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LOK SABHA

JOINT COMMITTEE

ON

THE UNION TERRITORIES (SEPARATION OF
JUDICIAL AND EXECUTIVE FUNCTIONS)
BILL

EVIDENCE

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LOK SABHA

SECRETARIAT

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JOINT COMMITTEE ON THE UNION TERRITORIES (SEPARATION
OF JUDICIAL AND EXECUTIVE FUNCTIONS) BILL, 1968

COMPOSITION OF THE JOINT COMMITTEE

Shri Vikram Chand Mahajan—*Chairman*

MEMBERS

Lok Sabha

2. Shri Jahan Uddin Ahmed
3. Shri M. Deiveekan
4. Shri Sanjibhai Rupjibhai Delkar
5. Shri K. R. Ganesh
6. Shri R. S. Vidyarthi
7. Shri K. M. Koushik
8. Hazi Lutfal Haque
9. Shri Shri Chand Goyal
10. H. H. Maharaja Manikya Bahadur of Tripura
11. Shri M. Meghachandra
12. Shri V. Viswanatha Menon
13. Shri P. M. Sayeed
14. Shri Dwaipayan Sen
15. Shri N. Sethuramane
16. Shri Janaradan Jagannath Shinkre
17. Shri P. N. Solanki
18. Dr. A. G. Sonar
19. Shri Krishna Dev Tripathi
20. Shri Ram Sewak Yadav
21. Shri Y. B. Chavan
22. Shri Vidya Charan Shukla

Rajya Sabha

23. Shri P. Abraham
24. Shri M. Vero
25. Shri S. Krishna Mohan Singh
26. Smt. Satyawati Dang
27. Kumari Shanta Vasisht
28. Shri I. K. Gujral
29. Shri Syed Ahmed
30. Shri Golap Barbora
31. Dr. Bhai Mahavir
32. Shri R. Ruthnaswamy
33. Shri A. P. Chatterjee

LEGISLATIVE COUNSEL

1. Shri K. K. Sundaram, *Joint Secretary and Legislative Counsel,*
Ministry of Law.
2. Shri V. S. Bhashyam, *Dy. Legislative Counsel, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

1. Shri M. R. Yardi, *Addl. Secretary, Ministry of Home Affairs.*
2. Shri K. R. Prabhu, *Joint Secretary, Ministry of Home Affairs.*
3. Shri P. N. Kaul, *Dy. Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

WITNESSES EXAMINED

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	<i>Spokesmen :</i>		
	1. Shri Bhawani Shankar,		
	2. Shri Uttam Singh,		
	3. Shri Yogeshwar Dayal,		
	4. Shri H. S. A. Jaffri,		
	5. Shri D. S. Grewal.		

JOINT COMMITTEE ON THE UNION TERRITORIES (SEPARATION
OF JUDICIAL AND EXECUTIVE FUNCTIONS) BILL, 1968

MINUTES OF EVIDENCE GIVEN BEFORE THE JOINT COMMITTEE ON THE UNION
TERRITORIES (SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS) BILL, 1968

Monday, the 14th October, 1968 at 15.00 hours.

PRESENT

Shri Vikram Chand Mahajan—Chairman.

MEMBERS

Lok Sabha

2. Shri Jahan Uddin Ahmed
3. Shri M. Deiveekan
4. Shri R. S. Vidyarthi
5. Shri K. M. Koushik
6. Hazi Lutfal Haque
7. Shri M. Meghachandra
8. Shri P. M. Sayeed
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24. Shri Golap Barbora.

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Ministry of Law.
2. Shri P. A. Srinivasan, Attache, Ministry of Law.

REPRESENTATIVES OF THE MINISTRY OF HOME AFFAIRS

1. Shri M. R. Yardi, Addl. Secretary.
2. Shri K. R. Prabhu, Joint Secretary.
3. Shri P. N. Kaul, Dy. Secretary.

SECRETARIAT

Shri D. C. Pande—Under Secretary.

