

Saturday, 22 August, 1857

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FROM

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1857.

Saturday, August 22, 1857.

PRESENT :

The Honorable J. A. Dorin, *Vice-President*,
in the Chair.

Hon. the Chief Justice,	P. W. LeGeyt, Esq.
Hon. Major General	E. Currie, Esq.,
J. Low,	and
Hon. B. Peacock,	Hon. Sir A. W. Buller.

THE POLICE ACT (PRESIDENCY
TOWNS &c).

THE CLERK reported to the Council that he had received a communication from the Governor of the Straits Settlement pointing out certain defects in Act XIII of 1856 (Presidency Towns, &c. Police Act).

MR. CURRIE moved that the above communication, together with others previously received on the same subject, be printed.

Agreed to.

MINORS (MADRAS PRESIDENCY).

THE CLERK also reported to the Council that he had received a communication from the Acting Chief Secretary to the Madras Government on the subject of conferring on the Sudder Court, in respect of Minors placed under their control by Regulation V of 1804, the powers vested in the Court of Wards by Act XXI of 1855.

MR. CURRIE moved that the above communication be printed.

Agreed to.

ARMS AND AMMUNITION.

MR. PEACOCK presented the Report of the Select Committee on the Bill "relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same."

PORT-DUES (CUTTACK).

MR. CURRIE moved the first reading of a Bill "for the levy of Port-dues in certain Ports in the Province of Cuttack." He said, he had already introduced into the Council Bills for the levy of Port-dues at all the important Ports of the Bengal Presidency. The present Bill had reference to certain small Ports in the Province of Cuttack, which

were frequented exclusively by native craft employed in the coasting trade. They were all situated within a coast line of about seventy miles, and were under the supervision and control of the Master Attendant at Balasore. The Vessels belonging to these Ports, and all other vessels which touched at them in the course of the year, were subject to an annual cess graduated according to a certain scale. Vessels under two thousand maunds were charged eight Rupees; from two thousand to five thousand maunds, ten Rupees; and above five thousand maunds, fifteen Rupees. But the produce of this cess was not by any means sufficient to defray the expenses of the Master Attendant's establishment, and of the buoys maintained at some of the Ports. A considerable portion of the vessels belonging to these Ports was annually taken up by Government for the conveyance of Salt from Balasore to Sulkea, and was by custom exempt from payment of the cess. It was now proposed to do away with that exemption, and to substitute for the annual cess a Port-due leviable upon each voyage. According to the best calculation he had been able to make, a Port-due of four annas the hundred maunds, equal to a little more than one anna the ton, would produce a revenue sufficient for the wants of the Ports.

As the vessels to be affected by the Bill would be exclusively native craft, it was convenient to fix the rate of the Port-due by maunds rather than by tons.

As all the Ports were under the supervision of the same establishment, it was scarcely practicable to estimate the separate cost of each. It was therefore necessary, in assessing a Port-due, to treat them as if they were parts of one Port, and to have a uniform rate for all.

The trade of these vessels was entirely with Calcutta, and many of them made as many as four trips in the year.

He proposed to allow the dues leviable on each voyage to be compounded for by the payment, for any one year, of a sum equal to three times the rate leviable for a single voyage.

With these remarks, he begged to move the first reading of the Bill.

The Bill was read a first time.

FERRIES (STRAITS SETTLEMENT.)

MR. CURRIE moved that the Council resolve itself into a Committee upon the Bill "for regulating Ferries in the Settlement of Prince of Wales' Island, Singapore, and Malacca;" and that the Committee be instructed to consider the Bill in the amended form in which it had been recommended by the Select Committee to be passed.

Agreed to.

Sections I to VIII were passed as they stood.

Section IX provided that bye-laws for regulating Ferry-boats &c. should be made by the Chief Civil Authority of each Station.

SIR ARTHUR BULLER asked why this particular power should be vested in the Chief Civil Authority of each Station? Section XII said—"Every public Ferry shall be under the control and management of the Municipal Commissioners of the Station in which the same is situate." If the public Ferries were to be under the control and management of the Municipal Commissioners, he should have thought that the Municipal Commissioners were the parties who ought to make the rules for regulating them, subject to any confirmation which might be deemed expedient. Indeed it would be difficult to say that substantial control or management was left to them if this power of making rules were given to another party. He had no doubt that the Honorable Mover of the Bill would be able to give a ready answer to his question; but at present he did not quite see the reason for creating this divided authority.

