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COUNCIL OF STATE, 1921



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COUNCIL OF STATE.

Wednesday, 9th March, 1921.

The Council met in the Council Chamber at Metcalfe House at Eleven of the Clock, with the Honourable the President in the Chair.

GOVERNMENT BUSINESS FOR THE 17TH MARCH, 1921.

The HONOURABLE THE PRESIDENT: I do not know whether the
11 A.M. Honourable Member representing the Government is prepared to make any statement with regard to the business of Thursday, the 17th of March, being a day for the transaction of official business.

The HONOURABLE SIR WILLIAM VINCENT: Sir, on the 17th the following official business will probably be brought forward: Motions to consider and pass the following Bills:—

1. The Legislative Assembly Deputy President's Salary Bill;
2. The Bill to incorporate Boards of Trustees appointed for Enemy Mission Property;
3. The Bill further to amend the Land Acquisition Act, 1894.

Government have also agreed to give time for the discussion of a Resolution to be moved by the Honourable Mr. Kale regarding the necessity of a special representative committee to inquire into the exchange situation.

HOUSING COMMITTEE.

The HONOURABLE THE PRESIDENT: Before we proceed to the business of the day, I should like to mention to Honourable Members a matter in regard to which I have been in consultation with the President of the Legislative Assembly. The question is in regard to the formation of a House Committee to facilitate in various ways the convenience, and look after the comfort, of the Members both of the Council of State and of the Legislative Assembly. I have received a communication which summarises the directions in which it is thought the activities of such a body might be useful, and I will just briefly mention them to Honourable Members. These are the matters amongst others which it is suggested might come before such a body:—

Questions relating to Members' residences.

The suitability of plans of quarters for Members who live in the European style and in the orthodox Indian style.

Catering arrangements, furniture, water and electric supply.

Then, as regards public rooms at the Hostels, the provision of reference libraries, stationery, telephones, inquiry office, and, as regards the Chamber, arrangements for a common room, the extension of the library and arrangements for the loan of books.

The management of the restaurant.

[The President.]

Arrangements for refreshments for Members living in the orthodox Indian style and other matters, such as transport between Raisina and old Delhi and the provision of postal and telegraph facilities, particularly at Raisina.

Another matter I see that is mentioned, but which perhaps will have less interest for Honourable Members of this Council, is the provision of tennis courts.

Another matter which has been put forward, which is of great importance, relates to religious facilities for Muhammadan gentlemen.

A point for your consideration is, whether this Council would prefer to have a separate Committee of its own, or whether it would prefer to join the Legislative Assembly. On that, of course, the decision must be yours, but, if I might make a suggestion to you, I think it would be in the interests of both Assemblies if you had a Joint Committee. For one thing this Committee can be nothing but an Advisory Committee. It will, as it were, sift the complaints of Members; it will relieve the Legislative Department of the invidious task that sometimes, at any rate in my time, used to arise of negativing a suggestion by a Member. Any suggestions that are put forward will now have the support of representatives of the whole of your body and are, therefore, bound to carry far more weight than would otherwise be the case if they were put forward by a single Member. It has been pointed out in favour of a Joint Committee that this Council frequently uses the Assembly Chamber and that, therefore, many of the questions that will arise will be questions that equally concern you. Again, it has been pointed out that many of the Members of this Council live at Raisina and will continue to do so; and, therefore, anything that improves Raisina will be in your interests.

Now, the question of the constitution of a Committee presents some difficulties. I think I am right in saying that I have gathered that the feeling of this Council is in favour of a Joint Committee. (Cries of "Yes") I think that is clear. That being so, I think we must also recognise that we are less numerous than the Legislative Assembly. If it had been a constitutional matter, and had you any statutory powers, I think you must have insisted upon being equally represented. This, however, is not such a case. I have discussed the matter with the Honourable the President of the Legislative Assembly, and I think, and he thinks too, that if we had four Members and they had six, reasonable representation would be given to both Chambers.

Then, I think, as to those four Members, the classes to be represented are undoubtedly, in the first place, Indian Members living in the orthodox style. Then, there is another class of Member, and that is the Indian gentlemen who live more or less in the European style. The third class is the class of Muhammadan Members, and the fourth class are the Europeans, in which I include not only the non-official gentlemen, but also those gentlemen who come from the Provinces. I think it is right that they should have an opportunity of expressing their views. I think the easiest way, if the Council will agree with me, would be for the Members of those classes I have mentioned to select and communicate to me the names of the gentlemen that they desire should represent them on this Committee. Honourable Members will have a very convenient opportunity of doing that to-morrow when there is a ballot in this Chamber at 11-15 A.M., and I suggest that

afterwards—there are ample rooms here for consultation—they should come to a conclusion on these points and let me have the names of those whom they select. I will then communicate them to the Honourable the President of the Legislative Assembly. He is extending a similar courtesy to me and will communicate to me the names of those selected by the Legislative Assembly.

I trust this Housing Committee may prove a real benefit to the Members of this Council.

RESOLUTION *RE* SEVERANCE OF JUDICIAL FROM EXECUTIVE FUNCTIONS.

The HONOURABLE MR. BHURGRI : Mr. President, the Resolution which I beg to move runs as follows :—

‘This Council recommends to the Governor General in Council to make a definite declaration that the time has arrived for the complete severance of judicial from executive functions, and that early steps will be taken to accomplish the severance almost immediately.’

I need not remind the Council that this is not a new question. The Indian National Congress had adopted it as one of the foremost planks in its platform and had been pounding away at it year in and year out. But its origin extends far back into the last decade of the eighteenth century. From the literature that I looked up on the subject, I gather that it was so far ago as the year 1792 in Lord Cornwallis' time that the objectionable nature of the combination of these two functions was declared. Great statesmen who rose to the positions of Governors and Lieutenant-Governors in the country have pronounced their anathema on it—men like Sir Bartle Frere, Sir Cecil Beadon, Sir John Peter Grant and others. Sir Frederick Halliday, as the President of a Committee appointed in about the thirties of the last century, delivered himself in the following terms on the subject: ‘The union of Magistrate with Collector has been stigmatised as incompatible, but the junction of thief-catcher with judge is surely more anomalous in theory, more mischievous in practice. So long as it lasts the public confidence in our criminal tribunals must always be liable to injury, and the authority of justice itself must often be abused and misapplied, and the power of appeal is not a sufficient remedy. The danger of injustice, under such circumstances is not in a few cases, not in any proportion of cases, but in every case. In all, the Magistrate is constable, prosecutor and judge.’ In 1888, Lord Dufferin speaking at St. Andrew's Dinner made the Congress activities as the chief theme of his speech, and while generally attacking its propaganda made an honourable exception of this item of its programme by blessing it with the title of ‘A counsel of perfection’. But leaving aside ancient times the history of the question in times within our own memory began thus. While the Indian National Congress was passing its annual sentence of divorce upon what I style as an unrighteous *mesalliance* this ill assorted union, Mr. Man Mohan Ghose who was a leading figure in the Congress, who enjoyed a princely practice in the Criminal Courts of the country, whose services as a Barrister in criminal cases used to be requisitioned far and wide from Himalayas to Cape Comorin, from Assam to Karachi, and whose experience placed him in the most unique position of being one of the best authorities on this question and who, therefore, was allowed to assume the rôle of the

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petitioner against the respondents of the unholy union, inspired a galaxy of some of the most eminent *ex-judges* of Indian High Courts, such as Lord Hobhouse, who at one time was Law Member of this Council, Sir Richard Garth, Sir Richard Couch, late Chief Justices of the High Court of Bengal, Sir Raymond West, one of the most eminent and learned judges and jurists India has ever had, Sir John Budd Phear, Sir William Markby, Judges of the High Court of Calcutta, Mr. Reynolds of the Revenue Board of Bengal, to memorialise the Secretary of State for the preparation of a scheme for effecting the separation of the two functions, who in 1899 forwarded the memorial to the Government of India, who, as usual, referred it to Local Governments and judicial officers for opinion. From that time has begun the process of incubation from which the question has not yet emerged. The Local Governments and the officers consulted sent their opinions, but the Government of India has not yet taken any action in the matter.

In 1908, the Honourable Sir Harvey Adamson, the then Finance Member, speaking from his seat in the Viceroy's Council in his reply on the Budget debate, dilated on this subject at great length—in fact except for a short paragraph on another matter the whole of his speech was occupied by this question—and informed the Council that an enormous mass of correspondence had arisen out of the opinions of Local Governments and judicial officers consulted. He further said that the study of the correspondence had been a tedious and laborious process. He said the preponderance of that opinion was for the continuance of the *status quo*, as was of course natural the official world in those days being averse to the reforms proposed. Then he fairly presented both sides of the question and gave as his own opinion that 'the inevitable result of the present system is that criminal trials affecting the general peace of the district are not always conducted in the atmosphere of cool impartiality which should pervade a Court of Justice. Nor does this completely define the evil, which lies not so much in what is done as in what may be suspected to be done; for it is not enough that the administration of justice should be pure; it can never be the bedrock of our rule unless it is also above suspicion'. Proceeding further, while analysing the various stages of a country's development, he in effect admitted that whilst in the earlier stages such a combination of functions would be either necessary or desirable, it would not be so when a country had made a larger advance in its development, and in winding up this argument he said: 'It thus follows that in such a Province the combination of functions must inspire a distrust of the Magistracy in all who have business with the Courts'. Then dealing with the prestige stunt, which has constantly haunted the imagination of the District Officer, he said: 'Can it be said that under such circumstances the combination tends to enhancement of the prestige and authority of the executive? Can any Government be strong whose administration of justice is not entirely above suspicion? The answer must be in the negative. The combination of functions in such a condition of society is a direct weakening of the prestige of the Executive'. *En passant*, I hope these reasoned and thoughtful words carrying as they do the weight and authority due to the eminent official status of the speaker will everlastingly lay the bogey of prestige which will not be able to raise its head and frighten us with its ugly face. Proceeding further Sir Harvey concluded with the announcement that 'On these grounds the Government of India have decided to advance cautiously and tentatively towards the separation of judicial and executive functions in those parts of India where the local conditions

render that change possible and appropriate. The experiment may be a costly one, but we think that the object is worthy'. Here, again, I pause to draw the Council's special attention to this last sentence as constituting an effective reply to the financial objection to my proposal which is always urged.

Then Sir Harvey concluded by placing before the Council the scheme he had framed to carry out the Reforms, which I do not propose to weary you by reading, but which will be found at page 250 onwards of the printed proceedings of 27th March, 1908.

The next stage in the history of this question was reached when there was a full dress debate on the Resolutions moved in the same Council by Mr. Surendra Nath Bannerji on the 7th March, 1913, wherein the Honourable Mover proposed that the Government of India should make grants to Local Governments to carry out the experiment of separating the two functions. Speaker after speaker on the Indian side went on supporting the motion, but the Government Member, Sir Reginald Craddock, opposed the motion on the ground that it was vague and that the question had not yet emerged from the stage of consultations with the Local Governments and was still under consideration. Thereupon one Honourable Member, *viz.*, Mr. Vijayaraghavar Chariar, asked the question whether it was the principle that was under consideration, or the principle being accepted it was only a workable scheme that was under consideration, to which the answer given was that it was impossible to differentiate between principle and details. The interpretation I put upon the answer is that Government were not yet prepared to commit themselves to the final acceptance of the principle—The motion was lost, one interesting feature of voting being that all Indian members (excepting the Government Member), including even those who generally see eye to eye with Government, voted for the motion, and all the European Members against it.

From 1908 and 1913 to this day it is a far cry. I make bold to say that the objection raised on the score of the country not being sufficiently advanced has by the lapse of so many years been swept away. No more conclusive answer to that objection could be given than the introduction of the Reforms which give a potent voice to the representatives of the people in the government of the country. What clearer evidence could there be of the recognition of the country's advance. I do not consider it desirable to take up your time by discussing the merits of the proposed Reform. I am confident that all of you are familiar with the arguments *pro* and *con* which have been threshed out time after time *ad nauseam*. The arguments *pro* are summed up in the quotation I have given above from Sir Frederick Halliday. As to the *cons* I have already shown that the demon of prestige has received a decent burial at the hands of Sir Harvey Adamson, and that it will no longer rear up its head and expose its none too savoury features. And I do not find that point pressed in recent years since the time of the debates in the Council to which I have referred. Sir Harvey convincingly demonstrated that there would be an access of prestige when administration of justice is purer than now.

Another argument is advanced which is worth serious consideration, *viz.*, that the suggested separation of functions will involve us in financial liabilities which will impose additional burden upon the Exchequer. There are several replies to this argument. One is that the cost will not be so heavy as to frighten us. Another answer is furnished in the quotation from Sir Harvey

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Adamson where he says 'the experiment may be a costly one, but we think that the object is worthy' the sentence to which I drew your special attention when quoting it. What proposal for Reform is there which does not entail expenditure? As the proverb runs 'You cannot make bricks without straw'. In all walks of life whenever we wish to provide ourselves with an additional comfort we cannot escape additional expenditure. What a great boon will it be to the country if you give it pure administration of justice? And why should you grudge expenditure for such a lofty purpose?

I think it will be a happy augury for the successful working of the new régime if we adopt this Resolution and Government give effect to it. I reckon it to be of a piece with those measures which have been recently passed both in this and the other Chamber for which it is claimed and justly claimed that they symbolise that true liberalism which characterises the new era ushered in and which will make for general peace and good-will in the country. Sir, with these remarks I move the Resolution which stands in my name.

The HONOURABLE THE PRESIDENT: Before the Honourable Raja commences, I would like to draw the attention of this Chamber to the fact that, although this is a very small room, it is exceedingly difficult to hear in. Therefore Members must raise their voices.

The HONOURABLE RAJA SIR HARNAM SINGH: The separation of the judicial and the executive functions is by no means a new subject. It has been discussed, times without number, in the press and in popular assemblies; and public opinion to-day is unanimous, I believe, in condemning the present system of concentrating all the powers, including judicial and executive, in the hands of the District Officer and his subordinates. It is needless for me to discuss the merits of the Resolution. In all civilised countries, judicial and executive functions are under different controls. But here in India, owing to administrative and financial reasons, this severance has not yet been secured. This delay is not due, I believe, to the slowness of the Government to recognise the evils of the combination of the two functions. The people must have the fullest confidence in our Courts of justice; and to secure this, they must be independent of the executive. One of the fundamental principles of the British Constitution is, the independence of the English Judges—they have little to do with the executive. Here the District Officer is not only the Chief Magistrate, but the Head of the District Superintendent of Police, so far as the investigation of crime in his district is concerned. He is also the head of the public prosecutor of the district. The prejudices of the investigator of crime and the preconceptions of the prosecutor are fatal to the judicial mind; and yet the District Officer, being the District Magistrate, may try important criminal cases in the district.

The other Magistrates in the district, dependent on the District Magistrate, for promotion and advancement, may take a hint from his superior, and in trying to please him, be led by his prejudices. I do not say that miscarriage of justice is a common occurrence; but the suspicion in the public mind is not altogether groundless.

