



PARLIAMENTARY CONTROL OVER THE FINANCES

Speech delivered by the Comptroller
and Auditor General of India in the
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Mr. Speaker, Sir, I am deeply conscious of the honour done to me by asking me to speak before this body. I am not sure that within a short time, I shall be able to cover this vast subject but I shall make a most earnest endeavour to go over the outlines of Parliamentary control over the finances.

2. In a Democratic form of Government, one of the fundamental postulates is that the legislature is the ultimate authority which exercises an over-all control over the financial administration of the country. After all, finance is the driving power in the State machine and the extent of Legislature's authority over financial administration is a measure of its supremacy. The Legislature determines, what money is to be raised and how the money shall be spent. The executive is but the arm of the Legislature to execute its policies. As agent it is accountable to the Legislature regarding the way in which it has collected and spent the money given to it for carrying out the policies laid down by the Legislature. The accountability of the executive to the Legislature is one of the basic tenets of a democratic form of Government.

3. With the gradual transformation of the functions of the State, its activities both in the legislative and executive spheres have increased enormously and so far as it

can be visualised the functions will continue to grow. In the totalitarian State, practically the entire ambit of human activities, from the cradle to the grave, are sought to be planned, controlled and directed. Though the conception regarding the function of State is not so pervasive in the other forms of polity, the conception of Welfare State is gaining new adherents. The Democratic Governments which shall adhere to the idea that the State exists only for the maintenance of law and order are destined to be short lived. It is now firmly established that the maintenance of law and order is but one of the essential functions of the State; the State should and must organise its affairs in such a way that the resources of the country are suitably harnessed and exploited to maximise the net national product and secondly that the distribution of the national product be so arranged as to maximise the welfare of the society as a whole. In order to achieve this end, the State has necessarily to undertake multifarious activities with the result that the financial administration has become a matter of supreme importance. The re-orientation of State activities in this matter has been reflected in the rapid expansion of the State budgets and this has made it essential to devise an efficient system for the control of expenditure. In a Parliamentary form of Government, this control is exercised in two stages. One is the stage of policy making and the other is control over the implementation of that policy.

4. So far as the policy-making is concerned, the normal procedure for every State is to present its revenue and expenditure estimates annually before its own Legislature. It is of the essence of control that the activities of the State both in the matter of taxation as well as in the matter

of expenditure are set out as clearly, precisely and unambiguously as possible.

5. As regards taxation, courts have held that in a law imposing a tax, one has to look merely at what is clearly stated. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One cannot place an equitable construction in order to prevent a real or supposed anomaly. It is for that reason that taxation measures have to be set out in very great detail and it is there that the Legislature exercises its influence in the matter of policy-making. It may be that the Government wants one form of tax, it may be that the Government wants a particular rate of tax and the Legislature may have other ideas. But those are matters of policy and those are settled at the stage of discussion of the annual budget.

6. Similarly, in the matter of expenditure, the usual form is to present Demands for Grants for each of the subjects on which Government wish to spend money. There again, it is the practice to set out in very great detail the particular objects on which the money is to be spent, for instance salaries of officers, allowances of officers, salaries of establishment, expenditure on construction of roads hospitals or money that will be spent on maintenance and so on. These details are necessary because without them the second stage of control becomes ineffective.

7. The particular point that I wish to emphasise at this stage is that so far as policies are concerned, as to how the money is to be raised and spent, whether on roads or buildings or whether in digging a well in a particular village,

all these will have to be settled at this stage. All differences among political parties in these matters will be ventilated, sometimes with acrimonious and bitter debates and this will be finally resolved with the passing of the budget. Once the budget has been passed, once taxation laws have been agreed to, once the scheme of expenditure as presented in the budget has been modified and settled, it becomes the duty of every citizen, including of course the legislator, to implement it. It is no longer a party matter, and it is important to realise that once this scheme has been finalised at the legislative stage, it becomes the duty of each citizen of the State to do whatever he can to see that those policies are implemented. It may be that some people want prohibition for instance, and some people do not. But once prohibition has been settled as the accepted policy by the Legislature, it is the bounden duty of everybody, including those who voted against prohibition, to see that prohibition is enforced. It is the same in the matter of expenditure. It may be that certain legislators wanted that a particular road may go in a particular direction, pass through a particular district but the majority of the legislators wished otherwise. Well, it is the bounden duty of the former to see that the new alignment, as passed, is carried out by the State and to assist in its implementation.