MR. CURRIE said, Section XII had been altered by the Select Committee, who, as stated in their Report, thought it advisable to vest the control and management of the Ferries and the collection of the tolls expressly in the Municipal Commissioners, and to give to them, subject to the approval of the Governor, the power of letting the tolls in farm. They had not thought it necessary to alter Section IX, because they were of opinion that the rules might very properly be made by the Chief Civil Authority, and their administration left to the Municipal Commissioners. He should make no objection to an alteration of the Section if the Honorable

and learned Member thought it necessary; but it appeared to him that it would be better to leave the Section as it stood.

THE CHIEF JUSTICE said, it seemed difficult to see what the Municipal Commissioners were to do. As the Section stood, the Chief Civil Authority was not to make the rules, except subject to confirmation by the Governor of the Settlement. If the Municipal Commissioners of each Station were to have the management and control of the public Ferry established in that Station, they would doubtless be the best persons to suggest the mode in which it should be managed and controlled.

MR. CURRIE said, it would be the business of the Municipal Commissioners to see that the rules were duly observed, and to prosecute for any violation of them. It would also be their business to superintend the collection of the tolls. All control and management must be exercised according to some laws or rules; and if bye-laws or rules for regulating these Ferries were made by the Chief Civil Authority, he imagined that the Municipal Commissioners could see them carried out just as well as if they had been made by themselves.

The Section was then put, and agreed to.

Section X provided that any person who should carry for hire within three miles of a public Ferry, without a special license from the Chief Civil Authority, should be liable to a penalty not exceeding fifty Rupees.

THE CHIEF JUSTICE said, he felt some difficulty about this Section. Section II allowed the Governor of the Settlement to fix the rate of toll upon all passengers, goods, or cattle carried over by a public Ferry. Now, it might be reasonable enough to say that the Governor, when he chose to set up a public Ferry, should be trusted with the power of determining what should be paid for the conveyance of passengers, goods, or cattle by it, if you left the public the option of using some other mode of conveyance in case the rates imposed were exorbitant. But when the Bill went on to provide that no other person should carry for hire within three miles of a Ferry without a special license, it really gave the Governor an unlimited power of taxing transit

from one part of the Settlement to another.

MR. CURRIE said, Section X, like most of the other Sections, had been taken from the Act which was in force at Bombay. A provision similar to it also existed in the Bengal Regulation. Some restriction of the kind prescribed by the Section was, he thought, necessary. If boats were allowed to ply for hire in the immediate neighbourhood of public Ferries, public Ferries would cease to exist. As to fixing a limit to the rates of toll, unless the nature of the Ferries was known exactly, which was not the case, such limit could not well be fixed. No limit was fixed by either the Bengal or the Bombay Regulation.

THE CHIEF JUSTICE said, he had mistaken the object of the Section. He now saw that it was intended to prevent persons from setting up opposition Ferries.

MR. PEACOCK said—still, he saw considerable difficulty in passing the Section as it stood. He did not know precisely the localities to which the Bill was intended to apply; but there must be a road leading to a Ferry, and a road leading from it. Suppose that a public Ferry was established on a creek within the Settlement, to ply between road A on one side, and road B on the opposite side; and that a person wished to go across, not to B, but to some other road leading to a different place within three miles of it. This Section would prevent him from getting a boat to carry him over, and would leave him to go to the public Ferry at A, which would take him to the wrong place. He would illustrate his meaning by supposing a similar case in Calcutta. A person, for instance, might wish to go from Garden Reach to the Botanical Gardens. The Honorable Mover of this Bill would tell him—“No, there is a public Ferry within three miles of Garden Reach, and you must go up to that, and cross in it to Howrah.” But when the passenger should arrive at Howrah, he would not be able to get to the Botanical Gardens.

THE CHIEF JUSTICE said, he knew some of the localities which this Bill would embrace, and saw great force in the Honorable and learned Member's objection. This Section included an arm of the sea. As all of us knew,

a narrow arm of the sea runs between the Island of Penang and Province Wellesley. Suppose that a public Ferry were established between those two points. In Province Wellesley, there was a number of sugar estates, cocoa-nut plantations, &c. running, he believed, parallel with the arm of the sea. It would be rather hard to enact that no boatman should carry a person wishing to go from Penang to see his estate or plantation in Province Wellesley, within three miles of the public Ferry, by taking his boat across the arm of the sea.

MR. CURRIE said, the Bill had been read a first time on the 20th September 1856; it had been published for considerably more than the allotted term; no objection had been taken to its provisions by the inhabitants of the Straits Settlement; and the Governor had intimated his approval of them, stating that he considered them “to be well suited to the circumstances of the case.” The Section in question corresponded precisely with the Section in the Bombay Act, with the exception that the penalty it provided, instead of being five hundred Rupees, was only fifty Rupees, the prohibited distance being the same. In the Bengal Regulation, however, the wording was different. The Section there said:

“Such Ferries shall exclusively belong to Government; and no person shall be allowed to employ a Ferry-boat plying for hire at or in their immediate vicinity, without the previous sanction of the Magistrate or Joint-Magistrate.”

