

[Shri Ajit Panja]

considering each clause with open mind.

So far as partnership is concerned, there need not be apprehension. I have already declared in this House that this will be applicable from 1990 and, therefore, in the meantime they will be able to arrange their books of accounts, payment of allowances to the partners and other things. I think there is nothing more for me to say on this.

3.00 P.M.

**SHORT DURATION DISCUSSION ON
REPORT OF JOINT PARLIAMEN-
TARY COMMITTEE ON BOFORS
CONTRACT—Contd.**

SHRI ARUN SINGH (Uttar Pradesh): Mr. Vice-Chairman, may I start by complimenting Shri Atal Bihariji on what I can only say was his most outstanding parliamentary performance. If he will forgive my being so presumptuous, I think he has made a very vital contribution to Indian politics and to Indian Parliament, but he would have been an absolutely outstanding performer on the stage, because his delivery, his modulation of voice far outstrips the content, which is basically endemic to actors, as you well know, Sir.

I will try and divide the points I have to make into various distinct parts because I think that before, during and after the deliberations of the Joint Parliamentary Committee, and particularly since I concur with Vajpayeeji and take Mr. Aladi Aruna's views as a dissenting note as opposed to a postscript, various questions have been raised. Since I had the privilege of being directly involved through the Ministry of Defence at the time, I would like to throw whatever light I have to offer on the various points that have been raised.

I will start by quoting from Atal Bihari Vajpayeeji:

सवाल तोष का नहीं है

Unfortunately, while he has been kind enough to say that today, that has not been the stance taken by the Opposition parties so far. I believe that one of the significant contributions that the Joint Parliamentary Committee has made to the entire deliberations has been to my way of thinking, to, in fact, prove:

सवाल तोष का नहीं है

I consider this to be peripheral issue. None-the-less I will take a little bit of time on it, because one of the points that I believe is the most important, I also believe, has not been given the importance it deserves.

Sir, the relationship between a politician, a civil servant and an officer of the Defence Services in the Ministry of Defence is a very clear-cut and distinct relationship. Each has a specific role to perform, allied to and arising directly out of his experience and, more than that, his knowledge.

The Services Headquarters are not Parliament; they are not a democracy. Any Minister in the Ministry of Defence, I say any Minister in any Ministry of Defence has a very simple task to perform. There is only one advisor to the Government in each Service Headquarters. That man with four stars on his shoulder is called the Chief. No Minister, no Parliament, no other institution outside the Services should be permitted, in my view, to cross-check the opinion of the Chief with his subordinate officers.

I believe, Sir, that the seeds of destruction of the institution lie even in a Minister querying through Captains, Majors, Colonels and Brigadiers what they think of the Chief's view. I had the privilege of working in that Ministry. There is only one advice that the Government can take and that is the advice of the Chief.

Sir, much controversy has been raised about a report called the Mayadas Committee report. I do not propose to go into the merits of the Mayadas Committee report. As the Minister of State in the Ministry of Defence, I could not have cared less that there was a report called the Mayadas Committee report. I say this because Gen. Mayadas Committee's report was turned down, not by the Minister, not by the civil servant, but by Gen. Mayadas' direct superior. And that view was endorsed, not by the Minister, not by the civil servant, but by the next senior officer, who happened to be the then Chief of Army Staff, the late Gen. Vaidya. Once that is done, once Gen. Vaidya has put on paper that as far as he is cognizant of the Mayadas Committee report is not an acceptable report, then I put it to you, Sir, and through you to the House, that as far as the Minister is concerned, the Minister would be suborning the authority of the Chief of Army Staff if he took cognizance of the Mayadas Committee report. I believe that through this process of debate, this Joint Parliamentary Committee and so on so much heat and so much light have been generated. I hope that in future—I say this non-politically; I do not say this from this side of the House; I say this as an Indian—never again does anybody in politics query the Chief's view with a subordinate officer.

I now come to the Chief's view and I will quote to you from the report I quote from Gen. Sunderji's submission to the Committee, from page 67 of the report:

"...in the light of some of these changed circumstances, I re-evaluated 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."

Sir, I again quote, from page 76 of the report:

"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."

The testimony is on oath. Were I on oath, I too would confirm that nobody, no Minister, no civil servant, ever influenced the decision of the Chief of Army Staff. I confirm one more thing.

As you probably know, I am not want to blowing my own trumpet, even faintly. But I pride myself on my knowledge of weapons systems. It has been a subject of study for me for over thirty years. I know that I am an outstanding layman on this subject—but the operative word is "layman." I do not know anything on this subject in comparison to the Services Headquarters. But, no matter what my views were, I would not have the competence to tell anybody what they should select. Therefore, Sir, I hope—I believe—that the question "*Sawal toponka nahin hai*" now stands buried. Because, this is not a problem of the gun.

SHRI KALPNATH RAI (Uttar Pradesh): It is a political question.

SHRI ARUN SINGH: I now come, Sir, to the second part. I come to the question of the price because our hon. Member's dissenting opinion has raised certain queries on the subject.

Sir, may I start by complimenting Shri Aladi Aruna, my colleague, for his extraordinary expertise in matters technical, financial, international finance, and law. He has hidden his light under a bushel so well, Sir, that I for one am most pleasantly surprised by his expertise.

Sir, there are two assessments made of the financial implications. One is the offer as on date, and the other is the concept called "net present value." I am not a financial man as you are

[Shri Arun Singh]

or as indeed my colleague, Mr. Salve, is. I believe that somebody with greater expertise than I should deal with this concept of "net present value." But there is one point I would like to make because it has not come out in the manner in which, I think, it should have. The net present value computation depends almost entirely on the rate, the currency exchange rate at that time. The net present value can alter from day to day, hour to hour, minute to minute. Therefore, to go by net present value, if you accept that this should be the only criterion, then, theoretically you can sign a contract by computing the net present value in your favour simply by checking. This check, as you are well aware, Sir, in the international market is an hour-to-hour check on the telex. So, you can keep looking at the currency fluctuations and say, "I will sign at this hour. At this hour the currency value is just in my favour." This is a crazy way of looking at things. No commercial man would go only by net present value, nobody. And yet, net present value is being quoted as though this is the deciding factor.

The second thing, Sir, is, this is discounted cash flows. You, Sir, are well aware of the complications involved in discounting. The critical factor as far as I am concerned was at the point in time when the contract was signed, which gun was cheaper. There is no argument about which gun was cheaper, even in the dissenting opinion. However, I want to highlight one factor which, to my mind, is critical on the financial side. I come from as you know, a commercial background. I listened to a very interesting debate yesterday between Mr. Sathe on this side and Mr. Dipendra on the other side on labour versus capital, you may recall, in relation to coal mine or something. Sir, what is being treated even in the report as a peripheral issue and an issue which has not even been mentioned by Mr. Aruna in his dissenting opinion, is one

issue which, I think, is critical, the saving of one man per gun. Whatever number of guns you take, 400, 600, 800, 1,000, 1,200, 1,400, on 1,400 guns the saving will be over 20 years Rs. 120 crores, to Rs. 150 crores. It is two artillery regiments worth of men, in a country where we are all debating that the fixed cost of defence in terms of manpower is too high. We have all been debating it. It is taking no discounting, no inflation accounting. All you are saying is that if today's cost per man is Rs. 45,000 per man per year, in 20 years this will be Rs. 125 crores. Rs. 45,000 per man will not last three years. So, where is the question of argument on the cost of the gun? If the country is going to save anything between Rs. 100 crores and Rs. 200 crores only on manpower with no cost on efficiency simply because there is one man less per gun, in my assessment that is a clincher. However, we do not put that clincher into commercial computation for only one reason. In any case, Bofors is cheaper. It is only compounding the cheapness. In any case it was cheaper. This makes it even further cheaper. So, Sir, on financial implications, with due deference to the dissenting opinion, I think, there is absolutely no argument whatsoever.

I would like to place one more fact before the House, because it has been mentioned in the Report who decided finally that the financial computation is this way or that way. It was not the Ministry of Defence. The Ministry of Defence is not competent to decide that. The report makes specific mention of the fact that after the negotiation is completed, the file as is presumably normal is sent to the Ministry of Finance. Atal Bihari Ji had been a Minister in the Central Government and he will confirm this. I quote from the Report at page 100.

"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, etc. a note put up by the Defence Ministry as the administrative Ministry was sent to the Ministry of Finance."

The financial parameters underlying the contract about which, as I said, our expert dissenter, Mr. Aladi Aruna, had spent many pages of dissenting opinion talking about the costs involved, this matter was duly deliberated upon not only by the negotiating committee, but by the Ministry of Finance. It went one step further. It was not only deliberated by the Ministry of Finance, but the Minister of Finance signed and with due respect to him, he is no longer in the House...

SHRI RAFIQUE ALAM (Bihar):
Who was the Finance Minister then?

SHRI ARUN SINGH: Vishwanath Pratap Singh Ji signed the file, because I know, he knows and everybody knows that the gun is cheaper. You can create any controversy, after the issue, you like, but the fact is he knew that it was cheaper.

I now come to my third point. From my way of thinking this is really very sad. Here I will talk specifically about the dissenting opinion. On page 323, the sub-heading of this paragraph is 'Suspicion'. I will quote from page 234. What Shri Aruna was saying was 'we are told that when our Prime Minister met Olof Palme, etc. etc., then the questions:

'First, why is it that he did not ask the heads of other nations of the competing companies to do anything of the kind?

The sequences of incidents like meeting of Prime Ministers of the two countries concerned, the said message in the end of 1985 and assurance from the Prime Minister

of Sweden in January 1986 give birth to suspicion that the Ministry of Defence could have secretly assured M/s. Bofors that they would be awarded the contract for 155 mm gun in their favour."

Finally it is considered extraordinary.

"No doubt the direct involvement of our Prime Minister has not been established in the inquiry for the reasons, to the best of my observation, that this Committee itself has not taken serious steps to identify the persons."

I would like to share with this House some facts which are not known to Mr. Aruna. Therefore, Mr. Aruna has no doubt entered his opinion on this basis. In June, 1985 during his State visit to France, our Prime Minister met the French Prime Minister in the residence of our Prime Minister, Palais Marigny. I was present in that meeting. There our Prime Minister, categorically told the French Prime Minister, not in relation specifically to the French gun offer because the French gun offer at that point of time was not short listed and being finally negotiated, but in relation to a number of contracts France was entering into, beyond the areas of Defence; I was his Parliamentary Secretary and I was not involved in Defence—there should be no agent, no middlemen and no commission agent. Probably all Members know I met Carl Joan Aberg on November 25, 1985. The press report which came out said that the kickbacks were discussed. Actually what was discussed was that there should be no kickback. That was in November, 1985. On the 31st January, 1986, two months after I met Mr. Aberg, I met a man called John Louis Secretary-General to the President of France and told him that in relation to this contract or any other contract they should ensure that they compete on the price and that there are no middlemen. So Mr. Aruna's observation that suspicion is

[Shri Arun Singh]

created out of the fact that our Prime Minister spoke to Olof Yalme and therefore, secretly we had assured the Swedes of the deal is categorically put to rest on the basis that I am informing the House we spoke to the French before and after we spoke to the Swedes.

I finally come to the one area which is the question. I believe that this is accepted even by the hon. Member's of the Opposition as being the question. I hope that the controversy that was sought to be raised about the gun contract terms will now conclude on the basis of the report submitted. The question relates to payments. I would start, Sir, by saying that memories tend to be short. People forget what was said. I don't blame anybody for that who has got time to sit and read what was said earlier and so on and so forth. The question of the denial has been flung around *ad nauseam* including in this dissenting note wherein some reference was made on page 218 of the report, I quote:

"Though the Government of India had resolutely refuted the allegation by saying that the allegation of the Swedish Radio Broadcast was false, baseless, malicious, etc. etc."

On the 21st April last year, in this hon. House I had quoted the Government's statement which had been made on the 17th April last year. The news item was specific. I am talking about the first news item. Just to remind the Members what was said, I quote:

"Bribes have been paid to senior Indian politicians and key Defence figures."

That was the specific news item. I think I am relying on memory, in Rajiv Gandhi's Government. It was that which was denied as false, baseless and mischievous. On the question of payments being made, I will quote

from my reply in this House on the 21st April of last year.

"The question, therefore, starts as I see it and believe and this is the consensus of the House—has anything been paid? From that first question we derive all the consequential questions. If 'yes', What? When? To whom? How? Why And where?"

Therefore, the fundamental question is—has anything been paid? I quote further:

"Government have made abundantly clear both to the company and to the Government of the country in which that company is based that no payment should be made."

Our starting point is that nothing should have been paid. Much misquoting has been done in the press and the House also. At no point in time did I say before the Audit Bureau Report that nothing has been paid. What I said was that the *prima facie* question stands raised. I do not have the answer. I do not know whether anything was paid and that is why this Government, this Prime Minister did not let it rest. He pursued this. We asked the Swedes to confirm, has anything been paid or has anything been not paid? And the Swedes set up the National Audit Bureau report only because of the request of this Government. Otherwise, the Swedes would not have been interested whether anything has been paid or not. The whole process by which this investigation began, began at the behest of this Government, Sir. If the Prime Minister had not chased this fact with the Swedish Government, there would have been no investigation by Sweden. Why did Sweden care? This fact needs to be established on record that first we said, no bribes have been made and I still maintain that no bribes have been made. Second, that we did not

say, nothing has been paid. We said, we want to know whether anything has been paid and we demanded from the Swedish Government that they would investigate this fact and confirm back to us.

Now, Sir, we come to the payments. Clearly, as soon as the National Audit Bureau published their information, it became obvious that payments have been made. Another good piece of work done by this Committee for which I believe, they need to be complimented and not criticised because they are a Committee of Parliament, they are not a Committee of the Executive, is that the Committee has obtained a significant part of information from M/s. Bofors Limited. We will deal later with this whether this is enough information or whether there should be more information. But they have certainly obtained a specific amount of information. Bofors, Sir, have clearly stated that three payments have been made apart from the one payment which they had told us about because the only justifiable thing in my assessment that Bofors ever did was that they told us about Anatronics General Corporation. So there was a fourth payment which we knew about and information about which was tabled in this House in April last year. Hence the process of pursuit of Bofors by the Committee. They have confirmed that three more payments have been made, that is firm A, 1978, firm B, 1979 and firm C, 1985. These are the dates of contracting with those companies. Agreement terminated, all in 1986, terminated cost... percentage of this and that and so on. The first point I want to raise is that obviously there was some extraordinary relationship between Bofors and firm A, firm B, going back to 1978 and 1979 and in 1978-79, Mr. Rajiv Gandhi was an Avro captain. So, to draw an inference that our contract was signed in 1986 and that payments relating to another contract signed in 1978 were made and Mr. Rajiv Gandhi was Prescient, looking backwards in time,

eight years earlier, he had fixed that this is going to happen. (*Interruption*) I credit him with considerable capabilities but this much capability, I assure you, he has not got. However, there are contracts and payments have been made. Now, we come to this most extraordinary phenomenon and I have never heard of it. I cannot claim to be a great international economic expert but I did work for 17 years in corporations. I have never heard of this one thing called winding up charges. To the best of my knowledge and Sir, experts on both sides of the House can correct me subsequently if I am wrong, if you terminate a contract, you pay liquidation damages. That is what I know. I have never hear of winding up charges. And you pay those damages when you terminate. A commercial enterprise, in winding up a contract for which it has to pay liquidation charges in terms of damages, takes that risk irrespective of the result of the future contract. That is not what Bofors have done. That is not what they have done. If Bofors were going to pay winding up charges, they should have paid the winding up charges on the day of the cancellation of the contract; not post-receipt of the contract from India. Therefore, these are not winding up charges.