WITNESSES EXAMINED

Honorary Magistrates of Delhi
Spokesmen

- (i) Shri Bhawani Shanker
- (ii) Shri Uttam Singh
- (iii) Shri Yogeshwar Dayal
- (iv) Shri H. S. A. Jaffri
- (v) Shri D. S. Grewal

(The witnesses were called in and they took their seats)

Mr. Chairman: Good evening, gentlemen.

(The Chairman then read out Speaker's direction No. 58 to the witnesses)

Mr. Chairman: One of you can give the evidence and then we can start cross-examination.

Shri Yogeshwar Dayal: On behalf of the Honorary Magistrates, I shall read out some of the points that we have noted down in addition to the memorandum previously submitted. I may point out here that we are here as citizens of Delhi more than as Honorary Magistrates. We the Honorary Magistrates of Delhi submit the following in this connection for your favourable consideration. The institution of Honorary Magistrates is an old-established one.

Mr. Chairman: May I point out that what you have circulated we have got it. You might give us a gist of the points that you wish to make out so that the time is saved.

Shri Yogeshwar Dayal: This institution has been functioning in India for the last century and the representatives who are selected to be the Honorary Magistrates are persons of repute and integrity in Delhi and otherwise also. During all these years, the IPC cases and other minor offences under other Acts and the traffic cases have been efficiently disposed of by us. A list of them is

submitted in Annexure. The Honorary Magistrates, over and above the dispensation of justice have also been acting as liaison officers between the Government and the public. They enthruse public support also because they are the representatives of the public. They have also played an admirable role during the Chinese aggression and the Pakistani crisis. We have also been helping the administration—

Shri Vidya Charan Shukla: The witness is repeating what he has already submitted before the Committee in the form of written memorandum. The usual practice is that if the witnesses want to say anything beyond what they have already submitted, then they say it. Otherwise, the Members can start questioning them.

Shri Yogeshwar Dayal: This is something fresh in addition to our previous submission. If you like, you can start questioning now.

In this connection, I wanted to say that about one lakh cases are handled and decided annually by Hon. Magistrates which figure does not include the ticketless travel cases and cycle cases which must also be about 50,000. under section 14 of the Bill, there is provision for the appointment of special Executive Magistrates by the State Governments, but the powers as defined in Schedule III are limited to the executive functions alone which means that even the cases of a minor nature shall also

have to be dealt with by the judicial Magistrates. This is what I wanted to bring to your notice particularly. Our request is that clause 17 of the Bill be so amended as to invest in the hands of magistrates and the special Executive Magistrates all the powers to try cases under the municipal and corporation Acts and other minor Acts.

In Bihar and other places, this practice has already been taken on hand. You can now put questions.

Shri Syed Ahmed: You have said that this institution has lasted for wellnigh 100 years. You know that under the British regime what kind of people used to be appointed as Honorary Magistrates. I am practising advocate and I have known the chaps that used to be appointed as honorary magistrates. They were only these people who were nearer the executive than nearer the public at that time. Our grievances against Honorary Magistrates all these years have been that they are nearer the executive, nearer the police, than they are with the public, and they were appointed on these considerations and it was not necessary that only people who could decide efficiently should be appointed as Honorary Magistrates. They used to be jamedars, subedars and talukdars and they used to be appointed as Honorary Magistrates. May I know whether you wish to lay down some qualification for honorary magistrates?

Shri Yogeshwar Dayal: Yes; they should be at least graduates if not law graduates.

Shri Syed Ahmed: You want only graduates to be appointed?

Shri Yogeshwar Dayal: Not all, but those who wish to be appointed should at least be graduates if not law graduates.

Shri Syed Ahmed: Besides that, do you want any other qualification

to be insisted upon, for making them eligible for this appointment?

