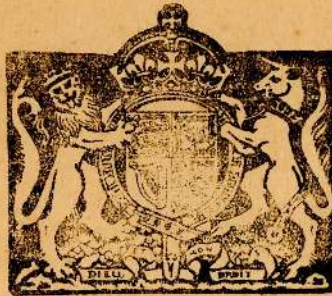


The State Council of Ceylon.

No. 64.

November 18, 1942.



DEBATES

SESSION OF 1942.

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Wednesday, November 18, 1942.

The Council met at 2 p.m. MR. SPEAKER [THE HON. SIR WAITIALINGAM DURAISWAMY] in the Chair.

OATHS OF ALLEGIANCE & AFFIRMATIONS.

The Hon. Mr. Charles Ernest Jones, Acting Financial Secretary, took and subscribed the Oath of Allegiance before taking his seat as a Member of the Council.

PAPERS TABLED.

(Leader of the State Council): Three Supplementary Estimates for 1942-43.

(Minister of Agriculture and Lands): Estimates of Income and Expenditure of the Coconut Research Scheme for the year 1943 and Supplementary Estimates for 1942-43.

NOTICES OF MOTIONS.

*Mr. S. Abeywickrama (Udugama): I give notice of the following motion:

That in view of the very high cost of production of rubber and the urgent necessity for producing the maximum output and in order to encourage such production, this Council if of opinion that the present price of rubber be raised to Re. 1 per pound from January 1, 1943.

I also give notice that I shall move to suspend the relevant Standing Orders to enable me to move this motion at an early date.

KUNDASALE-NATTARANPOTA-MAHAWATTA ROAD, &c.

The following item stood upon the Orders of the Day:

To continue the debate on the motion of Mr. A. Ratnayake,—

That the following roads should be opened up by the D. R. C., Kandy, this year.—

- (1) Kundasale-Nattaranpota-Mahawatta road;
- (2) Palletalawinna-Paranagama road;
- (3) Waradiwela road;
- (4) Udatalawinna-Madige-Meegamma road.

[Note.—An asterisk (*) against the name of a Member indicates that his remarks have not been revised by him.]

This motion was considered at a meeting of the Executive Committee on January 27, 1941. Mr. Ratnayake who had been invited to attend was not present.

The Chairman, District Road Committee, Kandy, reported in September, 1939, as follows:—

(1) Kundasale-Nattaranpota-Mahawatta road.—Cutting and widening has been done on this road as a relief measure during the last few months. A sum of Rs. 3,300 is required for building bridges and culverts.

(2) Palletalawinne-Paranagama road.—During the time of malarial relief works in 1935 the villagers objected to the trace. Land will have to be acquired. Estimated cost of cutting and widening of this road is Rs. 10,000.

(3) Waradiwela road.—The estimated cost of cutting and widening is Rs. 12,000. Acquisition of land will be necessary.

(4) Udatalawinna-Madige-Meegamma road.—This road consists of two sections—(a) Polgolla-Etagala D. R. C. road, 2½ miles. Cutting and widening would cost Rs. 7,500. Acquisition for deviations would be necessary. (b) Udatalawinne-Meegamma Village Committee road, 2 miles. Cutting and widening would cost Rs. 5,000.

These are all admittedly desirable roads, but the D. R. C. has no funds to undertake them unless special grants are allocated.

The Executive Committee will consider making grants, as funds are available, to these roads in order of importance.

Mr. Speaker: Any comments? [Pause.] Has the Hon. Member to say anything?

Mr. A. Ratnayake (Dumbara): No.

Question put; the Council divided (under Standing Order 68): Ayes, 15; Noes, Nil.

MAGISTRATES: KNOWLEDGE OF VERNACULARS, &c.

The debate on the following motion of Mr. Ratnayake was continued:

That this Council is of opinion that all Magistrates should be able to read and write the vernacular and should possess a good knowledge of the habits and customs of the people of the place.

Report of the Legal Secretary under Standing Order 57.

The motion requires that no Acting Magistrate who is unable both to read and write not only Sinhalese but also Tamil should be confirmed in his appointment. A capacity to speak or to understand either or both of the vernaculars is not to be sufficient.

2. While admitting that the object sought to be attained by the motion is desirable the Legal Secretary considers not only that justice has been, and will continue to be, administered by Magistrates who do not possess these qualifications, but also that the policy of the motion must remain a counsel of perfection until 30 years after reading and writing, both Sinhalese and Tamil, have been made compulsory in every school.

3. The Legal Secretary agrees that a good knowledge of the habits and customs of the place is desirable and believes that every Magistrate either prior to appointment to a particular place possesses a sufficiency of such knowledge or soon acquires it after appointment.

***Mr. B. H. Aluwihare (Matale):** All the objections I feel to this motion are merely illusory, because now, for instance, when it was a question of the Army recruiting people from the villages, they suddenly discovered that such village folk could be trained. I understand from paragraph 2 of the report on the motion, that the Legal Secretary will not insist on people possessing a knowledge of these languages, as the hon. Member wants. What we really want insisted on is that a prior knowledge of the languages would be required.

The Hon. Mr. D. S. Senanayake (Minister of Agriculture and Lands): I would just like to ask one question of the mover of the motion, and that is, does he refer to future appointments or to the present Magistrates? The motion reads: "That this Council is of opinion that all Magistrates should be able to read and write" and if it refers to the present Magistrates, what are we going to do with those who have already been appointed?

The Hon. Mr. J. H. B. Nihill (Legal Secretary): First of all, this motion

strikes me as what might be called a pious resolution, and as I am a pious man, perhaps I should support it. Actually all that the resolution amounts to is that it would be highly desirable if all Magistrates in Ceylon should be able to read and write the vernacular and possess a good knowledge of habits and customs of the people of the place. Well, of course, I entirely agree with that; and that is really all that the resolution amounts to. But they should—

***Mr. Aluwihare:** They must.

The Hon. Mr. Nihill: No. It says "they should". But they do, and can they? I have to look at the position as it is at the present time. Of course, I have not had the advantage of hearing the introductory remarks of the hon. Member when he moved the motion in the House, but if he interprets this motion to mean that it must be a *sine qua non* to their appointment as Magistrates or even to their continuance as Magistrates at the present day, well, of course—if that is what the hon. Member means by the motion—then I should have to resist it with all the power at my command.

What I have to look at at the moment is the position as we all know it actually to be. I have to look to it, first of all, when recommending appointments to the minor judiciary, that the man is a good lawyer. I have to look to it that he is a man of the right temperament, in my opinion, to occupy a judicial position and, of course, in addition to those very essential requirements that he also has—and, I put it, it is even more important than language; probably the two would go together—a real knowledge of the habits and customs of the people; then I agree that he is more likely to make a good Magistrate.

But first things must come first, and as long as I am responsible for the administration of justice in the minor courts, I must look at the position as we know it is in Ceylon at the present day, and I must go first of all for the man with a sound knowledge of the law, and secondly see that he is of the right temperament for a judicial appointment; and of course if he possesses a knowledge of Sinhalese and Tamil, or of the one or the other, or both, plus this very desirable consideration that he should know

something about the habits of the people in their homes, well, that is so much the better.

But I do not really think that this House expects me to accept this resolution if it means that at once I have to go round to every member of the minor judiciary and hold an inquisition as to his knowledge of the vernacular, and his knowledge of the habits and customs of the people, and where a man is a good Magistrate and has a sound knowledge of the law that I should say, "Well, I am afraid the end of your appointment is in sight, because the State Council has passed a resolution saying that you cannot hold that position unless you have these non-legal qualifications in addition to the legal qualifications which you possess".

I do hope that the House will not think that I am taking an unsympathetic view of this motion, because I am not; and I look forward to the day—I know something about the campaign for national language in my own country—when it will be merely a matter of form that every Magistrate in the country and every Judge and everybody else has a sound knowledge either of Sinhalese or Tamil. But we should not blind our eyes to the condition that is obtaining at the present day and for those reasons I feel bound, unless this is a pious resolution, to oppose it.

The Hon. Mr. G. E. de Silva (Minister of Health): I should like to say at once that this is not a pious resolution. If we are going to pass pious resolutions in this House, we need not waste our time here; and as a Minister, I should like to caution the Hon. the Legal Secretary that I am not in the habit of bringing any such motion before this House, and I am perfectly sure that other Members of this House too are the same.

The point I should like to make clear is this. At the present day the whole of the minor judiciary is confined to the legal profession and most of the Magistrates are people of this country, they are Ceylonese pure and simple.

The Hon. Mr. Nihill: All of them?

The Hon. Mr. G. E. de Silva: Yes. I should like to know the man in this country who is ashamed to learn either

Sinhalese or Tamil. If there is such a man, he should be ostracized by society. I know, for instance, that there are certain people who feel it beneath their dignity to learn either Sinhalese or Tamil. Even though they do not like to own it, yet they know to read and speak Sinhalese and Tamil.

Let us take the case of those lawyers who have been recruited as minor judges. A person so recruited may be a Sinhalese or a Tamil, or he may belong to the Muslim community or the Burgher community. If a Burgher gentleman is recruited to the Bench and is unable to read and write either of the vernaculars, I would certainly say that he is not fit to live in this country. I go so far as that because it is that cursed idea that has ruined many a young man whose career would have been otherwise brilliant—if he had only adopted a policy of making common cause with the people of this country and learning their own language.

I should like to ask, who is the Sinhalese who is not able to read and write Sinhalese and yet calls himself a Sinhalese? Or, who is the Tamil who is not able to read and write Tamil and still calls himself a Tamil? I can understand the case of those who in days gone by had been brought up with the idea of being taught in a University and being sent to England to acquire a certain amount of the veneer of the West. At the end of it, they come here and do nothing and create all the trouble for the people of this country! We have such people in this country. I am not speaking about them. I am referring to those who are really interested in the prosperity and happiness of the people of this country.

There may be officers already in service who do not know the languages of the country, but is it unfair to ask them to begin to learn the languages now? Take the European recruits to the Civil Service. The Acting Financial Secretary, Mr. Jones, had to pass examinations in both Sinhalese and Tamil. Did he shirk that duty? No, Sir. He had to pass those examinations in order to get his normal promotions. Why should it be difficult for a Judge to take up the study of the languages of the country and pass an examination in

[The Hon. Mr. G. E. de Silva.]
 them, if he does not already know these languages? Why should we not, compel all those who join the Department in the future, to pass an examination in the languages of the country before they are confirmed in their posts? Even if an officer has already been confirmed in his appointment, he could be required to take up these examinations, and be told that his promotions would depend on his passing them. If this condition were laid down, I do not think any Judge would fail to study the languages of the country.

The whole trouble in this country is that some of our people adopt the strange ideas of other people and never seem to realize that we are living in our own country. It is because of this, perhaps, that they seem to think that the two languages of the country should not be learned by them. With regard to a knowledge of the customs of this country, all I can say is that if any person permanently resident in this country does not know the customs of this country, then he is not fit to live in this country. He is not fit to hold the office of Magistrate here. Some people pretend that they do not know anything of the customs of this country.

The other day I read in the newspapers that a Magistrate had asked a witness to remove the nosegay that he was wearing. I have practised as a lawyer in the various Courts of the country for over thirty years now, and I have always worn a nosegay in my button-hole whenever I appeared before Judges. You can see from this incident to what extent some Magistrates go, sometimes it is really very difficult to understand these Magistrates.

If an officer has already been appointed to the Magistracy, who does not know to read and write Sinhalese or Tamil, he must be given sufficient time in which to learn to read and write one of the languages. Whatever difficulties may arise in the case of the old-entrants, there should be none in the case of new entrants.

If this suggestion is given effect to, the people of this country will begin to attach importance to their own languages and begin seriously to think of using these languages as media of instruction in the schools. This is a matter over which I am very much concerned in the

interests of the future of this country, and I appeal to the Legal Secretary to give effect to the idea underlying this motion. Let us not be worried about the actual wording of this motion. The idea underlying this motion is that we must get these officers to learn these languages and that we must not encourage snobbery.

