

ores and other raw materials.

**(iv) Demand for measures to meet water supply shortage in Delhi during summers**

SHRI VIJAYA N. PATIL: (Erandol): Summer brings to Delhi extreme heat but no water. One can see long queues at the water taps and water tankers sent to colonies which have had no water for days. So, acute is the water shortage that plastic tanks and booster pumps have become necessity. Delhi citizens do not get more than 30 gallons per head during summer which is quite inadequate. Every year in summer, the demand for water goes up by 20 per cent. Despite all efforts, the Delhi Water Supplying Undertaking has never been able to match the demand. I therefore, request the Hon'ble Minister for Urban Development to look into the problem of water supply to Delhi citizens during summer.

[Translation]

**(v) Demand for releasing funds to all Panchayats in Delhi areas for the Jawahar Rozgar Yojana**

SHRI BHARAT SINGH (Outer Delhi): Mr Deputy Speaker, Sir, the Jawahar Rozgar Yojana has been implemented all over the country. Under this scheme all the small or big problems of the villages can be solved through Panchayats. For this purpose the first instalment of the sanctioned amount has been sent to the Panchayat heads of Alipur, Kanjhawala, Najafgarh and Mehrauli blocks according to the population of these places and the people of these areas are happy and grateful to the hon. Prime Minister. But no money has been sent to the panchayats of the villages which have not been urbanised. There are about 20 such Panchayats in the four blocks which have not been given the cheques of that amount.

I would like to make a request to the Central Government to issue orders for the immediate release of the funds to all those villages for the effective implementation of the Jawahar Rozgar Yojana.

**(vi) Demand for shifting offices of the Continental Float Glass Factory from Allahabad to Banda, U.P.**

SHRI BHISHMA DEO DUBE (Banda): Mr. Deputy Speaker, Sir, in the last week of June the hon. Prime Minister had laid the foundation stone of Continental float Glass Factory in my constituency. It has kindled the light of development in that backward areas.

This factory is located in Banda but all its offices are in Allahabad. If the backward area of Banda is to be given the benefit of it in the real sense, all the offices of this factory should be shifted to Banda without any further delay. Along with this, the Government should direct the offices of the Department of Industry and Information at Banda to issue guidelines for the courses that would be specially useful for getting jobs in this factory.

14.18 hrs.

DISCUSSION UNDER RULE 193 ✓

[English]

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

MR. DEPUTY SPEAKER: The House will now take up discussion under Rule 193

relating to paras 11 and 12 of the Report of the Comptroller & Auditor General of India as included in the List of Business.

Before the discussion starts, I would like to make a few observations and would expect members to keep them in mind while participating in the debate.

As you are aware, the Reports of the C&AG automatically stand referred to the Public Accounts Committee and are not discussed on the floor of the House. In fact, they form the basis of investigation by the Committee. The Committee, in turn, submits its reports thereon to Parliament. In view of the demand from all sections of the House, however, the Hon. Speaker had, as a very special case decided to do something unprecedented—although not barred by rules—and admitted the notice for a discussion under Rule 193 on paras 11 and 12 of the C&AG's Report on Defence Services for the year 1987-88.

The Hon. Speaker's only consideration in admitting a discussion on the subject was to uphold the rights of this House to discuss any issue of public importance. The Business Advisory Committee has recommended that the discussion may be taken up today and three hours be allotted for the same.

The C&AG is an independent constitutional authority. Under the constitution, he sends his reports to the President who causes them to be laid on the Table of the House. These reports form the basis of P.A.C. scrutiny of administration and reports thereon. The C&AG is also an aide to Parliament inasmuch as he functions as the friend, philosopher and guide of the P.A.C. The C&AG has been accorded by the Constitution and law, a position and status analogous to a Judge of the Supreme Court. His conduct can be discussed only on an appropriate motion drawn in a form approved by the Speaker. Therefore, while the House is cer-

tainly entitled to discuss the findings of audit, as contained in the C&AG's Reports, the conduct of the C&AG cannot be brought in question during the debate. I would, therefore, advise the Members to refrain from saying anything which might amount to a reflection on the conduct of the C&AG and to confine themselves to the paras of the report.

Kumari Mamata Banerjee will initiate the discussion.

SHRI G.M. BANATWALLA (Ponnani): On a point of clarification. You have very rightly observed all these things. Now there are press reports to the effect that the C&AG has sent some communication to the Speaker. I can understand that the C&AG is not an officer under the Parliament, but is an officer under the President of India, who causes the reports to be laid before the Parliament. But you have just observed that the C&AG is also the philosopher and guide of this Parliament. Therefore, if the C&AG has sent any communication to the Speaker, it should be laid on the Table of the House.

MR. DEPUTY-SPEAKER: I want to make it clear now itself that I never said that he is the philosopher and guide for the Parliament. What I said is, he is the philosopher and guide for PAC.

SHRI G.M. BANATWALLA: PAC is also under the Parliament.

MR. DEPUTY-SPEAKER: That is a separate thing.

SHRI G.M. BANATWALLA: PAC is also under the Parliament. It is a parliamentary institution. This Parliament also lays down under the laws made by it for the powers, duties and functions of the C&AG. Therefore, if the C&AG has sent any communication to the Speaker, it should be laid on the Table of the House so that we a

properly guided. There should be no difficulty in this particular respect.

MR. DEPUTY-SPEAKER: If at all there is anything, I will see.

SHRI G.M. BANATWALLA: You will consider that question. But consider it before the thick of the debate...*(Interruptions)*

MR. DEPUTY-SPEAKER: I want to inform the hon. Members that if all there is any correspondence between the C&AG and the Speaker, that is never laid on the Table of the House. However, we will look into the point raised by you..

SHRI G.M. BANATWALLA: There was one occasion in March 1960. We have the reference under the Lok Sabha debate—March 14, 1960, Column 5701. At that particular time, the communication on a particular issue was asked to be laid on the Table of the House, but the Speaker said that the communication was marked as secret and therefore it was not possible for him to lay it on the Table of the House. If he has so marked it, I have nothing further to say. If the present communication that the Speaker has received has not been so marked as secret, then in order that we may be truly guided, it should be laid on the Table of the House. Sir, you have mentioned that it is a very unprecedented discussion that we are having. Therefore, let us have all the guidance that may be available.

MR. DEPUTY-SPEAKER: We will consider your point.

SHRI G.M. BANATWALLA: Consider it before the thick of the debate.

MR. DEPUTY-SPEAKER: Now we are starting the discussion. We are going to continue the debate tomorrow

SHRI G.M. BANATWALLA: Sir, may I know your decision?

MR. DEPUTY-SPEAKER: We will ask the C&AG, whether it could be laid on the Table of the House. After that, we will let you know.

*(Interruptions)*

MR. DEPUTY-SPEAKER: I want to tell the hon. Members that sometimes the press is writing somehow that we cannot take it up here. As is suggested, I will put before the Speaker the point raised by the hon. Member.

*(Interruptions)*

SHRI G.M. BANATWALLA: Will you do it within ten or fifteen minutes because you have allotted only three hours?...*(Interruptions)*

MR. DEPUTY-SPEAKER: We will extend the time further if you want.

*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRIMATI SHEILA DIKSHIT): Sir, Shri Banatwalla has raised a very valid point because the correspondence of the C&AG addressed to the hon. Speaker has already been given to the press. Therefore, the document addressed to the hon. Speaker of this august House should be made public...*(Interruptions)*

MR. DEPUTY-SPEAKER: The C&AG also marked a copy of it the the Defence Minister. If all the hon. Members feel that it is very essential, then we will ask the Defence Minister to lay it on the Table of the House.

SHRIMATISHEILA DIKSHIT: Now that you have clarified his point. Mr. Banatwalla will feel satisfied. This document, even though is not here formally, it is available all over the country because it has been out in the press. The C&AG himself has already given the document to the press.

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI P.R. DAS MUNSI): We have heard your observation and we have no question on that. But I would like to point out one thing. The supremacy of Parliament in Indian democracy has been not once but many times, established and all the political parties including the ones whose Members have resigned today, accept the supremacy of Parliament, whether they agree or not. Your observations will be followed by every Member who will take part in the debate. But one thing is there. A Member elected by the people, has also a right to find out whether even the constitutional authorities have gone beyond the parameters they have allowed to function. If that is barred to the Member's question, then our constitutional existence as Members of Parliament is also becoming false. For instance, I am looking after a particular job and I am not permitted to encroach upon a job. If I do that, surely that cannot be a bar that I should not be questioned at all. That point, I hope, you will kindly consider.

MR. DEPUTY-SPEAKER: Regarding Mr. Das Munsi's point, if you want to discuss this matter, you can give a substantive motion. Based on that you can discuss it.

SHRI A. CHARLES (Trivandrum): What the Minister has said is a very relevant point. Here we are not questioning either the conduct of the C&AG or anything personally related to him. There is the report. Based on the report we will be forced to make certain observations because *prima facie* the report shows that even technically this question is

not quite correct under the Constitution. Here an attempt has been made to show that C&AG is even above Parliament. There is the unfortunate statement in the press that C&AG has even met the Rastrapatiji in the matter and apprised him of certain position. So what I would submit is that based on the report, we may be permitted to talk on the subject provided we do not question his conduct.

MR. DEPUTY-SPEAKER: I have already made my observations that we are taking up paras 11 and 12 only and you can discuss it. Even the report you can criticise. We have no objection to that. But about the conduct of the person we cannot take up here.

SHRI BHOLANATH SEN (Calcutta South): His personal conduct or his conduct is not the subject. The question is that that report transgresses the limits... (*Interruptions*)

MR. DEPUTY-SPEAKER: His conduct cannot be discussed.

DR. G.S. RAJHANS (Jhanjharpur): The C&AG has given an interview to the newspapers and in that interview he has criticised the Members of Parliament. How can Members of Parliament not criticise him? (*Interruptions*)

MR. DEPUTY-SPEAKER: You can criticise anything by bringing a substantive motion. I have no objection to that.

KUMARI MAMATA BANERJEE (Jadhavpur): I would like to thank the Chair for giving me this opportunity to initiate the debate on this important Motion under Rule 193.

This Motion has been brought by me. Another Motion of the same nature was brought by my learned friends, Mr. Madhu

Dandavate and Mr. Jaipal Reddy. Today I feel very sorry because they have chosen to run away in order not to discuss the matter in this august House. To avoid the discussion they have chosen this time to resign from the House because they know that if the discussion takes place in the House, then the cat will be out of the bag and nothing but truth will come out. That is why, they have resigned.

It is a matter of regret that they have avoided this discussion because they know that their leader, Mr. V.P. Singh, when he was the Finance Minister, had approved this Bofors deal and recommended to the Prime Minister for sanction. When Prof. Madhu Dandavate requested the hon. speaker to allow him to raise this discussion, the Speaker himself allowed this discussion because Prof. Dandavate is a senior Member of the Opposition and he is a learned Member of this House. Only to protect his right, Prof. Madhu Dandavate was allowed to move this motion. In fact, speaking in the Lok Sabha on May 8, 1989, Prof. Madhu Dandavate stated, "There is a very specific reference and a critical reference to the Bofors Howitzer deal which conflicts probably with the Bofors Joint Parliamentary Committee's Report. We fear that as a result of unfavourable recommendation in the Report, probably that Report is not coming before the House." An eminent Parliamentarian like Prof. Madhu Dandavate will not present his case on surmises or conjectures. Does this mean that he had any prior knowledge about his Report. And when the Speaker allowed him to move this motion, he simply ran away from the House. Not only he, his other comrades also ran away not to discuss this matter. But we feel it is our first and foremost duty, as a Member of Parliament in this august House, to clarify the CAG's Report and to discuss this Report. We have to know what are the facts of the Report.

I have a great regard for the CAG. We know it is a Constitutional authority. That is

why it is not our business to discuss anything about his conduct. CAG, in his Report, did not indicate the Prime Minister's involvement in any way. In his Report, the CAG did not say anything about the Indian agents. In his Report, the CAG did not say anything about kickbacks. Then why are the Opposition Parties criticising it? Why are they shouting? Their shouting is only to create some political gimmick here. They are shouting only because now they have no credibility to the country's people. Because of their political bankruptcy they have created hullabaloo in this august House and when we have brought this motion to be discussed in this august House, then they have left. I feel sorry for that. Being a junior Member, we expected so many things from the Opposition. But in four years we have seen that except shouting on the Bofors issue, no other achievement has been there. When our Government has passed so many effective Bills in this House, when our Government has introduced Jawahar Rozgar Yojana, when our Government has given voting right to persons with eighteen years age—to students and youths—when our Government has given thirty per cent reservation to women, and when our Government is going to pass the Panchayati Raj Bill and the Jawahar Rozgar Yojana Bill in this august House, and also the Nagar Palika Bill then, because they know that they cannot say anything to the people, they wanted to divert the attention of the people from the reality. But now people realise what is what and the future generation will know that we are the people's representatives. Parliament is the highest institution of democracy. We know that Members may come and Members may go but this House will remain forever till democracy is there in our country. They should also know it, Sir. They have come here on people's verdict. People have given their verdict to them for five years. Previously they were shouting and asking the Prime Minister for mid-term polls. After that when they felt that Bofors has lost all

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credibility from their point of view, they have started shouting on CAG's Report. If there is something in the Report, then why don't they discuss it? It is the most important issue. They have criticised saying that we cannot discuss the CAG's Report in this august House. Why not, Sir? Parliament is supreme, Parliament can discuss CAG's Report also, Sir. CAG is not a final authority, his document is not the final document; it should come through the PAC. PAC should discuss this matter; then we will know what is their fault and what is not theirs.