In fact, the Joint Parliamentary Committee has done phenomenal work, with due apologies to Atal Bihariji. It made them confess to various peccadilloes. I am quoting from page 125 of the report:

"While clarifying as to why the payments were made after the signing of the agreement, Mr. Morberg stated as follows:

We had to pay the termination costs in both the situations—"

It is a fact.

"if we have an order and if we do not have an order."

[Shri Arun Singh]

That is also a fact. But I wonder what the next word 'naturally' means. He has said,

"Naturally there would have been another termination cost if we have not received an order."

What was natural about that? I cannot understand the use of the word 'naturally'.

"But termination costs we have had to pay all case."

I do agree with him. They had to pay termination costs in all cases. But I dispute the logic of the word 'naturally'. There is nothing natural about that.

The most interesting aspect, Sir, is that they have, as I said earlier, informed us about the Anotronics General Corporation. I do not know Mr. Win Chadha from Adam, I tell you. But I feel that Mr. Win Chaddha's case was told to us by Bofors. At page 128 of the report, it is stated thus.

"The Committee desired to know as to why the Government of India was not informed by Bofors - that they would need to terminate the existing arrangements and consequently bear such significant expenditure."

That was a straight question by the Committee published in the report. The reply of the Bofors President was:

"You must see the situation we had been just in. He was in Delhi and we have said before that this was the hardest and the toughest negotiation.....Perhaps it was behind that that he did not inform the Ministry of Defence."

Kamal hai. Why did he inform us about Anotronics General Corporation? He need not to have done that

also. In the heat of the moment and the toughness of the negotiation, he could have forgotten that also. At page 151, Sir, asked why he did not inform the Government of India about their decision to terminate, the gentleman said to the Committee:

"May be we made a mistake by not giving full information in our first letter to your Ambassador in Stockholm."

"'Maybe' kya?" It is a major blunder they made.

Now, I come to the question of confidentiality. Sir, there is no argument about confidentiality. The position in law, to my mind, is absolutely clear. Again according to the Committee—I have not remembered to note down the exact reference—when our investigating agencies checked A & E Services, or whatever you call it, there was a specific mention in the contract between Bofors and A & E Services of the secrecy clause. If Bofors took the line with us that this information was not confidential to them, then they were violating the confidentiality clause in three other contracts. Bofors would be in a cleft stick. Therefore, in law, I think that their stand of confidentiality is right. But I would make a certainly emotional statement.

To my assessment, as I was the Minister of State in the Ministry at that time, there is a breach of faith. They should have told us that they were going to pay; they should have told us what they were going to pay; most important of all, they should have told us why they were going to pay; or they should have paid before the contract was concluded. If they had paid before the contract was concluded, then I would have no argument on breach of faith. Because they paid after the contract was concluded, I can draw no other inference than that these are contract-related payments. A contract-related payment is a breach of faith. The question, therefore, is: What are we going to do

about this? As I said, there were three companies. The names have not been published. From whatever testimony you have, one is SVENSKA Inc., another is some *Pitco Mitco* or by whatever name you call it, and the third is some A&E or whatever. There are three companies. Out of these three companies, in one company's case the gentleman concerned, Mr. Wilson, has been kind enough to tell our agency, our investigating agency, "Yes, the money was paid." Not only that. He said, "It is in such-and-such bank account; the money is lying there intact." Some Rs. 7.8 or Rs. 7.5 crores is lying there. This particular contract between Messrs Bofors and Messrs whatever name you might call it, is a signed contract and it was signed and terminated within three months. For the pleasure and privilege of having signed and terminated the contract, that company has taken Rs. 7½ crores and the money is intact. As I understand it, my legal knowledge is very limited, according to whatever is published in the report, that Mr. Wilson is waiting with the money to pay it back in case he has to pay back that money, in case orders are passed on his company to pay back to the Government of U.K., "here is the money", "I am giving back the money in case a demand is made", and the matter is over. We know that this money is being paid to this gentleman; this is the smallest instalment of the money. The next larger instalment is to Messrs *Pitco Tidco* or whatever they call it. Some document has been published. Perhaps somewhat unusually, I would like to place on record my own personal appreciation of the work done by Ms Chitra Subramanian in Geneva, unlike another very reputed newspaper which has on many occasions added 2 and 2 and made it 22; the Hindu, and the team, as far as I know, of one gentleman, Mr. Ram, and the lady in Geneva, they have never drawn unnecessary inferences; they have never published anything that is not documented. But like good journalists they have made use of the docu-

ments at their will and that is the right of a journalist. I have no argument on that. But I think that they have done a fantastic job. But the document that they have published about *Pitco Mitco* or whatever, is a document dating to 1982 in terms of a bank transaction or a bank transfer or something like that. I think they did so in order to suggest, to prove, documentarily that there was a *Pitco Mitco* in 1982 and there is a *Pitco Mitco* now and that the two *Pitco Mitcos* are the same, etc. etc. I only submit that I have no knowledge whether there was a *Pitco Mitco* in 1986 or not, but I know for sure that there was a *Pitco Mitco* in 1982. But there is some suggestion, even by inference—may be further investigation, maybe more chasing, will be required—that we should be able to identify who is *Pitco* or *Mitco*. But even *Pitco* is not the main recipient. There is a third company called Svenska Inc., sitting in Panama and everybody agreed, including the investigating agencies and the JPC and everybody else, that there were three ladies in Panama who have got nothing to do with this business and they are not the ones who have run away with the bulk of the money. I personally feel a great sense of let-down at the activities of Bofors. This is the most—Well, Sir, I must be careful about my tenses—this was a most reputed corporation. Sir, from the post-First World War through the Second World War, Bofors were renowned in the field of artillery, specifically in the anti-aircraft artillery. Our relationship with Bofors in terms of anti-aircraft artillery goes back to the British army days. Nobody else produces 40 mm. anti-aircraft guns of the competence and capability of Bofors. This was an outstanding company. When they put to us in writing that there were no agents, that there were no middlemen, etc. etc., it did not occur to us, it did not cross our minds, that there should be a clause in the contract because Bofors might be lying. I take personal accountability for that, Sir.

[Shri Arun Singh]

SHRI JASWANT SINGH: Well said.

SHRI ARUN SINGH: Because, if I had the faintest suspicion—and, Sir, I can assure you and through you this House that the Prime Minister who was my Cabinet Minister as the Minister of Defence would not have even thought, if I had put a recommendation to him, that there should be a clause in that contract because I know what was the Prime Minister's intention—and if I had had the good sense at that point of time to say that we would put a clause in this contract debarring this practice in the event Bofors reneges on the concept of middlemen and associated payments, etc., etc., the Prime Minister would not have even queried and we would have had them where we wanted. For that I take accountability.

Sir, I would like to say one more thing, again on a personal note.

I am not, like many of my colleagues on both sides of the House, a great parliamentarian. I know very little about parliamentary conventions and practices. I will not be able to quote Erskine May and Kaul and Shakhder and what not. But I know something about organizations and structures; I know something about accountability and responsibility. I believe, Sir, and I know that this applies to all the Committees of Parliament, but certainly in the case of this Joint Parliamentary Committee, and I personally stand in the belief that they had no right to summon my subordinates before them. They had no right.

SHRI JASWANT SINGH: Well said.

SHRI ARUN SINGH: It is because, if I am the Minister and if I affix my signature to a file it means I am taking that decision, and not my Joint Secretary, not the Additional Secretary, not the Secretary, not the Chief of the Army Staff, not the Director-General of Weapons and Equipment, nobody, but me. That is my right as

the Minister and that the oath I swear by and if I am that incompetent that I can appear before that Committee and say, "I am sorry. I put my signature, but I do not know what they were recommending then." I do not deserve to be a Minister. I believe, Sir, that by calling my subordinates, my then subordinates—they are not my subordinates as of now—to come and give testimony, they had denigrated my authority as a Minister. I would have gone to that Committee. I would have taken every competent officer who is concerned with this transaction. They would have been in attendance to me. Queries would have been posed to me. I would have replied on oath. I could take advice from anybody from whom I wanted to take it. Therefore, in concept, I believe that the Joint Parliamentary Committee has done me a disservice. I also believe, Sir, that Parliament should decide for the future. Again, this is not the only issue. It is not the question which party is in power. They must decide in Parliament now, who is accountable? Is the officer accountable to Parliament? I do not believe that any officer is accountable to Parliament. I believe only the Minister is accountable to Parliament.

Sir, I would not like to conclude without making a recommendation. Sir, as I said, to my way of thinking, I believe the conviction that Bofors are in breach of faith to us, I believe so. As I said, I hinge this belief on only one fact: they paid after the contract was signed. And on another fact that they did not tell us that they were going to pay. Therefore, the question will come—and no doubt the hon. Minister of Defence will deal with this—the Committee, Committee of Parliament, has nothing to do with the Executive. The Committee was a fact-finding committee. They found facts to the extent they had the power to do so. They have placed these facts before the House. The House is debating these facts. The Committee had no right to threaten Bofors with

anything. They are not the Executive.

So, the question is: what are we going to do with Bofors? There are three options. First is the cancellation of the contract. I am not a legal man, Sir. I studied law 25 years ago. Whatever I studied I have forgotten. There are many complicated questions in law about the cancellation of the contract. I do not propose to enter into those. I quite agree that the Bofors people, in my limited assessment of law, have established confidentiality. My view about the question of cancellation of contract is somewhat a different point of view altogether.

I say with absolute conviction that I believe we have bought the best gun for us in our conditions and given our environment. I believe this gun will do us good service. I believe that we are in the process now of assimilating this gun. Hon. Members who take interest in matters concerning defence will know what a complex business it is to assimilate it in the system. To buy is easy. To integrate it into yourself is very complicated. We are well down that road now. Hundreds of types of people are involved. The Artillery will fire the gun. EME will maintain the gun. The structures will be created. Factories are being put up in connection with the Bofors gun. After a phenomenal lapse of time, from 1979 to 1986, we have at last procured a medium gun for the Services. For the first time in six years, between 1980 and 1986, we have obtained and are in the process of assimilating a medium artillery weapon system to match the capability on our borders. A reading of any published information like Jane's Weapon System and International Strategic Balance will demonstrate to any Member of this House that the one edge that those gentlemen have over us is in medium artillery weapons. They don't only have the 155 mm gun. They have the 155 mm towed gun. They have the 155 mm self-propelled and 203 mm (8 inch) self-propelled guns. We

cannot afford to lose sight of that edge now. We are in the process of covering the gap. You will take another two years if you start negotiating for another gun. I, therefore, believe, that as far as cancellation of the contract is concerned, generally it is not in the country's interest. I am not taking any political view. I am we cannot let Bofors off. They should not get the impression that because of our national interest, which is good and true, they get off scot-free. I don't believe that.

I believe that there are two other options. The first should be in their minds the simplest. Therefore, I am putting it to the House. I believe that they must acknowledge that they have paid money to recipients unknown to us and that money was related to the contract signed with India. Therefore, they pay us liquidated damages. I believe, Sir, that they should be asked to return to this country not just the money that they have paid to X, Y and Z, but a substantial portion above that money as damages.

As Atal Bihari Vajpayee Ji said, we are a buyer. We are not just a buyer. We have a commercial power in this country which can bring these people, many of these countries to their knees simply by the weight of our commercial power. We are a major buyer comparable to any country excluding the United States, the Soviet Union and China. This is a clout. We must use that clout. If they don't return our money, blacklist Bofors. Let them understand that our relationship with them, our relationship with armaments manufacturers, is not a one-time exercise. We are not a fly-by-night country which can be built and broken in days and months and years. We have contracts which will come up not specifically only with Bofors but we have contracts that will come up in the years 1990, 1995, 2000, 2005, 2010, 2015, and 2020. That fact gives us the clout. I will give you a simple example. The 155mm

[SIR. Arun Singh]

towed system is not enough for us. It is not adequate. We have a resource constraint. We have to cut our coat according to our cloth. But at some point in time, and in the not too distant future, Sir, we are going to have to procure the 155 mm. self-propelled Howitzer. We have no option. It is not possible to send our Tanks into the battle without artillery cover. And the Towed system is not good enough as armoured artillery cover. The 155mm. self-propelled Howitzer has to have a barrel. Whose barrel are we going to have? If they don't play ball with us, Sir, then we can't play their ball. So, we have a clout. I believe, therefore, Sir, that this contract should not be cancelled because I speak now with the interest of India and the interest of the men who have a privilege to work with that Howitzer, the Services. So we should not cancel this contract. But by Jove, they should return our money. And if they don't, blacklist them.

Sir, I will now conclude. I have only one comment to make here. I said this before. This, I think, has been the fourth debate on Bofors in this House in the last year. I have no great understanding, but some understanding of politics. I hope not, but I am sure that there may be four more on the subject in the next few years to come. But we should be careful. I cannot lay claim to be more patriotic than anybody else on the other side of the House. I do not make such a claim. I can claim to one thing. I am no less patriotic. And I also believe, Sir, with total conviction that India is bigger even than this House. I have great respect for Parliament, I have great respect for our Constitution, I have great respect for the executive, the judiciary and the legislature, the Minister, the Chief of Staff. I have great respect for all of them. But India is bigger than all of us. We

are mere blinks of an eye-lash when it comes to India. We lay claim to our history of 5,000 years. And we treat every day as though this is a material day in the life of India. It is irrelevant. But in this game that we are playing that side versus this side or this side versus that side, let us not do things which in some form or fashion impinge on India. Political criticism is par for the course, not just here, anywhere in the world where there is free and frank politics. There can be no argument about that. But let us not destroy every institution that there is in sight in the process of levelling that political criticism. My first plea, therefore, Sir, is that if we can manage it, I am not saying that anybody is specifically responsible for this, but if we can manage it, then let us confine ourselves to things we know about and understand. Let us not go into areas which we do not understand. And I really take serious objection to the criticism levelled all-round on the Chiefs, the Defence Secretary, the Attorney-General, the Joint Parliamentary Committee and Generals. Everybody is feeling free to dam the lot. The fact is that there is no dispute about it that money has been paid. And that fact has nothing to do with the Defence Secretary, the Chief of the Army. Nobody is claiming that, not even anybody in the House is claiming that this money was paid to the Army Chief or to the Defence Secretary. It is a political game going on. Let us confine it to politics, Sir. Let us confine it to each other. You meet me and I will meet you there. And leave it at that. Let us not bring the whole structure into it and destroy it.