Dr. A. P. de Zoysa (Colombo South):

The idea underlying this motion is not so much the encouragement of the study of the Sinhalese and Tamil languages, as was suggested by the Minister of Health. The task of encouraging the study of these languages, either for cultural or other purposes, should be left to the Executive Committee of Education. The mover of the motion is himself a lawyer and most of us, through experience, find that because the Magistrates do not know to read and write Sinhalese or Tamil, the poor litigants undergo certain hardships.

It has become the rule for Magistrates to insist that any letter in Sinhalese or Tamil produced in a Court, should be translated. Very often the translation is inaccurate; sometimes a wrong word is used, giving quite a different meaning to the original document. If a Sinhalese or Tamil document is produced in a case, it has to be translated into English. The expense of paying the translator is a hardship.

We have seen instances where, when the Magistrate, the lawyers, and the litigants were all Sinhalese, time was wasted by employing an Interpreter. All the questions have to be interpreted; they are sometimes misinterpreted, or the questions are misunderstood. If the questions are put in clear, blunt Sinhalese the correct answers can be expected, but the witnesses do not know what is required of them. The Magistrate shouts at them; the Interpreter shouts at them, and the witnesses get worried and frightened, and when they are in this state, they are asked in a loud voice, "Do you know what you are saying?" It is not with the idea of imposing on Magistrates the task of sitting down and learning the languages of the country for the mere sake of learning them that I support this motion, but because I feel that in order to mete out justice it is necessary for Magistrates to know exactly what the witnesses say:

If a knowledge of the vernaculars is necessary in the case of a Civil Servant, how much more necessary is it in the case of Magistrates? It may not be necessary for a Judge of the Supreme Court to know the vernaculars, because on questions of fact he can dismiss the appeal and concern himself only with questions of law. But in the determination of questions of fact by Magistrates, there must not be any possibility of the litigants suffering hardship or injustice.

The Legal Secretary said that he is not a pious man—[*Interruption*]; that of course does not mean that he is an impious man.

The Hon. Mr. Nihill: I think I said that I was a pious man. That is why this resolution appeared to me to express a pious hope—*prima facie*.

Dr. de Zoysa: This is not a pious resolution. The Legal Secretary thought that Sinhalese and Tamil were like his own language. His language is practically a dead language.

The Hon. Mr. Nihill: No, no!

Dr. De Zoysa: Irish is practically a dead language.

The Hon. Mr. Nihill: No!

Dr. de Zoysa: The Sinhalese language has a living literature; every Sinhalese villager speaks Sinhalese.

With regard to a knowledge of the customs of the country, we know that there are some Sinhalese who, when they become Magistrates, display gross ignorance of the customs of the Sinhalese villager. These officials were brought up in Sinhalese homes, but in completely English surroundings. Perhaps they speak English at home, and they know nothing about the customs of the villagers and of the people generally. The result is that they have a tendency to misinterpret or misunderstand a witness. When the Magistrate takes a particular view, it is difficult for the lawyer to say that the custom of the people is really different to what the Magistrate thinks it is. The Magistrate will say, "There is no evidence of that before the Court". We all know these difficulties.

In order to enable the Magistrates to do justice, in order that the people of the

country may feel that they receive justice at the hands of the Magistrates, I feel that the Magistrates should know the languages of the country, and for that reason this motion should be adopted.

Mr. G. A. H. Wille (Nominated Member): This is a pious resolution in the best sense of the term; it expresses a consummation devoutly to be wished. I do not think anybody is against that view of the matter. The only point is whether we are in a position to enforce the resolution at once.

***Mr. Aluwhare:** We can do it if we have a native Legal Secretary; he would do it in two months.

Mr. Wille: Even the last speaker said, I think that there are Sinhalese—I am not sure whether he included Tamils—that there are Sinhalese and Tamil Magistrates who do not know their native tongue and are not acquainted with the customs of the people. The resolution speaks of the "habits and customs of the place". I do not know whether the mover refers to a particular place to which a Magistrate is appointed, or to the habits and customs of the country generally. Perhaps he is thinking of the habits and customs of the Kandians as contrasted with the habits and customs of the people of Jaffna or the South. I do not know what exactly he intended.

It is quite clear that we are now making every attempt to make all our citizens acquainted with the vernacular languages, and that till some progress is made in that direction we cannot enforce a resolution of this kind. Otherwise, it would be not a question of justice being done, but of injustice being the result of this move.

I wish to ask the Minister of Health whether, if Magistrates took down proceedings in Sinhalese or Tamil, it would not be necessary for Supreme Court Judges also to be acquainted with these languages. Is he going to say that straightaway we must limit appointments to the Supreme Court Bench to those who are fully acquainted with the vernaculars.

Let us all hope that this resolution will be given effect to in the spirit in which it is intended, but to insist on more would be very impractical.

***Mr. A. Mahadeva (Jaffna)**: I do not know whether the mover, when he drafted this resolution, intended it to be taken literally. He says that "Magistrates" should know the vernaculars. Is it his intention that District Judges and Judges of the Supreme Court should not be required to have a knowledge of the vernaculars? I was not present when the hon. Member moved this motion, and I do not know whether he made any observations at that stage. It would be interesting to know whether his intention is that only Magistrates, not Judges of the District Court, or Judges of the Supreme Court, should know the vernacular languages.

The next point on which I am not quite clear is this: in asking that Magistrates should be able to read and write the vernaculars, does he make the request that the proceedings be recorded in a language of the country—either Sinhalese or Tamil? The hon. Member for Colombo South (Dr. de Zoysa) referred to the absurdity of proceedings being conducted in English before a Sinhalese Magistrate, with Sinhalese witnesses. I do not know whether the hon. Member desires to go to that extent.

I think we should really take this motion at its face value. I take it that the hon. Member knew exactly what he wanted. There had been other resolutions before this House which said that the proceedings should be recorded in the vernacular. But here he merely asked that a Magistrate should be able to read and write the vernacular. Personally, I do not know whether there is any Tamil or Sinhalese who is unable to read and write his own language. He may not reach the standard of the pundit—that standard where he can expound the classical works in each of these languages—but, certainly, everyone that I happen to know has at least reached Standard VI. or VII. in Tamil, and, I think, speaking as a Tamil, being one who was perhaps a victim of the educational system of the past, although I would not like to make a speech in Tamil except to an audience that does not know Tamil, I certainly feel that I can read a book in Tamil which is written in the ordinary day-to-day language of the people.

I speak now as one who has had a great disadvantage in the study of the

vernaculars during my school-days. So that, if it was meant merely that a knowledge of Tamil and Sinhalese should be required, it is possible to expect a Tamil to be able to read and write Tamil to the extent that I have indicated. It is also possible to expect a Sinhalese to know Sinhalese to that extent. But there are some difficulties that arise. I happen to be a little more fortunate, but I can visualize a number of Tamils saying, "If you introduce that system forthwith, you will shut out a large number of our community from appointments in the Sinhalese districts, if the Sinhalese language must be known."

Personally, I have a very good colloquial knowledge of Sinhalese, and I can follow the proceedings in any Court of law even if it is conducted in Sinhalese; probably, if it is a matter of learning the Sinhalese alphabet and also writing Sinhalese—to that extent it would not be a great difficulty for me. But you will realize that for a person who is entirely unacquainted with the Sinhalese language and its idioms, it is a study which will take some time.

If so, what is the remedy? Does the hon. Member intend to give some time before this resolution is put into operation, or, would he insist on its being put into operation immediately? Personally, I think, if that minimum of knowledge of the vernaculars which I indicated is what is required, and a short period of time is given, no community in Ceylon would grumble; that is, a Sinhalese will not say, "I am shut out of appointments in the districts where Tamil is spoken because I have no knowledge of Tamil," nor will a Tamil say, "I am shut out from an appointment in a Sinhalese district because I have no knowledge of Sinhalese."

I have no objection to giving a certain period of time within which the acquisition of some knowledge of the vernacular should be insisted upon. But I hope it will not be made a such test of a knowledge of Sinhalese or Tamil as some of the cultural deities of the languages would like it to be—that a knowledge of classical Sinhalese and Tamil would not be made a requisite for appointment as Magistrates. That I think, is unnecessary.

Sir, I feel that at the present moment it would be improper, to insist on any

such requirement. You cannot insist on it without notice, and if you do you will only increase that communal tension which I would like to see allayed, because it would immediately be said that you are shutting out Tamils from appointment to Sinhalese districts. I also do not know whether the Sinhalese are so anxious about securing appointment to Tamil districts; if they are, you will be shutting them out too.

Sir, I say so, because I expect that the knowledge of Sinhalese that would be required of a Tamil would not be sufficient if he was to secure an appointment in a Sinhalese district. Obviously, it is necessary, if the spirit of this resolution is understood, that anyone serving in a Sinhalese district, even if he be a Tamil, or a Burgher or belongs to any other community, should be thoroughly conversant with colloquial Sinhalese if he is going to read and write the language within a certain time. So in my view it is not practicable to enforce this resolution immediately. But it is possible, with some notice, to achieve the objects aimed at by this resolution.

I therefore feel that, although I sympathize with the objects of this resolution, I am in a difficulty as regards voting for it, unless hon. Members will explain to us whether the intention is that it should be put into operation immediately. Then I will know exactly which way to vote.

Mr. H. R. Freeman (Anuradhapura): Sir, whether these "Wednesday" motions are pious expressions of opinion or not, is it not a fact that the Officers of State very rarely give effect to them?

Mr. H. W. Amarasuriya (Galle): Sir, I wish to speak a few words after what the hon. Member for Jaffna (Mr. Mahadeva) has said. I appreciate the practical difficulties that the Hon. the Legal Secretary is faced with in giving effect to this motion. I would like to suggest, for the consideration of the mover and other Members of this House, that all the words after the word "vernacular" should be deleted and the word "vernaculars" used, because, I think, the intention of the mover is to see that, in the event of a Tamil gentleman being appointed to a Sinhalese district as a

Magistrate, he should know the Sinhalese language to some extent—to the extent that he can read and write the language.

I do not think that we need argue that it is useful to have a working knowledge of Sinhalese or Tamil in the case of Magistrates. He considers that the bulk of the cases came before Magistrates appointed from among people of this country, and it is in the lower Courts that some of these glaring errors were committed. He wishes to avoid that by getting the Magistrates to have a working knowledge of the Sinhalese or Tamil language, as the case may be.

I do not think we should have the second part of the motion beginning from the following words:

"and should possess a good knowledge of the habits and customs of the people of the place."

That lends a communal touch to the whole question. To possess a good knowledge of the habits and customs of the people of the place would mean that it would be only Sinhalese Magistrates who could be appointed to Sinhalese areas or Sinhalese districts and only Tamil Magistrates to a Tamil district. I do not think we should support such a proposition, and I would like the words which I propose should be deleted to be omitted from the motion altogether.

Then, you will also remember that this Council adopted a motion of the late Member for Avissawella (Mr. D. P. R. Gunawardana) that the proceedings in our Courts should be conducted in Sinhalese. That motion was passed by this House, but up to now no effort has been made by the Hon. the Legal Secretary to give effect to it. I do not know why there has been such a long delay even in making an effort to give effect to such a motion.

The Hon. the Legal Secretary has not told us his difficulties in giving effect to this motion. This motion is also connected with motions Nos. 685 and 692, because the hon. Member visualizes the case of Magistrates who are on trial and holding acting posts not being confirmed in their appointments unless and until they have obtained a fair knowledge of the vernaculars. In another motion, the hon. Member also desires that Sinhalese and Tamil should be made compulsory languages.

So that, you will see that the object of the hon. Member is to see that Sin-

[Mr. H. W. Amarasuriya.]
halese and Tamil are learned by these Magistrates, and that they are able to understand and form a first-hand opinion regarding all the proceedings in a Court of law. I hope the hon. Member will accept that suggestion of mine and agree to the deletion of those words after the word "vernacular". I think we can then support the motion.

If the principle is accepted, I hope the Hon. the Legal Secretary will not treat this motion as a mere pious resolution but will carry it out as far as possible. I do not think he should throw a wet blanket at this proposal and come and say that it is not possible to do anything. I trust that if the motion is passed in that form the Hon. the Legal Secretary will put into effect the principle underlying the motion.

