1932 *Present :* **Macdonell C.J., Garvin S.P.J., and Dalton J.**

ATTORNEY-GENERAL *v.* ARIYARATNE.

IN THE MATTER OF AN APPLICATION UNDER SECTION 19 OF THE COURTS ORDINANCE.

Proctor—Conviction of culpable homicide—Moral turpitude—Ordinance No. 1 of 1889, s. 19.

A proctor, who is convicted of the culpable homicide of his wife and child, should be removed from office.

THIS was an application for the removal from practice of the respondent, a proctor, who was convicted of culpable homicide of his wife and child.

Illangakoon, Acting Solicitor-General (with him *Basnayake, C.C.*), in support.

G. P. J. Kurukulasooriya (with him *T. S. Fernando*), for respondent.

[1] *(1923) 24 N. L. R. 431.* [2] *1 N. L. R. 196.*

[3] *1 N. L. R. 243.*

September 5, 1932. MACDONELL C.J.—

This is an application to remove a proctor from the roll of this Court.

The proctor in question was convicted by a jury of culpable homicide of his wife, and also of his infant child, by shooting them, for each of which crimes he was sentenced to ten years' rigorous imprisonment the two sentences to run concurrently. He alleged in the statutory statement which he made before the Magistrate, that that night he had seen his wife kissing and talking to a man. He admitted that he waited until his wife got back to the bedroom and lay down, and that he then got a shot-gun and shot her from above as she was lying down, using certainly two cartridges for the purpose. The jury found him guilty of culpable homicide and could on the evidence undoubtedly have found him guilty of murder. There is now this application to remove him from the roll by reason of these crimes of which he has been convicted. It is argued before us, as a reason why we should not remove the respondent from the roll, that his crimes involved no moral turpitude but ; the facts, which I think I have given correctly, need only be stated to show that there was, whatever may have been the provocation. It would be a very startling proposition to say that the culpable homicide, under such circumstances, of a man's wife and child does not show moral turpitude. This is not a question of again punishing a man who has been punished already but quite a different one, viz. : ought a person against whom such offences are proved to remain on the roll of an honourable profession, and really the question answers itself. His crimes at the very least were, as Mr. Ilangakoon put it, an outrageous violation of the law which it was his duty as a proctor to uphold. One of the cases cited to us in argument is absolutely in point, that of *In re Cooper,*[1] where a solicitor had been convicted and sentenced to penal servitude for the attempted murder of his wife, a crime committed while he was in a state of mental depression consequent on money losses. In that case Wright J. said, "I am of opinion that having regard to the facts of conviction for a felony so grave as to involve a sentence of penal servitude, the respondent's name ought to be struck off the roll". Substituting our own terminology, that dictum seems absolutely in point. The acts proved against the respondent and the crimes of which he has been convicted surely make him unfit to practise as a proctor. In the Indian case cited to us, *Emperor v. Rajani Kanta Bose and others,*[2] Mookerjee J. stated that licence to practice as a proctor or solicitor is something in the nature of a franchise, revocable whenever misconduct renders the holder unfit for such office. The misconduct is certainly here. In my opinion, the respondent's name should be struck off the roll of proctors of this Court.

GARVIN S.P.J.—I agree.

DALTON J.—I agree.

[1] *67 L. J. Q. B. 276.*

[2] *49 I. L. R. Cal. 804.*