.,

July 10, 1973.

The Deputy Secretary,
Lok Sabha Secretariat,
New Delhi.

Dear Sir,

I have now been able to find the letter dated 27-2-1971 from Shri P. R. Nayak to me; and as directed, I submit herewith:

- (1) Shri Nayak's letter in original (See Anneure II).
- (2) My original office copy of my reply to Shri Nayak, dated 10-3-1971 (See Annexure III).
- (3) A copy of my affidavit as sent to the Pipelines Inquiry Commission. (See Annexure I).

In regard to three of the matters which were mentioned during my appearance before the Committee of Privileges on July 4, 1973, I may be permitted to submit as follows:—

- (1) I was informed that Shri Nayak had stated that his letter was private and confidential, and from my recollection I stated that I did not recall the letter being so marked. In the event it turns out that my recollection was correct; the letter is not marked either private or confidential. However, though it did not occur to me at the time that the letter was intended to be confidential, I do not think that I can in any way deny Shri Nayak's own plea that it was so intended.
- (2) The question was raised, as to whether I had been in consultation with Shri Nayak since the two letters mentioned above. I think I replied that to the best of my knowledge I have not met Shri Nayak at all since quite some time before the letters were exchanged, nor have I had any discussion with him in any other way in regard to these letters or the matters to which the Pipeline

Inquiry relates. I submitted that Shri Nayak would be able to confirm this. I believe that the fact is as stated by me.

- (3) In response to a suggestion that was made during the hearing on July 4 of deleting the offending passage in my affidavit, I am submitting to the Pipeline Inquiry Committee a fresh affidavit, together with a covering letter, copies of which I will send you in due course.

I wish to express my thanks to the Committee of Privileges for the consideration extended to me during my appearance before the Committee.

Yours faithfully,
Sd/-
(S. S. KHERA).

Annexure I to Appendix IV

Before the Hon'ble Shri Justice J. N. Takru, Chairman, Pipelines Inquiry Commission.

Affidavit of S. S. Khera, I.C.S. (Retired) of 3 Eastern Canal Road, Dehra Dun, U.P.

Some time in February 1971, Shri P. R. Nayak telephoned to me and asked if I would be able to testify on his behalf in regard to some matters concerning him in an inquiry then pending. I do not know the details of any inquiry, although I had some vague knowledge that there had been some reference in the newspaper to which I subscribed to the setting up of a Commission of Inquiry about a pipeline project, following some adverse remarks against Shri Nayak in the report of a Parliament Committee.

I replied to Shri Nayak that I was out of touch with events in Delhi and the Government since I left Delhi after my retirement from service, and did not know what the matters he was referring to might be; but that he might write to me and that in any case I would be glad to testify to any facts within my knowledge that might help the Commission.

Thereafter, I received a letter from Shri Nayak, dated 27.2.1971, as follows:—

“I am grateful to you for your ready response to my request today. Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a report in April, 1970 questioning the decisions and *bonafides* of Government, the Indian Refineries Ltd., and, in the main, of myself as Managing Director|Chairman of the Indian Refineries Ltd., from December 1960 to August, 1964. Following this report, Government appointed a Commission of Enquiry in August, 1970.

2. The terms of reference to the Commission are given in enclosure I, which is a notice issued by the Commission. Enclosure II is an affidavit I have filed before the Commission. Enclosure III is an allegation that was made against me by the Ministry of Petroleum and Chemicals in connection with the award of contracts to ENI Companies, for building the oil pipelines between

Gauhati and Siliguri and from Haldia to Barauni to Kanpur. Enclosure IV is the reply I sent to this allegation.

3. You were Secretary to Government, Ministry of Mines and Fuel until April, 1962. The points on which I would seek your evidence are roughly as follows:—

- (i) The background and the intentions underlying the Agreement of August, 1961 with the E.N.I.
- (ii) Whether the conclusions of contract with E.N.I. Companies for designing and/or building the oil pipelines was in keeping with the spirit and letter of the Agreement and the realities of the country's position at that time as regards foreign exchange|credit availability for oil projects.
- (iii) Whether you had any grounds for misgivings about my intentions in dealing with these projects with Bechtel and E.N.I. during 1961-62.
- (iv) What your general opinion was about the manner in which I carried on my duties as an officer in Indian Refineries Ltd., and later, in addition as a Member etc. of the Oil & Natural Gas Commission."

I sent Shri Nayak a reply to his letter on 10.3.1971 as follows:

"As I told you when you contacted me over the telephone, I shall be glad to testify to any facts that may be within my knowledge, that might be of any use in helping the Commission of Inquiry to come to a just and proper conclusion. I would request you to be so good as to convey this to the Commission accordingly.

As you know, I have been out of touch with events in Delhi since my retirement, and since I moved away from there, and have not been aware of the course of events which you have mentioned in your letter. I was indeed Secretary to Government, as you say, in the Ministry of Mines and Fuel until about April, 1962, when I left to take over as Cabinet Secretary. My recollection of facts which would by now be nine years ago or more must necessarily be somewhat uncertain. But I could perhaps be able to recall any particular event more specially, by refreshing my memory from the records of the period.

Your letter lists four points upon which you wish to have my evidence. On the first two points, I believe that I might be able

to reconstruct the context and the train of events concerning the agreement with E.N.I., by going through the records that must be available in the Ministries concerned. Upon the fourth point, I would have no hesitation in testifying, without any reservations, that in my opinion at the time you carried on your duties as an officer in Indian Refineries Ltd., and later in addition as a Member of the Oil and Natural Gas Commission, as indeed in any assignment within the ambit of my overseeing as Secretary to Government, with efficiency, application, and the quality of uprightness which one would expect of an officer of your service, your experience and your integrity. I do not recall having had occasion at any time to have any doubts about this. As to the third point, I certainly do not recall having any grounds for misgivings about your intentions in dealing with the projects mentioned. You will of course recall, as I do, that I did not look with favour upon a tie-up with Bechtel in some field of consultancy or the like; but I cannot remember if the instance I have in mind was related to the specific projects mentioned by you. With the help of the records of the time, I might be able to reconstruct the matter in my mind. As far as I can recollect, and subject to a reference to the records, I think that while I was fairly closely associated with the negotiations for the main agreement with E.N.I., I was not much in the picture, if at all, in the negotiations for the arrangement with Bechtel.

You will no doubt inform the Inquiry Commission suitably of the contents of this letter; and also let me know as to whether I can do anything more to assist in the inquiry."

After that I heard no more. Some time later, however, my attention was drawn to the fact that some false and scurrilous allegations had apparently been made against me personally in the same inquiry, in an affidavit or testimony by a person named Shri Arun Roy Choudhury.

