

KENSINGTON v. EDIRISINGHE.

P. C., Nawalapitiya, 25,469.

Criminal offence—Difference between “preparation” and “attempt” to commit.

Preparation to commit an offence consists in devising and arranging the means or resources necessary for its commission ; attempt is the direct movement towards the commission after preparation.

THE complainant, Edward Kensington, Superintendent of Dombagastenne estate in Kotmale, charged the accused, D. T. Edirisinghe, a building contractor, with causing hurt and with attempt to voluntarily cause hurt by means of a knife. The Police Magistrate acquitted the accused of the first count, but found him guilty of the second, and sentenced him to six months' rigorous imprisonment. The accused appealed against the conviction and sentence.

LAWRIE, J.—

I set aside and acquit. The act of the accused in running to a Sinhalese kangany and asking for his knife perhaps showed an intention to use the knife if it had been given to him, but it was not an attempt to cause hurt to the person of Mr. Kensington, with whom the accused immediately before had a quarrel, in which the Magistrate finds both were equally to blame. I refer the Magistrate to Maine's *Criminal Law of India, chapter XV., p. 853*, where the law is, I think, clear and plain. Maine quotes this passage: “Between the preparation for the attempt and the attempt itself there is a wide difference. The preparation consists in devising and arranging the means or resources necessary for the commission of the offence ; the attempt is the direct movement towards the commission after the preparations are made. To illustrate : a party may purchase and load a gun with the declared intention to shoot his neighbour, but until some movement is made to use the weapon upon the person of his intended victim there is only preparation and not an attempt.”