Sir, they said that this is the first time that we are criticising this Constitutional authority in this august House. But may I ask the friends who resigned today: Who criticised the Supreme Court Judgment on Bhopal Gas tragedy? Who criticised the Indira Gandhi's assassination case, that Judgment of the Supreme Court? It is the Opposition. They have criticised the Supreme Court Judgement regarding Bhopal Gas tragedy. They have criticised the Judgment given by the Supreme Court regarding Indira Gandhi's assassination case; they have criticised so many times the Election Commissioner; they have criticised even outside; I can show you the paper. My learned friend, Mr. Jaipal Reddy, publicly stated that PAC has lost all its credibility. How could he say like that as a responsible Member?

MR. DEPUTY-SPEAKER: He is no more a Member. Don't worry.

KUMARI MAMATA BANERJEE: May not be now. But when he made this statement, he was a Member. That is why I am raising this point, Sir. We know the thing. I feel sorry that my all other friends, the so-called Leftists, Rightists, casteists, communalists and Communists, are working together only to destabilise our country. They

have marred our country's image inside the country, they have marred our country's image outside the country because they think that this is their political drama and this drama has come from our hon. Chief Minister, Mr. ....—I do not want to name him, but one Chief Minister who has become ...\*\*... Now the Opposition are the pawns in the chessboard of ...\*\*... That is why they have joined the studio of ...\*\*... Why they have joined?

AN HON. MEMBER: Vishwamitra.

KUMARI MAMATA BANERJEE: I say, not Vishwamitra. Vishwamitra has become Sakuni of Mahabharata. Now, all the Opposition has joined the studio of Rama Rao, who is now playing the role of ...\*\*... and now he is the Leader of the Opposition because I heard that some astrologer told this Rama Rao that one day he would become the Prime Minister. Now, another astrologer came to Devi Lal and said that "you may become the Prime Minister, you try." Then another astrologer came to Vajpayee and said, "You may be the next Prime Minister." And another astrologer said to Jyoti Basu "You may be the Prime Minister." I do not know, Sir, who will be the Prime Minister from that side because every astrologer is misleading these people as we know it.

They said, 'We are resigning because we are very much serious about the CAG's Report.' Sir, if they are serious, may I put one question to my Rajya Sabha friends because they are pressurising their Members to be resisting: If they are serious, why they don't resign from Rajya Sabha? If they have any guts, if they have got any moral responsibility and if they are serious, they should resign from Rajya Sabha. They cannot play double standards—one from Lok Sabha and the other from Rajya Sabha—if they have got any guts. They wanted the Prime Minister's resignation, but now it has boomeranged;

they have resigned on their own seats because they know that when we discuss this matter the cat will be out of the bag; that V.P. Singh was their leader, who approved this Bofors deal when he was Finance Minister and he recommended this case to the Prime Minister to sign. Who is responsible if there is any mistake? Not Prime Minister Rajiv Gandhi. Why should Prime Minister Rajiv Gandhi resign? The Prime Minister is the people's representative. If he wants to oblige any one, he will oblige the people of India, not the Opposition party leaders. The Prime Minister is loyal to the people. We believe in democracy, Government of the people, by the people, for the people. This democracy does not mean that democracy is only for the Opposition people. This is not a monopoly to do whatever they think. There are some Parliament procedures, there are some rules. If they are serious about it, why don't they bring a No-Confidence Motion according to Parliament rules and procedures? Why don't they resign from Rajya Sabha? Lok Sabha elections are only three or four months away. That is why, they have resigned from Lok Sabha. For Rajya Sabha elections, five or six years are left. So, they will not forget their Daily Allowance, their money, their publicity and other things. That is why, they did not resign from Rajya Sabha. I am requesting my Opposition friends; if you have any guts, you should resign from Rajya Sabha tomorrow itself and show the people that you are serious about it. I know they will never do that.

Sir, I want to point out some important points regarding C&AG. We have great regards for C&AG. They did not indicate Prime Minister's involvement, they did not indicate kickbacks regarding Indian agents. They only pointed out some points. This is nothing new. This is not the first time. C&AG always criticises the Government. If you see C&AG's reports since independence, you will see that C&AG has criticised so many Governments on so many occasions. I can

point out that in my State, C&AG has criticised the West Bengal Government three or four years, regarding PWD, regarding Health and Family Welfare and regarding Rural Development. But, why didn't this Opposition raise their voice against Mr. Jyoti Basu's Government? Where is their moral guts? When C&AG has given report against Mr. Rama Rao's Government and when the High Court has given verdict against Mr. Rama Rao's Government, why did this Opposition not ask him to resign? Why did this Opposition people not raise their voice while Mr. Devi Lal's grand daughter-in-law was murdered brutally? Why did this Opposition not raise their voice while so many big scandals came out against the Assam Chief Minister, against the previous Karnataka Chief Minister and against so many Janata Dal leaders? Why didn't they condemn Mr. Ram Jetmalani's activities, when he condemned our country abroad? Why can't they raise their voice? They are defending their Chief Ministers because they belong to their parties. They are having only one point. But we are having 20 Point Programme for the people, we are having Jawahar Rozgar Yojana for the people, we are having Panchayati Raj for the people and they are having nothing except Bofors. Our point is 20 point for the upliftment of the poor people and their point is one point and that is only to criticise the Government and the Prime Minister. I know that 'empty vessel sounds much'. The people will reject them within a short period. This is the Monsoon Session and I want to point out that within this monsoon, they will be washed away from the Parliament. They will never come to Parliament which is accountable to the people. C&AG only referred in their report to Bofors and the lapses of the procedures. We know that C&AG is the constitutional authority. It will be observed that Article 149 of the Constitution expressly and unambiguously provides that the duties of the C&AG shall be prescribed by Parliament. So, traditionally audit is considered to be a friend of the legislature.

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It is important to view the constitutional role of the C&AG. A reference to the Constitution would show that there are but four Articles in Chapter V of the Constitution which deal with the C&AG. Article 148 creates the office. However, it does not define the duties. Article 149 states that the C&AG shall perform such duties and exercise such powers in relation to the accounts of the Union as may be prescribed by or under any Law made by Parliament. Article 150 merely lays down that the form in which the accounts of the Union are to be maintained would be prescribed by the President on the advice of the C&AG. Finally, Article 151 requires that the reports of the C&AG relating to the accounts of the Union shall be submitted to the President who shall cause them to be laid before each House of Parliament.

These reports stand automatically referred to the Joint Parliamentary Committee on Public Accounts. These form the basis of investigation by the PAC which submits its reports thereon to Parliament. The Constitution thus requires that the reports on the accounts will be prepared by the C&AG for the benefit of Parliament, and generally, that the C&AG other duties would be prescribed by Parliament.

The authority to audit is derived by the C&AG from Section 13 of C&AG's Act enacted by Parliament pursuant to Article 149 of the Constitution. In particular, in respect of expenditure incurred from the Consolidated Fund of India...

Ordinarily an Annual Audit Report points out the more important financial irregularities like cases of budgetary grants being exceeded, failure to obtain necessary sanction for expenditure, non-compliance with rules and regulations, cases of improper and

wasteful expenditure and misappropriation and embezzlement.

This is the jurisdiction of the C&AG. It has the constitutional authority. They have pointed out two cases. Number one is regarding the gun system. Technically they do not evaluate anything but they just stated that number one is gun system and number two whether Bofors gun was good or Sofma gun was good.

They have said that Audit has criticised the selection process of 155 mm Field Howitzer on the following grounds:—

No General Staff Qualitative Requirement was prepared by assigning inter-se importance to various characteristics of the gun system.

All the claims made by the manufacturers were not fully verified through trials and the trials held in India were inadequate.

But after examination of the documents and recording evidence of senior military and civil officers, both serving and retired, the JPC observed: —regarding Bofors Committee, the Opposition previously asked for Joint Committee and according to their demand, Government set up this Joint Committee. Now this JPC has asked AG and C&AG to assist. AG did his work. C&AG did not—What JPC has observed?

So far as the question of making available the GSQR to the Negotiation Committee was concerned, the Defence Secretary explained in evidence that no GSQR was needed in respect of the equipment which was to be procured from abroad. A GSQR was required if the weapon/system was proposed to be produced within the country. No GSQR had, therefore, been prepared in this case. However, a technical presentation was made for the benefit of the Negotiating Committee and a paper laying down the



minimum acceptable parameters was circulated to all members of the Committee,

"to enable them to evaluate the various offers. During the course of his evidence, the then Secretary (Expenditure) affirmed that the minimum acceptable parameters were the quintessence of what the Negotiating Committee was required to look into."

It has further been stated:

"In the light of the foregoing, the Committee have absolutely no doubt that the work of the Negotiating Committee was not in the least hampered due to non-availability of Trial Reports and the GSQR."

As regards the Audit criticism that trials held in India were inadequate and all the claims were not verified through trials, the J.P.C. had observed:

"The Committee observe that the suggestion was made in one of the meetings of the Negotiating Committee that the gun system that had been trial-evaluated in India in 1982 had undergone several improvements consequent on the continuous upgrading in technology by the manufacturers themselves. Some of these improvements had been seen and confirmed by various Defence Delegations that went abroad during the relevant period. But all these improvements had neither been conclusively tested nor confirmed otherwise in a satisfactory manner in Indian conditions. It was, therefore, suggested that at the time of short-listing two gun systems, viz. SOFMA and BOFORS, fresh trials should be carried out at least on a limited basis confined to certain critical areas.

Again it has been stated:

"The then Secretary (Expenditure) explained that while a fresh evaluation would have been ideal, it would have been a time-consuming process. The trials themselves would have taken at least one more year and thereafter, it would have been necessary to invite fresh offers and negotiate the terms afresh and this would have taken another two or three years. The Army was not prepared to lose that much time. The Negotiating Committee, therefore, decided to rely on the judgement of the Army Headquarters in the matter. The Chief of the Army Staff confirmed before the Committee that the defects which were noticed during the trials in India and which were pointed out to the suppliers, were all rectified/modified to their satisfaction before the contractual stage."

After going through all the documents, the JPC had concluded that:

"In sum, the Committee are of the view that it is amply proved that the procedures prescribed for the acquisition of weapons/systems was followed by the Army Headquarters/Ministry of Defence in the purchase of the Bofors Gun."

Again it has been stated:

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

Sir, the point is that we are not military experts. We have got no experience in this matter. Who are the military experts? The

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military experts are Army people and the Ministry of Defence. I would like to say as to what Gen. Sundarji had stated in his speech. I want to point out something. But before that I want to point out another important factor. There is another comment. I want to comment on what Shri Ganapathy had stated. He was the then Secretary (Expenditure) and also Member of the Negotiating Committee. What had he said regarding the weapon system? It has been stated:

"It should be sufficient to say that the then Secretary (Expenditure) Mr. Ganapathy, a Member of the Negotiating Committee most concerned with ensuring the best financial terms—and one incidentally who was himself an illustrious member of the Audit and Accounts Service—was convinced (as per his testimony to the JPC) that from "whichever angle you look at it—from the point of view of technical factors or financial factors or commercial factors—Bofors offer had a distinct advantage over the Sofma offer."

At another point, he told the JPC: "So, in the overall Defence interests of the country, we felt that it would not be advisable to follow this fool-proof method and decided to rely on the judgement of the people, who are in the know of things, and who are versatile and competent to judge upon these matters." They are the experts. They have said it. What did Mr. Sundarji say? Mr. Sundarji was the Chief of the Army Staff. He said and I quote:

"During the examination of the Chief of Army Staff, the Committee pointed out that in all the earlier assessments made by the Army Headquarters from time to time, the French Gun System had been accorded the first priority in their evaluation. However, in the final evaluation,

made in February, 1986, the *inter se* priority between the French gun and the Swedish gun was changed and the Bofors gun of Sweden was considered as the preferred one. The Committee enquired from the Chief of the Army Staff about the reasons for the reversal in the *inter se* priority of the two gun systems."

I want to put it on record because this is the comment by Mr. Sundarji who was the Chief of the Army Staff. He was an experienced man and an expert man. We are not the experts. So, we cannot point out regarding this subject because it is totally a technical subject.

Another thing he pointed out was why did they change their views when previously they had chosen the Sofma gun.

Mr. Sundarji said:

"A decision was taken that we would not buy the entire system including the tank on which it is mounted. We would only go in for the gun system. Between 1982 and some time in July, 1985, both our own R&D as well as the French firm had tried to work out the feasibility of mounting this kind of turret on the Vijayanta tank. We were very hopeful that it would succeed in the initial stages. But after three years of work, they came back and reported that this was not feasible. For many technical considerations, the Vijayanta could not accept the French GCT-Turret. In July, 1985, it was dropped. Hence the second point, which I made earlier about the advantages of commonality between the gun system on the self-propelled gun as well as the towed system in 1982, had disappeared completely from the analysis in February, 1986 because the French SP gun was not coming and we were looking

for other guns. The fact is that the French GCT-Turret to be mounted on the Vijayanta had been given up, as an unfeasible proposition in July, 1985. This factor was also included in the analysis in February, 1986."

And then subsequently in February, 1986, when he took over as the Chief of Army Staff, two major events had occurred. That is most important. Why did they change their decision to buy this Bofors gun? He said:

First of all, the USA had successfully developed the fire-finder radar, the ANTPS-37 and had also included this radar in the package which they were giving to...so part of the aid.

Now this made a considerable sea-change in our vulnerabilities which we would face in the decades to come. Now, what I had hoped was a threat which would materialise in 1997 or so unfortunately materialised much more rapidly than we anticipated or suspected. This ability of the fire-finder radar, the only such radar which exists even today, is that when the very round is fired it is capable of tracking the shell in flight early enough and after taking a few successive readings in space, computerised calculations go on and give a very highly accurate location of the gun which fired in a matter of about 45 to 50 seconds from the time it was actually fired."

Hence shoot and scoot assumed greater importance in 1986 and it could not be wished away that it may not take place even in 2000 AD".

He added one more important paragraph here:

15.00 hrs.

"In the light of some of these changed circumstance, 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. This was the sé-quence and I would like to repeat under oath, what I told the hon. Members when I briefed them in the Army Headquarters some months back."