Thereupon, on 4.2.1972 I recorded a memorandum setting out all that I have stated above, and added the following text:—

"The allegations are completely false in every respect. I thought, however, that it might be interesting to make my own inquiry into one of the allegations, the only one that seemed to be specific, namely, that I own 'a palacial building in NDSE Part II, New Delhi.' On inquiry I found that there is in fact a prominent entry in the Telephone Directory of Delhi somewhat like a businessman's entry, under the name 'S.S. Khera' with an address

given as South Extension, Part II, New Delhi. On further inquiry I have found that this gentleman is some businessman whom to the best of my knowledge I have never seen and who is certainly no relation near or distant, of mine.

The only conclusion I can draw is that the person making the allegations has either deliberately or recklessly perjured himself; and I am advised that this should be a matter for criminal prosecution against the person making such false and scurrilous allegations. I have accordingly thought it right at this stage to place this on record with information to the following:—

(1) The Prime Minister, (2) The Minister, Petroleum & Chemicals, (3) Secretary, Petroleum & Chemicals, and (4) Shri P. R. Nayak, with the request that note and appropriate action may be taken in respect of this matter.”

The memorandum was sent to P.M.; Minister of Petroleum; Cabinet Secretary; Secretary, Petroleum Ministry; and Shri Nayak, C/o Petroleum Ministry.

On 1.5.1972 I received from the Secretary of the Pipelines Inquiry Commission a communication dated 15.4.1972 as follows:—

“Notice under Section 8B of the Commissions of Inquiry Act, 1952 as amended by Act No. 79 of 1971.

To

Shri S. S. Khera,
Retired ICS,
3, Eastern Canal Road,
Dehra Dun.

WHEREAS from a perusal of the materials available to it, the Commission considers it necessary to inquire into your conduct in connection with one or more of its terms of reference (copy annexed)* as a result of which your reputation is likely to be prejudicially affected by the inquiry;

NOW THEREFORE in compliance of Section 8B of the Commissions of Inquiry Act, 1952 as amended by Act 79 of 1971, you are hereby given an opportunity of being heard in person or and by Counsel in the inquiry and to produce evidence in your defence. In case you propose to avail yourself of this opportunity you are

*See Enclosure.

required to put in your appearance before the Commission by Monday the 15th May, 1972, failing which the inquiry shall proceed *ex parte* against you.

Sd/- R. T. ISRANI,
Secretary,
Pipelines Inquiry Commission."

On 8.5.1972 I sent the following letter to the Secretary of the Commission:

C/o India House,
Aldwych,
London, W.C. 2.,
May 8, 1972.

The Secretary,
Pipelines Inquiry Commission,
A/2/29, Safdarjung Dev. Area,
New Delhi-16, India.

Sir,

I beg to acknowledge receipt of the notice dated April 15, 1972 giving me an opportunity of being heard in the inquiry and to produce evidence in my defence, and directing me to put in my appearance before the Commission on Monday, May 15, 1972 if I propose to avail myself of the opportunity offered.

The notice has been received by me after redirection from the address to which it was sent; and it has been received too late for me to be able to enter an appearance on May 15, in Delhi.

I wish to defend my reputation against any accusations or allegations that may be made affecting my reputation adversely. To this end, I beg to request a sufficient opportunity to do so, when I come to India next month, June, 1972. I am engaged at present in fulfilling a number of engagements in Britain, including: Meetings and visits to institutions as a Member of the Board of Governors of a Royal Foundation; Council of Management of a British University until the last week of May; preparations by the Institute of India Studies, (of which I am Chairman of the Executive Committee and member of the Board of Trustees) for a forthcoming conference on Asia, in London.

I shall be obliged if, in order to afford me a fair opportunity, you will be so kind as to inform me as early as possible as to the exact

nature and substance of the allegations or accusations made against me, the name or names of the persons making them, and the evidence upon which each one, as well as the sum total of them, is based.

I am confident that, under the due authority and protection of the honourable Commission, I shall be able to protect my reputation and to resist and repel any allegations or accusations that might cast a reflection upon my reputation or character.

In case the allegations or accusations are in respect of any alleged acts of commission or omission relating to the period of my service with the Government, I would seek an opportunity of obtaining legal advice and support from the Government. I retired from service more than seven years ago, and do not have the means to engage in expensive legal proceedings, especially at my age. Meanwhile, as I am anxious that my reputation should not be held in jeopardy for a moment longer than can be helped, I am requesting my friend and adviser, Shri N. N. Goel, Senior Advocate of the Supreme Court, whose address is 11 Nemi Road, Dehra Dun, to receive and examine on my behalf the material I have requested above. I beg to request that the material may kindly be sent to me C/o Shri Goel, 11 Nemi Road, Dehra Dun, and that any further communications to me may also be sent to his address. I am endorsing a copy of this letter to him.

I shall be obliged if you will be good enough to send me, C/o Shri Goel at his Dehra Dun address as above, an acknowledgement of this letter.

I shall communicate further to the honourable Commission immediately upon my return to India in June.

Yours faithfully,
Sd/-
(S. S. KHERA)

Thereafter, the Secretary of the Inquiry Commission's letter dated 16-5-1972 was addressed to Shri N. N. Goel, at 11 Nemi Road, Dehra Dun:

"Sir,

I am directed to refer to letter of Prof. S. S. Khera dated the 8th May, 1972 from London, a copy of which has been endorsed to you in connection with issue of notice under Section 8B of the Commissions of Inquiry Act, 1952 to

Prof. Khera and to state that as there have been allegations in respect of certain acts of commission and omission relating to the period of service of Prof. Khera while he was Secretary, Ministry of Mines & Fuel, statements filed by Shri Arun Roy Choudhury dated the 7th October and 25/27th November, 1971 (three volumes) are available for supply to you on behalf of Prof. Khera. As the documents are voluminous, I shall be grateful if you make your own arrangements to collect the same from the undersigned at a very early date.

Yours faithfully,
Sd/-
R. T. ISRANI,
Secretary."

Shri Goel sent the following letter dated 23-5-1972 to the Secretary of the Commission:

"Dear Sir,

I received a copy of letter dated 8-5-72 from Prof. S. S. Khera addressed to you.

Please let me know if it is possible for you to send the papers by post under registered parcel cover. In case it is not possible I will arrange to have the same collected from your office.

According to Prof. Khera's letter, he will return from U.K. by the middle of the next month.

I request you to give us sufficient time to prepare our reply.

Thanking you,

Yours faithfully,
Sd/- N. N. GOEL.

In response to Shri Goel's letter, the Secretary of the Inquiry Commission kindly sent the following letter dated 26-5-72 to Shri Goel, together with the enclosures listed therein:

"Subject: Notice under Section 8B of the Commissions of Inquiry Act, 1952 as amended by Act No. 79 of 1971.