The second point I want to make is this. I am repeating myself and I said this before, that we claim justifiably, I believe justifiably, that we are a civilised country. Only of the reasons why we claim that we are a civilised country is that we believe that the rule of law applies. The law applies equally to all. We hope

4.00 P.M.

that the rule of law applies. If that be so and if our claim is justifiable and we are indeed a civilised country, then please we cannot go about damning people by inference, we cannot do this. I quote, Sir, from the dissenting opinion: "The direct involvement of our Prime Minister, Shri Rajiv Gandhi has not been established." It is a statement of fact. "But the relevant records reveal extraordinary interest." Which relevant record? If he had been the Prime Minister and the Minister of Defence and we had signed with the French, then the relevant records would have revealed extraordinary interest with the French. I say that if we had signed the contract with even Timbuctoo then it would have revealed extraordinary interest with that country. It reminds me of what Chaucer said in *Canterbury Tales*. (*Interruptions*). Sir, Mr. Aladi Aruna is a most remarkable man, finance, law, international commerce and even English literature, If the gold doth rust, what shall the iron do. On what basis has he said all this? Now, the problem here, Sir, is very simple. I got away with it. I do not know how I got away with it, frankly speaking. I am amazed. I reflect upon this regularly. And I cannot believe my good fortune because whatever is being said about the Prime Minister could have been said about me. I was the Minister. I signed the file. So I took the money. But I got away. I am not of any relevance to those on that side of the House. They cannot get any political benefit by banging my head out of me. So, they they damned THE man. Not only have they damned the man they have damned his family. Every conceivable thread has been pulled. Any relatives, friends, in-laws, Italy, France, Germany, Spain, everything. No evidence. I ask you, Sir, that if they had done this to me, I can only look at this, I am a selfish man, I am looking at it from a selfish point of view, supposing this had been done to me? I was telling my daughter, I have a daughter who is 19 years

old, I was telling her the other day, supposing this had been done to me, how would I have cleared myself? I can invite all of you to Switzerland. I will take you to every bank in Switzerland. I will ask the Manager, please tell him whether I have any account here. The Manager will say, this violates Swiss confidentiality and banking laws. You will come back and say, see he told the Manager in advance, do not tell them anything.

Sir, I now come to the question of burden of proof. We have some very distinguished lawyers on that side of the House who can tell you about the burden of proof you are not the defendants, as was said, I think, earlier by one of the hon. Members on that side of the House when Madanji was speaking in terms of Vajpayeeji's earlier motion. You are not the defendants. You are the prosecutors. We are the defendants. And you have shifted the burden of proof on us. You prove that you have not taken. And what you have done is that you have created a situation, in which I feel a sense of personal hurt because that man is my friend. I feel a sense of indignity because that man is my Prime Minister. But more than that, you have created a concept. Now we go and spend the rest of our political lives slanging each other in public, with no need to produce any evidence of any kind . . .

SOME HON. MEMBERS: Shame, shame.

SHRI ARUN SINGH: We have so personalised politics, I am saying that this is only true as it will also come from us . . .

DR. G. VIJAYA MOHAN REDDY (Andhra Pradesh): Already come.

SHRI ARUN SINGH: Yes, it has already come. In other words, we have got to a point where our concept of democracy now henceforth is going to revolve around the person, each of

[Shri Arun Singh]

us will call each other a thief, a crook, etc. etc. and shift the burden of proof on to the other and say, he cannot prove that, therefore, he is. This is very sad. I have said that I believe there has been a breach of faith. I have suggested that there are alternative courses of action. I believe the Government should respond and say, because they have not moved a substantive motion accepting this report which has been placed earlier, and the Government is going to reply to this debate and something will be said now by the Government as to what they propose to do. But not even the Government, not even the hon. Minister of Defence can stand up now and say how he is going to exonerate the Prime Minister based on this dissenting note that 'If gold doth rust, what shall the iron do?' So, we have an opportunity now, we have a long debate ahead of us, a big debate. But this will not be the end of it. There will be many debates, public debates, and all kinds of debates. We have a chance now to concentrate the debate and the discussion on the problem. We have a chance to remove the dross of all types. We have a chance to remove the doubts about the gun, its quality the value of the contract the net present value, the inflated value, the deflated value. We also have a chance to depersonalise it a bit. Yes, if nothing is done by anybody, and everybody goes to sleep henceforth, then again you can start. But we have a chance now to depersonalise it and I put it to you that a matured democracy does not spend its time on personal castigation, they spend their time on ideological castigation. Thank you.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I have to make an announcement. The Home Minister, Shri Buta Singh, will make a *suo motu* statement in connection with the incident in Golden Temple, Amritsar on

the 9th May, today at 6 p.m. Shri Gurupadaswamy.

SHRI M. S. GURUPADASWAMY (Karnataka): Mr. Vice-Chairman (Interruptions).

SHRI DIPEN GHOSH: Mr. Arun Singh just talked about matured democracy and the Members of the ruling party are indicating what matured democracy they have.

THE MINISTER OF STATE IN THE DEPARTMENTS OF YOUTH AFFAIRS AND SPORTS AND WOMEN AND CHILD DEVELOPMENT IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (SHRI MATI MARGARET ALVA): They have already listened to matured speeches.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): The level of discussion has been very high.

SHRI DIPEN GHOSH: Then they should not behave in this fashion.

SHRI SURESH KALMADI (Maharashtra): There is no Member in the Opposition also behind you. Just see.

SHRI M. S. GURUPADASWAMY: Mr. Vice-Chairman, I have heard Shri Arun Singh with rapt attention. I must compliment him for his honesty. It was a candid speech and there was no mala fide in his utterances. A appreciate the tenor of his speech. He made a few remarks during the course of his speech. I would like to refer briefly to those remarks. (Interruptions) Mr. Kalpnath Rai, please do not disturb me. (Interruptions). Sir, my Arun Singh said, there was breach of faith. This is his way of putting things. I go along with him. I am not here to enter into any denunciations of the Government as a whole.

[The Vice-Chairman (Shri H. Hanumanthappa) in the Chair.]

I am not here to castigate all and sundry here. May I assure the House that we, on this side of the House, are as much concerned with the security and integrity of the country as those on that side. We are not prepared to compromise even in the least regarding vital areas like defence and security. When we say that we do not want to compromise on defence of the country, we would also like to say that whatever things done by the Government which, in our view, militate against the interests of defence, we would like to criticise.

Before I go into the specific issues, may I just refer to the point which was raised by my friend who spoke just now, about accountability to Parliament? In my view, under our system, Parliament is supreme. Government has got to be accountable. In defence matters, here is no device, there is no way, effective way, of ensuring accountability. Therefore, I suggest we should have a device by which we can deal with defence issues which are vital, which are complicated and which normally miss our attention. A Committee of Parliament exclusively for supervising not the day-to-day administration but the main and important deals, defence deals, may be set up.

Shri Arun Singh talked a lot. I was expecting till the last to get one information from him. He has denied us the information why he resigned as the Minister of Defence Production. Why did he resign? He should have been forthright in saying why he resigned in the midst of this scandal. Sir, nearly 12 months back, I think in April 1986, Bofors scandal broke out. This came to us not because of our investigation, not because of any disclosures made here in India, this came to us because of Swedish Radio broadcast in April 1986. Then the issue was raised. Our friends opposite wonder why the opposition is beating about

the bush when there is nothing. We pointed out on that occasion, if there is anything tell us, if there is something take us into confidence. It was not done. Please remember why an atmosphere of suspicion, misgiving and doubt was created for all these months. We are not responsible. It is largely you who are responsible for this kind of atmosphere. The way you behaved, the way you responded to the news, the way you dodged to discuss this matter frankly and thoroughly, created a sort of hush-hush atmosphere in the country over this issue. Your dodging, your procrastination, negative attitude, all this contrived to create a misgiving, doubt, in our mind. And we found out later on, to our surprise, that there was substance for this doubt and suspicion.

Now, what is the central issue of this Bofors? According to me, the central issue is whether you have got the best gun in the bargain. Secondly, whether there is corruption money involved in this. This is the issue. My friend was making out a case, even in the past a case has been made out, that Bofor gun is the best. I am not competent to pass judgement but I can only draw the attention of the Government and the Minister concerned to the evidence given by the Chief of Staff, and the Secretary, before this Committee. Till 17th February, 1986, Sofma gun was considered to be the best, better than Bofors gun. On 10th February, 1986, there was discussion whether they should go in for this gun or something else. Till then, Sofma gun held the sway. It is on record. In fire-power which is a very important element, Sofma gun is better than Bofors. All this time, burst-power, automation and the rest of it were there. They were accepted as part of the whole deal. They were not questioned. Taking these into consideration, the French gun was considered to be having an edge over Bofors gun.

[Shri M. S. Gurupadaswamy]

Now on 10th February, 1986, my friend knew the price of this gun and this price was brought down by Rs. 200 crores within six weeks! Why this precipitous fall in the price of this gun within six weeks? The contract was signed on 24th March. Within this short period there was a decrease of nearly Rs. 200 crores! How do you explain this? According to the explanation given by the person who appear before the Committee—he says so perhaps unconsciously—it was because of the fact of keen competition and also because of the fact of elimination of the middlemen, there was such a big decrease. In other words, middlemen were there throughout, you took a policy decision in 1980 that there should not be any middlemen in defence deals. I am not going into that question whether you were right or wrong in taking that decision, but I am on your decision. You took that decision in 1980. But all these years, during your negotiations, middlemen were there and there is an indirect admission that because of elimination of this factor at that particular point of time, the price was brought down by Rs. 200 crores. I would like to ask, in the month of February you must have got a document, document negotiating the details of price and the rest of it. I would like to know whether this document was examined by the Joint Parliamentary Committee, whether this document was called or was it brought to their notice? My information is that this document, if it is existing, was not brought before the Committee's purview. Is there any document to prove excluding middlemen from this deal? You have not quoted any document till now, except an assertion that there was a decision, an assertion: "no middlemen". But the evidence before the Committee proves beyond doubt that there were middlemen—which was contrary to the official stand. Secondly the quality of the gun, as I said earlier, has not been discussed thread-

bare in this House. We took it for granted that Bofors gun is a good gun. It may be a good gun, but it may not be the best. Perhaps it is not better than Sofna. I am not holding a brief for the French gun. But, till the last you maintained that the French gun was better than the Bofors gun in every respect, and there is a clear proof to show that within a short time there was a big change, a reversal of your decision. What caused is this reversal?

Sir, my friend, Mr. Arun Singh, was saying that we should not question the officials of the Defence Ministry. I don't want to question the officials of the Defence Ministry, but I am only drawing the attention of the Minister to a piece of evidence to show how the Defence Ministry officials are equipped, how they behave and what they say. On page 69 of the JPC report, the Chief of Army Staff explains:

"I was a member of that Expert Committee. I am personally responsible for drafting that particular paragraph which you just read. It is Volume No. 7, if I am not mistaken. When we indicated this, there was no weapon in the World which had achieved even a range of 25 kms. Mostly there were weapons which had achieved 17-18 kms. range only and some of them plus of 8 kms. In 1975, when I wrote, it had not reached anything like 25 kms. So projecting India's future needs, anticipating what the trend of development would be and anticipating what the state of the art would be, we put down roughly 28 to 30 kms. range."

So, there is no fixity of views in the mind of the Chief of Army Staff about the requirement. He has been shifting his position. He doesn't know the exact requirement of the Army. What credibility you attach to the evidence of such a gentleman, I want to ask.

Sir, this matter has become explosive because of the bribe element involved. The question is, apart from the quality of the gun, whether there was bribe involved, corruption money involved. That is the question. While certifying a gun as a good gun, I don't want the country to pay for corruption. The gun may be good but still there can be corruption, it is possible. So the point is whether there was corruption, whether there was bribery, whether there was pay-offs.

Sir, here is a piece of statement made by Mr. Anders Bjorck, Vice-Chairman of the Constitutional Committee of the Swedish Parliament. He said on April 28 "that Bofors gun contract had been very much a political affair." He goes on to say that it had been concluded between the heads of the two governments. He has also said that the documents which have been shown to the constitutional committee of the Swedish Parliament, if made public, will cause some turbulence in Sweden and India. He further said, if they were to be made public, they would give a version of events which was quite different from that of a private company conducting a normal deal. He went on to say that the document gave a lot of names of persons who had participated in the events leading up to the conclusion of the deal, and they showed the special interest that had been taken at the highest political level in both the countries. This is a very serious statement. If the deal is political, if it had been concluded at the highest level between the two heads of governments and if, eminent persons are involved in this, we want to be told.

I ask you: Why do you blame the Opposition for being suspicious of this deal? Why do you say that there is no proof, that the Opposition has not brought any evidence and that, therefore, there is no case?

Sir, the way in which the Committee went about its work is intriguing. The

Committee was truncated because of its composition. It had truncated terms of reference. And my charge is, it produced a truncated report. We boycotted the Committee. Why? Because we wanted, the terms of reference should be broadened, should be more comprehensive. We wanted that all the defence deals from 1980 onwards should be referred to this Committee. We also wanted specifically that the Submarine deal should be referred to this Committee. Further we said that this Committee should be empowered to call any witness, including the Prime Minister and the Ministers concerned. I want to ask; Why were the Defence Ministers not called by this Committee? They were relevant. Mr. Arun Singh should have been called to appear by the Committee as a witness. Mr. V. P. Singh should have been called as a witness. Hindujas should have been called as witnesses. I said "Prime Minister" also. The Prime Minister and the Ministers should have been called as witnesses. Why were they not called? This Committee was truncated by its composition. By its actual working it got itself more truncated.

Therefore, the Committee did not unravel the truth. It is a dismal document. This is a document which does not lead Parliament anywhere. The Committee was asked to find out whether the gun that was selected was the best and the price was competitive, and second, whether there was any pay-off.

Sir, regarding the pay-off, I have no doubt that there is enough scope to believe that there was bribery. Rs. 64 crores were involved. According to my information it was more than Rs. 64 crores. What for Rs. 64 crores were paid by Bofors? It was not paid for nothing. They have been paid to various people and various firms, bogus firms, firms registered in tax-havens. With great difficulty and after a great deal of persuasion. Bofors came out with three firms, but they

[Shri M. S. Gurupadaswamy]

withheld the names of the persons behind these firms. Why Rs. 64 crores had to be paid for the contract? My own friend says it is connected with the contract. If it is connected with the contract, what do you call that money? Is it corrupt money, bribe, pay-off? What is it? I think Bofors has to explain that. The Prime Minister and the Defence Minister have to explain this to the country. These pay-offs have been going on all throughout. It was not stopped. When our Prime Minister met Olof Palme twice in India and in New York, he was assured by Olof Palme that there was no middleman and there was no commission, but it was not correct, as you found out later. Why was this corrupt thing not stopped? We are dealing with Bofors Company about which you have got the highest regard, I know. What is the credibility of this company? We all know. Bofors have been indulging in clandestine operations for long. Bofors have supplied arms to the Middle East countries like Oman and others. Bofors have used its firm in Singapore as a conduit to supply arms to various countries in the neighbourhood, perhaps, clandestinely, secretly. That is the credibility of Bofors. You believe Bofors and they believe you in turn. My friend was talking about confidentiality. I know there are business secrets.