I do not believe that the concentration of all the authority of the Government in the same officer adds to the efficiency of the administration. On the other hand, the burdens of the District Officer are too heavy for the

shoulders of a single man. The proposed separation would give him some necessary relief.

Objections may be raised, however, on financial grounds. I sympathise with the Government in their present financial difficulties. The Budget which was presented to this House, the other day, showed clearly the need for economy. I do not know to what extent the proposed separation of the two functions would involve an additional expenditure, nor do I pretend to be able to work out a scheme which may accomplish the end without further financial burden on the Government. Even supposing that additional expenditure, to some extent, is unavoidable, I would still support the Resolution, for it touches a great fundamental principle, and no expenditure is too large for reform in a matter of such vital importance. In paying new enhanced taxes which the present budget proposes to impose, the people ought to have at least one consolation that a long-standing grievance has been now removed.

The HONOURABLE SIR WILLIAM VINCENT: Sir, the subject of this Resolution has been, as Members of this Council are aware, in the forefront of political controversy for many years. When I first came to this country 33 years ago, I am sorry to say, it was a leading feature of the debates of the National Congress. There have been innumerable opinions on the subject, one way and the other, noting of the most voluminous character—so voluminous indeed, that of one celebrated minute it has been said that it was both exhaustive and exhausting. Indian opinion generally has been strongly in favour of the separation of the judicial and the executive. And I do not think that it would be possible to attempt to controvert that as the general feeling. And I quite admit that it is a matter on which the influence of the Legislature may very legitimately be exercised upon the Government. It is, however, impossible for me to review the whole subject at all adequately in the time which is available to any Member of this Council. My predecessor, Sir Reginald Craddock, made this subject, if I may say, peculiarly his own and dealt with it at great length, on one or two occasions; but I think that the Honourable Mr. Bhurgri is in error in supposing that during his time there was ever a full-dress debate on it, because I was in the Council when the debate to which he referred arose, and it was raised as a side issue during the Budget and not on a regular Resolution at all. Further, Sir Reginald Craddock on that ground refused to discuss the general question of principle. But I ought, I think, to explain the policy of Government somewhat since 1908 when the announcement of Sir Harvey Adamson's, to which the Honourable Mr. Bhurgri referred, was made. A great deal has been said about that announcement, and I should like to put the words before the Council. Sir Harvey Adamson said: 'The Government of India have decided to advance cautiously and tentatively towards the separation of judicial and executive functions, in those parts of India where the local conditions render that change possible and appropriate.' Later he said: 'It is a very easy matter to propose as an abstract principle that magisterial and police functions should be separated, but in the descent to actual details the subject bristles with difficulties. A solution has been attempted and is being sent to two Local Governments for criticism. It is desirable that it should be submitted to the criticism of the public at the same time'. He added: 'This tentative solution is not the final expression of the decision of the Government of India. It merely is a suggestion thrown out for criticism with the idea of affording assistance in the determination of a most difficult problem.' The

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position really was that Lord Minto's Government were anxious to find a solution of the question and they prepared a scheme, which they thought might be found possible and appropriate. Well, that scheme was submitted to the criticism of the public and circulated to Local Governments, and it was found—by the Local Governments concerned—unsuitable; it is rather interesting here to notice that Sir Edward Baker, who was one of those, I believe, who had in the Government of India supported the principle of the separation of judicial and executive functions, found that he was unable at any rate to apply that particular scheme when he was Lieutenant-Governor of Bengal. In March 1910, Sir Harvey Adamson again announced that the experiment had been postponed.

The question was again examined in Lord Hardinge's time, and after much discussion the Government arrived at the conclusion that there was no urgent need for separation. They considered that the separation could only be applied gradually with due regard to local circumstances. There was a proposal at that time of trying the experiment of the separation in some particular area. The views of the Government of India on this point were that, if such an experiment were to be made, it would have to be made in the whole province and for some time, but that the times were singularly inappropriate for such an experiment. They, therefore, referred the matter again to the Secretary of State, and, after discussion with him, it was agreed that there was no commitment to any particular scheme or to any definite time for introducing separation. To this view the Secretary of State assented. That is the history of this case up to now.

It has been alleged that the idea that the functions of the prosecutor and the judge should be combined in the same person is unsound in principle. This is an argument of very great weight, though, as a matter of fact, since the various Police Commissions have sat and the direct control of Magistrates over the police has been minimised by the appointment of superintendents, the combination is more apparent than real. Certain new sections have also been inserted in the Code of Criminal Procedure which provide expressly against any accused person being prejudiced by the present arrangement. I refer to sections 191 and 556. Section 191, I may say, was inserted in the Code at the instance, I think, of Mr. Justice Ameer Ali in order to meet the very difficulty which has been felt over this question of the union of functions. Again, it is alleged that Magistrates under the system now prevailing are too ready to convict and that they do not scrutinise the evidence with sufficient care. Well, mistakes do occur in the trial of cases, but such mistakes will be found in any judicial system in the world. Human nature being what it is, all judges are liable to error, and I do not think that our Magistrates fall into error any more than Magistrates in other countries.

The Honourable Member referred to the criticisms of Mr. Man Mohan Ghose of this system and they were of a very cogent character on general grounds. But he will remember, I think, that Mr. Man Mohan Ghose, after an exhaustive inquiry, was able to cite 20 cases only in which he thought that the combination had resulted in injustice. I think that subsequent inquiry resulted in ten more cases being discovered, but these were spread over a very large number of years, and, on investigation, many of the complaints proved to be groundless. I want to give here some figures to show that

really this accusation that our Magistrates are unduly ready to convict does not bear examination. We have collected the figures from 1902 to 1911 for certain Provinces. I did not, my predecessor did—I have told you that he had made this subject greatly his own. In four provinces, Madras, Bombay, Bengal and the United Provinces, there were in ten years 1,465,000 persons sent up in police cases. I only take police cases because it is in relation to them that this separation is more important. 37 per cent. of those men were acquitted or discharged. That is not an indication, I think, that Magistrates are unduly prone to convict, and I was very glad to hear Honourable Raja Sir Harnam Singh say that he did not think in practice the system was productive of injustice. Now, let me take the question of appeals. Honourable Members of this Council are aware that appeals lie from certain classes of Magistrates to Sessions Judges and from others to District Magistrates. We have tested the figures showing the results of successful appeals, that is, appeals in which the Sessions Judges thought that the Magistrate had gone wrong, and cases in which the District Magistrates acquitted the accused thinking he had been wrongly convicted. The figures are for the same period and for the same Provinces. In the case of Sessions Judges' Courts, the percentage of successful appeals varies from 22 to 31 per cent., and in the case of Magistrates it varies from 25 to 37 per cent. That does not shew, I think, that Magistrates are unduly prone to convict.

My own feeling is that the actual injury caused by the present system is exaggerated. But it is purely a personal opinion, and I have no authority to speak on behalf of the Government in this matter. I think myself that to suggest that they act unjustly is really an unwarranted slur both on our European and Indian Magistrates. I believe they do their work, taking it big and large, very justly and conscientiously, and in any case they have always before them the question of an appeal to the Sessions Judge. Indeed, it may be said of Magistrates 'Whatever they do, they are never in the right.' And there is still a good deal of truth in the following citation from some verses written in 1863 by a civilian of great ability:—

'Toil as he may, his guerdon is the same—
 The scantiest praise, the largest meed of blame,
 Acquit? And brave the Superintendent's curse?
 Convict? To see a dubious Judge reverse?
 What tho' Assessors fail to find a flaw,
 And trust the Judge alike for facts and law:
 Tho' link in link of evidence appear—
 Proof piled on proof make clearer and more clear
 The prisoner's guilt—the bland High Court shines out
 More skilled than Eldon in the art of doubt,
 'Twixt right and wrong an even balance keeps,
 The prisoner is released—and Justice weeps.'

But the Honourable Member is on sounder grounds when he speaks of the necessity of trials being held in an atmosphere of cool impartiality. That is a matter of great importance, and there is in many cases, a fear, an unjustified fear I believe, but still an apprehension that an over-zealous officer in his anxiety to preserve his good credit as an administrator in a sub-division or to maintain the peace, may be too ready to credit prosecution evidence and not likely to be absolutely fair to the accused. I do not think there is any ground

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for that apprehension, but I believe in some cases it does exist. There is on this account a feeling of mistrust of our Courts in some cases. I believe there is little foundation for it, but it is there, and it is all important in a judicial trial that the Court should be such as to command the absolute confidence of those who appear before it. That is indeed a general principle of the greatest importance whether the apprehensions are sound or not. Also sometimes there is a suggestion that there may be a tendency on the part of some officers to disregard the rights of individuals and to consider rather the benefit to the community at large particularly in certain classes of cases and miscellaneous proceedings under the Criminal Procedure Code. But my own experience—I was a Judge for many years and a Magistrate for many years—is that the defects of the present system are very largely exaggerated. Nevertheless, there being this feeling, the Government of India are perfectly prepared to go, as far as possible, to meet the Honourable Member.

The meaning of this word 'separation' has been very well put by a great Law Member in the Government of India, and it is this: 'I think that our judicial officers should be specially trained for their duties, and that in performing these duties they should not be subjected to any form of executive pressure. For this purpose, that there should be some separation is undoubted.' But how far that can be carried out is a matter of methods and resources.

Now the Honourable Member referred, I think, to the administration of justice in England, and it seems to be believed that there is a complete separation between the judicial and executive, much more complete than, I believe, in fact exists. Up till quite recently the connection in England between the Magistracy and the Police was very marked and the Magistrates exercised very great control over the police. In the boroughs, for instance, the police are under the control of the Watch Committee of the Town Council, of whom the Mayor is the Chairman, and he is also a Magistrate. The County Police are administered by joint Standing Committees composed both, half of County Councillors and half of County Justices. But I suppose the most familiar example of a combination of executive and judicial functions in England is the case of the office of the Lord Chancellor, who combines very important judicial and executive functions. In fact, it may be said, so far as the rural area is concerned or the Magistracy is concerned, that the maintenance of peace has never been divorced from judicial functions.

I turn now to a practical question which always has puzzled me in regard to this separation in India. In any scheme for separation subordinate Magistrates must have some local authority to supervise this work, if they are to do their work properly, that is, if it is to be done expeditiously, carefully and with due regard to the public convenience. In one scheme for separation the suggestion is that they should be subordinated entirely to the District Judge, that he should control them and that the Magistrate's control should be exercised only over the police. That, I believe, speaking as a Judge of many years' experience, is entirely impossible. A District and Sessions Judge has at present more executive work to do than he can possibly carry out. He has a large number of subordinate Civil Courts under him, and it would be quite impracticable for him also to keep in touch with the Criminal Courts as well. If, on the other hand, you say that the District Magistrate should control the subordinate Magistracy but shall have no control

over the police, you are reducing what is in fact a very effective check over abuses of power by the police. It has been admitted times out of number that the District Officer is able to do a great deal in checking improprieties on the part of the subordinate police. So, that is a practical difficulty in regard to this scheme. I am aware of Mr. Romesh Chandra Dutt's scheme. I have examined it, but it has been proved on examination to be both defective in many ways and expensive. Sir Harvey Adamson's scheme was another one which, when it was referred to Local Governments for criticism, was found to provide insufficient protection for the maintenance of law and order, which is a very serious matter; incidentally also, although this point has been dealt with very lightly, it involved very large expenditure. I think the Council will be interested to hear the figures of the additional cost which the introduction of that scheme involved. They were in one province 23 lakhs of rupees initial and 15½ lakhs recurring. And under present day conditions, having regard to the various increases in the cost of material and the cost of salaries, allowances, and so forth, this figure would have to be largely increased. The real question therefore before this Council is, whether, in these circumstances, the separation of judicial and executive should precede other more urgent work. That is the question. But there is another point. Honourable Members were all very generous on this question of finance. They said, 'Never mind. Let it cost what it may; let us have this great advance'. Let me remind the Council that the cost will not fall on the Imperial revenues. It will fall entirely on the Provincial revenues, and it seems to me that it is a little unwise for this Council to attempt to impose upon Provincial revenues, at a moment when we know that every Province is struggling very hard to make both ends meet and when two of our great Provinces, at any rate, are budgetting for a deficit, an additional burden of this kind.

This leads me at once to another point. The administration of law and justice is pre-eminently a Provincial subject. The Provinces have got to find the money and they are responsible for the administration of this branch of Government. Ought the Central Government in such circumstances to interfere with them and say 'We do not mind what the cost is; we do not mind whether the present system is productive of evil or not, but we are going to urge you to undertake this large additional expenditure'. And this in face of the fact that some of the Provincial Governments have already declined to take up this matter immediately. I have before me a telegram from the Government of Madras. A Resolution was moved in that Presidency for the separation of the judicial and executive and, when I got notice of this Resolution, I immediately wired down to Madras to find out what the result was. This is the reply I received :—

'Your telegram 326-Judicial, dated 20th February. Resolution moved in Legislative Council recommended that steps should at once be taken to separate executive and judicial functions completely in this Presidency, and that all judicial officers should be placed directly under the control of the District and Sessions Judge and of High Court. Stop. Resolution was opposed by two non-officials, one of whom opposed it on its merits and the other considered it not feasible or capable of practical application. One urged that the administration of justice would suffer and the other that the public as well as Government would be inconvenienced. Strong objection was taken by another Member to administrative work including appointments, transfers and promotions being transferred to the High Court. Objection rested partly on question of communal representation in making appointments. An attempt to amend Resolution by leaving out the words 'at once' was defeated by 46 votes to 36, the main Resolution being also defeated by 45 votes to 33. The discussion exhibited no very great enthusiasm, and the Member of Government in charge did not find it necessary to speak at all.'

[Sir William Vincent.]

That is the position in regard to this in one Province. The administration of justice is a Provincial matter. The question under discussion is a matter for them to decide, and they have to find the money for any changes in the present system. This Council now knows that, in one Province at least, they are not anxious to undertake this difficult task at present.

Further, as a matter of fact, we have done a great deal in order to avoid and get rid of many of the practical objections against the present system. For instance, the original jurisdiction of the District Magistrate, who is the nominal head of the police, has been reduced almost to nothing, in many districts I may say, absolutely to nothing. The number of Magistrates who exercise powers under section 30, that is, powers of giving imprisonment for long terms, have been largely reduced, not because they have not exercised them properly, but because we thought that serious cases should be tried by Sessions Judges. In many Provinces the system of territorial jurisdiction has also been introduced. Finally, every effort has been made to disabuse subordinate Magistrates of any idea that their promotion or welfare will in any way be prejudiced by executive criticism of their judicial work, and I do not think that now it can be suggested that any officer can complain that his promotion has been affected by any criticism of his judicial work based on the ground that he is too ready to acquit persons brought before him. This is a charge that used to be brought. I remember the case of one Deputy Magistrate in Bengal myself who always thought his promotion had been prejudiced by his case work. I believed even then the accusation was groundless and it certainly is so now.

