

1917.

Present : Ennis J.

KRETSER v. FERNANDO.

344—P.C. Kurunegala, 27,681.

*Sale of arrack—Arrack supplied on chits drawn against deposit of money—
Cash sale.*

Where a tavern-keeper supplied arrack on chits against deposits of money—

Held, that the sale was not a credit sale, and that he was not guilty of a breach of Condition No. 15 of Notification No. 29 (*Gazette* of March 13, 1914), which prohibited the sale of liquor in taverns "except for cash."

THE facts appear from the judgment.

Elliott (with him *B. F. de Silva*), for accused, appellant.

Dias, C.C., for the Crown.

May 14, 1917. ENNIS J.—

In this case the accused has been convicted of selling arrack in breach of general Condition No. 15 of the Notification No. 29, published in the *Gazette* of March 13, 1914. The charge does not make it clear what breach is complained of, but it appears from the evidence and the argument to have been a breach of condition No. 15: "no liquor shall be sold in taverns except for cash". It appears that certain chits were found in the tavern by the Exoise Inspector. These chits were orders to the tavern-keeper to supply arrack against deposits. One of them is endorsed on the back pencil, showing the amount remaining in the hands of the tavern-keeper on a balance. The tavern-keeper has given evidence that in this case the arrack was supplied against the deposit of money already received. There is no reason that I can see to disbelieve his evidence. The term "cash" found in the general conditions seems to have been used as opposed to credit. It is certain that this sale by this method is not a credit sale, and I am unable to say that it is not a cash sale, inasmuch as the renter had the cash in his possession at the time of the sale. In the circumstances there would be no breach of the condition. I set aside the conviction.

Set aside.