

# COMMITTEE OF PRIVILEGES

[ FIFTH LOK SABHA ]

FOURTH REPORT



LOK SABHA SECRETARIAT  
NEW DELHI

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PERSONNEL OF THE COMMITTEE OF PRIVILEGES  
(1972-73)

- \*1. Dr. Henry Austin—*Chairman*
2. Shri H. K. L. Bhagat
3. Shri Somnath Chatterjee
4. Shri Darbara Singh
5. Shri H. R. Gokhale
6. Shri Dinesh Chandra Goswami
7. Shri Jagannathrao Joshi
8. Shri Nihar Laskar
- \*\*9. Shri B. P. Maurya
10. Shri H. N. Mukerjee
- †11. Shri K. Raghuramaiah
12. Shri Vasant Sathe
13. Dr. Shankar Dayal Sharma
14. Shri Satyendra Narayan Sinha
15. Shri R. P. Ulaganambi

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*

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

Shri J. R. Kapur—*Under Secretary.*

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\*Appointed Chairman with effect from 27-2-1973, vice Shri R. D. Bhandare ceased to be a member of Lok Sabha.

\*\*Appointed with effect from 16-3-1973, vice Shri R. D. Bhandare ceased to be a member of Lok Sabha.

†Appointed with effect from 22-3-1973, vice Shri Raj Babadur resigned from the Committee of Privileges.

# FOURTH 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 Fourth Report to the House on the question of privilege raised<sup>1</sup> by Shri Indrajit Gupta, M.P., on the 7th April, 1972, and referred<sup>2</sup> to the Committee by the House on the 18th April, 1972, 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 propose to present a separate Report to the House on the question of privilege raised<sup>3</sup> by Shri Indrajit Gupta, M.P., and referred<sup>4</sup> to the Committee by the House on the 13th December, 1972, regarding an affidavit filed by Shri S. S. Khera, ICS (Retired), before the Takru Commission, containing an allegedly objectionable extract from a letter received by Shri Khera from Shri P. R. Nayak, ICS, in respect of the 66th Report of the Committee on Public Undertakings.

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

3. At the first sitting held on the 21st April, 1972, the Committee decided to obtain the opinion of the Ministry of Law and Justice on the question of the professional privileges enjoyed by a counsel before a Commission of Inquiry and by the Press Correspondents in reporting the proceedings of a Commission of Inquiry *vis-a-vis* the powers, privileges and immunities of Parliament and its Members.

4. At the second sitting held on the 9th May, 1972, the Committee perused the opinion<sup>5</sup> furnished by the Ministry of Law and Justice and also decided to hear Shri Indrajit Gupta, M.P., who had raised this question of privilege in the House.

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<sup>1</sup>L.S. Deb., dt. 7-4-1972, cc. 168—82.

<sup>2</sup>*Ibid*, dt. 18-4-72, cc. 147-48.

<sup>3</sup>*Ibid*, dt. 13-12-72, cc. 210—12.

<sup>4</sup>*Ibid*, c. 212.

<sup>5</sup>See Appendix—I.

5. At the third sitting held on the 25th May, 1972, the Committee heard the views of Shri Indrajit Gupta, M.P., on the matter.

6. At the fourth, fifth and sixth sittings held on the 21st July, 22nd August and 5th October, 1972, respectively, the Committee deliberated on the matter.

7. At the seventh sitting held on the 6th October, 1972, the Committee decided to meet the Speaker and seek his guidance regarding the scope and extent of their enquiry in this matter.

Accordingly, the Committee met the Speaker on the 1st December, 1972 and discussed the matter with him.

8. At the eighth sitting held on the 13th December, 1972, the Committee decided to await 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.

9. At the ninth sitting held on the 24th January, 1973, the Committee deliberated on the matter.

10. At the tenth and eleventh sittings held on the 15th February and 13th March, 1973, respectively, the Committee heard Shri Dev Kanta Borooah, the Minister of Petroleum and Chemicals.

The Committee then deliberated on the matter and came to their conclusions.

11. At the twelfth sitting held on the 5th April, 1973, the Committee considered their draft Report and authorised the Chairman to finalise it and to present it to the House.

## II. Facts of the case

12. On the 7th April, 1972, Shri Indrajit Gupta, M.P., raised<sup>6</sup> a matter under rule 377 regarding the following remarks about the 66th Report of the Committee on Public Undertakings (Fourth Lok Sabha), reported to have been made by the counsel of the Ministry of Petroleum and Chemicals before the Pipelines Inquiry Commission (Takru Commission) on the 1st April, 1972, as appearing in

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<sup>6</sup>L.S. Deb., dt. 7-4-1972; cc. 168—82.

a news report circulated by the U.N.I. and published in the *Patriot* and the *Hindustan Standard*, Calcutta, dated the 2nd April, 1972:—

“They (counsel) argued that the commission should pay no heed to the ‘feelings and comments’ expressed in the report. For instance, the Committee on Public Undertakings’ charge that instead of holding the officials responsible for lapses, the Government had made ‘persistent effort to slur over their dereliction of duty’ and that a departmental inquiry should be held against them, was ‘merely a finale on an emotional note’ and no action had been recommended.”

While raising the matter, Shri Indrajit Gupta, stated *inter alia* as follows:—

“This report in the press appeared . . . as I said, on the 2nd April. On the 3rd April, the commission was sitting as usual. . . both these lawyers of the Petroleum Ministry were present on the 3rd, none of them protested against this newspaper report; nobody mentioned it and nobody protested against it and nobody contradicted it.

I would just quote the relevant paragraphs from the recommendation of the Committee on Public Undertakings which are being referred to as being something based on emotion and, therefore, not worthy of being taken into consideration. . . .

“The Committee also feel compelled to record their feeling that, instead of holding the officers responsible for their lapses, there appears to have been a persistent effort to slur over their dereliction of duty and to fix the responsibility, though copious facts to substantiate such lapses have come on record. The Committee would, therefore, like the Government to take immediate steps to bring to book the guilty officers on the basis of the evidence that is already available. The least that could be done is to proceed departmentally without delay against the officers concerned under the relevant Government servants Conduct Rules. The Committee feel that Government, in the larger interests of the public sector, should not allow a feeling to go around that officers can commit such grave lapses and indulge in dereliction of duty with impunity and go unpunished.”

They (counsel) have exceeded their prerogatives and their rights, and this amounts to a definite breach of privilege of the Committee and, therefore, breach of privilege of Parliament. And I would request you to take this into consideration and forward it to the Committee of Privileges so that they may go further into the details of the matter.

In the reply of the Ministry of Petroleum and Chemicals, Government of India, to the application dated 21st March, 1972 of the National Committee and Shri Arun Roy Chowdhury, for reconsideration of the terms of reference and their scope, which is a published document, it is stated at page 7, para 18:

‘The Committee on Public Undertakings’ Report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved in the two contracts. The word ‘feeling’ is significant. The Committee on Public Undertakings has not formed an opinion. The P.U.C. Report has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government/IRL/IOC’.”