(The Government will meet the Honourable Member as far as possible, and I hope that the following undertaking will satisfy him. The matter is a Provincial one, but if any Local Government decides to take up this question of separating the judicial from executive functions—the matter is one for them—the Government of India will raise no objection, and will proceed to make such legislative changes as may be necessary to give effect to the proposal of the Local Governments. We are not, however, prepared at this juncture to interfere in any way with the discretion of the Local Governments in a matter which is purely one of Provincial administration.)

THE HONOURABLE COLONEL SIR UMAR HAYAT KHAN: Sir, I wish to say only a few words by way of observation. I have heard both the able speeches of the Honourable the Mover of the Resolution and also the Honourable the Home Member, and I am not going to follow them, because on the one hand some utopian ideas have been put forward and on the other a few statistics. These do not coincide with the things that exist in practice. Sir, I am a Magistrate of 20 years' standing, and I have seen a great deal of the working of the present system in the districts. I know of some cases,—I will not say that it is the case everywhere, but I have known of cases in which District Magistrates have practically interfered and dictated the policy to be adopted in judicial cases to their subordinates. I remember a case of one of my friends, an Honorary Magistrate, who was told to do something, which he could not do and so he resigned. He had of course lots of money and could afford to resign, but the same is not the case with all, who have to live on their salaries, because these people cannot afford to fight with their superiors. There are many cases in which the subordinate officials have to carry out the instructions of their superiors and cannot decide cases as they

think proper; they have simply to do as they are asked to do in order to please the head of the department or district. Since the time I speak of much water has flowed down, even our adjacent river the Jumna, which has got very little water left, so that things have changed very much. The civil service men, the pick of the English nation, whom we used to get, have greatly deteriorated. Some of the best men also do not care to come out, and lots of young officers are now called upon to take the place of senior officers. Every one of them naturally wants to become a Governor. And what do they do? They rush things along so fast that the ordinary people of our country cannot follow their methods. As somebody pointed out sometime back in the course of the debates in the previous Legislative Council, they have got to look after something like 21 or 31 departments. Naturally, a man who has so many things in hand, cannot be a master of anything. As the proverb says, 'Jack of all trades and master of none;' this is the case with the junior officers now-a-days. So, as the Honourable the Home Member has just quoted a telegram, if the judicial work is entrusted to judicial officers like Sessions Judges, these men would not have to comply with the wishes of Deputy Commissioners, as their work would go direct to the Sessions Judges and Chief Courts, which are the best judges of the work of these subordinate officers. Their character rolls have simply to be transferred to the Sessions Judges to decide about the merits of these people, and then they will no longer suffer in the matter of promotions in the service. This will not involve any fresh expenditure. At the same time I think the Deputy Commissioners will have ample time in hand to look after their other duties, and this will be very much to the interest of Government.

I have stood up to-day to put in a strong plea, and that is, that before Mr. Gandhi came to the front, there was already dissatisfaction among 50 per cent. of the population on account of hasty civilians. These officers never stick to one district. If they did so, the matter would be all right, but every year or every second year they go round, and wherever they go, they cause discontent. I myself have been a Magistrate for the last 20 years, and I support the Resolution to this extent that the system should be changed and that character rolls of the subordinate officials who do case work should be transferred to Sessions Judges and Chief Courts instead of to Deputy Commissioners.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I think it will not serve any useful purpose to prolong the discussion on this Resolution any further after what has fallen from the Honourable the Home Member. So far as the merits of this Resolution are concerned, we have heard a long story from Sir William Vincent. He has spoken of his experience as a District Judge for a number of years, but my experience as a legal practitioner for a number of years has been quite the contrary. I should have very strongly supported the Resolution of my Honourable friend, Mr. Bhurgri, had it not been for the fact that this scheme has been fully threshed out both in this Council and outside this Council, as well as on the public platform. We have noticed to-day with gratification an absolute change in the attitude of Government in respect of this important matter. We have heard from the Honourable the Home Member that, if the Provinces choose to introduce this scheme, there will be no opposition from the Government of India. I congratulate the Honourable the Home Member on this expression of opinion. He has rightly pointed out that the matter is purely a Provincial one, and my opinion

[Sir Maneckji Dadabhoy.]

also is that the Provinces should be left alone to work out their own destinies in this matter. There is an all-important question of finance at present. We know how the Provinces have to contend against financial difficulties on the eve of the reforms. The Provinces have got a great deal to do. They will have to set their house in order before they can take up new or urgent works.

And if the Provinces hereafter take up this subject and demand a complete separation of the executive from the judicial functions, I am pleased to note that there will be no opposition from the Government of India. In view of this assurance it would be hardly fair to protract this debate or to press this Resolution. I would therefore advise my Honourable friend, Mr. Bhurgri, to accept this assurance and at this stage not to press this Resolution. There is another aspect of the question. We will be putting the Provinces in a state of some predicament if we now press this Resolution. We have heard that in the Madras Council this Resolution has not found much favour. I presume it was purely due to the financial stringency of the Madras Presidency. A similar stringency appears at present in many Provinces, and in my opinion works of more urgent character should be taken up first on the eve of reforms rather than such a scheme. I do not underrate the importance of this scheme, but Honourable Members must realise that the scheme will cost the country large sums of money ; that to separate the judicial entirely from the executive and to separate it effectually means a large capital expenditure. Whether we are in a position to undertake it at present, I am not able to state. At any rate, speaking for the Central Provinces, I do not think the finances of the Central Provinces will permit of taking up this scheme immediately. It is for these reasons I think Mr. Bhurgri ought not to press his proposition at this stage.

THE HONOURABLE MR. SRINIVASA SASTRI: Sir, this Resolution is somewhat like several other Resolutions which the Council of
12 P.M. State has had to consider during these last few days. It is a matter primarily concerning the Provinces, but owing to the long habit which our public men have had of threshing out certain subjects, it has been brought into a House which for various reasons might have been spared a discussion on it. But I have been told by a lawyer of great repute that if this reform is to be carried out in its entirety and to the whole logical extent of its principle, legislation might have to be undertaken here, for at the present moment various duties of a strictly judicial character are cast by the law of the land on the District Magistrate. However that may be, since the financing of this reform will form a burden on the Provinces, it is, I think, quite appropriate that we should leave such subjects to the Provinces. But I must say a word with reference to the way in which Government have met this Resolution. The Honourable Sir William Vincent, instead of contenting himself with the provincial character of this Resolution, went further afield and, as he sometimes does, discussed the whole subject from top to bottom, in some respects seeming even to go back on the ground which in previous times the Government of India seemed to take up in reference to this matter. Some of us thought that the Government of India would not care to question the principle. The Honourable Sir William Vincent told us that, even in England, there is a certain sphere in which the judicial and executive functions are mixed up. He said: ' After all it does no harm ; and it might cost money to change the

system.' And for one reason or another he seemed to think that there was no particular harm in this combination of functions, but if people felt it to be very harmful the Government of India were inclined to give way; but on the whole let us leave it to the Provinces, as it is a matter of money, it will take time, and there is no hurry; there are other objects which seem to be more immediate; and in all these ways he seemed to cast doubts on the propriety of the policy, a matter which I regret somewhat. I must also demur to the way in which he brought in a quotation—some doggerel written by a tired civilian—very clever no doubt; but I think the Honourable the Home Member might have shrunk from quoting it in this serious discussion because it does cast some unworthy reflections on the work of the High Court as an instrument of justice. However, that is a matter of good taste, and no one has a right to dictate to another. Now I do wish to say one word about the dragging in of the Southern Provinces into this discussion. I must hang down my head in shame that after all these years of political work in this country, the Madras Province should have given the go-by to this principle of judicial integrity. This has not always been the case with my Province. Till a very recent date, when a most unfortunate social quarrel arose, we were true to the principles of political propriety. It is only quite recently that in Madras the fashion has sprung up of looking at everything, however well-established, however hoary, however indisputable by every law and canon of propriety, it has become the fashion in that Province to look at everything from the point of view of Brahmin *versus* non-Brahmin. The Honourable the Home Member read a telegram which, however, omitted to state that the aspersion cast on the High Court Judges was due to the fact expressly stated during the debate in Madras that a certain number of them were Brahmins. Now, that evidence coming from Madras is obviously tainted with that prejudice, and it does not help the discussion very much to quote it. I am, however, not at all disputing the right of the Honourable the Home Member to make use of that fact. I am only pointing out to the Council the value of the Madras testimony in this matter, which is entirely negligible.

The HONOURABLE LALA SUKHBIR SINHA : Sir, I rise to give my support to this Resolution. The Honourable the Home Member admits that there is a volume of public opinion in favour of it. The question has been discussed on the platform and everywhere. It is also the opinion of all of us that the District Officers and Deputy Commissioners are overworked. They have to look after a good many things as enumerated by my friend, Sir Umar Hayat Khan, about 32 departments they have to look after. In such a case, I think the time has come when this separation of judicial and executive, should be made. It has been said by the Honourable the Home Member and the Honourable Mr. Sastri that it is a Provincial subject, and therefore this subject or similar subjects should not be brought before this Council. With due deference to them, I beg to point out that these Resolutions are simply recommendations. They are not binding. If we, Members of this Council, discuss any Resolution of importance and if it is addressed to the Governor General or the Governors in Council in the Provinces, I think it will have very good weight. With this view . . .

The HONOURABLE THE PRESIDENT : Order, order. The Honourable Member does not suggest that Resolutions of this Council can be sent as

[The President.]

recommendations to Governors of Provinces ? The rules provide that Resolutions are recommendations to the Governor General in Council, and there must be no doubt on that point.

The HONOURABLE LALA SUKHBIR SINHA : I admit, Sir. In this Council such Resolutions should be discussed as relate to the Government of India and not those that relate to the Provincial Governments. Therefore, I beg to submit that Resolutions of importance should be discussed here, and they should be sent either to the Governor-General for his consideration, or to be sent by him for consideration to the Provincial Governments. As regards this Resolution, I think the time has come when the separation of judicial and executive functions should be made without any further delay, because the public want it, and justice wants it. The District Magistrate cannot look after so many things, and he should be relieved of his judicial functions. If a District Magistrate will find more time to attend to the executive business, I think he will be able to do more justice and satisfy his people more than he can possibly do now. I will give an instance here of a District Magistrate named Mr. Marsh. Although he is District Magistrate, he looks after all things that are in his charge, and he devotes his time to a study of the needs of the people. He goes about, he looks after them, he finds out what the people want, and he gives them all possible help. Therefore, if we have such men in this country, I think this unrest, this discontent that is going on, will come down very soon, and therefore, I think that the time has come when the District Magistrates and the Deputy Commissioners should be relieved of their judicial work and be given time to look to the needs and requirements of the people in their charge.

The HONOURABLE SIR DINSHAW WACHA : Sir, I think that this question may be called the Odyssey of Indian Legislation. Like Ulysses of old, it has gone up and down for the last fifty years and more, and I am glad to see that the Legislature is going to find it a haven of rest permanently, I should say so from the way in which the Honourable the Home Member has spoken about its destination on behalf of Government. They are going to meet us halfway so far as it is possible to do. The question is one of Provincial legislation no doubt. At the same time, I must say that I do not make a bogey of what is called the 'burden of taxation,' for, even 23 years ago, when I and Mr. Gokhale went together to give our evidence before Welby's Commission, we brought this matter before them; and so far as Bombay was concerned, we pointed out as to how far this separation could be effected without much of a burden to the tax-payer. The evidence is there. Sir Pherozeshah Mehta had previously spoken about it in the Provincial Conference. And I think that if only Provincial Governments give due attention to the question of finance involved in the separation, they will find in the long run that it is not so burdensome as it is supposed by many to be. That being the case, I do say that, as far as the Provincial Governments are concerned, you ought to go to them; and I believe that with the advent of the new Viceroy, Lord Reading, who has made, as it were, Justice as his gospel and wants to see it firmly rooted in India—Justice which is the greatest pillar of the British Indian Empire—I am confident we shall be very soon in a position to see Justice done to India in consonance with Indian sentiment. India will then be satisfied, and this question which I call the Odyssey of Indian Legislation will be set at rest for ever.

The HONOURABLE MR. BHURGRI : Sir, after the assurance which the Honourable the Home Member has given and after the debate which has taken place to-day I ask leave of the Council to withdraw my Resolution.

The Resolution was, by leave of the Council, withdrawn.

RESOLUTION *RE* EXPORT OF FOOD-GRAINS.

The HONOURABLE SARDAR JOGENDRA SINGH : Sir, I beg to move the following Resolution :—

‘ This Council recommends to the Governor General in Council that all restrictions on export of food-grains from India be removed forthwith. ’

The HONOURABLE THE PRESIDENT : I should like to hear the Honourable Member on one point before he proceeds. It seems we discussed a Resolution very similar to this the other day. Will he show in what way he considers his Resolution different from the one already disposed of ?

The HONOURABLE SARDAR JOGENDRA SINGH : That related only to rice and this relates to all food-grains.

The HONOURABLE THE PRESIDENT : Do I understand his arguments are different ?

The HONOURABLE SARDAR JOGENDRA SINGH : The arguments are.

The HONOURABLE THE PRESIDENT : What I wish to be satisfied is this that this Resolution is not in substance the same as was moved by an Honourable Member. If the Honourable Member can give me an assurance that the arguments he proposes to give and the instances he proposes to cite are different and the object of the Resolution is different, I will permit him to proceed.

The HONOURABLE SARDAR JOGENDRA SINGH : I think it is different. I have not got the other Resolution with me at present. But, so far as I remember, that Resolution asked only that certain quantities of rice be released for export. This Resolution asks that the entire restrictions be removed.

The HONOURABLE THE PRESIDENT : In the circumstances, on the assurance of the Honourable Member, he may proceed.

The HONOURABLE SARDAR JOGENDRA SINGH : In moving this Resolution I wish to clear certain misconceptions which are obscuring the question. There were no restrictions on export of food-grains before the war. It was only towards the end that restrictions were introduced. It is too late now to question the wisdom of this policy, but I can assert without any fear of contradiction that the loss to India on account of this control runs into millions. Perhaps the Revenue Member or the Minister for Commerce, will tell us the exact figures representing difference between Indian prices and world-prices for the goods supplied by India during the war. India is an agricultural country. The bulk of Indian population (nearly 80 per cent.) is agricultural. The remaining 20 per cent. include the labouring and the trading classes. So far as the agricultural population is concerned, it produces its own

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food and we need have no anxiety about it. The agriculturist keeps enough grain for himself and his family. He keeps the seed and only offers the surplus for sale. This surplus he cannot store for any length of time. Weevils attack wheat and other crops and he must sell in good time, which is generally within three to six months of harvesting. The restriction on exports, therefore, means the accumulations of stocks in the hands of middlemen. The cultivator loses his legitimate profits and the middleman speculates for gain. Will the Government be pleased to say the amount paid in discount to the exporters during this period of control? To the tradesman again the rise in the prices of food is of no great importance, and the wage-earner can always depend upon getting better wages when the price of food-stuffs rise in the same proportion as the rise of prices all round. Now I ask you, is there any other industry so controlled? The manufacturers of every other country have been allowed to maintain a race between wages and prices, and it is only the agriculturist who must spend more on his produce but gain no more than before. Is it because he is patient and dumb that we can deal with him in this way? He has to meet his obligations in the matter of revenue and rent from the sale of his surplus produce. He has to buy himself and his family clothes, bullocks and cows, implements and other things for which he has to pay three times as much as he did before the war. How can he do so if the price of his own produce remains unchanged? Is it any wonder that he, too, is getting discontented? His needs are few and if even these he cannot meet, it means almost the end of things for him. If better prices for other things bring prosperity to the manufacturer, why should better prices be wrong for the food producers? Indeed, I hold that high prices of food-stuffs are necessary for agricultural prosperity. There can be no stability in wages till the agricultural wage is fair and fully established. The Revenue Member made futile answers to my questions

The HONOURABLE THE PRESIDENT: Order, order. What did I hear the Honourable Member say?