Finally for the sake of the country and for the sake of our Defence instrument, Gen. Sundarji agreed to purchase the Bofors Gun. I want to point out these things because they have said something. But they should face the real situation of what they have said and what they have not said

The JPC duly called upon both the C&AG and the AG to assist them. You know, in this Parliament a Resolution was also passed to assist JPC. The AG cooperated with this Committee; but the C&AG not. The plea taken by the C&AG was that the material available to the JPC was not adequate. If the material was not available to the JPC, then what adequate material had they got and where is the authenticity of their data? That we can ask and raise here also. They said, the material was not available to the JPC. Our Defence Minister assured them that whatever they need from the Defence Ministry or from the JPC, all data, all materials will be made available to them.

15.02 hrs.

[SHRIMATI BASAVARAJESWARI *in the Chair*]

But they did not turn up. That is why I want to just tell them that the C&AG, though a Constitutional authority no doubt, is not a military expert. They cannot comment re-

[Kumari Mamata Banerjee]

garding the weapon system and regarding the technical evaluation of the gun system.

I said before also that I don't want to criticize the C&AG because they are the supreme authorities. But they should know what is their jurisdiction and they should know whether they have gone beyond their limit or not. The gun is good or not or the weapon system is good or not is not looked into by the C&AG; that should be looked into by the Defence Ministry and from the Army Headquarters. That is why, about the C&AG Report; I would like to request our Minister to please send it to the PAC; let them discuss this Report.

The Opposition has criticized too much regarding the C&AG Report. My learned, senior and veteran leader Shri Jagan Nath Kaushal is here; he will speak and other friends will also speak; I am not going to highlight all the points. But what I would like to point out is that they did not say anything about the financial irregularities, they did not say anything about the Prime Minister's involvement, they did not say anything about the kickbacks, they only said something about the procedure—the drawbacks and the lapses of the procedure. But these lapses of the procedure should be looked into by the Defence Ministry and by the military experts, by the Negotiating Committee because they are the experts. The C&AG is not the expert in these matters. Only on this point I want to tell the Opposition friends that it is nothing new, nothing they have said or nothing they have criticized so that you resign, create a hullabaloo and create a pandemonium in the Parliament. We know that the Opposition had their right to criticize and to oppose the Government; but they have no right to destroy the institution, destroy the Parliament.

[*Translation*]

I don't want to take much of your time. I have

tried to cover all that what I wanted to. I covered General Sunderji's Report and also the points raised by hon. Shri Madhu Dandavate regarding the C&AG's Report. When an opportunity arose for a discussion on the C&AG's Report, the Opposition ran away from the House and resigned their seats. It means that they have nothing to say to the public of this country. This morning hon. Shri Banatwalla rightly said it that the Opposition wanted to make political capital out of this issue. I would like to tell the people, who have over played the importance of the C&AG, that the C.A.G. is not the final authority. Only after this Report has been discussed by the P.A.C. the contents of the said report will be known. Our Ministry of Defence has said that the Bofors gun is a very good weapon. Does it not become necessary for us to acquire the Bofors gun in view of the sophisticated radars being supplied by the U.S.A. to Pakistan? It is the Congress (I) and not the Opposition who has to protect the country. I criticise the attitude of the Opposition on the C&AG's Report.

I am glad that hon. Shri Shahabuddin has come to the House and he has not tendered his resignation. I would like to tell my hon. friends in the Opposition that:—

"Nahin hai jinko bharosa  
Khud apne shano par,  
Vahi khuda ke saharon  
Ki baat karte hain."

Once again I would like to point out that the truth will be known only after the C&AG's Report has been discussed in the P.A.C. In the end I would like to recite one more under couplet:—

"Khudiko kar buland itna, ki hartaqdeer  
se pahle,  
Khuda bande se khud poochhe, bata  
teri raza kya hai."

The achievements of the Congress (I) shall be acknowledged by the public of this

country. This will relegate the resignation issue in the background.

**\*SHRIP. SELVENDRAN (Periyakulam):**  
 Hon. Madam Chairman, I feel glad in participating in this discussion on the report of the Comptroller Auditor General on Bofors issue. This debate on Bofors issue is not a new one. For the past two years on several occasions this issue was debated in this august House. During those debates the points raised by the Opposition Members were clarified and the allegations levelled against the Government by the Opposition members were rebutted and many such other explanations were offered by the Government to the Members of the Opposition. When the issue assumed gigantic importance, I would like to remind this august House that it was the opposition Members who demanded a probe into the matter by a Joint Parliamentary Committee. The Opposition members who demanded the Constitution of a Joint Parliamentary Committee to go into the whole episode boy-cotted the Committee when it was constituted and thus committed the grave Constitutional offence of dereliction of their duties. If they were really interested in knowing the truth about the whole matter, they should have become Members of the Committee, deliberated in the Committee and then should have had the first hand knowledge of the intricate details of the whole issue and thereby should have known the truth. The fact that the members who had demanded the Constitution of the Joint Parliamentary Committee did not join the JPC shows that they were not seriously interested in the truth and in justice. They were not prepared to listen to the Government. Their only attempt was to defame the Government from some point of view. They were biased to the core. The JPC submitted its report. The report contained elaborate details. It absolved the Government of all doubts.

Subsequently the Comptroller & Audi-

tor General had made a report on the subject matter. The opposition demanded that it should be laid on the Table during the last session. The Government assured that as soon as the report is ready for laying it would be laid. Accordingly the report of the C&AG was laid on the table of the House on 18th of this month. I would like to remind this House that one of the Members Professor Madhu Dandavate who gave notice of a discussion on the Report of the C&AG has today resigned his membership from the House. The persons who demanded a discussion on the report of the C&AG are now of the opinion that this report does not deserve to be discussed. They say that the Prime Minister should resign. They say that they do not believe in discussion. They say that they are not prepared to exchange ideas. They say, the only way out of the report is for the Prime Minister to resign. They shy away from the discussion. They somehow slipped away from a discussion of the Report. They escaped from the discussion like a slimy eel fish slipping out of the hands. They therefore have committed a grave constitutional offence of dereliction of sworn duties.

As a matter of practice, the report of the C&AG will be examined by the PAC. Before the PAC examines the report of the C&AG and reports back to the Parliament the Opposition Members have demanded the resignation of the Prime Minister. This amply bears out the ulterior political motives of the Opposition Members.

Now they accuse the Prime Minister of having misled the Parliament, of having told untruths to Parliament, of having indulged in corrupt practices. They have raised the question whether such a Prime Minister can continue in Office. I would like to ask them to make an introspection of themselves. While you point your finger against the Government, the rest of the fingers are pointing towards you. The Opposition Members seem

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\*Translation of the speech originally delivered in Tamil.

[Sh. P. Selvendran]

to have forgotten this fact. Today two Members belonging to the DMK Party have demanded the resignation of the Prime Minister and subsequently tendered their resignations from Lok Sabha and walked away. The DMK party has now come to power in the State for the second time. Why they were in power last time the DMK Chief and the Present Chief Minister... \*\*... was the Chief Minister then also. In history it was for the first time a Government on charges of corruption and misuse of official machinery was dismissed and that was in Tamil Nadu... \*\*... when was the Chief Minister last time. Today Members belonging to his party have resigned their membership from Lok Sabha demanding the resignation of the Prime Minister. This seems to be very unfortunate. A Commission was appointed into the corruption charges against the then DMK Chief Minister. The Sarkaria Commission was appointed to enquire into the corruption charges against the then DMK Government. The charges were taken to the court and on behalf of the DMK Chief, Shri Shanti Bhushan appeared in the Court and pleaded that... \*\*... did not misuse official machinery. The reputed lawyer Shanti Bhushan argued on behalf of... \*\*... and tried to absolve him of the charges. In 1977 when the Janata Government came to power at the centre Shri Shanti Bhushan was made the Law Minister. The same Shanti Bhushan who argued that ..... \*\*..... was not corrupt in the Court refused to plead the same before parliament. He refused to withdraw the cases against ..... \*\*..... When Shri Shanti Bhushan refused to withdraw the cases against him I need not tell you how bitterly..... \*\*..... wept over it. He appealed to him in alliterative terms that if the Centre could withdraw the cases against Badal why could not the cases against the poor sinner be withdrawn. If that was the case I would like to ask the Hon. Ex. Members of this House of his party,

what moral right they have got to ask for the resignation of the Prime Minister? What is happening in Andhra Pradesh? In epics, we have heard that Rishi Vishwamitra having held Reiver Ganges in his pitcher (Kaman-dal)-Just because..... \*\*..... plays the role of Vishwamitra on the screen, he thinks he could capture the whole of India in his hands. Newspapers continue to expose the misdeeds of his sons and sons-in-law. Out of 100 or more odd corruption charges against him, the Andhra Pradesh High Court has admitted a writ after sustaining 10 or more such charges against the Chief Minister. What justification those people have got to demand the resignation of the Prime Minister, Shri Rajiv Gandhi.

I would like to bring one thing to the attention of the Hon. Ministers, Members and the Government here. These people are trying to endanger the political stability independence and integrity of this country. In the same way, in 1975, when the Allahabad High Court declared the election of Madam Indira Gandhi as null and void, certain vested interests in the country misused that verdict and created political chaos in the country. She faced the Opposition threat boldly and defeated their sinister designs to disintegrate this country. Thus, she saved the country from disaster. The persons who used the Allahabad High Court verdict as a weapon to destabilise the country are today armed with the Report of the C&AG to repeat the same kind of job. As Madam Gandhi saved the country in 1975, Hon. Prime Minister, Shri Rajiv Gandhi should also take steps to save the country from destabilisation and disintegration. In his efforts to strengthen the country and in his efforts to face the Opposition's challenge, our party and its Members are one in extending their sincere and strong support.

This year is an election year. The Opposition seeks to take the Bofors Gun in their

hands to fire the Government out. But let me say, the Bofors Gun in with the Govt. and not with the Opposition. What the Opposition has in its hands is a paper sword. It will fail them in the election battle.

If the Prime Minister resigns today, who will take over from him? Will any of them in the Janata Dal could mutually agree to become the Prime Minister? That is next to impossible. They may raise slogans against the Prime Minister. They may raise slogans demanding resignation of the Prime Minister. They may resign their membership from Lok Sabha. But they cannot provide a stable Government. Only Congress and its leader Shri Rajiv Gandhi can provide a stable Government. Today Rajiv Gandhi is the Prime Minister. Tomorrow also he is going to be the Prime Minister. That verdict will be given in the People's Court.

[English]

MR. CHAIRMAN: Wherever allegations have been made against Shri N T. Rama Rao and Shri karunanidhi in the speech of Shri Selvendran that will not go on record.

SHRI RAM PYARE PANIKA (Robertsganj): Mr. Chairman, if a Chief Minister is involved in corruption and he has already been convicted by a court then can we not take his name?

MR. CHAIRMAN: They are not here to defend themselves. That is why we try not to use their names. We should not use the name.

(Interruptions)

AN. HON. MEMBER: The ruling is that name will not go on record but the mention of the position can remain.

MR. CHAIRMAN: Mention of the position can remain but only name has to be

removed.

SHRI P. KOLANDAIVELU (Gobichetti-palayam): There is a verdict of the court. When such is the case then why can't we mention the name?

MR. CHAIRMAN: We should not mention the name but still I will look into the record.

SHRI JAGAN NATH KAUSHAL (Chandigarh): Madam, before we discuss the Report, I would like to place the background and the history of this case. The Chair made some preliminary observations before the discussion was started. It was stated by the Chair that the Comptroller and Auditor General of India is a Constitutional Authority and he is under nobody. But it is also a fact that his duties are defined under the 1971 Act and that Act was passed by Parliament. It is stated in the Constitution that the duties and powers of the Comptroller and Auditor-General of India shall be prescribed by Parliament or by the laws made by Parliament. Then, it has also been accepted on all sides that after he audits the accounts, both of the Union and of the States, he makes the Report. He, then, sends that Report to the President. Then the President causes the Report to be laid on the Table of the Lok Sabha and the Lok Sabha, almost in every case, refers that Report to the Public Accounts Committee. And after the Public Accounts Committee goes into the whole matter in depth, that matter again comes to the House and it is for the House to discuss and debate. Something unprecedented happened in this case. When the Bofors issue was raised, the Parliament decided that it would investigate this matter because this matter was of great public importance. What was the method adopted for investigation? They constituted the Joint Parliamentary Committee and said that that Committee would go into all the aspects of the matter. The Committee was appointed and when the terms of the Committee were

[Sh. Jagan Nath Kaushal]

being settled, the Opposition raised a point that this Committee should be assisted by the Attorney-General of India, by the Comptroller and Auditor-General and by the investigating agencies. It was stated specifically in the Resolution that these three authorities will assist the JPC and that is the mandate of the Parliament. Why am I mentioning all this? I am saying that that was the mandate of the Parliament and the mandate of the Parliament was even to the Comptroller and Auditor-General, that is, to assist the JPC because we want to find the truth. What happened? The C&AG was then informed to go and assist the JPC. Similarly, the investigating agencies like the CBI also went into the matter. They placed the report for the JPC. The Comptroller and Auditor-General of India did not give the assistance on the plea that the record available to the JPC will be inadequate for a professional audit. This was an untenable and unconvincing plea. They forgot that the Defence Minister, while participating in the debate, assured the Parliament that all matters including sensitive matters will be placed before the joint Parliamentary Committee. It is very unfortunate that the Auditor-General did not give his help to the JPC. The most appropriate course for him was that he should have joined the deliberations. If he wanted some documents, he should have asked the Government to place the documents. If the Government did not place the documents, it was open to the Committee to draw an adverse inference. He refused it from the point of view of professional audit. Kindly bear it in mind. He was aware that his duty is only to audit the accounts prepared by the Government of India. So, he felt himself totally helpless or prejudiced as not to participate in those deliberations. Well, the matter did not stop there. The Joint Parliamentary Committee went into the whole matter. We know how many meetings they held, how many witnesses they examined. The report which

they had produced is not a very sketchy type of report, it is a well-considered, thought-out document. When that report came, then both the houses discussed and debated it for days together, and ultimately the report was accepted by Parliament.