My friend, Mr. Shiv Shankar, whom I value much, said on the floor of the other House and gave a new dimension to this. He said, yes, Rs. 64 crores were involved, perhaps officials of the Bofors must have got it back. These are the conduits. These are the front organisations stated by Bofors themselves. But what is the proof? Where is the document to prove that? He was a judge. I would like to be enlightened by him. If that is so, I think, it is a far more heinous offence than actual bribery. That company

should not be trusted at all. They are indulging not only in deceiving others, but they are also indulging in self-deception. Such a company cannot be trusted. And you want us to believe that it is a clean business! How could it be clean? You know an Inspector of War Materials in the Defence Ministry in Sweden died on the railway track in suspicious circumstances because he was dealing with this matter.

We know that the Chief of the Nobel Industries. Mr. Ardbo had said that they are prepared to share information with the Government of India provided Government of India will approach them. Here it is, I got it here in Expressen, Sweden, dt. 27-8-1987. They are prepared to share information with you regarding payments. Till now you have not approached them. Why you have not invited Ardbo as a witness? He has said in his diary that some important persons were involved. He has mentioned "Q." I do not know, who is Q? Is it Quattrocchi? I do not know. There is mention on 'G' and 'H', in the diary and there are others to. But have you approached him to produce the diary? You have not done so—you have not done obviously. So my whole case is, you have created an atmosphere of suspicion, doubt, misgiving from which you cannot get out. And this Committee of Parliament which is very truncated has given a one-sided report. My friend was saying that Mr. Parasaran is the Attorney-General and he should be respected. I respect him—of course. The Attorney General told the Committee that what is negative cannot be proved. What a wonderful statement he is making—negative cannot be proved. He says that he has reached a dead end. I quoted him in the morning: he has nothing much to say. When we asked the Government; the Attorney-General should come before us so that we may have clarifications, he does not come. Sir, my charge is that there is not only a breach of faith on

the part of Bofors as my friend said—but there is also a breach of ethics, breach of agreement. Corruption is involved in the whole deal. It is just like a Nagarwals case. Ultimately, we do not find the culprit. Today, the whole of India is worried about this deal. The hangover of this Bofors scandal will be there for a long, long time to come till it is cleared. This Bofors scandal is going to be another Watergate.

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (SHRI SANTOSH MOHAN DEV): It is only wishful thinking.

SHRI M. S. GURUPADASWAMY: It will be Indian Watergate from which the Prime Minister cannot escape or his Government cannot escape. I want this Government to be free from scandals. I want this Government to be free from charges of the opposition. Sir, I do not know whether it is going to be proved ultimately.

One thing occurs to me if Bofors had been told that we are going to cancel the contract they would have come out with the truth. They cannot afford to lose the contract and till today, you have not asked Bofors to reimburse Rs. 64 crores. It may be much more because ammunition is involved, accessories are involved, you are tied down to Bofors. Till now, you have not told them that we are taking a serious view and we are going to break this contract. Both Bofors and the Government of India are caught in a vicious climate from which you cannot extricate yourselves. That is why, we say this Committee has not redeemed itself well in the eyes of the people. It has been partial, one-sided. The report is a big camouflage and it is an insult to Parliament. Sir, it is Parliament which has got to be a vigilant body. It cannot be bypassed even by the Committee of Parliament and it is my view that this Committee has not done its duty pro-

perly. It has bypassed the main issue and it has indulged in various other things which are not important. Sir, one thing, when the "Hindu" brought out on the 22nd April this year facts about certain documents, it was the duty of the Committee to have called all these documents. Why did they not do it? They did not examine them. The Chairman of the Committee brushed this aside. When members in the Committee suggested that they should be given time to examine the various classified documents, to go through the minutes and to cross-examine the witnesses, the Chairman said, no. Now I realise why my friend, Mr. B. Shankaranand was brought and made the Chairman of this Committee. He is a good friend of mine from my State. Till the other day, he was the Minister. Why a colleague of Mr. Rajiv Gandhi was asked to chair this Committee? I do not know for what reason. There were plenty of Members of Parliament even in the Treasury benches. A senior Member could have been the Chairman of the Committee. That itself shows that Rajiv Gandhi was nervous. He has been nervous from the very beginning. Otherwise, he would not have said even before the Committee was meeting, neither my family nor I am involved in corruption." It is a unique statement, unprecedented. No Prime Minister of the world has said like this. I did not want my Prime Minister to say this unless he is involved. It has no precedent. It is a unique statement for the Prime Minister of our country, a big country like ours to say to the people, to the press that I am not involved, my wife is not involved, my children are not involved." We never asked him to say that. It is he who said that. It created suspicion in the minds of the people. Again and again, he has said it. Sir, lastly about confidentiality. A lot of things have been said about confidentiality. I referred to it earlier also. In the beginning, Bofors took a position that they are bound by con-

(Shri M. S. Gurupadaswamy)

fidentiality to a customer—these are the words used, “to a customer.” Who is the customer here in this case? The Customer is the Government of India. Later on, they shifted this position. They said, we are governed by confidentiality with recipients. There was a shift. But here may I say, Sir, both the recipient and the customer are the same. Somebody in the Government of India is a customer, somebody in the Government of India is a recipient. Both are the same. Why this shift? Why did they shift the position from confidentiality to the customer to confidentiality to the recipients? All this has deepened the suspicion lingering in our mind that the Government of India is trying to hush up something objectionable, wrong, corrupt; it is withholding the vital information from this House. Therefore, I would demand in this House finally that this matter should be referred to a full Committee of both the Houses of Parliament on our terms of reference, with our terms which we have already given, with a Leader of the Opposition as the Chairman. We are not satisfied with the report of this Committee. This report has to be thrown out. There should be a new Committee, with the terms of reference which we have given. I think then only Parliament will be satisfied and the country will be satisfied. Otherwise, the country will be haunted and haunted, the people of India will be haunted and haunted by Bofors scandal and Rajiv Gandhi and his family will also be haunted and haunted by it for a long, long time to come. Thank you.

SHRI N.K.P. SALVE (Maharashtra): Sir, this afternoon, I heard one of the most outstanding speeches I have ever heard on the floor of Parliament for the preceding over two decades. Mr. Arun Singh is not here at the moment. He did not press to aid plenty of barren verbiage. Nor did he press to aid any forensic skill of a lawyer to put up this argument against that

argumen. (*Interruptions*). But still, the speech he delivered on this very sensitive and very important controversy is one of the most outstanding because he knows every detail of the contract of Bofors like the lines on the palm of his right hand and whatever he said regarding the contract, every word that he has uttered, was saturated with sincerity and honesty. Any person who thinks that on facts he did not speak the truth the whole truth and nothing but the truth must be a person either entirely perverse or dispossessed of sound thinking. Sir, in fact, his speech today was a very businesslike speech otherwise bereft of any flourishes unlike that of distinguished parliamentarian, Shri Atal Bihari Vajpayee. I had known him as a great orator. But today I saw him in a different light. Of course he made a very brilliant speeches, no doubt, because he is in the habit of making brilliant speeches. Today there was something extraordinary. The way he modulated his voice, the way he gesticulated and the manner in which he delivered the dialogues, the speech, makes me feel that he has missed his profession. If he had ever been acting in Shakespearean dramas, he would, perhaps, have beaten hollow Sir John Gielgud and Sir Lawrence Olivier.

SHRI A.G. KULKARNI: He might have been a Balgandharva.

SHRI N.K.P. SALVE: He could not have been a Balgandharva for the simple reason that there was no music in his speech. What happened was, what he gained by tons and tons of verbiage was in the end lost because there was not even an ounce of content. Ultimately what he had to say was, he found fault with the constitution of the Committee, he found fault with the procedure of the Committee and he found fault with the findings of the Committee. Persons like Mr. Vajpayee and Mr. Gurupadaswamy are important leaders at the national level. Today we are sitting on this

side. Some day they might be sitting here. They sat here earlier. What is important is, there is certain dignity and decorum which must be maintained to uphold Parliament's dignity. If we ourselves are not going to uphold the dignity and respect of the revered and esteemed institutions of Parliament, then I am afraid, Parliament will start losing its credibility and the day for the liquidation of the democracy will not be far off. Therefore, I urge before them that they need not agree with the findings of the Joint Parliamentary Committee. Every intelligent person is entitled to draw his own conclusions on the basis of the material which has been collected, the evidence, documentary or oral, facts found on investigation. They could have juxtaposed the findings and said that these findings are contrary to the facts which have been collected or evidence which has been collected. They could have even pointed out that JPC failed to collect certain other evidence from certain very important areas. But to impute motives, motives of partiality and running down the Joint Parliamentary Committee is the greatest disservice that has been done in this debate. Corruption and democracy ill-go together. I personally maintain corruption is an imprecation, an anathema, to democracy. But corruption merely weakens the foundations of democracy. What destroys democracy is the overambitions of unprincipled, unscrupulous, politicians to grasp power by hook or by crook. I am sure you don't want to use the Bofors controversy as the sole basis, whether there is material or not, on which rely to upon to aggrandize your political interests. You have been finding fault with the JPC's procedure; you are finding fault with the AG's advice that has been given. I now understand much better as to why you did not join the Committee. It is not for the reason which, Mr. Gurupadaswamy, with respect to you, you are giving. It might be the ostensible reason. But

the real reason is different. And that is they had seen the danger of hatching the entirety of their political eggs into the barrel of Bofors gun and they realised that in the end after joining the JPC if they are not able to find anything and they are forced to the conclusion that there is no evidence of corruption, no evidence of bribery or illegal gratification, then, not only those eggs would have been blasted off, but the Opposition would have been blown to smithereens which chance, which risk, they could not take. If the opposition parties in the House were to think that they are the sole custodians of probity and purity in public life and they are the ones who only stand for honesty, and those on our side are a people who are condemned to corruption, then they are tragically mistaken. We are as much responsible to the people as you are, Mr. Vajpayee. If there is corruption in this party at the high office, then nobody will be able to save us from drowning at the hustings in the election. We are as much worried. If there is corruption, we would not sit silent at all. If you have heard Arun Singh and the details he has given in such lucid manner, he has explained the whole thing. If there is one thing that was not there in this contract, it is the slightest semblance of corruption by the people who entered into this contract. On the other hand, the entire Defence Ministry, the Minister of State and the Cabinet Minister who happens to be Prime Minister, they entered into this contract and executed this contract in a manner really befitting the highest standards of demeanour in public life and as would cater to the highest national interests. And to point out any finger, accusing finger, at any one of them, I submit, is sheer, blatant, perversity and a dangerous political gimmickry. The controversy has been discussed here four times. It has been troubling, plaguing, the nation for the last over twelve months. Everyone thought of JPC. JPC is a very revered institution. I

(Shri N. K. P. Salve)

have never heard, at least in two decades,—I do not know if Vajpayeeji knows one—where a JPC has been assailed, its members have been assailed, members who constitute the JPC. Mala fides have been imputed to them. It has never happened 5 P.M.

before; mala fides have been imputed to the members. Those who have worked for them, the CBI, the Directorate of Enforcement, the Directorate of Revenue Intelligence, all of them have been impugned, criticised, damned and condemned and for what fault? For what fault? Because they have not been able to pinpoint that such and such a person received the bribe, such and such a person received illegal gratification, such and such a person received kickbacks. In other words, if this Joint Parliamentary Committee had not in advance made up its mind to find someone guilty, the Opposition then is to find the JPC itself guilty of corruption, guilty of partisanship and guilty of being dishonest to itself. Sir, one would think that this political witch-hunting should come to an end. Just as all good things must come to an end, political witch-hunting must also come to an end; if it was motivated by considerations which are honest and sincere in maintaining probity and purity in public life, the Report of the Joint Parliamentary Committee should have brought to an end the whole controversy totally and conclusively. The Hinduja documents have come after the Report has come and I will deal with that a little later.

SHRI ATAL BIHARI VAJPAYEE:
Not after the Report.

SHRI N. K. P. SALVE: It has come just before the Report, but when the inquiry had just been concluded. (*Interruptions*). They could not consider them unless they came to Parliament and asked for extension of time. Vajpayeeji, let us agree to disagree on whether or not the JPC acted wisely or unwisely in not considering the

documents of the Hinduja. Leave it at that and I will deal with it separately. But to the other aspects of the matter I want to refer which the Committee addressed itself and has come to certain conclusions. What, Sir, is the heart of the matter? What is the heart of the matter? According to me, the heart of the matter is that Bofors had paid 319 millions to three companies and they are obviously Shell Companies and the real beneficiaries of that have not been identified. The biggest allegation against this Joint Parliamentary Committee is this: Why did they leave Bofors off the hook on the ground of commercial confidentiality? Why did they come to the conclusion that no Indian has been given any bribe, any illegal gratification, without having evidence and documents in their possession? If this is the position of the matter, then I want only to refer very briefly to the findings of the Committee because we believe that the JPC did not have the other documents, the agreement between Bofors and the three Companies. They did not have any other document. But the District Prosecutor had the documents with him, the Swedish Bank had the documents within and the National Audit Bureau had the documents with it. And what is their finding? I appeal to my colleagues and the luminaries there to kindly consider this aspect of the matter that people who are in possession of the whole evidence, who are possessed of the documents, those who know what the facts are in respect of payments by Bofors to these three Companies, what is the conclusion they have come to, apart from the fact that the moment the allegation was made, the way the Prime Minister was agitated and said, "For God's sake, we have written to the Swedish Government and we put it to the people. Please come and give some evidence. We do not want proof. We will not leave anyone unpunished should we find someone guilty." Is it the demeanour of a person who is himself taking bribes and is it the demeanour of a person who is receiving money?

But, more than anything else, Sir, how unjustified, how unwarranted, how totally devoid of reason is the attack on the Joint Parliamentary Committee for its finding that they have not been able to find whether or not anyone has taken any bribe and that no Indian is involved. It is because I am referring now...

SHRI ALADI ARUNA *alias* V. ARUNACHALAM (Tamil Nadu): You give some evidence for that.

SHRI N. K. P. SALVE: I am putting it to you, Mr. Aruna: Have some patience. I have gone through your very labyrinthine note and your minute of dissent with quite some concern. Please listen to what I have to say. You may not agree. But if you want to disagree, please be patient. But let us not lower the dignity of Parliament in this dirty business. I submit with great respect to you that in these debates the greatest sufferer has been the dignity and maturity of Parliament.

SHRI KALPNATH RAI: Right.