13. Thereafter, the Minister of Law and Petroleum and Chemicals (Shri H. R. Gokhale) stated<sup>7</sup> *inter alia* as follows:—

“Much that the hon. Member said would have some substance if the newspaper report to which reference was made was correct. It is true that two counsel are appearing for the Ministry before the Takru Commission, and the two counsel are Mr. K. V. Dadachanji and Mr. Ram Panjwani. . . . I have asked both the counsel as to the facts in the matter. Both have stated that the newspaper report in question is wrong and distorted and that they never uttered the expressions imputed to them in the newspaper report or any

expressions derogatory to the Committee on Public Undertakings.

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I would submit that the counsel certainly had the right to interpret what was the recommendation contained in the 66th Report. The paragraph to which reference was made by the hon. member is certainly the relevant paragraph. There the word used is that they have a 'feeling' etc. The argument before the Commission was that this was only a record of an impression which the Committee had formed, but this was not a positive finding or a recommendation, because it was argued, wherever the Committee wanted to make a recommendation or a positive finding, they have specifically said so. But in this paragraph, they have only recorded a feeling, which means it was not a recommendation or a finding but an impression which the Committee had formed on the basis of the evidence placed before them. This was the only thing said before the Commission according to the two counsels.

...At no time had the Government taken up the position that the 66th Report was irrelevant and should not be looked into and so on. Even in the written reply filed in answer to an application of Mr. Arun Roy Chowdhury and the National Committee by one of the counsels appearing for the Government, the position taken was the same, viz., the basis of the whole enquiry is the 66th report of the Public Undertakings Committee. The difference was only this: which part of it is the recommendation or finding and which part is merely recording an impression. Surely, the counsel had the right to argue this before the Commission.

...My enquiry about what they told the court shows that they (counsel) did not tell the Court what is reported in the newspapers. They categorically denied it. . . It could never have been the attitude of the Government to say that the Committee on Public Undertakings Report should be brushed aside or should not be looked at or it is only an emotional finale of what they have said earlier. . .The



only thing they have said was the interpretation of that particular paragraph, saying it is not a recommendation. It is for the Court to decide whether it was a recommendation or not. That is all I have to submit. So, I would say that there is no basis for the complaint which the hon. Member has made."

14. After some discussion in the House, the Speaker observed<sup>8</sup> *inter alia* as follows:—

"... We have a convention... that whenever a newspaper report is contradicted and there is a dispute about the veracity or the truth about the newspaper report, we refer that to the paper concerned and invite their comments.

... I fail to understand how all the three newspapers could be wrong and only the counsel could be correct. That is the reason. We have to listen to them....

I have not relished what was said by them (Counsel). They are taking shelter under certain words that it was the feeling. The report, as it appears, is that all of them who were members of the Committee made these observations under emotional stresses. I happened to be the Chairman of the Committee on Public Undertakings before. I took over as Speaker, and this matter was taken over by them.

... after a lot of discussion and consideration, we came to certain conclusions and those conclusions were cast in a very polite language. But that does not mean that, if we expressed in a fine language, in a very cultural language, you could relegate it to the position of 'feelings'. This is an august Committee of the House. All these Committees represent the whole House and they have the same privileges, the same protection, as the House itself.

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... if the observations of the Committee were to be treated so lightly and if the sovereignty of the House were to be

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<sup>8</sup>L.S. Deb., dt. 7-4-1972; cc. 179-80.

subjected to the whims of the bureaucrats, God help us. So, what I am proposing to do is that I will have the version from those papers."

15. The General Manager of the United News of India, who was asked to state what he had to say in the matter, in his reply,<sup>9</sup> dated the 12th April, 1972, stated *inter alia* as follows:—

"The Reporter concerned has been closely questioned. He denies emphatically that he had misreported the proceedings of the Pipelines Enquiry Commission on April 1, 1972 as complained of.

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The U.N.I. Reporter has customarily been taking down detailed notes which form the basis of his news story from day to day. On April 1, he took detailed notes. His report was published in *Patriot* of New Delhi and *Hindustan Standard* of Calcutta, and more briefly, in other newspapers. He is in a position to produce the notes taken down by him.

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Elaborating his written submission on the same day (1-4-72), Mr. Dadachanji said that the Commission should pay no heed to the 'feelings' and 'comments' made by the Committee on Public Undertakings on this issue. They felt very strongly about the irregularities and had tended to be 'emotional'. This issue, for instance, appearing at the end of the Committee on Public Undertakings, report was 'merely a finale on an emotional note'."

16. The Ministry of Petroleum and Chemicals, who were requested to furnish a copy of the verbatim record of relevant proceedings of the Pipelines Inquiry Commission on the 1st April, 1972, have, in their reply, dated the 11th April, 1972, stated *inter alia* as follows:—

"The Secretary of the Pipelines Inquiry Commission was requested to send a copy of the relevant verbatim proceed-

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<sup>9</sup>See Appendix II.

ings before the Commission or any other official record maintained by the Commission when the impugned statement is stated to have been made by the counsel of this Ministry. A reply has been received from the Secretary, Pipelines Inquiry Commission that no record of verbatim proceedings of and arguments before the commission is maintained."

17. On the 18th April, 1972, when Shri Indrajit Gupta, raised the matter again in the House, the Speaker, while referring the matter to the Committee of Privileges, observed<sup>10</sup> *inter alia* as follows:—

"I have received the information from the news agency correspondent concerned, in which he says that the information published was correct; he had just reproduced the proceedings in the Commission. I asked the Minister concerned. Of course, besides the information he gave to us, he said that the advocates deny it. So, I expressly told him to get this information from the Chairman of the Commission. The Commission has informed us that they do not keep detailed regular records or reports of the proceedings.

I have been very seriously considering the matter. This is a unique case in which three important parts of society were concerned....ourselves that is, this House....we claim certain freedoms and also privileges.... the press....they too claim certain freedoms and privileges.... and the legal profession.

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The Minister said that the advocates did not say what they are alleged to have said. Even if he had just said, he did say it, we were bound to review the matter in its proper perspective. The field of advocacy is very wide with a lot of latitude and freedom. Even when we go in appeal from a lower Court to a High Court or from a High Court to the Supreme Court, we say, the judgement is erroneous, fallacious, and very often, we say the judgement is perverse. In respect of these law courts against whom

<sup>10</sup>L.S. Deb., dt. 18-4-1972; cc. 146—48.

an appeal goes to higher Courts, they have their own privileges and protections also. The field of advocacy is so wide that they too have full protection.

So, I think, considering all these various aspects of the question, the best thing is that the Privileges Committee should examine all these issues, not with a set view that we have to disturb the freedoms and privileges claimed by all these three parts but with a view to finding out facts. It is not essential that they must give their findings.

They can consult the Speaker also, if they think that I can be helpful to them--of course, I do not bind them by saying this--and they can examine various aspects of the matter as they think proper.

The Minister said that the advocates had not said it. Even if they had said it, they were advocates--it is the profession of advocates to interpret, before a Court or a Commission. Of course, they act with freedom in the field of their own profession.

I think, the Committee will keep this in view and not encroach upon the liberties which their profession claims. So, I entrust it to the Privileges Committee for examination."

### III. Findings of the Committee

18. The Committee decided, in the first instance, to call for the opinion of the Ministry of Law and Justice on the question of the professional privileges enjoyed by the counsel before a Commission of Inquiry and by the Press Correspondents in reporting the proceedings of a Commission of Inquiry *vis a vis* the powers, privileges and immunities of Parliament and its members, particularly in the context of the present case. The opinion furnished by the Ministry of Law and Justice on this question is at Appendix—I.