***The Hon. Mr. Bandaranaike:** I would like to make a few remarks on this motion, particularly as the mover is deprived temporarily of the adequate use of one organ which is valuable in a politician, namely, his tongue; so I feel that perhaps I myself might put forward some arguments in favour of this motion, those he might be precluded by a very temporary disablement from putting forward audibly or forcefully as he would like to do.

I think, Sir, the House will recollect that this is not the first occasion on which a motion of this kind has been debated in this House. Some years ago there was another motion, more or less on the same lines, brought forward by, I think, the hon. Member for Avissawella (Mr. D. P. R. Gunawardana), which was also debated and accepted.

We fully realize—I realize it just as much as other Members do—the practical difficulty in saying straightaway that no appointment should be made unless the Magistrate in question is able to read and write the Sinhalese and Tamil languages. But, surely, there must be some *via media* in this matter? I am told that what I am about to say has already been mentioned in a very eloquent speech of the Minister of Health, which it is my very great loss that I was not here to listen to. But even at the cost of repetition, if it is repetition, I would like to stress the point that already in so many branches of the Public Service,

such, for instance, as the Civil Service, there is a provision that Civil Servants, whether they are black, brown or white, or whatever the colour may be, must pass an examination in Sinhalese and Tamil, which does not merely include the ability to write a few swear words in those languages, but does require, or is supposed to require, some knowledge of the language in the sense of being able to read and write it, in addition to being able to speak a few words of it.

Now, why should not such a very salutary step be taken with regard to these Magistrates; that is, why should not one be in a position to require a Magistrate to be able, within a certain time of his appointment, so to qualify himself in languages which would come much easier to him than they would, let us say, to an English, Scottish or even Southern Irish Civil Servant? I include Southern Irish, Sir, because Gaelic is much more difficult than Sinhalese or Tamil, and probably they may be having that advantage. However that may be most of these Magistrates, whether Sinhalese or Tamil or another type of hybrid that passes under the name of "Ceylonese", are persons who are able, without undue difficulty, to pass a very elementary examination in Sinhalese or Tamil.

Surely, if the Hon. the Legal Secretary considers the possibility, even after appointments are made, of requiring Magistrates to pass some such examination within a reasonable time, it is not going to involve undue difficulty. They have sufficient time to spare to be able to pick up the languages in that way. Many of them may already have that knowledge. I do not say that no appointment should be made until prior knowledge has been obtained, but the request that these people should acquire this knowledge even subsequently is, I think, an eminently reasonable one.

I am sure that lawyer-Members of this House will agree on the desirability, apart from any other question, of the possession of such knowledge in the administration of justice. These Magistrates, even if they know these languages, are so dependent now upon the assistance rendered to them by Interpreter Mudaliyars, not only interpreting the spoken word,

but even in dealing with documents that are translated for their use on the Bench, where they themselves are perhaps not able to verify for themselves whether those translations are quite correct and are a fair representation of the passage purporting to be translated, that the desirability even from that point of view is very great.

Therefore, these two motions of the hon. Member for Dumbara (Mr. Ratnayake) which are more or less complementary to each other—[*Interruption*]: I beg your pardon; yes, Sir, there are really three motions: the first two deal with Magistrates and Acting Magistrates, and the third deals with the question of admission to the Ceylon Law College—these motions may be considered from that point of view, and if they are accepted by this House, without sticking to the actual, precise wording of these motions surely something on the lines which I have just mentioned may with great advantage be done.

The motion of the hon. Member for Avissawella (Mr. D. P. R. Gunawardana) which was passed has not been in any way implemented hitherto. It refers, if my recollection is correct, not merely to the Judiciary, but also to Departments like the Police, and so on, where it was suggested that even statements be taken down in the language of the person making the statement, and so on. These motions do not go as far as that. It is a step in the right direction, and I think the motions may be passed and accepted in that spirit and given effect to in the way—

***Mr. Aluwihare:** Not apologetically?

***The Hon. Mr. Bandaranaike:** I do not say "apologetically". I think they can be given effect to in that spirit, without a strict adherence to the precise wording of the motions; the substance of the motions the intention underlying them can be given effect to straightaway without waiting for thirty years, as the Hon. the Legal Secretary seems to envisage, before anything could be done.

I therefore feel that those motions might be passed and accepted in that manner. I would like to hear from the Hon. the Legal Secretary what practical difficulties he has.

The Hon. Mr. Nihil: I have already spoken on the motion.

Mr. E. R. Tambimuttu (Trincomalee-Batticaloa): Sir, as most of my hon. Friends may be aware, I have practised in the original Courts of this Island for several years, and during that period I have known of no case of a miscarriage of justice due purely to a lack of knowledge of the vernaculars on the part of the presiding judge. I have practised before Sinhalese Judges, before Tamil Judges and before European Judges.

The reason for it is this: there are always, even if an accused is not defended by counsel, some lawyers in Court who will not fail to call the attention of the Judge, if the Interpreter wrongly interpreted any statement of the accused or a witness.

In the old days, as you are aware, Sir, when the Judiciary was composed of Civil Servants, young recruits from England were appointed as Magistrates, and it was very difficult for them, within the short time before they were appointed as Magistrates, to learn the languages. But they were expected to know the colloquial language so that they could converse with a labourer or an ordinary man, and to that extent they were required to pass an examination.

You may judge the standard of that examination from a story I heard then and which I still remember. The examining officer was the father of the hon. Member for Jaffna (Mr. Mahadeva), the late Sir Ponnambalam Arunachalam, and he had to examine the candidates in Tamil to see whether they came up to a certain standard in their knowledge of colloquial Tamil. There were two gentlemen called up before him, and he asked one of them to speak to a rickshaw cooly whom he had called in and to tell him in Tamil, "I want to take train to such-and-such a place. I want to be at station in time. You must hurry up and go there", to explain to him where he wanted to go and to get the man to take him there. This gentleman began to make a long speech, explaining to the man the necessity for his taking a particular train, the need for arriving at a particular place, and the necessity for the man running fast. He was a Ceylonese gentleman. Then Sir Arunachalam called up the other man, who was

[Mr. Tambimuttu.]
an Englishman, and told him to tell the rickshaw cooly what he had asked the previous candidate to say, and he merely told the rickshaw puller, "*Aday po da; po da, odu*"—and then uttered some swear words until old Sir Arunachalam put his fingers in his ears and shouted, "Stop, stop; you are all right; you have passed". In the test that man passed, and the other man who made the long speech failed!

So that I do not fear that there will be such a mass of injustice perpetrated in the country, if we do not require people to attain a very high standard either in Sinhalese or Tamil. If we insist their taking up these languages, then it becomes necessary too that they must also know the dialects of each district.

I remember a particular case where a Jaffna Interpreter was interpreting in a case in the Batticaloa District. In the Batticaloa District, because the people come in contact with Sinhalese people, some Sinhalese words have got mixed up with the Tamil language. In this particular case, a man was charged with murder. One witness said that the man was known as "*Ekiriya Putta*", and the Interpreter said, "*Ekiriya Pootham*". Now, the Tamil word "*Pootham*" means "devil", which meant that this man was a very bad character. I happened to be defending the man, and I said that he was a very saintly man; because of that he was known as "*Ekiriya Puddha*" (Tamil for "Buddha"). You see how these things happen, Sir. And thereby hangs a tale, because the Chief Justice thought that it would be best to appoint a Batticaloa man as Interpreter, which was the case until recently; I do not know the position now.

After all, it is knowledge and understanding of the people that is necessary. That is not a thing that can be interpreted in terms of language, whether Sinhalese or Tamil or any other language. Common sense cannot be treated in terms of language. I do not know why the Magistrates of the present day, whether they be Sinhalese or Tamil, or whatever race they may belong to, should be required to pass a certain standard in the vernaculars of the country. I do not think there is any necessity for this motion.

*Mr. G. G. Ponnambalam (Point Pedro): One was very sorry to hear from the Hon. Minister of Local Administration that some particular organs or functions of his lieutenant from Dumbara (Mr. Ratnayake) had been paralysed. One hopes that such deprivation will only be temporary and not give any promise of permanency as in other cases of the Sinhala Maha Sabha.

With regard to the motion itself, the hon. Burgher Nominated Member (Mr. Wille) referred to it as a consummation devoutly to be wished for. Might I vary it and say, a *consommé* very devoutly to be dished out? I say that it is a *consommé* devoutly and carefully to be dished out, because we just do not know what the intentions of the mover of the motion are. He talked about pious and impious resolutions, piety and impiety! The whole thing is so unreal.

Is it not extraordinary that we should at this time of the day come here, instead of doing something more useful, and discuss the necessity for Magistrates knowing Tamil and Sinhalese? Why? How is it that we are now reduced to this position, that we have to introduce resolutions like this? Is it not much more sensible that the entire foundation, the basis of our educational system and of our society should be changed in such a way that this sort of utterly anomalous and very curious position does not arise?

That is the position. Why, the other day a friend of mine had his son join the Ceylon University. He wanted to take up Tamil and Sanskrit as two classical languages. Would you believe it, Mr. Speaker—it is a question for my hon. Friend the Member for Dumbara (Mr. Ratnayake), who is a Member of the Executive Committee of Education, to ponder about—that Tamil and Sanskrit are not considered as classical languages, and that one has to take up Latin and Greek as classical languages for an Arts degree in the Ceylon University? That is the position. You perpetuate an utter incongruity, an unthinkable incongruity, and then you suddenly ask the Legal Secretary to take a leap in the dark.

As the hon. Member for Jaffna (Mr. Mahadeva) said, there are undoubtedly some people today who talk to Tamils in Sinhalese, and to Sinhalese in Tamil, lest they be found out. But I do not think it can be seriously said today that

among the active practitioners in our Courts of law and among the Judges there are those who are completely ignorant of the languages that are normally spoken in this country. I do not think you can honestly say that there are people functioning in our Courts of law who have not a working knowledge of either one or both of the vernaculars to dispense justice.

What is going to be the result of this resolution, if it is passed? How is it going to be given effect to unless some standard, some test, some examination is imposed immediately on the Magistrates functioning in our Courts? Mark you, Mr. Speaker, our present legal luminaries have been brought up on the system that has been in existence here for a number of years—goodness knows how many years—and, all of a sudden, you want to impose upon them this particular requirement as regards a knowledge of the vernaculars. Are you going to sacrifice first-rate legal ability to, I may say, a second-rate knowledge of the vernaculars?

***Mr. Aluwihare:** The hon. Member himself has said in this House that you do not get first-rate ability in the Magistracy now.

***Mr. Ponnambalam:** I am sorry, I must ponder upon that question.

Are we going to sacrifice first-rate legal ability to a second-rate knowledge of the vernaculars? There is another requirement, a very subtle, a very intriguing one; and that is, a knowledge of the habits and customs of the people of the place. I do not really know whether our habits, our customs, are so various, so diverse or so perplexing that a knowledge of the peculiarities of, shall I say, some particular section is necessary for the discharge of one's duties as a Judge.

There are certain bases upon which customs and usages, which now have the force of law, do exist. For instance, there is the law of Thesavalamai which is peculiar to a particular class of people in this country. I say that that requirement, that most elusive requirement is likely to lead us to staggering results. What would happen if a Magistrate is suddenly transferred to a place like Hambantota, Batticaloa or Puttalam where there are some peculiar characteristics, customs and usages of the people?

I can quite understand the great desideratum the mover has in view. He looks forward to the time when the language of our Courts would be the language of our people. I can quite understand and subscribe to that without reserve; but, however desirable that may be, you cannot bring about that result suddenly. You must work it out from the bottom, till it becomes natural. We have had, whether it is black or white, a system superimposed on our people for well nigh a century, but nevertheless it is true—it has to be owned to our shame—that the vast majority of the intelligentsia of this country are far more conversant with the English language than with their own. That is a fact.