Sir,

With reference to your letter dated 23-5-72 on the above subject, I am to state that the Chairman of the Commission has directed that

the following documents be forwarded to you as are meant for Prof. S. S. Khera:—

- (1) Statements of Shri Arun Roy Choudhry dated 7th October and 25/27th November, 1971 (three volumes) and
- (2) Commission's orders dated the 8th February, 8th March, 15th March and 7th April, 1972.

Copies of the above documents are enclosed. The Commission has directed that explanation/statement of Professor S. S. Khera be filed before the Commission by Monday the 12th June, 1972.

Yours faithfully,
Sd/-

H. M. SRIVASTAVA,
Secretary.

In acknowledging this letter and its voluminous enclosures, Shri Goel in his letter dated 2-6-1972 requested for time to the end of June to file my reply; and the Chairman of the Commission was pleased to grant time up to July 3, 1972.

I arrived in Dehra Dun on Sunday, June 25, and in consultation with Shri Goel, and in order to comply with the time limit set by the Commission, and in order also to do whatever I possibly can to reduce the period during which my character and reputation may remain under attack, I have done my best to scan the papers received from the Commission, in order to ascertain such information as is possible as to what are the allegations made against me, who is responsible for making the allegations, and on what evidence if any the allegations are made.

The best endeavours of Shri Goel and myself to this end have revealed the following allegations.

1. That I was involved in the negotiation with E.N.I. and in the evolution of the Project at the initial stages of the Pipeline Project Report.
2. That I was responsible for pushing out Shri Sahni, Shri Mullick, and Shri Venketaraman, and brought in Shri Nayak.
3. That I gave all help to Shri Nayak and Shri Kashyap.
4. That I did not allow matters to go before the Negotiating Committee.

5. That I was friendly with Mr. Michael Condon, Chief Representative of B.O.C. who was notorious.

6. That I was friendly towards and favoured the Oil cartel.

7. That I constructed a palatial building in New Delhi South Extension.

In case, within the limits of time and opportunity allowed any other allegations may exist which may have been missed, I beg leave to request that I may be informed of them.

In respect of the seven allegations listed above, I beg to submit as follows:—

1. To the best of my recollection, the negotiations with ENI were conducted during the visit of the Minister of Oil, Shri K. D. Malaviya to Rome and immediately thereafter, and at every point under the direct initiative, direction, and supervision of the Minister. I do not recall conducting, or being involved in, any negotiations upon my own initiative; nor of being directly involved in or exercising any initiative; or control, over a pipeline project, except one pipeline, which to the best of my recollection was planned between the Assam oil fields and Barauni. At this lapse in time, I can only speak from memory, and I do not have the benefit of refreshing my memory from the records. These should be referred to.

2. I am unable to recall Shri Mullick or Shri Venketaraman; but I do recall Shri Sahni, as he was a senior officer of the Ministry. As far as I can remember now, Shri Sahni did fairly well in the Ministry while I was Secretary to Government. I believe that after some time the Minister of Oil, Shri K. D. Malaviya, who held all significant matters concerning oil within his personal attention, decided to give Shri Sahni executive experience, and gave instructions to appoint Shri Sahni to an important new area of responsibility, as General Manager, Pipelines. Shri Sahni declined the posting and as far as I remember he also declined to renew his contract of service which had ended or was due to end. The full details of all this must be available in the relevant files in the Ministry concerned. So also the details of any matters concerning the services of other officials, including Shri Mullick and Shri Venketaraman.

It is entirely false to say that I was responsible for pushing out any of these officials. I believe that I always enjoyed the confidence of officials of all kinds and ranks throughout my period of service, and that this was based upon a sense of fair play and fair protection to them to the full extent of my ability.

3. Any help or support that I may have at any time given to Shri Nayak or to Shri Kashyap was never anymore nor any less than I would give to any other official in public service. I certainly would never give, nor in fact did I give in any instance to Shri Nayak or to Shri Kashyap, any help that might be in any sense improper, or irregular, or calculated to go against the public interest, or against the interests of the functions and responsibilities committed to their charge. The officials concerned will surely testify to this fact.

4. This allegation is false, and so is the insinuation contained in it. As Secretary, Mines and Fuel, it was my policy and practice to obtain the widest and best possible consultation, amongst the various departments, ministries, and project managements concerned; and to ensure a full and proper record to be maintained. Later, when I was Cabinet Secretary, my policy in regard to the Negotiating Committee was to render the initiative to the Ministries concerned; and at the same time to ensure, in cases coming within my notice, that the Ministry of Finance was fully in the picture, as also the Department of Economic Affairs. I did not regard my office of Cabinet Secretary as some kind of "overlord" function; and during 1962 and 1963 most of my time and attention was taken up by matters of which a full account and record must exist in the official records.

5. It is quite false to say that I was friendly with Mr. Condon, beyond the ordinary courtesy that I was happy to extend to all who came to see me on business. I had no private, social or other relations with Mr. Condon; and so far Mr. Condon's business methods were concerned, I had a rather poor opinion of him. As it happens, the reference to him has served to remind me I had written critically about his firm, B.O.C. in my book on public enterprises, at page 165 of "Government in Business" (Asia Publishing House, 1963).

6. The truth is exactly the contrary. There is a long and consistent record of my attitude towards the cartel of the international oil firms. I have always regarded this cartel, and I continue to regard it, as the most dangerous of all the monopoly systems in the world and as something against which a nation such as India must continue to struggle relentlessly. I have endeavoured to play some small part towards this effort.

7. This allegation is quite false. I have no building in New Delhi South Extension. Reference may kindly be had to the result of the inquiry I myself made upon seeing the allegation as set out in my memorandum of 4-2-1972 set out above.

In general, the allegations listed above and the affidavit of Shri Chaudhury read as a whole, amount to imputations of dishonest conduct and participation in some sort of conspiracy on my part.

I deny these utterly. If there were any irregularities, or dishonesty, or conspiracy concerning the matters under the purview of the Inquiry Commission, I had no part in it; nor is it possible for me to judge or say whether any one else is or is not guilty of any of these things.

The allegations made against me are false, frivolous and vexatious, and since they are made on oath, they amount to perjury. I pray that the persons responsible for making them be prosecuted with the full rigour of the law; and that protection be extended to me against such attacks, during the years left to me after a long career untouched by the least iota of anything adverse affecting my reputation; a career during the whole of which I have tried to live and act in my official capacity according to the prescription "without fear or favour" and have tried to instil it in all who have come within my sphere of relationship.

Sd/-

(S. S. KHERA)

30-6-72.