8. The second stage of Parliamentary control is to watch the implementation of the policy, as adopted by the legislature itself through its usual majority and to see that (a) the money has been spent for the purposes for which, it had been provided and for which it was intended, and, (b) secondly, to ensure that the executive has made as efficient and economic use of the money given to it as it is humanly possible. It is there that the Audit Department

comes to the assistance of the Legislature. It is the function of audit to bring to the notice of the Legislature all deviations in the matter of appropriation, meaning thereby that if, for instance, the Legislature has intended that a certain amount of money should be spent, let us say on hospital, then it is not spent on some other object, however laudable it may be. At that stage, Audit is examining the implementation of the policy. Audit, at no stage, is concerned with what the policy should be. It may be, that audit in its wisdom considers that the road has priority over a canal but if the Parliament has voted for a canal rather than the road, it is not for Audit to question it. All that Audit has to see is really that the money intended for a Road has been spent on the road.

9. Now, it is essential for purposes of efficient Audit that it works under certain special conditions. For this, various countries in the world have devised different systems. In the Continent, from the time of Napoleon, a system of Audit Court has developed. Those Audit Courts function more or less on the lines of a Court of Justice except that they have no powers, of course, of sending a man to jail. But it is their duty to examine every item of expenditure and receipt and having examined it, to submit the report to the respective parliament.

10. In the United Kingdom, a slightly different system is followed. There is an Auditor General. He has no accounting functions or payment functions as such. His functions in regard to Exchequer Issue have very little practical utility. He is specifically an officer of Parliament. Everywhere the Comptroller and Auditor General, by whatever name he is called, exists for

the assistance of Parliament but in United Kingdom he is specifically an Officer of Parliament, which implies that he has to carry out the orders of Parliament in any particular matter.

11. In India, we have started on more or less the British practice but with slight variations. In India, the Comptroller and Auditor General is independent of the executive in the sense that though appointed by the President he is not removable from his Office by the President or by any other authority other than Parliament, in the same manner as a Judge of the Supreme Court can be removed. His pension, his pay and his tenure cannot be changed to his disadvantage after his entering upon his office and his pay and allowances have also been made non-votable. That is to say, they are not subject to the vote of Parliament, although there can be a discussion about them. Therefore, so far as the Comptroller and Auditor General personally is concerned, there is complete independence. But there is this slight difference; I won't say a difference, there is a slight qualification in the sense that after all the Comptroller and Auditor General does not function individually. He functions through his tools which are his officers, his men, his subordinates and so on. The Comptroller and Auditor General of India does not have a free-hand in the matter either of the number of staff he should have, the category of staff he should have or the pays that he should have for them. These matters are subject to Government control and subject to Government sanction. After all, one cannot provide everything in law and I must say that so far in actual practice there has been no difficulty at all. There is one other point in which

the Comptroller and Auditor General of India differs from the Comptroller and Auditor General of other countries and it is that he is the Auditor General, not only for the Union but also for the States. I stress on this matter, because there is perhaps some kind of feeling that the Comptroller and Auditor General of India is an Officer of the Union, imposed by the Union on the States. That is not so. Even though his salary and allowances and the salary and allowances of his staff are borne by the Centre, his responsibilities towards the States are in no way different from his responsibilities towards the Centre. He is as much an Officer of the Union Parliament as he is of the various State Legislatures. His duties are in no way affected by the fact that he is responsible for the audit of accounts of the various States and all these States have, as much claim on his services as the Union has. It is not the case that he reports to the Union on the matter of the control of finances by the State Governments. The reports that he makes on the State Government accounts are to the State itself. The Union is no more concerned with those accounts than the State is concerned with the report he makes on the Union Accounts.

12. The second requirement of an efficient audit is, that he must have, that the Comptroller and Auditor General must have, free access to all documents, records and accounts of the State. This is provided for in the laws of most of the democratic countries. In India we do not still have a law defining the functions and powers of the Comptroller and Auditor General and he is even today functioning under an Order issued in 1936 by the then British Government. But under the convention, which I hope and believe is firmly secured, it is the practice not only for the Union

but for all the States to render to him for his inspection any documents that he needs, any accounts that he requires. In this matter again, conventions work better than law and I believe that these conventions have now been so well established that there is no danger of the utility of audit suffering from lack of information.

13. The third requirement of audit, I may call it an efficient audit, is that no changes in classification should be made without consulting the Comptroller and Auditor General. This is a slightly technical term. So, I will attempt to say what it means. It means, as I said before, that for purposes of policy, for purposes of administrative working, the entire expenditure has to be set out in great detail specifying the particular object on which the money has to be spent. To take a very concrete instance, suppose some money has been provided, let us say for quarters for the Police and the State legislature has voted the demand under the grant 'Police'. Well, it is important that expenditure on quarters built for Police should be classified under this head and not expenditure, let us say, on amenities to civilian employees of the State Government, for instance, Doctors. It may be that the Doctors' requirements of quarters were more important at that particular time than the requirement of quarters for police-men. But the Parliament having voted that this money should be spent on the quarters for policemen, it is important that the executive Government should not by a mere reclassification, appropriate it for a purpose other than the one intended by the Legislature. If the executive consider that in the particular circumstances at a particular time and on re-thinking quarters are more urgently needed for doctors than for Policemen, it is for them to bring in a supplementary

demand before the Legislature, ask for surrender of the money under the head 'Police' and form an appropriation under the head 'Medicine' or 'Public Health' whatever it may be.