***Mr. S. Abeywickrama (Udugama):** Degeneracy!

***Mr. Ponnambalam:** I believe the hon. Member for Jaffna (Mr. Mahadeva) has seen me addressing public meetings at Jaffna, in Tamil, and my audience were satisfied to listen to me; but can I honestly say that if records in our Courts of law are kept in Tamil, I can do justice by an accused I am asked to defend? How many are there among active practitioners in our Courts of law who will be able to present a case in the vernacular and be sure that in the ultimate result justice is done? [*Interruption*]. It may be that the hon. Member for Dumbura (Mr. Ratnayake) is a pundit. He is an exception to the general class of practitioners.

There is today a requirement in the Criminal Procedure Code under which the statutory statement made by an accused has to be written, wherever it is possible to do so, in the language in which it is expressed. The requirement is there.

***Mr. Aluwihare:** But it is ignored.

***Mr. Ponnambalam:** Oh, no. I contradict my hon. Friend completely on that. I know a number of cases in which Sinhalese and Tamil Magistrates record statements made by accused, when they are asked to make statements, in the language of the accused. I am sure that both the present Legal Secretary and the Legal Secretary that was will bear me out from a reference to the records in our courts.

Motion No. 684 is definitely the thin end of the broader wedge which Motion

[Mr. Ponnambalam.]
No. 685 is. I want hon. Members to make a note of that. The first is a pious motion and that is followed by a definitely impious one, which says that the people who are now appointed and are on probation should be confirmed upon their complying with this requirement. I say that that is a complete breach of faith with these people.

I do not think we would be doing a service to the people of this country by passing these motions. Let us not be carried away by these very desirable notions, by these very desirable motions, by these very desirable resolutions. Let us be practical. Change your educational system and let the vernaculars come back into their own as the medium of education in this country. Then this desideratum of the hon. Member for Dumbara (Mr. Ratnayake) would be automatically achieved. That is all that has to be done. If you do not proceed in that manner—I say this with the utmost sincerity—the remedy would be worse than the disease. You will then have people who will be a law unto themselves. One Magistrate will say that he is taking down the proceedings in the vernacular and someone else, with a less adequate knowledge of the vernacular will disagree with him. Let us start at the beginning; first things first.

Mr. H. E. Newnham (Nominated Member): It occurs to me, Sir, that the views of one who has been a Magistrate and who has learned to read and write both the vernaculars may not be irrelevant on the subject under discussion. In compliance with the Civil Service Regulations, I had to learn to read and write both Sinhalese and Tamil. Exercising for the moment the magisterial instinct, might I suggest that we come back to the terms of the motion which do not suggest that a Magistrate should have *some* knowledge or a *working* knowledge of the vernaculars, but that he should be able to *read and write* the vernaculars.

Looking back over a period of thirty years to the time when I was a Magistrate, my own experience was that it was very rarely indeed that a Magistrate actually needed to be able to read or write the vernaculars. And when a Magistrate did need to use this knowledge of the

vernaculars, it would have been very desirable if he had been an absolute expert in reading and writing them. He should have been expert enough to be able to check his Interpreter Mudaliyar's version of a passage in the vernacular.

The point I want to make is this: it would be quite useless for a person to go through some test with regard to his ability to read and write the vernaculars merely for the purpose of obtaining employment as a Magistrate. If a Magistrate is to learn to read and write them, he should attain a really high standard of proficiency. He should also retain that knowledge and skill in that reading and writing throughout the period of his service. But it is wholly impracticable to insist upon that at the present moment.

I agree with the hon. Member for Point Pedro (Mr. Ponnambalam) that we should look forward to the day when a knowledge of the vernaculars would be a matter of course. Until Sinhalese and Tamil are made compulsory subjects in our schools, I do not think it is practical to expect Magistrates to be able to read and write both the vernaculars to the high standard which is the only standard that would be really useful.

***Mr. Dudley Senanayake (Dedigama):** I think the hon. Member for Point Pedro (Mr. Ponnambalam) and the hon. Nominated Member (Mr. Newnham) have misunderstood the object of this motion. If the object of the motion were to popularize the vernaculars, then it would be desirable to start with first things first. If that were the suggestion, then the teaching of the vernaculars should be made compulsory in our schools. But I do not think the intention of the mover was that.

I believe all hon. Members know that a great deal of injustice is being done in our Courts and this motion seeks to remedy that evil which exists because of the inadequate and unsatisfactory interpretation that is carried on in the Courts. This is not an attempt to rehabilitate Sinhalese and Tamil in this country. This motion has only one object in view, namely, to remove the gross injustice that does occur because of insufficient and unsatisfactory interpretation. That is why, I presume, these motions are confined to Magistrates' Courts. Otherwise,

the mover might have brought forward a motion of far-reaching import and included Government Servants and everybody who—

***Mr. Ponnambalam:** What about District Judges and Supreme Court Judges?

***Mr. Dudley Senanayake:** Include them by all means.

***Mr. Aluwihare:** First things first!

***Mr. Dudley Senanayake:** Yes; I thank the hon. Member for reminding the hon. Member for Point Pedro (Mr. Ponnambalam) on that point. Let us start with the Magistrates.

We must look at this motion in that light. We are trying to remove an evil that exists, by bringing forward this motion. This motion is not brought forward with the idea of rehabilitating the vernaculars in this country.

This excuse of impracticability is too often trotted out whenever any reasonable motion is brought forward in this House. If we express a pious opinion, if we word a motion in such a way as to suggest that the Legal Secretary should do this or that, this argument is trotted out—that as things stand to-day, you cannot do it. If you make a decision on this question to-day, then the practitioners in our Courts of law and all aspirants to Magistracies will make it a point to see that they acquire a speaking-knowledge of the vernaculars—[*Interruption*]. I do not know why the hon. Member wants the whole case to be conducted in Sinhalese or Tamil. That is outside the scope of this motion. The motion says that a Magistrate should have a speaking-knowledge of the languages.

The Hon. Mr. Nihill: He should be able to read and write them.

***Mr. Dudley Senanayake:** That does not mean that the cases must be conducted entirely in Sinhalese or Tamil. You are not justified in using as an argument against this motion the fact that many lawyers are not able to conduct—[*Interruption*]. The motion merely requires Magistrates to be able to understand what the witnesses and accused say in their own language. That is all that is sought for by this motion. I, therefore, feel that this motion should receive our approval.

***Mr. T. B. Jayah (Nominated Member):** I do not know whether any hon.

Member really misunderstands the object the mover of this motion has in view. Some of us feel that the motion is a desirable one, but there are difficulties in the way of its being given effect to. It is not fair to say that we have misunderstood the intentions of the mover. If it is a fact that a great deal of injustice is being committed because some Magistrates do not understand the vernaculars—

The Hon. Mr. Nihill: Question!

***Mr. Jayah:**—then I believe that in the past things must have been very, very bad indeed.

***Mr. Aluwihare:** They were.

***Mr. Jayah:** There was a time perhaps when very few Magistrates understood the language of the country. But I do not think it will be said that some of the men who functioned as Magistrates in the past did not do very well. Even the hon. Member for Trincomalee-Batticaloa (Mr. Tambimuttu), with his experience as a lawyer—a person who has practised in different parts of the Island—was in a position to say that as far as he was concerned he did not know of a case where injustice had been done because a Magistrate did not know the language.

There is another point which is material. As things are, Sinhalese and Tamil are being taught in the schools. In fact the study of one of the languages is compulsory. Perhaps in course of time most Ceylonese will understand the languages, particularly those who have had the benefit of higher education; and what is more, there is every prospect in the future of Sinhalese and Tamil being made the media of instruction. So that I do not think this question need worry the hon. Member for Dumbara (Mr. Ratnayake), because in the next 10 or 15 years there will be appointed mostly Magistrates who will have a fairly good knowledge of Sinhalese or Tamil.

The motion says that one should have a good knowledge of both Tamil and Sinhalese.

The Hon. Mr. Nihill: Read and write.

***Mr. Jayah:** I say that advisedly, because you must be able to read and write and also understand the idioms of the languages.

The Hon. Mr. Nihill: That is the next motion.

***Mr. Jayah:** It is not only a working knowledge that you should have, but also a fairly good knowledge of both languages. It may be desirable for a Sinhalese to have a knowledge of Tamil also; it may also be desirable for a Tamil to have a fairly good knowledge of Sinhalese. But you will see that a Sinhalese or Tamil has to familiarize himself with two languages. The difficulties are very many. It is not fair by those who suffer under—

***The Hon. Mr. Bandaranaike:** What about Arabic?

***Mr. Ponnambalam:** Dutch and Portuguese?

***Mr. Jayah:** You will see that whether one has to understand English, Sinhalese, Tamil, Latin, Greek, Arabic or Portuguese, there are many difficulties to be faced. That is the reason why, though it is quite desirable that Magistrates should have a fairly good knowledge of the habits and customs of the people, and a good knowledge of Sinhalese and Tamil, it is very unfair at this stage to impose a sort of test particularly where the Acting Magistrates are concerned.

I know that just now there are one or two Magistrates who belong to communities which are neither Sinhalese nor Tamil. I do not know whether it is the intention of the mover to prevent such Magistrates being confirmed as Magistrates; I do not think it is so. The hon. Member was telling us only yesterday that he was a very generous man and was prepared to go to any length to show his generosity in matters affecting the interests of even minority communities.

***Mr. Ponnambalam:** Timeo Danaos!

***Mr. Jayah:** I do not know whether it is a case of Timeo Danaos. I do believe the hon. Member is sincere in what he says. I do not think he will really fail to see the difficulties that have been pointed out to him. I think the whole position has been very succinctly stated, and I am sure the hon. Member, in view of what has been said, will think it proper to withdraw his motion.

Question put; the Council divided—
Ayes, 21, Noes, 10:—

AYES.

Jayatilaka, The Hon. Sir D. E.	De Fonseka, Mr. Susanta
Kannangara, The Hon. Mr. C. W. W.	De Zoysa, Dr. A. P.
Senanayake, The Hon. Mr. D. S.	Freeman, Mr. H. E.
Bandaranaike, The Hon. Mr. S. W. R. D.	Gunasekera, Mr. D. D.
De Silva, The Hon. Mr. G. E.	Gunawardana, Mr. R. S. S.
Aluwihare, Mr. B. H.	Hewavitarne, Mr. Rajah
Amarasuriya, Mr. H. W.	Jayasuriya, Mr. D. P.
Amarasuriya, Mr. Thomas	Rajapaksa, Mr. D. M.
	Ratnayaka, Mr. A.
	Ratwatta, Mr. H. L.
	Senanayake, Mr. Dudley
	Siriwardana, Mr. H. de Z.
	Wanigasekera, Mr. D.

NOES.

Griffith, Mr. F. H.	Ponnambalam, Mr. G. G.
Jayah, Mr. T. B.	Sri Pathmanathan, Mr. R.
Kaleel, Dr. M. G. M.	Tambimuttu, Mr. E. R.
Natesan, Mr. S.	Villiers, Mr. E. C.
Newnham, Mr. H. E., C.M.G., Y.D.	Wille, Mr. G. A. H.

ACTING MAGISTRATES: KNOWLEDGE OF VERNACULARS.

The debate on the following motion of Mr. A. Ratnayake was continued:

That no Acting Magistrate who is unable to read and write the vernacular and understand its idioms should be confirmed in his appointment.

Report of the Legal Secretary under Stand Order 57.

The motion requires that no Acting Magistrate who is unable both to read and write not only Sinhalese but also Tamil should be confirmed in his appointment. A capacity to speak or to understand either or both of the vernaculars is not to be sufficient.

2. While admitting that the object sought to be attained by the motion is desirable, the Legal Secretary considers not only that justice has been, and will continue to be, administered by Magistrates who do not possess these qualifications but also that the policy of the motion must remain a counsel of perfection until thirty years after reading and writing, both Sinhalese and Tamil, have been made compulsory in every school.

The Hon. Mr. Nihill: Shall I say one word on this motion, because this is in extension of the motion already carried?

Of course, I take it, that the House, in its present mood, will undoubtedly carry this motion if it goes to a division. I am very glad that the last division was by name, because I shall look forward to the co-operation of the hon. Members of this House who voted for the motion.