ENCLOSURE TO ANNEXURE I TO APPENDIX IV

PIPELINES INQUIRY COMMISSION

TERMS OF REFERENCE

- (a) (i) to determine whether any payment to Bechtels (as Design-Engineers and overall Supervisors in Gauhati Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment, justified?
- (ii) was the induction of Bechtels into the aforesaid projects mala-fide, and were they shown any undue favour by officials of the IRL|Government.
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur Pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.
- (c) whether the then Managing Director, IRL, acted on his own by passing the Board of Directors in his dealings with Snam and Bechtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur Pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline, and whether negligence or improper motive is substantiated against the MD, IRL, for not bringing these to the notice of the Board|Government and, in particular, whether the General Manager and MD were perfunctory and casual in dealing with an important communication of the 26th September, 1963, from Bechtels to IRL mentioning the design capacity of Haldia-Barauni Pipeline as 1.9 million tonnes per year.
- (d) to investigate the circumstances in which the sanction for the total project cost of HBK Pipeline was not issued by Government and whether there was any loss to the public interest as a result.
- (e) in view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the

pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government|IRL|IOC officials;

- (f) to determine the circumstances in which the IRL|IOC spent money in excess of the sanctioned estimates in the case of the GSPL Project.
- (g) to investigate the circumstances under which IRL|Government awarded the construction contracts for Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipelines to Snam-Saipem on negotiated basis without calling for global tenders;
- (h) whether the Snam-Saipem was shown any undue favour by officials of Indian Refineries Limited or Indian Oil Corporation or the Government, in connection with the award of the aforesaid contracts and in connection with the execution of the Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipeline Projects under the aforesaid contracts.
- (i) to investigate the circumstances that caused considerable delay in the completion of Haldia-Barauni-Kanpur Pipeline Project;
- (j) to investigate the circumstances which led to the continuance of Shri Nittoor Sreenivasa Rau after his retirement as Central Vigilance Commissioner to enquire into the laying of a section of the Haldia-Barauni Pipeline over the coal-bearing areas.
- (k) to advise on whether there has been any negligence or carelessness or mala-fide motive on the part of any of the officers of Government|IRL|IOC and their staff in the discharge of their duties on any of the foregoing or other related issues, which, in the opinion of the Commission, are relevant;
- (l) arising out of (k); to recommend further action, if any, that must be taken against particular officials whose conduct is assessed as meriting this; and
- (m) generally, to report on any other matter that is relevant in the opinion of the Commission.

Annexure II to Appendix IV

P. R. NAYAK

Phone: Office: 372971

Res: 611992

5, Race Course Road,
New Delhi-11.

27, February, 1971.

My dear Khera,

I am grateful to you for your ready response to my request today. Certain persons had joined together to induce the Parliamentary Committee on Public Undertakings to write a report in April, 1970 questioning the decisions and bonafides of Govt., the Indian Refineries Ltd. and, in the main, of myself as Managing Director|Chairman of the Indian Refineries Ltd. from December, 1960 to August, 1964. Following this report, Government appointed a Commission of Enquiry in August, 1970.

2. The terms of reference to the Commission are given in Enclosure I, which is a notice issued by the Commission. Enclosure II is an affidavit I have filed before the Commission. Enclosure III is an allegation that was made against me by the Ministry of Petroleum and Chemicals in connection with the award of contracts to ENI Companies for building the oil pipelines between Gauhati and Siliguri and from Haldia to Barauni to Kanpur. Enclosure IV is the reply I sent to this allegation.

3. You were Secretary to Government, Ministry of Mines and Fuel until April, 1962. The points on which I would seek your evidence are roughly as follows:—

- (i) The background and the intentions underlying the agreement of August, 1961 with the ENI.
- (ii) Whether the conclusion of contracts with ENI Companies for designing and|or building the oil pipelines was in keeping with the spirit and letter of the Agreement and the realities of the Country's position at that time as regards foreign exchange|credit availability for oil projects.

- (iii) Whether you had any grounds for misgivings about my intentions in dealing with these projects with Bechtel and ENI during, 1961 and 62.
- (iv) What your general opinion was about the manner in which I carried on my duties as an Officer in Indian Refineries Ltd. and later, in addition, as a Member etc. of the Oil and Natural Gas Commission.

4. As I have been able to put connected papers together, I am sending them to you before you leave for London.

5. Thank you again for readily accepting my request.

With kind regards and good wishes for a pleasant journey.

Yours sincerely
Sd.

(P. R. NAYAK)..

Shri S. S. Khera.

Annexure III to Appendix IV

S. S. KHERA

2 Ryder Street,
London S.W.1.,
March 10, 1971.

My dear Nayak,

Now that the postal strike in Britain is over and the mails are moving again, I am writing to acknowledge your letter of February 27, which I received just before I left Delhi that evening for London.

As I told you when you contacted me over the telephone, I shall be glad to testify to any facts that may be within my knowledge, that might be of any use in helping the Commission of Inquiry to come to a just and proper conclusion. I would request you to be so good as to convey this to the Commission accordingly.

As you know, I have been out of touch with events in Delhi since my retirement, and since I moved away from there, and have not been aware of the course of events which you have mentioned in your letter. I was indeed Secretary to Government, as you say, in the Ministry of Mines and Fuel until about April, 1962, when I left to take over as Cabinet Secretary. My collection of facts which would by now be nine years ago or more must necessarily be somewhat uncertain. But I could perhaps be able to recall any particular event more specifically, by refreshing my memory from the records of the period. Your letter lists four points upon which you wish to have my evidence. On the first two points, I believe that I might be able to reconstruct the context and the train of events concerning the agreement with E.N.I., by going through the records that must be available in the Ministries concerned. Upon the fourth point, I would have no hesitation in testifying, without any reservations, that in my opinion at the time you carried on your duties as an officer in Indian Refineries Ltd. and later in addition as a Member of the Oil and Natural Gas Commission, as indeed in any assignment within the ambit of my overseeing as Secretary to Government, with efficiency, application, and the quality of uprightness which one would expect of an officer of your service, your experience, and your integrity. I do not recall having had occasion at any time to have any doubts about this. As to the third point,

I certainly do not recall having any grounds for misgivings about your intentions in dealing with the projects mentioned. You will of course recall, as I do, that I did not look with favour upon a tie-up with Bechtel in ~~some field of consultancy or~~ the like; but I cannot remember if the instance I have in mind was related to the specific projects mentioned by you. With the help of the records of the time, I might be able to reconstruct the matter in my mind. As far as I can recollect, and subject to a reference to the records, I think that while I was fairly closely associated with the negotiations for the main agreement with E.N.I., I was not much in the picture, if at all, in the negotiations for the arrangement with Bechtel.

You will no doubt inform the Inquiry Commission suitably of the contents of this letter; and also let me know as to whether I can do ~~anything~~ more to assist in the inquiry.

With kind regards,

Yours sincerely,
Sd/-
(S. S. KHERA).

Shri P. R. Nayak,
5 Race Course Road,
New Delhi-11;
India.

Annexure IV to Appendix IV

S. S. KHERA

3, Eastern Canal Road,
Dehra Dun, U.P.,
July 13, 1973.