19. The Committee, thereafter, examined in person Shri Indrajit Gupta, M.P.

Shri Indrajit Gupta, M.P., in his evidence<sup>11</sup> before the Committee stated that the impugned remarks made by the counsel, appearing on behalf of the Ministry of Petroleum and Chemicals, before the Takru Commission, amounted to a breach of privilege as they tended to denigrate and ridicule the recommendations contained in the 66th Report of the Committee on Public Undertakings. The counsel was speaking before the Takru Commission according to the brief supplied by the Ministry and he was elaborating the arguments contained in the written statement filed by the Ministry before the Takru Commission. His complaint was, therefore, not against the counsel who had the liberty to elaborate the arguments in his own language, but against the Ministry of Petroleum and Chemicals who had supplied to the counsel the brief or statement which contained the following objectionable paragraph which the counsel was elaborating:

“The PUC Report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved in the two contracts. The word ‘feeling’ is significant. PUC has not formed an opinion. The PUC report has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government|IRL|IOC.”

[Paragraph 18 in the Statement of the Ministry of Petroleum and Chemicals, dated the 30th March, 1972, filed before the Takru Commission.]

In fact, Shri Indrajit Gupta stated before the Committee *inter alia* as follows:—

“My quarrel is not with the counsel, because, I believe that counsel was speaking to a particular brief and in doing so, he is entitled, as an Advocate to use certain language and all that. But the basic brief is also available. It is a public document; it is a written statement filed before the Takru Commission as the reply of the Ministry of Petroleum and Chemicals....

I am not concerned with what Mr. Dadachanji said. He can say that as a counsel. He has got that much liberty to elaborate the arguments and use such expression. But what was the argument which he was elaborating? The argument was contained in the brief given to him by the

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<sup>11</sup>See Minutes of Evidence, pp; 27—37.

**Ministry...My quarrel is not with his argument but with the attitude of the Ministry towards the Committee on Public Undertakings."**

20. After discussing the matter with Speaker, the Committee requested the Minister of Petroleum and Chemicals to appear before the Committee and to apprise the Committee of his views in the matter. Shri Dev Kanta Borooah, the Minister of Petroleum and Chemicals, accordingly appeared before the Committee on the 13th March, 1973 and made the following statement:—

"I have gone through the papers of this case. I have no hesitation in saying that the following paragraph contained in the statement of the Ministry of Petroleum and Chemicals dated the 30th March, 1972, filed before the Pipelines Inquiry Commission (Takru Commission) was not properly worded:—

"The PUC Report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved into the two contracts. The word 'feeling' is significant. PUC has not formed an opinion. the PUC Report has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government|IRL|IOC'.

I offer my sincere apology to the Committee of Privileges and the House for the inadvertent use of the words in the above paragraph based on incorrect appreciation of the findings of the Committee, which are not in consonance with the dignity of a Parliamentary Committee. There was no intention either to belittle the Committee on Public Undertakings or its recommendations contained in the 66th Report (Fourth Lok Sabha) of that Committee or to cast any aspersions on the Committee.

I hope the Committee will accept my apology on behalf of my Ministry and agree to close the matter."

21. The Committee appreciate the readiness with which Shri Dev Kanta Borooah, the Minister of Petroleum and Chemicals, conceded that the impugned paragraph in the Statement filed before the Takru Commission by the Ministry of Petroleum and Chemicals was based on incorrect appreciation of the findings of the Committee on Public Undertakings.

22. [In view of the explanation and the sincere apology tendered by the Minister of Petroleum and Chemicals on behalf of his Ministry, the Committee are of the opinion that the matter does not require any further action by the House and may be dropped.]

#### **IV. Recommendation of the Committee**

23. 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 5th April, 1973.*

# MINUTES

## I

### First Sitting

*New Delhi, Friday, the 21st April, 1972.*

The Committee sat from 15.00 to 15.45 hours.

### PRESENT

Shri R. D. Bhandare—*Chairman*

### MEMBERS

2. Dr. Henry Austin
3. Shri Somnath Chatterjee
4. Shri H. N. Mukerjee
5. Shri Raj Bahadur
6. Dr. Shankar Dayal Sharma.

~~Shri Era Sezhiyan was also present.~~

### SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

\* \* \* \* \*

4. The Committee then took up 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.

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\*Paras 2 and 3 relate to another case and have accordingly been omitted.



The Committee decided that the opinion of the Ministry of Law might be obtained on the question of the professional privileges enjoyed by the counsel before a Commission of Inquiry and by the Press Correspondents in reporting the proceedings of a Commission of Inquiry *vis-a-vis* the powers, privileges and immunities of Parliament and its members, particularly in the context of the present case.

5. The Committee then adjourned to meet again on Tuesday, the 9th May, 1972, at 15.00 hours.

## II

### Second Sitting

*New Delhi, Tuesday, the 9th May, 1972.*

The Committee sat from 15.00 to 15.50 hours.

#### PRESENT

Shri R. D. Bhandare—*Chairman*

#### MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri H. R. Gokhale
5. Shri Jagannathrao Joshi
6. Shri Raj Bahadur
7. Shri Satyendra N. Sinha.

#### SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

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4. The Committee considered 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

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\*Paras 2 and 3 relate to other cases and have accordingly been omitted.

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 perused the opinion of the Ministry of Law and Justice received in pursuance of the decision of the Committee *vide* para 4 of the Minutes of the sitting of the Committee dated the 21st April, 1972.

The Committee decided to hear Shri Indrajit Gupta, M.P., who had raised this question of privilege in the House, before proceeding further in the matter.

5. The Committee then adjourned to meet again on Friday, the 19th\* May, 1972, at 15.00 hours.

### III

#### Third Sitting

*New Delhi, Thursday, the 25th May, 1972*

The Committee sat from 15.00 to 16.10 hours.

#### PRESENT

Shri R. D. Bhandare—*Chairman*

#### MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri H. R. Gokhale
5. Shri H. N. Mukerjee
6. Shri Chintamani Panigrahi
7. Shri Raj Bahadur
8. Shri Satyendra Narayan Sinha.

Shri Indrajit Gupta M.P. *was also present.*

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#### SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

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\*The date of the next sitting was subsequently changed to the 25th May, 1972.

2. The Committee heard the views of Shri Indrajit Gupta, M.P., on the question of privilege raised by him 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.

*Shri Indrajit Gupta then withdrew.*

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*The Committee then adjourned.*

#### IV

#### Fourth Sitting

*New Delhi, Friday, the 21st July, 1972.*

The Committee sat from 13.00 to 13.45 hours.

#### PRESENT

Shri R. D. Bhandare—*Chairman*

#### MEMBERS

2. Dr. Henry Austin
3. Shri H. K. L. Bhagat
4. Shri Somnath Chatterjee
5. Shri Darbara Singh
6. Shri Dinesh Chandra Goswami
7. Shri Jagannathrao Joshi
8. Shri Raj Bahadur
9. Shri Vasant Sathe
10. Dr. Shankar Dayal Sharma
11. Shri Satyendra Narayan Sinha.

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\*Paras 3 to 5 relate to another case and have accordingly been omitted.

## SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

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4. The Committee then 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 to continue further consideration of the matter at their next sitting.

*The Committee then adjourned.*

## V

## Fifth Sitting

*New Delhi, Tuesday, the 22nd August, 1972.*

The Committee sat from 15.00 to 15.50 hours.

## PRESENT

Shri R. D. Bhandare—*Chairman*

## MEMBERS

2. Shri H. K. L. Bhagat
3. Shri Darbara Singh
4. Shri Dinesh Chandra Goswami
5. Shri Jagannathrao Joshi
6. Shri H. N. Mukerjee
7. Shri Raj Bahadur ..
8. Shri Vasant Sathe
9. Shri Satyendra Narayan Sinha.

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\*Paras 2 and 3 relate to another case and have accordingly been omitted.

## SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

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5. The Committee decided to meet again on the 5th October, 1972, to consider further 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 then adjourned.*

## VI

## Sixth Sitting

*New Delhi, Thursday, the 5th October, 1972.*

The Committee sat from 15.00 to 16.35 hours.

## PRESENT

Shri R. D. Bhandare—*Chairman.*

**MEMBERS**

2. Dr. Henry Austin
3. Shri H. K. L. Bhagat
4. Shri Darbara Singh
5. Shri Dinesh Chandra Goswami
6. Shri Jagannathrao Joshi
7. Shri H. N. Mukerjee
8. Shri Raj Bahadur
9. Shri Vasant Sathe
10. Dr. Shankar Dayal Sharma
11. Shri R. P. Ulaganambi.

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\*Paras 2 to 4 relate to another case and have accordingly been omitted.

## SECRETARIAT

Shri J. R. Kapur—*Under Secretary.*

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3. 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 deliberations of the Committee were not concluded.

4. The Committee then adjourned to meet again on Friday, the 6th October, 1972, at 10.00 hours.

## VII

## Seventh Sitting

*New Delhi, Friday, the 6th October, 1972.*

The Committee sat from 10.00 to 11.30 hours.

## PRESENT

Shri R. D. Bhandare—*Chairman*

## MEMBERS

2. Dr. Henry Austin
3. Shri Darbara Singh
4. Shri Dinesh Chandra Goswami
5. Shri Jagannathrao Joshi
6. Shri H. N. Mukerjee
7. Shri Raj Bahadur
8. Shri Vasant Sathe
9. Shri R. P. Ulaganambi.

## SECRETARIAT

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

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\*Para 2 relates to another case and has accordingly been omitted.

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 deliberated *inter alia* on the scope and extent of their enquiry in the matter. In view of the observations made by the Speaker in the House on the 18th April, 1972 while referring this matter to the Committee, the Committee decided to meet and consult the Speaker and seek his guidance in this respect.

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4. The Committee authorised the Chairman to fix the date for their next sitting.

*The Committee then adjourned.*

### VIII

#### Eighth 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. 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 certain reported statements relating to the 66th Report of the Committee

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\*Para 3 relates to another case and has accordingly been omitted.

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.

\* \* \* \* \*

*The Committee then adjourned.*

## IX

### Ninth 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.*

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\*Paras 3 to 6 relate to other cases and have accordingly been omitted.



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.

At the outset, the Chairman read out to the Committee a letter dated the 23rd January, 1973, received by him from Shri H. R. Gokhale, Minister of Petroleum and Chemicals and a member of the Committee, in which Shri Gokhale had intimated that he was unable to attend the sitting of the Committee due to indisposition and had, therefore, requested postponement of consideration of the matter to the next sitting of the Committee. In view of the circumstances explained by Shri Gokhale in his letter, the Committee decided to postpone the consideration of the matter to their next sittings.

\* \* \* \* \*

*The Committee then adjourned.*

## X

### Tenth 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 Borooah, Minister of Petroleum and Chemicals, *was also present*

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\*Paras 3 and 4 relate to other cases and have accordingly been omitted.

## 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 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.

Shri Dev Kanta Borooh, Minister of Petroleum & Chemicals stated that he felt that certain words contained in the statement filed before the Takru Commission on behalf of the Ministry of Petroleum and Chemicals were not in consonance with the dignity of a Parliamentary Committee and he, therefore, proposed to make a statement to that effect before the Committee when they considered this matter next.

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

*The Committee then adjourned.*

## XI

## Eleventh 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 Borooh, Minister of Petroleum and Chemicals, *was also present.*

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\*Para 4 relates to another case and has accordingly been omitted.

## 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 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.

Shri Dev Kanta Borooah, Minister of Petroleum and Chemicals, made a statement before the Committee in which he stated *inter alia* as follows:—

“I offer my sincere apology to the Committee of Privileges and the House for the inadvertent use of the words... based on incorrect appreciation of the findings of the Committee, which are not in consonance with the dignity of a Parliamentary Committee. There was no intention either to belittle the Committee on Public Undertakings or its recommendations contained in the 66th Report (Fourth Lok Sabha) of that Committee or to cast any aspersions on the Committee.

I hope the Committee will accept my apology on behalf of my Ministry and agree to close the matter.”

In view of the unconditional apology tendered by the Minister of Petroleum and Chemicals before the Committee, the Committee decided to recommend to the House that the matter might be dropped.

\* \* \* \* \*

*The Committee then adjourned.*

## XII

## Twelfth Sitting

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

The Committee sat from 14.30 to 15.45 hours.

## PRESENT

Dr. Henry Austin—*Chairman*

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\*Paras 3 to 6 relate to other cases and have accordingly been omitted.

## 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

## SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

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

(1) 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.

(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 the 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.

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*The Committee then adjourned.*

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\*Paras 3 to 5 relate to other cases and have accordingly been omitted.

MINUTES OF THE MEETING OF THE COMMITTEE OF PRIVILEGES WITH THE SPEAKER HELD ON FRIDAY, THE 1ST DECEMBER, 1972.

The meeting was held in the Speaker's Committee Room from 16.00 to 16.45 hours.

PRESENT

Dr. G. S. Dhillon—*Speaker (in the Chair).*

Shri R. D. Bhandare—*Chairman, Committee of Privileges.*

MEMBERS

3. Dr. Henry Austin
4. Shri H. K. L. Bhagat
5. Shri Jagannathrao Joshi
6. Shri H. N. Mukerjee
7. Shri Raj Bahadur
8. Shri Vasant Sathe
9. Shri Satyendra Narayan Sinha
10. Shri R. P. Ulaganambi.

SECRETARIAT

Shri S. L. Shakdher—*Secretary.*

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

Shri J. R. Kapur—*Under Secretary.*

2. The Committee of Privileges discussed with the Speaker the scope and extent of their enquiry in the matter relating to 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 Enquiry Commission (Takru Commission) by the Counsel appearing for the Government and matters incidental thereto.

*The meeting then adjourned.*

MINUTES OF EVIDENCE TAKEN BEFORE THE COMMITTEE  
OF PRIVILEGES

*Thursday, the 25th May, 1972.*

PRESENT

Shri R. D. Bhandare—*Chairman.*

MEMBERS

2. Shri Somnath Chatterjee
3. Shri Darbara Singh
4. Shri H. R. Gokhale
5. Shri H. N. Mukerjee
6. Shri Chintamani Panigrahi
7. Shri Raj Bahadur
8. Shri Satyendra Narayan Sinha

SECRETARIAT

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

Shri J. R. Kapur—*Under Secretary.*

WITNESSES

Shri Indrajit Gupta, M.P.

