

[Shri V. Narayna Samy]

urge upon the Defence Ministry to intensify our border patrolling because in the border areas thick bushes have come up and through these thick bushes it is easy for the terrorists to sneak into our border and in spite of the efforts and vigil of our BSF, the terrorists escape into the Indian territory. I request the Defence Ministry and the External Affairs Ministry to take suitable steps to see that terrorist activity is not encouraged by Pakistan. Such activities are harming India's interests. I request both the Ministries to coordinate their efforts to prevent the terrorists from sabotaging our development in Punjab and in Jammu and Kashmir. Thank you.

श्री राम नरेश यादव (उत्तर प्रदेश) :

महोदया, सम्माननीय सदस्य ने आतंकवादियों की गतिविधियों की ओर ध्यान आकषिप्त किया है, यह बहुत ही चिंता का विषय है। इस पर सरकार को गंभीरता के साथ विचार करना चाहिए और विचार ही नहीं करना चाहिए वरन् ऐसे कदम उठाने चाहिए। ताकि अराजकता न बढ़ने पाए और आतंकवादियों का आज जो मनोबल बढ़ रहा है, वह भी नहीं बढ़ने पाए। मैं जानता हूँ कि सरकार इस बारे में प्रयत्नशील है लेकिन फिर भी माननीय सदस्य ने जो प्रश्न उठाया है, उससे स्वयं को उससे सम्बद्ध करता हूँ और चाहता हूँ कि सरकार इन प्रश्नों पर गंभीरता के साथ विचार करे ताकि समय-समय पर जो आतंकवादियों की गतिविधियाँ बढ़ती हैं, उन पर अंकुश लगाया जा सके।

THE DEPUTY CHAIRMAN :

Now we take up the Short Duration Discussion. There will be a further discussion on the report of the Comptroller and Auditor General of India for the year ended the 31st March 1988. Now I call upon Mr. Salve to continue his speech. Before that I wanted to introduce to the House another member on the panel

of our Vice-Chairman, Shri Mirza Irshadbaig. He will be presiding over the House now. I think the House is quite peaceful today. Please give him all co-operation.

SHRI MADAN BHATIA (Nominated); Will he be generous to me?

THE DEPUTY CHAIRMAN :
He is a new Vice-Chairman and he has to abide by the rules.

[The Vice-Chairman (Shri Mirza Irshadbaig) in the Chair]

SHRI VITHALRAO MADHAVRAO JADHAV (Maharashtra) :
Sir, you have risen to this position of Vice-Chairman. I think the whole House will join me in extending our warm welcome and good wishes to you.

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh) : Since I am the sole representative of the Opposition here, I should get more time.

उपसभाध्यक्ष (श्री मीर्जा इशदबाग) :
यह दुर्भाग्यपूर्ण विषय है कि आज जब पहली बार चेयर पर आ रहा हूँ, विरोधी पक्ष सदन में उपस्थित नहीं है फिर भी आप सब ने मेरे लिए जो शुभ कामनाएँ प्रकट की हैं, इसके लिए मैं आप सब का बहुत-बहुत आभारी हूँ और आनेवाले समय में मुझे आप सबका सहयोग प्राप्त होगा, ऐसी मैं कामना करता हूँ।

SHORT DURATION DISCUSSION

On paragraphs 11 and 12 of the report of the Comptroller and Auditor General of India for the year ended 31st March, 1988 (No. 2 of 1989) Union Government.—Defence services (Army and Ordnance Factories)

SHRI N.K.P. SALVE (Maharashtra) : Mr. Vice-Chairman, may I offer you my personal congratula

tions on your occupying the Chair as Vice-Chairman? Personally, I am very greatly delighted that a person with all his dynamism and with all his vigour and with all his scholarship is to be on the panel.

THE VICE-CHAIRMAN (SHRI MIRZA IRSHADBAIG) : Thank you.

SHRI N.K.P. SALVE : Sir before I come to making my submissions further in continuation of the speech which I made on Friday, it has become necessary for my speech on Friday. My speech has been selectively reported in the newspapers in the national dailies, and an impression has been created, very unfortunately, that in my speech I made certain comments which were of a personal nature against the Comptroller and Auditor General. I do not blame the newspapers at all because I think, on going through my entire speech I do find that I had allowed certain words to slip out of my mouth which was against my best intentions and which created an impression that I was trying to attack the Comptroller and Auditor General individually. That was farthest from my mind. What I want to be attacking and attacking absolutely unspringly is the report of the Comptroller and Auditor-General. It is not his person that is in my mind and in fact that was made clear and it is clear from what I said in my speech on Friday and I would like to quote with your permission, what I had said. But, before that, I shall be submitting one thing to make the record straight. There is no impropriety committed in this House by discussing the report of the Comptroller and Auditor General. We are not attacking the Comptroller and Auditor General and we have nothing against him individually. But something which

he has written and which has been made the basis for the Opposition to demand the resignation of the Government certainly entitles us to a fair and impartial evaluation. Therefore, if I have spoken something which is creating an impression that was trying to attack him personally, then I express my unequivocal regret. My grievance, my annoyance, is against the report of the Comptroller and Auditor General about which I maintain that many of the aspects of the report are completely outside the authority and purview of the Comptroller and Auditor General and, as I shall be pointing out to you today, the report is so drafted that unfortunately, the bona fides of the report, according to me, are very highly suspect.

There is also some misunderstanding about what I said in respect of the objections of the Auditor General about his wanting to audit Bofors. But I have already said that whatever my observations, that in the rush of the moment I should have allowed to slip out of my mouth certain things, which I should not have done, is something for which I have expressed my regret. But, so far as this aspect of the matter is concerned, on merits, I maintain that my grievance remains fully and totally undiminished. Now, what has happened is this : This is what the Auditor General writes and I have quoted that in my speech also. It was not my intention to misquote what the Comptroller and Auditor General has said. He says, and I quote from page 9 :

“While the Swedish Government entrusted the Swedish National Audit Board with the inquiry in the Bofors Indian contract, that is, the transactions of a non-government ‘Company in Sweden’, the reasons for not asking for a ‘full

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audit" by the Comptroller and Auditor General of India as suggested by the Indian Mission in Sweden, for a contract involving an outgo from the public exchequer of over Rs. 2,000 crores were not clear."