You know, it is very often that hon. Members of this House come to me with supplications in favour of candidates for admission to the Judicial Service. I know that I can count on the co-operation of those hon. Members who, by name, have voted for the motion which has just been passed, and I hope that they will co-operate with me and see that they put forward no candidate for my consideration for appointment to the minor judiciary who is not able to read and write the Sinhalese or Tamil language. I say that I shall remember the names of those Members and I shall look forward to their co-operation, and I know that I can count on their co-operation.

But with regard to the motion which is now before the House, I do ask—and I ask in all seriousness—the House to try to regard this motion in a responsible manner. If this motion is carried, it means that no future appointment can be made. I mean, if it is implemented it does mean that you are putting in jeopardy the careers of all those junior members—I am not saying “all”; I do not know what the percentage is, but it must be a percentage—I say that you are putting in jeopardy the careers of those younger members of the Judicial Service or all those members who have not yet been confirmed but who are in acting appointments.

I cannot really believe that it is the wish of this House that that should be done. But if this motion is carried—and, as I say, I am a great believer in giving effect to the wishes of the House—it will or may have this effect because the motion reads “That no Acting Magistrate—”, and so on that is to say, a Magistrate who is acting as a Magistrate at the present time “who is unable to read and write”. And I must emphasize those words. If the hon. Member had confined himself to just a “good knowledge” or “a working knowledge of the vernacular” well then, my objection would not be so strong.

***Mr. Aluwihare:** Will you accept an amendment?

The Hon. Mr. Nihill: If the House will let me continue—I know that at the present time 80 per cent. of the Magistrates have a knowledge—I do not say that they have a knowledge of both

Sinhalese and Tamil—that they have a working knowledge of the one or the other, but they cannot read and write it.

Hon. Members made a great point of these words “read and write” and those words have just been accepted in the motion which has been passed by this House. So I do not suppose that the hon. Member for Dumbara (Mr. Ratnayake) will seek to delete them from this motion.

Then, in the case of the poor Acting Magistrate, this aspirant to judicial preferment, a further obligation is cast on him by the proposer of this motion. Apparently it is not so necessary for the acting man to know the habits and customs of the place. But it is necessary for him to know the idioms of the language; he must be conversant with all the local swear words, and so on. That is an obligation which, for some reason or other, the mover of this motion has attached to the Acting Magistrate but not to those Magistrates who are already confirmed in their appointments.

If this motion is carried in its present form—and I do my best to implement the wishes of this House; I take it that this House is a responsible body, and that when it passes a motion of this kind it expects to see it implemented—well then the very serious situation will arise—if the motion is passed in this form—that every Acting Magistrate cannot be confirmed in his appointment unless he is able to read and write both Sinhalese and Tamil; if the motion is carried in that form by this House, that will be the effect.

Mr. Wille: I wish to enter a caveat against resolutions of this House being taken so literally. We know that even in Parliament every resolution of the House of Commons is not accepted by the Executive. Parliament, if it wishes, can bring a vote of censure against a Minister for not carrying out its wishes. Here in this matter it is a much stronger situation. The appointment of officers is vested in the Governor, and if any injustice is going to be done to acting men, I think we may expect the Governor to see that injustice averted.

I have every respect for this House. We all desire to see that its wishes are respected; and let it honestly express its views. We also all wish to see acting

[Mr. Wille.]
men equipping themselves with such a knowledge of Sinhalese and Tamil as will make them thoroughly competent to do their work. It is not that they are incompetent now, although that is the view of many Members.

Well, that being so, existing circumstances must be taken into account, and I trust that it will not be considered that we acquiesced in the proposition that because a resolution is passed in this House it must be implemented literally.

The Hon. Mr. G. E. de Silva: I wish to say a few words on this motion. I do not want it to be understood that when I said that we must accept the procedure laid down with regard to the Civil Service, it should apply in this case too. Civil Servants knew when they joined the Service that they must pass these examinations to receive promotion and advancement. Those conditions are imposed on them. Therefore, we can insist on their complying with those requirements. But this case is quite different. These people have been recruited without such conditions being imposed upon them, and therefore it would create a great deal of injustice if we withheld confirmation. As I said before, I would like to say that they should be confirmed but given an opportunity of taking up the examination and passing it. If they do pass the examination, then they qualify themselves for promotion; otherwise they cannot be given promotion. I feel that a condition of that kind would meet the case because if we introduce a motion of this kind straightaway changing the conditions which existed at the time these men entered service, we would be creating a hardship. I would appeal to the mover of the motion to realize that position. I am entirely in favour of applying this requirement with regard to promotions. Whatever the examination prescribed, if they do not pass it then they should not be promoted.

Dr. De Zoysa: There is a close resemblance between the humour of the Irish and that of the Sinhalese. The Hon. the Legal Secretary says that if this motion is passed, he will find it difficult to confirm the Acting Magistrates. But that was never meant. We say that Acting Magistrates should be

able to read and write the vernacular. Nothing is easier than to ask a Magistrate whether he can read and write the vernacular.

A standard is not laid down by us. There may be standards of reading and writing reaching up to the high level of shall we say, the "King's Sinhalese" or the "King's Tamil." We only say, "Ask the Magistrates whether they can read and write." Who should fix the standard? The Legal Secretary is the person who should fix the standard. We do not fix a standard. We do not say that it should be a sound knowledge of Sinhalese. We simply say that they should be able to read and write the vernacular. If the Legal Secretary is in doubt about the standard, he should find out from the House what standard is desired.

Does the Hon. the Legal Secretary realize that the ability to read and write is necessary? I say that it is necessary because certain documents that come before the Courts have to be interpreted and translated and people have to pay for translations. I think even the Magistrates themselves will state the necessity of being able to read and write the vernaculars. We are not asking the Legal Secretary to hold examinations. Let him set a standard. I do not think any Member of the service will go out because of this motion being passed.

The Hon. Mr. Nihill: On a point of personal explanation. I do not want to make a second speech. It seems to me the hon. Member is inviting me to set a standard. Well, I might say, "provided the candidate can read and write the alphabet!" But I really must go further than that. I have to consider what the man is likely to have to read and understand in Court. That is the difficulty. I have to see that he understands deeds and legal documents requiring, I imagine, quite a high standard.

Mr. R. S. S. Gunawardana (Gampola) I suppose the Hon. the Legal Secretary can see that it is desirable that at least Magistrate's Courts and District Courts should as far as possible transact business in Sinhalese and Tamil.

The Hon. Mr. Nihill: Quite so.

Mr. R. S. S. Gunawardana: I am glad he admits that it should be so.

A motion was passed in this House about 4 years ago to the effect that the services of Interpreters should be dispensed with and witnesses examined in Sinhalese or Tamil as far as possible, and that records should be kept in Sinhalese or Tamil, I want to know whether the Hon. the Legal Secretary has made the slightest effort to implement that decision. There are various ways in which a beginning might be made. If the Legal Secretary's position is that there are good men in the service who will have to go out if this is done, then every-day the same argument might be adduced. They say that there are young men, good men, with promising careers and if this minimum standard is required their careers will be blasted. But a beginning has to be made somewhere if we want to see that work in our courts is transacted in Sinhalese or Tamil, and I think this is the appropriate time to make a beginning.

I do not think any hardship will be caused if Acting Magistrates are called upon to pass an examination in Sinhalese or Tamil. If in the Civil Service and various other grades in the service it is necessary that officers should pass in Sinhalese or Tamil, I do not see any reason why exemption should be made in favour of Magistrates. Magistrates are the people who should know Sinhalese and Tamil much more than even administrative officers, because the proper decision of a case may turn on the interpretation of a single word. If he knows the vernacular, he will be able to do it much more effectively and much more quickly. Great injustices can be done by Magistrates not knowing the vernaculars.

Where a man should know as much as possible of the languages, the Government says that the Magistrates should not know the languages, or at least that hardship will be caused. Surely, I cannot understand that any man in this country, whatever his race may be, will not be able to learn to read and write Sinhalese or Tamil within a given time. Unless there is an incentive, nobody will make a beginning. Unless the present Acting Magistrates are made to learn the language and pass an examination, it will never be done. I suppose they have sufficient intelligence to master the

languages. After all, these languages are used in this country. If they can master Latin, Greek and French for the purpose of passing examinations, there is no reason why they should not be able to master Sinhalese or Tamil within a given time.

I think it is time we made a start, and I hope the Hon. the Legal Secretary will give effect to the wishes of the House.

***Mr. Aluwihare:** I am very sorry that the Legal Secretary sort of threatened various Members—I do not know who they were—who went to him with recommendations and requested that people be appointed as Magistrates, that he would demand their bringing people with a knowledge of the vernaculars.

The Hon. Mr. Nihill: On a point of personal explanation, I never threatened; I asked for their co-operation.

***Mr. Aluwihare:** I know, Sir; but the request was coupled with the disclosure that many Members had gone to him with such requests, and the impression created was that generally all Members of this House do go to him with similar requests. I want to repudiate that. It was a cheap gibe, and I do not think we ought to take it—well, I do not want to go further on that point.

I would ask the Hon. the Legal Secretary to look at this matter from another point of view. We have all so far looked at it from one point of view—of our own class; that is, the class of so-called English-speaking Ceylonese who want appointments. We have said that we will not be able to obtain these appointments if these qualifications are demanded of them. We have said, looking at it from the Tamil point of view, that it would be unfair to demand a knowledge of Sinhalese from the Tamils. We have said, looking at it from the Sinhalese point of view sometimes, that some Sinhalese themselves do not know sufficient Sinhalese, and so on.

All that kind of argument might be tolerable under an English administration where English people were the Magistrates, where English people were the Judges. There was a stage when the administration of justice in this

[Mr. Aluwihare.]
country was merely an adjunct or, shall I say, merely supplementary to the general British administration in this country. That era has definitely passed, and today the character of the administration has changed, and the administration has to be, not for 20,000 or 30,000 people who know English, but for 5,250,000 people who do not know English.

That, Sir, is the point of view that the Hon. the Legal Secretary has to remember. We are administering justice on behalf of 5,250,000 people who do not know English. Is it good enough that those who administer justice should not be required to know the vernacular?

The Hon. Mr. Nihill: Read and write!

***Mr. Aluwihare:** The Legal Secretary has agreed.

Well, if he agrees with that, I come to the next proposition that was laid down—I have forgotten by whom—that if you want to administer justice in the vernacular, you must know the dialect of each district. Therefore the inference seems to be that you should administer justice in a dialect and a language which 90 per cent. of the people do not know and do not understand. I would ask the Legal Secretary to apply that test to his enemy-country, England.

Mr. Speaker: Enemy-country?

***Mr. Aluwihare:** The Irish are not very friendly, Sir.

If every Judge in England were asked whether he understood Yorkshire or some of the dialects spoken in the south, well, surely the answer would be that he did not even understand it. Yet administration of justice in English is considered a sufficiently good administration because most of the people do understand English. That is all we are asking.

The Hon. Mr. Nihill: Read and write!

***Mr. Aluwihare:** The Hon. the Legal Secretary says again that it is quite right.

The Hon. Mr. Nihill: No; read and write.

***Mr. Aluwihare:** The Hon. the Legal Secretary himself knows that when we

came to discussing a certain proposition a few days ago, it was considered proper to take the intention that lay behind a certain Act. I would ask him in this case, where the interpretation of a Statute is not concerned and where it is merely a motion by some of us who have an imperfect knowledge of the English language, to consider the intention behind the motion. That is all we want. And it is an intention that can be given effect to at once.

There are cries of "Amend the motion." I do not think it necessary to amend the motion, because if the Hon. the Legal Secretary is prepared, as he seems to be, to insist that a working knowledge of the vernaculars is possessed by Magistrates, we shall be satisfied.

If the Hon. the Legal Secretary would accept the motion with the amendment, I am certain the hon. Member for Dumbura (Mr. Ratnayake) will agree to the amendment. I would suggest that the motion be amended to read:

"That no Acting Magistrate who does not possess a working knowledge of the vernacular should be confirmed in his appointment."

The Hon. Mr. Nihill: A vernacular—one vernacular?

***Mr. Aluwihare:** Yes, of course; it being understood that he will be appointed to a place where that vernacular is the language of the majority of the population. If that is done for a beginning, it would be sufficient.