(The Committee met at 15.00 hours.)

**Evidence of Shri Indrajit Gupta, M.P.**

MR. CHAIRMAN: We have the quorum now. Let us start our work.

SHRI INDRAJIT GUPTA: With no offence meant to anybody, I feel that in this particular matter when the Privileges Committee goes into it, Mr. Gokhale should not be present.

SHRI H. R. GOKHALE: I mentioned this thing to my colleague (Shri Satyendra N. Sinha) in the lift that I am not going to participate in it. I mentioned this on my own.

SHRI INDRAJIT GUPTA: I am glad that you had this thing in view. I said this because his Ministry is involved in it.

SHRI H. R. GOKHALE: I myself thought why should I be present when my Ministry is involved? I should better leave it to the fair judgment of the Committee. I am sure you are going to hear the advocate.

SHRI INDRAJIT GUPTA: Hear you also. You made a statement on the floor of the House.

SHRI H. R. GOKHALE: This may be right or wrong.

SHRI INDRAJIT GUPTA: What is the procedure? I have appeared before this august Committee for the first time.

*(Shri H. R. Gokhale then withdrew).*

SHRI INDRAJIT GUPTA: The question of privilege which I have raised concerns the privileges of Parliament indirectly in the sense that it is directly concerned with the privileges of the Committee on Public Undertakings, which is considered in this matter to be a part of Parliament. The important point is the question of the 66th Report of the PUC which concerns this Pipeline affair and arising out of that 66th Report, the Government have set up an Enquiry Commission—one man Commission—consisting of Mr. Justice Takru, which is at present holding enquiry. The matter arises out of the reported proceedings before this Takru Commission on the 1st April, 1972. My contention is that in those proceedings on the 1st of April the Counsel appearing on behalf of the Ministry of Petroleum and Chemicals made certain observations which amounted to a breach of privilege in the sense that those remarks tend to denigrate, even ridicule the report and the recommendations contained in the PUC 66th Report and that is the main burden of my contention.

Now, I may point out just as a matter of interest that in the proceedings before the Takru Commission, the Petroleum Ministry is represented by Counsel—The Indian Oil Corporation is represented by Counsel. The Principal Officer or Official against whom the most serious charges had been brought viz., Mr. P. R. Nayak, is represented by Counsel. One of the Directors of the I.O.C. Mr. Arun Roy Chowdhury is represented by Counsel but there is nobody to represent or to appear on behalf of the Committee on Public Undertakings. I do not know what is the procedure, but since the point at issue is the findings of the PUC in respect of Pipeline affair and the action

taken thereon, there is nobody appearing before this Takru Commission to safeguard the position of the PUC. Anyway we cannot do anything about it.

Then I want to bring to the notice of the Committee and also of the Government about a point. Now I do not want to go into the details of this matter which I have already raised on the floor of the House. The point is that the Minister in his reply to me stated, I can quote the relevant particulars, if you like.

Thereafter, the Minister of Law and Petroleum and Chemicals, Shri H. R. Gokhale, stated as follows:

“Much that the hon. Member said would have some substance if the newspaper report to which reference was made was correct.... It is true that two counsels are appearing for the Ministry before the Takru Commission, and the two counsels are Mr. K. V. Dadachanji and....”

Then he wanted to argue that later on the particular language employed by the newspaper as having been used by the two counsels, if proved, might raise some point in the contention made by the hon. Member. So, the Minister took the position that the Press Report was erroneous that he had satisfied himself after talking to the counsels concerned that they had not in fact said those things which are attributed to them, and if they had so done, then, of course, the matter might have been serious. This is the line of defence which the Ministry took. I think, Mr. Dadachanji, the eminent counsel, has been briefed by some body in the Ministry. I would also request the Privileges Committee, if they so consider it necessary to find out from Mr. Dadachanji who in the Petroleum Ministry is actually briefing him. Now, Sir, two questions arise.

MR. CHAIRMAN: It is beyond the purview of the Committee to ask Mr. Dadachanji about these instructions.

SHRI INDRAJIT GUPTA: The only reason for which I raised this point is that at some later stage, it should not be argued by anybody that the Ministry was not responsible for the words used or uttered by the counsel. I do not know whether such a line or argument should be taken. I presume that a counsel was speaking according to brief, but it does not mean that every word that was used or uttered was part of the instructions he was receiving. We all know that the rules permit him to say quite a lot of things but he can elaborate the arguments by using certain words and expressions.



So, now two points are important. The first point is whether such an expression was used or not. The expression reported as you know is .....

MR. CHAIRMAN: It is in the first page.

SHRI INDRAJIT GUPTA: If you feel that this matter should be gone into to find out whether it is a fact or not bearing in mind that the Minister has said that these words were not uttered, (but had they been uttered) then I would request you to go into the details of this matter. First of all, you should examine whatever available records are there with the Takru Commission, whether those records are available, if they are unofficial, unofficial records may not be cited perhaps on the floor of the House but you can study the matter. The Secretary of the Commission, Mr. Israni has already stated in a communication to the Secretariat of the Lok Sabha on the subject.

Both he (Secretary) as well as the Chairman maintain the record. They do not keep a complete stenographic record. But, both of them keep their own notes during the proceedings for their own use. But, later, on, they were not preserved. If you want to see those notes for your purpose, you can see them. He has sent the copies. The PUC was guided by a high emotion. Secondly, I would request you to examine the Chairman, Mr. Takru, himself and also the other counsel who was present on that day. Let them rely on their memory. There is no other way of checking these things. Thirdly, I would suggest to examine the letter (this has already been read out and quoted in the House) written to the Speaker in response to his query by the Reporter of the UNI who was attending the proceedings and on the basis of whose report this press report appeared and also the letter of *Mirchandani*. From these things, I think it will amply be proved that these words were used. My contention is that to say that why any findings or recommendations of the PUC are not objective, but are based on emotions, feelings, which means that they are subjective, they are prompted by some other motive rather than an impartial view of the matter amounts to belittle the importance of the PUC's findings. My quarrel is not with the counsel, because, I believe that counsel was speaking to a particular brief and in doing so, he is entitled, as an advocate, to use certain language and all that. But the basic brief is also available. It is a public document; it is a written statement filed before the Takru Commission as the reply of the Ministry of Petroleum and Chemicals, Government of India, to the application dated 21st March, 1972 of the National Committee

and Mr. Arun Roy Chowdhury. I am only concerned with paragraph 18 which I have also quoted in the House: and which reads as follows:

“The PUC Report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved in the two contracts. The word ‘feeling’ is significant. PUC has not formed an opinion. The PUC report has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government/IRL/IOC.”