The HONOURABLE SARDAR JOGENDRA SINGH: I said the Revenue Member made futile answers to my questions.

The HONOURABLE THE PRESIDENT: What kind of answers?

The HONOURABLE SARDAR JOGENDRA SINGH: Futile answers.

The HONOURABLE THE PRESIDENT: You must not use the word 'futile'.

The HONOURABLE SARDAR JOGENDRA SINGH: I am sorry, but that is how they impressed me.

The HONOURABLE THE PRESIDENT: Order, order. I must ask the Honourable Member to withdraw the word 'futile'.

The HONOURABLE SARDAR JOGENDRA SINGH: I withdraw the word. The Revenue Member made unconvincing answers to my questions asking him to tell us what the agriculturist's wage was in various Provinces and what were the agricultural incomes on which land-revenue was assessed. I can assure him he cannot pass over these questions lightly. The agriculturist must have a fair wage and the revenue assessed on his income should bear some relation to other taxes.

I know how educated and uneducated men look back to the days that are gone when grain was cheap and ghee was plentiful. Imagination can always invest the past with a mystery and a splendour, but we have pictures of ancient India in history and of famines which came in spite of the supposed plentitude. The conditions from Province to Province differed from starvation by famine in one place to plenty of food in another. We have dear food, but nowhere now in India need a man die of starvation. If the prices of food-grains are to be kept down, it is like telling the agriculturist that he can have food, but he must not buy for himself clothes or any other necessities of life. It is like cutting him off from all that the civilised world offers. Railway travelling, labour-saving machine, clothes and other little comforts knock at his door and call him to open his purse strings. You could raise protection walls in the days of the bullock cart, but now when the world is interlinked it is impossible to create stagnant pools of protected production. You cannot buy in the markets of the world and keep your own produce out of these. The Budget just presented proves the folly of such an attempt. We came with a trade balance in our favour and to-day we are a debtor nation and new taxes have to be raised to meet our expenditure. More than half our income is needed for our army. When shall we realise that free trade and International understanding is the only remedy for the many preventible ills from which the nations of the world suffer? Here and there men get lucid moments in this mad house of a world and call for unity, but the ideas which rule the crowd have not yet been dethroned. Germany will have a lesson for all of us for the future. Her misfortune may prove her salvation. The money she may have to pay in reparation may not equal the military expenditure which victorious Germany might have been called upon to shoulder. The world is now a united whole. We must produce freely and exchange freely, if humanity is to come to its own and inherit its share of labour and joy.

Man-made machines have out-stripped the minds of men. Railroads and steamship lines have linked the world, while we still think in old ways when the bullock cart and the camel ruled the road and set limits to districts and countries; to-day trade currents are racing through the world and the wheel of wealth is moving. I only wish it did move more freely and was not selfishly retarded by interested nations. It can gather and distribute, but standing still it has nothing to offer and is soon stripped of its treasures. By retarding it we starve ourselves and inflict starvation on others. The world can only prosper together, living apart, it can only refuse to enjoy the bounties which nature distributes every morning in the name of the gods.

The restrictions on export if we look clearly and closely do not really work towards the provision of more food. Increased production only can regulate the level of prices. Continued food control means cutting India off the markets of the world. High prices would have stimulated production and provided natural remedies against unreasonable prices. Controlled prices mean controlled production, which means delaying the restoration of normal conditions.

We have now considered the general economic grounds. Let us now pass under review some of the special facts and figures relating particularly to our exports. The question whether exports of food-grains are to be allowed or restricted can hardly be decided on the figures available for the outturn of the particular crops. There are no published estimates of the outturn of some of

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the coarse food-crops such, as jowar and bajra, which are generally used by the consumer for food. If, however, we take up the position that the amount of any particular crop available for export must depend on the outturn of that particular crop, we find that past figures in normal times do not support this view. Take for example wheat figures of outturn and of export of wheat for the following five years before the war :—

1	2	3	4
Year.	Production in 000 tons.	Export in 000 tons in following year.	Percentage of column 3 on column 2.
1908-09	7,639	1,050	13.74
1909-10	9,633	1,266	13.14
1910-11	10,061	1,361	13.53
1911-12	9,924	1,660	16.73
1912-13	9,599	1,202	12.52

(At this stage the President vacated his seat and the Honourable Mr. Sastri occupied the Chair.)

If out of the 1910-11 crop only 1,361,000 tons (one million three hundred and sixty-one thousand) were exported one might assume that the internal needs of the country for wheat were 10,061,000 tons *minus* 1,361,000 (one million three hundred and sixty-one thousand) or say 8,700,000 (eight million and seven hundred thousand), and yet we find that out of a crop of which the outturn was only 7,639,000 (seven million six hundred and thirty-nine thousand) tons in 1908-09, as much as 1,050,000 (one million and fifty thousand), tons were exported. It will be seen that whatever the outturn of the crop, normally 13 per cent. to 14 per cent. of it is actually available for export. The matter is not surprising when we consider the vast population of India. If three hundred millions of people save a pinch of grain a day say $\frac{1}{16}$ of a pound, we would have available for export in the year nearly 3 million tons of food, so it is not difficult to see how a large quantity of food can be spared for export without any necessity for examining the figures for the outturn of particular crops.

There will be some justification for restricting exports if in times of famine it could be proved that food moved cheaply. But the holding up exports does not increase the resources of the people to buy the food that might be available. In famine areas the people are too poor to buy food-grains and have to be supported in some way or the other by Government. The only effect of restriction on exports can be that the agriculturists not being able to find a full market for their food-grains will be driven to substitute non-food crops for food crops, thus to reduce India's food supplies in the long run. In the year 1919 because there was plenty of money in the country the maximum number of people on relief at any one time was 560,000, as against a figure of over 6½ millions in 1900. To-day, again, a large population would require relief if famine established itself in some parts of India.

It was chiefly owing to the dislocation produced by the war and the consequent demand at high prices in foreign countries for India's produce that restrictions on export were imposed. There is now no reason to believe that the removal of the embargo would result in forcing up prices in India either by the offer of high prices from abroad or by draining this country of supplies. The world-price of rice has since last year fallen so much that, although 1,000,000 (one million) tons have been allowed to be exported from Burma to foreign countries, only 103,180 (one hundred three thousand and one hundred eighty) tons have up to date been exported. The reason is that the main rice-exporting countries in the world have now plenty of rice to spare. French Indo-China has had a good crop, and Siam has now resumed her place as an exporting country having had a favourable harvest, while in addition it has recently been officially estimated that Japan, which usually has little or no rice to spare for export, will owing to bumper crop this year have no less than a 4,000,000 (four millions) tons surplus for export. It might be argued that in that case there is no need for India, which includes Burma, to give any rice supplies to the world. But there are certain countries, such as Mauritius, Ceylon and others which prefer certain qualities of Indian rice to any other, and the result of the restrictions on the export of these qualities will be to give up growing these qualities of rice for which he cannot get the superior price which these superior qualities of rice command. Both the trader in India and the agriculturist and the Indian consumer in foreign countries, such as Mauritius and Ceylon, will suffer from these restrictions, while there is no corresponding advantage to the consumer in India who is not accustomed to consume these particular qualities. While restrictions last, it is impossible to distinguish between all the many varieties of rice, and allow any particular kind to be exported without allowing other kinds to be exported also, and the only means of coping with the difficulty is to remove the embargo altogether. Similarly, with wheat—prices on the Continent and in the United Kingdom have fallen from 125s. per quarter in October last to 75s. per quarter and even lower now. There are large supplies of wheat for export from Canada, America and Australia, while the internal wheat resources of most Continental countries and of the United Kingdom have been increased by the special measures of encouragement given to the local producer to put land under wheat. There is not the slightest ground for the apprehension that India will be called upon to give more than she can spare to the outside world. Of the 400,000 (four hundred thousand) tons of Indian wheat released for export on Government account in October last only some 250,000 (two hundred and fifty thousand) tons have been purchased and sold to foreign countries.

(At this stage the Honourable the President resumed his seat.)

This may be taken as an indication of the probable demand for Indian wheat.

There may be some false ideas as to the amount of food-stuffs which normally do leave India. In normal times India proper takes a fair quantity of rice from Burma, and exports the better qualities of rice and wheat. For the four years ending 1912-13 the average exports of Burma rice to India were 432,411 (four hundred and thirty-two thousand, four hundred and eleven) tons,

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but during the same years the net exports of food-stuffs from India proper, i.e., excluding Burma were as follows :—

Year.	Quantity in tons.
1909-10	632,062
1910-11	1,294,584
1911-12	2,835,370
1912-13	3,135,482

This year the Government of India have provisionally reserved over 1,000,000 tons of Burma rice for India, i.e., 567,589 tons more than the average imports of rice from Burma to India

The HONOURABLE THE PRESIDENT: I thought, when he began his Resolution, he had promised me that he would not talk about rice.

The HONOURABLE SARDAR JOGENDRA SINGH: I did so in a different way, Sir. The question now is limited only to exports of rice.

The HONOURABLE THE PRESIDENT: Order, order. I have been out of the Council, but I understood that he was discussing the question of export of Burma rice. Did we not deal with that question in this Council before?

The HONOURABLE SARDAR JOGENDRA SINGH: I submit to your ruling, Sir, and I leave it there. Since the question of rice has been ruled out, I will not say anything about it, and I will conclude.

It is not in the economic interests of the country to continue the embargo; there is no need for Indian wheat in foreign countries so there will be no export. The normal condition is that exports of food-stuffs are unrestricted, and the onus of proving that there is any need for an embargo should be on those who assert that it is necessary, not on those who take up the position that it is unnecessary. If the embargo is removed on the export of wheat and rice, there is no need to retain restrictions on the export of any other food-grains, the export of which from India is normally so small as to be negligible.

The HONOURABLE MR. SETHNA: Sir, before I begin, may I request your ruling on a point of order. You ruled that no reference need be made to rice because of the Resolution on this subject having been before the House once before. The point of order is this. Suppose this Resolution passes, then are we to assume that Government are to take no action in regard to rice?

The HONOURABLE THE PRESIDENT: My point is this. It is a very simple one. If we did discuss—I believe we did,—a Resolution dealing substantially in some respects with this subject, then a Resolution in so far as it deals with that subject, cannot be moved in the same Session, as it is quite obvious that the whole includes the part. If I were to allow a revival of the

discussion on a Resolution, which appeared under a different form, then in so far as we have covered the ground, we should go over it again. It is a very simple point, and I think it will appeal to the Council. It is difficult for me to apply that in individual cases, and if Honourable Members do not give effect to this ruling in general terms and in the spirit, it is impossible for me to intervene to stop every member who mentions rice and who indeed may well be in order. The main thing is, we should not re-discuss what we have already discussed.

The HONOURABLE MR. SETHNA : Thank you, Sir. I will take care to be wiser.

I rise to support this Resolution and say a few words in that connection. I think the Honourable Sardar Jogendra Sangh is rendering a service both to the Government of India as also to the public of this country in bringing forward a discussion on this Resolution at the present stage.

And if the Government of India are now disposed to remove such restriction they will certainly welcome a mandate from the representatives of the public such as this Council is composed of. I am sure that the thinking public of this country will also welcome a discussion on the subject, because a time has been reached when perhaps this control might well be removed. Sir, the control of food-stuffs is something new in the history of this country. There is no country in the world which suffers from drought and famine as does India, and yet in its past history we do not know of restrictions on the export of food-grains having been introduced by Government at any stage. If Government had done so during the war, it was because of the conditions that then arose. Our Allies who, even if they could grow cereals, were prevented from doing so on account of conditions prevailing, had to rely on those friendly countries which could give them food supplies, and India certainly was one of those countries. But, Sir, the position was this, that those Allies did not care to bargain, but were quite prepared to pay whatever price was demanded, with the result that prices in this country rose to such giddy heights that exports were on a much larger, a very much larger, scale than before and, worse still, the position of affairs helped the profiteers in their rapacity. The question now is, Sir, whether that condition now continues? The Honourable Sardar Jogendra Singh has referred to the fact of 40,000 tons of wheat being released by Government, and I think he mentioned that 250,000 tons were purchased and exported. If my information is correct, the purchases have been to the extent of 300,000 and perhaps shipment to the extent of 250,000 as he mentioned. But, Sir, what we have got to ascertain from this release is, whether the release of 400,000 tons has so appreciably raised the price of wheat in this country as to enable us to continue to control exports. I contend, Sir, in the first place, that although 400,000 tons have been released, not more than 250,000 tons have been shipped, and I further contend that the purchase of these 250,000 tons has not helped prices to the extent that should be possible to the consumer. Then, Sir, it must be borne in mind that both the Government of the country and also the public are convinced of the necessity for removing the control which exists to-day. I welcome the Resolution coming as it does just at the present moment, because the crop is being reaped and the northern exports of wheat are generally made in the months of April and May. If exports are made in April and May, purchases have to be made in regard to such exports some months in advance, and it is high time that they were made. If

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therefore Western countries desire to participate in the purchase of Indian wheat they must instruct their agents in this country to do so just now. But the exporting firms in this country are, and must be, in great suspense, not knowing their position, or whether, if they make any forward contracts, Government will allow them to ship the quantities they desire to. Therefore, I say, Sir, the Resolution is most opportune coming as it does at the present moment.

Sir, only yesterday we received the Gazette of India in which we find from the departmental statistics that there is considerable improvement in the total acreage of this country. In the Report dated Calcutta, February the 8th, we find that the area reported in the first forecast for 1920-21, made in January, was 22,575,000 which has increased in a month's time to 23,350,000, showing an increase of 775,000 acres. And I hope, Sir, that the latter rains that we have had will also improve the yield per acre, all of which tends to the conviction that perhaps the time has arrived, as the Hon'ble Mover has said, for considering the question of removing control. Again, Sir, I would ask the House to bear in mind that this Resolution was moved by some one who possesses not only first-hand information and who, as I understand, owns several hundred acres himself, but also comes from a Province which is the granary of India. For I understand that the area under cultivation in the Punjab is responsible for nearly one-third of the 23½ million acres of land to which I have just made a reference.