The Secretary,
Pipelines Inquiry Commission,
A/2/29, Safdarjang Development Area,
New Delhi-16.

Dear Sir,

I enclose herewith my affidavit, which may kindly be placed before the honourable Commission with the following submission; for kind consideration.

With my letter of July 1, 1972, I had submitted my affidavit in reply to the allegations directed against me in the testimony of one Shri Arun Roy Chaudhury before the honourable Commission.

I have subsequently realised that, in quoting the first paragraph of Shri P. R. Nayak's letter of 27-2-1971 in my affidavit, I had unwittingly been instrumental in the publication of what must be regard as a reflection upon the Parliamentary Committee on Public Undertakings in a manner not befitting its dignity.

I have therefore sworn a fresh affidavit, which is exactly the same as the one previously submitted, except only in omitting any reference to that portion of Shri Nayak's letter containing words which offend against the dignity of the Parliamentary Committee on Public Undertakings. The omission of the words in question makes no difference to the substance of my affidavit.

My respectful request is that the honourable Commission may be pleased to substitute the enclosed affidavit* in place of the one previous submitted with my letter of 1-7-1972; alternatively that the original affidavit may be retained on the record but that the following portion quoted therein from the first paragraph of Shri Nayak's letter, namely, "Certain persons.....this Report" may be expunged from the affidavit and from the record, so that

*See Enclosure.

the portion of that first paragraph as quoted in my affidavit should read: "I am grateful to you for your ready response to my request today..... Government appointed a Commission of Inquiry in August 1970". My respectful request is that the first of these alternatives may be allowed if possible.

Yours faithfully,
Sd/- S. S. KHERA.

Copy to Deputy Secretary, Lok Sabha Secretariat, with a copy of the new affidavit for favour of information with reference to the proceedings of the Committee of Privileges of July 4, 1973.

ENCLOSURE TO ANNEXURE IV

Before the Hon'ble Shri Justice J. N. Takru, Chairman, Pipelines Inquiry Commission.

Affidavit of S. S. Khera, I.C.S. (Retired) of 3 Eastern Canal Road, Dehra Dun, U.P.

Some time in February 1971, Shri P. R. Nayak telephoned to me and asked if I would be able to testify on his behalf in regard to some matters concerning him in an inquiry then pending. I did not know the details of any inquiry, although I had some vague knowledge that there had been some reference in the newspaper to which I subscribed to the setting up of a Commission of Inquiry about a pipeline project, following some adverse remarks against Shri Nayak in the report of a Parliamentary Committee.

I replied to Shri Nayak that I was out of touch with events in Delhi and the Government since I had left Delhi after my retirement from service, and did not know what the matters he was referring to might be but that he might write to me and that in any case I would be glad to testify to any facts within my knowledge that might help the Commission.

Thereafter, I received a letter from Shri Nayak, dated 27-2-71, in which he stated that, following a report by the Parliamentary Committee on Public Undertakings in April 1970 questioning the decisions and bona fides of Government, the Indian Refineries Ltd., and, in the main, of himself as Managing Director|Chairman of the Indian Refineries Ltd., from December 1960 to August 1970, Government had appointed a Commission of Inquiry in August 1970. His letter continued as follows:

2. "The terms of reference to the Commission are given in enclosure I, which is a notice issued by the Commission. Enclosure II is an affidavit I have filed before the Commission. Enclosure III is an allegation that was made against me by the Ministry of Petroleum and Chemicals in connection with the award of contracts to ENI Companies, for building the oil pipelines between Gauhati and Siliguri and from Haldia to Barauni to Kanpur. Enclosure IV is the reply I sent to this allegation.

3. You were Secretary to Government, Ministry of Mines and Fuel until April 1962. The points on which I would seek your evidence are roughly as follows:
- (i) The background and the intentions underlying the Agreement of August 1961 with the E.N.I.
 - (ii) Whether the conclusions of contract with ENI Companies for designing and/or building the oil pipelines was in keeping with the spirit and letter of the Agreement and the realities of the country's position at that time as regards foreign exchange|credit availability for oil projects.
 - (iii) Whether you had any grounds for misgivings about my intentions in dealing with these projects with Bechtel and ENI during 1961-62.
 - (iv) What your general opinion was about the manner in which I carried on my duties as an officer in Indian Refineries Ltd., and later, in addition, as a Member etc. of the Oil and Natural Gas Commission."

I sent Shri Nayak a reply to his letter on 10-3-1971 as follows:

"As I told you when you contacted me over the telephone, I shall be glad to testify to any facts that may be within my knowledge, that might be of any use in helping the Commission of Inquiry to come to a just and proper conclusion. I would request you to be so good as to convey this to the Commission accordingly.

As you know, I have been out of touch with events in Delhi since my retirement, and since I moved away from there, and have not been aware of the course of events which you have mentioned in your letter. I was indeed Secretary to Government, as you say, in the Ministry of Mines and Fuel until about April 1962, when I left to take over as Cabinet Secretary. My recollection of facts which would by now be nine years ago or more must necessarily be somewhat uncertain. But I could perhaps be able to recall any particular event more specially, by refreshing my memory from the records of the period.

Your letter lists four points upon which you wish to have my available in the Ministries concerned. Upon the fourth point, I evidence. On the first two points, I believe that I might be able to reconstruct the context and the train of events concerning the agreement with ENI, by going through the records that must be

would have no hesitation in testifying, without any reservations, that in my opinion at the time you carried on your duties as an officer in Indian Refineries Ltd., and later in addition as a Member of the Oil & Natural Gas Commission, as indeed in any assignment within the ambit of my overseeing as Secretary to Government, with efficiency, application, and the quality of uprightness which one would expect of an officer of your service, your experience and your integrity. I do not recall having had occasion at any time to have any doubts about this. As to the third point, I certainly do not recall having any grounds for misgivings about your intentions in dealing with the projects mentioned. You will of course recall, as I do, that I did not look with favour upon a tie-up with Bechtel in some field of consultancy or the like; but I cannot remember if the instance I have in mind was related to the specific projects mentioned by you. With the help of the records of the time, I might be able to reconstruct the matter in my mind. As far as I can recollect, and subject to a reference to the records, I think that while I was fairly closely associated with the negotiations for the main agreement with E.N.I., I was not much in the picture, if at all, in the negotiations for the arrangement with Bechtel.

You will no doubt inform the Inquiry Commission suitably of the contents of this letter; and also let me know as to whether I can do anything more to assist in the inquiry."

After that I heard no more. Some time later, however, my attention was drawn to the fact that some false and scurrilous allegations had apparently been made against me personally in the same inquiry, in an affidavit or testimony by a person named Shri Arun Roy Choudhury.