I would invite the attention of the Hon. the Legal Secretary to what the hon. Member for Point Pedro (Mr. Ponnambalam), said, namely, that there was a motion in this House 4 years ago asking that the language used in the Courts be the vernacular. Has any condition—[*Interruption.*] I was committing the hon. Member for Point Pedro to nothing very important. Has the Hon. the Legal Secretary taken any trouble to make it a condition of the appointment of these people that they should have a good knowledge of the vernaculars? [*Interruption.*] The trouble is that the hon. Member was not listening to me. He does not know in what connexion I used his name, and he now gets irritated.

***Mr. Ponnambalam:** Perhaps the hon. Member will make himself more intelligible. I think he said that I committed myself 4 years ago to the view that the language of the Courts should be the vernaculars.

***Mr. Aluwihare:** What I said was that I was committing the hon. Member to nothing that he said.

What we are asking is that the slightest reform should be made to prevent injustice. The Hon. the Legal Secretary says that justice has been administered. Well, I spent the first years of my career as a lawyer practising regularly in the Police Court, and I have seen case after case prejudiced by the bad interpretations of dishonest Mudaliyars to Judges who did not know the vernaculars. Twenty-five cents and Re. 1 have made all the difference.

Recently cases have come to my knowledge where the same thing has occurred. I have given instances to this House before. The last instance was this: the Sinhalese version stated, "I spoke to the dying man, but he made no reply". That is the correct translation of the Sinhalese. The English version had, "The dying man did not speak to me". Sir, the poor old lady was convicted of perjury on that. In those circumstances, do you really say that justice has been done? I will give another instance. A man in the witness box said, "*Hamuduruwo mamanan athamai kiyanne*". It was translated thus: "That man always speaks the truth".

And the Hon. the Legal Secretary maintains that justice is being done. It is not that justice is being done. It is simply that people do not know to whom to complain, because the Supreme Court goes by the record of the Magistrate. Neither the lawyer, nor the client, nor anybody else is able to come and tell the Supreme Court exactly what happened. In the first place, we would have to impeach the correctness of the Magistrates' record which is almost impossible. There are no shorthand notes; there is nothing at all. That is the reason why you believe that justice is done, and nothing else.

I will admit that there is a desire to do justice. Of that I have not the slightest doubt. But that justice has

been done in most of the cases, I am not prepared to agree. It is for that reason and it is with an intimate knowledge of the work in Magistrates' Courts that I do say that this reform is urgently necessary.

Mr. Newnham: I second that amendment in order to make it pellucidly clear both in regard to this motion and the last motion that it is a working, oral knowledge of a vernacular that is required.

The Hon. Mr. Nihill: On a point of order, Sir. Is there an amendment before the House?

Mr. Speaker: I want to ascertain whether there is.

***Mr. Ponnambalam:** You cannot amend a motion which has been reported upon. If it is amended, the motion will have to be referred back to the Legal Secretary.

Mr. Speaker: The House is in possession of the motion, and the motion can be amended by the House.

The sitting is suspended till 4.30 p.m.

Sitting accordingly suspended until 4.30 p.m., and then resumed.

***Mr. Aluwihare:** The amendment is to delete the words "is unable to read and write the vernacular and understand its idioms" and to substitute therefor the words "has not a working knowledge of the vernacular".

***The Hon. Mr. C. W. W. Kannangara (Minister of Education):** Is it "vernacular" or "vernaculars"?

Mr. Speaker: The Legal Secretary suggested a vernacular.

***The Hon. Mr. Kannangara:** The vernacular of the locality to which the Magistrate is appointed?

Mr. Speaker: We will leave it as it is.

***The Hon. Mr. Kannangara:** In the singular?

Mr. Speaker: Yes.

The Hon. Mr. Nihill: Can I have the motion as amended read out:

Mr. Speaker: The amended motion is "That no Acting Magistrate who has not a working knowledge of the vernacular"

The Hon. Mr. Nihill: "A vernacular."

***Mr. Aluwihare:** The vernacular of the locality to which he is appointed. What is the good of having a knowledge of Tamil when you are posted to Dambulla? You might as well know Greek.

The Hon. Mr. Nihill: Has the hon. Member incorporated that in the amendment?

***Mr. Aluwihare:** I am prepared to make it plural—vernaculars.

Mr. Speaker:—a knowledge of the vernaculars " ?

***Mr. Aluwihare:** Yes, Sir.

The Hon. Mr. Nihill: On a point of order. If that amendment is incorporated in the motion, should not the motion be referred back for a further report by me?

Mr. Speaker: This is not a very material alteration.

***Mr. Aluwihare:** If that is so, I shall withdraw my amendment. It is particularly meant to meet the Hon. the Legal Secretary, and if he now wants the motion referred back, I shall withdraw my amendment.

The Hon. Mr. Nihill: On a point of order. I thought that this is a Private Member's motion and that the normal procedure, when an amendment is made to a motion, was for the motion to be referred back for further report.

Mr. Speaker: I do not think that the suggested amendment is a material alteration.

The proposal is to delete all the words after the word "who" in the first line up to the word "should" in the second line and to insert therein the words "has not a working knowledge of the vernaculars".

The amendment is before the House for debate. Any further comments? [*Pause.*] I will now put the amendment in the usual form.

Question, "That the words proposed to be deleted stand part of the motion", put, and negatived.

Mr. Speaker: The words are deleted.

The second question is that the following words be inserted therein: "has not a working knowledge of the vernaculars."

Question "That those words be there inserted," put, and agreed to.

Mr. Speaker: I will now put the amended motion to the House.

Question, "That no Acting Magistrate who has not a working knowledge of the vernaculars should be confirmed in his appointment", put, and agreed to.

LAW COLLEGE: KNOWLEDGE OF SINHALESE OR TAMIL FOR ADMISSION.

The debate on the following motion of Mr. A. Ratnayake was continued:

That this Council is of opinion that an adequate knowledge of Sinhalese or Tamil should be made compulsory for admission to the Ceylon Law College.

Report of the Legal Secretary under Standing Order 57.

The only authority competent to deal with this matter is the Council of Legal Education but the activities of this body do not form part of the subject or functions assigned to any Officer of State or Executive Committee.

The Hon. Mr. Nihill: I should like to say a word on this motion, because I feel that perhaps some of my remarks on the two preceding motions may have given the House a wrong idea of my general attitude to this question.

Sir, this motion is the last of a trinity of motions standing in the name of the hon. Member for Dumbara (Mr. Ratnayake). I think it is most unfortunate that he should have put this motion down last and not first, because the debate on the two preceding motions is almost a classic example of putting the cart before the horse. We have been pushing the cart about for a couple of

hours or so and now at last we have got to an inspection of the horse, because the terms of the resolution, which has my sincere sympathy, are that "This Council is of opinion that an adequate knowledge of Sinhalese or Tamil should"—again a pious hope—"be made compulsory for admission to the Ceylon Law College". Of course, anybody who wishes to see the happy day arrive when we get sufficient Ceylonese gentlemen who are learned in the law and also learned in the knowledge of the vernaculars must be in favour of the motion and I do suggest that if this motion had been passed first, then the course of the debate on the other two motions might have been different. Of course, you must start off by seeing that undergraduates who are looking forward to a career at the Bar have a good knowledge, a good grounding in Sinhalese or Tamil, and I am entirely with the hon. Member in regard to the terms of this particular motion.

I say that because then I feel the House will realize that my opposition to the other two motions was not because I had any prejudice against the Sinhalese or Tamil languages, but simply because I felt it to be my duty to point out to the House the difficulties which undoubtedly exist in putting into effect the wishes of the House on the matter.

If this motion is passed—I should say that it is no concern of mine; I cannot give directions to the Council of Legal Education, and in fact, neither can anybody else—I am quite certain the Council of Legal Education will take notice of the wishes of the House. I suppose the motion will be brought before them. But it is not within my province to give directions to that learned body. If this motion is carried, I suppose it will be brought to their attention. This motion does have my sympathy.

I quite appreciate the point made by the hon. Member for Matale (Mr. Aluwihare) I think his point is this, that where you have the language of the Courts foreign—it is a foreign language to the vast majority of the people—where you do get that state of affairs, it is perfectly true that whatever safeguards you have, with even perfect interpretation, or nearly perfect interpretation, there will be cases where misunderstandings arise and mistakes are made. Of

course, it is very much better when you can reach the position where the language of the Courts, the official language of the courts—the only language of the Court—is the language commonly understood by the people.

But of course we do have to face facts, and we do have to realize that in this country there is more than one language and more than one community. We have to face all those practical difficulties. But I am quite certain that, now that we have got down to this motion, we have something which every Member of the House can support.

Mr. G. A. H. Wille (Nominated Member): The Council of Legal Education, as has been pointed out, is outside our purview. I think it will help to conciliate and obtain the goodwill of that body if we alter the wording of this motion slightly. I would urge that instead of saying, "This Council is of opinion", we say, "This Council suggests to the Council of Legal Education" that an adequate knowledge of Sinhalese and Tamil should, "after due notice"—we must add those words—"be made compulsory for admission to the Law College".

***The Hon. Mr. Bandaranaike:** We only express our opinion; we do not suggest anything to anybody.

Mr. Wille: I think it would be more respectful to the Council of Legal Education if—[A MEMBER: Amend the Ordinance]. That would be taking a drastic step. We shall win the goodwill of the Council of Legal Education and their co-operation if we put it more mildly.

***The Hon. Mr. Bandaranaike:** More respectfully?

Mr. Wille: Yes, as gentlemen dealing with gentlemen.

***Mr. Aluwihare:** The Legal Secretary welcomes this motion, and we are glad that it has also his sympathy. It looks as though he sympathizes wherever he is not called up on to do anything.

Mr. Wille: If the hon. Member will excuse the interruption—a Member who wishes to second the amendment wishes to know the wording—

***Mr. Aluwihare:** Are you offering a personal explanation?

Mr. Speaker: The hon. Member has not concluded his remarks.

Mr. Wille: I suggest that instead of the words, "This Council is of opinion", these words be used, "This Council suggests to the Council of Legal Education. . . ."

Mr. Speaker: What are the words?

Mr. Wille:—

"This Council suggests to the Council of Legal Education that an adequate knowledge of Sinhalese and Tamil should, after due notice, be made compulsory for admission to the Law College."

Mr. Speaker: Please send it up in writing. Does anyone second that amendment?

There being no seconder—

Mr. Speaker: The hon. Member then does not press his amendment.

***Mr. Aluwihare:** As far as that amendment is concerned, I would suggest that we cannot send a motion worded like that to—

Mr. Speaker: There is no amendment before the House.

***Mr. Aluwihare:** If the Hon. the Legal Secretary really sympathizes with the motion, it also entails some action on his part—

The Hon. Mr. Nihill: No.

***Mr. Aluwihare:** I know he said that it did not, but the point I am making is that if we do pass a motion like this, he too should help us by reviving the old translations of a good many of these Ordinances into the vernaculars. He will find that the Penal Code, the Civil Procedure Code and most of the important Ordinances have been translated into Sinhalese and Tamil. Unfortunately, with the tremendous turn-over to English, those translations have been forgotten. There will be a revival if the translations of those Ordinances are re-published, at least to start with, and a point is made that every new Ordinance is also, within a very short time, published in the vernaculars.

I want to tell the Legal Secretary that Legal education is not confined to the Law College, which is only meant for practitioners. There is a wide reading-

public in Sinhalese and Tamil, a much wider reading-public than the reading-public in English. Generally, the people who are proficient in the vernacular do not know English, do not go in for the class of novel reading that a good many of the English-speaking people do, but they do go in for educative reading, such as law books, "Bana" books, books on religion.

So that you can assume that there will be a very wide use of these translations if they are published in the vernaculars, and it will meet to a large extent the situation that we seek to remedy.

***Mr. Jayah:** Is the House aware that a knowledge of Latin is compulsory for admission to the Law College? The other day a candidate who had passed the Senior with Tamil wanted to join the Law College, but he was denied admission because he had not passed in Latin. I hope that when Sinhalese and Tamil are made compulsory, Latin will not be made compulsory at the same time.