Sir, my greivance is that the Indian Mission in Sweden may not know the provisions of the Comptroller and Auditor General (Duties, Powers and Conditons of Service) Act because I maintain that the entirety of the powers and authority of the CAG in India is governed by this Act. There is no provision anywhere under this Act in terms of which such an assignment can be given to him. Will he accept something which is outside the provisions of this Act? How can he justifiably say that the reasons are not clear to him? Is it not implied in this that some sort of a suspicion is being created as though the Government has something to hide and that is why they did not send him to Sweden to audit Bofors account? That is the main point. I can understand it. I repeat it again. The Indian Embassy in Sweden may not be able to understand it. But he understands it certainly. The Indian Embassy in Sweden may not know the provisions of Article 73. Is it possible for the President or for the Prime Minister or for anybody else to depute the Comptroller and Auditor General to audit the accounts of Bofors which is a Swedish company? Therefore, my basic objection is that *unnecessarily as though the Government was wanting to stifle him and stop him whereas they could do it. If he was true to himself, he should have further written that there was no provision in the Act for him to go and audit the accounts of Bofors. The President could not have sent

him. The Prime Minister could not have sent him. But the manner in which the report is written is very unfortunate. He is adding to the cloud of baseless suspicion which is being created.

*I am referring to the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. I shall hereafter refer to it as the Act. It appears that the Comptroller and Auditor General was a little annoyed because—he mentions it in the report itself—papers were not supplied to him. Then he quotes Section 18(1) at page 7 and says :

"According to Section 18(1) of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971, the CAG has the authority 'to require that any accounts, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the transaction to which his duties in respect of audit extend, shall be sent to such place as he may appoint for his inspection'".

Section 18(1) which is being pointed out by the Comptroller and Auditor General, raise some extremely important and delicate issues about his own powers and authority to summon books, papers, documents, etc. in respect of Bofors transaction. Now, the point which I am trying to make is based on interpretation of Section 13 and Section 18 of the Act. I do hope that what I am submitting is not correct. I talked to certain friends and they said that the interpretation which I am giving to the powers and authority of CAG is correct. If that is correct, perhaps we might have to amend the law. We want more authority to be given to the Comptroller and Auditor General. We want him to inspect all the transactions.

*Expunged as ordered by the Chair.

am making that clear. But according to the law which stands today, there are three kinds of audits contemplated in Section 13. It shall be the duty of Comptroller and Auditor General to audit all expenditure from the Consolidated Fund of India and to ascertain whether moneys shown in the accounts as having been disbursed were really available for and applicable to the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which it governs. That is (a), (b) To audit all transactions of the Union and of the States relating to Contingency Funds and Public Accounts. (c) To audit trading, manufacturing, profit and loss accounts and balance-sheets of subsidiary account kept in any department of the Union or of a State. I want to point out that the powers given to the Comptroller and Auditor General in connection with the audit duties are enumerated in Section 18. In Section 18 I find that no powers are given whatsoever in respect of audit of all expenditure from the Consolidated Fund of India. All that he is entitled to is to look into and to ascertain whether the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service.

Sir, what happens is that Section 18, the only Section which deals with the powers of the Comptroller and Auditor General, provides that "the Comptroller and Auditor General shall, in connection with the performances of his duties under this Act, have authority to inspect any office of accounts under the control of the Union or State, including treasuries and such offices as are responsible for keeping the initial subsidiary accounts and submit accounts to him, to...." —which has been cited by the Auditor General— "...to require that any accounts books, papers and other documents which deal with or form

the basis of or otherwise related to the transaction to which his duties in respect of audit extend, shall be sent to such places as he may appoint for inspection." Now this means "relevant to the transaction to which his duties relate." And Section 13 says, "that the authority to go into transaction is, confined to audit of transactions of Union and of the States relating to the Contingency Fund and Public Accounts." In other words, it means that under Clause (a) which deals with audit of expenditure from Consolidated Fund of India there is no power given to require and to go into all these records, accounts, etc. Such power is in respect of Clause (b). Sir, I do not want to go further into this issue. But I want to submit that this is one aspect of the legal power and authority of the Auditor General and I do hope that the view I have mentioned here is not the correct view. It is not my final view either. But if this be the correct view, then, perhaps, we may have to amend our law. One thing becomes absolutely clear that the Comptroller and Auditor General, according to this Act, is neither omniscient nor is he omnipotent. His powers are not untrammelled. They are very highly regulated and that has got to be realised by any Auditor General, and if that has not been realised, it is most unfortunate.

The question that arises for our consideration is that when I come to saying that I am annoyed with the Report what is the reason. What is the reason? It is with conviction I am speaking Sir, that certain objections are correct and are within the power and authority of the CAG but certain other objections on highly technical ground procedural matter, etc. are completely outside the authority. But what annoyed me the most was that apart from exercising this authority outside the permissible limits of the power given to him on every possible every crucial issue he seems to have gone against the findings of the Joint

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Parliamentary Committee which was given the authority by the Houses of Parliament to inquire into it, and which went into it in details, inquired into it in great detail and has given certain findings. And the CAG is going out of his way to contradict each and every crucial finding of the Joint Parliamentary Committee. Sir, a Joint Parliamentary Committee could not have been slighted so much by the Comptroller and Auditor General. He should have attached great weight to the findings of J.P.C. and if a Committee of the two Houses is sitting and examining the specific issues and giving a particular finding, a wise, sensible Comptroller and Auditor General would have thought a hundred times, whether it was within his power—and whether as duty called upon him to express his opinion freely and frankly. And if* But what I want to submit is, and this is the very important aspect of the matter, that where on the same issues a Committee of the two Houses has given certain findings, findings on issues which are of very highly technical nature—they have taken the assistance of the top most experts, and with their help they come to certain findings—the Comptroller and Auditor General should not have brushed aside such findings. If that was so and that is the inference to which I come that* why should he have looked into some very crucial issues which were outside his authority? On the financial matters, the CAG can make his comments.