Now, I am raising a highly constitutional issue. Once the Parliament has gone into a matter, once the Parliament has investigated, once the Parliament has appointed a Committee, and the Committee's report has been accepted by this House, is it open to any authority, constitutional or otherwise, to go into that matter over again and give findings which are contrary to the findings of the JPC?

As I said, this is a totally unprecedented situation. All the constitutional experts, all the people who believe in the supremacy of parliament, they should put their heads together as to is it open at all? That is my submission to the House. Once the Parliament has gone into a matter, once the Parliament has given its verdict, it is nobody's business, to go into that matter over again especially on those points which were before the Joint Parliamentary Committee.

Now, as to whether this report is so sacrosanct that we cannot touch it, as to whether this report has the supremacy over the supremacy of parliament, it has to be gone into and I with utmost humility submit to the House that this report unfortunately examines no other material, except the material which was before the Joint Parliamentary Committee. Not a single document has been referred to by this report which was not available to the Joint Parliamentary Committee, and yet contrary findings are being recorded. Recorded on what? Recorded on matters which are beyond the jurisdiction of the constitutional authority.

We all know, any act without jurisdiction is a nullity. One matter over which there is no



dispute at all is, if a person exceeds his jurisdiction, then whatever finding he may have given, that finding has no legal validity. Therefore, my submission to the House is, we should not forget as to why the Opposition has run away from the situation. The Opposition ran away when the Parliament appointed a Joint Parliamentary Committee. Why did they run away? They demanded a Joint Parliamentary Committee, and it was good of the Government to come before parliament and say, although it was totally unprecedented, parliament has never become an investigating agency, but as the matter was problematic, they were doubting the motives of the Government, let parliament investigate it. They had nothing to hide. From the first day, Government's attitude was—we have nothing to hide; please enquire into it and if you come to any conclusion, we will abide by it. Indeed, the Opposition thought that they were caught in the net and they ran away. Some situation has arisen now. If you remember, they were not permitting the House to proceed unless the report of the C.A.G. was placed on the Table of House. The moment it was placed on the Table of the House, they tabled a motion under Rule 193 and when the Speaker allowed it, they again ran away. Why? After all they are not mad people. But unfortunately their zeal for criticising the Government has driven them into frenzy. The power of discrimination, the power of discretion and the power to analyse the situation has completely left them. Now, after taking that attitude and not allowing the house to proceed for full one week, they say there is no other way now. If they have made mistakes, we must see the culmination of mistakes and the culmination of mistakes is that they say, "We won't lend any assistance to the Parliament for the rest of term." It is a very very unfortunate decision and it has happened nowhere. In on parliamentary history the Members of Parliament have refused to lend their assistance to the Parliament on highly important issues. Therefore, I repeat, the

entire discussion on a motion under Rule 193, whether it is tabled from our side or from the Opposition, is misplaced. Let us very calmly go into this matter. Should we again go into a matter which has been concluded by the adoption of the JPC Report by both the Houses? My respectful submission is that even the Parliament has no jurisdiction to go into this matter unless fresh material is brought before the Parliament itself. Now, if that is not the case and if that is not so, then my submission again is—although I have a long parliamentary career but nobody is supposed to know the entire law—that at the Hon. members who are interested in studying the democratic institution and the supremacy of Parliament should examine this point rather seriously because according to me we are doing something which is totally unprecedented. It will set a very bad precedent for the future. As we all know, the entire Bofors deal generated a situation where we went on creating unprecedented precedents. We ourselves have been guilty. So, please don't go on creating precedents which may be very embarrassing for the future generation.

Over one matter there is no difficulty at all and that is the sovereignty of Parliament and supremacy of Parliament. Now, after making my submission on this highly vexed question of jurisdiction, if at all we have to discuss, let us have a look at the Report itself. I have gone through that report over and over again. It consists of only 2 paragraphs running into about 12 pages. JPC spent hours, weeks and months on this matter and then examined all the highly placed officers of the military, all the highly placed officers of the Defence Ministry. The most important witness JPC examined was General Sundarji, the Chief of the Army Staff.

15.34 hrs.

[MR. SPEAKER *in the Chair*]

[Sh. Jagan Nath Kaushal]

Another important witness we examined was Mr. Ganapathy. He was the Expenditure Secretary. I am sorry, when I said we examined, in fact, the JPC examined him and I was a Member of that Committee. May I say, is it such an easy job to dwell into all these matters and come to certain decision? We who are practising law know what difficult situations the High Court, the Supreme Court and the Sessions court has to solve. One great feature which impresses every Presiding Officer is the demeanor of the witness. I as a member of the Joint Parliamentary Committee have no hesitation in saying that if anybody had seen General Sunderji in the Witness Box he would at once say, he is one of the finest soldiers which the country has produced. You look at his courage. he reversed a decision which had been taken five times. To most of the earlier decisions, he was a party and when the security environment changed, he had the courage to take a contrary view. A very few people will find that courage. Then he stated that: "I am stating on oath, I stand on every word of what I will state. If I had not reversed the decision, I would have failed in my duty for the security of the country." We asked him as to what was the environmental change. I must say that I was rather critical of General Sunderji. I went on cross examining him. I said: "General, everybody will feel it is a somersault. There are five decisions already taken and on the sixth, you said no, sorry, not *Sofma* but *Bofors*. I feel unconvinced." He said: "Then I will try to convince you". I said: 'Go along.'" He said: "When we are thinking of buying this type of gun, we knew that the only danger to this gun will be, if a Radar which can locate this gun in seconds is invented, then as a matter of fact any guns—*Sofma* or *Bofors* both will be useless for us." But the opinion was that 10 years or 15 years will be required to perfect that Radar. He said: "Sir, in February, 1986, America perfected that Radar and not only that it perfected, it supplied to Paki-

stan. The moment it supplied to Pakistan, in that package. he said, then the only thing which will weigh with us is the shoot and scoot capability which we never understood." He tried to explain to us. I will explain it to the House. He said: This maneuverability means this. When our gun fires, the Radar in 30 seconds will locate the exact place of the gun and within 40 seconds to 50 seconds, the enemy can destroy the gun by a counter-attack. We cannot afford this. We can only afford this type of gun where it can after firing the first burst changes position. The only gun which could change its position was *Bofors*." Now, may I ask a question to the House. Could any Army Chief take the risk of buying the gun which did not have the maneuverability of changing its position because the counter blast will come just in 40 seconds to 50 seconds? He took quite a long time in explaining to us about the burst fire, shoot and scoot capability. They took us to the scene. They took us as if to the war-field. They made a number of presentations to us. I am very sorry to say that this Report has gone to criticise the quality of that gun which was never doubted by the Opposition. Whenever we tried to say that we have got the best gun, the Opposition said "who had questioned you about the gun. We are only questioning you that some middlemen were there and they had swallowed the money." Now, we are again trying to debate whether this gun was good or bad. It is a very unfortunate situation. The Defence Minister on the floor of the House had said a number of times that please do not go on criticising the sensitive matter." The Army in all fairness were always saying that both the guns were acceptable to them.

".....Both are good guns. Some has a little edge on one point over the other; and the other has another edge over the first. So, plus and minus we will go on balancing. At one stage, we thought that *Sofma* would be a little better." And when the security environment changed, then Gen. Sundarji said:

'I would have failed as the Chief of the Army Staff if I had not reversed the decision.' Now may I ask: Does it lie in anybody's mouth now to go on saying everything? It is the height of irresponsibility. We should discuss those matters with a sense of great responsibility.

Assume, My Lord—I am sorry; I am used to addressing like this.

MR. SPEAKER; Does not matter.

SHRI JAGAN NATH KAUSHAL: Again, Sir, we have seen the most complex problems being examined by the most seasoned Judges.....

[*Translation*]

MR. SPEAKER: Now I have become used to abuses. It does not make any difference. You are talking of the minority.

SHRI JAGAN NATH KAUSHAL: It is fortunate that these have fallen to their lot.

MR. SPEAKER: I am just telling you that people have made me used to all these things.

SHRI JAGAN NATH KAUSHAL: I can't trade abuses.

MR. SPEAKER: Standards have fallen so low.....

[*English*]

SHRI JAGAN NATH KAUSHAL: I was saying that.....we have seen Supreme Court Judges, a Bench of 13 Judges of the Supreme Court sitting and deliberating for months together; and sometimes you know what happens. Seven are on one side, and 6 are on the other. Who knows whether 6 are right, or 7 are right? But one thing we know; and this was taught to us by great Judges when we entered the profession. It

has been said: '...No guarantee that the decision is correct. But it is deemed to be correct, because it is the decision of the highest authority.' So, similarly, parliament has adopted the JPC report. JPC may have come to a wrong conclusion; but there has to be an end of the matter. After all our time, every minute which we spend here, means some burden on the Exchequer. And once figures were supplied by the Lok Sabha: the expenditure is staggering. And we are not tired of discussing this subject over and over again, again and again, and again and again. What for? Only for one purpose. We must go on saying: This Government is corrupt; this is corrupt; this is corrupt.' Go on throwing mud; some will stick. But, unfortunately for them, even in this report, not a single word has been stated as to this conclusion of the JPC, because they have only quoted that JPC has accepted this: This much amount was paid to three foreign companies. But they say 'winding up charges' and we have no evidence to show that this was bribe." Once you have no evidence, then, surely, again and accepted theory all the world over: 'Suspicion, howsoever strong, cannot take the place of truth.' If this were not so, then the rule of law will vanish. Then the only law will be: 'Give a bad name to a dog and hang him.' That we cannot permit. Even Indira Gandhi's assassins were tried; and we all know that it took us four years to hang them. Why? We know situations which happened in Pakistan. The man was assassinated, and the killer was also wiped out at once. We do not believe in this. We say we have a rule of law.

I remember one case: Sardar Pratap Singh Kairon was murdered. I went to Nepal as an Advocate General, for extraditing his assassin. The Nepal Government was dragging its feet. Then I had to appear before the court. I said 'What are we asking for, from a friendly country? We are only asking: Please hand over this man for trial; and we are proud that we have a totally independent judiciary. The whole thing will be gone into. Not that we

[Sh. Jagan Nath Kaushal]

will take him and we will hang him. We will put him on trial; and after the trial, if he is found innocent, he will be acquitted." I must say that the Judge reacted so well. He said: 'Yes, I agree; you have an independent judiciary.' Now, once we have established independent organs, then we have to go by the rule of law. And the rule of law is: 'You cannot pronounce a verdict of guilty unless there is incontrovertible evidence.'

Now, May I read last para on page 24 of the C&AG's Report. It reads as follows:

"Although the Ministry had decided in may 1985 that procurement of imported weapons and equipment would be made directly from the manufactures and agents eliminated, it did not obtain a categorical written assurance from Bofors in regard to the engagement of agents. According to the findings of the Joint Committee of Parliament, Bofors paid SEK 319.4 million to three companies not domiciled in India. In the absence of a suitable provision in the contract to exclude agents, no reduction in cost to the extent of payments made to the agents could be sought by the Ministry from Bofors."

So, this is the entire criticism. Now let us have a look at the JPC's Report. We also went into the matter and JP summoned the Attorney-General for explaining to us what was the effect of not getting this clause incorporated in the contract. I would read only a few lines of his evidence which are reproduced on page 179 of this Report. It reads as follows:

"The Attorney-General expressed the view that since the Government of India had made it clear that they would deal with Bofors directly and had insisted that there should be no middle-

man in the transaction, it became a condition precedent to the contract."

This is what the attorney-General says. He further says as follows on the same page:

"Therefore, Bofors were bound to fulfil that condition. He added:

The condition precedent to the performance of the contract that there shall be no middleman can be proved in a court of law though it is not found in the terms of the contract. Such a question has arisen before the Supreme Court. There is a ruling of the Supreme Court also.

Asked whether it was not necessary what a clause to that effect should have been specifically included in the contract, the Attorney-General replied:

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

They are unfortunately deprived of the opinions of the Attorney-General. so, naturally, they would only say, why did you not incorporate it in the contract. Since you have not incorporated it in the contract, you are not in apposition to recover whatever you have paid to those three foreign countries. I am sorry to say that we have debated and The stand of the Bofors in this was because of the winding up charges. We could withhold all those contracts because of confidential commerciality; in the absence of it, we have no material before us to say they were bribed; in fact, there could not be any bribe; the reason being that those three contracts which were terminated did not relate to this contract at all; those contracts related to the business of Bofors all the world over. But,

since Shri Rajiv Gandhi insisted that we did not want a middle man, well, they got panicky; they approached those agents and they said, sorry, if you want to terminate our agreement, then pay whatever you think proper. The Bofors people explained to us in their evidence that only three causes were open to us: either we could go for an arbitration or we could go to a court of law or we could settle it with them. They said we thought if we followed any other procedure, that would be cumbersome; why not settled it with them. So, they settled that this much to you, that much to him and so on for winding up the contract. There is a finding of the Prosecutor of Sweden. The finding is that since there is no evidence, therefore, it cannot be proved that the stand of the Bofors was incorrect. The JPC went into these matters, as I said, like judges. Today I do not want to use any strong expression against this Report because you warned us before we started this discussion. You told us not to criticise the conduct of the JPC. But surely, we will criticise the findings of the JPC. This finding is totally untenable. Now, let us come to the other matter.

The C&AG has tried his level best to convince everybody that this gun which was bought was not technically sound. Well, this I must again say, it is not his domain. It is not at all his domain. This is the domain of the Army and the Defence Ministry. His domain only is whether the accounts have been properly maintained, whether money which has been withdrawn from the Consolidated Fund of India has been properly disbursed whether a proper authority has disbursed this amount; not that they should have bought this gun or that gun. Then, surely the C&AG of India will become a super military chief, which nobody can.