***Mr. Ponnambalam:** What about the study of Roman Dutch law?

Mr. R. S. S. Gunawardana: Why not have Latin also made compulsory?

***Mr. Jayah:** Latin would be very useful, but unless you say that Tamil, or Sinhalese, or Latin, should be made compulsory—

***Mr. Ponnambalam:** Sanskrit, Pali—

Mr. Speaker: Order! I shall put the question.

Question put, and agreed to.

COURT DECREES: ATTACHMENT OF AGRICULTURAL HOLDINGS IN EXECUTION.

The debate on the following motion of Mr. A. Ratnayake was continued:

That this Council is of opinion that legislation should be introduced for the purpose of protecting from attachment in execution of Civil decrees the ancestral property of agricultural debtors, their standing crops, and a sufficient portion of their land whether ancestral or self-acquired for the maintenance of their families.

Report of the Legal Secretary under Standing Order 57.

The problem is one of which a solution has been attempted by legislation in other countries. The difficulties and implications of such legislation need no elaboration—What is to be the area of land which is to constitute the minimum area from which an agriculturist can earn a living sufficient to support himself and his family? What are the several minima to be prescribed in respect of (a) different forms of agriculture; (b) districts with differing degrees of fertility; (c) irrigated and non-irrigated land and irrigable and non-irrigable land? How does an increasing agricultural population combined with the laws of inheritance affect the problem? What is the effect on credit of such legislation? These are some of the many questions raised by the motion.

An exhaustive inquiry by experts into the problem as it exists in Ceylon, the causes, extent and nature of the problem and the appropriate remedy should, in my view precede an expression of opinion by the State Council that the legislation contemplated by the motion is necessary or appropriate.

The Hon. Mr. Nihill: I always seem to have to get up first, Sir.

On this motion, I asked hon. Members to agree to the very illuminating report by my predecessor, because, I think, if the House want this sort of resolution taken seriously, and supposing that they do, I do suggest that the remarks of the Legal Secretary should be taken some account of. If the resolution is passed in this form, I know exactly what will happen. Nothing will happen. But, if there is some desire that there should be an exhaustive inquiry into this kind of subject, which might and would eventually result in legislation being presented to this House, there is then no objection.

But I do say that there is a danger in this House passing resolutions in this way before the matter has been really carefully digested and carefully considered. The effect is that nothing happens, because it is felt that the House has not really addressed itself to the question. The motion is there and it just passes it. The House altogether ignores the practical difficulties of putting legislation into

effect before a proper inquiry has been made, and, in consequence, of course, as the House knows, that kind of resolution is just passed and forgotten and nothing happens until some hon. Member, a few years hence, moves a resolution in similar terms.

I would ask the hon. Member to withdraw this resolution if he really wants something done. Let him come to me, and let us go into the matter and see if we can get some sort of Commission of Inquiry to go over the whole field. This is a very difficult question. It is impossible. I do not think the hon. Member has the faintest idea of the kind of legislation he wants passed, and, to pass a resolution in this way is simply to nullify what he really wants and desires to see done.

***Mr. Aluwihare:** Sir, I am sorry the Hon. the Legal Secretary labours under such a sense of frustration with regard to his efforts in regard to this motion. I would refer him to Section 218 of the Civil Procedure Code. There are certain kinds of property which are exempted from seizure.

Sub-section (b) says.

“Tools, utensils, and implements of trade or business, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may in the opinion of the court be necessary to enable him to earn his livelihood as such.”

Sir, it seems to me that, to some extent, the motion seeks to reserve for the small agriculturist what seems to be implicit in Sub-section (b) of Section 218. Obviously, it is absurd to leave a judgment-debtor who is an agriculturist with his implements of husbandry and such cattle and seed grain as may, in the opinion of the court, be necessary to enable him to earn his livelihood as such, if no land is to be left to him to plough with his cattle, to sow his seed, and on which to use his agricultural implements.

I must confess that the idea of ancestral holdings seems a little obscure. But it is obscure in the sense that I think the Hon. the Legal Secretary is thinking, mainly in English terms. Actually, if you consider our villagers you will realize that there is scarcely any doubt as to what is meant. What is meant is the little *paraveni* holdings of a villager

[Mr. Aluwihare.]

which is composed of a few roods and on which he depends. Sir, it is to meet this situation that the Indian Debt Redemption Bills have been passed.

I do believe that the Hon. the Legal Secretary would do well to consult with the Hon. Minister of Agriculture and Lands also and do something in this direction. Of course, I do agree with the Hon. the Legal Secretary that the situation would have been much helped if the mover had been able to meet him, but he has been ill for a number of months. I would like to tell the Hon. the Legal Secretary that, so far as we are concerned, what I have stated is what we think the motion means, and, I am certain that something must be done almost immediately to meet the particular situation that the mover of this motion has brought to our notice.

Mr. R. S. S. Gunawardana: I have no doubt that the Hon. the Legal Secretary will not interpret this motion so strictly as he chooses to. The spirit underlying the motion is quite clear. No doubt the mover aims at the protection of the cultivator owning little land, so that he may be able to make a livelihood and save his family from starvation. That is what he is aiming at.

No doubt, when the mover speaks of ancestral property, the wording of the motion may convey the impression that all the property that a man has owned during his life and his ancestors owned hundreds of years ago, maybe hundreds and thousands of acres, are involved. Sir, to say that all that land should be exempt from attachment is unreasonable, and I am sure that that is not what the hon. Member for Dumbara (Mr. Ratnayake) aims at. All that he aims at is something, as stated by the hon. Member for Matale (Mr. Aluwihare) referred to in the Civil Procedure Code—that the man must be sure of a living; that, if his tools can be protected, the land also which helps him to obtain his food has a right to be protected.

There are certain definite things that should be laid down, such as how much land or what extent of land should be allowed to him. There are certain practical difficulties, I dare say, but, at the same time, I think the Hon. the Legal

Secretary may be a little more helpful to the House and to the mover of this motion by suggesting on what lines an amendment to this motion might be introduced. He simply disposes of this motion by saying that a Commission of Inquiry might go into the question.

I do not know, Sir, whether the Criminal Procedure Code provides for a man living on a land maintaining it. This is an extension of the same principle that a cultivator ought to be allowed to have his own holding so that he can cultivate that land and maintain his family. I think it is all the more necessary now, at this stage, when we are talking of food production and making our country self-sufficient—that some kind of relief like this will no doubt be very greatly welcome.

I think the whole question has been dealt with in India, and I do hope that the Hon. the Legal Secretary will go into the matter more carefully, instead of treating this resolution as something frivolous or something irresponsible.

The Hon. Mr. Nihill: I did not mean that. On a point of explanation. I would wish to say that I felt that if this motion was really what it is, the House did merely want to pass a "window-dressing" resolution. It would be very much better if we could have some kind of inquiry in which the hon. Member will assist me, and then we might really know the form of the resolution. I believe this is a "window-dressing" resolution. If this motion is passed in this form, we do not know what it means. I am supposed to divine what the hon. Member for Dumbara (Mr. Ratnayake) meant, and I say that it is that kind of resolution that is put in a pigeon-hole and no action taken.

Mr. R. S. S. Gunawardana. I am sorry that the Hon. the Legal Secretary still persists in saying that this is a "window-dressing" resolution. I hope he will be a little more responsible when he speaks in this House.

We expect a certain degree of responsibility from the Hon. the Legal Secretary. No Member comes here for window-dressing; he comes here because he has a duty to perform, because he wants in all conscience to do some

service for his countrymen. It is easy enough for the Legal Secretary to look at the matter and say, "Well, this is not my land; these are not my people; so I can well afford to say these things". But it is not fair to say that any single Member of this House is imbued with the spirit of advertisement, of show, or that resolutions are brought up here for the mere purpose of window-dressing.

The mover of this motion has been extremely keen on seeing that the position of the smallholder is safeguarded. He has from the time he entered this Council striven towards that end, and I think this House appreciates very much the fight he has put up for the smallholder. In this case it is only an extension of the same fight. He has seen for himself what suffering there is in that part of Dumbara. Today there is no rice; there is panic; people are ousted from their possessions—the only plot of land a cultivator has to plough. That is the plight of the Dumbara man; that is, the plight of the Kandyan villager particularly. In that state of affairs, those who have to deal with the villager, particularly the Kandyan villager, know how hard it is for a man to be deprived of the only smallholding from which he has to earn a living.

I think the Hon. the Legal Secretary said, "Well, I cannot divine what the hon. Member means by that resolution". Surely, it is obvious what the spirit of the resolution is. The purpose is quite clear. There may be a few words that may require alteration; it may not be the language of a Court of law; yet the object of the motion is quite clear. He says, "The hon. Member has not come to see me". If the Hon. the Legal Secretary and the other Officers of State adopt the same procedure as the Ministers, and when resolutions are referred to them, invite the Members concerned to discuss the matter with them, I think the position will be greatly clarified.

But that procedure has hitherto not been adopted, and I do not see why it should not be adopted. It is not enough to say, "The Member has not seen me". The Hon. the Legal Secretary should invite the Member and find out what views he has before submitting a report to the House. The Hon. the Legal Secretary should find out what the

hon. Member is aiming at, so that he might, with his specialized knowledge, help the House. After all, a Legal Secretary is required for that purpose—to give the benefit of his specialized knowledge—not merely to indulge in carping criticism which is at times so uncharitable as to suggest that an hon. Member brings up a resolution for the mere purpose of window-dressing.

The Hon. Mr. Nihill: On a point of personal explanation. I know the hon. Member does not want to be unfair to me, but he will appreciate that when notice of this resolution was given I was not Legal Secretary, and this report was not written by me; so that I had no opportunity of coming into contact with the mover, and it is a contact which I look forward to making.

Mr. R. S. S. Gunawardana: In those circumstances, I would suggest that this debate be adjourned for that purpose. [Interruption.] Well, I am not proposing it; I am only suggesting that if the hon. Member likes, that may be done.

Mr. Freeman: Sir, the Hon. the Legal Secretary has not yet got used to the short-cuts, the habitual short-cuts, of this Council on Wednesdays.

Another point is, this motion may be taken as a part of the food "drive" of the last two or three years.

Mr. Wille: We all want that something should be done to raise the villager out of the slough of indebtedness into which he has fallen. The hon. Member for Gampola (Mr. R. S. S. Gunawardana) referred to the necessity of defining some things mentioned in this motion. That certainly is a difficulty that could be got over. But it seems to me that there is a more fundamental question, and that is, the indebtedness of the villager which goes to the root of the economic life of this country.

Now what is going to be done in order to prevent the villager from getting chronically into debt? I do not suppose he gets into debt and allows his property to be seized for the mere pleasure of it; it becomes a very sad necessity with him. That question has to be looked into. It is not merely a legal question, but as I have suggested it is a very large economic question.

The Hon. Mr. R. H. Drayton (Chief Secretary): Mr. Speaker, as the author of this much-maligned report, and out of a sense of very real obligation towards the Member sitting on my left (the Hon. Mr. Nihill), I feel I must say something, because this is my report. It was written many months ago—I should think probably twelve months ago—and I can most sincerely assure this House that nothing was further from my mind in writing this report than that I was attempting to suggest that there was nothing in the motion, that it was not a problem, or that the motion was a matter of such insignificance that it could be brushed aside.

Nor was I attempting to suggest that the mover was either ignorant or insincere. He was in fact dealing with a problem with which I myself have been very interested over a period of years, and in which I myself have played a small part, but a very practical part, in another part of the world over a period of years.

The problem with which I was then faced was obviously the problem that the mover of this motion has in mind, and the questions that I have asked in my report were the questions that were asked and had to be answered when dealing with this actual problem; it was a matter of many years of study by people who had a far greater knowledge of the problem than I have, but those were among the questions that were asked and were answered over quite a long period of years, after most careful and exhaustive investigation by experts. All such questions as the effect on credit, the examination of the law of inheritance, the problem of automatic inheritance which, when it has been in existence for generations must affect the availability of land to each individual member of the family—all these questions have to be considered in relation to the particular problem put by the mover of this motion which is: how is one to secure to the agricultural worker a minimum area of land out of which he can obtain a sufficient livelihood to support himself and his family?