SHRI N. K. P. SALVE: What is it that has been said? Have we not discussed and debated issues and disagreed in this Parliament in all these years? Have we ever reviled the members of JPC individually. Have we used inactives? Have we ever used undignified language. The JPC Report was called a whitewash, to hogwash, corruption in public life? What an attitude, what an approach. I come to the matter now. And it was for the benefit of those who can give legal advice to the people. Those people who had access to the documents and evidence—I refer to page 141—stated this. This is the statement of Mr. Aberg, the District Prosecutor, which version has been given by Mr. Ringberg. This District Prosecutor had access to the documents in which the purported payments have been made to three shell companies. What does he say? Those who have evidence and

those who are in the know of facts—what do they say?

"The information relating to the details of the payments of SEK 319 million was given by SVERIGES RIKSBANK (The Bank of Sweden) to the Chief District Prosecutor."

"No evidence of any kind was found by the Chief District Prosecutor, Mr. Ringberg, to show that bribes were paid to any Indian whether resident or non-resident in India to win the Indian contract by AB Bofors."

Do these findings not conclusively demolish the entire foundation and basis of attack on JPC that JPC wilfully and deliberately did not collect full evidence for itself? Bofors have not cooperated; there is no doubt about that. And whether or not they are entitled to commercial confidentiality may be a matter of legal dispute. I have no doubt that they are entitled to it because going through the report I find that they have a contract with Shell Companies in which they are protected by the clause of confidentiality. Mr. Arun Singh has said that it is a breach of faith. Maybe it is a breach of faith. But so far as the legal aspect of the matter is concerned, they are well within their rights to take the plea of commercial confidentiality. But they could not take the same plea before the District Prosecutor nor before the National Audit Bureau. And what did they find in their investigations? They found that there was no Indian involved in any bribes in any corruption. What does it mean? The Committee comes to that conclusion as it has. On page 191 it is stated.

"On the ground of commercial confidentiality, Bofors have not furnished full details of the persons to whom winding up costs were paid. Nobody has come forward with any evidence in regard to the identity of recipients of payments made by

[Shri N. K. P. Salve]

Bofors the legal advice given to the Committee is that Bofors cannot be compelled to furnish the required information/documents to the Committee. . . ."

"The fact that the investigation initiated in this case by the Public Prosecutor in Sweden was closed after examining Bofors' officials and the relevant records of the Company suggest that no offence could be made out under the Swedish law. In other words, the Public Prosecutor who had access to all the records. . ."

This is very important.

"The Public Prosecutor who had access to all the records in Sweden has not been able to establish any charges involving bribes and kick-backs in Bofors' Indian contract."

The Swedish Government says that no Indian is involved. The District Prosecutor who had access to all the evidence says that. We do not have access. The Committee did not have access. But the District Prosecutor had access to all the documents and papers. He knew the entire details about the payments made by Bofors to three shell companies. After investigating into this the District Public Prosecutor came to two conclusions: one there was no violation of the Swedish law, and two, no Indian was involved in any kickbacks, any payment of illegal gratification or any other payment whatsoever. Does this not clinch the issue? Of course, we did not have the documents. But the Swedish people who went ahead with the idea of finding out whether or not Bofors had been indulging in corrupt practices by paying bribes and illegal gratification and whether they are guilty of that offence or not, had to close to the inquiry because they found that there was no violation of any law.

SHRI ATAL BIHARI VAJPAYEE:
Because the Government of India did not incorporate.

SHRI N. K. P. SALVE: So far as the Government of India is concerned a blank cheque was given to you. Why did you not take it? This is no reasoning. JPC was much above the Government of India. Only if you had taken the trouble of joining the JPC, this situation would not have arisen. But you wanted all the defence matters to be reopened up to 1980. If we were to determine probity in public life, then what was important was not politics. Mr. Vajpayee and Mr. Gurupadaswamy—Mr. Ram Jethmalani unfortunately he was not in Parliament—they should have been there in the JPC. I am absolutely sure that of these two Members had been in the JPC, on evidence on record they would not have come to any other conclusion. In that case, perhaps he would have been sitting behind and would have fielded other Member to speak on this matter. The responsibility is on all of us. Please don't put yourself on the high pedestal thinking that you are the paragon of virtue. You are in politics. We are in politics. We know what goes under the table and what goes under the politics. If you are playing this game, then please don't run the dignity of Parliament. It has been smeared. It is not an insult of any Member. It is an insult of the Parliamentary Committee. The JPC has been maligned and denounced and the denunciation is whole unjustified. I maintain that the JPC has done an excellent work, the minimum in could have done. It could not export information out of anybody. You don't join it. You don't help it. When it does its best under the circumstances, then you run it down. This is not fairplay.

I would talk about one more angle and then I would have finished. Allegations have been made that Bofors

guns which have been purchased in prescience to French Guns are not the best buy. Some of you have not raised this issue. But others have raised it. Even in the dissenting note it is stated that Shri Rajiv Gandhi influenced the entire process of selection. Technical evaluation was corrupted and the financial terms were corrupted. Even our fighting forces have been fully dragged into it. They have not been spared. They have been maligned. This is a really serious allegation. Some of them really backed out of this allegation for very good reasons with our forces accused, it no longer remains a question of corruption. If it is proved that any Minister or the Prime Minister or any senior officer tinkered in the process of technical evaluation or financial evaluation of the contract and bought for India inferior guns by calling them superior guns, then it is not a question of corruption. Then it amounts to tinkering with our defence. Clearly and squarely, it is a case of subversion and high treason. If you are going to accuse the top officers of our Army and the top officers of the Finance Ministry of high treason and of subversion, then I am afraid you are demoralising those forces and people to whom we owe so much. We are proud of our Army and its tradition. It is a non-political entity, a non-political body. Please don't do what you are doing to them. You blame the Ministers. Good enough. You blame the State Ministers or the Deputy Ministers. Good enough. But please keep this game confined to us. Don't drag in these brave men of the Army who are non-political people and who cannot come here to defend themselves. You accuse them of becoming willy-nilly a party to this kind of unholy alliance. In fact, there was no unholy alliance. If there is an idea of unholy alliance, it exists only in the figment of imagination of people who are motivated by consideration of their petty political gains and petty political gimmicks.

Sir, there is one more point I want to deal with, and that is the question of the Hinduja document. Sir, *prima facie* Hinduja document relates to 1982. And I do not know how they are sought to be connected with this contract because in 1982 we were nowhere near entering into this contract. Maybe, Bofors have a nexus. The worst that I draw an inference from this document is, maybe the Hinduja have a nexus with Bofors. Those who know the Hinduja—and my friend Mr. Ram Jethmalani knows them very well—know they are people who have agencies all over the world, one of the richest Indians living abroad. And they have contacts with so many people. Now for these contacts that they have, are we responsible. Can you *prima facie* link up a document of 1982 with this contract? At any rate, if there is anything involved in it under our system of working, why should anyone presume that the whole thing is closed? The Hinduja have said that these documents are transparently fabricated. 'Hindu' is one paper which I respect and esteem very much. It does not indulge in writing political gibberish and political nonsense which several other national dailies are writing. Whatever appears in the 'Hindu' has its own credibility. On the face of the document, it appears that assuming, while not conceding because I do not know whether those documents are genuine, at their highest establish a nexus between the Hinduja and Bofors, they have nothing to do whatsoever with the Bofors contract with India much less with any payments from them to India. As a Minister you raised no question. You signed a document, you are privy to a contract. And the moment you are out of the Government, you go and accuse the Government of corruption with reference to that contract. Is there any political morality left or not? Can you justifiably portray yourself as a paragon of virtue, as the greatest crusader against corruption?

[Shri N. K. P. Salve]

Sir, there is one more thing I would like to point out. That is at page 100 of the Report. Sir, there was then a Finance Minister. And a Finance Minister holds the key to everything. If Tiwariji to-day does not want a Defence contract to go through, whatever may be the pressures, whatever may be the weight, whatever may be the compulsions, without his signature that contract can never be finalised. We happened to have then a Finance Minister who was removed from the Finance Ministership, then from the Defence Ministership, and then from the Party, and he emerged as a messiah of purity in public life. He became the greatest leader of the Opposition. He also had a fling at the JPC. But why should he not have a fling, when responsible people like Atal Bihariji and others are going all out at the throat of the JPC itself? I was really grieved. A man of Atalji's responsibility and Mr. Gurupadaswamy's responsibility should never have done that. You could have said, "we do not agree with conclusions of the J.P.C. These conclusions are untenable on facts or on law." But to run down the JPC as having involved in *mala fides*, as having been dishonest, untrue is palpably unjustified. I only want to read this: At page 100 a specific question was asked to the then Expenditure Secretary. Asked if the then Finance Minister had expressed any reservation—because Mr. V. P. Singh, after leaving the Party, cast serious aspersions and pointed fingers accusing of corruption to us with reference to Bofors; now this is the reply—the then Expenditure Secretary replied:

"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 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."

Sir, the whole thing has left a very bad taste in my mouth. No illwill to anybody. But I wish there was greater objectivity, greater maturity and greater dignity in finding fault with the Report of JPC. I think it is most regrettable that the whole Bofors issue instead of remaining one of probity in public life degenerated into one of nursing diabolical political interest at the cost of running down the cherished institution of the Joint Parliamentary Committee, virtually bringing the entire institution of Parliament to disgrace and ridicule. Sincerity, maturity and Parliamentary restraint coupled with dignity have been the greatest casualty in the criticism showered on the JPC. Don't worry, Sir, I want to submit the day is not far off when you will get another proof that those who are unprincipled, unscrupulous but politically over ambitious to grab political power are kicked out lock stock and barrel by mature electorate of this country. Thank you.

SHRI DIPEN GHOSH: Mr. Vice-Chairman, Sir, I am glad that Mr. Arun Singh had spoken out at last. Mr. Arun Singh's demand of the Government to ask Bofors to second the Rs 64 crores or else to enlist in the black list, I consider this demand as an indictment of the JPC Report by a Member of the Treasury Benches. (Interruptions). wait for a minute. I waited all the time you spoke. Sir, you know, you have gone through this Report, at page 150, it was JPC which asked the Bofors' representative and I quote: "To a further question whether they were prepared to reimburse the amount of Rs. 64 crores paid to the three companies as winding-up charges, the President of AB Bofors stated," so and so and I do not quote all those things. But I come to the conclusions, conclusions of the JPC

on this particular point. It is on page 190. Mr. Arun Singh to note. I quote, Sir, "The certificate rendered by the Public Accountant in Sweden after auditing the Bofors accounts in respect of the Indian contract supports the Bofors claim that the payment of winding-up charges to these companies in 1986 was to the advantage of Bofors and the Bofors agreements with these companies were required to be terminated to fulfil the wishes of the Government of India." The JPC even though it had put this question to the Bofors representative, it had not come to the conclusion as Mr. Arun Singh had that there is a case for the Government of India to demand from the Bofors the refund of the money. That is why I say that Mr. Arun Singh's demand itself appears to be an indictment of the JPC report which Mr. N. K. P. Salve called, an excellent job. So, Sir, I would like to draw your attention to one information which Mr. Arun Singh will share with me, that in the USA when the Watergate scandal and Irangate scandal broke out, it was the press there which carried certain revelations to a certain extent. And thereafter, the Senate Sub Committee had picked up this information or revelation or clue, whatever you call it, and got at the truth. But here we find a Parliamentary Committee, in its haste to pull down the curtain on whatever revelations the press had made, came out with a certificate that the Bofors gun deal was as pure as a lily white could be...

SHRI KALPNATH RAI: Why didn't you join that Committee?

SHRI DIPEN GHOSH: I must congratulate the press of our country, and I am sure, Mr. Arun Singh also says it. On the other way I feel ashamed; it is rather my anguish that I belong to that Parliament, 30 members of which could not do a job which one lady journalist could do. This is really something which one has to take note of.

The other day we were told at Kamarajanagar that we are supposed to be in Rajiv era. I do not know by what this Rajiv era has to be signified, has to be identified. But, Sir, if the future historians are asked to identify this era which is called Rajiv era by somebody on the other side, he will, perhaps, unmistakably identify it as an era of erosion of the country's two great institutions; one is judiciary and the other is Parliament. The other day we found how Thakkar-Natarajan Commission, a judicial commission was made to make a tailored report...

श्री कल्पनाथ राय : यह भी गलत है ।

SHRI DIPEN GHOSH: at the dictates of the political boss, and today we are discussing how a Parliamentary Committee...

THE MINISTER OF STATE IN THE DEPARTMENT OF DEFENCE PRODUCTION AND SUPPLIES IN THE MINISTRY OF DEFENCE (SHRI SHIVRAJ PATIL): This is not correct; you should not pass a judgement.

SHRI DIPEN GHOSH: You have got your time.

श्री कल्पनाथ राय : आपको ऐसी बात नहीं बोलनी चाहिये । आप न्यायपालिका के ऊपर कुठाराघात कर रहे हैं ।

SHRI SHIVRAJ PATIL: I am not objecting to anything; but you are making allegations against the people who are not here to defend themselves.

SHRI DIPEN GHOSH: This is another document which signifies erosion of the Parliamentary institutions.

Sir, that kickbacks were paid by Bofors is hardly a matter of speculation now. But what the people wanted to know, and still want to know, is who received it — as Mr. Arun

[Shri Dipen Ghosh]

Singh has stated correctly — and who is lying, and what is true. The JPC was exactly asked to do this job. I do not want to deal with what Mr. Aladi Aruna has stated in his note of dissent, because he is present here; he will take care of his own baby. But, Sir, from the JPC report itself if one pursues the report one will find that the conclusions were different from the directions of the report. In April 1987, last year, it is quoted in the report that the Prime Minister had said in the Lok Sabha-I quote:

"You show us any evidence. We do not want proof. We will bring the proof."

I do not know what exactly the Prime Minister meant by saying this. But if the words have their proper meaning, I can only conclude that he meant that if any clue or clues was or were provided, the JPC will pick up the clue or clues, or, the Government will pick up the clue or clues, and launch an investigation, an impartial investigation. But Sir...

SHRI A. G. KULKARNI: Against whom?

SHRI DIPEN GHOSH: To find out the recipients. This was exactly the job which was assigned to the JPC. If you go through the terms of reference, you will come to know. They have themselves said—Mr. Arun Singh has also conceded — that certain payments have been made. This has been the finding of the Swedish National Audit Bureau also. The task of the JPC was to find out who received the payments, who was lying and who was saying the truth.

SHRI A. G. KULKARNI: That is the million dollar question.

SHRI DIPEN GHOSH: I am coming to that. I will help you. That is why I said...

SHRI SURESH KALMADI: Why did you not join the Committee?

SHRI DIPEN GHOSH: I will reply. You need not worry. I have the confidence to reply to your question.

SHRI KALPNATH RAI: You should have joined the Committee.

SHRI DIPEN GHOSH: What the Prime Minister meant was that if the clues were provided, they will be picked up and an investigation would be made. But did the JPC make an investigation?