At least*

Sir, it is most unfortunate that having done this, having invited on himself this kind of a situation, it is not I who can ever run down the institution of CAG*. But there is one thing at which I am amused ;

after my speech the CAG has gone to the press. Sir, I do not want to say anything about it. I am willing to forsake my privileges. He is not supposed to criticise a Member on what he has spoken here. But that is too tame a view. I only want to advise him that he is entering into a very unequal fight. That he is going to the press, I am too happy. Let him go a little more and then I will be able to do much more to him than what I can do when I am not outside the House : something which the CAG has never done before—tried to defend himself before the press, with the press. If he does that* which every one feels is made available to him. He is safe in that ivory tower.* I do not want that to happen at all.

Now, something was said yesterday by Mr. Jaswant Singh. He accused me of having belittled the institution of CAG, a constitutional organisation and an institution which I tried to traish. Sir, I have already said that if personal aspersions have been cast I am sorry for that, I express my regret. But he was talking here with such vehemence as if his spleen was bleeding for what had been said about the report of the CAG and what was said about the CAG himself as if heavens were falling and he tried to say what a mindless attack was made, etc. etc. and he said, we are destroying the basics of democracy etc.

Sir, all this indignation, pious indignation, which was shown by him yesterday is no more and no less than sanctimonious humbug, it is plenty of hypocrisy. What was happening to him when the people were coming here in the wall of House snatching away microphones, going menacingly towards

*Expunged as ordered by the Chairman.

to the Chair and shouting slogans abusing the Prime Minister? The institution of Prime Minister is not important, the institution of the Union Cabinet is not important these you can go and demolish right, left and centre and you were merrily watching all that and if something is said about CAG, heavens have fallen !

Someone said, republics have been damaged and democracies have crashed under such instances. Yes, Sir, republics have fallen....

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir) : Constituent of the constitution has been demolished

SHRI N. K. P. SALVE : Sir* I am very sorry that he should use such words. If his indignation was true and honest, did he ever try to stop the opposition from doing what they wanted to do? Sir, this is the most Fascist way of insisting that here is a document which condemns you, we are not willing to discuss the document, you must resign. Is it a democratic way? We want debate. We want discussion. All right. If CAG is so sacrosanct for him, what about the institution of the Union Government itself which depends on the support in the Lok Sabha? Therefore, Sir, to say that republics have been damaged and democracies have crashed, I can submit to you very respectfully, they have never been damaged, they have never crashed because some foreign supplier of arms have paid some commission to somebody. But they have certainly crashed when irresponsible bedlams are created on the floor of the Parliament, when the Constitution is sought to be subverted day in and day out and the processes under the Constitution are sought to be reduced to a carnival of claptrap and when you reduce Parliament to a bazar place and when you reduce Parliament to a place

*Expunged as ordered by the Chair.

where you can indulge in all sorts of lawlessness and when you recklessly levy charges, baseless charges, without any foundation, of corruption on the Prime Minister individually and shout all sorts of invective, abusive slogans against him on the floor of the House, when you denigrated not only the office of the people and shout slogans on the floor of the House, but you go out of your way to demolish the very moral authority of the people in public life for very cheap political ends, please do not shed tears for the Comptroller and Auditor General. It ill-beforeshes you to shed tears on the ground that you are wanting to save democracy. If democracy had to be saved for these 3 days or 3½ days, yesterday and earlier, the situation in this House should have been very much different and in the other House, it should have been very much different. After all, what did we want? We wanted a discussion, fair and impartial discussion, in a cool and a clam atmosphere so that we understand what CAG has written, to what extent he has written without the authority given to him by the Parliament, and assuming what he has written, and assuming every word is correct, assuming every word he has written has the sanctity of a gospel, what is the ultimate inference? Does it entitle any man of reason to draw inference of any corruption and levy these baseless, malicious charges against the Prime Minister? If they had agreed to a discussion then they could have earned a right to give sermons on democracy. They needn't teach us democracy : they need not. They are wrong people to quote scriptures, that is my submission, Sir. That is so far as what has happened.

I will proceed further where I left the other day, on Friday. I had submitted, Sir, that the Comptroller and Auditor General, in his report, has ultimately summarised his objections in the highlights, a

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15 of such objections have been enumerated in the highlights. They are on page 23, 24 and 25 of CAG's report. And the first of them relates to 'the technical evaluation of the gun system and the ammunition suffered from deficiencies'. And he points out : 'No General Staff Qualitative Requirement was prepared: no matrix was prepared. It was felt in 1984 that in absence of these two, it would be very difficult for the Negotiating Committee to take a decision.' Then he says : 'Claims made by manufacturers from time to time were not fully verified.' Further he says : 'The Defence Research and Development Organisation opined that evaluation trials have failed to provide conclusive data'. I submit, Sir, the entirety of these objections are outside his authority and power. He is not entitled to go into it, because I have already referred to what has been referred to as the power of the Auditor General in this book on Constitutional Law of India and it has been said in this book on page 994—this book on Constitutional Law of India, Editor-in-Chief M. Hidayatullah : "The report on Accounts is familiarly known as Audit Report in which the Comptroller and Auditor General summarises the results of his audit highlighting important irregularities, waste and extravagance, loss of revenue and deviations from law and prescribed procedure." He can only look into the financial aspects of the matter, and as to procedure, he can only look into if the procedures prescribed have not been followed and no more and no less. He cannot sit in judgement as an expert on the views expressed by the experts. That was, of course, the purview of the Joint Parliamentary Committee. But what has been stated by the Joint Parliamentary Committee and their conclusions, have been thrown to the winds by the Comptroller and Auditor General.