This is the paragraph which was being elaborated by Mr. Dadachanji before the Commission. I would request you to please refer to the 66th Report of the PUC, particularly its concluding paragraph and satisfy yourselves whether the word ‘feeling’ is used in that sense. Another point in this written memorandum of the Ministry is that PUC has not recommended to the Government to investigate and enquire into the slurring over by certain officers. If you so desire, I can produce copies of much earlier correspondence when Dr. Triguna Sen was Minister in which he had written letters to the Prime Minister also saying in so many words that all the findings, all the charges of the PUC are being referred for enquiry by the Commission. The contention of Mr. Arun Roy Chowdhury and the National Committee in which I happened to be a member was that terms and reference had been so framed that they do not include all the items and therefore it should be widened. The stand of the Ministry was that in this particular case, the PUC has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government. Now to substantiate why this should not be included, the counsel has argued that this is only something which is a feeling of the PUC based on emotion. It is not something which is a concrete charge. The Government of which the Ministry is a part and the PUC which is a part of the parliamentary institution are both creatures of the same constitution. If the Ministry’s attitude is such as to belittle the importance of the PUC’s findings; if it goes counter to that, then the whole framework of the Constitution which we have devised and the status we have given to these Parliamentary Committees will be subverted. It is a dangerous trend. You please refer to the remarks made by the Hon’ble Speaker. Lengthy observations were made by the Speaker who happened to be the Chairman of the PUC and see what he has to say in the matter.

**SHRI RAJ BAHADUR:** The counsel’s statement had come to the House.

**SHRI INDRAJIT GUPTA:** It has come through the press report.

**SHRI RAJ BAHADUR:** Now, this is the observation of the Speaker:

"I have not relished what was said by them (Counsel). They are taking shelter under certain words that it was the feeling. The report, as it appears, is that all of them who were members of the Committee made these observations under emotional stresses. I happened to be the Chairman of the Committee on Public Undertakings before. I took over as Speaker, and this matter was taken over by them ... after a lot of discussion and consideration, we came to certain conclusions and those conclusions were cast in a very polite language. But that does not mean that, if we expressed in a fine language, in a very cultural language, you could relegate it to the position of 'feeling'. This is an august Committee of the House. All these Committees represent the whole House and they have the same privileges, the same protection, as the House itself.

I have received the information from the news agency correspondent concerned, in which he says that the information published was correct, he had just reproduced the proceedings in the Commission. I asked the Minister concerned. Of course, besides the information he gave to us, he said that the advocates deny it. So I expressly told him to get this information from the Chairman of the Commission. The Commission has informed us that they do not keep detailed regular records or reports of the proceedings. I have been very seriously considering the matter. This is a unique case in which three important parts of society are concerned; ourselves i.e., this House—we claim certain freedoms and also privileges; the press—they too claim certain freedoms and privileges; and the legal profession.

The Minister said that the advocate did not say what they are alleged to have said. Even if he had just said, he did say it, we were bound to review the matter in its proper perspective. The field of advocacy is very wide with a lot of latitude and freedom. Even when we go in appeal from a lower court to a High Court or from a High Court to the Supreme Court, we say, the judgment is erroneous, fallacious, and very often, we say the judgment is perverse. In respect of these law courts against whom an appeal goes to higher courts, they have their own privileges and

protections also. The field of advocacy is so wide that they too have full protection.

So, I think, considering all these various aspects of the question, the best thing is that the Privileges Committee should examine all these issues, not with a set view that we have to disturb the freedoms and privileges claimed by all these three parts but with a view to finding out facts. It is not essential that they must give their findings."

**SHRI SOMNATH CHATTERJEE:** May I make one submission?

**SHRI RAJ BAHADUR:** I would like to know the parameters of our exercise.

**SHRI SOMNATH CHATTERJEE:** So far as the attitude of the Law Minister on the floor of the House was concerned, those words were not spoken.

**SHRI INDRAJIT GUPTA:** The Members of the Committee should carry on the discussions among themselves. Please relieve me and carry on your discussion. Why should I be present while you discuss? I wish to make this clear.

**SHRI RAJ BAHADUR:** I intentionally did it to know what the task was.

**SHRI INDRAJIT GUPTA:** I suggested the lines of enquiry. Subject to that if Mr. Dadachanji argues, I am not quarrelling with him because he is an advocate. He is a counsel.

**SHRI RAJ BAHADUR:** What is the evidence? (a) the Brief; (b) the record with the UNI and (c) the record if any maintained by the Commission. Out of these, as I see the papers, UNI sticks to its version that they reproduced what they had. We cannot go any further.

**SHRI INDRAJIT GUPTA:** But please note that till the time I raised the matter in the House, none of the interested parties has sought to contradict what has appeared in the UNI report.

**SHRI RAJ BAHADUR:** I am just trying to sort out.

**SHRI INDRAJIT GUPTA:** May I read out the letter dated 12th of April, from Mr. Israni, addressed to the Ministry of Petroleum and Chemicals.

**"With reference to your letter..... to find out from the Commission what the position was regarding....."**

I object to this procedure. Why should the Ministry do it ? Why should not the Speaker's Secretariat do it ? It is because the Ministry is involved here. Anyway the reply was:

"I am directed to state that the.....However to save time a copy of each of the same is being sent herewith".

That was a letter written by Mr. Israni.

SHRI RAJ BAHADUR: To whom ?

SHRI INDRAJIT GUPTA: It was addressed to the Ministry of Petroleum and Chemicals. Earlier to that, on 10th April, Mr. Israni wrote another letter to the Deputy Secretary of the Ministry of the Petroleum and Chemicals.

SHRI RAJ BAHADUR: I have also got a letter here. This was from the Ministry of Petroleum and Chemicals to the Lok Sabha Secretariat. Here it was stated that "the undersigned is directed to refer to the Lok Sabha No. ....orders on the basis have been passed."

SHRI INDRAJIT GUPTA: I shall read the relevant portion from the letter of 10th from Secretary to the Commission.

"I may however mention in this connection that the Chairman maintains notes of such of the arguments of the parties as he deems necessary.....a copy each of the same can also be sent to you."

But on 12th he wrote that to save time they have sent a copy of each of them.

I am not concerned with what Mr. Dadachanji said. He can say that as a counsel. He has got that much liberty to elaborate the argument and use such expression. But what was the argument which he was elaborating. The argument was contained in the brief given to him by the Ministry. He could not make an argument out of nothing or in the vacuum. He was developing an argument which had been supplied to him by the Ministry. My quarrel is not with his argument but with the attitude of the Ministry towards the PUC. I am saying that this betrays a very dangerous attitude on the part of the Ministry, to which the Hon'ble Speaker has also referred.

SHRI RAJ BAHADUR: That is an area which is outside the purview of the Privileges Committee; because, when your quarrel is with the Ministry, it is not the Ministry's conduct that the Privileges Committee is seized of here. The Ministry may have been guilty of

absolute indifference or non-action or inaction, or even careless indifference of everything that was in the Report, but even if it were so, that is not before the Privileges Committee. The issue before the Privileges Committee is whether the Counsel has transgressed the prerogatives and rights given to them.

SHRI INDRAJIT GUPTA: That is only the starting point because that is how the matter came to public attention. But the actual point is whether the privileges of the P.U.C. have been trespassed upon or not.

SHRI RAJ BAHADUR: When you addressed the House you said that the Counsel exceeded their prerogatives and rights and this amounts to a definite breach of privileges of the Committee. But the conduct of the Ministry in regard to inactivity, inaction, indifference, non-action etc. is something which should be taken up in the House or any other relevant forum of the House. Here we are charged with the limited duty of examining this particular contention as to whether the Counsel has exceeded its prerogatives and rights and as the Speaker put it in his final instructions to us.