SHRI A. CHARLES: But the Opposition says so. That is the contention of the Opposition.

SHRI JAGAN NATH KAUSHAL: Nobody can. And, may I ask with the utmost respect, can any Government function, if they do not trust their Army Chief? Can any Government function? And more so, we are proud of saying it, because once Gen. Sunderji was before me, I made enquiries. They say that he is one of the rare Generals of the world. That was what people were telling. Now, we go on doubting their integrity! It is very unfortunate, highly unfortunate. Nobody can be safe in this country if we go on doubting the integrity of the highest amongst us. And we must learn that this is not the way to function in a democracy. Democracy means rule of law. Unless you have evidence, please do not utter any slanderous thing against any person. It takes years and years to build a person and it takes one moment to destroy a person.

I would, therefore, submit this. Unfortunately we are now having this debate in the absence of the Opposition, I am sorry for it, they should have been here and I am pretty sure. Fortunately one member has come. (*Interruptions*)

SHRI A. CHARLES: He has to resign. (*Interruptions*)

SHRI V. SOBHANADREESWARA RAO (Vijayawada). Sir, I am on a point or order. (*Interruptions*)

MR. SPEAKER: On what subject?

SHRI V. SOBHANDAREESWARA RAO: On this very point on which the discussion is going on, the C&AG's report. (*Interruptions*)

MR. SPEAKER: One minute. He is still a member.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE (SHRIMATI SHEILA DIKSHIT): If he wants to raise a point of order there is nothing stopping him. But an hon. member is on his legs. (*Interruptions*)

MR. SPEAKER: I will give you time to participate in this debate.

SHRI V. SOBHANADREESWARA RAO: Do you not give me the privilege to raise a point of order, Sir? (*Interruptions*)

MR. SPEAKER: I can even give you time to participate in the debate later. I will give you time to reply to this. (*Interruptions*)

[*Translation*]

MR. SPEAKER: Your reply will not do.

[*English*]

I will have to do it, whatever it is. Let me handle it. It is all right. First, I must make sure whether there has been any infringement of the rules.

SHRI V. SOBHANADREESWARA RAO: Yes, Sir.

MR. SPEAKER: What is that?

SHRI V. SOBHANADREESWARA RAO: Because, never before in the annals of Lok Sabha a report presented by the C&AG was discussed in this House. (*Interruptions*)

MR. SPEAKER: I got it. It is overruled. I did not go outside the rules. It can be done.

SHRI V. SOBHANADREESWARA RAO: Let me complete. (*Interruptions*)

MR. SPEAKER: Firstiy, no aspersions are allowed.

(*Interruptions*)

[*Translation*]

MR. SPEAKER: Why are you doing it, Mr. Charles?

[*English*]

I can handle situation. The simple question is, the hon. Member's objection is simply overruled because there is no such rule which binds us not to discuss.

(*Interruptions*)

MR. SPEAKER: Look here. The House is supreme and it was a unanimous demand from the House. And I have said in my observations that I am going outside precedents, it is a special case, it is not to be treated as a precedent afterwards also. This I made clear and I think it was a genuine demand of this House. I acceded to this request because it was very unusual.

(*Interruptions*)

MR. SPEAKER: Nothing doing. Nothing goes on record, whatever he says.

(*Interruptions*)\*

SHRI JAGAN NATH KAUSHAL: Now before I conclude, I should draw the attention of the House to the last point, which has been taken and that point was, whether financially the country gained by entering into the transaction with the Swedish people rather than the French people. This is what they say. Again I will say Sir, the finding of the JPC, after cross-examining the Expenditure Secretary and after cross-examining other relevant witnesses of the Negotiating Committee, is that the country stood to benefit to the tune of Rs. 193 crores. They have not criticised at all. They are saying that this did not

\*Not recorded.

happen, this did not happen, this did not happen. I say all these things were probed by the JPC. Unfortunately nobody is here. Otherwise, I would have asked them to point out any one point which has not been gone into by the JPC. The JPC has gone into the whole matter. They have gone into the whole matter like judges. Thirty Parliamentarians were sitting there. And if those thirty parliamentarians came to a conclusion and the conclusion was accepted by Parliament, that is the final disposal of this issue. But they want to keep this issue alive. Unfortunately as a political gimmick and like Goebel's go on repeating an untruth go on repeating it hoping a time may come when people might accept it. I am quite sure that our people will not accept it. We have gone into the matter. Parliament has debated this matter. Parliament has given its verdict and it is not open to any authority to challenge the supremacy of Parliament.

Thank you.

SHRI G. M. BANATWALLA (Ponnani): Mr. Speaker, Sir, at the commencement of this debate, the Deputy-Speaker was in the Chair and I had requested that any communication received by the Speaker from the C&AG may be placed on the Table of the House. He assured me that the matter will be placed before you. Now you are in the Chair. I request you to put your hand into the pocket, take out the communication and let it be placed on the Table of the House so that we are further guided by it.

SHRI SPEAKER: I think the hon. Member Shri Banatwalla might know that the Defence Minister has also got the same letter and they are free to place it on the Table of the House on behalf of the Government. I will not deter them.

SHRI G. M. BANATWALLA: Mr Speaker, Sir, I am very thankful to you for having allowed this discussion though unprece-

ented in character I am sure that this discussion will stand out as a landmark in the history of parliamentary democracy in India as it is a very clear and unmistakable assertion of the supremacy of Parliament.

16.00 hrs.

At the same time, however, I am afraid that the conduct of several parties in the opposition, not the total opposition but several parties in the opposition, will go down in the annals as an unpardonable attempt to scuttle parliamentary democracy for their unforgivable attitude of first asking for the discussion and then resilling from their position.

We have the report of the C&AG before us. This report confines itself to certain aspects of the whole matter regarding Bofors, viz. evaluation of the gun system, the financial aspects relating to contracts and the contractual performance including licensed production. The report raised several questions and has also raised several doubts. Now these questions and these doubts may not be now. Our JPC may have gone into all these aspects relating to these questions and doubts. But despite the report of the JPC, C&AG has deemed it fit to raise these very questions and doubts in the particular report.

In the first place, he complains that there has been an inordinate delay in submitting files to him. He called for the files in July, 1986 and they were made available to him on and from June, 1988. There are explanations given by the Government that these files were required for post contractual matters as also matters in connection with the JPC meetings and the on-going debates in Parliament. We have these explanations before us. Nevertheless one feels that perhaps files could have been made available to the C&AG rather expeditiously. However, the C&AG report raises certain other ques-

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tions and it is time for the Government to even reiterate the position in order to answer those questions and in order to dispel those doubts. We are told in the report that in July, 1987 the Indian Mission in Sweden suggested the possibility of the Bofors submitting the entire gamut of transactions for audit by Indian Audit authorities. A suggestion was there—suggestion not directly from Bofors, but we received the suggestion from our Mission in Sweden and the report wonders why this suggestion was not accepted. It is high time also for the Government to clarify as to why this particular suggestion was not pursued by the Government of India. We are thankful to you for this discussion at the earliest opportunity so that these matters can be duly clarified, even reiterated in their clarifications.

We are told that the technical evaluations suffered from several deficiencies. I will not go into all those deficiencies. They are mentioned there in the report, and the hon. Member, Shri Jagannath Kaushal, has dealt with them at length. We were told however, that the Army Headquarters changed their opinion with respect to the gun. The matter has already been dealt with. But I would like to draw the attention of this House to a very important sentence, a statement, an assertion, a doubt or a suspicion that has been created by the Comptroller and Auditor General when he said: "Neither the need nor the reason for the fresh evaluation of February, 1986 is clear." Now, the opinion about the guns and the change of opinion was by the Army headquarters itself. Therefore this serious aspersion has been cast upon the Army Headquarters and this particular sentence unfortunately tries to shake the faith of the nation in the Army Headquarters. It is a very serious matter. I wonder how the Opposition that asked for the resignation of the Prime Minister, did not ask for the resignation of the entire Army

Headquarters. Through the aspersion that has been cast, the confidence of the entire nation in the Army Headquarters is tried to be shaken as to why they were changing their opinion on the sixth occasion. On five occasions they reiterated in favour of Sofma and on the sixth occasion they came for the Bofors. That is a very serious aspersion. I am sure that the Government will again come forward with the rebuttal on this very important aspect to see that such doubts are not created as far as our Army Headquarters is concerned.

There are several points that the Report raises, only as matters of questions and certain unsubstantiated doubts. We are further told that the deliberations of the Negotiating Committee suffered from certain constraints. The constraints that are mentioned are that they were not supplied the copies of the G.S.Q.R. and they relied on minimum acceptable parameters, that no matrixes were supplied though asked for by the Committee, and that the Negotiating Committee felt in 1986 that it would not be correct to decide on the strength of trial evaluation conducted during 1980 to 1982 and that fresh trials were needed, still no fresh trials and further trials were made, and that no trials regarding improvements claimed to have been made by Bofors had been conducted. These are also serious allegations which try to create several doubts. The Government owes it to the nation to dispel the doubts that are created by all these points that are mentioned in the Report. The Report says that the recommendation of the Negotiating Committee was not on the basis of the evaluation but on the basis of the final recommendation of the Army Headquarters in February, 1986. This, once again, casts aspersions on our Army Headquarters. What does the Government have to say in the matter?

There is also an important point brought out by the Report". And we learn that the Prime Minister's office conveyed the ap-



proval of Bofors gun system on 24th March, 1986. But while communicating the approve on 24th March, the Prime Minister's office stated that instructions on methodology of evaluation would follow. Sir, the contract was signed on the same day when the approval was received from the Prime Minister's office without waiting for the instructions on methodology of evaluation. These instructions were received the very next day. One would, therefore, like to know as to what was the hurry. Not even for a day they waited to receive the promised intructions from the Prime Minister's office on the methodology of evaluation. Sir, these and several questions are there which will have to be cleared and answered no doubt.

About the engagement of agents we are told that in May 1985 the companies were informed that services of Indian agents must be dispensed with. The instruction was that the services of 'Indian agents' be dispensed with. The question raised in the Report is: Why not even these foreign agents? Why was the condition so stipulated as to apply to the Indian agents, that the services of Indian agents be dispensed with and not the foreign agents? This is a point that has to be clarified by the Government. (*Interruptions*)

SHRI CHANDRA PRATAP NARAIN SINGH (Padrauna): The Defence Minister at that stage had stated that in 1980 Defence agents had been banned. Mr. Arun Singh stated on the floor of the House that Defence agents had been banned. This is not the question of Indian or foreign.

SHRI G. M. BANATWALLA: I did not know that he was already in the Government.

SHRI CHANDRA PRATAP NARAIN SINGH: No, I quoted the Government... (*Interruptions*)

SHRI G. M. BANATWALLA: Nor this

Report is addressed to all of us. (*Interruptions*). I am addressing the question to the Government that these are the various questions. Howsoever weak the Government may feel, these are the questions that have been raised in the Parliament unless the Government once again clarify in order to see that all doubts are dispelled on this particular question. The Report also insists that there was no formal provision in the contract that the services of agents will be dispensed with.

The hon. Member, Mr. Jaganath Kaushal, has dealt with that point very well. He has referred to the opinion of the Attorney General and that is also incorporated into the Report of the JPC that the Attorney General was of the opinion that though it was not necessary to incorporate this particular point in the formal contract itself, a condition precedent to the contract holds valid. Though a condition precedent to contract may hold valid. Though a condition precedent to contract may hold valid, yet as a matter of abundant caution the point ought to have been included in the formal contract and the question arises as to why this abundant caution was not taken and whether in future such abundant caution would be exercised. Sir, the Audit concludes, and I quote:

".....it is the natural and inescapable conclusion that in the absence of a suitable provision in the absence of a suitable provision in the contract to exclude agents, whether Indian or foreign, irrespective of domicile, no reduction in cost to the extent of payment made to agents could be sought by the Ministry from Bofors."

Now, this is the conclusion of the audit, th observation made by the audit. It is necessary that our PAC should go into the whole question. My appeal to this particular House is that it should not be impatient in coming to any final decision merely on the basis of the

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report of the Comptroller and Auditor General. It is not the last and the final word. He is not the final authority and it is not the final word. The report has to go to the PAC. We have to be patient enough to see that the report in depth is examined by our PAC and we must refrain from coming to any final opinion before the PAC report is made available. There are several points. As I said, the C&AG report states that the Defence Ministry accepted the time frame for the delivery of ammunition which was less advantageous than the earlier offer by Bofors. The question arises, why? Let the question be duly answered. We were told that there were delays in making certain contractual payments by the Ministry with the result that heavy penal interest had to be paid. Why were these delays in contractual payments? What is being done in order to see that the whole system is streamlined? With respect to the payment of commissions to the Indian agents, we were told that the Ministry of Defence had laid down certain norms. But these rates have not been made applicable to defence purchases made through the Director General of Supplies. So, increased commissions have been paid. We want to know from the Government why these norms laid down by the Defence Ministry were not made applicable to the purchases made through the Director General of Supplies, which has resulted in this phenomenon of higher rates of commission being paid.

Sir the Committee of Defence had recommended to dispense with the services of agents as far as possible. What has been done to see that this particular recommendation is implemented in the case of obtaining the various supplies from the Director General of Supplies? However, as I said, the entire report is nothing but a series of certain questions and a series of certain doubts that have been raised. They might have been answered by the JPC. Yet, in spite of the

report of the JPC, the Comptroller and Auditor General has deemed it fit to raise them again. I will only conclude by appealing to every Member of this House not to rush to conclusions and not to form opinion merely on the basis of the report of the Comptroller and Auditor General of India.