SHRI ARUN SINGH: Yes.

SHRI DIPEN GHOSH: Even on the day when the JPC were finalising their report, — I do not know at what time the Chairman of the JPC signed it — on the very day, in the morning, some clues were provided. But the JPC, or, for that matter, the Chairman of the JPC, did not care to pick up those clues and launch an investigation. Instead on the same day, they hurriedly finalised their report and submitted it lest they may be called upon to launch an investigation based on those clues.

Mr. Kulkarni wanted to know the answer for the million dollar question. I want to deal with that million dollar question. Mr. Tiwari is here. Mr. Shiv Shanker has gone out. Mr. Gurupadaswamy referred to what Mr. Shiv Shanker had said. He said that he gave a new direction...

SHRI M. S. GURUPADASWAMY: Dimension.

SHRI DIPEN GHOSH: He said that he gave a new dimension. Mr. Shiv Shanker had asserted that the Rs. 64 crores paid by the Bofors must have been ploughed back to the Directors. It was Mr. Shiv Shanker's

assertion. Here, I would ask Mr. Kulkarni to go through the Attorney-General's remarks. I quote:

"...it is not necessarily related to commission. It may be the service charges or other business connection charges or the consultancy payment made to them or it may be used for siphoning off the money. There can be three alternatives."

Mr. Shiv Shanker asserts that this sum of Rs. 64 crores must have been ploughed back to the Directors of Bofors. Attorney-General says, as one of the three alternatives, that money might have been siphoned off. This is in the report.

SHRI A. G. KULKARNI: By whom?

SHRI DIPEN GHOSH: That is a million dollar question by Shri Kulkarni, by whom? That is the question and is it a very big problem to find this out? Whether it was siphoned off, whether it was ploughed back, whether it was paid as winding up charges, it was paid through the Swiss Bank accounts via the Swedish Government. This is also admitted in this report. So, Swiss Bank can come to the help of our Government in finding out who the man is or who the men are, what their relation is with whom.

Mr. N. D. Tiwari, the Finance Minister, had made a statement on July 30, 1987, on the floor of Lok Sabha. This is also here. I would like to quote a particular portion. It is there on page 17 and I quote:

"The Swiss Federal Act on International Mutual Assistance in Criminal Matter (IMAC) would enable mutual assistance where acts in respect of which assistance is sought satisfy criteria of dual criminality and the State seeking assistance guarantees reciprocity to the Swiss authorities. If the above

conditions are satisfied, Swiss authorities would entertain request for assistance in criminal matters under the provisions of IMAC...."

In another paragraph, Mr. Tiwari has stated that "Assistance from the Swiss authorities under IMAC would be obtained even without entering into a bilateral treaty/agreement."

SHRI ARUN SINGH: It is subject to dual criminality.

SHRI DIPEN GHOSH: It is not written here. I hope, by the time you resigned he could not obtain the advice from you in making the statement on the floor of Lok Sabha (Interruptions). He agrees that even without bilateral treaty or agreement assistance would be obtained. I want to know, why he did not do it so long.

Again, Mr. Vice-Chairman, Sir, Mr. Eduardo Faleiro, another Minister of State in the Ministry of Finance, made a statement on May 5, 1987. While making the statement in the Lok Sabha he promised that during the current session he would bring an amendment to section 105 of the Criminal Procedure Code in order to enable exchange of assistance between the Indian Government and the Swiss Government on criminal matters which Mr. Arun Singh is referring to. It was Shri Eduardo Faleiro who, on the floor of the Lok Sabha, promised that the Government would bring forth an amending during the current session, but no amendment has yet been brought forward, no amendment has yet been put forth. In the meantime, the matter came up again in the Lok Sabha. It was on September 17, 1987. Almost eight months back, Government of India had agreed on the draft of an accord with the Swiss Government, enabling India to secure Swiss help for lifting their banned secrecy. This was suppressed from Parliament. When insisted, Mr.

[Shri Dipen Ghosh]

Gadhvi, another Minister of State for Finance, had made a statement on December 11 that the Government of India was engaged in a dialogue with the Swiss authorities. Now you can conclude. Mr. Faleiro says that an amendment will be brought to ensure that the two Governments could exchange cooperation on criminal matters. Mr. Tiwari asserted that even though there was no bilateral agreement, it could be obtained. And Mr. Gadhvi said that negotiations were going on. So my question is—I do not know who will reply, the Minister of Defence or the Minister of Finance—that the money was paid to a Swiss bank. The question was only to secure help from the Swiss authorities to identify the people in whose numbered accounts this money was paid. And when the question was raised last year, the Minister of Finance had assured that this could be done even without a bilateral agreement, the Minister of State for Finance promised an amendment to be brought to the Criminal Procedure Code so as to enable the Government of India to exchange such cooperation, and another Minister of State for Finance, Mr. Gadhvi, informed us that a dialogue was going on, yet after all these months, what made the Government not to seek assistance or cooperation from the Swiss banks to find out the names which, according to Mr. Kulkarni, is a million dollar question?

SHRI K. C. PANT: Give him a million dollars, not the question.

SHRI DIPEN GHOSH: From here arises the suspicion. Mr. Arun Singh wanted to know this while dealing with the note of dissent. I am not going into that. From here arises the suspicion. The Hindu published five authenticated....

SHRI ARUN SINGH: Will you yield for a minute? My understanding may be incorrect, that is why

"suspicion" is the word which you have used very frequently. The IMAC in Switzerland, as you have rightly pointed out and the Committee has also said, is not subject to a bilateral treaty. It is an Act under the Swiss law which can be buttressed by a bilateral treaty, it could be supported by a bilateral treaty, but need not survive only on a bilateral treaty. IMAC is subject to two things. Both have to be gone through—dual criminality and reciprocity. Dual criminality means a violation of the law in Switzerland. You have not made a mention of that.

SHRI DIPEN GHOSH: I know that.

SHRI ARUN SINGH: Therefore the whole argument on that rests on the concept of dual criminality. Bofors, unfortunately, in Sweden have not violated any Swedish law. That is given in the Parliamentary Committee's report. There is no question of dual criminality.

SHRI DIPEN GHOSH: The question was that the Bofors had admitted that the payment was made to Swiss bank accounts. And this is also an admitted fact that Rs. 60 crores were paid, whether it was ploughed back to the Directors or it was siphoned off. But it went through the Swiss bank account. The question was whether to find out the names from the Swiss bank. Mr. Tiwari had stated that it could be done, on which Mr. Arun Singh had given the clarification. Mr. Eduardo Faleiro had gone one step ahead and promised an amendment to the Act so as to enable the Government of India to seek cooperation from the Swiss Government. That amendment has not yet come.

SHRI A. G. KULKARNI: How do you think of Mr. Eduardo Faleiro bringing an amendment to the Swiss law?

SHRI DIPEN GHOSH: To the Criminal Procedure Code of your country.

SHRI A. G. KULKARNI: You have not understood dual criminality.

SHRI DIPEN GHOSH: I understood dual criminality when you added your strength to the JPC. Don't try to divert.

That is why my question is: What efforts were made by the Government of India, in the background of all the statements and promises, to seek assistance from the Swiss banks to find out the names of the recipients of the money which was deposited in Swiss bank accounts?

Sir, from here arises the suspicion. On 22nd April, The Hindu published as many as five authenticated documents, and Bofors did not challenge those documents. The other authorities, the Swedish authorities or anybody, did not challenge those documents. And without pursuing those documents and all the information that was revealed through those documents, the JPC had hurriedly pulled down the curtain on its poke. Secondly, the JPC had put all reliance on the Bofors representatives' evidence. What the Bofors representatives had stated to them was taken as Gospel truth and thereupon they had come to their conclusions. The Attorney-General had stated that the negative cannot be proved, but the way the JPC had functioned is such that it arrived at its conclusions based on the statements made by the culprits.

Sir, what I want to say now is about the way the JPC had succumbed to the Bofors representatives when they declined to part with certain documents or give information to the JPC. Never had it happened before. Mr. Arun Singh had talked about the strength of our country, the strength of our people. By what Mr. Arun Singh had asserted, our country can blacklist Bofors.

SHRI ARUN SINGH: That is not with the Committee.

SHRI DIPEN GHOSH: And the Parliament of that powerful country or powerful people....

SHRI ARUN SINGH: Parliament is not executive, why don't you understand?

SHRI DIPEN GHOSH: The way the Parliamentary Committee had obliged the Bofors representatives to get away, without forcing them to part with the documents or information as required, proves beyond doubt that the JPC did not want it. So, Sir, from this there arises a grave suspicion that the JPC did not want it only because down the line there is some very, very important person or persons involved.

Lastly, as Mr. Arun Singh has demanded of the Government to ask Bofors to refund the money with the damages or else face enlistment in the blacklist, I would ask the Government whether our Government is prepared to ask the Swedish Government to force Bofors to give all information, all documents which are necessary and which are found necessary to get at the truth and also whether our Government is prepared to come to a kind of agreement with the Swiss Government to exchange co-operation and assistance with the Government of India in finding out the names of the holders of the accounts into which this money was deposited. Thank you.

THE VICE-CHAIRMAN (SHRI H. HANUMANTHAPPA): Hon. Members, since the Home Minister requires some more time for the statement, the statement will be made at 7 o'clock. Now we will continue the discussion.

THE MINISTER OF WATER RESOURCES (SHRI DINESH SINGH): Mr. Vice-Chairman, Sir, ...

SHRI DIPEN GHOSH: We have a hired speaker.

SHRI DINESH SINGH: Unlike the custom in your party, we don't have hired speakers.

SHRI DIPEN GHOSH: Rajya Sabha will get the benefit of listening to you.

SHRI DINESH SINGH: Thank you very much.

Mr. Vice-Chairman, Sir, I have listened with very great attention to this debate on the JPC Report on Bofors Contract. It is, in fact, a part of the continuing debate that is going on in the country and which has been kept alive for over a year now.

Out of the many charges and insinuations made, two obvious issues emerge that concern all of us. The first is, whether the Howitzer weapons system purchased from Bofors meets the requirements of our defence forces and secondly, whether the price paid for them was the best in the circumstances prevailing at that time. Both these issues have been gone into in great depth, and it would not be my wish to take the time of the House beyond what is absolutely necessary for me to do. The Report of the Joint Committee has examined this in very great depth.

The real question is: Whose advice does one take when one has to buy something? If it is jewellery one is buying, one consults a jeweller. If you are buying an electronic equipment, you consult an electronics engineer. Therefore, if you are buying guns for the armed forces, the only people that will give you the best advice are the people who are going to use those weapons. It is not for us to sit in this House and decide which is the best gun. It has to be decided by the armed forces themselves.

Therefore, the real question is whether the procedures have been followed in the armed forces, whether they have applied their mind in all seriousness to decide about this gun. The JPC Report gives in very great detail the procedures that have been followed and also the procedures that had been laid down for the purchase of such equipment. If you would see, there is no variation between the two. The procedures that have been laid down over a period of time have been strictly followed and adhered to.

Now, the question comes as to what is the point on which you must accept the finality of the advice that is given to you. Because the processing takes place by different committees and by different organisations, I would say that the person best qualified to assess all these reports and considerations that have gone into it would be the Chief of the Army Staff, because he would be the person who would be able to assess the various reports and various opinions that may have come. Here we have before us in the JPC the views of the Chief of the Army Staff. Now, much has been made out. My friend, Mr. Gurupadaswamy, also emphasised on that. I was somewhat pained that he should have cast any doubt on the competence, if not anything else, of the Chief of the Army Staff. I would say here we can have no better opinion than that of the COAS, General Sundarji, a distinguished soldier and an apt leader of the Indian Army, whose concern for the defence of the country, the fighting fitness of the forces and their welfare could not be less than any of us here. Therefore, we must accept the advice of the Chief of the Army Staff.

Much has been again made out as to the Chief of the Army Staff, when he was Deputy Chief, he had one view and again when he became the Chief, he had a different view as if

there was some kind of a pressure applied on him to change his views once he moved from the position of the Deputy Chief to the position of the Chief. It is quite true that after a thorough evaluation by various organisations of the Army and the Defence Ministry, the Chief, who was then the Deputy Chief, had recommended a panel of two guns — SOFMA T.R. from France and Bofors FH77B from Sweden in that order. His preference at that point of time was for the SOFMA from France. Now, my friend, Mr. Gurupadaswamy, had again asked why this sudden change from SOFMA to Bofors? I think it is a reasonable question for anybody to ask. Why should there be a change of opinion by the same person when he moves from one position to another? It is not a question of moving from one position to the other, which is relevant. What is relevant is that the threat perception had altered. This has been amply brought out in the Report. At the time when the French gun was being considered as the best, some of the possible adversaries did not have a particular type of fire finder radar. It was our assessment they would not have it till about the end of the century. Therefore, on certain considerations one felt that perhaps the French gun might be more advantageous. But once the threat perception changed and this fire finder radar was introduced into the sub-continent, then you needed a gun which would have a burst fire and also what is called a shoot and scoot possibility because this particular radar would, within 45 to 50 seconds, be able to locate the position of the gun and, therefore, within the Short time, by the time they are able to locate and aim at this gun, this gun must move out. Therefore, its 6 P.M. mobility....

SHRI JASWANT SINGH: Will you yield for a minute, because this is specifically a technical question? However, doubts when they are expressed are about the timing of the

intelligence — about the obtaining of this particular radar by one of the potential adversaries. The doubt that is specifically raised is that a recommendation is made by the Ministry of Defence towards the end of 1985 and yet in February, 1986 that recommendation is changed on the ground precisely of intelligence, that now this fire-finding radar is with one of the potentially adversary countries. Is it the contention of the Government, therefore, that this information came only in these two months; prior to these two months that information was not with the Government and only on this account in these two months this decision was taken?

SHRI DINESH SINGH: I am really surprised that the hon. Member, who is so well-versed in defence matters should have asked me this question. This question has been adequately replied by the Chief of Army Staff himself in the report itself. If he would care to see pages 66 and 67 again, perhaps, this question would be answered without my having to take up the time of the House and reading it from the report.

However, the main point was in their perception. It was felt that in the altered circumstances, this particular gun would be more to our advantage than any other gun. Even otherwise this gun had been placed a close second to the first one. It is a matter of opinion, taking all things into consideration, as to which would be the best because there are certain advantages for each weapon over the other and it is the total consideration that has to be made. I am, therefore, confident, Sir, that the House will endorse the findings of the Committee as given on page 75, para 5.81 and page 76 paras 5.82 and 5.83.

Now the other question that has been suggested was about the financial and commercial aspects. But before I move on to it, Sir, I must say

[Shri Dinesh Singh]

that I have listened with great interest to the speech made by Shri Arun Singhji, who unfortunately is not here just now. He took a lot of responsibility on himself; that he had not ensured that the clause concerning agents or middlemen was incorporated in the contract with Bofors. If I might relieve his conscience so that he has a peaceful sleep, this did not alter the situation. The Attorney-General has very clearly mentioned on page 179 that the fact that this was not specifically mentioned, did not alter the legal position. This is on page 179, para 8.3 and when he was asked whether it was absolutely necessary to include this in the agreement, he said, I quote:

"No, I won't say it is absolute necessary to incorporate because terms are between two parties. Condition precedent can also be oral. It is not enjoined that it should be necessarily in writing."