Perhaps the wording of the Section might be assimilated to that of the Bengal Regulation.

MR. PEACOCK remarked that Section contemplated boats habitually employed as Ferry-boats but the Section in this Bill would make it an offence to let for hire a boat to carry a person across within three miles of a public Ferry though there might be no intention to interfere with the Ferry, or to evade the toll payable for passing.

THE CHIEF JUSTICE then moved that the following Proviso be added to the Section:—

“Provided that nothing in this Section shall subject to such penalty any person who shall specially let for hire his boat for the conveyance of any other person, or his family or goods, across any arm or creek of the sea within the said Settlement.”

The amendment was agreed to, and the Section then passed.

The remaining Sections of the Bill, with the Preamble and Title, were passed as they stood.

MADRAS UNIVERSITY.

MR. LEGEYNT moved that the Council resolve itself into a Committee on the Bill "to establish and incorporate an University at Madras;" and that the Committee be instructed to consider the Bill in the amended form in which it had been recommended by the Select Committee to be passed.

Agreed to.

The Bill passed through Committee as it stood.

ARMS AND AMMUNITION.

THE VICE-PRESIDENT moved that the Council resolve itself into a Committee on the Bill "relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same;" and that the Committee be instructed to consider the Bill in the amended form in which it had been recommended by the Select Committee to be passed.

Agreed to.

Section I required notice of possession of arms to be given "to the Magistrate, or, in any Presidency Town or in any station in the Settlement of Prince of Wales' Island, Singapore, and Malacca, to the Commissioner of Police."

MR. LEGEYNT said, he thought that, with reference to the operation of this Bill in Bombay, it would be useful to insert, after the words "to the Magistrate," the designation of the Officer there who superintends the Police of the Zillahs. There was at Bombay a European Officer, under the title of Superintendent of Police, to whom was entrusted the full supervision of the Zillah Police; and it was very desirable that, in that Presidency, the notice contemplated in this Section should be given to him. He should, therefore, move that the words "or the Superintendent of Police, if any" be inserted after the words "to the Magistrate" in the 12th line of the Section.

MR. CURRIE said, he thought it would less embarrass the Bill if a Section were inserted at the end of it

saying that whatever powers the Bill conferred upon Magistrates, might also be exercised by a Superintendent of Police where there was such an Officer.

MR. PEACOCK said, the expediency of doing this had been considered in Select Committee. It appeared to him that it would be objectionable to do it, because it would give Superintendents of Police judicial powers.

MR. LEGEYNT said, that would be the effect, since there were Sections in the Bill conferring judicial powers upon Magistrates as well as Sections conferring executive powers; and he had no wish to vest judicial powers in a Superintendent of Police.

He should, therefore, still move to amend Section I; but it had been suggested to him that the words "or other Officer authorized by the Executive Government" would be preferable to the words he had proposed to insert, and he agreed in thinking that they would be. He, accordingly, begged leave to withdraw his former motion, and to move that those words be inserted after the words "to the Magistrate" in the 12th line of the Section.

Agreed to.

MR. CURRIE said, the arms in respect of which notice was to be given, were stated in the Section to be "any fire-arms, bayonet, sword, spear, or spear-head." This would hardly embrace all weapons the possession of which, under certain circumstances, it might be thought proper to prohibit—he might instance daggers, *kookrees*, &c. The enumeration in the Section was similar to the enumeration in the Police Act; but in that Act, the enumeration was followed by the words "or other offensive weapon." He thought that it would be an improvement if the words "or other deadly weapon specified in such order" were added after the word "spear-head." He should move, accordingly, that they be inserted.

The amendment was agreed to, and the Section then passed.

Section II provided that whoever should wilfully neglect to give the notice required by Section I, should be liable "to a penalty not exceeding five hundred Rupees; and the arms of which no such notice shall be given, may be seized and shall be confiscated, if the convicting Magistrate shall so adjudge."

MR. PEACOCK said, if a person gave notice on a particular date, of arms which were then in his possession, but should omit to give notice of arms of a similar description which should subsequently come into his possession, it would be difficult to ascertain which were the arms of which he had given notice, and which the arms of which he had not given notice. For instance, if A should give notice on the 10th of September that he had one gun, and should get two more guns on the 15th, of which he should not give notice, it would be difficult for the Magistrate to say which of the three was the one in respect of which the notice had been given. It appeared to him (Mr. Peacock) that if a person wilfully neglected to give notice, he ought to be made liable to the loss of all the arms in his possession. If the omission to give notice should be unintentional, A would not be guilty of an offence; and it would not be obligatory on the Magistrate in any case to confiscate all. He should therefore move that the words "the arms of which no such notice shall be given" be left out, and that the words "all arms in the possession of such person" be substituted for them.