Thereupon on 4th February, 1972 I recorded a memorandum setting out all that I have stated above, and added the following text:

"The allegations are completely false in every respect. I thought, however, that it might be interesting to make my own inquiry into one of the allegations, the only one that seemed to be specific, namely, that I own "a palatial building in NDSE Part II, New Delhi." On inquiry I found that there is in fact a prominent entry in the Telephone Directory of Delhi somewhat like a businessman's entry, under the name "S. S. Khera" with an address given as South Extension, Part II, New Delhi. On further inquiry I have found that this gentleman in some businessman

whom to the best of my knowledge I have never seen and who is certainly no relation near or distant, of mine.

The only conclusion I can draw is that the person making the allegations has either deliberately or recklessly perjured himself; and I am advised that this should be a matter for criminal prosecution against the person making such false and scurrilous allegations. I have accordingly thought it right at this stage to place this on record with information to the following:

- (1) The Prime Minister, (2) the Minister, Petroleum & Chemicals, (3) Secretary, Petroleum and Chemicals, and (4) Shri P. R. Nayak, with the request that note and appropriate action may be taken in respect of this matter."

The memorandum was sent to P.M.; Minister of Petroleum; Cabinet Secretary; Secretary, Petroleum Ministry; and Shri Nayak, C/o Petroleum Ministry.

On 1st May, 1972 I received from the Secretary of the Pipelines Inquiry Commission a communication dated 15th April, 1972 as follows:—

"Notice under Section 8B of the Commissions of Inquiry Act, 1952 as amended by Act No. 79 of 1971.

To

Sh. S. S. Khera,
Retired ICS.,
3, Eastern Canal Road,
Dehra Dun.

WHEREAS from a perusal of the materials available to it, the Commission considers it necessary to inquire into your conduct in connection with one or more of its terms of reference (copy annexed) as a result of which your reputation is likely to be prejudicially affected by the inquiry;

NOW THEREFORE in compliance of Section 8B of the Commissions of Inquiry Act 1952 as amended by Act 79 of 1971, you are hereby given an opportunity of being heard in person or and by Counsel in the inquiry and to produce evidence in your defence. In case you propose to avail yourself of this opportunity you are

required to put in your appearance before the Commission by Monday the 15th May, 1972, failing which the inquiry shall proceed *ex-parte* against you.

Sd/- R. T. ISRANI,
Secretary
"Pipelines Inquiry Commission"

On 8th May, 1973 I sent the following letter to the Secretary of the Commission:

"C/o India House,
Aldwych,
London, W.C. 2.,
May 8, 1972.

The Secretary,
"Pipelines Inquiry Commission,
A/2/29, Safdarjung Dev. Area.,
New Delhi 16, India.

Sir,

I beg to acknowledge receipt of the notice dated April 15, 1972 giving me an opportunity of being heard in the inquiry and to produce evidence in my defence, and directing me to put in my appearance before the Commission on Monday, May 15, 1973 if I propose to avail myself of the opportunity offered.

The notice has been received by me after redirection from the address to which it was sent; and it has been received too late for me to be able to enter an appearance on May 15, in Delhi.

I wish to defend my reputation against any accusations or allegations that may be made affecting my reputation adversely. To this end, I beg to request a sufficient opportunity to do so, when I come to India next month, June 1972. I am engaged at present in fulfilling a number of engagements in Britain, including: Meetings and visits to institutions as a Member of the Board of Governors of a Royal Foundation; Council of Management of a British University until the last week of May; preparations by the Institute of India Studies, (of which I am Chairman of the Executive Committee and member of the Board of Trustees) for a forthcoming conference on Asia, in London.

I shall be obliged if, in order to afford me a fair opportunity, you will be so kind as to inform me as early as possible as to the exact nature and substance of the allegations or accusations made against me, the name or names of the persons making them; and the evidence upon which each one, as well as the sum total of them, is based.

I am confident that, under the due authority and protection of the honourable Commission, I shall be able to protect my reputation and to resist and repel any allegations or accusations that might cast a reflection upon my reputation or character.

In case the allegations or accusations are in respect of any alleged acts of commission or omission relating to the period of my service with the Government, I would seek an opportunity of obtaining legal advice and support from the Government. I retired from service more than seven years ago, and do not have the means to engage in expensive legal proceedings, especially at my age. Meanwhile, as I am anxious that my reputation should not be held in jeopardy for a moment longer than can be helped, I am requesting my friend and adviser, Shri N. N. Goel, Senior Advocate of the Supreme Court, whose address is 11, Nemi Road, Dehra Dun, to receive and examine on my behalf the material I have requested above. I beg to request that the material may kindly be sent to me c/o Shri Goel, 11, Nemi Road, Dehra Dun, and that any further communications to me may also be sent to his address. I am endorsing a copy of this letter to him.

I shall be obliged if you will be good enough to send me, c/o Shri Goel at his Dehra Dun address as above, an acknowledgement of this letter.

I shall communicate further to the honourable Commission immediately upon my return to India in June.

Yours faithfully,
Sd/- S. S. KHERA."

Thereafter, the Secretary of the Inquiry Commission's letter dated 16th May, 1972 was addressed to Shri N. N. Goel, at 11, Nemi Road, Dehra Dun:

"Sir,

I am directed to refer to letter of Prof. S. S. Khera dated the 8th May, 1972 from London, a copy of which has been

endorsed to you in connection with issue of notice under Section 8B of the Commissions of Inquiry Act, 1952 to Prof. Khera and to state that as there have been allegations in respect of certain acts of commission and omission relating to the period of service of Prof. Khera while he was Secretary, Ministry of Mines & Fuel, statements filed by Shri Arun Roy Choudhury dated the 7th October, and 25/27th November, 1971 (three volumes) are available for supply to you on behalf of Prof. Khera. As the documents are voluminous, I shall be grateful if you make your own arrangements to collect the same from the undersigned at a very early date.

Yours faithfully,
R. T. ISRANI,
Secretary."

Shri Goel sent the following letter dated 23rd May, 1972 to the Secretary of the Commission:

"Dear Sir,

I received a copy of letter dated 8th May, 1972 from Prof. Khera addressed to you.

Please let me know if it is possible for you to send the papers by post under registered parcel cover. In case it is not possible I will arrange to have the same collected from your office.

According to Prof. Khera's letter, he will return from U.K. by the middle of the next month.

I request you to give us sufficient time to prepare our reply.
Thanking you,

Yours faithfully,
N. N. GOEL."

In response to Shri Goel's letter, the Secretary of the Inquiry Commission kindly sent the following letter dated 26th May, 1972 to Shri Goel, together with the enclosures listed therein:

"Subject: Notice under Section 8B of the Commissions of Inquiry Act 1952 as amended by Act No. 79 of 1971.

Sir,

With reference to your letter dated 23rd May, 1972 on the above subject, I am to state that the Chairman of the Commission has

directed that the following documents be forwarded to you as are meant for Prof. S. S. Khera:

- (1) Statements of Shri Arun Roy Choudhury dated 7th October, and 25|27th November 1971 (three volumes) and
- (2) Commission's orders dated the 8th February, 8th March, 15th March and 7th April, 1972.