All things considered, therefore, Sir, I take it that this is the psychological moment for Government, as well as for the public, to consider this matter, and I do hope that this control, which was introduced as a war measure, will be admitted to need removal for the benefit of the country at large, and I contend, Sir, that the removal will go far to benefit the country. The Honourable Sardar Sahib in the course of his speech gave us some very interesting figures, figures, even the best that I have met, are never entertaining, but there is one figure which he quoted for which I need ask no excuse of the House for quoting again. It is this. He observed that if the total population of this country deprived themselves to the extent of only $\frac{1}{16}$ th of a pound of food-stuffs per head, it would result in the saving of a quantity as large as one million and a half tons which would be available for export. I leave it to the House to imagine what this means, particularly at a time when the balance of trade is against us and, if these exports were allowed, how greatly it would improve the position of India.

THE HONOURABLE COLONEL SIR UMAR HAYAT KHAN : Sir, after the able speech which has been delivered by my friend the Sirdar Sahib I think it is very difficult to add anything. All the Zamindars ought to be grateful to him. I, as a Zamindar, cannot but support the Resolution, and thank him on behalf of all the Zamindars. We in India, I think, form the bulk of the population, and yet we are told that, though we form the bulk, we must be under the minority which does not cultivate the land. This has been the case for a very long time. It is not only that we suffer in this way, but we cannot sell our own produce or our own property. It is a curious thing. Suppose I had this thing, this bundle of papers of my own, a man gives me Rs. 20, another offers Rs. 10, and I am told that I must sell it for Rs. 10 and not for Rs. 20. If this was all the trouble, perhaps we would

submit. But each day comes heavier taxation on the land and this is because we have not got a sufficient voice. All those men who have got money and not land, educate their sons, and they predominate everywhere. They are in the Councils, they are in the services, in fact they dictate to Government, and because they are also agitators Government thinks it is rather difficult to shut their mouths.

They know that the Zamindars are not going to agitate and so nobody listens to them. I think it is high time to stop their influence and that justice should be done to us. We have heard a lot about justice. Everybody gets justice who asks for it, except we poor people who do not get it. Apart from all this, unfortunately, we have been the prey of everybody. The lambardar, the zaildar, the patwari and various others come and live on us. If we cannot sell our grain, and Government does not allow us to sell it for better prices—and low paid officials live on us—our lot becomes unbearable. Again, these *bandobasts* or settlements are in themselves an awful trouble. . . .

THE HONOURABLE THE PRESIDENT: We are not discussing the question of settlement, but the question of export of food-grains, and the Honourable Member has already wandered at some length from the Resolution, and I hope he will now come close to it.

THE HONOURABLE COLONEL SIR UMAR HAYAT KHAN: These are also the difficulties that bear heavily on us. If we were merely stopped from exporting our grain we might bear up, but we have got other difficulties to contend with, and that is why I say, Sir, that we should get justice. Again, the produce that we can get from a particular area sometimes forms a bare subsistence, and if anything further is imposed, really it is our stomach that is taxed, and so it is taken out of the stomachs of the poor Zamindars. People who have not got land may earn Rs. 2,000, but still would not pay a single pice to Government, but if we earn ten annas we must pay a tax on it. That is very unequal treatment. So, in conclusion, I would only say that I hope the Sardar Sahib will not follow the example of many other friends who, after talking the matter over with others, withdraw their motions. I would ask him to stick to his motion and let us see who are for the Zamindars, and who are for the money-lenders.

THE HONOURABLE B. N. SARMA: Sir, the Government welcome the Resolution, for the simple reason that they are anxious to know what the mind of the country is on this important question, and I hope it will be possible for the Legislative Assembly also to find some time to give us an expression of their opinion on this vital problem.

The Honourable Sardar Bahadur dwelt at some length upon elementary principles of free trade, and upon the violation of those principles by the Government in the past in restricting the export of food-stuffs in the manner in which they have done. I have already, on a previous occasion, informed the House that the Government were only too anxious to remove the embargo at the earliest possible date, if they can only see their way to do it, and even now they are exploring all possibilities for adopting such a course. I looked for some light to be thrown on the subject by the Honourable Member who is speaking for the Zamindars in the Punjab, but I must confess that I have been disappointed. I should have liked him to have told us what he expects would be the condition of the food-supply in his Province, how many are the landholders in his Province who have suffered by reason of this embargo on export, who are

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suffering now by reason of its continuance, whether he has got any reliable estimate, better than the one which the Government has, of the stocks of food supplies in the country which are rotting in the granaries because they are not exported—I should have liked some information on that subject to enable the Government to come to some definite conclusion. But I suppose it was too much really, because this is a matter on which only vague generalities are possible, and I was not surprised that Government could get no nearer to the solution after hearing the speech than before.

I would like to correct one misconception in the beginning, that the policy of the Government has been somehow hitting very hard the Zamindars in the Punjab and in other Provinces who are cultivators. I do admit that a few of them would have made much larger profit from the surplus in their hands than they have been able to do during the last two or three years, but that probably is, I submit to the House, a very very negligible number, though very important from the point of the men affected, commanding men of influence in the country who have got the ability to make themselves heard. It was curious that in the Punjab, where the term Zamindars is applied to landed proprietors among whom are included what we call ryots in the Madras Presidency, out of a total of 3,951,000 there were only 317,538 majors—I am excluding minors and females—who paid a land revenue of Rs. 20 and more to the Government. Therefore, it is only one-tenth of these peasant proprietors or Zamindars in the Punjab who paid a land revenue of Rs 20, and I should think it is not improbable, therefore, that the remaining number who would not have been in a position to export to any appreciable scale, could have suffered much, and I have no figures to show of this number 317,538 what the number is who really pay any considerable revenue, and who are likely to be in possession of large surplus stocks, and must presumably have suffered by reason of this embargo, but I venture to think that that number cannot be considerable, though the mere smallness of the number is not a point which the Government can afford to neglect. And have these proprietors done so badly? The price of wheat on the 15th February 1914, before the war, was in Lyallpur Rs. 3-8-10. It was in the neighbourhood of Rs. 5-11-0 on the 15th February 1921. It was between that period very much higher, somewhere nearer Rs. 6 and more. Even as it is, the percentage increase is 60 per cent. over the pre-war price, and I would ask the House as to whether the landholders in the Punjab, who even now are able to make 60 per cent. more on their wheat produce than before the war, can be said to have been so cruelly hit by a stupid Government which neglects the interests of the Zamindars, and whether it is not, on the other hand, probable and possible for the poor men who may be classed among the consumers—consumers of the produce—to say that the landholders are out for profiteering if they ask for more than 60 per cent. profit. Well, Sir, this is a question which has a wider bearing and wider issues, and I shall try to approach it from that standpoint, and not from the standpoint as to whether a few people suffer by reason of what they may consider their fair and legitimate profits having been reduced in amount.

Owing to the famine of 1918-19, Government felt the wheat situation was so difficult that they were obliged to import Australian wheat to the extent of 140,000 tons in 1909. Well, let us for a moment forget the period prior to 1918-19. The import of wheat, I suppose, is an indication that the Government felt that the stocks in this country were so unduly

depleted, whatever may have been the causes, that, instead of being an exporting country, we had to be an importing country. Well, I need not allude to the enormous death-rate during that period, I need not allude to the great suffering during that period owing to an insufficiency of the food-supply; it was phenomenal. Well, the Government, I think, can take credit for a wise resolve when they said 'we will allow some time to elapse for the food-stocks to be replenished in the country so that we may be able to meet an adverse season, if such an adverse season has to be faced.' In 1919-20 there was a good season, and there was a production of ten million tons of wheat. Therefore, in September of last year, the Government, both in the interests of the agriculturist as well as in the general interest, examined the question and felt that something might be done to ascertain how the position stood, and whether there could be an export of 400,000 tons subject to the limitation of a price of Rs. 5-8 per maund in Lyallpur. There was an outcry. Well there will always be an outcry from interested quarters, whether from the Zamindars or from other people, but I think we shall have to steer our course clear between the opposing currents, without paying attention to any ignorant outcry whether it comes from one side or the other. The Government were exposed to the attack that they were selling the life-blood of the nation in order to retrieve their exchange position; but the Government were not moved in the slightest degree by such an ignorant criticism, and felt that they were doing right in trying to see whether there were any surplus stocks which waited to be exported, and to give facilities for their export so long as the price of Rs. 5-8, which was more than 50 per cent. over the pre-war price, was not exceeded. I think it would have been foolish on the part of Government to permit, if possible, an increase in prices beyond 50 per cent. over what they were in pre-war times in order to allow export of any little stocks that might have been possibly exported if there had been no fixation of prices. Now, what was the result? We could export only 250,000 tons. Does that indicate that there is such a surplus stock in the country as finds a difficulty in finding a market inside India and have to be exported outside India. To my mind it looks as if the fact that the 400,000 tons were not readily forthcoming showed one of two things, either that the men who were in possession of the stocks thought that, when the embargo was removed, the prices would go up, or that there is a little surplus beyond 400,000 or 500,000 tons. But let that pass. What is the situation with which the Government is confronted to-day? The Honourable Mr. Sethna rightly said that we had an improvement of 300,000 odd acres over the crop estimates in January with regard to area. But may I point out that this is no real improvement, because the Indian States' figures have been subsequently added to it. But, howsoever that may be, we find now that there are 23 million acres under cultivation as against 31 last year, or a decrease of eight million acres. And this is the description of the crops: 'The prospects of the standing crop in the Punjab are slightly below normal on irrigated, much below normal on unirrigated land. There has been slight improvement owing to the rains, but still even in the irrigated areas below normal, unirrigated much below normal.' 'Central Provinces, poor.' 'Bombay, fair in irrigated parts, in other places withering or poor.' Therefore, it cannot be said that the outturn can be very much larger than it was in 1918-19 when the area under wheat was 23,798,000, or slightly higher than the area according to the present forecast. I hope our forecast will prove disappointing in the sense that we get a better outturn, but as things stand at present we cannot reasonably expect a very much better

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outturn than in 1918-19. The area is smaller and, if the facts are as stated, the total production will be about 7½ millions, as it was then, as against 10 millions of last year. So there will be a deficit of 2·5 as against the wheat crop of last year, and of 1·7 millions as against an average during the last five years. What was the amount that was being exported? In the best year it was short of one million and a half. It varied, sometimes it was 1·2 or 1·3, sometimes 800,000 tons, and even lower. Therefore, the normal deficit of this year will be much larger than the normal export during previous years. Well, it may be said that in one year which my Honourable friend quoted, if the figure is correct, there were six million tons of outturn, but there was a large export. Assuming it to be so, there is this difference. The exports of the previous year were very small and there are generally stocks of previous good years. Consequently, we can only take the position on the average of a certain period and not during that very year in which there is a deficiency of supply.

Now, the second point worthy of observation is that the various outturns of crops have been considerably revised during previous years on a more accurate basis, and consequently we can only go on the estimates of the last five years usefully in comparing the present, and we cannot go back for a comparison to a period very anterior, when there were no proper statistical figures for parts of some Provinces and for large areas. Well, taking that, what do we find? We find that in 1915-16 the yield was 8·6 million tons of wheat.

In 1916-17	10·2
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1917-18	9·9
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1918-19	7·5
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1919-20	10·09 or an average of 9·2, against which we expect 7·5.
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I wish that the picture were a little more rosy and bright, that the Government may act as suggested. That is the reason why, although the Government are willing to examine the question almost immediately and to accept the proposal to withdraw the embargo on exports as early as practicable, they cannot accept this Resolution which asks the Government to remove the embargo forthwith or immediately.

Now, it may be said that people living on wheat may live on rice or other food crops. Some of the other food-stuffs may replace one another within limits, so you cannot look only to the yield of a single crop in order to ascertain the total deficiency of the food-supply. I will not go into the rice question again, but here also we expect a deficiency according to the latest estimates of 5·5 million tons as against last year. Honourable Members will realise that India proper has never had really any surplus of rice during the last six years, or even previously. What she was doing was this. She was getting inferior rice from Burma and exporting her superior rice. Therefore, from the point of view of the food-supply of rice, India has never been really more than a self-supporting country. If, therefore, we have to preserve Burma rice for India, how can we adopt the suggestion of removing the embargo on rice or embark on a new experiment immediately.

With regard to the other food-stuffs, the Honourable Member will find that although there are no forecasts made in respect of barley, jowar, bajri, maize and gram, figures of production are given, and if he will only take the

trouble to find them—he can find them in the statistics of crops published every year. But to the deficiency of rainfall I need not allude at any great length, as it does not in any way considerably relieve the situation in dealing with the other crops.

The Honourable Mover put me some questions in the course of his speech and he was sorry that my answers on a former occasion were not very convincing. He asked me as to whether I could tell him what the agricultural income per head of the population is. He was evidently of opinion that the Curzonian figures of Rs. 30 per head still hold good, and that the Government dared not throw any additional light on the subject. I may say that the question was gone into in 1914, and it was found that the agricultural income, even at the prices ruling in 1911, was somewhere about Rs. 86, and according to the present prices it will be much more, say 50 per cent. higher, but as Government feels its responsibility to be thoroughly accurate, it did not publish the figures about which it had some doubts, and I do not think I can enlighten him further on that subject. The answer may be unconvincing, but no one can answer that question accurately. A good deal depends on what may be included under the head agricultural income, *e.g.*, milk and straw. These are things which are considered as agricultural produce by one set of persons and not by another. But Honourable Members will find that the agricultural produce is very much larger per head than what the Honourable Mover imagines, and I may, for his benefit, allude to a remark of the Punjab Government in its Administration Report for 1918-19 that the landholders in irrigated areas had crops estimated previously in 1917-18 at 33 crores, and in 1919 they had similar crops valued at 55 crores, and all this was without paying a single additional rupee to the general exchequer. So I wish there would be less talk about the Government imposing unnecessary burdens, and these figures are a sufficient refutation on behalf of Government to prove that the assessment, if any, is only perhaps too light.

Then it was asked, if you are going to serve him in this fashion what is the poor landholder to do, has he not to provide for his cattle; has he not to build his houses? I may tell the Honourable Member that the increase on the building materials has been only 27 per cent. as against 51 per cent. for food-stuffs, or even 55 per cent., sometimes including cereals and pulses. Cattle are generally owned by cultivators, and if the farm servants are paid their wages in money there will be some gain. If they are paid in kind, the cultivator does not lose anything at all, so the Government does not hit him as hard as is sometimes represented. But I do not wish that the Zamindars or the landed proprietors, here or elsewhere, should be under the impression that the Government have any the least desire to minimise the profits of cultivation, or that they wish to tax them indirectly for the benefit of the other classes. It is far from their intention, and that is the reason why Government have taken particular care that no additional burdens are thrown upon the agricultural classes in respect of taxation this year. I think that is enough to prove the solicitude of the Government on their behalf. I am sure there is not much danger of land under food-crops going out of cultivation from under that head, because if you analyse the figures further, you will find that in respect of raw jute the increase has only been 18 per cent., as against 50 to 60 per cent. for food-stuffs. Cotton has been falling considerably, and there is a general decline in prices, and consequently the man who grows food-stuffs is not hit so hard as the others.