Therefore, this condition remained, whether it was in writing or not.

The other point that he had made was that he had the political responsibility as Minister of State in the Ministry of Defence and it was not for the officials to appear before the Joint Committee but that he should have been summoned. As you are aware, Sir, there are specific rules for this matter that the Parliamentary Committee, invite only the officials and if they have to invite the Minister, they have to take the permission of the Speaker. Now, in this case, I do not know whether any more information could have been given by the Minister, which was not available to the officials and to advise the Minister was acting anyhow. This was a fact-finding Committee. It was seeking facts and it was seeking information. Therefore, adequate information would have been available from the officials of

the Ministry concerned as well as from the Chief of the Army Staff. So, I do not think that there was any lapse on the part of the Committee for not inviting the Minister. It would not have helped at all in this matter.

Now coming to the financial and commercial aspects, as you are aware, the Government had appointed a negotiating Committee to work out the price of the various guns in the field. On negotiating the price of the two short listed guns, Bofors and SOFMS, the Committee did creditable work by introducing an element of competition between the two. The Committee succeeded in bringing down the price of Bofors guns by 15 per cent yielding a saving of Rs. 192.5 crores to the Government. Again my friend, Mr. Gurupadaswamy was somewhat amazed as to why this price had been dropped as if there was something shady and that Bofors had suddenly brought down their prices. It was not only Bofors, the French also dropped their prices. They dropped by Rs. 101 crores or something like that. Therefore, in competition, both were dropping prices and I think, it is something which should be welcomed that we have the capacity to be able to negotiate in a manner in which any beefing up in these price constructions can be reduced and that we can get to the minimum that we have to pay for any such purchases. It is a matter in which the House, I am sure, would wish to record its appreciation to the negotiating Committee for doing excellent work and not raise any doubt about their competence or anything shady that might have been done. I think it has been adequately explained in the House as to how by working out the present value, it was possible to bring down these prices in a

manner in which on the date of the letter of intent being issued, the price of the Bofors gun was Rs. 54.5 crores, cheaper than the SOFMA. Although again working on this basis of net present value which has been explained in the House on the date the contract was signed, the Bofors offer was marginally, about Rs. 14 crores more expensive, but when you look at the total picture, the value of this gun in relation to the threat perception and our particular needs was such that if the difference was more, the recommendations were that we should purchase only this gun.

Now I would be failing in my duty to the House if I do not mention that throughout this process of price negotiation a senior representative of the Ministry of Finance was a part of the negotiations. Mr. Ganapathy, who was then the Secretary, Expenditure, was a Member of the negotiating Committee and he was closely associated with all the negotiations that had taken place and if the hon. Member would care to glance through his comments that are available in the report of page 99, para 6.60, in which he states that the recommendations of the Committee were unanimous and there was no question of difference of opinion. There was no question of any kind of variation in the assessment of different people on the Committee. The report of the Committee was unanimous, without any mental reservation and he mentions specifically:

"Till today nobody has entertained any doubts about it.

Therefore, it is a matter, I, think, of great credit that the Committee

working together as a single person was able to negotiate, bring down the price and get us to the most advantageous terms for the best gun that had been selected. There has been much talk outside this House, Sir, and perhaps, also in the House. I am a new-comer and I am not fully aware of the going-ons here before. But there is a feeling that the Prime Minister had, perhaps, shown some undue interest in this gun. Questions have been put to various people and the conclusion is that no special interest was shown by the Prime Minister in the purchase of the gun either in favour of one or the other. In fact, when the recommendations of the negotiating Committee came, they were put to the Finance Secretary, to the Finance Minister and then to the Prime Minister as the Minister of Defence. I do not think that it could be the claim of anybody in this House or outside that the Finance Minister of that time did not apply his mind seriously to this question, that he had any doubts about any shady deal in this connection. If he had any doubts and if he did not express it at that time, it would be even worse. Therefore, I would not say that the then Finance Minister had not applied his mind and had not found this deal to be in the best interest of the country.

[The Vice-Chairman (Shri B. Satya-Narayan Reddy in the Chair].

Again, a question was put to Mr. Ganapathy whether the Finance Minister had expressed any reservation. There is the categorical answer of Mr. Ganapathy saying "absolutely no". Therefore, any insinuations, suggestions or thoughts lingering in the minds of some hon. Members that the Prime Minister had

[Shri Dinesh Singh]

taken any special interest in the purchase of this gun. I think, should be completely eliminated. I say this with respect to the hon. Members. It is not a question of an individual who happens to be the Prime Minister at a time. This is a question of the institution of Prime Minister. We cannot go on pure insinuations. Again and again, the Prime Minister has said, "If there is any proof, do bring it to me." If there was any proof, it could have been taken to the Committee. I think, in all sincerity, that it is a great lapse on the part of the hon. Members of the Opposition, including Atalji—who, I am glad, has just arrived—that they did not participate in the deliberations of this committee. Much that has been said here today or outside could have been examined in this Committee. It was not a question of who was going to be the Chairman of the Committee. It was not also relevant as to what would be the proportion of the Members of the Opposition or the Members of the ruling party. That has been determined by the people and we have to abide by that. All these questions which are now being posed could have been more seriously and more fruitfully posed in the Committee and answers obtained. When you make a demand for the appointment of a Parliamentary Committee, you have to accept the rules, the procedures and the conventions of the House and it was fully known to the hon. Members of the Opposition that if they asked for a joint Parliamentary Committee, it would be according to certain rules. So, to say that one did not accept to be a Member because one did not get the chairmanship or that the composition should have been different—is, I think, not fair. It is this that causes

me some concern. We are at a stage in which the country is under different kinds of pressures, both internal and external. It is the time when we have to strengthen our institutions when we have to function in a manner in which we do not give an impression that we are functioning merely on hearsay or that we have acquired a focus on an individual. We have to function as if we are functioning in a responsible Parliament dealing with issues, dealing with policies, dealing with programmes and not dealing with individuals. We are here as a Government and it functions with collective responsibility. It is not fair to isolate one from the other. Whatever action the Government takes, we are all responsible. That is the institution of parliamentary democracy based on Cabinet system, which we have adopted in this country. I would, therefore, beg of the honourable Members with all the sincerity, with all the force at my command, let us now call a halt to this kind of witch-hunting, let us concentrate on issues — I would have no quarrel with them on the points that they raised — devoid of personalities, based on certain issues, based not on hearsay, not on conjectures, but on some kind of facts.

Now I come to the most contentious part of the report in the sense that has been built up in public mind. The report is not contentious. It is very clear in its observations and findings. We have created an impression and the impression that we have created is that we have already judged an issue and having judged an issue we are now trying to find proof or establish ways to convince the people of our judgment. This is not the legal system on which we work. Our legal system is based on the accused being innocent till proved guilty. What we are doing here is to make him guilty first or to establish in our minds that he is guilty, and then try to look for proof.

I have no objection to honourable Members looking for proof but not to prejudge the issues. And if you do not prejudge the issues, I am sure you will agree with me that the report of the Joint Parliamentary Committee is an objective one. It has gone into very great details about the various issues that have been raised, about the terms of reference that was given to it, and it has done a commendable work in trying to find answers to it.

Now we come to this question of agents and middlemen. I am not going to get involved in legal quibbling trying to differentiate between a middleman and an agent although a difference does exist. I take it together for the convenience of the honourable Members and the question really arises as to whether an agent was employed. What kind of an agent are we objecting to? If it have been able to sense the wish of the House and the impression outside, our objection is to an agent to whom commission may have been paid for the purchase of this equipment which means that he had been paid for securing this agreement. Now, this matter has been put to Bofors again and again and there has been much debate in Sweden, in our newspapers and in the public in general. From the report of the Joint Parliamentary Committee it is not borne out that commission had been paid to any agent in the sense that he had to procure this order and that, maybe, he had used part of the commission paid to him as what one popularly terms a kickback. If you see the views expressed by the Bofors' representative to the Committee, he has talked of a normal commission of 12 per cent being paid to agents. If you work this out on the value of the contract running into Rs. 1,400 odd crores, then the 12 per cent of that would come to about Rs. 160 odd crores in that relationship. Now, here the payments ac-

cepted by Bofors is in relation to Rs. 63 or Rs. 64 crores. Now, I am not speaking for Bofors by any means nor am I trying to justify them. My own impression of the arms dealers in the world is somewhat poor and I think they indulge in all kinds of shady deals. But on this particular issue, if you look at it, Bofors have done themselves a very great advantage by getting off paying only four per cent instead of the 12 per cent that they would have been normally required to pay to the agent. Whom they have paid it to has not been disclosed. Unfortunately, these payments have been made to some somewhat shady companies, in tax havens, and I do not think that it would be possible to pin down the ultimate recipients of these payments. Now, part of it could be payment in relation to services rendered, what are called consultancy charges, which means that they have to make market assessment, they have to gather commercial intelligence and they have to make all kinds of advance preparations that have to be made when a large order of this magnitude is required to be put through. But that again is not the main issue. The main issue is whether any kickback has been received by anyone and here I would say that there is no evidence to show that any kickback has been paid. That is our concern, main concern. We are not concerned with the question as to what Bofors do with the money and to whom they pay it. The question is whether it is related to the obtaining of the order or not. And, Sir, this has not been established by any honourable Member or anybody else that the payment was in relation to obtaining the contract. Payments have been made. It is nobody's case that payments have not been made. But I do not think anybody has been able to establish that they have been made in relation to obtaining the contract in which there could be a kickback involve-

[Shri Dinesh Singh]

ment. Now, it is also true that these kickbacks have been made (Interruptions)....

SOME HON. MEMBERS: The truth is coming out!

SHRI DINESH SINGH: You see, I have also been, it appears, carried away by the propaganda that you have been carrying on! I do not want to match the expressions already used by Mr. Aruna with other expressions. But I would confine myself to simple English.

The point that I was trying to make was a simple one and it is that Bofors had made certain payments and it is not possible to establish that they were related to obtaining the contract even though they might have been paid after the contract was signed. Now, Arun Singhji had very strong views on this and I have no quarrel with him. It is a question of individual feeling as to what should be the reaction in case one feels that one has been let down or cheated or that there has been a breach of faith or whatever it is. It is an individual reaction. I value his reaction. It may not be my reaction. It may not be...

SHRI DIPEN GHOSH: Do you support his demand?

SHRI DINESH SINGH: Why don't you listen to me? All of you are trying to jump the guns we have just purchased. Let us not...

SHRI DIPEN GHOSH: I have got the message from your simple!

AN HON. MEMBER: One Raja is against another Raja.

SHRI DINESH SINGH: We are both friends on the same side. There is no question of being against each other. I have great respect and affection for him. Therefore, there can

be no question of being opposed to each other. He knows it.

What I was trying to say is that the reactions of individuals viewing a certain position need not be similar even if they are very fond of each other. The suggestion that has been made of asking Bofors to return the money or to pay penalty, I think, is somewhat unrealistic in the present situation. And this is the view that has been expressed in the Report. The Attorney General has viewed this matter. It has been raised before the Committee. And he is of opinion that we would not have a legal case. Whether this point was written in the contract or not, that does not, according to him, make any difference, but whether this would stand in a court of law or a court of arbitration. It is his opinion that it would not be possible for us to establish it.

AN HON. MEMBER: He said that Bofors have to be blacklisted.

SHRI DINESH SINGH: I am coming to it. There is no hurry. We are rendered, what are called consultancy all here this evening. Therefore, again we have to be guided by the opinion of the experts. I am, fortunately, no a lawyer.. (Interruptions) I do not mean any disrespect to the profession. My only point was that not being a lawyer, I do not hold a certain opinion which might, I feel, be legally correct. Therefore, I am guided by my legal friends, including my friend Mr. Bhandare, whenever I am in some legal difficulty. So in this case also, my view would be to rely on the best legal advice that we can get. And so far as the Government is concerned, the best legal advice would be that of the Attorney General. (Interruptions)

Mr. Aruna, you have already recorded all your difficulties. Now, you might listen to me when I am trying to explain my views, which may be very simple, which may not have

been recorded in the language, in the manner, in which you have recorded yours. These are in simple English.

In my view, so far as the Government is concerned, the most eminent advocate would be the Attorney General and, therefore, we have to go by his advice. I entirely agree with Mr. Arun Singh when he says that we have commercial clout, that we are a large buyer, that we are a big country and we should be able to enforce certain views that we may have. But we must also ensure that we do not use our clout in a manner which may not appear to be right, and right in the legal sense. Hon. Members who have been to court on any occasion or whose friends have been to court, would appreciate that even if one feels that one's is the best case sometimes the legal opinion or the judgment is different. You cannot go on contesting all the time. There has to be a finality. You have to bow down to an authority or to an adviser whom you respect, whose opinion is of value and who gives you an opinion contrary to your own feelings. This is the situation in this case.

I might say in conclusion that so far as the Government and the Prime Minister personally are concerned, one cannot say that he and the Government have not made every effort to try to seek information from whatever source it may be, whether it is the Swedish Government or it is the company of Bofors or it is any individual. The Prime Minister himself mentioned it to Mr. Olof Palme, the former Prime Minister of Sweden. As Shri Arun Singh Ji explained, this was also mentioned to the French Prime Minister. On getting certain information that had been broadcast by the Swedish radio, a note was given by the Indian Embassy and our Prime Minister himself approached the Swedish Prime Minister to institute an inquiry. The

Swedish National Audit Bureau went into it. There were primary investigations by the Chief District Prosecutor who went into it. Discussions of the Defence Ministry with the representatives of Bofors also took place. Above all, the Joint Parliamentary Committee which was established was the biggest proof that was required of the Prime Minister's intention to try to find out the truth. I don't think that in his case he could have done any better than to appoint a Joint Parliamentary Committee to find out the truth.

[The Vice-Chairman (Shri Jagesh Desai) in the Chair]

I don't wish to take any more time of the House. I would merely wish to conclude by saying that we constitute the Joint Parliamentary Committee with the approval of this House and the report of that committee has to be given the due respect that it commands. Much emphasis had been laid on institutions as such. This is also an institution. If we did not participate in it it was not the weakness of the institution. Perhaps it was our failing and our weakness in the sense that we did not have adequate support in the contentions that we wished to maintain. Perhaps we would have got exposed. We might have even found answers to the questions we were raising. Therefore, let us not belittle its importance. A serious effort was made by our colleagues in this House and the other House in trying to reach at the bottom of truth. We should not try to circumvent it when we did not participate in it.

In fact, I would congratulate Shri Atal Bihari Vajpayee Ji for bringing this matter before the House today so that everybody had an opportunity to express his views. I watched his performance with great interest. I have seen him speaking in this House, in the other House, in public and even in private and I think that today

[Shri Dinesh Singh]

performance was one of the most masterly that Shri Atal Ji was able to make in the absence of any facts that he had. Thank you.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Shri Madan Bhatia.