Copies of the above documents are enclosed. The Commission has directed that explanation/statement of Professor S. S. Khera be filed before the Commission by Monday the 12th June, 1972.

Yours faithfully,
Sd|- H. M. SRIVASTAVA,
Secretary".

In acknowledging this letter and its voluminous enclosures, Shri Goel in his letter dated 2-6-1972 requested that time to the end of June to file my reply; and the Chairman of the Commission was pleased to grant time up to July 3, 1972.

I arrived in Dehra Dun on Sunday, June 25, and in consultation with Shri Goel, and in order to comply with the time limit set by the Commission, and in order also to do whatever I possibly can to reduce the period during which my character and reputation may remain under attack, I have done my best to scan the papers received from the Commission, in order to ascertain such information as is possible as to what are the allegations made against me, who is responsible for making the allegations, and on what evidence if any the allegations are made.

The best endeavours of Shri Goel and myself to this end have revealed the following allegations.

1. That I was involved in the negotiation with E.N.I. and in the evolution of the Project at the initial stages of the Pipeline Project Report.

2. That I was responsible for pushing out Shri Sahni, Shri Mullick and Shri Venketaraman, and brought in Shri Nayak.

3. That I gave all help to Shri Nayak and Shri Kashyap.

4. That I did not allow matters to go before the Negotiating Committee.

5. That I was friendly with Mr. Michael Condon, Chief representative of B.O.C., who was notorious.

6. That I was friendly towards and favoured the Oil cartel.

7. That I constructed a palacial building in New Delhi South Extension.

In case, within the limits of time and opportunity allowed any other allegations may exist which may have been missed, I beg leave to request that I may be informed of them.

In respect of the seven allegations listed above, I beg to submit as follows:

1. To the best of my recollection, the negotiations with ENI were conducted during the visit of the Minister of Oil, Shri K. D. Malviya to Rome and immediately thereafter, and at every point under the direct initiative, direction, and supervision of the Minister. I do not recall conducting, or being involved in, any negotiations upon my own initiative; nor of being directly involved in, or exercising any initiative; or control, over a pipeline project, except one pipeline, which to the best of my recollection was planned between the Assam oil fields and Barauni. At this lapse in time, I can only speak from memory, and I do not have the benefit of refreshing my memory from the records. These should be referred to.

2. I am unable to recall Shri Mullick or Shri Venketaraman; but I do recall Shri Sahni, as he was a senior officer of the Ministry. As far as I can remember now, Shri Sahni did fairly well in the Ministry while I was Secretary to Government. I believe that after some time the Minister of Oil, Shri K. D. Malviya, who he all significant matters concerning oil within his personal attention, decided to give Shri Sahni executive experience, and gave instructions to appoint Shri Sahni to a important new area of responsibility, as General Manager, Pipelines. Shri Sahni declined the posting, and as far as I remember he also declined to renew his contract of service which had ended or was due to end. The full details of all this must be available in the relevant files in the Ministry concerned. So also the details of any matters concerning the services of other officials, including Shri Mullick and Shri Venketaraman.

It is entirely false to say that I was responsible for pushing out any of these officials. I believe that I always enjoyed the confidence of officials of all kinds and ranks throughout my period of service,

and that this was based upon a sense of fair play and for protection to them to the full extent of my ability.

Any help or support that I may have at any time given to Shri Nayak or to Shri Kashyap was never any more nor any less that I would give to any other official in public service. I certainly would ever give, nor in fact did I give in any instance to Shri Nayak or to Shri Kashyap, any help that might be in any sense improper or irregular, or calculated to go against the public interest or against the interests of the functions and responsibilities committed to their charge. The officials concerned will surely testify this fact.

4. This allegation is false, and so is the insinuation contained in it. As Secretary, Mines and Fuel, it was my policy and practice to obtain the widest and best possible consultation, amongst the various departments, ministries, and project managements concerned; and to ensure a full and proper record to be maintained. Later, when I was Cabinet Secretary, my policy in regard to the Negotiating Committee was to render the initiative to the Ministries concerned; and at the same time to ensure, in cases coming within my notice, that the Ministry of Finance was fully in the picture, as also the Department of Economic Affairs. I did not regard my office of Cabinet Secretary as some kind of "overlord" function; and during 1962 and 1963 most of my time and attention was taken up by matters of which a full account and record must exist in the official records.

5. It is quite false to say that I was friendly with Mr. Condon, beyond the ordinary courtesy that I was happy to extend to all who came to see me on business. I had no private social or other relations with Mr. Condon; and so far as Mr. Condon's business methods were concerned, I had a rather poor opinion of him. As it happens, the reference to him has served to remind me that I had written critically about his firm, B.O.C., in my book on public enterprises, at page 165 of "Government in Business". (Asia Publishing House, 1963).

6. The truth is exactly the contrary. There is a long and consistent record of my attitude towards the cartel of the international oil firms. I have always regarded this cartel, and I continue to regard it, as the most dangerous of all the monopoly systems in the world and as something against which a nation such as India must continue to struggle relentlessly. I have endeavoured to play some small part towards this effort.

7. This allegation is quite false. I have no building in New Delhi, South Extension. Reference may kindly be had to the result of the inquiry I myself made upon seeing the allegation as set out in my memorandum of 4-2-1972 set out above.

In general, the allegations listed above and the affidavit of Shri Chaudhury read as a whole, amount to imputations of dishonest conduct and participation in some sort of conspiracy on my part.

I deny these utterly. If there were any irregularities, or dishonesty, or conspiracy concerning the matters under the purview of the Inquiry Commission, I had no part in it; nor is it possible for me to judge or say whether anyone else is or is not guilty of any of these things.

The allegations made against me are false, frivolous and vexatious, and since they are made on oath, they amount to perjury. I pray that the persons responsible for making them be prosecuted with the full rigour of the law; and that protection be extended to me against such attacks, during the years left to me after a long career untouched by the least iota of anything adverse affecting my reputation; a career during the whole of which I have tried to live and act in my official capacity according to the prescription "without fear or favour" and have tried to instil it in all who have come within my sphere of relationships.

(S. S. KHERA)

13-7-1973

PIPELINES INQUIRY COMMISSION

TERMS OF REFERENCE

- (a) (i) to determine whether any payment to Bechtels (as Design Engineers and overall Supervisors in Gauhati-Siliguri Pipeline and as Design Monitors and Project Managers in Haldia-Barauni-Kanpur Pipeline) was made in excess of the amount sanctioned by Government and if so, was such payment justified?
- (ii) was the induction of Bechtels into the aforesaid projects mala-fide, and were they shown any undue favour by officials of the IRL/Government?
- (b) to determine whether there have been omissions in regard to scrutinising, editing, compiling and maintaining

contractual documents relating to the investigations, designs, construction and supervision of the Haldia-Barauni-Kanpur Pipeline and whether the negotiations leading to the contracts were carried out diligently and whether adequate records of the negotiations were kept.