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Apart from that, it is not so easy to change one method of cultivation for another. Therefore, I put the case for Government in this way. I do not wish that the Government should be understood as fighting for a position of hostility to the Honourable Member. While they regret that they cannot accept his Resolution, which asks that they should remove the embargo on the export of food-stuffs immediately, I have already given an assurance more than once that the position will be examined and the embargo will be removed as early as practicable. The only reason why I have gone at such great length is to convince the members of this House that the Government have taken the only attitude that they could possibly take on this subject, in holding the scales evenly between the producer and the consumer in India. They have to remember that the margin, at the best of times, is very very narrow. They have to remember that the prices of food-stuffs have gone enormously high; they have to remember that wages would take some time to adjust themselves. They have to remember that they had to face very heavy mortality in 1918-1919; and they had to remember that various parts of India are now in deep distress, Central Provinces, parts of Bombay, parts of Orissa, Madras and the United Provinces. Many are in relief works; many are in test works; many are being gratuitously relieved. We have to remember these things and, therefore, I think nobody can say that the Government have been wrong in not taking any precipitate action. Gentlemen, even now the price of food-stuffs in outside countries is higher than what it is here, and consequently the removal of the embargo may lead to a sudden increase in prices. The Government have to be careful, at least for a few months, until they know where they are and what the future position is going to be. However, I need not labour the point, further. I hope this assurance that the question will be examined immediately, and, if possible, steps taken, will satisfy the Honourable Member.

The HONOURABLE SIR M. DADABHOY : May I inquire from the Honourable the Revenue Member if he can give us some indication of the time when he expects this embargo on food-grains to be removed? We have heard his very interesting speech and he has said that the restriction will be removed at an early date. I would like him to give the Council some indication of the time when he thinks it will be possible.

The HONOURABLE MR. B. N. SARMA : I cannot give any definite assurance but I think that, as soon as the Executive Council is relieved of its present business and His Excellency the new Viceroy has assumed charge, it will be possible to have the position examined and a conclusion reached. Further than that, I am not in a position to say at present.

The HONOURABLE MR. FROMM : Sir, when I came to this Council to-day I did not intend to speak on this subject, because I thought that it would be only right to keep away from it any commercial aspect. We do not want to profit over this question of the removal of food-stuffs. I would rather hear the views of the other Honourable Members of this Council and the reply of the Honourable Member in charge of Revenue and Agriculture. But I cannot help rising to place before the Council one point which, if I may be allowed to say so, I think the Honourable Member has viewed from an entirely wrong standpoint. I will only take up the time of the Council on this one point. First of all, we all know and we have been told many

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times that the Government are anxious to get rid of this control. Then, some six months ago, the Government announced the release of 400,000 tons of wheat. Up to date only 250,000 have been shipped. From that the Honourable Member adduces that either sellers are holding back for higher prices or that there is not sufficient wheat to go abroad. I do not think that is the lesson we should learn. The lesson we should learn is that there is no demand from Europe, and my point is are you going to release this control over the export of food-stuffs when all the other countries are rushing to get it, or is not this the time to do so, when there is no demand? This is the point for the Council to consider. There is no demand from European countries by reason of financial crises and financial stringency—I know that from the business with which I am concerned, so I can speak with authority on this point. Is not this the time to release the control which the Government is so anxious to get rid of? I contend that it is the time. I do not wish to discuss any other point.

The HONOURABLE MR. LALUBHAI SAMALDAS: I rise to support this Resolution moved by my friend the Honourable Sardar Jogendra Singh. We in this House will have full sympathy with what fell from our Honourable friend, Sir Umar Hayat Khan. He said that he wanted to see whether this House was for the agriculturists (or Zamindars as he called them) or for the money-lenders. I think we may assure him that we are all for the agriculturists. Agriculture is the backbone of the country and, unless we improve the condition of the agriculturist, the country as a whole would go no further. I would have supported the Resolution on this ground only, but there are other grounds for my support. The Honourable the Revenue Member tried to prove that the advantage of the higher prices would have gone only to affect only a very very few persons. If I remember the figures correctly, he said that out of 3 millions and odd only 3 lakhs and odd men pay revenue assessment of more than Rs. 20, that is in the Punjab. I will take the Punjab only. I was not able to catch the figures given by the Honourable Member, but he said that the assessment was light and he proved from figures quoted from the report of the Punjab Government in 1918-19 to show that the assessment was very light. I will take it at 10 per cent. In the Deccan we make it out to be 7 per cent. It varies a great deal, but I will take 10 per cent. which means that, if a man's income was Rs. 200, he was paying Rs. 20. The figure of the assessment paid is not the figure to be taken into consideration, the figure of the actual income that has to be considered. Now, if the prices had gone up, say instead of 60 per cent. as the Honourable Member puts it, prices had gone up to 75 or 80 per cent., he would have got 250 instead of 200. After all an increase of Rs. 50 to a family man is not a matter of no importance. It is quite enough to enable him either to buy cattle or to have a small house or to have a little more luxury. Is that a matter which could be easily brushed aside as the Honourable the Revenue Member wanted to do? Then he tried to show that as only 250,000 tons of the 4 lakhs released could be purchased, there was very little spare stock demanding export. My Honourable friend Mr. Froom, said that, as there was no demand from the Continent, this was the time to remove the embargo on export. I put my case for the removal on other grounds. If the Honourable the Revenue Member thinks that there is not sufficient extra wheat in the country, if that is the inference that he wants us to draw—that from the mere fact that out of 400,000 only 250,000 can be got, it follows that there is no more wheat in stock, why all this

[Mr. Lalubhai Samaldas.]

insistence on control? Why should the agriculturists not be allowed to act on principles of free trade. My Honourable friend the Member in charge of the Revenue and Agriculture Department said that the Honourable Mover had, in his opening remarks, referred to the principles and theory of political economy and free trade. I do not see anything wrong in doing so. There are occasions when we must go back to the basic principles of political economy. Why should not the principle of free trade prevail and agriculturists be allowed to get the best price for their produce, and why should Government practically force them to sell at a lower controlled price? I am not making any charge against Government. I quite sympathise with the Honourable the Revenue Member in his anger, because Government has so often been abused that Government Members are sometimes justified in being angry when Government is abused within this Hall. What he says is we wanted to release 400,000 tons and we are accused of doing it to help the exchange. Well, whatever their motive was, they did it, and now that they have done it, they do not want to release any more. They do not want to give up the control. I ask the Honourable Member if he is not inconsistent in his arguments when he says there are no stocks and then says we still want control. If there are no stocks, why not allow freedom to the agriculturists? Statistics, Sir, can be used by both parties to serve their own purpose.

The Honourable Mover said that when the total produce was 6 millions we were able to export one million. The Honourable the Revenue Member says there must be more accumulated stocks of the previous years or the figures are taken of times when statistics were not correctly kept. But may I ask one more question? When the crop, as my learned friend Sardar Jogendra Singh Bahadur said, was 6 millions, $1\frac{1}{2}$ millions were exported. I believe, Sir, that on another occasion when it was about 7 millions, more than one million tons was exported. My Honourable friend says this year there has been a decrease in the acreage of 8 millions acres and he says that the net deficit will be 2.7 million tons. He says, how can we export? May I ask, is it in the interests of the consumer in India that this control is kept or is it in the interests of other parties? Let us be clear about it. If it is in the interests of the consumer in India, why is there any wheat export even under control? Let all export be barred, that will mean something, and then we can very well understand that the Government is taking the action for the consumer. Here, the consumer is not benefited. The producer loses, the money goes to the middlemen, and that is why I protest against it and support this Resolution.

THE HONOURABLE MR. E. J. HOLBERTON : Sir, like the Honourable Mr. Froom I had no intention to take part in this debate, but it seems to me, if I may say so, that we have wandered off to so many side channels that, in the hope of bringing the debate to a conclusion at an early moment, I have ventured to speak a word.

It seems to me that the question of control, and control alone, is the one which we are discussing. The differences or difficulties of classes of the population are not concerned here. Control was unknown with reference to the food-crops of India before the war. It came to us as a war necessity. It remained afterwards as a temporary necessity, but only for one reason, i.e., so far as I have ever been informed by any responsible Government officer, it

was retained for the protection of the people. There was no question of assisting the markets or the merchants or the cultivators as sellers or barterers of food-stuffs. It was merely a question of conserving a sufficiency of food-stuffs in the country and building up the resources which had been depleted. It seems to me that at the present moment everything points to there being a sufficiency. Allotments which have been allowed for export for various provinces—I do not dare to mention the names of the food-stuffs concerned for I shall be ruled out of order—the various allotments have not been taken up largely for reasons which have been given by the Honourable Mr. Froom. The position now is that there is plenty of food-stuffs in the country and there is no disposition for an undue portion of it to be taken away. Now is the time for the Government to come out and take its courage in both hands and decide to revert to the state of affairs in which India has lived for centuries, namely, freedom of export of food-stuffs.

The HONOURABLE DIWAN BAHADUR RAMABHADRA NAIDU : Sir, I do not like that this Resolution must go without a support from the Madras Members. The Punjab difficulties which my Honourable friend Sir Umar Hayat Khan has so bluntly described as appertains to a soldier, are equally applicable to the Madras Presidency also. You know that under the Madras Estates Land Act, though the tenants do not pay the *kist*, the zemindar is obliged to pay his *peishkush* in time to Government. He is obliged to borrow at rates of interest ranging from 12 to 18 per cent., while the ryot can pay at the end of the *fasli* at six per cent. The zemindar and the mirasidar, to pay off the Government dues, have to sell their food-grains at a low price. They are put to a great loss in order to satisfy the Government dues. The loss is terrible. We have vast areas like the Periyar tract where large quantities of food-stuffs are being grown. The mirasidars are put to the greatest difficulty. They are not able to sell at a profitable rate. They are obliged to sell at a low price. If this embargo on food-grains is not taken away, I do agree with the Honourable Mover and other friends that our community, high and low, will be put to the greatest loss.

The HONOURABLE SARDAR JOGENDRA SINGH : Sir, I wished to begin with a quotation, but my Honourable friend Mr. Sastri took exception only a little while ago to the Honourable Sir William Vincent making use of one. The Honourable Mr. Sastri thought that the introduction of light matter was not befitting the seriousness which should be observed in this House. Personally, I think we ought to have some laughter. We Indians respect philosophy, and I am sure when I refer the Honourable Members to Bergson's *La Reri.*, they will admit that laughter too has its uses. Most of the Members, I feel, are ready for lunch and I have no desire to detain them a moment longer in discussing matters which have been fairly well discussed by Messrs. Froom, Sarma, Holberton and others.

I think the Honourable the Revenue Member himself is not prepared to vote for this Resolution, because as he pointed out in reply to a question by Sir M. B. Dadabhoy, that he expected to discuss the question as soon as the new Viceroy arrived. I think an expression of opinion by this House would greatly strengthen his hands in putting this matter before the Viceroy when the time arises, which is going to arise at no remote date. So I am quite sure that an expression of opinion in this matter by this House would strengthen his hands. He is not really opposing the Resolution. He only

[Sardar Jogendra Singh.]

formed his own convictions in this matter in early days, and these opinions he cannot get rid of.

The Honourable Mr. Lalubhai Samaldas pointed out to the Revenue Member that in the Punjab, the number of people who paid revenue above Rs. 20 a year, was very small, but that did not affect the case. The Revenue Member ignored the fact that the people who paid Rs. 20 a year were very large and that they in any case have to sell each of them Rs. 20 worth of grain every year, and if he would only multiply the figures he would find that several hundred thousand tons of wheat have to be sold by these small growers. The Honourable Member based his conclusions on statistics which, as the Honourable Mr. Lalubhai Samaldas pointed out, you can twist one way or the other. My attention was drawn, the other day, to an article in the *London Times* where Mr. Drew, in a letter which he addresses on the question of wheat, said that official statistics are absolutely of no value. If they can be so in England which is a small country, so far as agriculture is concerned, the figures in India, in any case, cannot be very much depended upon. In England they have made a mess of wheat control as many articles appearing in the *London Times* point out. I was going to read quotations, but I must not exhaust the patience of the Honourable Members.

But I repeat that these artificial controls cannot be really enforced. You may talk about them, think about them, but when it comes to carrying them out, it is impossible to carry them out, because the factors which rule the level of prices are not within the control of any Government anywhere.

The arguments adduced by the Revenue Member about the prices of food cannot hold. I do not know how he would fare if he went to-morrow to Calcutta or Bombay where the mill-owners are working at a tremendous margin of profit, and tried to regulate prices. He would find that the objections raised would be stronger than those which have been raised against the control of food.

Then, again, he remarked that if there had been no control, only a few people would have made profits. I do not know how he makes that out. All those who grow wheat, rice and other crops, will share in the profits to the extent that they bring their produce to the markets. You may say that the profits of the larger growers would be larger, but the profits of the smaller growers would be there.

Then, again, talking of the increased profits from the food crops, he said that the prices in any case are now 60 per cent. higher than they were before the war. Well, he did not take into account that the cost of production was nearly 300 per cent., which is higher than it was before the war. He tried to deal with the matter very mildly. He said that the bullocks and the cows belonged to the agriculturists. Well the bullocks and the cows certainly belong to him ; so does the land belong to him. But do not the bullocks and the cows and the land represent capital ? I think if you were to consider the capital that is invested in land, you will find that the agriculturist makes the smallest possible profit on the capital which he has put into the land of any other person in the world.

Then, again, the Revenue Member alluded to the larger death rate in a certain year. Well, it is an alarming thing, if you come to think of the larger death rate, but he did not say that it was due to influenza. I have never seen so far an admission by any Honourable Member that the death rate has been due to the want of food, and I should very much like to know how the Revenue Member arrived at the conclusion that in the year he mentioned, I forget which year, the death rate was alarmingly high because food was scarce. I hope he will clear up that point when he speaks on this subject again.

The argument that last year only 250,000 tons of wheat were exported has been very clearly dealt with by the Honourable Mr. Froom:

There is hardly anything more to say, because I feel that the Council is with me and I am bound to win. If the Council passes this Resolution it will certainly strengthen the hands of the Revenue Member. It needs courage you know to remove the embargo, and I think he ought to take his courage in both hands now and remove this control on the export of food-grains, because he will have to do it sooner or later. Why delay it, when public opinion favours the removal?