Mr. Speaker, I wrote my report, not in any spirit of obstructiveness, but with a very genuine desire to help in a problem in which I have always had a very considerable interest, and in which

have had a not inconsiderable experience, and, when my successor adopts that report, I am sure he takes with it the spirit in which I wrote it.

***Mr. Aluwihare:** Sir, there is just one difficulty. If we accept the report, will the Legal Secretary be instituting the necessary inquiries?

Mr. R. S. S. Gunawardana: There is no acceptance of a report.

***Mr. Aluwihare:** The report of the Legal Secretary. If the mover withdraws his motion as he was asked to—

The Hon. Mr. Nihill: Is he? I do not know.

***Mr. A. Ratnayake (Dumbara):** How can I withdraw this motion? I represent an area where, for instance in my electorate, there are not more than two or three native people who own more than 100 acres; the vast majority of them are smallholders.

Mr. Speaker: The hon. Member does not wish to withdraw the motion?

***Mr. Ratnayake:** Today the people are in a terrible plight—only on Sunday last I saw some of them; I went there—without a grain of paddy. Their rice coupons have been withdrawn. To me the situation is desperate. It is not window-dressing, it is a matter of life and death to the poor villagers. It is to me far more urgent than some of the motions that have been accepted by this Council. I can assure the House that it is not window-dressing. I have been in this Council for 12 years, and I do not think I need now indulge in window-dressing.

The Hon. Mr. Nihill: I should like to withdraw the term "window-dressing". I did not mean to attach it to the hon. Member's motives in bringing forward this motion. All that I wanted to convey by my remarks was my anxiety to help the hon. Member.

The hon. Member has done his best in expressing what he has in mind, but the terms of the motion are so wide and so vague that, from my point of view, it is very difficult for me without prolonged inquiries, investigations and help, both from the hon. Member and others, to take any practical step in the

matter. I am sure what the hon. Member wants is to have some practical step taken in this direction, but the passage of resolutions like this might not, in fact lead to any effective steps being taken. It is, in fact, a species of window-dressing, although I do not think the hon. Member himself feels that it is any sort of window-dressing.

***Mr. Ratnayake:** If the Hon. the Legal Secretary accepts the position that the subject-matter of this motion concerns an urgent problem—it is not a very difficult problem for him to take steps in the matter—

The Hon. Mr. Nihill: It is a very difficult problem.

***Mr. Ratnayake:** I know that this is a very difficult problem and I am ready to help him. My intention is not to obstruct the Hon. the Legal Secretary in solving that problem; my intention is to be helpful to him.

Question put, and agreed to.

VILLAGE TRIBUNAL CLERKS: PENSIONABLE STATUS.

The debate on the following motion of Mr. D. P. Jayasuriya was continued:

That this Council of opinion that the posts of Village Tribunal Clerks should be made pensionable.

Report of the Legal Secretary under Standing Order 57.

From inquiries made it appears that—

- (a) requests that these posts be made pensionable have only been made by the clerks of four districts;
- (b) there is no lack of suitable candidates for these posts under the existing conditions of service.

For these reasons and for the reasons given in the Report of the Financial Secretary the acceptance of the motion is not recommended.

Report of the Financial Secretary under Standing Order 57.

Village Tribunal Clerks had no pension rights of any sort prior to October 1, 1937, and they received considerable advantages when they were taken on to the Government establishments in 1937

by which they are now in receipt of quasi-pensionable rights under section 27 of the Pension Minute. The present is hardly a suitable time for still further ameliorating their conditions of service.

The officers are still locally recruited and are not ordinarily liable to transfer, and the minimum educational qualifications are much below the minimum educational qualifications for entry into the pensionable clerical service.

For these reasons the acceptance of the motion is not recommended.

The Hon. Mr. Nihill: I thought I had addressed the Council on this motion on Wednesday last. I do not think I need address the House again on the subject, unless I was interrupted at 5.30 p.m. on the last occasion.

I had addressed the House in terms of the report of my predecessor, that the request that these posts be made pensionable has only been made by the clerks of four districts and that there is no lack of suitable candidates for these posts under the existing conditions of service. For those reasons, and for reasons given in the report appended by the Financial Secretary, I recommended that the motion be not accepted.

Mr. H. W. Amarasuriya: I should like to support the motion. As a matter of fact, this question was raised during the Committee Stage of the Budget, and I think an undertaking was given by either the Financial Secretary or the Legal Secretary— I do not know who it was; it was by either the one or the other, or by both—that the matter had been under consideration and that it would be placed before the Board of Ministers. What was implied at the time was that this matter was receiving very favourable consideration and that something would be done. I think Village Tribunal Clerks have a genuine grievance. They are the only people who have been denied pension rights.

The Hon. Mr. Nihill: No.

Mr. H. W. Amarasuriya: They have been denied pension rights. You will see that from the report of the Legal Secretary itself which says:

"request that these posts be made pensionable has only been made by the clerks of four districts".

[Mr. H. W. Amarasuriya.]

I do not think that that statement is correct. My information is that petitions or memorials, signed by nearly all the Village Tribunal Clerks, have been sent to the authorities concerned. Now that the administration of Village Tribunals has been altered and these clerks are transferable, I see no reason why they should not be given pensionable status.

The number of clerks that form this service is, comparatively speaking, very small. They joined this service with the hope of improving their status. They too look forward to a pension or gratuity from Government on retirement. There is really no reason why this grade of clerks should be singled out for deprivation of pension rights. Whether the Village Tribunal Clerks of the other districts have made a request to have their posts declared pensionable or not, I think it is the bounden duty of Government to see that these clerks are treated better.

The report of the Hon. the Legal Secretary states that there is no lack of suitable candidates for these posts under the existing conditions of service. I do not want to encourage that type of exploitation by Government. Simply because there are poor people who are willing to take up service under Government even under the present conditions, I see no reason why they should be exploited. It is very difficult for the Legal Secretary to reconcile the statement made in subparagraph (a) of his report with that in paragraph (b). In the first statement he says that because no request for pensionable status has been made by the Village Tribunal Clerks in other districts, he does not consider it necessary to give effect to the motion; and in the next statement he says that because people are willing to enter this service under the existing conditions, effect need not be given to this motion.

Unless the condition of these clerks is improved, you cannot expect them to give of their best to Government and also to the people whom they serve. Unless their conditions are improved, it would not be strange to find them resorting to all sorts of bribery and corruption. If Government desires to keep these people out of bribery and corruption,

they should be treated better. I think humane considerations should sway the Legal Secretary to accept this motion.

The Hon. Mr. C. E. Jones (Acting Financial Secretary): I should like to correct one or two statements made by the hon. Member who has just now spoken. I think he said that the Village Tribunal Clerks form a grade by themselves and that their posts alone are not pensionable. I think it will be found that the clerks under the Divisional Revenue Officers are in the same position as the Village Tribunal Clerks. They have what are called *quasi-pensionable* rights.

I think it is also not correct to say that they get no pensions. They get three-fourths pension or three-fourths gratuity when they retire.

Mr. H. W. Amarasuriya: Why should they not get the other quarter?

***Mr. Aluwihare:** And why do you not say so in the report?

The Hon. Mr. Jones: The report says that they have *quasi-pensionable* rights.

I was given to understand by the Legal Secretary that these officers were not normally transferable, and it is therefore news to me that they are generally transferable.

I think the report of the Financial Secretary sets out the views of the Government in the matter. These officers had no pension rights prior to 1937, but since then they have been treated quite generously by having their posts made *quasi-pensionable*. Especially in view of the fact that ordinarily these officers are not up to the standard of education expected of officers of a fully pensionable service like the General Clerical Service, I think they have been treated quite generously.

Mr. Speaker: We will continue this debate for another 3 minutes when proceedings will be interrupted.

***Mr. Abeywickrama:** I always find that the Financial Secretary is unable to make a move where the lowest-paid Government Servants, where the poor people of this Island are concerned.

He also says that "the present is hardly a suitable time for still further ameliorating the conditions of service".

That was written in 1941. I want to ask the Acting Financial Secretary whether he would amend that statement in view of the altered conditions.

These poor Village Tribunal Clerks draw a pittance; they get a salary of Rs. 20 or Rs. 25 a month and their pension rights are very small. When we urge the Government to give these poor clerks better salaries, the Hon. the Financial Secretary brings forward all these rules and regulations.

Hon. Members will remember that it was only last week that on the Floor of this House the Hon. the Financial Secretary moved a resolution to remit Rs. 52,000 to the wives of Government Servants who had evacuated from this Island. That sort of thing can be speedily passed.

But when it comes to a question of paying these poor clerks a small increase, then all sorts of difficulties are raised. Bribery and corruption have been encouraged by the payment of small salaries, and it is impossible to get the Hon. the Financial Secretary to make a move in the matter of giving these clerks a better salary.

I hope the House will unanimously pass this motion and that the Hon. the Financial Secretary will implement it forthwith.

Mr. Wille: The only difficulty is that there are a large number of officers in Government Service who are in the same position as these Village Tribunal Clerks. Others are not even entitled to three-fourths pension or to any gratuity under the Pension Minute.

I wish that this matter be taken up so that the question of the salaries of other officers who are in a similar position may be gone into. I do not think it is fair to all these officers to deal with the matter piecemeal.

Question put, and agreed to.

It being 5.30 p.m., proceedings on business under consideration were interrupted under Emergency Standing Order 2 (4).

ADJOURNMENT.

The Hon. Sir D. B. Jayatilaka (Leader of the State Council): I move that the Council do now adjourn.

Question proposed from the Chair, and debated.

Dr. A. P. de Zoysa (Colombo South): May I know from the Hon. Chief Secretary whether he can inquire into a complaint by some workers at Messrs. Heller's old workshop at Colpetty? There are about 200 workmen there engaged in a kind of Military work. I believe the work entails covering boats with canvas.

These labourers were given a reduced food ration. Subsequently 157 of them signed a petition—when there was another cut in the food ration—and complained about it. The result was that 10 of them were discontinued. The rest of the workmen wanted to give up their work but they were not allowed to do so. They were informed that they would be punished if they stopped work.

The only offence these men seem to have committed was the sending of a petition to the officer-in-charge stating that the food given to them was not sufficient. Will the Hon. the Chief Secretary kindly look into this matter and see, if it is possible, that the men who have been discontinued are given back their employment?

Mr. H. R. Freeman (Anuradhapura): In July last I asked 2 questions about prosecution of villagers in the dry zone who were bringing away a few measures of kurakkan to be eaten in the wet zone. No answer have been given. Could these questions be answered before the Hon. Leader disappears to India?

The Hon. Sir D. B. Jayatilaka: What have I got to do with it?

***Mr. S. Abeywickrama (Udugama):** To whom was the question addressed?

Dr. de Zoysa: I asked the question of the Hon. the Chief Secretary.

***Mr. Abeywickrama:** Why should it not be answered?

Mr. Speaker: I cannot compel anyone to answer. What is the question?

Dr. de Zoysa: I do not mind repeating

[Dr. de Zoysa.]

There are about 200 labourers employed at Messrs. Heller's old workshop. They are employed under the Military. Their food ration was reduced twice. On the second occasion, 157 of them signed a petition and submitted it to the officer-in-charge complaining about the reduction of their food ration. The result was that 10 of them were discontinued. These 10 men want an inquiry or, at least, their work given back to them. Will the Hon. the Chief Secretary kindly inquire into the matter.

The Hon. Mr. R. H. Drayton (Chief Secretary): I am very sorry. I only heard snatches of the hon. Member's

remarks. If he would put something down on paper and let me have it, I will see whether it has anything to do with me at all. I am not quite sure it has, but, if it has, I will try and find out something about it. I tried hard to hear what the hon. Member had to say; I just caught a few remarks here and there. It was not enough. If the hon. Member will just give me some information outside the Council, I will try and find out something about it.

Question, "That Council do now adjourn", put, and agreed to.

Adjourned accordingly at 5.40 P.M., until 2 P.M. on Thursday, November 19, 1942.