Shri Yogeshwar Dayal: They must be public men doing social work, men of integrity, and they must not be there just to earn their bread.

Shri Syed Ahmed: The Honorary Magistrates cannot earn their bread in that job. That is obvious. If an Honorary Magistrate is to earn his bread by this job, he will go way. The Honorary Magistrate is not there to earn his bread but to administer justice.

Shri Yogeshwar Dayal: As for the remark made by the hon. Member that some persons used to be appointed in the way he mentioned, during the British regime, I agree. They were persons like that. But now, the things have changed and 20 years, independence have seen that the Honorary Magistrates that are appointed are men of integrity and they serve the public.

Shri Syed Ahmed: At present, do you think that those people who want to be appointed as Honorary Magistrates or who are eligible to be appointed as Honorary Magistrates do not want to come nearer the Government and they want to come nearer the public?

Shri Yogeshwar Dayal: I do not think so, but the present criterion is this: only those who are in public life and who have got some roots in the public are now appointed as Honorary Magistrates.

Shri Syed Ahmed: How far do you think politics interferes with their work as administrators of justice? If a man resides in Ballimaran and he is involved in the politics of Ballimaran, if he is appointed as Honorary Magistrate, would the dispensation of justice be affected by it?

Shri Yogeshwar Dayal: If he involves himself in politics, he will not be able to dispense justice.

Dr. A. G. Sonar: Are Honorary Magistrates influenced by favouritism and nepotism or by public opinion while doing their jobs?

Shri Yogeshwar Dayal: No, but they are not wooden.

Dr. A. G. Sonar: When you are doing a judicial job, it ought to be under the High Court. How can the Honorary Magistrate be linked up with this?

Shri Yogeshwar Dayal: If you entrust all these minor cases to the judiciary, it will involve a great deal of expense.

Dr. A. G. Sonar: This institution has been abolished in most other States like mine. They have just been given some powers to certify and sign declarations.

Shri Yogeshwar Dayal: Whenever occasions have arisen in Delhi Administration that some corruption has to be stopped, Honorary Magistrates have always been utilised, because as public representatives, they can put their foot down and curb it more easily than others.

Dr. A. G. Sonar: What is the special consideration for continuing this in Delhi?

Shri Yogeshwar Dayal: Whether it is to be abolished or continued in Delhi it is for the Government to consider. We can only say what work we have been doing in Delhi. I cannot say about other States.

Shri Vidyarthi: Are you satisfied with the working of Honorary Magistrates?

Shri Yogeshwar Dayal: I should think so. As a matter of fact, I have not brought that paper, but the latest report is that the work done in my court was thrice as much as in a stipendiary magistrate's court.

Shri Vidyarthi: You must have read the grave charges against the

Honorary Magistrates appearing in the press.

Shri Yogeshwar Dayal: It might be due to politics. I do not think we will be doing justice to an institution by abolishing it on the basis of a little criticism. If it is to be abolished, it should be done on merits.

Shri Vidyarthi: Apart from saving some expenditure to Government, is there any other justification for continuing this?

Shri Yogeshwar Dayal: We are public representatives better equipped to dispense justice. When panchayati raj is being introduced in villages, why should urban areas be deprived of dispensation of justice by Honorary Magistrates?

Shri P. M. Sayeed: What should be the criteria of appointing them?

Shri Yogeshwar Dayal: They should be educated people, at least graduates, if not law graduates, having integrity and honesty.

Shri P. M. Sayeed: Are you aware of Honorary Magistrates being appointed based on some bias or prejudice?

Shri Yogeshwar Dayal: I do not think there have been such cases in Delhi.

Shri P. M. Sayeed: Do you claim that you can impart more justice than what a judicial authority can do?

Shri Yogeshwar Dayal: In minor cases at least, yes.

Shri Jahan Uddin Ahmed: You would like to be appointed as Judicial Magistrates or Executive Magistrates?

