cocoanuts. On the 4th March, 1895, one Segu Mohideen, who was judgment-creditor of one Joseph Ratnayake, caused the Fiscal to seize this property in execution. The plaintiff at once put in a claim which was referred to the Court by the Fiscal in the ordinary way, but in spite of this claim the Fiscal proceeded to sell, and sold the property on the 12th March, 1895. I do not understand how it was that the Fiscal proceeded with the sale, having received a claim which he had referred to the Court. It seems to me quite clear that his duty was to stay his hand until it had been decided by the Court whether the seizure was legal or not.

If the property is not sold, there can be no objection in going on with the claim investigation: the only object of such an investigation is to determine whether the Fiscal is to release or to sell it. If the property has been sold, the claim investigation can lead to nothing, because the Fiscal cannot, if the claim is decided in the claimant's favour, release the property from seizure. The head-note to the case of *James & Co. v. Natchiappen* (*3 N. L. R. 257*) appears to me to be incorrect in its statement of what was decided in that case;* it seems to imply that it is the duty of a claimant to make special application to the Court to postpone the sale.

In the present case the claim investigation, which is required by section 241 to be conducted in a summary manner, was not concluded until November, 1898, having taken three years and a half. In the result the claim was upheld, the Court being of opinion that the property was the property of the claimant and not of Joseph Ratnayake, the judgment-debtor. Immediately after the conclusion of the investigation the plaintiff commenced his action against the administratrix of the judgment-creditor, who had died in the meantime, claiming damages for the illegal seizure and sale of his property. The District Judge held that the action was barred by Ordinance No. 22 of 1871, for that, being a claim for damages, it ought to have been brought within two years of the cause of action, that is the seizure of the 4th, or at all events the sale of the 12th March, 1895. It seems to me that the District Judge was right, and the appeal must therefore be dismissed. It is a hard case on the plaintiff, for he may have thought, though wrongly, that he ought to wait till the conclusion of the investigation before bringing his action.

BROWNE, A.J., agreed.

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* The words of the head-note are not the words of the reporter; but of Mr. Justice Lawrie, as found in his judgment in the case in question.—ED.

1901.
January 29, and 30.

SENANAYAKE *v.* DON JOHN.

P. C., Negombo, 27,626.

Insult—Penal Code, s. 484.

Per LAWRIE, J.—Section 484 of the Penal Code limits the character of the offence thereby enacted to such insults as are provocations, and only to such provocations as are intended to cause the person provoked to break the public peace or to commit an offence, or which the insulter or provoker knew would be likely to cause the person provoked to break the public peace.

The section is intended to prevent breaches of the peace by preventing what is likely to cause them.

THIS was a prosecution under section 484 of the Penal Code. It appeared that for the purpose of recovering the rates due to the Local Board of Minuwangoda, the Mudaliyar of the District. who was also the Chairman of the Board, attended by the Vidane Arachchi, went to the house of one Punchappuhamy, when the accused (his son) used abusive language and rushed towards the Chairman saying, "no taxes would be paid." The Vidane Arachchi intercepted his progress, when he pushed him against a wall, which caused him to bleed in the face. Both the officers felt insulted, and so provoked that they had a mind to thrash him.

The Police Magistrate found the accused guilty and sentenced him to six months' rigorous imprisonment.

He appealed.

H. J. C. Pereira, for appellant.

Bawa, for respondent.

Cur. adv. vult.

30th January, 1901. LAWRIE, J.—

Section 484 seems to me to be one of the most difficult in the Penal Code.

It does not declare that all insults are an offence. The section limits the character of an offence to such insults as are provocations, and only to such provocations as are intended to cause the person provoked to break the public peace or to commit an offence, or which the insulter or provoker knew would be likely to cause the person provoked to break the public peace, &c. It is, I think, intended to prevent breaches of the peace by preventing what is likely to cause them. Whether the accused had the intention or knowledge which the section requires, I doubt much. He was drunk, he used indecent vulgar words—words so commonly used that they have almost lost their original meaning, as many English oaths and curses have. The word used had no special

reference to the persons addressed. But the counsel for the accused limited his appeal to urging this Court to reduce the sentence.

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LAWRIE, J.

The sentence of six months' rigorous imprisonment seems to me excessive. I reduce the sentence to a fine of Rs. 50, and if the fine be not paid the accused shall undergo one month's rigorous imprisonment.