Sir, I want to submit, so far as this is concerned, CAG refers to six deficiencies in technical evaluation process. Is an auditor competent technically to prescribe systems of evaluation of military hardware? This is number one. Let somebody answer this question. Number two; Is the Comptroller and Auditor General authorised under law to prescribe procedure of evaluation of highly sophisticated military hardware and software? I submit he is not. Number three. In adopting procedure of evaluation do we go by experts and expertise of the

Army Headquarters or do we go by the expertise of the CAG. Number four. No allegation is there that the prescribed procedure has been violated. Number five. At any rate system is deficient uniformly for all the eight guns when this procedure has been followed to shortlist eight guns. Should he not have in fairness written that as well. This procedure of evaluation of suitability of guns according to us I submit was completely outside his authority? In fairness he should have at least written that the procedure did not in any manner favour Bofors however deficient. It does not favour either the French gun or the Bofors or any other gun. It is uniformly deficient for all the guns. Sir I want to submit to you why I want to challenge his authority, for as against CAG's findings kindly see what the finding of the Joint Parliamentary Committee is in this respect. I refer to page 76 para 5.83 of JPC report:

"The preceding paragraphs clearly bring out that the selection of the most suitable weapon system is based on very meticulous and detailed examination of various offers that every care and precaution has been taken including adequate testing in field trails to identify the best weapon system for the Indian Army. It

is most unfortunate that uninformed criticism has been levelled to insinuate that the Bofors field artillery system was picked up on extraneous considerations. The Committee finds that there is no force in such allegations and that the best gun has been selected for the Indian Army."

*Or is it all falsehood or is it a tissue of lies that JPC has stated? A Committee which is of the two Houses which was asked to go into it specifically—see further what they have to say. This is from page 189 of JPC report. This is extremely revealing. How does the Auditor behave himself? If I am to suspect the *bonafides* of the report I am very much justified because why is he going out of his way to contradict on the most crucial issues the findings of the JPC which was so much the subject matter of debate here? These are what the conclusions are. In conclusion on page 189 in para 9.3 this is what the J.P. Committee says:

"The Committee are firmly convinced that the procedure followed for selection of the Bofors gun system was sound objective and technical evaluation of various gun systems considered was thorough flawless and meticulous."

As against this according to the Comptroller and Auditor-General the technical evaluation of the gun system and ammunition suffered from deficiencies. I want only to submit Sir, -for- consideration- to you, through you to the House, to the Opposition and to the nation..

SHRI JAGESH DESAI (Maharashtra): In that case he should have spelt out the deficiencies.

SHRI N.K.P. SALVE : If I did feel that this Comptroller and Auditor General was getting into an area which was very highly political and into an area on which there were findings of the Committee of the two Houses, he should have been for more circumspect before giving a finding categorically against the findings of the Committee. Did any one in the Opposition study the report of the Auditor-General, juxtaposed and collected the same with findings of J.C.P? What about the institution of Parliament? Their heart does not bleed that the Comptroller and Auditor General is flagrantly going against the finding of the J.P. Committee appointed for this purpose? What that means is that the authority of the Parliament, its committees, mean nothing and* And yet if we say anything against the report, we are trying to demolish democracy, we are trying to damage the Republic? Sir, this is double standard. Most unfortunate.

I will proceed further. Point by point I will submit to you how the CAG report is entirely vitiated, untenable, and is a report which, as I said earlier, should be rejected by Parliament. I understand that the Lok Sabha is already moving in the direction that this kind of report cannot go to the PAC.

Sir, I come to Objection No. 2. Very interesting. This is the most important objection:

"Army HQ had indicated on as many as six occasions between December 1982 and October 1985, their preference was for the Sofma gun system. However, Army HQ reversed its preference in February 1986 and recom-

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mended Bofors. A contract with Bofors was signed in March 1986."

How general ? How vague ? How equivocal ? How can he give this kind of finding ? But it has a purpose : Create a suspicion as though suddenly in 1986 something happened, something hanky-panky came about, as a result of which all earlier recommendations were withdrawn and Bofors were recommended in preference to other guns though the Bofors were not perhaps entitled to that position. * Let him write clearly whether the earlier or the subsequent evaluation according to him was correct. If the earlier evaluation was correct, he should say that the reasons given for coming to a different conclusion into which again the JPC has gone are not acceptable to him. But to instil this kind of suspicion in the minds of the people and give the Opposition a handle that well in 1986 the authorities suddenly changed their preference in favour of Bofors and this is something which seemed objectionable to the Auditor — this is something which the Auditor should never have attempted and should never have violated the ethics of an Auditor.

Sir, I will read out certain observations which, to my mind, are extremely disturbing. This is what the Auditor-General says on page 12 and page 13 of his report.

"According to the Ministry... the new characteristics/sub-characteristics were really "not new" but were derived from the minimum acceptable parameters of the August and November 1984 evaluations (where, Sofma was preferred). Thus, for the first time in February 1986 Bofors was categorised as having an edge over the Sofma gun by laying emphasis

on the various characteristics and sub-characteristics."

Then, later on page 13 he observes :

"Neither the need nor the reason for the fresh evaluation of February 1986 is clear"

See the language : Neither the need nor the reason for the fresh evaluation. That means that he is saying that Sofma should have been preferred. Or he seems to indicate that Bofors was wrongly preferred. Or perhaps he seems to indicate that the change in preference is something which he does not understand. "Neither the need nor the reason for the fresh evaluation of February 1986 is clear". Then :

"If this evaluation had been made as a result of a potential adversary acquiring enhanced counter bombardment capabilities, it is seen that none of the newly added characteristics hinged on the burst fire capability considered an essential feature of shoot and scoot tactics."