Shri Yogeshwar Dayal: As special Executive Magistrates with powers to try minor cases.

Shri Jahan Uddin Ahmed: You will come under the District Magistrate only? You do not like to go for the judiciary?

Shri Yogeshwar Dayal: No, Sir.

Shri Dwaipayan Sen: For how long are you an honorary magistrate of Delhi?

Shri Yogeshwar Dayal: For about seven years.

Shri Dwaipayan Sen: During the seven years of your tenure of office how many cases did you deal with in Delhi?

Shri Yogeshwar Dayal: I must say at least 50,000.

Shri Dwaipayan Sen: Do you have to sit all the days in the week to dispose of cases or you have allotted some days in a week to dispose of the cases?

Shri Yogeshwar Dayal: I hold my court daily. I go in the morning and finish the work and then only retire; sometimes it may be 3 or 4 p.m. I do not retire for lunch. I will start at 10 O'Clock in the morning and continue till the work is finished.

Shri Dwaipayan Sen: How many cases do you dispose of in a day?

Shri Yogeshwar Dayal: These days I am doing traffic cases. It is a stationary court at Kashmeri Gate. Daily I dispose of 80 to 90 cases. Most of the cases are not contested; only a few are contested.

Shri Dwaipayan Sen: Do you think you are doing justice to these 80 or 90 cases which you are disposing of within two or three hours?

Shri Yogeshwar Dayal: Yes, Sir. Of course, in traffic cases contested cases are very small in number. A contested case will take at least one hour. I fix two contested cases per day. In

most of the cases they plead guilty and we have to see what fine to impose and impose it judiciously.

Shri Dwaipayan Sen: Is it your considered view that people with no legal background can dispose of legal cases?

Shri Yogeshwar Dayal: Strictly speaking, they are not legal cases.

Shri Dwaipayan Sen: Without law you cannot have cases.

Shri Yogeshwar Dayal: I should think that a person who does not know a bit of law cannot dispose of these cases. That is my considered opinion.

Shri K. M. Koushik: Please turn to para 4 of your memorandum where you say "besides administration of justice, they function as a liaison between the government and the public". Do you mention this as a qualification for the maintenance of the institution of honorary magistrates? This is not a qualification at all.

Shri Yogeshwar Dayal: I have understood your point. Because we are men of the public, as honorary magistrates we have to do this service also.

Shri K. M. Koushik: That is a different matter. But, certainly, this is not a qualification for the maintenance of the institution of honorary magistrates. Is it not so? Do you agree with me?

Shri Uttam Singh: Because we are acting as executive magistrates, we have to do this. If we are acting only as judicial magistrates your question is relevant and we have no place like this.

Shri K. M. Koushik: For the discharge of your functions as honorary magistrate or the appointment of a

person as an honorary magistrate this qualification is not necessary. That is what I mean.

Shri Uttam Singh: It is necessary in view of the fact that we were acting so far both as executive as well as judicial magistrates. And for executive magistrates you have to function like this in order to keep the public on your side.

Shri K. M. Koushik: You say you are the liaison between the government and the public. In judicial work do you not think that a certain amount of judicial seclusion is necessary?

Shri Uttam Singh: I said it is quite necessary.

Shri K. M. Koushik: If you agree with me that your association with the public will certainly come in the way of your discharging your duties as a magistrate, then this is certainly not a qualification, it is a disqualification. Don't you think so?

Shri Yogeshwar Dayal: No, because we are not requested to serve as judicial magistrates.

Shri K. M. Koushik: As a magistrate, under the municipal law, traffic law and other laws you are going to punish people. Therefore, the amount of contact that you have with the public, will that not come in the way of the execution of your work as a magistrate?

Shri Yogeshwar Dayal: No, I should not think that way, because we will dispense justice keeping everything in view. We will not harm the interests of the people and we will not be cruel; but, at the same time, we will dispense justice to the best of our ability.