“I think to consider the various aspects of the question the best thing is that the Privileges Committee should examine all these issues, not with a set view. . . . . I think the Committee will keep this in view and not encroach upon the liberties which the profession claims. So, I entrust this to the Privileges Committee for examination”.

SHRI INDRAJIT GUPTA: I do not want to encroach upon the liberties of the profession, but if the Ministry's job is to shield officials who have been guilty, then it is a sad situation.

SHRI RAJ BAHADUR: Guilty of what?

SHRI INDRAJIT GUPTA: Of belittling the importance of what the P.U.C. recommended in the last para.

MR. CHAIRMAN: Mr. Gupta, may I ask you two questions? You are arguing that in the Counsel's argument before the Enquiry Committee he used certain language. However, we are not prepared to hold him guilty of breach of privileges either of the P.U.C. or of the House. Your argument is that they must have argued on the instructions or brief given to them and therefore whoever was responsible for preparing the brief has committed a breach of privileges of the P.U.C. and of the House since the P.U.C. is part and parcel of the House. Now, this is your inference based on the argument made by the Counsel.

**SHRI INDRAJIT GUPTA:** Their whole case is there in a big document. I am not making any inference; it is there in black and white.

**SHRI RAJ BAHADUR:** If it has been submitted by the Counsel, then it is called a 'statement of their case'. A brief is a privileged document which we cannot really call for.

**MR. CHAIRMAN:** Even in the statement of the case these words are included?

**SHRI INDRAJIT GUPTA:** No, they are not there .

**SHRI RAJ BAHADUR:** Then, we cannot call for the brief, it being a privileged document. The statement of the case does not make mention of these words; the advocates have therefore said something which is not in the statement of the case. In fact, when a statement is filed, no lawyer worth his salt—if I may say so—can go beyond the statement which is filed; he should not go. Brief is something just for his background. When a brief is given it only means the whole set of circumstances. It even gives such facts which may go against the client too.

Feeling and emotion are the two things. I am trying to argue that this is a limited exercise to find out the facts stated by him and whether those facts exceeded the prerogative usually enjoyed.

**SHRI INDRAJIT GUPTA:** This is observation and not the facts.

**SHRI RAJ BAHADUR:** This is what the Speaker said.

**SHRI INDRAJIT GUPTA:** You must remember, on the floor of the House the Minister took the view that these words have not been uttered. Had they been uttered, they would be substantive, he remarked. Please satisfy yourself whether these words were uttered.

**SHRI RAJ BAHADUR:** The Privileges Committee is not concerned with what the Minister said.

**SHRI INDRAJIT GUPTA:** He is not only a Minister but an eminent lawyer.

**SHRI RAJ BAHADUR:** Debate of 18th April was being read by me. The Speaker says the Privileges Committee should examine 'with a view to find out facts'.

SHRI INDRAJIT GUPTA: Whether those words were uttered?

SHRI RAJ BAHADUR: The Speaker and the Privileges Committee can hardly ever be asked to find out the facts. However, we have been asked to find out. It is not essential that the Privileges Committee must give their findings.

MR. CHAIRMAN: Should we meet again?

SHRI INDRAJIT GUPTA: May I know one thing as a matter of information. I am not familiar with the procedure of this Committee. Generally when some matter is referred to the Privileges Committee for their consideration, is that reference based only on something which is said in the House or the Speaker makes specific reference.

MR. CHAIRMAN: Reference.

SHRI RAJ BAHADUR: Speaker's direction as given in the House.

MR. CHAIRMAN: The terms of reference to the Privileges Committee differ from case to case. In this matter he has specifically directed the Committee that the Committee need not give the findings.

SHRI INDRAJIT GUPTA: It is not essential, that is what he said.

MR. CHAIRMAN: It is a very peculiar thing. It is quite a new thing referred to, that it is not necessary to give the findings.

SHRI INDRAJIT GUPTA: If you think it is necessary to give, then ?

MR. CHAIRMAN: Within the ambit in which we have functioned, I mentioned that thing. It does not necessarily mean that we should not give the findings at all.

SHRI RAJ BAHADUR: They can consult the Speaker also. We shall consult the Speaker certainly. We meet again. We all are very grateful to you, Mr. Gupta.

MR. CHAIRMAN: We should meet after the Session.

SHRI INDRAJIT GUPTA: In off session we are dead. I am at your disposal up to 2nd or 3rd of June, 1972.

MR. CHAIRMAN: We shall consider it.

*(Shri Indrajit Gupta then withdrew.)*



# APPENDICES

## APPENDIX I

(See paras 4 and 18 of Report)

*Opinion of the Ministry of Law and Justice (Department of Legal Affairs), dated the 1st May, 1972.*

The question for consideration is the nature and extent of the professional privileges enjoyed by Counsel appearing before a Commission of Inquiry and by the Press correspondents in reporting the proceedings of such a Commission *vis-a-vis* the powers, privileges and immunities of Parliament and its Members, particularly in the context of the question of privilege raised by Shri Indrajit Gutpa, M.P.

2. For the present reference, it may be assumed that the two Counsel did make the remarks attributed to them by the Correspondent of the U.N.I. during the course of the proceedings of the Takru Commission. The case has been examined on that basis.

3. The basis of the charge against the two Advocates appears to be that their remarks are a reflection upon the Report of the Committee and the Committee itself and thus constitute a breach of the privilege of Parliament. Although termed "breach of privilege", it is in fact properly styled as "contempt" and after due enquiry, such a breach of privilege may be punished in the same way as Courts of Law punish for contempt of their dignity and authority (May's Parliamentary Practice, Eighteenth Edn., p. 65; Kaul and Shakhder-Practice and Procedure of Parliament, p. 199). In this connection, it is also relevant that the power to punish for contempt possessed by the British Parliament is said to have accrued to it as a descendent of the High Court of Parliament.

4. It may, therefore, not be inappropriate to judge the immunity available to persons in proceedings for contempt as if Parliament was exercising the powers of a superior Court.

5. It is at the outset necessary to consider the question of the extent of privileges enjoyed by Counsel before a Commission of Inquiry. A Commission of Inquiry constituted under the Commissions of Inquiry Act, 1952 is not, strictly speaking, a Court although it may have some of the trappings of a Court. It does not decide a

case judicially but is essentially in the nature of a fact finding body.

6. Nevertheless, a Commission does have some of the powers of a Court and is assisted by Counsel for various parties. It thus follows the adversary procedure to some extent. It may, therefore, be reasonable to equate the position of Counsel appearing before it to Counsel appearing before a Court, as the nature of their responsibilities is substantially the same.

7. Counsel enjoys considerable latitude in presenting his case. In England, Lord Mansfield, C. J. has gone to the extent of holding that a Counsel cannot be put to answer civilly or criminally for words spoken in office. This principle seems to have been approved by the Madras High Court in *Sullivan v. Norton* (10 Madras 28).

8. While this proposition might be a little too broadly worded, it is accepted that in so far as criminal liability is concerned in cases of prosecution for defamation and the like, a Counsel acting as such enjoys a qualified privilege in respect of words spoken by him in the course of his duties and is protected from being proceeded against except when it is established that he is acting with malice. It has been recognised that a certain amount of latitude must be allowed to lawyers who are addressing arguments in courts of law and that the use of high-flown language on such occasions is not unusual and by itself would not constitute contempt of Court even when it is used with reference to a Court though the language might be improper (*Arun Kumar Mukherjee v. Asutosh Guha*, AIR 1955 Calcutta 368). Similarly, it has been held that Advocates cannot be proceeded against by means of a civil suit for defamation in respect of words said by them while discharging their professional duties.