Sir, he is talking of range, he is talking of burst fire capability, he is talking of bombardment capabilities, he is talking of shoot and scoot, and all these things. Perhaps as an Auditor I would hesitate to enter where the angels would fear to tread.* But, Sir, there is something worse than that. He says he is not able to understand the reason. There is the statement of the Chief of Army Staff. And that, Sir, I want to bring on record. Let that be understood by the whole nation. The reason for change in preference for Bofors Gun was so clearly spelt out by the Army Chief. The opposition should that

* Expunged as ordered by the Chair.

we are trying unnecessarily to belittle the institution of the Comptroller and Auditor-General. Are they not belittling the institution of our Army, belittling the institution of the Chief of Army Staff, just because politically it does suit them ?

This is what the Chief of the Army Staff stated on oath. Sir, I am reading these two paras a little extensively because this must go on record of the House. This is the reason why they recommended the French gun Sofma earlier and later on they shifted to Bofors. The Chief of Army Staff says *Inter alia*.

"At that point of time (Sofma was recommended), we were evaluating not just the towed gun but also the self-propelled gun as one package. The only weapon which figured in both the lists was the French gun. None of the other self-propelled gun contenders truly came anywhere near the French gun."

Therefore, it was only the French system which fulfilled all the requirements. Later on he says :

"A decision was taken that we would not buy the entire system including the tank on which it is mounted. We would only go in for the gun system. Between 1982 and some time in July 1985, both our own R & D as well as the French firm had tried to work out the feasibility of mounting this kind of turret on the Vijayanta tank.."
1.00 P.M.

"We were very hopeful that it would succeed in the initial stages. But after three years of work, they came back and reported that this was not feasible. For many technical considerations, the Vijayanta could not accept the French GCT-Turret."

This was the first reason. They were trying to mount the French gun on the Vijayanta and in 1985, they came to the conclusion that they could not do so.

The second reason is more important. He says :

The second main reason was that though the Bofors system had the advantage of greater degree of automation than the French system, I did not at that point of time give a larger weightage for its burst-fire capability and the automation capability."

At that point of time means, at the time when the Sofma was recommended. He says :

"The burst-fire capability is very essential if in the future days our potential adversary acquires a kind of radar which can pinpoint the location of the gun accurately enough in a matter of minutes, if not in seconds and at that time there was no such gun locating radar in the inventory of any of the advanced countries of the world."

At that time means, at the time when the Sofma was recommended. However, the perceptions of actual warfare and logistics change—when a radar is found which can detect any gun in a very short time. Therefore, he says :

"We were aware that the U.S.A. was the only country which was developing such a radar. My anticipation at that time was that by the time this kind of technology becomes more prevalent in the U.S.A. and they are prepared to transfer this kind of radar to their allies, it would be almost a decade and a half later...."

This is the reason. He thought that it would take some time to develop such a radar.

Subsequently, he says :

"Therefore the weightage advantage which the Bofors

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had over the French gun was not high enough at that point of time. These were the two reasons why I had placed the French gun slightly ahead of the Bofors gun at that point of time even though I had stated that all the three guns—the French, the Swedish and the British gun—were acceptable to us. Then subsequently in February, 1986, when I took over as Chief of Army Staff, two major events had occurred. First of all, the U.S.A. had successfully developed the fire-finder radar, the ANTPS-37 and had also included this radar in the package which they were giving to...

He says further :

“...in the light of some of these changed circumstances, I reevaluated the *inter se* placement and decided that the Bofors gun in these conditions had an edge over the French gun though fundamentally both guns were acceptable for the Army. This was the sequence and I would like to repeat under oath, what I told the hon. Members when I briefed them in the Army Head quarters some months back.”

But the Comptroller and Auditor-General says that the reason is not clear to him why the preference was changed from Sofma to Bofors. This is what the Army Chief said.

Then Sir, on page 75, there is a statement. The main reason why Bofors was preferred is dealt with and I would, therefore, like to refer to page 75, para 5.80. The Army Chief says :

“At no stage of this assessment of mine for the final shortlisting and indicating of the Army's *inter*

se preference between the Bofors and the French gun, in no way, was any suggestion or influence applied on me or on any of my staff from the Ministry of Defence or Minister of Defence or anybody in any position of authority. It was our own free exercise of judgement that we changed the *inter se* placement because of objective analysis of what we thought was a very exceedingly vital factor which had undergone changes between December 1982 and February 1986.”

Despite all this, see the manner in which the report is given by CAG. It tries to cast aspersions on the entire working of the Army Headquarters. But not a word against the same has been said by our friends on that side. I wish they were here and we would have known what they have to say on this. We would have liked to hear from them. Politicising the issue so far as the Army is concerned is a dangerous game my friends are trying to play. The Comptroller and Auditor-General should have seen to it that he does not enter into a controversy which may politicise the issue and create unnecessary conflicts of a political nature between the Ministry and the Opposition. What is said on page 105 by J.P.C. in this very report is again very revealing. It says :

“After a detailed consideration of various facets of the deal as discussed in this Chapter, the Committee have no hesitation in concluding that a superior gun system has been purchased from M/s Bofors at less than the floor price offered by M/s Sofma for a relatively inferior system. Considering the substantial financial gains and the various terms of contracts the Committee consider that the Negotiating Committee was eminently successful in the task assigned to it and the considerable time taken in con-

cluding the contracts ultimately proved to be highly advantageous to the country."

But something more than this the J.P.C. have said on page 189 and it is a very important finding of J.P. Committee. It said :

"No extraneous influence or consideration such as kickbacks or bribes as alleged in the media affected at any stage the selection ! The Committee have not come across any action or decision of any officer or member of the Government which could be viewed with slightest suspicion at any stage of the Bofors Contract. The evidence before the Committee conclusively establishes that the decision to award the contract to Bofors was purely on merits."

This is what they say finally :

"The Committee are firmly convinced that the procedure followed for the selection of the Bofors gun system was thorough, flawless and meticulous."

At one stage J.P.C. has stated that if they had not given this kind of preference to Bofors we would have harmed our national interest incalculably.