Shri K. M. Koushik: You probably know that in the times gone by, during the British regime, this was considered to be a sort of patronage to have

some influential people under their command so that they may not join any agitations against the British Government. Now all that has gone, do you think there is any necessity for the continuance of such a machinery? In continuation of that, I would ask you another question. What makes you submit a memorandum of that type? If the government desire, let them continue; otherwise, let them not. In the first instance, the motive with which the Britishers founded this institution does not exist today, and you agree with me there. If that is so, why of all persons you come before us with a memorandum urging and putting your weight before us for the maintenance of this institution? What makes you do this?

Shri D. S. Grewal: For the past many years we had been not only conducting ourselves as honorary magistrates to dispose of case, but have also been helping in improving traffic, hygiene and sanitary conditions in the city. Most of our colleagues sit on the roads and decide cases on the spot. After this institution is closed, we certainly do not want a situation where there will be no one on the spot to decide these cases.

Shri K. M. Koushik: So far I agree. But suppose your institution is closed. Government will make arrangements for trial of cases and dispensation of justice. So, why should you of all persons come before us and submit a memorandum for the continuance of this institution? Of course, I appreciate the point that you are doing wonderful work.

Shri Yogeshwar Dayal: We wanted to bring home the point to you.

Shri K. M. Koushik: But the way you have been pressing for the continuance of this institution, is there any special reason for it?

Shri Yogeshwar Dayal: Because we are performing a service, we have been given an honorary position.

Naturally, everybody wants to retain that position, whether it is that of an honorary magistrate or some other position.

Shri K. M. Koushik: It comes to this that because it gives you some position, some dignity in public life and, therefore, you want this to continue.

Shri Shinkre: The Union Territories (Separation of Judicial and Executive Functions) Bill, after becoming law, will be applicable to all the Union territories. Do you think that it should be applicable to all the Union territories or should you take into consideration the present situation or the situation in the near future in these territories and make some provision in that respect or exempt some Union territories from the purview of this Act?

Shri Yogeshwar Dayal: In my opinion it should be made applicable to all the Union territories. It may be done anywhere that the Government decides but the Act should be for all the Union territories.

Shri Shinkre: We have got with us the comments of the Government of the Union territory of Pondicherry on this Bill which read:—

“As the Criminal Courts in Pondicherry are under the supervision of the Madras High Court and as the judicial set-up in Pondicherry is closely modelled upon the judicial set-up in the Madras State, we are of the opinion that the Union territory of Pondicherry be exempted from the operation of Union Territories (Separation of the Judicial and Executive Functions) Bill, 1968. If the Act is extended, it would put the judicial hierarchy in this territory out of step with that in the Madras State and create complications.”

Do you think so?

Another thing is about Goa. You know, Goa was liberated only seven years ago and during this period the Goan people have not come up equal to others in some respect. Do you think that the provisions of this Act should be applicable in toto also to Goa or should there be some exemption granted to Goa?

Shri Yogeshwar Dayal: If the Act is there, it is not essential that we must appoint honorary magistrates where the institution has not been there.

Shri Shinkre: Then there should be some provision to exempt the Union territory of Goa.

Shri Yogeshwar Dayal: It is a discretionary power that vests with the State Government of the place, whether they appoint these special executive magistrates or they do not appoint these special executive magistrates and what powers are conferred on them under the Act.

Shri P. N. Solanki: You gave specific examples about Delhi but to my knowledge and to the knowledge of many other people this institution of honorary magistrates has created quite a stir in the country. Firstly, the appointment of such magistrates is quite arbitrary. The list is published and we are supposed to accept that list. All of them are not certainly impartial. All of them are not very quick in dispensing with justice as may be in your particular case. In fact, there are quite a number of cases against honorary magistrates of charges of corruption even for stamping some papers. Such cases have come before us.