Sir, I quote from the '*Practice and Procedure of Parliament*' by Shri Kaul and Shri Shakhder, page 22,

Vol. I: "The audit reports of the C&AG stand automatically referred to the Committee on Public Accounts. These form the basis of investigation by the Committee, which submits its report thereon to Parliament."

The Parliamentary democracy counsels patience with Parliamentary procedure. We must exercise that patience. Just as the Opposition was totally wrong and impatient trying to substantiate their demand on the basis of the report, similarly we will be accused of the same impatience in trying to come to conclusion without this report having been examined by the PAC. I appeal that as per our procedure the report should automatically go to the PAC. That is the parliamentary procedure. It requires patience from us, patience with the procedure, in order to save the institution.

Let the PAC take up this very report and give it top priority, investigate it thoroughly and report to this Parliament on paragraphs 11 and 12 of the C&AG report. This may be the last session that we are having but, if need be, we may be summoned for a day or two so that the report of the PAC is also laid on the Table and we have early report before us. We owe it to the nation that the procedure should be duly complied with and no final judgement should be made without compliance of the entire procedure.

We also understand that there is some CBI inquiry going on with respect to some matters, some documents which were published in the newspaper "The Hindu". You only to do us that you have learnt from the Government that inquiry is still on. Let that inquiry be concluded as expeditiously as possible. Even earlier when I was speaking on the report of the Joint Parliamentary Committee, I had appealed to the Government that it is in the interest of the Government itself and of democracy in our country and of the entire parliamentary institution, that every doubt should be cleared as expeditiously as possible. There is certain procedure still to be gone through and, therefore, I appeal once again to this House not to come to any conclusion. Let the report stand automatically referred to the PAC. I am sure the PAC will sit day and night giving it top priority and report to this House on each and every sentence that is incorporated in paragraphs 11 and 12 of this particular report. There are serious aspersions that have been cast. Serious aspersions would have been cast on the highest army officers also. This is a matter that cannot be taken lightly. Therefore, let us have the report of the PAC as expeditiously as possible.

With these words, I conclude.

SHRI P.R. KUMARAMANGALAM (Salem): Mr. Speaker, I think both sides of the House and all concerned would agree that this discussion under 193 is rather unusual. When the hon. Deputy Speaker was in the Chair, he categorically made a statement right at the beginning of the discussion that normally a C&AG report once laid on the Table of the House stands referred automatically to the PAC and after the PAC analyses the report, the PAC report is discussed and thereby through the PAC report's discussion, we will discuss C&AG report. But unfortunately the genesis of this discussion does not arise from the Treasury Benches but rather from the Opposition. The

very first motion was sought for by Prof. Madhu Dandavate himself.

In fact the hon. Speaker is aware and so are the other Members of the Business Advisory Committee aware that even after the first meeting of the Business Advisory Committee, neither Prof. Madhu Dandavate nor my friend Shri Jaipal Reddy, the then hon. Members of Parliament had even indicated to the Speaker or to the office of Parliament that they wanted to withdraw or not their motion for discussion under Rule 193. In fact, at the BAC it was specifically made clear that as an exception, considering the turmoil that is going on in the House, considering the fact that the Opposition, even since the Report has been laid on the Table of the House, has been demanding the resignation of the Government, the resignation of the Prime Minister and—rather unfortunate scenes took place in this House. I hope the House never witnesses such scenes again! I have seen—as a child sitting in the galleries—this House functioning for the past two generations. I have never thought that this House will come down to this level when I become a Member of this House. Unfortunately, it did happen and taking into consideration the circumstances, your good-self decided that it was necessary to clear the air and have a discussion. I am sure this discussion doesn't lend any finality for it will fore-close the issue. The Public Accounts Committee will look into the matter. It would do this in the normal course of its duty. I am sure the House would also see the Report of the PAC at the future time.

Sir, we have seen the exemplary behaviour of the former hon. Members of Parliament who signed today morning, if I may be sarcastic. Regarding the cause of their resignation, one wonders whether they know really as to what they have done. One normally resigns from Parliament when one is of the opinion that the Parliamentary Institution itself has broken down and as a matter of protest finding this Institution useless, one resigns. Has this Institution throttled them in any manner? Has their freedom of speech

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been affected in any manner? On the contrary, they were being literally begged to come and participate in a discussion freely and frankly. But they were unwilling and reluctant. They did not want the truth to come out. They did not want the reality to come out. Rather, they wanted to use the CAG Report as a black-box and say: "Oh, this is an indictment of the Prime Minister. Therefore, he must resign. "I would like to ask, one thing. Suppose it can be established that the CAG Report is not an indictment of the Prime Minister but of their new leader of the Opposition, the former Member. I do not want to take his name. We all know that he was once the Finance Minister. If it was an indictment against him, then one would understand their resigning on moral grounds saying: "Since our leader has been indicted, therefore, we resign taking on ourselves the collective responsibility of errors that he had committed."

Mr. Speaker, Sir, before I go into the nitty-gritty of the report on paras 11 and 12, I think it is important for all of us to understand as to what the CAG is, as a constitutional authority and what is he authorised under law, to go through.

16.29 hrs.

[SHRI SHARAD DIGHE *in the Chair*]

Sir, under Article 149 of the Constitution of India, it is very clear that the Comptroller and Auditor General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States etc. So, it has been very clearly and specifically stated under Article 149 of the Constitution that the CAG shall perform such duties. The Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act 56 of 1971, under Section 13 categorically and specially lays down in Provision (a):

"To audit all expenditure from the Consolidated Fund of India and of each

State and of each Union Territory having a Legislative Assembly and to ascertain whether the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which governs it."

It is very clear that the CAG's jurisdiction is totally financial.

Now, coming to paras 11 and 12 of the Report, one would see from the very manner in which paraphrasing and paragraphs have been done by the CAG that, firstly, in Para 11, he handles technical evaluation, evaluation of ammunition, thereafter financial evaluation, and lastly contracts and performance. And then in Para 12, it deals with payment of commission to Indian agents. It is extremely clear that he is aware, his institution is aware, that they dealt with no merely accounts, not merely financial evaluation, but dealt categorically with technical evaluation for which, with due respect, I do not think, his office or his institution has the desired expertise, why desired, any expertise to deal with as to whether a particular gun or a particular ammunition or requirement of the armed forces is necessary or not necessary and whether the evaluation was correct or not. I sincerely doubt about (a) the technical competence, (b) jurisdiction and fundamentally, whether supervisory control exists. Sir, the only reference which could be made to the hon. Prime Minister and has been made by the CAG's Report is, in fact complimentary and no derogatory. It is surprising that the Opposition stand as one—I am sorry, I amend—stand as one but for a few of patriotic sincere, committed Members of Parliament and demand the resignation without knowing what they are doing. They say that the Report has indicted the Prime Minister. This Report, on the contrary, goes ahead and says that they feel that certain observations made by the Prime Minister have not been followed and point a finger out of that. On the contrary, on the method of financial evaluation, they have castigated

the department. Mr. Chairman, Sir, who was the Finance Minister at that time, I ask myself? Was it Mr. Rajiv Gandhi? Or was it the former Member of Parliament?

**AN HON. MEMBER:** Who was the Finance Minister?

**SHRI P.R. KUMARAMANGALAM:** An hon. Member of Parliament from Allahabad who resigned today, Shri V.P. Singh. Except for him, who was the Finance Minister at that time who had approved the procedure? After all, it is well-known fact that the then Secretary for Expenditure was a Member of the Negotiating Committee. It is a well-known fact that in every review meeting that the Finance Ministry used to take, the Report used to appear as to how and to what level negotiations are taking place. Can he deny it? That is exactly why they never wanted a discussion, because this Report is not the one which will indict the Prime Minister Shri Rajiv Gandhi, rather indicted Shri V.P. Singh. It is very clear that this Report has even on the technical evaluation raised questions as the hon. Member Mr. Banatwalla said, on re-assessment of the ex-Chief of Staff. It is unfortunate to say the least. It raises question on his decision making, his process of assessment—which is extremely unfortunate—knowing very well that Gen. Sundarji had justified in detail which Shri Kaushal had very categorically and clearly explained to all of us, as to why the change of decision took place between Sofma and Bofors, and how the security environment changed with the very fire finding radar coming into operation.

When we are denied by the United States of America a mere chip in the name of high technology, one of the most modern radars is given overnight to Pakistan. Is it wrong on the part of our Generals to say, no we must have a gun that can defend itself, that can shoot and scoot from the place? How can anyone question that, unless of course one wants to question it?

The way in which going beyond jurisdiction, going beyond known trends and systems questions have been raised, all I can

say is that it is unfortunate. Whether it is right question or wrong question is for the PAC and for the Government and ultimately for us in the Parliament to decide. But as it stands today, does the C & AG have the jurisdiction itself to raise the question of technical evaluation? I have serious doubts.

I would like to move a little further. The C & AG refers to what is called the General Staff Qualitative Requirement and says that it did not exist. He also admits in the Report that there are orders of December 1961 and February 1983—long before Shri Rajiv Gandhi took oath as the Prime Minister of this nation—which categorically said that for foreign equipment, manufacture design which is found suitable by the Defence, definitely a GSQR is not required. Even though this has been mentioned and acknowledged by the auditors, they still go on to say that this was lacking. I do not want to draw conclusion or cast aspersions or make allegations. I only want to leave the question open. I would like to place the facts and let allow the people of this country to decide what exactly has happened.

If one takes the issue of whether the Prime Minister actually has been indicted or not, it would be relevant to point out that in the Report, in Para 11.5.07, categorically the Prime Minister's Office directions have been set out, where the Prime Minister's Office felt that a better system or methodology must be ultimately culled out for assessing equipment. It is a matter of view, policy. It shows how careful the Prime Minister as an individual has been, how he has gone into every detail, how with abundant caution he has looked into it and felt not satisfied, though of course he does not challenge or question the Chief of Staff's decision. Yet he felt that at least for the future, a process must be laid down, a methodology must be laid down. What is the harm in that? It shows the sincerity of purpose the man has. If this is considered an indictment. I can only say that my friends who were there on the other side till some time ago do not know the meaning of compliments.

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After all, if there is any way in which the C & AG could communicate his approval about certain individuals in the Government, it is through reports. He has categorically communicated his approval and to say that this Report is the one which should be used to ask the Prime Minister to resign, is ridiculous to say the least.

Let us look at the financial evaluation side, whether these are right or wrong—I do not want to go into the question. I am personally convinced that there does not seem to be really anything wrong with it. Yes, there is a matter—on the matter of exchange value increasing. An amount of Rs. 14 crores seems to be the difference, for which more than adequate, 10 free guns were obtained. That has been recorded by the C & AG. Of course, he has presented his point of view. It is his duty to do so and he had done it. But we have not seen his criticism on the procedure and evaluation. Financially, who is to be blamed? The present Prime Minister or the then Raksha Mantri, Shri Rajiv Gandhi or the Finance Minister, who decided the financial evaluation? He is the authority on financial matters in the Government of India. The then Finance Minister Shri V.P. Singh has been indicted in this report, I shall repeat once again.

Mr. Chairman, Sir, on the issue of the price, and the manner of calculation of what is called, 'net present value', undoubtedly, it is true that questions can be raised by the Auditor and questions have been raised. These need to be looked into by the Public Accounts Committee. A strong view point is there that this is the right procedure, the only procedure that was available. But on the overall, what is most important is that within a period of two months, the Negotiating Committee had brought down the prices drastically—I can only compliment them—from a price of Rs. 1,619 crores, to a price of Rs. 1,422 crores. If one can bring it down within a period of a month and a few days,....

PROF. N.G. RANGA (Guntur): Saving how much?

SOME HON. MEMBERS: Rs. 193 crores.

SHRI P.R. KUMARAMANGALAM: Rs. 193 crores, I think the Negotiating Committee deserves to be complimented. They have done a good job. (*Interruptions*) Yes. May be like a good Auditor, the Comptroller and Auditor General, decided to find a few defects and flaws. The manner in which it was done;—it is their job—one cannot find fault with that and it is also the job of the Public Accounts Committee to look into it and see seriously whether it is right or wrong. But, on the overall, one is very clear that if there was any intention on the part of anyone in the negotiating team to see that some kickbacks were obtained, then they would not have negotiated and forced the suppliers to come down by Rs. 193 crores. It is reasonable. If a man wants to make money, he does not try to beat down the price. He may, in fact, like to increase a little more, so that his kickbacks become more.

Mr. Chairman, Sir, without taking too much time of the House, I would only like to say that the question of agents, whether a foreign agent or Indian agent or a foreign-cum-Indian agent, is not relevant. What is relevant is whether there were bonafides or not, on the part of the Government in trying to ensure that direct negotiations took place. Who negotiated with the Negotiating Committee? Was it Anatronics or X, Y or Z? No. It was directly Bofors. Then, where does an agent come? Suppose, some one in Bofors wants to syphon off a little money from the contract, is it our business? I do not say that they have done it but, if so, is it our business? It is the business of the Swedish Parliament. It is not our business. We are to look after our side of the fence or are we to start becoming holier than then, with regard to the whole world. We want a good deal; we want good guns; we had them. We got good rates; we got the best rates in the world. That is all we are worried about. Here, what others are worried about is whether some money has

been paid from Bofors to someone else, and per chance to some other country. (*Interruptions*) Definitely not to ours. They are trying to find out whether per chance some connection can be made from somewhere and they are rather desperate. It is because they have no other issues? I would understand if they had raised the issue of employment two years ago or price rise two years ago. I appreciated when my friend Dr. Datta Samant once in a while raised a few labour issues. There are fundamental issues which people of India are facing. Instead of that why we are doing shadow boxing. Why is there so much of drama at the expense of the exchequer? Why are they shying away from the responsibility? If they had felt genuinely that there are valid points in the Report and that it is the Government which should be made to resign because an independent Constitutional authority had held against them then why don't they come and discuss it? Nobody had stopped them. Originally they wanted to discuss the Report but on second thoughts after reading the Report they came to the conclusion that it may boomerang and that is the reason why they have not come and today their resignation in itself is an acceptance of the fact that their leader is the one who had been indicted.