Therefore, the crucial question which, on this objection, I would like to ask is that the Controller and Auditor General does not say that the two reasons given by Army Chief were wrong. He only says, that he is not able to understand them. The validity of the two reasons, the basis of preference, is not challenged by him, and yet the manner in which the report is written seem to be designed to create suspicion

against the *bona fides* of those who recommended Bofors—when earlier for quite some time Sofma was the preference and then the authorities switched to Bofors. I submit, it is highly unfortunate. C.A.G. should not have made this observation in this report. He is trying to create a doubt that up to 1985 or 1986 some other gun was preferred and later on some other gun was preferred for which he says he does not have many reasons. The third objection is that the deliberations of the Negotiating Committee suffered from certain constraints. There was no follow-up action by the Committee of its own recommendation. This is entirely of a technical nature, of an administrative nature. I do not want even to refer to it. At best it was an administrative lapse. If the follow-up action is not taken, it is not taken and if it is taken, it is taken.

Objection No. 4 is important. He says that ammunition for Rs. 328.98 crores was ordered after diluting the minimum acceptable parameters specified by army headquarters. So far as this is concerned, three paragraphs are given, 11.4.01, .02, .03. Rs. 212.45 crores, Rs. 25.93 crores and Rs. 90.96 crores are the figures mentioned, totalling up to Rs. 328.98 crores. I do not have the time to go into it ; otherwise I could have blown this to smithereens.

SOME HON' MEMBERS : You have got enough time.

SHRI N. K. P. SALVE : Hon. Members would like to know what these paras are where the cogent explanation given by the Ministry is thrown to the winds, where CAG says, no, no, this is what I don't accept. Was the sitting to give an *ex cathedra* pronouncement ? *Ex cathedra* pronouncement is for some matters which is pronounced by

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Pope, where what he says is, the final law. The Comptroller and Auditor General does not have that kind of authority. In the paragraph of Evaluation of ammunition CAG says : For one of the important ammunition on order with Bofors, the required range was 'P' kms in terms of the minimum acceptable parameters.

"Sofma had offered its ammunition with a range of 'P+2.5' km, whereas the offer of Bofors was for 'P-0.5' kms. This resulted in a dilution of the stipulated minimum standard. The value of this ammunition on order with Bofors was Rs. 212.45 crores. The Ministry stated in February 1989 that the aforesaid ammunition fired during demonstration before the Consultative Committee and JPC achieved the 'stipulated range and above'."

So this practical demonstration takes care of 245.45 crores. Sir, why does he not accept that the demonstrations were credible ?

SHRI JAGESH DESAI : General Aurora and Mr. Jaswant Singh were there.

SHRI N. K. P. SALVE : Every one was there. Then, Sir, 'P+2.5' and 'P-0.5' and things like that. Sir, we have amongst us an eminent chartered accountant who was President of the Institute of Chartered Accountants of India. I would like to submit one thing very respectfully in his presence. If an Auditor talks like this somewhere in a company and that company complains, then perhaps the Institute would have initiated action against that Auditor, for professional and ask, why are you going into an area which is not your blessed business ? And you are trying to create suspicion on a matter which is already so politically sensitive ! An explanation is given that the ammunition has been found to be

up to the mark on trial before the JPC and the JPC has accepted it. And still you are not willing to accept that and you put it in a way as though there is some doubt about it !

Then, Sir, Para 2. This deals with 25.93 crores :

"On two other items of ammunition, 'X' and 'Y', the range obtained was indicated as 'Q' kms. Roth Sofma and Bofors had offered these items of ammunition for a shorter range. In August 1985, Army HQ after evaluating them, held that they did not meet their operational requirements. However, an order for the supply of shorter range ammunition which had earlier been rejected, was placed though Bofors had offered to develop and supply the ammunition with the range of 'Q' kms. This was worth Rs. 25.93 crores. The Ministry justified this purchase in their reply (November 1988) on the ground that targets of varying ranges were to be engaged and that the ammunition was 'cheaper.'"

So all these aspects of the matter have been dealt with so well by the Ministry. They have been dealt with so well by the JPC. I will come to what the JPC has to say on all these matters later and you will find how biased is the report of the Auditor.

Then I come to the last one. This is again very interesting :

"The minimum acceptable parameter for another ammunition, 'Z', as confirmed by the Ministry in November 1988, was 'R' kms. The minimum standard on this ammunition, too, was finally compromised in favour of shorter range ammunition offered by Bofors. The cost of this ammunition was Rs. 90.60 crores. In February 1989, the Ministry con-

tended that the 'minimum acceptable parameter' for this ammunition was below the range ordered on Bofors. It did not, however, indicate the factors which necessitated the alteration of the initially stipulated parameters.

Sir, the Ministry has fully and properly explained as to what the reason was and therefore the entire objection which is raised that the ammunition worth Rs. 328.98 crores was ordered after diluting the minimum acceptable standard is not valid when the JPC in the trial demonstration had found that those various parameters had been fully complied with.

After this I come to objection No. 5:

"The assessment of costs leading to the award of contract to Bofors was also flawed in several respects. An exception was made to the general policy of the Government to pay for imports in the currency of the country from where the imports are being made by agreeing to repay 58 per cent of the credit facility in Deutsche Mark. The additional cost of improved maintenance coverage required for the Bofors gun which is more prone to defects was not assessed. The advantage of operating the Bofors gun through a smaller crew was also not assessed. (This is a factor in favour of Bofors). A liability in regard to purchase of ammunition in excess of Army's requirement (value Rs. 42.73 crores) for obtaining technology for licence production was also not taken into account."

Sir, it is as though everything they did for selection of Bofors was wrong, nothing was right and what CAG says is right. That is what the Opposition wants us to believe and wants our leader to resign. CAG says, "The assessment of costs

leading to the award of contract to Bofors was also flawed." I want to ask, where was the flaw? There was some doubt CAG was seeking to create. I want to submit, first of all, one thing, that if there were any financial irregularities, entirely the Finance Ministry was responsible and Mr. V. P. Singh is responsible for the same. I do not know how Mr. V. P. Singh is reigning over this issue from Lok Sabha. Is he resigning over a decision which he had taken as Finance Minister? He has resigned today on the basis of this report in which the allegation is that in the Bofors deal there have been financial irregularities, there have been payback, there have been kickbacks. He himself finalized the entire agreement. His Ministry finalized it when he was the Head. Now I am going to read out something to you.