Shri Yogeshwar Dayal: I do not deny that there would not be individual cases. Even among stipendiary magistrates, in the judiciary and everywhere such cases will be there. But that does not mean that the institution as a whole is bad.

Shri P. N. Solanki: I do make an exception; particularly in the case of Delhi this may be an exception. Therefore I do not say that the institution as a whole is bad. But there are certain grievances about their appointment and functioning in public life. So far in India we have been very proud of our judicial system. Justice has been on a very high scale in India. But I believe that such officers who are too easily available to the public may not be doing proper justice. I can just telephone an honorary magistrate, contact him and influence him.

Shri Yogeshwar Dayal: You may contact him but you may not influence him.

Shri P. N. Solanki: Anybody can just walk in the office or the residence of an honorary magistrate and ask for a favour. You mentioned about Panchayati Raj. But do you know that Panchayati Raj has a separate judicial system, called the Nyaya Panchayats? These Nyaya Panchayats are functioning all over the country, wherever Panchayati Raj has come into being. In my State, Gujarat, we have Nyaya Panchayats and there is no need of honorary magistrates. We have our own magistrates elected in the villages. Therefore your functioning is not required in these places.

Now, I would like to know, of the 50 honorary magistrates who are appointed in Delhi, how many are qualified, what is their qualification and experience. If you can provide me with a list, I shall be thankful.

Shri Yogeshwar Dayal: I will provide you with a list, but mainly the honorary magistrates appointed in Delhi are graduates and some of them are law graduates.

Shri A. P. Chatterjee: In the amendment you have proposed you have said:—

“Clause 17 of the Bill be so amended as to invest the Executive Magistrates and the Special Executive Magistrates with powers to try

cases under Corporation, Municipal, Traffic, Police and other minor Acts.”

So, directly your amendment does not speak of the maintenance of the system of honorary magistrates.

Shri Yogeshwar Dayal: No, we do not say that.

Shri A. P. Chatterjee: Therefore do you think that some of you will be appointed as Executive Magistrates or as Special Executive Magistrates?

Shri Yogeshwar Dayal: May be or may not be. Our point is that these minor Acts cases may be left over to the Executive Magistrates and Special Executive Magistrates.

Shri A. P. Chatterjee: If you think that you may be or may not be appointed, why do you want to make a sort of a dent, so to say, into the division between the executive and the judiciary in this fashion by trying to invest the Executive Magistrates and Special Executive Magistrates with certain powers to try cases? As far as I have understood your answer, it is speculative whether you will be kept or not. For a speculative reason you are trying to do a thing which may not result in a concrete division or separation of the executive from the judiciary.

Shri Yogeshwar Dayal: It is not a question of speculation on our part. It is just because the judicial magistrates will not be able to deal with these minor Acts cases, which number more than a lakh, that we suggested that they may be left over to the Executive Magistrates and Special Executive Magistrates if appointed.

Shri A. P. Chatterjee: So, in sum and substance you have come to plead that certain functions of the magistrates may be continued to be vested in the executive. You do not want a complete separation of the judiciary from the executive. It comes to that. If that is the position, as Members of this Committee we are going to see

how the judiciary can be separated from the executive. Your evidence to that effect certainly will be taken into account, but I do think that whatever you have said about the glorious future of the system of honorary magistrates is to a great extent out of place because you may or may not be appointed as honorary magistrates.

As far as the question of qualifications of Honorary Magistrates is concerned, I do not want to put any question; but I would ask of you only one thing. Mr. Dayal, you have given an account of your work as an Honorary Magistrate. May I know what are you in public life?

Shri Yogeshwar Dayal: I am a law graduate, a lawyer. I practised in Delhi courts and then I took to business. I am a businessman and a social worker.

Shri A. P. Chatterjee: A person cannot function as an Honorary Magistrate from 10 A.M. to 5 P.M. He is to earn his livelihood elsewhere.

Shri Yogeshwar Dayal: I have got my other sources of income.