[*Translation*]

THE MINISTER OF ENERGY (SHRI VASANT SATHE): Mr. Chairman, Sir, while we are discussing this report, I would like to make a critical appraisal of the contribution made to democracy and the democratic system by our colleagues from the opposition, in discharge of their duties in Parliament.

Mr. Chairman, Sir, I have come to the conclusion that while writing the history of the historians will certainly write about Shri Rajiv Gandhi that.

[*English*]

There was a man who inherited the vision of Jawaharlal, of scientific humanism. He had that perspective of Mahatma Gandhi,

of love and *Ahimsa*, non-violence, which is accepted now through him all over the world, by top leaders of the world and nations of the world. Here is a man who has all the determined dynamism of Indiraji and, above all, he himself has a tremendous political sagacity.

Why am I saying so? Kindly see right from the beginning of his career. He made a mark on the international scene to get into his stride, as it were,—the very first time for the meeting of the six, then in the United States, addressed the Congress, addressed that famous Press Conference. It is not easy to face such a Press—critical and hostile. He came out with such flying colours that everyone in the international comity accepted him as a statesman. Now, what did the Opposition feel? They had thought, when he came, that the image was of a good youngman who had no experience of politics. So, the only thing he has is his clean image which has been boosted by the Press. Therefore, the Opposition thought and some of the people in the Congress also felt that here was a small and weak baby.

[*Translation*]

The Opposition Members were of the view that Shri Rajiv Gandhi was a baby who could easily be moulded the way they liked.

[*English*]

And when they found that this could not be done, they felt frustrated. The frustration of the Opposition becomes very clear because strategy after strategy the way they failed, I can only compare ourselves with the Opposition. We were also in opposition for some time. But under the leadership of Indiraji, how we managed to get them out in just 2 1/2 years.

[*Translation*]

Sir, we never ran away, we stood our ground firmly. Each one of us had sufficient grit to match their strength. At that time, Janata Party too had come to power with the

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similar overwhelming majority. Yet our Members did not change their stand and Shrimati Indira Gandhi chalked out such a strategy that all of them were voted out of power. It was the then Prime Minister who had to resign. They elected Morarji Desai as the Prime Minister but after some time another Prime Minister came to the scene. But when he found that he could not muster majority support in the House, he ran away after dissolving the House without facing it. Today we find those very Members sitting in the Opposition. I am really distressed to note their attitude right from the beginning till date. They could have restored the tradition of a healthy democracy and could have discussed important issues. Just now one of our colleagues said that a number of basic issues like poverty, unemployment and foreign policy were before our country. There is not one but innumerable issues on which the Opposition could give some concrete suggestions. When the voting age was lowered from 21 to 18 years I heard one of the hon. Members pointed out that it was his suggestion. But if it was his suggestion, why did he remain silent for 4 years? Now, when they found that they were not in a position to do anything, they thought that they should find some issue to tarnish the clean image of Shri Rajiv Gandhi and thus succeed in their designs. The Members of our own party helped them in achieving this objective. One of my friends working with a newspaper told me that they doubted if Rajiv Gandhi was as innocent a person as he appeared to be and they felt that he was a very shrewd person. He said that as a part of his manoeuvres, he might have planted a Member of the Ruling Party in the Opposition. Now how far can this be true? My submission is that they cannot think of anything else and they feel that this person must have been sent by him. Every move of theirs ultimately turned against them. This time, they came with renewed vigour and brought in the Bofors issue. If you remember, they raised the Fairfax issue earlier. He was our colleague occupying number two position. These people demanded that an enquiry should be conducted in the

matter and the Government readily agreed to set up a Parliamentary Committee. But the Opposition did not agree to the proposal and instead wanted the enquiry to be conducted by a Supreme Court Judge. When a Judge of the Supreme Court was appointed, they dragged in the Bofors issue. When we told them about the appointment of the Supreme Court judge, they said that this was not proper and the matter should be handed over the Parliamentary Committee. When the question of appointing a Joint Committee was being considered, they felt that they were going to fall in their own trap, since the Government agreed to this demand also.

I would like to submit that when the question of constituting a Joint Parliamentary Committee was raised, they felt that with their own presence in the Committee, the responsibility will fall on them and every kind of evidence will be there. When the process of constituting the Committee started, they got panicky because they felt that they were trapped in their own net. Later on they declared that they would not join the Joint Parliamentary Committee.

My submission is that when the demand to constitute Joint Parliamentary Committee was accepted, the Members of the Opposition themselves gave the suggestion and moved the Substitute Motion to the motion moved by the hon. Defence Minister for appointment of a Joint Parliamentary Committee and its terms of reference. I would like to tell as to who moved the Substitute Motion. It was moved by Shri Somnath Chatterjee, Shri Dinesh Goswami, Shri C. Madhav Reddi, leader of the Opposition, Telugu Desam Party, Shri K.P. Unnikrishnan, Shri Indirajit Gupta and Shri Janga Reddy. All these gentlemen raised the same demand and stated in their substitute motion :-

[English]

"That the Comptroller and Auditor-General of India, the Attorney-General and all investigating agencies of the Government of India 'shall' render such assistance to the Committee as may be required by the



Committee for the purpose of this inquiry.”

[English]

[Translation]

What sort of points are raised by these people? When the Government constituted a Joint Parliamentary Committee, they ran away. Thereafter, they started blaming others and raising issues inside as well as outside the House and there was only one motive behind it. They did co-operate in the Joint Parliamentary Committee. Thereafter, even when a discussion on its report was taken up in both the Houses, they created scenes there also. With regard to that final report, my colleague Shri Jaganath very aptly pointed out that there is a finality of everything. As per the Rule of Law, if a bench of the Supreme Court gives a judgement, it can be reviewed by a larger bench, but can a High Court or a District Court challenge the verdict of the Supreme Court?

[English]

I will examine all the facts again *denovo*. I am an independent authority. I have the right to do so.

17.00 hrs.

[Translation]

It would be like reversing the course of the Ganga. I am telling this because the hon. C.A.G of India has been misled by the following words in the Constitution.

[English]

For the purpose of leave, salary etc. he will be treated at par with the Supreme Court Judges.

SHRI JAGAN NATH KAUSHAL: Only for removal.

[Translation]

SHRI VASANT SATHE: You see how the people are misled by words.

Actually, you see the wordings:

“There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.”

That is the only reference to Supreme Court in this whole Chapter V—Articles 148 to 151. But should he or somebody else start thinking that he is equivalent to the Supreme Court?

What is the jurisdiction of the Comptroller and Auditor-General? He has to audit the accounts of the Government of India, its agencies and the State Governments and submit their reports. He cannot have independent evidence, he cannot call witnesses, he has no judicial authority, he has only to rely on the records and papers submitted, nothing more. The moment he submits his report to the Government, it goes to the President. After due scrutiny from the Department, the President signs and causes it to be laid on the Table of the House. The moment, it is laid on the Table of the House, it becomes property of the House. It is automatically submitted to the Public Accounts Committee and the Public Accounts Committee, in terms of the rules, considers the audit report of the Comptroller and Auditor General. The Committee examines the representatives of the various Ministries concerned in regard to the matters referred to in the audit report. The Committee is assisted by the Comptroller and Auditor General in the examination of the accounts. What is the duty and the role, jurisdiction of the Comptroller and Auditor-General? To assist the Parliament and thereby the Parliamentary Committees? The Parliamentary Committees have all the sanction, status and dignity of the Parliament. None less. He has to assist the Parliamentary Committees. The reports are examined by the Parliamentary Committee, who will submit it to the House and the

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House later on can consider it. The Public Accounts Committee may or may not accept the report, may reject the report totally. The Committee would also examine the Department. Who can take evidence? The Public Accounts Committee can call witnesses and officers.

SHRI A. CHARLES: Even the CAG can be summoned.

SHRI VASANT SATHE: Yes, he can also be summoned. Therefore, is it mandatory, is the decision or the Report of the CAG final like the decision of the Supreme Court in the matter of law and in the matter of validity of law? I would beg to submit that the CAG's jurisdiction is only to audit and give its report on the documents that it has examined and assist the PAC. The PAC may accept it or may not accept it and may examine more evidence.

It is again stated in the rules that he has to examine the matter on the basis of the documents etc. placed before him. If this is so, I would beg to submit, would a CAG become an authority on financial matters. I say, even the Supreme Court cannot do it. Supposing a matter on a technical subject goes before the Supreme Court, for instance, a question like what is the best equipment for a surgical operation comes before the Supreme Court, the Supreme Court will appoint a special Committee to examine and study the matter and give its report but will never come to the conclusion itself. But, here what do we see? The Parliament appointed a special Committee, a Joint Parliamentary Committee to examine a matter which normally comes under the jurisdiction of a Public Accounts Committee. The JPC had the same power and jurisdiction as that of the Public Accounts Committee for that limited purpose. This Committee was specially appointed by a special Resolution which says that the Auditor General must, should and shall assist the Committee. And, what the Auditor General says in its report is amazing. The JPC requested the Attorney General to

appear before it. The Attorney General came before the JPC, gave evidence on law points. He could have very well said that this appears to be the discrepancy. What does he say to the JPC? The JPC at page 32 of its Report says:

"The Deputy Comptroller and Auditor General in the absence of the Comptroller and Auditor General—he was at that time away—informed the Committee that the documents already available with them and additional papers supplied to them did not appear to throw any light on the matters under inquiry by the Committee and from the professional audit angle no comments seem possible."

That is what he said to the JPC. Now, suddenly a few months later, you discover that on the basis of the same papers you can come to a different conclusion. Can he blow hot and cold like this? Who is he trying to deceive? He refused to cooperate and refused to comply with the resolution of the Parliament. He flouted the resolution of the Parliament. There is no other word for it. Not only this. I will point out to you one more thing. He asserted later that "this is not enough. My jurisdiction is much more." This is what he said. When it was pointed out to him that the Joint Parliamentary Committee had already gone into this question, why are you going into the same matter again, he said and I quote:

While audit has taken due note of the Terms of Reference of the Joint Parliamentary Committee and finding, with all regard and consideration, this review has been conducted in discharge of the obligations under provisions of the Constitution and in terms of Comptroller and Auditor General's Duties and Powers of the Service Act."

He had also said that: "I brought it out to the notice that it does not circumvent in any way his powers."

So, he insists further in pointing out that

he has every right to exercise his jurisdiction irrespective of what the Joint Parliamentary Committee as representing the Parliament has done. Not only this. It does not stop there. After the Joint Parliamentary Committee, it was debated here. It was approved by the Parliament. This was also brought to the notice and knowledge of the Comptroller and Auditor General. When he gave his Report in February or when he signed it on April 26, did he not know this? Yet if a man says "I have a right to examine even the overriding view of the Parliament, then, where do we stand? What is the sanctity of Parliament? Now, we are in a peculiar situation. Banatwallaji says "He has come with the Report. It should go normally to the Public Accounts Committee. We would have allowed it to go to the Public Accounts Committee. But again as I began by saying, the Opposition insisted by giving a notice, no less a person than the Leader of the Opposition Prof. Madhu Dandavate of the Janata Dal and Shri Jaipal Reddy had given a notice for discussion under Rule 193. How can he blow hot and cold? They wanted a discussion. They told the Speaker that "We must have a discussion." They first said:- "This Government will not submit its Report. It will not place the Report because there is something." Unfortunately, the Report leaked. These days there is so much of leakage on this Department that one really wonders what leaks you need to plug and where you will go on doing it. This Report was signed on 26th April. It was given to Government on 27th. Our Parliament Session ended on 15th May. Naturally, any Report deals with so many others Ministries. Has it not to be examined by those Ministries—Ministry of Urban Development, Ministry of Defence and so on—Five, Six Ministries—Ordnance and Clothing, Works and Engineering, Research and Development organisations etc? Have they not to be examined before they are submitted to the President? So, if it had been submitted immediately here, then also we would have been taken to task: "How did the Government not examine this?" So, we submitted it to the President. As soon as the President signed it on the first day, we submitted it.

If we had submitted it on the last day, they would have said, "you have submitted it on the last day and there is no opportunity for us to discuss it or make a study of it." This is what they have said. We said: 'All right; we will submit it.' And it would have followed the due course: it would have gone to the PAC. But they say: 'No; we must ask for a debate.' The moment they asked for a debate, and the moment you, Sir, conceded the debate, they were foxed. They did not know what to do now.

PROF. N.G. RANGA (Guntur): When was it leaked out to the Press?

SHRI VASANT SATHE: Nearly eight days ago; before it was laid here, Indian Express and others had already started giving it—Shri Madhu Dandavate himself commented: 'How do they know this? From where do they get it?' But the beauty is, the sagacity that I talked of, of this young leader, Prime Minister Rajiv Gandhi is this: he is so clean of heart, straight of heart. He said: 'All right; it is what you want. Is it that? Come on; I have nothing to hide. Do you want a Joint Committee? I will have a Joint Committee. Do you want a debate here? All right; I accept a debate here.' This they do not imagine. Then they get beaten. When they get beaten, they fall in a further trap of their own. Because they do not know anything, or what to do, they started creating all this *hulla gulla* of asking for the Prime Minister's resignation.

I beg to submit this: during the last four years, the way they have behaved, is something like this, as I said. When there are hounds coming after him, what does a wise man do? He throws a bone at them. Then immediately all the pack pounces on that bone; and then they are at it for some time. Further on if they come, then another bone. Now, this is what has happened with the Opposition. During the last four years, they have been licking this bone called Bofors. Only one object, nothing else. So, therefore, we have this situation when it comes up for discussion. I entirely agree with Shri Jagan Nath Ji that we must know where we stand. What are we discussing? As I said, it is like,

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as I said, the Supreme Court saying: "A District Judge has over-ruled our decision. We will now consider it again."