- (c) whether the then Managing Director, IRL, acted on his own by-passing the Board of Directors in his dealings with Snam and Bechtels in vital matters concerning the capacity of the Haldia-Barauni-Kanpur Pipeline, and whether the amendment of the contract adversely affected the capacity of the pipeline, and whether negligence or improper motive is substantiated against the MD, IRL, for not bringing these to the notice of the Board|Government and, in particular, whether the General Manager and MD were perfunctory and casual in dealing with an important communication of the 26th September, 1963, from Bechtels to IRL mentioning the design capacity of Haldia-Barauni Pipeline as 1.9 million tonnes per year;
- (d) to investigate the circumstances in which the sanction for the total project cost of HBK pipeline was not issued by Government and whether there was any loss to the public interest as a result;
- (e) in view of the objections raised by West Bengal Government and Indian Mining experts over the laying of the pipeline over coal bearing area, to advise whether there was any carelessness and negligence in discharge of responsibilities by Government|IRL|IOC officials;
- (f) to determine the circumstances in which the IRL/IOC spent money in excess of the sanctioned estimates in the case of the GSPL Project;
- (g) to investigate the circumstances under which IRL/Government awarded the construction contracts for Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipelines to Snam-Saipem on negotiated basis without calling for global tenders;
- (h) whether the Snam-Saipem was shown any undue favour by officials of Indian Refineries Limited or Indian Oil Corporation or the Government, in connection with the award of the aforesaid contracts and in connection with the execution of the Gauhati-Siliguri and Haldia-Barauni-Kanpur Pipeline projects under the aforesaid contracts.

- (i) to investigate the circumstances that caused considerable delay in the completion of Haldia-Barauni-Kanpur Pipeline project;
 - (j) to investigate the circumstances which led to the continuance of Sri Nittoor Sreenivasa Rao after his retirement as Central Vigilance Commissioner to enquire into the laying of a section of the Haldia-Barauni Pipeline over the coal-bearing areas.
 - (k) to advise on whether there has been any negligence or carelessness or mala-fide motive on the part of any of the officers of Government, IRL, IOC and their staff in the discharge of their duties on any of the foregoing or other related issues, which, in the opinion of the Commission, are are relevant;
 - (l) arising out of (k); to recommend further action, if any, that must be taken against particular officials whose conduct is assessed as meriting this; and
 - (m) generally, to report on any other matter that is relevant, in the opinion of the Commission.
-

APPENDIX V

(See para 8 of Minutes dated 18-6-1973)

INDRAJIT GUPTA
MEMBER OF PARLIAMENT
(LOK SABHA)

48, Western Court,
New Delhi.
May 17, 1973.

URGENT

The Chairman,
Committee of Privileges,
Lok Sabha,
New Delhi.

Sir,

I refer to para 1 of the 4th Report of your Committee presented on 11-5-1973 in which a brief reference has been made to the privilege motion raised by me on 13-12-1972 relating to the affidavit filed by Shri S. S. Khera, I.C.S., (Retd.) before the Takru Commission on 1-7-1972 containing extracts from a letter from Shri P. R. Nayak, I.C.S., insinuating, *inter-alia*, that the PUC's 66th Report on IOC Pipelines was "induced". I have noted that your Committee proposes to present a separate Report to the House on this matter. I would also draw your attention to pages 68-69 of the C.P.U.'s Report (5th Lok Sabha) presented on 13-4-1973.

2. I presume Shri Khera has been examined by the Committee. If, in case he is yet to be examined, I would request your Committee, through you, that it is *essential* to examine Shri Khera on the following points relevant to the matter under examination:

- (i) Was it necessary or relevant for Shri Khera to circulate, before a public inquiry, the extracts from Shri Nayak's letter containing, *ex-facie*, contemptuous references to the Committee on Public Undertakings?
- (ii) That this matter was raised in Lok Sabha on 13-12-1972 and its reference to the Privilege Committee was widely reported in all important newspapers. Has Shri Khera withdrawn the offensive reference in his affidavit after 13-12-1972? If not, why not?

3. I understand, after perusing the relevant documents, that Shri Khera, whose own conduct in pipeline matters is under inquiry, was directed by the Takru Commission to defend his conduct on the basis of material adduced before the Commission. There was no reference whatsoever in these matters linking Shri Khera with the PUC Report. What was then the object, in the circumstances, to circulate Shri Nayak's letter?

4. The Takru Commission, having initially accepted Shri Khera's affidavit of 1-7-1972 containing the objectionable reference to the Public Undertakings Committee and circulating the same to various parties within India and abroad, including foreign contractors, did not order Shri Khera to expunge the objectionable reference *which is completely irrelevant to matters under inquiry*. The Commission, as a responsible entity should have, I submit, been careful about the matter, particularly after 13-12-1972 when the matter was taken up by the House. The *least* that can be done now by your Committee, I further submit, is to direct the Commission to immediately expunge the objectionable reference in Shri Khera's affidavit from the records of the Commission.

5. I shall be obliged if your Committee would, very kindly consider the above in the light of the observations made by the Hon'ble Speaker on 7-4-1972 and again, briefly, on 13-12-1972. Some of the pipeline rackets involving top civilians and foreign contractors are proved facts as will be revealed by the following:

- (i) PUC 66th Report of April, 1970;
- (ii) Preverification Report dated 13-1-1971 by Shri J. N. Takru, in the context of departmental proceedings against Shri P. R. Nayak, I.C.S., leading to the latter's suspension in March 1971;
- (iii) Report dated 30-11-1971 by Shri B. R. Tandon, I.C.S. (Retd.), Special Commissioner of Departmental Inquiries under the Central Vigilance Commission in which Shri Tandon found 11 out of the 13 serious charges framed against Shri Nayak by the Petroleum Ministry established.

6. I find it very painful, indeed, that Shri Takru who had himself recommended, in January 1971 further and detailed departmental action against Shri Nayak *after* giving the latter due opportunities to defend himself, should have allowed Shri Khera to file an affidavit in July, 1972 to insinuate and discredit a Committee of Parliament before a public inquiry.

7. Should your Committee so desire, I am willing to appear before the Committee once again. As our parliamentary system of Government is evolving and is currently passing through a phase of attacks, misgivings and doubts, I would strongly urge your Committee to examine the matter on hand in depth so that your rational conclusions strengthen the evolving system and, concurrently, uphold the authority, dignity and sovereignty of the House. A copy of this letter is being endorsed to our Hon'ble Speaker, for information.

Yours faithfully,

Sd|-

(INDRAJIT GUPTA).