Shri A. P. Chatterjee: Yours may be a special case. Generally speaking, the Honorary Magistrates should have some method of earning their livelihood.

Shri Yogeshwar Dayal: As I submitted previously, Honorary Magistrates are usually appointed from those who are men of standing in business and other fields.

Shri A. P. Chatterjee: I am leaving out yourself and other Delhi Honorary Magistrates. You will appreciate that everybody is not a business man. For example, in Bengal, Bengalis are averse to business and most of them are middle-class people. If they are drafted as Honorary Magistrates, how can they work for long hours? After all, they have to earn their livelihood also. They could sit only for two or three hours in a day if they have to earn their livelihood. If they earn

their livelihood through shady means, that is a different thing. If they have to earn their livelihood through honest means, then, as Honorary Magistrates, they would not be able to devote more than two or three hours in a day.

Shri D. S. Grewal: I would say that actually 90 per cent of the Honorary Magistrates are only devoting two or three hours in a day for three days in a week. We work on alternate days. What we do is a social work and any person who can afford to devote two or three hours a day on alternate days does that job. We all have other means of earning our livelihood. Some persons, apart from working as Honorary Magistrates, are also doing honorary work in other institutions and societies. This is just doing a little social work.

Shri A. P. Chatterjee: Why should you be so hungry for social work? My last question is this. You have said that 90 per cent of the Honorary Magistrates work on alternate days for two or three hours a day. I will just put you this question. With this account which you have given just now, is it possible to say, will it be reasonable to say, that the Honorary Magistrates can easily dispose of a very large number of cases?

Shri D. S. Grewal: It depends on what type of cases are entrusted to them. We take up, for instance, traffic cases; these are minor offences for which we have a summary trial. For an offence of violating a signal, for example, we do not need much of qualifications; if the person pleads guilty, we fine Rs. 5/-. Mostly these are the cases which we handle.

Shri Vidya Charan Shukla: You have suggested certain qualifications for Honorary Magistrates. Thousands of such people possessing those qualifications could be easily found. Out of these two or three thousands of people who are willing to serve and who are equally competent to serve, how does

the administrator select 20 or 30 Honorary Magistrates? Is there the possibility of the subjective element creeping into such selection or not? Will not the subjective element come in?

Shri Yogeshwar Dayal: There may be, but I would say that the person who is an appointing authority will look into it.

Shri Vidya Charan Shukla: Whosoever appoints, appoints from his own angle. Apart from the work and other things, there has been this criticism that the person in authority, whosoever is the person or group of persons, selects only those people who suit their purposes. How do you answer this criticism? Is this criticism valid or not?

Shri Yogeshwar Dayal: It is, to a large extent; but some guide-lines can be determined for that.

Shri Vidya Charan Shukla: You have already indicated the guide-lines in the shape of qualifications. What other guide-lines can be given? I have to select 30 people out of 2,000 or 3,000. What kind of guide-lines can be given?

Shri D. S. Grewal: The proper person to reply would be the person who selects them.

Shri Vidya Charan Shukla: It is not questioning the selections made. It is a question of eliminating the malpractices. You will agree that malpractices do take place. Some undesirable persons can be appointed. Because of these continued malpractices all over the country, the system of Honorary Magistrates has been abolished and is going to be abolished here also; that is the proposal. So, this is one of the things which should be satisfactorily answered before the Committee can seriously consider the retention of Honorary Magistrates. If you cannot give a reply right now, you can send your Memorandum later.

Shri Yogeshwar Dayal: Yes.

Shri Vidya Charan Shukla: You were saying about traffic offences and summary trials. Are you aware of the system that is being followed in Bombay for traffic offences? There, no Magistrates are required; notices are issued to the persons concerned and they send the money by money order. If that system is introduced, that will reduce the work; we need not appoint Magistrates for this job.

Shri Uttam Singh: That is quite all right, but that will mean Police Raj.