THE HONOURABLE MR. B. N. SARMA: Sir, the point mentioned by the Honourable Mr. Froom did not escape my attention, and I think did not escape the attention of the Government of India, that inasmuch as there is not much demand at present from the outside world for Indian wheat the present may be a convenient time for removing the embargo. What may perhaps be said is that, if there is so very little demand for Indian wheat from outside, no very great injustice is being perpetrated upon the landholder if the embargo is not forthwith removed. But that is another point. The real question which the Government had to consider was as to whether these fluctuations in prices in the outside markets are not merely temporary in character, (although a downward tendency may be perceived), by reason of the absolute dislocation of the Continental trade markets and the abnormal position of the exchange. It is absolutely difficult to know what 65 shillings would mean. If the exchange is 1s. 3d. and odd, as it is now, you can pay a much larger price in India than if it were 2 shillings or 1s. 8d. similarly with freight. Then, when the Continental demand is brisk, if there should be a large export of food-stuffs from this country at a time when there is no real surplus in the country, the danger would be that, when we are faced with a slack season, the Indian prices would go up so phenomenally high so that the poor people who already have to pay 60 per cent. more than the pre-war prices would be hard hit. That is a consideration which we had to bear in mind, but I want to say it was not a decisive consideration

THE HONOURABLE MR. A. H. FROOM: My point was this, Sir, that the Government had announced times without number that they are going to withdraw this control, and I was not looking to the future. It would be very much better for them to withdraw it now than when the demand from Continental countries begins

THE HONOURABLE THE PRESIDENT: The Honourable Member must not argue. He must make a simple statement of what he said.

THE HONOURABLE MR. B. N. SARMA: We have pledged ourselves not to allow any exports until the 31st of March, so the removal of the embargo forthwith is out of the question. I was only trying to meet the position that

the present may be a very convenient opportunity and hence our doubts in that respect.

Then there was one pertinent question which was put to me, as to whether I am prepared to say that the death rate in 1918-19 was due to lack of food-supply. Every one is aware that it was due mainly to influenza. You cannot differentiate between the death rate which was due to influenza, the enfeebled body not being able to meet the ravages of the epidemic and death rate due to other causes, but I think it is common knowledge that an enfeebled system would not be able to stand the ravages of an epidemic to the same extent as perhaps a virile, strong system, speaking in the aggregate and for vast populations, and here comes the relevancy of the pinching process argument which was referred to by the Honourable Mover. Before we can adopt the suggestion of the Honourable Mover, we have to consider whether Government can permit at this time of high prices the pinching process to be carried on any further, but he thought that perhaps the time had come when we could do so.

Then with regard to the inaccuracy of statistics, generally, that is a matter, I think, I need not refer to. I may however point out to him that in 1908-09, the exports were 2,100,000 cwts.; it was only in later years that they were one million tons and more. Consequently we cannot draw any deduction from that. The outflow of wheat from this country depends largely upon the demand from abroad, and the capacity of India to consume or to pinch herself a little for the purpose of exporting it. I think therefore Government have shown adequate reason for not agreeing to remove the embargo forthwith. If the Honourable Member is willing to accept as an amendment in the Resolution the insertion of the words 'as early as may be practicable or at a very early date', I have not the slightest objection to accept the Resolution.

THE HONOURABLE THE PRESIDENT: I must really point out to the Honourable Member that it is not for him to accept a Resolution, but it is for the Council to do so. Moreover, if at the last moment the Honourable Member rises in reply after the Member has spoken and then proposes what is in substance an amendment, I shall have to re-open the whole debate for every Member will have a right to speak on it, I must request the Honourable Member not to do it.

THE HONOURABLE MR. B. N. SARMA: Then I would drop it. I have already said what the intentions of Government are, and they will be only too glad to know what the wishes of this House are in regard to this Resolution. As far as Government is concerned, they cannot accept the Resolution, in the terms in which it stands.

THE HONOURABLE MR. E. J. HOLBERTON: Sir, am I in order in asking the Honourable Member to explain what he means by saying that Government have already made up their minds?

THE HONOURABLE THE PRESIDENT: The Honourable Member would not be in order.

THE HONOURABLE THE PRESIDENT: The question is that the following Resolution, *viz* :—

'This Council recommends to the Governor General in Council that all restrictions on export of food-grains from India be removed forthwith' be accepted.

The motion was adopted.

The Council then adjourned for Lunch.

The Council re-assembled after Lunch with the President in the Chair.

RESOLUTION *RE* ADVISORY BOARD FOR HIGH COMMISSIONER.

3 P.M. The HONOURABLE MR. G. S. KHAPARDE: Sir, the Resolution which I wish to move reads as follows:—

'This Council recommends to the Governor General in Council that the High Commissioner for India in London be provided with an Advisory Board of six members, not less than four of whom shall be Indians.'

This subject has a short history of its own, and I have been connected with it one way or the other almost from the beginning. In September 1918 in the Simla Session I moved a Resolution for the appointment of a High Commissioner in London. That Resolution was opposed by Sir Fazulbhoy Currimbhoy and also by the Honourable Sir George Barnes, and it fell through. But apparently the idea underlying it was good and Lord Crewe's committee adopted it. And then we went to London in a deputation all of us and the moderate party went to the India Office and they also adopted the idea and put it forward in their memorandum. Then the Joint Committee of the House of Commons and the House of Lords accepted the idea, and it got embodied in section 35 of the Government of India Act. On that His Most Gracious Majesty issued what is called a Council Order and on that Council Order the Government of India issued a Communiqué and appointed Sir William Meyer as the first High Commissioner for India in London. Then, to bring the history up to date, on the 14th of February the Honourable Maharaja Manindra Chandra Nandi put a question about the establishment, as to how many offices would be for Indians, and that brings the history up to date. So this appointment has been made now. Originally I proposed to give this High Commissioner something like eight departments. I proposed them and they are in my speech made then—it is not necessary to recount them here. And it was then pointed out that the business would be very burdensome and so on. Now it has succeeded to this extent that the Students' Department, the Stores Department, accounts connected with the Stores and the Trade Commissioner's Department, all these have been now made over to this High Commissioner in London. And the present Resolution proposes that to this High Commissioner we should give an Advisory Board of six gentlemen, four of whom will be Indians. The point to notice and the point which I wish to emphasise is, that we have got the men. Naturally, the first question would be, are there six Indians in London or four Indians in London who would be able to serve? I submit there are. I know them personally—there are a large number of our people who are practically settled in London. One of my friends has been practising as a Barrister for the last ten years. Another has been practising there for the last sixteen years. Then there are two merchants, then there are two doctors. Then there are a certain number of pensioners who, having retired from the army, etc., have settled in England. So they are like a small colony of Indians, and it will be easy to get four gentlemen out of them. The question of finance in these days is rather important and they always ask whether this will cost anything. I submit in the beginning

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these duties may be honorary and these gentlemen will be very glad as I know from a conversation which I had with them when I was there last, to go to the office of the High Commissioner once or twice a week, and give their opinion on such matters as he may require. So that there will be no difficulty so far as cost is concerned and money matters need not enter into the question. They further think that there will be some saving now because of the creation of this new office since a good deal of business that was done in the India Office will be transferred to the High Commissioner, as the calculations go of all the committees that have been there, and this saving could be utilised for this Advisory Board if it should at all become necessary to spend money on it. But for the present I do not think it will be necessary to spend any money on it. So that the point of finance may be dispensed with.

Then they want to know why I wish them to be Indians. That also has a little history of its own. One is that in the beginning, when I moved my Resolution at Simla, I said that they should be Indians and, if possible, the High Commissioner also should be an Indian, for this reason that the colonies maintain a High Commissioner in London. Sometimes he is called a High Commissioner, sometimes he is called an Agent General, sometimes he is called the Resident Minister. The Resident Minister is the more favourite name, and Agent General was apt, as I said last year, to get converted into being painted as a general agent, which was derogatory to the position of the High Commissioner. So, there is the precedent of all the colonies that maintain a High Commissioner in London, who generally appoint a colonial to that place. Secondly, they also try and man his office, as far as possible, with colonials. The obvious advantage of this is that the High Commissioner's office and the High Commissioner himself is in constant contact—in live contact—with the colony itself and looks after the interests of that colony more. So that he becomes a sort of a living link between the colony and the central country or the chief ruling country, or mother country as they call it. India should also have a similar connection, and indeed it is desirable also that we should have as many Indians as we can have in London. I think I have told the story before, how in the part of London where I lived in 1908 there were something like 20,000 Germans settled, and these Germans were more or less about the German High Commissioner and their Embassies, and so forth, and I found that they could get their business done much earlier than I could. I had to go to the India Office and was referred from one department to another, and I had a great deal of trouble, whereas these people simply went to the Embassy and had the thing done at once. We should have similar facilities, and I think our connection with England is closer than the connection of Germany or any other country except the colonies. So, just as the self-governing colonies have their own office, we should have a person there with his office, manned, as far as possible, by Indians. That would establish a link between the different parts of the Empire and contribute, I believe, to the solidarity of the Empire. So that is the point. Then they ask: why do I want a Council, why do I want to give him an Advisory Board? For this reason: that out of the eight departments which I originally intended to make over to him, four or three and a half have already been given to him. Those departments are the Stores Department, the Students Department, the Department of Accounts connected with the Stores and the Trade-Commissioner's Department. Now these four departments each involve some

amount of outside advice, especially the Students' Department. I proposed a Resolution last Simla Session under circumstances which need not be detailed now. From what I could gather, if it had not been for political portents, as I call them, my Resolution about students would have met with a favourable reception. From what I could gather at the time the political portents, as I call them, it would appear that my Resolution about students would have met with a favourable response, and it was found that it was necessary in the case of students to have somebody who would have constant contact with the students and with whom the students would be in constant contact, and that the last Students' Department, which has now disappeared, was not in constant contact, and was not, therefore, popular with our students that were in England. To restore this, it will be said that the Students' Department has been now made over to the High Commissioner, and Sir William Meyer, whom I have the honour to know, is a very nice gentleman and a very friendly person, and very likely is more in contact with the students than the previous persons were. That may be, and I have no objection whatsoever, but still I do wish that we should follow the example of the Colonies. They maintain a High Commissioner, and we should, as far as possible, Indianise the office, and in course of time the High Commissioner should himself be an Indian. We have got plenty of Indians with the requisite intelligence and knowledge and ability to carry on those duties, and it is not understood, therefore, and there is no reason, at any rate, why an Indian should not be there in the position of High Commissioner . . .

The HONOURABLE THE PRESIDENT: I merely point out that the question before the Council is not whether the High Commissioner is to be an Indian, but whether he should have an Advisory Board of six members.

The HONOURABLE MR. G. S. KHAPARDE: I was explaining that my idea goes so far, but at present my proposal is modest enough, that in the Advisory Board there should be four Indians at least. It is a moderate kind of proposal that I have put forward, as I wanted to say. If there is any doubt about that matter I shall read out one small sentence out of the representation that was then submitted by the moderate deputation. It is at page 124: 'We hope that suitable Indians will be appointed to this new office'

The HONOURABLE THE PRESIDENT: Order, order. I am not quarrelling with the Honourable Member's desire that an Indian or anybody else should be appointed High Commissioner. I merely point out to him that it is irrelevant to the present Resolution. If he desires to move that the High Commissioner should be an Indian, it is open to him to do so, but it is not open to him to stray from the present Resolution in the manner in which he is doing.

The HONOURABLE MR. G. S. KHAPARDE: I omit that portion as to an Indian being the High Commissioner. 'We suggest that the High Commissioner should be assisted by an Advisory Board or Committee of which not less than one-half of the Members should be Indians.' That was their recommendation. I have modified it, that out of six, four should be Indians. That is in view of the altered circumstances now, and I believe that even that deputation would agree with me in that modification. One of them was the gentleman who sits opposite to me, the Honourable Mr. Sastri; another was Mr. Samarth, who is in the other House, Mr. (now Sir) Surendranath Bannerjee, who has now become a Minister; Mr. Chintamani, another Minister now—all these gentlemen, they are influential people I mean to say and their opinion counts.

The special point that is of interest with regard to this question is that these four gentlemen will be in constant contact with the students, and we

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have heard very many complaints from the students themselves. When I was personally in England they came and saw me and told me a number of things and I believed them ; I might be right or wrong—I believed I was right in doing it then—those complaints would be remedied, and those complaints being removed, there will be some opening for Indians who have already settled down in England, and there will be some sort of a little colony which will be very useful as a connecting link between England and India.

I believe all the proposals that I have made are more or less supported by precedent as can be seen from the histories of the self-governing colonies. So I need not labour that point further.

With these few words I place the Resolution before this Honourable Council.

THE HONOURABLE MR. SHAFI : Sir, in dealing with the Resolution moved by my Honourable Friend, it is unnecessary for me to trouble the House with a lengthy speech. A reference to paragraph 5 of the Communiqué issued by the Government of India in the Department of Commerce on the 20th September last, to which my Honourable Friend has already referred, will make it clear to Honourable Members that the Stores Department of the India Office and the Accounts Section connected therewith and the Indian Students' Branch have been transferred to the control of the High Commissioner. He is also to supervise the work of the Indian Trade Commissioner already located in the City. Now the Government of India are of opinion that the appointment of an Advisory Committee to the High Commissioner in the Stores Department is, in the highest degree, undesirable. I feel sure Honourable Members will agree with me that this is one of those cases in which the responsibility should remain undivided, and should rest entirely on the shoulders of the High Commissioner. Indeed, any departure from this principle is likely to be prejudicial to the interests of India.

The case of the Indian Students' Department is, however, somewhat different. Honourable Members may be aware that the Government of India have in this country already recognised the utility of Advisory Committees in matters educational. In the Provinces, Selection Boards have been appointed to assist Local Governments in the selection of suitable candidates for our Educational Service. Here, in the Government of India, a Central Educational Advisory Board has been organised in order to advise the Central Government on such matters as may be referred to them by the Member in charge of Education. Following that principle, the Government of India are prepared to accept the principle of the Resolution moved by my Honourable Friend so far as the Indian Students' Department under the control of the High Commissioner is concerned. I am sure my Honourable Friend himself will recognise that the question of the constitution of this Advisory Committee is a matter which must be settled subsequently in consultation with the High Commissioner for India. But I am prepared, on behalf of the Government of India, to accept the principle of an Indian majority in the membership of this Advisory Committee, and assure my Honourable friend that early action will be taken on these lines. I hope that my Honourable friend will be satisfied with this assurance and will withdraw his Resolution.

THE HONOURABLE MR. LALUBHAI SAMALDAS : One word, Sir. I want to speak on only one branch of this Resolution and that is about the

Students' Advisory Board. I am thankful to the Honourable Mr. Shafi for having given us a promise that Government are prepared to consult Sir William Meyer and to appoint a Committee, more than half of whom would be Indians. We have provincial Advisory Boards in all the provinces and we find that they are very useful. I think it will be an advantage if we have an Advisory Board in London to help boys who go to England from this country. I hope that, after the assurance given by my Honourable friend Mr. Shafi, the Honourable Mr. Khaparde will see his way to withdraw his Resolution.

THE HONOURABLE MR. G. S. KHAPARDE: I am glad, Sir, that so far as the students go, my proposal has commended itself to the Honourable Member for Education.