"When asked whether the Finance Minister knew this or not, the Secretary (Expenditure) said, 'Yes, he knew about it and he had no reservation.'"

He was privy, he was a party to this contract being entered into, he was the one who cleared the entire financial implications, the entire financial liability, the entire financial needs, so far as this contract is concerned. And today he is merrily resigning from the Lok Sabha on the ground that there has been corruption in this contract. I am unable to understand that. Corruption has been inferred from a contract financially which you have cleared yourself.

Sir, I want to refer to pages 98 and 100 of the JPC report. On page 98, I want to submit, is the statement of the Secretary (Expenditure), who was the Secretary (Expenditure), of Mr. V. P. Singh. On oath he says--I quote him from page 98, para 6.54:

"I can tell you without any reservation what-so-ever--and this is a view I had expressed to my colleague

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gues--that this is the best gun system that we could get at the best possible terms. I would also say that before we started these negotiations, if you refer to the CCPA papers, you will find that on the basis of the budgetary quotations received and their own intelligence, the Army Headquarters had estimated the value of the package—which was Rs. 1600 crores way back in 1984--and in 1986 despite any escalation, we have managed to get the package at about Rs. 1400 crores. In my experience, I have rarely come across a case where the actual price obtained is well within the earlier expectations”.

The CAG doesn't deal with this--it does not suit him to deal with this kind of a finding, a finding of the Committee in which again the statement of the Secretary (Expenditure) is cited, which should put the entire Janata Dal and its leader to shame. It is on page 100--para 6.61. I quote;

“In reply to a question whether the final recommendation of the Negotiating Committee selecting the Bofors gun keeping in view the technical, contractual and financial aspects, was specifically brought to the notice of the then Finance Minister, the then Secretary (Expenditure) affirmed that after the Negotiating Committee had finished its deliberations, a note was put up by the Defence Ministry as the administrative ministry on which the approval of the Finance Secretary and the then Finance Minister and the State Ministers in the Ministry of Defence and the Prime Minister, as Defence Minister, was taken”.

They went further and asked whether the Finance Minister had expressed any reservation, and the reply was;

“Absolutely no. I can say this categorically ... because the

moment I saw the file, I immediately sent it to the Finance Secretary saying that the matter was very urgent. It went to the Finance Minister. If he had the slightest doubt, he would have asked the Finance Secretary or me. I was the senior officer in the Finance Department. I was the proper person to have been asked this question. Till the moment of my retirement, no question was raised” And now Shri V. P. Singh raises a question in Parliament and he resigns. Does he think that he would become a great hero by this kind of gimmickry ?

SHRI SUBRAMANIAN SWAMY (Uttar Pradesh): He resigned just to prevent this kind of...

SHRI N. K. P. SALVE : The less said the better. Perhaps in my indignation I would say something about the person of Mr. V. P. Singh. What has the Opposition to say? Do they accept that if the Finance Minister was privy to this kind of contract he was then dishonest and that he is honest now or was he dishonest then and equally dishonest now? What is it? They have to answer this somewhere. That is why they are not participating. Sir, what is the answer to these findings?

SHRI JAGESH DESAI: That is the reason why they are not participating.

SHRI N. K. P. SALVE: Is it that such categorical and unequivocal statements by the Secretary of Expenditure working under the Finance Ministry are all to be rejected, to be thrown overboard? Have they no value? *Sir, this is not the end of the matter. I have not done with it. Now, kindly see page 101 of JPC report, Again see, Sir, what does the Committee find :

“The Committee further observes that on the date the Negotiating

*Expunged as ordered by the Chair.

Committee made their recommendation, the offer of Bofors was cheaper than the offer of Sofma by about 97 crores. The French firm offered their final rock-bottom price of Rs. 1436.76 crores on 21-3-1986 which involved a reduction of Rs. 101.35 crores over their previous offer, made on 11-3-1986. This Price could be considered the floor price for the French system because the letter of intent had already been placed on Bofors and the imminent danger of losing the contract would have prevented the French from keeping any margin in reserve. Even with such a large reduction i.e. over Rs. 101 crores,...

Sir, see the ethics of the French people, not of the CAG. After the letter of intent has been issued, they reduced the offer by Rs. 101 crores. And what happens as a result is that even with such a large reduction of over Rs. 101 crores, Sofma could not match the final offer of Bofors. On 21-3-1986, the final offer of Bofors was Rs. 1427.02 crores as compared to Sofma's offer of Rs. 1436.76 crores.

Now, I am reading from page 189-190, para 9.3, sub-clause (iii) of JPC report ;

"The Negotiating Committee established by the Government was able to generate keen competition amongst the competing suppliers. No middleman was involved in the commercial negotiations leading to the finalisation of the price and the other terms of the contract with Bofors. As a result, the Government succeeded in securing the contract at the lowest price and on the best financial and other terms. The Committee have noted with satisfaction that the price of Bofors gun system in Indian contract was the lowest compared with prices in contract with other customers."

Sir, I would have been very happy to pay a tribute again to Mr. V.P. Singh, as we have paid tribute to him on several other good things he did when in our party. Bofors is the cheapest price and it is the cheapest buy. And as a Finance Minister I do submit it was a good job that he had done. But for political reasons he is wanting to turn his coat so much absolutely that having been privy and having been a party to a contract which served national interest, for the sake of cheap political gains, he is trying to run down and kick the very ladder which has helped him to come up so much. It is most unfortunate. The minimum that I can submit is that it is most unfortunate.

Sir, my request to you will be to please let me complete even if I take fifteen minutes beyond 1.30 so that I will be able to do some work of the Finance Commission.