9. The rationale for this immunity is not that legal practitioners belong to a privileged class of persons but that the proper discharge of their functions would become impossible if the possibility of being proceeded against for words said by him was constantly at the back of a Counsel's mind.

10. This principle would be applicable equally to proceedings before quasi-judicial bodies, and Commissions of Inquiry.

11. Subject to certain special exceptions in so far as liability for words published are concerned, the Press stands on substantially the same footings as an individual. However, in so far as criminal prosecutions for defamation are concerned, it has been recognised that it is not defamation to publish a substantially true

**report of the proceedings of a Court of Justice or of the result of any such proceedings (Section 499 of Indian Penal Code).**

12. As regards the civil liability also, it has been held that the publication of fair and accurate reports of judicial proceedings is privileged because it is to the public advantage and helps the administration of justice, but the report should be of judicial proceedings that took place in an open Court or at a place open to the public. It is of course needless to add that the report must be fair and accurate, that is, a substantially faithful report.

Sd|-

(P. B. VENKATASUBRAMANIAN),

*Joint Secretary & Legal Adviser.*

**Ministry of Law U. O. No. 21864/72 Adv (F) dated 1-5-1972.**

## APPENDIX II

(See para 15 of Report)

UNITED NEWS OF INDIA, LTD., 9, RAFI MARG, NEW DELHI—1

April 12, 1972.

The Hon'ble Speaker,  
Lok Sabha,  
New Delhi.

SUBJECT: *Certain reported remarks made by the Counsel of the Ministry of Petroleum and Chemicals before the Pipelines Inquiry Commission (Takru Commission).*

Sir,

Reference is invited to Lok Sabha Secretariat letter No. 17|2|CI|72 dated April 7, 1972 on the above subject.

2. The Reporter concerned has been closely questioned. He denies emphatically that he had misreported the proceedings of the Pipelines Inquiry Commission on April 1, 1972 as complained of. In this connection, the following facts are submitted for your consideration.

3. The Reporter who covered the proceedings on April 1 has also been covering the proceedings for the past ten months, except on days he is off or otherwise engaged on outstation duties etc.

4. It is noteworthy that his reports have not been questioned by the Commission at any stage during this long period.

5. It is worth recalling in this connection that, earlier this year, Mr. P. R. Nayak, ICS, urged the Commission to hold its proceedings in camera. Rejecting this application, Mr. Justice J. N. Takru, in his order dated March 2, 1972 observed that "the Commission at its very first sitting decided to hold its sittings in public and nothing happened till now to make any party pray for a revision of that decision".

6. *Patriot* in its issue of February 27, reporting the proceedings of the Pipelines Inquiry Commission of the previous day (when the UNI reported could not be present) said: "While dealing with the

application and submissions made by Mr. Nayak, Mr. Justice Takru observed that he found nothing objectionable in press reporting of the proceedings for the last one year or so”.

7. The UNI Reporter has customarily been taking down detailed notes which form the basis of his news story from day to day. On April 1, he took detailed notes. His report was published in *Patriot* of New Delhi and *Hindustan Standard* of Calcutta, and more briefly, in other newspapers. He is in a position to produce the notes taken down by him.

8. The report in question relates to arguments made by various parties before the Commission on a joint application moved by the National Committee for assisting the Pipelines Enquiry and Mr. Arun Roy Choudhury urging the Commission to reconsider the terms of reference in the light of the additional information now with the Commission.

9. With making submissions on behalf of the Ministry of Petroleum Counsel, Mr. J. B. Dadachanji quoted the relevant portions from the 66th report of the Parliamentary Committee on Public Undertakings thus:

“The Committee also feel compelled to record their feelings that instead of holding the officers responsible for their lapses, there appears to have been persistent effort to slur over their dereliction of duty and not to fix the responsibility though copious facts to substantiate such lapses have come on record. The Committee would, therefore, like the Government to take immediate steps to bring to book the guilty officers on the basis of evidence that is already available. The least that could be done is to proceed departmentally without delay against the officers concerned under the relevant Government Servants’ Conduct Rules. The Committee feel that Government, in the larger interests of the public sector, should not allow a feeling to go around that officers could commit such grave lapses and indulge in dereliction of duty with impunity and go unpunished”.

10. In the written submission by the Petroleum Ministry on April 1, 1972 this point was argued as follows:—

“The PUC report merely records a feeling that a section of officers slurred over the illegal actions of the guilty officers who were involved in the two contracts. The word “feeling” is significant. The PUC has not formed an opinion.

The PUC report has not recommended to the Government to investigate and enquire into the slurring over by certain officers of Government/IRL/IOC".

11. Elaborating his written submission on the same day, Mr. Dadachanji said that the Commission should pay no heed to the 'feelings' and 'comments' made by the PUC on this issue. They felt very strongly about the irregularities and had tended to be 'emotional'; This issue for instance, appearing at the end of the PUC, report was 'merely a finale on an emotional note".

12. It may be pointed out that Mr. Dadachanji had opposed the joint application for reconsidering the Commission's terms of reference on various grounds making 21 points. The last sentence of the written submission before the Commission reads thus:

"In view of the aforesaid facts and circumstances, the application is liable to be rejected".

13. In the next sitting of the Commission on April 3, 1972, however, the Petroleum Ministry made a "volte face" and "welcomed" the application. Although two other parties had completed their submissions after Mr. Dadachanji, the other counsel for the Petroleum Ministry, Mr. R. Panjwani, intervened in the absence of Mr. Dadachanji to "correct" the Ministry's stand. Mr. Panjwani did not refer to the issue in question, and did not seek to change the Ministry's stand regarding the "feelings" and "comments" contained in the PUC report.

14. On that day (April 3), it is significant that they did NOT protest against the alleged misreporting of their arguments.

15. The motion for privilege in the Lok Sabha was moved on April 3, 1972.

16. It was only on April 4, 1972, that the Petroleum Ministry sought to describe portions of the report of April 1, 1972 as incorrect.

17. It was Mr. Panjwani and NOT repeat NOT Mr. Dadachanji, who made an application before the Commission stating that there was misreporting in that story.

18. M. Justice J. N. Takru immediately expressed a desire to talk to the UNI Reporter. This was conveyed to the Reporter by Mr. R. T. Israni, Secretary to the Commission.

19. The Reporter talked to Mr. Justice Takru on the telephone. Mr. Justice Takru asked the Reporter whether the quotations in the report attributed to the Government counsel were correct. The

word "finale" was specifically mentioned. The Reporter told Mr. Justice Takru that the quotations had been rendered correctly and were based on detailed notes taken down by him as soon as the words were uttered by the Government Counsel.

20. The Chairman was apparently satisfied with the Reporter's explanation. Subsequently, the Reporter wrote a letter to the Commission quoting his words and sought to put his remarks on record. The notes were shown to Mr. Justice Takru.

Yours faithfully,

Sd/-

G. G. MIRCHANDANI,  
*General Manager.*