Are we going to make a joke of Parliament? With all respect to the Auditor-General, he has gone totally beyond his jurisdiction. (*Interruption*)

PROF. N.G. RANGA: That is what was said by the other speakers in the House also.

SHRI VASANT SATHE: And the proof of the pudding lies in the eating. Now, to show how he has gone beyond his jurisdiction, I would say this. My fear is that merely because the word 'General' occurs there, in this name, the Comptroller and Auditor General—probably he thought: 'I am also a General. As a General, if Sunderji can do something, why can't I? Sunderji has at least experience all his life, of handling the guns, and knows what it is; and what shoot and scoot is, what burst-fire is. I do not need to know anything about that; I only know accounts. But I can over-rule Sunderji, and I can decide whether this gun was a proper gun or not.' This is what he has said.

Mr. Banatwalla is not here. But he pointed this out, you know. He came to that conclusion that it is not mentioned here. So, see the words. This is what he says at paragraph 11.3.24:

"The following points were noticed on the basis of records made available to Audit..."

He is relying only on the records, mind you.

The JPC has taken evidence of General. Sunderji of the artillery expert. All those witnesses were examined. Now, this gentleman has seen nothing. To be very frank, the Auditor-General does not himself look at everything. It is his junior who examine things. Where is the time with the Auditor-General to examine everything by himself. I do not know what he has done in this case. He must have

probably put this thump or signatures on what his juniors put before him. I have said, we accept it; O.K. Fine. On page 13, it reads as follows:

'Army HQ on the basis of trials conducted in India and abroad during 1980-82, had on as many as six occasions...'

These six occasions have bothered him too much. I will point out how. Then it further reads as follows:

"(December 1982, August and November 1984; March, September and October 1985) reiterated their order of preference, that is, Sofma first and Bofors next. The Ministry, however, stated in February 1989 that this was factually incorrect."

They pointed out from Gen. Sunderji's evidence and from all the documents that there was no such thing as preference; it was this and that; both were equally good; one was a little here or a little there not good, depending upon how they should be evaluated. Therefore, the Army pointed out that that was factually incorrect. On the same page 13, it further reads as follows:

"It contended that Army Hqrs had on these occasion merely ranked Sofma first and Bofors second..."

Not this in preference to that. This is what the conclusion he was trying to draw. Then on the same 13 page, it further reads as follows:

"And this reflected at best a marginal preference from the purely technical angle..."

Now, this is the conclusion which the learned AG is trying to come to. Then again on the same 13 page, it further reads as follows:

"It is difficult to appreciate the aforesaid contention of the Ministry as the order of preference of Army HQ was clearly Sofma first and Bofors second. Neither the need nor the reason for the fresh

evaluation of February 1986 is clear...

Now, is this his jurisdiction? Who is he to decide this, what is preferable? Gen. Sunderji himself stated on oath before JPC that he would have failed in his duty if he had not, on the basis of availability of radar by the enemy which could have detected the heat emerging from the fire of the gun in 30 seconds, preferred gun which could shoot and scoot and move from that area within seconds. So, the radar itself could not detect that. I think any person with common sense can understand this thing. But if the Chief of the Army Staff is saying this, who is qualified? Not only this, not only he, I will show you persons of equal calibre. First there is the Chief of the Army Staff. Then another person is the Director-General of Artillery. On page 71 of the JPC's Report, it reads as follows:

"Asked to comment on the performance of the Bofors gun on the basis of his personal experience as an expert in Artillery, the Director-General, Artillery stated in evidence:

"I would say as an Artillery Officer that the biggest advantage of the gun which we are now using lies in its ability to be used both in mountains and in the plains. During the demonstration we fired with this gun even in higher angles. This has the ability to fire in different projections. Then it has the ability to burst fire. And the third most important thing is that it has its own auxiliary power unit to get into action and get out of which is very important especially in the mountains and plains."

This was the point made. And the third most important thing is that it has its own auxiliary power unit to get into action and get out of it. This is very important, specially in the mountains and plains.

And, who is the authority? Artillery General? General Sunderji, the Chief of the Army Staff or the Auditor General? Just because there is a mention of the word

"General"?

[*Translation*]

Our Party has General Secretaries too. We have also generals.

[*English*]

SHRI JAGAN NATH KAUSHAL: I have served as Advocate General.

SHRI VASANT SATHE: Correct, Kaushalji. Thank God. You as Advocate General did not say 'Attorney General'. If all Generals decide to give their verdict on what guns should be taken and preferred to the Army, I think we will have no Army in this country. (*Interruptions*) You have to think of that. But, my dear Sir, I would like to submit that as far as this report is concerned—and my friend Shri Banatwalla wants PAC to waste its time on this report—as far as these paragraphs are concerned, which deal with the JPC, they do not deserve to be touched with a pair of tongs. They do not deserve to be looked at. Constitutionally he is *functus officio*. He is without jurisdiction, as anything decided, as Jagan Nathji pointed out, without jurisdiction is a nullity in law, a nullity in the rule of law.

And, I have pointed out to you even of facts how this does not hold water, for a minute: Therefore from the point of view of the rules, from the jurisdiction point of view, from his capacity and on any ground that you may consider, it is so. Financial ground, I can understand, he has said it. But there also, what is his duty? Was there an approval? Was it spent within that means? Was there an authority to spend? He agrees that the Finance Minister has okayed it. If he want to indict he should have indicted that Finance Minister. He does not do it. When everything is within the approval then what is his jurisdiction to point out? He raises this issue again and puts it before the country. I do not deny, Sir, what he as said. Here is a learned man, experienced man, seasoned man, who had occupied senior positions in the Government. Such a person, we cannot say that he

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is ignorant, or is acting in a manner without knowledge, is acting in a simplistic manner of a simpleton. You cannot make such an allegation. So, then what is the conclusion? That means, the man has done this deliberately. And if you do certain things deliberately to flout the authority of Parliament, whose creation you are, whom you are supposed to assist, if that is what you do, I am afraid, Parliamentary institutions will lose their credit.

And as I began by saying, unfortunately, the Opposition has fallen in this trap. Somebody gets some leaks from somewhere, these days people get tempted to lean out things. Thakkar Commission report, leak out. When we said, "Discuss".

[*Translation*]

We said, all right, you may discuss it, but they said that they would not discuss it.

17.28 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

[*English*]

Because there is some secret and you are hiding it.

On all these grounds the Opposition has felt frustrated. The said part of the whole thing is this. As I said, when we were there, we did not run away. Because we treated ourselves not as an Opposition, but as an alternative to them. We had known, we knew, that we had ruled. We had been in power. We had the responsibility of running this country and that we would come back again. We had that confidence. We had that confidence. Why? We had also confidence in one leader. This is something that we must remember. The strength of Congress since independence movement has been in fact that it accepted one leader and went by that leader. Firstly it was Gandhiji, after Gandhiji it was Panditji, after Panditji, it was for some

time Lal Bahadurji, but otherwise Indiraji. See the sagacity again and the wisdom of the partymen.

When the great number two went to that side with some other *gyanies*, you know what was whispered in the Central Hall? They started saying. "Oh, you just wait; hundred people, because all of them have been given ticket by so and so, hundred Members of Parliament will join, will come away, who will go with this young man, he has no backing nothing; we made him the Prime Minister. You will see everyone will come, follow us." They also started giving the number of the ex-President of India. How to bring about a revolt? One of the members of the press asked me in the Central Hall, "Satheji, you had been in opposition. What do you think? How many people will go?" You know what I said.

[*Translation*]

You will see, nobody will go. The Congressmen are very intelligent and they will not join them unless they find them in a commanding position. Just wait and see, no one will go.

[*English*]

And that is what happened. Even in those bad days, see the sagacity of congressmen. We were out of power, defeated very badly, but we rallied behind one leader and that was Indiraji. And that is how we come back. Those stalwarts of the Congress, who used to say 'Indira is India' at the boatclub were the first to jump out and go away and betrayed her. Where are they? What happened to them? This is a party which has believed in one leadership, democratically accepted it and had faith in it. Show me any team in any sport. Unless they have a captain, in whom the entire team has faith, can the team win? The same thing is true in politics also. This has been the strength of the congress. This is the strength today. This party unanimously had chosen one man, has faith in one leader and that is where the strength lies. And that is also where the

weakness of the opposition lies because there everybody is a leader. No one will accept one man. Let them name any one from the opposition, sometimes it is Nataraj, Vishwamitra, sometimes it is some Raja, sometimes it is somebody-else, some *lal*, some *pila*, somebody. What is this? No one will accept anybody's leadership. They may come together for a negative purpose. They may come together today to have this gimmick, to have this stunt, make a laughing-stock of themselves—the whole country knows and even the child on the street knows.

[*Translation*]

Now only 2-3 months of the term of the Parliament are left.

[*English*]

Hardly two or three months are left for the elections. What sacrifice are you trying to do? What is this great gimmick that you are doing? What are you trying to prove to the people? That you refused to participate in the debate that you asked for; that you did not have the guts and the courage to have a dialogue in the House, the debate in the House on your own very resolution; that you ran away from it; that you started doing the tamasha for three days of asking for the resignation? All right, even if you wanted that, you did not have the guts to move a no-confidence motion which is the only parliamentary way of removing a Prime Minister. But whom are you trying to fool? You think you can fool some people in the media? No, Sir. Even media is wise enough to see through your game. Some persons in some media are there, who, even if anything happens to our side, good, bad or indifferent, they will always be against Rajiv Gandhi. Therefore, they will support your gimmick as a big sacrifice. You cannot take this country for a ride in this manner.

Again you stand thoroughly exposed in Lok Sabha. Knowing fully well that there are only three months left, you have decided to resign and made a very great drama of it.

'You will at the most lose three months' salary. But what about your colleagues in Rajya Sabha, who are from your party? Why do they not resign? If they feel that with this Government under the leadership of this Prime Minister they do not want to participate in the parliamentary procedure and process, if that is what you are trying to show, then the same leader of this party also is a leader therein the other House. There also he speaks on behalf of the Government. Then why are you participating in the parliamentary process there? Is there any logic? Therefore, on grounds of reason, logic commonsense, morality, the opposition stands totally exposed. And I have no doubt that this country, the common man, has no interest in it. You go back to your constituency in your village. We have gone to our places. Do the people there bother about what Bofors is? To them Bofors, bluffers and all that mean the same—that means, nothing. They are concerned about their day to day problems of break and butter. They are concerned about getting a job. The young man is there in a family who has no job. The biggest worry of that family is that at least one person in that family should get a job. What are they bothered about? They are bothered about how they will solve the problem in their village, how they will have roads, how they will have electricity, how they will have drinking water. These are the problems. And when such things are being done by the Congress Party under the leadership of Prime Minister, who, when you were busy with Bofors, was going round the whole country, going into the deserts, going into the forests, going to the Adivasi villages, in their huts and *jhonpris*, to study their problems, and after two years of study and having discussed with all the concerned at all levels he came to the conclusion that the only way to tackle the problems of the people at the grassroot level is to give the power to the people at the grassroot level. He announces this. That also is a gimmick to you. Power to the people you do not want to give. You do not participate even in that debate. Tell me one instance in the last four and an half years where opposition has come forth with one solid positive suggestion for the good of the

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country? But negative everything. If they think that the role of the opposition is only to oppose, they are sadly mistaken. The word is not opposition. The democratic word should be the alternative. You may sit opposite. But they think opposite means supposition and therefore they must oppose good, bad everything of the Government. Under this feeling they have really gone from bad to worse. Now this Government has caught the imagination of the people with these programmes and policies. By Panchayati Raj every man in every village knows that now he is getting the power directly from the Centre of this country. By Jawahar Rozgar Yojana, every young man in each house feels that he will get a job. Then there are other programmes—giving power to the Municipal Committees in the urban areas, seeing that the elections are held properly, women getting greater representation, young men getting voting right from eighteen onwards. Please tell me, Sir, if these things will not enthuse our common people, what else will enthuse? Bofors? I cannot imagine the wisdom of the people in the Opposition who think they can go to the people with these sort of gimmicks. With this, I do not think that this Report should go to the PAC because as a special case you decided it to be discussed here. Normally it would have gone to the PAC. I would not submit to the House that it should not go to the PAC because unnecessarily it will be a waste of time of the PAC. As I showed, it is entirely without jurisdiction. I am referring only to these two paras. For the rest of the things, it can go to the PAC. These two paras should be deleted from this Report and should not be sent to the PAC at all. The final verdict has been given once. Though there is a finality, even now the House should say that we give our finality to this that this has no substance whatsoever.

17.42 hrs.

### RESIGNATIONS BY MEMBERS

[English]

MR. DEPUTY SPEAKER: I have to inform the House that the Speaker has today received three more letters of resignations from the following Members:-

1. Shri Charanjit Singh Athwal,
2. Shri Ashok Kumar Sen, and
3. Shri V. Sobhanadreeswara Rao

The Speaker has accepted their resignations with immediate effect.

SHRI VIJAY N. PATIL (Erandol): What is the total now?

MR. DEPUTY SPEAKER: I think it is seventy-two. It can be counted.

17.43 hrs.

### DISCUSSION UNDER RULE 193

[Translation]

**Paragraphs 11 and 12 of the Report of the Comptroller and Auditor General of India for the year ended 31st March, 1989 (No. 2 of 1989)—Union Government—Defence Services (Army and Ordnance Factories)—Contd.**

SHRI SHRIPATI MISHRA (Machhlishahar): Mr. Deputy Speaker, Sir, Shri Kaushal, Shri Vasant Sathe and other hon. Members have dwelt upon Bofors deal and the C&AG Report in detail.

Today the opposition benches are empty but it should not surprise us. After all, the elections are round the corner and they have to formulate a strategy for the coming elections. This action is a part of their election