PROF. C. LAKSHMANNA (Andhra Pradesh): Now it is our turn.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): This was intervention.

PROF. C. LAKSHMANNA: The Minister has spoken on their behalf.

SHRI VISHVJIT P. SINGH (Maharashtra): An intervention by the Minister is never taken as being part of the Congress Party. He belongs to the entire country. He is as much a Minister of the Opposition as ours.

SHRI PARVATHANENI UPENDRA: He has not spoken for the Opposition.

SHRI VISHVJIT P. SINGH: Sir, you may reconsider it.

(Interruptions).

SHRI VITHALRAO MADHAVRAO JADHAV (Maharashtra): Sir, on a point of order. Our Party Member should be given the chance to speak. Later on he can be given a chance.

(Interruptions).

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Lakshmanna, please continue.

(Interruptions).

PROF. C. LAKSHMANNA (Andhra Pradesh): Mr. Vice-Chairman, Sir, the JPC Report on the Bofors contract is having two aspects, selection of the gun and the payment of kickbacks, etc. I would not have normally gone into the first aspect be-

cause it is a technical matter. None the less, two important issues raised by Mr. Arun Singh and Mr. Dinesh Singh make me comment upon that also. Sir, Mr. Arun Singh, in order to refute the argument that the Prime Minister took special interest in the Bofors gun made a statement that there were two occasions on which the Government of India, represented by the then Minister of State for Defence, Mr. Arun Singh, and subsequently when the Prime Minister went to France, had an occasion to talk about the middlemen, etc. But, then, Sir, Mr. Arun Singh was very careful. He said that the entire discussion was in general terms, that in any contract, in any agreement between the Government of India and the French Government or the French firms, there should be no middlemen. It was not specifically with regard to the French gun as such. But when it comes to the question of the Swedish Government and the Swedish Prime Minister and talking to the Swedish people, it was specifically with regard to Bofors gun. Even then, Mr. Aberg, when he had an interview with the Swedish Radio, made it clear that this particular discussion took place between Prime Minister Olof Palme and the Prime Minister of India in a private capacity in which Mr. Olof Palme was present and nobody else was present. And these this question was specifically discussed. And Mr. Olof Palme is no more to confirm, he is no more to give us the details. None the less, this is the position. Now, Sir, when we read this against a particular background of the change in the attitude of Gen. Sundarji with regard to the choice of the Bofors gun in preference to the French gun, a particular thing comes out. That is like this: Sir, the talk of middlemen with the Bofors company took place before there was a change in the decision on the part of the Military authorities and the Government of India. This is a very important fac-

tor which has to be kept in mind. The talk of middlemen was there much before a decision was taken by the Military authorities, by the Chief of Staff, by the time Gen. Sundari was the Chief of the Staff in preferring the Bofors gun to the French gun. What does this mean? This means a change in the attitude of Gen. Sundarji between two points of time or between three points of time—1982, October 1985 and then March 1986. These are the three points of time with which we are now concerned. The first two points of time were when he was the Deputy Chief of Staff he held the view that the French gun is superior to the Bofors gun. I do not want to go into the details how it was etc. I have got the details. But by the time he became the Chief, he became Chief in February 1986, in March this decision was taken by the Chiefs of Staff that the Bofors gun is better than this. But before this already the talk of the middleman had arisen. Therefore, there was a definite indication, an inference that General Sundarji had to change his opinion, not merely based on the technical competence or the technical capability of the Bofors gun over the French gun but something else. And obviously what could that inference be? That inference could be the one which had the support of a superior. Either it could be the Defence Minister or perhaps even the Minister of State of Defence or could be the Prime Minister. Unfortunately, Sir, at that particular point of time, the Defence Minister of India and the Prime Minister of India was one and the same person. Therefore there is reasonable possibility of an inference that General Sundarji could have been influenced. It is only inference. When it comes to inference, it does not mean that it is a certainty. Actually two persons only can tell if they speak truth and nothing but truth honestly.. (Interruptions).

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I think that is a reflection on Mr. Sundari, on the Chief of...

SHRI PARVATHANENI UPENDRA: He is not a sacred cow.

PROF. C. LAKSHMANNA: I would not have entered into this controversy but there have been Chiefs of Staff in this country who have given contradictory opinions. Mr. S. Sahai has given the opinion...

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): No, no.

PROF. C. LAKSHMANNA: After all Parliament is not below the Chiefs of Staff. (Interruptions). It has become a very difficult problem that we cannot talk about a General, about the Attorney-General, we cannot talk about this and we cannot talk about that.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It is an inference that Chiefs of Staff...

SHRI PARVATHANENI UPENDRA: So what?

SHRI ALADI ARUNA alias V. ARUNACHALAM: We are not afraid of the Army.

SHRI PARVATHANENI UPENDRA: There is no martial law. It is a democracy.

PROF. C. LAKSHMANNA: Please listen. Mr. S. Sahai has gone on record with regard to another Chief of Staff how he had expressed two types of opinions, contradictory opinions. Therefore, there is nothing very particular about it. As General Sundarji himself in an interview in Doordarshan said that I had to change the opinion. After all the Government of India can use General Sundarji even after retirement what has been re-

[Prof. C. Lakshmanna]

corded when he was the Chief to tell the nation that everything was all right and if the Opposition Member makes use of it, you object to it. Therefore, there is every possibility of certain influence having been exerted as a result of the circumstances.

SHRI V. NARAYANASAMY (Pondicherry): When you say that there is some influence, you have to prove it. (Interruptions).

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Today's debate is going on a very high plane. Please do not bring down its level.

PROF. C. LAKSHMANNA: I am not Mr. Vice-Chairman, Sir, Mr. Arun Singh can bring in the Prime Ministers of two countries, three countries and give examples, and if a Member of the Opposition gives the same example, you find fault with it. After all Mr. Arun Singh did say that the Prime Minister of India, talked the Prime Minister of France, talked to the Prime Minister of Sweden and he as a Minister of State for Defence cities.... (Interruptions).

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): These are two quite different things.

PROF. C. LAKSHMANNA: These are not different things.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I leave it to your good sense.

PROF. C. LAKSHMANNA: If Mr. Arun Singh can say that they specifically talked about the gun business, as they talked in the case of Bofors, then it would be different. This is about the possibility.

Now comes the other aspect. I will refer to three companies to whom amounts are supposed to have been paid as stated even by the JPC and as more categorically stated by Mr.

Arun Singh. I am thankful to Mr. Arun Singh and to the Hindu whose authenticity and whose high standards was even praised by Mr. Arun Singh. I am thankful to both of them for having stated that there has been a breach of faith. I do not know whether Mr. Arun Singh used the words 'breach of contract' but he did say 'breach of faith'. This goes contrary to what the Minister of Defence, Shri K. C. Pant has stated on the floor of this House and on the floor of the other House that even now there are no middlemen, and no middleman has been paid and, therefore, there is no question of any problem arising out of this. This is what he has gone on record. But Mr. Arun Singh, the former Minister of State for Defence has categorically stated that it is a breach of faith. This is the general tone of thinking in the country as a whole. I was talking of the three companies; one is SVENSKA INC., the other is MORESCO/MOINEAO (PITCO) and the third is A. E. SERVICES. Sir, the amount that has been paid is supposed to be about Rs. 68 crores. Now, the relationship between one company and another company, which is SANGAM, and other persons who are associated with that, is well established. In this connection I would like to quote from the Swedish probe report. The amount that has been mentioned is only Rs. 88 crore. But the Swedish probe report goes further and says that an agreement exists between A.B. BOFORS concerning the settlement of commission subsequently and that considerable amount has been paid subsequently—the word 'subsequently' is important—among others to A.B. BOFORS' previous agents in India. This is the Swedish probe report, which means, the original percentage as stated even by Mr. Dinesh Singh, was 5.75 per cent; 3 per cent, and 3 per cent, that is, 11.7 per cent, which works out to about Rs 199 crore. As has been brought out by the Swedish

probe report, there is a clear possibility that as per these percentages, the amount could have been much more. But nonetheless, I will not go into that at present; I will come to it a little later, because that will require a little more explanation. Or, let me complete it here itself. Mr. Arun Singh, while saying that there was a breach of faith on two counts that the amounts were paid after the contract was entered into, said that there has to be some action, and he suggested some action to the Minister of Defence. He postulated two possibilities. One is, the type of military weapon system may be in jeopardy in next two years. Alternatively, he suggested that at the same time, BOFORS cannot go unpunished. Therefore, he suggested a course. The Government of India may ask the Bofors to pay back the amount plus damages. Sir, my question is, in a deal like this where not an individual, not even a firm, but the whole nation is involved, the country's honour is involved, the country's unity and integrity are involved, what will be the quantum of damages? How do you quantify the damages? What amount will be sufficient for quantifying the damage done to India?

SHRI PARVATHANENI UPENDRA:
To the Indian leadership.

PROF. C. LAKSHMANNA: He went one step further. In case the Bofors Company does not come forward with the payment plus damages, it should be blacklisted. Can we go one more step further than this? I say that whether the company agree to repay the amount plus damages or not, it should be blacklisted. Can we do that? If this is done, the might of the country in foreign countries will be realised that we will not compromise when it comes to the question of certain principles which we ourselves laid down. But then there may be other implications. The implications which were implied in the type of ad-

vice given by the Attorney-General to the JPC. The Attorney-General, even before anybody could discuss, even before the JPC could come to any conclusion, ruled out the possibility of any of these things, by saying that commercial confidentiality and commercial secrecy need not make the Bofors reveal the information as to whom it has been paid, how it has been paid, how it has been paid and why it has been paid; the questions which Mr. Arun Singh raised. See the whole thing. The Attorney-General fortified the Committee beforehand against arriving at the truth whereas this probe was instituted to arrive at the truth, to find out where this money has gone, to find out who are the people, who are the agents. Our own Attorney-General comes forward and pleads on behalf of the Bofors and says that commercial secrecy, commercial confidentiality, will not bind them, will not force them, to reveal the information. That means...

SHRI K. C. PANT: Just one question. Are you a professor of law, Mr. Lakshmanna?

PROF. C. LAKSHMANNA: Why?

SHRI K. C. PANT: I just want to know.

SHRI PARVATHANENI UPENDRA:
See his bio-data.

PROF. C. LAKSHMANNA: Mr. Pant, I am not a professor of law. But there is one thing of which I am proud. You and I belong to the same university. The learning which I have got, whatever that is, is from the same university from which you got your learning.

SHRI DIPEN GHOSH: We know the present Law Minister...

PROF. C. LAKSHMANNA: Sir, the institution of Attorney-General is something which has to be respected. The Attorney-General is a very learned person. I have great respect for him. I have great respect for all good lawyers. The present Attorney-

[Prof. C. Lakshmanna]

General is an excellent lawyer. But the problem is that because he is a good lawyer he is able to come to the rescue of anybody. Precisely this is what has happened. He prevented the Committee from arriving at the truth. He prevented the Committee from going into the details to find out who are the persons to whom money has been paid. Instead of aiding the Committee, in my considered view, he came in the way. So that the JPC can come and say in the end 'Look; we cannot ask the Bofors; even our own Attorney-General has said.' This is exactly what we find in the report of the Committee. If somebody finds fault with this, immediately, people will come forward and say that we are denigrating the institutions. No. We are not denigrating the institutions. We want to put these great institutions on the pedestal where they deserve to be. And this should be done by all of us.

SHRI K. C. PANT: Only when they agree with you.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Lakshmanna, how much time you will take?

PROF. C. LAKSHMANNA: I will take a little more time.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): The Home Minister will make the statement at 8.00 O'clock. Or, I will request him to make the statement after the debate is over.

SHRI DIPEN GHOSH: This is not correct. First it was said that the statement would be made at 7.00 O'clock then, it was said that the statement would be made at 7.00 O'clock and now it is being said that it will be made at 8.00 O'clock. It is not correct.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): All right it will be done at 8.00 O'clock. (Interruptions). The statement is not ready.

SHRI DIPEN GHOSH: Statement is ready. He had made that statement in the Lok Sabha. He is here. You check up if he has made the Statement in Lok Sabha. He can make the statement now itself.

SARDAR AJGJIT SINGH ARORA (Punjab): He has already made the statement in Lok Sabha at 6.00 O'clock.

SHRI DIPEN GHOSH: By 7.00 he should make the statement.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Mr. Minister, are you ready with the statement?

THE MINISTER OF HOME AFFAIRS (SHRI BUTA SINGH): I have finished it in Lok Sabha. Now I am in your hands. (Interruptions). You can put it to the House whether the clarifications can be sought tomorrow.

SHRI GURUDAS DAS GUPTA (West Bengal): We should like to ask the clarifications today itself. As per the convention, soon after the Minister completes his statement we seek clarifications.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): That is for the House to decide.

SHRI BUTA SINGH: There have been occasions when clarifications have been asked after two-three days.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I want to know the opinion of the House.

SHRI GURUDAS DAS GUPTA: My submission is that the normal convention is that clarifications are sought immediately after the Minister has made the statement. That

is the normal convention. Secondly, we wanted the Minister to make the statement at the beginning of the day itself because the situation there is alarming. It cannot wait till tomorrow morning. We want the statement to be made today and we would like to ask the questions today. There cannot be any departure from the normal accepted convention in the house over such a vital issue.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): There was one occasion when clarifications were given on the next day. I want your cooperation. There are so many speakers in this debate.

SHRI GURUDAS DAS GUPTA: Punjab is no less important than Bofors.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): All right, let this discussion be over and then...

SHRI GURUDAS DAS GUPTA: No, Sir, it cannot be.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): You have to cooperate on some point.

SHRI DIPEN GHOSH: In any case, Bofors will continue tomorrow.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): I want permission of the House. I am putting this question to the House that the Minister may make the statement at 7.00 and clarifications be sought tomorrow.

SHRI GURUDAS DAS GUPTA: On a point of order. Such a question cannot be decided by vote. Nobody can break the convention of

the House simply because of the brute majority.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): Can I not take the sense of the House?

SHRI GURUDAS DAS GUPTA: No, we want it today.

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): After the speech of Prof. Lakshmanna. Yes, Mr. Lakshmanna to continue.

7.00 P. M.

PROF. C. LAKSHMANNA: I was saying about the Attorney-General, how he prevented, in my considered view the JPC . . .

THE VICE-CHAIRMAN (SHRI JAGESH DESAI): It is now 7-00 O'clock, Mr. Buta Singh to make a statement. But before that a message from the Lok Sabha.

MESSAGE FROM THE LOK SABHA

II. The Special Protection Group Bill, 1988

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha signed by the Secretary-General of the Lok Sabha:

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Special Protection Group Bill, 1988, as passed by Lok Sabha at its sitting held on the 11th May, 1988".

Sir, I lay the Bill on the Table.