

1908.  
December 17.

Present : The Hon. Sir Joseph T. Hutchinson, Chief Justice.

PERIS *v.* SURASINGHE.

*P. C., Galle, 42,889.*

*Arrack—“ Disposal ”—Removal—Ordinance No. 10 of 1844, s. 14 (1).*

HUTCHINSON C.J.—Where a person removes arrack from his store or gets it taken to some other place, whatever may be the purpose to which he applies it, he “disposes of” it within the meaning of section 14 (1) of Ordinance No. 10 of 1844 and commits an offence under the section.

**A** PPEAL from a conviction by the Police Magistrate.

*A. St. V. Jayewardene*, for the accused, appellant.

*Cur. adv. vult.*

December 17, 1908. HUTCHINSON C.J.—

The appellant, Don Mathes Surasinghe, was convicted of an offence under section 14 (1) of Ordinance No. 10 of 1844, that on October 10 last he disposed of arrack in a less quantity than 35 gallons at one time from a licensed distillery, he being at the time in the superintendence of the business of the distillery. The watcher employed by the arrack renter to watch the distillery stated that when he went there on the 10th to see some arrack stored, the accused was present in charge of the store, and that he saw the accused fill a big bottle with arrack and set it aside and afterwards pick it up and put it under his arm to take away. That the witness tried to prevent his doing so, but that the accused went away with it. He said that he saw the appellant fill the bottle with arrack from a cask and that the bottle was a large one, equal to 4 quarts. He said that he kept one key of the store, and that the accused kept the other key, and that the accused told him that the arrack was for his own consumption. Another watcher corroborated this evidence.

It was proved that the license for the distillery is in the name of J. F. Silva, and that Adonchi Silva is put down as his manager, and renders weekly returns as manager, and that the accused has an interest in the business. Four receipts were produced signed by him, and were relied on by the prosecution as evidence that the accused took part in the management or superintendence. There was no evidence for the defence. The Magistrate has found, and the evidence fully justifies the finding, that the accused removed the bottle of arrack from the distillery on October 10, and that he was at that time “in the management or superintendence” of the business. So that the only question is whether the removal, without any

evidence as to the object of it beyond the accused's statement to the watcher that the arrack was for his own consumption, is a "disposal" of it within the meaning of section 14. Section 7 requires that all spirits when distilled are to be deposited in the store constructed on the premises. Section 14 requires that the distiller and other persons there named shall not sell or dispose of any spirits in less quantity than 35 gallons at a time. Section 33 prohibits the removal without a permit of spirits in any quantity exceeding a pint from any place in the district to any place outside it. The words "sell or dispose of" in section 14 are repeated in section 26, which prohibits the sale or disposal of spirits in less quantity at one time than 35 gallons without a license. When a man takes liquor from his store and removes it or gets it removed to some other place, whatever the purpose may be to which he applies it, whether for sale or for his own consumption or for that of his friends, he "disposes of it" in the ordinary sense of the words, and his act is one which, in my opinion, the Ordinance meant to prohibit and has prohibited.

1908.  
December 17.  
HUTCHINSON  
C J

I dismiss the appeal.

*Appeal dismissed.*

---