14. Well, it is, therefore, very important that no question regarding classification should be decided by the executive without at least the knowledge of the Comptroller and Auditor General. Actually, our Constitution provides an even more strict discipline in this matter and, if I may put it that way, in the sense that the initiative for the classification of accounts does not vest with the executive but with the Comptroller and Auditor General himself. That is to say, it is for the Comptroller and Auditor General to decide how the accounts should be classified and of course he is not a unilateral authority in this matter. He has to obtain the approval of the President; that is to say, the executive Government. The objects for which Parliament has sanctioned money are not to be frustrated, let us say, by the fact that the executive can use the money for other purposes by the mere process of re-classification.

15. One important matter which I would like to mention at this stage and repeat it, perhaps, if I have already said so, is that in his actions the Auditor General does not and should not criticise any questions of policy. It may be that the Auditor General, it may be that the Auditor General's entire staff, disagrees with certain policy of the State Government or of the Union Government, whatever it may be, but it is not his duty, in fact, it is not his business at all, to question that. He is merely an authority to see, as I said before, that the money is spent for the purposes for which it was intended and that it has been spent in the most economical and business-like manner.

16. As regards the receipt audit, unfortunately, in India there has so far been no authority to point out to Parliament any failures of the executive in implementing the policy regarding taxation. It is quite true that most taxation laws provide that if a man who has been assessed to a certain tax has a grievance, he can go to a Court of Law but there is nobody today, no agency, which the Parliament has today, to ensure, for instance, that the monies which are due, have been properly collected and accounted for and that the executive does not grant unjustified or unauthorised remissions to individuals. After all, a wrong expenditure of one thousand rupees has exactly as much effect on the finances of the State as failure to collect deliberately or otherwise an amount of Rs. 1,000 due from a certain tax-payer. But, for historical reasons, perhaps, there has not so far been any real emphasis placed on the audit of receipts. This is being gradually brought under audit control, and recently the Union Government has agreed that income-tax receipts and central excise receipts should be subjected to audit. Of course, audit has some handicaps in this matter in the sense that many of these taxation laws provide for judicial remedy or judicial interpretation and really audit cannot impose itself as another authority for interpreting the taxation laws. Therefore, audit has to see that it limits itself only to those matters which are not subjected to judicial processes. But I hope it may be possible in course of time to develop a system by which the bulk of the receipts of the Union Government and State Governments come within the purview of audit so that Parliament and State Legislatures have real and effective control over the implementation of the policies they set down at the budget time.

17. All audit is useless, unless the Legislature really takes interest in the findings of audit in regard to the implementation by the executive of the policies laid down by it. In every State, therefore, in fact I think it is the Policy in almost all democratic governments, to have a sub-committee of the legislature specially armed, specially charged with the duty of scrutinising audit reports for ensuring that any deviations from original appropriation brought to light by audit are suitably explained and that in all instances of lack of economy, irregularities or wasteful expenditure, suitable action is taken by the executive. The Public Accounts Committees are, therefore, charged with this responsibility, but it is important to emphasize that they are concerned really with the system and not with the individual. In any of the democratic countries, it is not the function of the Public Accounts Committees to go into the question of actual punishment of any individual whether it should have been censure or warning or reduction in status or dismissal or removal except of course, in very obvious cases where they have a feeling that the party in power is probably trying to protect an individual. It is important also that just as the Auditor General is not concerned with policies, so the Public Accounts Committees should not enter into questions of policy. They are concerned with the implementation, the implementation of the policy already agreed to. Therefore, at that stage, there is no question of anybody questioning why a certain action was taken so long as it was authorised by the legislature ; so long as it was provided for in the budget, well, that is the end of it. The Public Accounts Committee in the mother of Parliament, that is to say, in the United