As to the purchase of stores and the Trade Commissioner, I endeavoured last year to see what the report of this official was like and what work he did, but, unfortunately, I could not get a copy of his report.

As the purchase of stores, this involves an expenditure of something like 4 million pounds every year, and if an Indian were associated with this work he would be able to say such and such articles are now produced in India and they are easily procurable, and so on, and this would be helpful. My proposal does not divide responsibility because an Advisory Council does not mean a Council whose opinion is to override the opinion of the High Commissioner. An Advisory Council only means that the Council meets and advises the High Commissioner, and, if he does not agree with them, nobody can call him to account. Therefore, it does not divide responsibility, as has been supposed.

Under these circumstances, I gratefully accept the Advisory Board, so far as it goes for the Indian students, and the rest of the Resolution will depend upon what the Council thinks about the matter.

THE HONOURABLE MR. SHAFI: Sir, I should like to invite the attention of the House to the exact wording of the Press Communique to which I have already referred. So far as the work of the High Commissioner in connection with the Indian Trade Commissioner is concerned, the words are these:

'He will also supervise the work of the Indian Trade Commissioner already located in the city.'

I could have well understood a proposal to give an Advisory Committee to the Indian Trade Commissioner, but, I confess, I cannot understand any reason for giving an Advisory Committee to an officer who is merely to supervise the work of that officer. The proposal would be entirely unnecessary and undesirable.

THE HONOURABLE THE PRESIDENT: The question is that the following Resolution be accepted:

'This Council recommends to the Governor General in Council that the High Commissioner for India in London be provided with an Advisory Board of six members, not less than four of whom shall be Indians.'

The motion was negatived.

THE HONOURABLE MR. G. S. KHAPARDE: I ask for a division.

THE HONOURABLE DEWAN BAHADUR V. RAMABADHRA NAIDU: Is it not possible to divide the Resolution into two parts?

The HONOURABLE THE PRESIDENT: The Honourable Member should have raised that point at an earlier stage. In any event there are not two parts to this Resolution.

The Resolution was again rejected.

RESOLUTION *RE* LEAVE TO MEMBERS OF THE PROVINCIAL SERVICES.

The HONOURABLE SARDAR JOGENDRA SINGH: Sir, I beg to move the following Resolution:—

‘ This Council recommends to the Governor General in Council—

- (a) that the new leave rules under which the members of the Provincial Services in India can be granted furlough on average salary only if the leave is spent out of India or Ceylon, or is obtained on medical certificate be amended, and the members of these services be allowed to take furlough on average salary even though the leave is spent in India;
- (b) that the leave rules contained in paragraph 271 of the Civil Service Regulations under which the members of the Provincial Judicial Services throughout India can obtain privilege leave on half pay, be so amended as to allow these officers to obtain privilege leave on full pay for 15 days in a year instead of privilege leave for a month on half pay.’

The matter is really very simple and does not need a long speech to explain, and, if the Honourable the Home Member accepts the arrangement that I propose, I need say very little about it. I am confident that the Council will support me in this matter realising the very hard and patient work which our judicial officers have to perform in outside places. Those of us in the districts who have seen them at work, sitting from 10 o'clock in the morning sometimes till 6 o'clock in the evening, listening to evidence and writing judgments, can realise how necessary it is for them to have some relaxation and some long intervals when they can have the necessary rest and the means of recuperating their health. The foundations of British rule in India rest on even-handed justice, and this justice is administered for the millions by these officers belonging to the Subordinate Judicial Service, and I think it is most desirable that we should do all that we can to make their lives as happy and as comfortable as we can under the circumstances. Sir William Vincent, I think, this morning paid a high compliment to the work done by our Magistrates and Judges in all parts of India, and I think this Council will endorse it that the work done and the efficiency and the standard of justice reached by these officers is really very high.

In consideration of the work that they do, I think it should not be difficult for Government to remove the distinctions between European and Indian Services regarding leave rules that now exist and allow them to spend their furlough in India. Most of the Indians who are orthodox,—and many orthodox Indians are in judicial service,—cannot go out of India. They could only go to a hill-station in Kashmir or some other place for rest, and hill-stations too are no less expensive in these days. Indian officers can get leave on medical certificate under the present rules, but why should we compel them to go on leave only when their health breaks down? I think they would serve the Government much better, and Government will find them more efficient and strong if the leave rules permitted their taking leave before they completely broke down. The first part of the Resolution, therefore, which I have

the honour to place before the Council, submits that judicial officers may be allowed to take their furlough in India instead of going to Ceylon or outside India. The new rules which have recently been issued are very generous in the matter of leave and furlough, and I think the Honourable the Home Member will agree with me and will extend the benefit of these rules to these hard-worked officers and place them on the same footing as members of the European services.

Now the second part of my Resolution deals with privilege leave. Provincial service men get only half pay if they take privilege leave, and one month's privilege leave is admissible to them

The HONOURABLE SIR WILLIAM VINCENT: May I know, Sir, if the Honourable Member means provincial judicial officers?

The HONOURABLE SARDAR JOGENDRA SINGH: Yes. Leave on half pay is not allowed to provincial judicial officers because they are allowed one month's vacation in the year. But then the Judges of the High Courts, who are much better paid do get two months' vacation, and I believe two months' privilege leave also, in addition to other concessions. I think they can get two months' leave.

The HONOURABLE THE PRESIDENT: Will the Honourable Member kindly proceed?

The HONOURABLE SARDAR JOGENDRA SINGH: In the United Provinces in 1909 a committee, known as the Greeven Committee, was appointed by Sir John Hewett to consider the whole question, and the Committee observed as follows:—

'It is an undoubted fact that officers have refrained from applying for privilege leave although really in need of it owing to indifferent health because they have been unable to afford to take leave on half pay, and we think that we are not far wrong in ascribing to this hesitation some of the causes of breakdown in the service.'

Sir, after the findings of the Greeven Committee on this matter, I think there remains very little for me to say, but that if the Government is pleased to allow these officers privilege leave for 15 days on full pay instead of privilege leave for one month on half pay, it would afford them much greater facilities than the privilege leave on half pay for one month does. Under the present rules, privilege leave on half pay can be obtained for four months, and it would be a concession to these officers if they could be allowed to accumulate their privilege leave for two months on full pay. I think I need not explain the position any further because I can depend upon the Honourable the Home Member to consider the matter in the interests of the officers whom he supports in a very favourable manner.

The HONOURABLE SIR WILLIAM VINCENT: Sir, the Resolution, as Members of this Council will have seen, is divided into two parts. The first part refers not merely as Members of this Council might have been led to believe from the speech of the Mover, to judicial officers, but to all officers of the Provincial Service. It is very difficult for me to explain here the intricacies of the leave rules, and if I fail to make myself quite clear, I hope Honourable Members will give me some indulgence in the matter. I am very anxious not to weary the Council by a detailed examination of the whole subject, and particularly this afternoon I do not wish to detain the Members if I can avoid it.

There are two separate sets of rules, called the European Service rules and the Indian Service rules, though in fact they do not apply strictly to Europeans

[Sir William Vincent.]

or Indians. They apply to certain services, whether the members of those services are Indians or Europeans. That is the first point. Save in so far as particular services consist more of Europeans or Indians, there is no racial distinction in the rules. The Indian Service rules apply to all officers who do not come under the European Service rules and whose pay is over Rs. 100 a month, but there again the distinction is not *qua* race but *qua* service though naturally most of those coming under the European Service rules are Europeans. Well, the Public Services Commission recommended certain privileges in the way of commuting furlough by those to whom the European Service leave rules apply, and to these recommendations the Government of India have given effect by a recent Resolution. The privilege is really based on the fact that generally these officers are serving in a foreign country as distinguished from persons serving in their own country. The Government considered that it is advisable in the interests of Government that their European servants from time to time should have an opportunity of going to Europe. The new rules also recognise the modern rapidity of communication and to some extent the great increases on the rates which have been imposed upon a suffering public by the steamship companies. The idea is, as I said before, that an officer of the European Service should from time to time be able to get Home to Europe for a reasonable period and under modern conditions that was impossible,—I say quite definitely, it was impossible for them to do so,—unless some additional leave facilities were given to them. I may say that business firms, and I believe some Colonies, send their employes Home free of cost from time to time. In any case, these are the recommendations of the Public Services Commission and these we adopted.

Sir, I have every admiration for the Provincial Judicial Service of which the Honourable Mover spoke, but I do not think that we could extend to any one of the Indian services particular privileges which we did not extend to others. The rules for all the Indian services are alike in the matter, and any change would have to be applied to all. The present rules are, however, very generous as has been admitted by the Honourable Mover himself. We have no recommendation from the Public Services Commission for the commutation of furlough in the case of officers serving under the Indian Service leave rules. A recommendation was made that these officers should be allowed to accumulate privilege leave up to four months, and that recommendation has been given effect to. Nevertheless, when we were giving certain privileges relating to furlough to those who came under the European Service rules, we thought it would be only fair to give some additional privileges to those who came under the Indian Service rules who similarly might wish to spend their furlough outside India or those who were forced to go on leave on medical certificate, and we made this concession to these services. As it is, I may say that the rules under the Indian Service rules are very favourable as compared with the Home Civil Service Rules for officers who are serving in their own country. Finally, I may say that, if this concession is granted to the judicial service, it will have to be granted to all those coming under the Indian Service rules, and it will impose a very heavy liability on the revenues of the country. It will necessitate obviously a large leave reserve, and I do not believe myself that there is any great demand for it. The Honourable Member has very generously not suggested that the commutation allowed to European officers should be reduced, but he says the same commutation should be allowed in the case of Indian officers who do not proceed out of this country in nine cases out of

ten on leave and who really are not put to very much extra expenditure when they go on leave and have no reason to ask for this privilege. That is the position in regard to the first part of the Resolution.

Now as regards the second part, the position really is this, that vacation officers—I am again in a difficulty in explaining the rules—vacation officers do not get privilege leave, and this rule applies, I think the Honourable Member will see also, to officers of the High Courts. It applies also to High Court Judges and to officers in the Education Department too. It applies also to subordinate Civil Judges who enjoy the vacations provided for the Civil Courts. If, however, they are detained during vacation, then they are allowed privilege leave. If they are detained for any portion of the vacation or prevented from taking the vacation, then they get privilege leave granted for a proportionate time on full pay, and this rule applies to Munsiffs and Subordinate Judges and all officers of that class. Now, if I tell this Council that Judges in the Civil Courts in one province at least already enjoy 131 days leave out of 365—I have added it up—131 days out of 365—well, I doubt whether they will think it right to impose on the provinces any additional burden of cost which the grant of additional leave will involve. For if these officers are going to get full pay for a period of privilege leave, undoubtedly more men will take leave, they will have to be paid full pay while they are on leave and Government will have to increase the leave reserve. That is a proposition which everyone will see. It is very easy again to be generous on a Provincial subject. The Provinces will have to pay for it and Honourable Members here, if they pass the Resolution, will be being generous at the expense of others. I however hope that this Council will not be guilty of such vicarious generosity. At the same time, I may say that certain fundamental rules have been framed and it is impossible to state definitely that Local Governments will be able, if they wish to do so, to class these Sub-Judges and Munsiffs as not belonging to a Vacation Department, and give them the privilege leave given to other departments, though I confess that I myself think that it would be very difficult for them conscientiously to take that step. But if the Local Governments think that these officers are not getting sufficient leave, they can take this step and, similarly, if this Council thinks that 131 days out of 365 is not a fair holiday from a business point of view, then of course they will vote for this Resolution. I trust however that they will not impose this additional burden upon Provincial revenues.

The HONOURABLE SARDAR JOGENDRA SINGH: I do not think, after what the Honourable the Home Member has said, that I can say very much upon the first part of my Resolution. I think one might well wait for better times. As for the second part of the Resolution, I do not think it can be said that we would be committing ourselves to an act of vicarious generosity if we passed it. It would really only amount to a re-arrangement of the leave rules. The officers now have leave for four months on half pay, and I think there can be no objection to allowing them the option of taking two months' leave on full pay instead of four months on half pay. It would be a concession to those officers which would be greatly appreciated and would impose no burden on either the Provincial or the Imperial revenue. However, if the Home Member is not prepared to consider it, I will not press the motion.

The HONOURABLE SIR WILLIAM VINCENT: The Honourable Member said something about leave on full pay. I understood him to say that he abandoned the first part of his Resolution. I want to be quite clear about it.

The HONOURABLE SARDAR JOGENDRA SINGH : Yes.

The HONOURABLE SIR WILLIAM VINCENT : As regards the second part, he said that there was no harm in giving these officers leave on full pay for two months.

The HONOURABLE SARDAR JOGENDRA SINGH : Giving them the option of taking two months' leave on full pay instead of four months' leave on half pay.

The HONOURABLE SIR WILLIAM VINCENT : But that is not what the Resolution recommends. I will read it out : —

'That the leave rules be so amended as to allow these officers to obtain privilege leave on full pay for 15 days in a year instead of privilege leave for a month on half pay.'

The HONOURABLE SARDAR JOGENDRA SINGH : That is true.

The HONOURABLE SIR WILLIAM VINCENT : I, therefore, understood the proposal to be something slightly different. Perhaps the Honourable Member meant that officers should be allowed to accumulate leave on full pay up to two months. In any case the Honourable Member's suggestion that this was merely a re-arrangement, that there is nothing in it so far as Provincial finance is concerned, is not quite correct, and I do not think anyone in this Council will accept his view. The proposal is to confer on these officers a new privilege and means that more men will take the leave. It means that during the leave they will get more pay and the leave reserve will have to be increased. It means that men who now have 131 days' leave in the year will enjoy 146. That is the proposition. We must hesitate in accepting such a proposal, though I am anxious to do these Provincial Services well and have shown throughout my service a desire to treat them as fairly and generously as possible. This concession would, however, be an unfair burden on Provincial finance, and I hope this Council will not defend it.

The HONOURABLE the PRESIDENT : The first point for the decision of the Council is : Is it their pleasure that the Honourable Sardar Jogendra Singh is permitted to withdraw part (a) of his Resolution, *viz.* : —

'This Council recommends to the Governor General in Council—

- (a) that the new leave rules under which the members of the Provincial Services in India can be granted furlough on average salary only if the leave is spent out of India or Ceylon, or is obtained on medical certificate, be amended and the members of these services be allowed to take furlough on average salary even though the leave is spent in India'.

Part (a) was, by leave of the Council, withdrawn.

I understand that he wishes the second part put. I therefore put the second portion.

The question is that the following Resolution be accepted :—

'This Council recommends to the Governor General in Council—

- (b) that the leave rules contained in paragraph 271 of the Civil Service Regulations under which the members of the Provincial Judicial Services throughout India can obtain privilege leave on half pay, be so amended as to allow these officers to obtain privilege leave on full pay for 15 days in a year instead of privilege leave for a month on half pay.'

The motion was negatived.

The Council adjourned till Thursday, the 17th March in this Chamber at 11 o'clock.