

1945

Present: **Wijewardene J.**

GUNWARDENE, *et al.*, Appellants, and INSPECTOR
OF POLICE, CHILAW, Respondent.

39-40—*M. C. Chilaw, 22,896.*

Counsel—Lawyers who are State Councillors—Do not occupy a more advantageous position than other lawyers.

Magistrates should refrain from giving room even for a suspicion that lawyers who happen to be State Councillors occupy a more advantageous position than other lawyers when they appear as Counsel in a Court of Law.

A PPEAL from a conviction by the Magistrate of Chilaw.

R. L. Pereira, K.C. (with him *Mahesa Rutnam*), for the accused, appellants.

E. L. W. de Zoysa, C.C., for the Crown.

Cur. adv. vult.

September 20, 1945. WIJEWARDENE J.—

I see no reason to interfere with the finding of the Magistrate against the appellants on the charges framed against them, and the appeals are, therefore, dismissed. That does not mean that I accept or reject the explanation given by the prosecution for the injury caused to the second appellant. I do not express any opinion on that question.

The Inspector of Police instituted these proceedings on October 6, 1943. After some evidence was recorded on two days the Magistrate made an order on May 2, 1944, fixing the case for further hearing on June 14, 1944. On June 2, 1944, the Counsel appearing with the Police for the prosecution addressed a letter to the Magistrate asking for a postponement, as he had to attend a meeting of the State Council on that day. The Magistrate acted very rightly in refusing the postponement asked for. The hearing was resumed on June 14, 1944. While a prosecution witness was still under cross-examination on that day, the Magistrate postponed the case at 1 p.m. and made the following entry:—

“ It is one p.m. Mr. wishes to get away to attend a Council meeting. I have a murder case to go on with. I, therefore, allow the date ”.

I do not make any comment on that order as I read it to mean that the decisive reason for the postponement was the necessity for the Magistrate to hold an inquiry in a murder case.

I think it, however, desirable to state that Magistrates should refrain from giving room even for a suspicion that lawyers who happen to be State Councillors occupy a more advantageous position than other lawyers when they appear as Counsel in a Court of Law. Such a suspicion will tend to destroy public faith in the administration of justice.

Appeal dismissed.