Now, I will come to the next objection. While the lender has the right to terminate the credit agreement under certain conditions, the borrower has no such right.

SHRI JAGESH DESAI: Here it is ridiculous.

SHRI N. K. P. SALVE: And for, this the Prime Minister must resign; I said there is not a single objection, valid or serious. So far as the various objections which I have read out are concerned, they might have shown some lapses and deficiencies: whether they are correct or not, is itself a question in view of the unequivocal finding of the JPC. But one thing is clear: not one of them can lead you to an inference of corruption or bribery, not one of them can lead you to allege fraud whatsoever, not one of them can lead you to any dishonesty whatsoever.

Then, the seventh objection was : "The Prime Minister's direction of 25th March, 1986 regarding the

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the methodology of evaluation was not complied with at that point of time as it was held to be of general nature. However, no new methodology of evaluation has been worked out by the Government..." Sir, it is most unfortunate. The Prime Minister purely said that whereas Bofors gun needed 6 persons to operate and French gun needed 7 persons to operate, in the evaluation of Bofors this fact was not looked into. It is entirely routine and entirely an administrative matter.*

Before I proceed further I want to read objection eight: "The issue of letter of intent on 14th March 1986 before settling all aspects involved resulted in Bofors being "most averse" to make any further concession as they had received the letter of intent. However, with "great difficulty" a further concession of 10 guns free was obtained". Even after that it is cheaper. Ten days thereafter Sofma reduce the price and for that there is no objection in the mind of the CAG and even then Bofors offer is cheaper. CAG says: "Why did you issue the letter of intent? After the issue of letter of intent, you cannot negotiate. My respectful submission is that at some date or the other you have got to issue the letter of intent and this objection can exist in every case where a letter of intent is issued. They will say: "You have issued the letter of intent. You have committed a grave error because thereafter you have foregone the very right to negotiate further". Sir, is it a joke that we are reading! This is a serious matter and I wish he was more serious about the whole thing.

* Expunged as ordered by the Chair.

Then, Sir, another objection was: "Although the Ministry had decided in May, 1985 that procurement of imported weapons and equipment would be made directly from the manufacturers and agents eliminated it did not obtain a categorical written assurance from Bofors in regard to the engagement of agents. According to the findings of the Joint Committee of Parliament, Bofors paid SEK 319.4 million to three companies, not domiciled in India. In the absence of a suitable provision in the contract to exclude agents, no reduction in cost to the extent of payments made to the agents could be sought by the Ministry from Bofors." One thing is clear, Sir, what Mr. Arun Singh had stated there: "To the extent these moneys have been paid by Bofors to various companies by way of winding up charges or commission we should ask the money back". The CAG says: "in the absence of any provision you cannot do so." Therefore, Sir, the observations of the Joint Parliamentary Committee on page 109, para 7.16 are very important:

"The Committee enquired from the Defence Secretary as to why the condition that there would be no middlemen in the deal was not incorporated in the contract signed with Bofors to which he replied.

"With the understanding which we had arrived at, it was not considered at that time essential that it should also be incorporated. Perhaps with hindsight, it might appear that this could have been done. We are now trying to do this. But the question regarding its enforceability still remains open because we are advised legally that an infringement of such a clause, even if it were to have been

entered into the contract; it would have been a very difficult one to enforce without the modification/amendment of the existing Act."

Sir, I want to submit that one thing in all fairness the CAG should have brought out is that it was stated that there should be a middleman. Was it Mr. V. P. Singh who laid this down? No, The report proves that the Prime Minister has said: "I don't want any middleman whatsoever." Unfortunately, that was not implemented. CAG laments that. But if he had the honesty, he would have said just as he said that the Prime Minister's comments or the Prime Minister's observations on evaluation were not followed. Correct. He should have gone and said that the Prime Minister's directions in this respect were not followed and I do maintain that to this extent, there has been a procedural lapse on the part of the Defence Ministry. In the contract, they should have made a provision whether legally enforceable or not. I entirely agree with what the Comptroller and Auditor General says that on the contract, as it is, they could not have asked they could not have taken any action...

(Interruptions)

THE VICE-CHAIRMAN
(SHRI MIRZA IRSHADBAIG):
It is 1.30 now...

SHRI N. K. P. SALVE: Please give me 15 minutes. I will finish.

THE VICE-CHAIRMAN
(SHRI MIRZA IRSHADBAIG):
You may continue after the lunch break.

SHRI N. K. P. SALVE: Let me finish, Sir. I crave your indulgence.

THE VICE-CHAIRMAN
(SHRI MIRZA IRSHADBAIG):
It is 1.30 and I think, after the lunch break, you may continue.

SHRI N. K. P. SALVE: Thank you, Sir. I abide by your decision.

THE VICE-CHAIRMAN
(SHRI MIRZA IRSHADBAIG):
Now the House stands adjourned for lunch and will reassemble at 2.30 P.M.

The House then adjourned for lunch at thirty-one minutes past one of the clock.

The House reassembled after lunch at thirty-four minutes past two of the clock, The vice-chairman (Shri Jagesh Desai) in the Chair

SUPPLEMENTARY DEMANDS FOR GRANTS (GENERAL) 1989-90 (JULY, 1989)

THE MINISTER OF STATE
OF THE MINISTRY OF WATER
RESOURCES AND THE MINISTER
OF STATE IN THE MINISTRY
OF PARLIAMENTARY AFFAIRS
(SHRI M. M. JACOB):
Sir, on behalf of Shri B. K. Gadhi,
I beg to lay on the Table a statement
(in English and Hindi) showing the
Supplementary Demands for Grants
(General) for the year 1989-90 (July,
1989).

SHORT DURATION DISCUSSION

On paragraphs 11 and 12 of the report of the Comptroller and Auditor General of India, for the year ended 31st March, 1988 (No. 2 of 1989)—Union Government—Defence Services (Army and Ordnance Factories)—*contd.*

SHRI N. K. P. SALVE: Mr. Vice-Chairman, Sir, I must apologise