Kingdom is regarded purely as a non-party body. In fact, one of the leading Members of the Opposition is generally taken as the Chairman of the Public Accounts Committee. Actually, who the Chairman is, does not matter-whether he is the leading member of the Opposition or whether he is a leading member of the ruling party, so long as it is realised that what they are discussing is a non-party matter and so long as it is realised that they have to make an objective, judicial and impartial examination of the various executive authorities in the matter of implementation of the policies laid down by Parliament. In India, the Public Accounts Committees, the majority of them, are acting very vigorously. Except in two States, almost all the reports of the Auditor General or the reports presented on his behalf have been discussed up-to-date. It may be that the discussion is too long or too short or too detailed or too vague. It may be that there may be difference of opinion on that matter. But there is no doubt that the way the Public Accounts Committees have been functioning in this country is an example to many other countries where they have not acted half as vigorously as in this country. It is not the usual practice certainly not in the U. K. Parliament for the Legislature to discuss the Report of the Public Accounts Committee. It is assumed that the Government would automatically accept every recommendation of the Public Accounts Committee in the matter of procedure, in the matter of enforcing new rules and regulations and it is very seldom that any recommendation of the Committee is not accepted by the Government and the matter has to be resolved by Parliament. I was reading in a book only the other day that there has been no case in history in U. K. in which the

Parliament, had any occasion to differ from the reports, from the recommendations, specific recommendations, of the Public Accounts Committee, even though as I said, it is presided over by a leading Member of the Opposition. That only emphasises the necessity of the Public Accounts Committees being judicial and objective in their approach.

18. In India, the Public Accounts Committees have one particular point, I think, to bear in mind. We have in this country a multiplicity of rules and regulations inherited from the British days, when perhaps adherence to procedure was more important than performance or action. When the Public Accounts Committees examine their witnesses, it is important for them to remember that the public today will not in any circumstances tolerate inaction or lack of action, and therefore, my humble request to the Public Accounts Committees would be that they deal more strictly with cases of inaction and failure of action than in those cases in which the executive have taken action promptly but because of an excess of zeal have probably failed to keep to the very narrow paths of procedural rectitude. This request I have been making to the Public Accounts Committee whom I have so far had the honour to meet. I do think it is an important matter in a developing country that action is encouraged rather than inaction and that officers are prompted to take action rather than to give excuses for not taking action.

19. I am afraid, I have run through the subject much too fast. From what I have stated it would be clear that in our country there is almost complete control over the formulation and implementation of policies regarding the receipt and expenditure. The position regarding the public

debts, is, however, not so clear. The Constitution lays down that charges for debt should be non-votable. That is, of course as it should be. If any Government, whether it is the State or the Union, has raised a loan on the assurance of a certain rate of interest, that Government will completely lose credit if later on the Legislature is given the power to question the payment of the rate of interest stipulated for. But I do not think that any Legislature has so far passed any law restricting or directing or controlling the action of Government in raising loans. After all, by raising these loans the State is incurring its people to a certain liability. The interest payable on it is non-votable. Is it not desirable that there should be some direction and control by the Legislature on the commitments made by the State in the matter of raising and repayments of these loans? Although the payment of interest may remain non-votable, should not there be a certain direction and control by the Legislature as to the rate of interest or the terms on which the loan should be raised?

20. Another point which has recently attracted public attention is the matter of creation of Corporations and Companies, statutory corporations and Government companies. One of my predecessors said that the creation of these corporations and companies is a "fraud on the Constitution". I perhaps would not go so far as that, but there is no doubt that by creating corporations and companies, large sums of monies and large spheres of State activities are kept outside Parliamentary control to which the other Government departments are subject. For instance, let us take the Hindustan Steel Company. Government is spending about 600 crores of rupees and when the company is in operation and attains full production perhaps its receipts

and expenditure would be of the order of Rs. 50 crores a year. All that the Parliament will be entitled to is a discussion of its annual report and the annual balance-sheet. It is quite true that if it were a public company that is all that the share-holders would get. But, I have no doubt in mind that if this very project had been carried out departmentally, the Parliament would have had much greater, wider, effective and detailed control over the expenditure. This is a problem which should attract the attention of the Legislators. I am not for a moment saying that it is not desirable or preferable to have companies or corporations: may be from the point of view of actual implementation of these large scale activities which are partly or wholly commercial, it may be thought necessary to have what is known as a company form of management outside Government's machinery. It may well be that it is so. At the same time it does seem, having regard to the very large scale financial activities of these organisations, that some effective form of parliamentary control should exist over their activities. There should not be a feeling, "ah! we are a corporation, at least we are outside the tentacles of Government audit, we are outside the legislative control, we can now do what we want, what we jolly well please!

That kind of a feeling should not be allowed to grow. To the extent that State control fetters action, the answer may well be that one alters the form of State control or relaxes the form of state control but the State Legislature or the Parliament should not be deprived of a broad control over its finances.

21. Mr. Speaker, Sir, I think, I have taken a lot of your time. I have not much more to say. I can only add that

external vigilance over the finances is at least as necessary as external vigilance over our borders, and all I can do is to beg of our legislators as one of the citizens of the great country to which we all belong and which we all so much love that they will apply their minds to control in the proper sense, in the sense of direction and not in the sense of retardation of State activities.