Shri Vidya Charan Shukla: I do not think the citizens of Bombay have complained of Police Raj. As a matter of fact, it is common knowledge that traffic offences are better controlled in the City of Bombay than in Delhi. Therefore, you cannot say that Bombay suffers from Police Raj.

Shri D. S. Grewal: Maybe, temperamentally, the people of Bombay are quite different from the people of Delhi.

Shri Vidya Charan Shukla: You should not put a slur on the people of Delhi.

Shri Uttam Singh: About your first question, you were saying about the malpractices on the part of the appointing authority of Honorary Magistrates...

Shri Vidya Charan Shukla: I was asking you how we can eliminate the likelihood of malpractices creeping into the selection.

Shri Uttam Singh : That cannot be eliminated.

Shri Vidya Charan Shukla: You gentlemen deal with law. Have you any comments to make or any suggestions to offer on other provisions of the law except that which relates to you? We would have expected the people who are entrusted with this

subject and interested in to give us the benefit of their views on the various provisions or this law, not merely what concerns them individually and as an institution. But you seem to be concerned only with your lot and not with the other.

Shri Uttam Singh: We come here as citizens of Delhi first.

Shri Vidya Charan Shukla: You come as citizens of union territory. This Bill is intended to determine the judicial administration in future. I looked through your memorandum. I don't see anything except what concerns yourselves exclusively. I would have expected you to give comments on various provisions.

Shri Uttam Singh: You are not amending any law.

Shri Vidya Charan Shukla: We are making law. Have you comments if any on other provisions of the law?

Shri Uttam Singh : Otherwise it is perfect. We have nothing to do. Except for this thing it is perfect.

Shri Vidya Charan Shukla: 20 magistrates will do the job. If we introduce the system in Bombay even 20 will not be required. We have collected the figure in consultation with Delhi Administration.

श्री रामसेवक यादव : न्यायपालिका को कार्यपालिका से अलग किया जाता है। जितने भी जरायम हैं उन सभी का फैसला कार्यपालिका करे या केवल ताजीरात हिन्द का फैसला करे, इस बारे में आपकी क्या सलाह है।

श्री उत्तम सिंह : सिर्फ ताजीरात हिन्द का करे।

श्री रामसेवक यादव : फिर आप कैसे कहेंगे कि सचमुच न्यायपालिका कार्यपालिका से अलग हुई क्योंकि क्रिमिनल ला अमेंडमेंट ऐक्ट और दूसरे सप्लाई के तमाम ऐक्ट्स हैं और फिर वह आम्स ऐक्ट है और जब वह

इतना बड़ा एरिया कवर कर सकते हैं तो वह सेप्रेशन केवल नाममात्र का ही सेप्रेशन होगा लेकिन दरअसल में वह सेप्रेशन नहीं होगा। इसे कैसे जस्टिफाई करते हैं।

Mr Chairman: Have you followed the question?

Shri Uttam Singh : I have followed.

Shri Ram Sewak Yadav: I want to know whether in separation of judiciary you want to give judicial cases or all other cases also?

Shri Uttam Singh: Others also. We want that only cases which are very minor should be entrusted to the Executive magistrates. That is all.

Shri Ram Sewak Yadav: How do you define the word 'minor'?

Shri Uttam Singh: Just like municipal act.

Shri Ram Sewak Yadav: Is it advisable to give all possible powers for judiciary where there is a punishment for imprisonment? Can you draw that distinction?

Shri Uttam Singh : No.

Shri Yogeshwar Dayal: We have made our submission to the hon. Committee and hon. Members. It is for the Committee to decide about it.

Shri P. M. Sayeed: Would you not like to have some qualification for the executive, honorary magistrates? They should be at least law graduates.

Shri Yogeshwar Dayal: I have no objection.

Mr Chairman: Thank you very much.

(The witnesses then withdrew)

(The Committee then adjourned)

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