FONSEKA *v.* FERNANDO.

1897.
March 25.

P. C., Kalutara, 1,862.

Receiving stolen property—Proof of theft—Conviction of thief.

In a prosecution for receiving stolen property knowing the same to be stolen, it is not necessary to allege in the charge or to prove that some person has been convicted of the theft.

THE facts sufficiently appear in the judgment.

De Saram, for the Attorney-General, who was the appellant in the case.

25th March, 1897. BONSER, C.J.—

In this case the Attorney-General appeals against an acquittal. Two persons were charged before the Police Magistrate of Kalutara, one with having stolen a certain quantity of plumbago, and the other with receiving it, knowing it to be stolen. In the course of the trial the man accused of theft absconded, and could not be found. Thereupon the Magistrate acquitted the man who was charged with receiving, on the ground, as he states, that as "no one "has been convicted of theft of the plumbago, the second accused "cannot be convicted of receipt and retention of it with guilty "knowledge." He appears to be of opinion that, before a person can be convicted of receiving stolen property knowing it to be stolen, some one must have been convicted of having stolen it. In my opinion that proposition is not warranted by law.

All that it is necessary to prove is that the property was stolen. It may be next to impossible to prove who stole it. It is a perfectly good indictment to charge a person with having received property stolen by some person or persons unknown.

The acquittal is set aside and the case sent back for trial.