THE CHIEF JUSTICE said, any objection which he might feel to the amendment of the Honorable and learned Member, was removed by the words "wilfully neglects" used in the Section. If a person made a return that he had one pistol, and, by a mere oversight, omitted to send in a return of two other pistols with which he might afterwards have provided himself, it would be hard to deprive him of all three pistols. But if he wilfully neglected to make the return, that would shew him to be a person who wished to evade the Law; and against such persons, confiscation of all arms in their possession might justly be enforced.

MR. PEACOCK'S amendment was carried, and the Section then passed.

Section III provided that "the Magistrate or Commissioner of Police" should cause a register to be prepared of persons having arms in their possession, and the number and description of such arms; and also grant certificates upon application.

MR. LEGEYT proposed that some words should be inserted after the words

"Commissioner of Police" to shew who was meant by that designation. Section I did shew this, to some extent; for it mentioned the Commissioners of Police in Presidency Towns; but in the Presidency of Bombay there was an Officer under that designation who was totally distinct from the Commissioner of Police for the Presidency town. He was a Mofussil Commissioner of Police; and it would lead to some confusion and trouble if the Bill were left so as to allow him to exercise the power which was given by this Section, and which was intended only for Magistrates and Commissioners of Police in the Presidency towns. He, therefore, proposed to move amendments which would make the Section run thus:—"The Magistrate, or such Commissioner of Police as aforesaid"—that was to say, the Commissioner of Police for a Presidency town.

The proposed amendments were severally moved, and, after some conversation, agreed to; and the Section was then passed.

Section IV was passed after similar amendments, and a verbal alteration.

Section V authorized certain Officers to disarm persons going armed without leave in places other than Presidency towns.

MR. LEGEYT moved that the words "or other Officer authorized by the Executive Government in that behalf" be inserted after the word "Magistrate" and before the word "the" in the 16th line of the Section.

Agreed to.

SIR ARTHUR BULLER said, he had an addition to suggest in the 16th line of the Section. The Bill, as it stood, allowed Police Officers, among others, to disarm all who went armed, except those who should have had leave from a Magistrate to carry arms, and certain other privileged persons. Therefore, if a Police Officer should arrest any one going about armed who happened to have had leave from a Magistrate, or to be permitted by the Government to carry arms, he would commit a trespass. But how was the poor man to know that the person he arrested had obtained leave from a Magistrate, or had been permitted by the Government to carry arms? Therefore, he proposed that before any person could claim pro-

tection under this Section, he should produce his authority to carry arms. With that view, he should move that the following words be inserted after the word "shall" in the 16th line of the Section:—

"unless he shall produce some certificate that he has obtained such leave, or that he is exempted by Government from the foregoing provisions; or shall give reasonable proof of his being otherwise exempted from the said provisions."

Agreed to.

MR. CURRIE said, it had been suggested to him that the words "the Magistrate" in the Section must be taken to mean the Magistrate of the district or place in which the person might happen to be found carrying arms; and that, on that construction, a certificate of leave to a person on a journey, from the Magistrate of the district from which he had set out, would be of no avail to him, as the Section now stood, at any place between that district and his destination. To prevent any such inconvenience, he should move that the following Proviso be added to the Section:—

"Provided always that, if any person shall have leave from the Magistrate of the district or place at which he resides or may be, to carry arms on a journey, and shall obtain from such Magistrate a certificate stating the route by which he intends to proceed, the time which such journey is expected to occupy, and the arms which he is permitted to carry, such certificate shall have the same force and effect, according to its tenor, in every district or place specified therein, as if leave to go armed had been granted by the Magistrate of such district or place."

THE CHIEF JUSTICE asked if the Honorable Member's object would not be met by simply altering the words "the Magistrate" now in the Section to "a Magistrate."

MR. CURRIE said, the words originally were "a Magistrate," but "the" was substituted for "a" in Select Committee. The Section as it stood originally might be too general, for a license once obtained from a Magistrate would carry a man all over India.

MR. CURRIE'S amendment was agreed to, and the Section then passed.

Sections VI and VII were passed as they stood.

Section VIII provided that licenses to manufacture or deal in percussion-

caps should be granted by the Governor-General in Council, or by the Executive Government, or by an Officer specially authorized; and that licenses to manufacture or deal in arms should be granted by a Magistrate or Commissioner of Police, or by an Officer authorized by the Governor-General in Council or the Executive Government.

MR. LEGEYNT said, it appeared to him that to make it incumbent on every shop-keeper who sold a box of percussion-caps to take out a license from the Governor-General in Council or the Executive Government, would be attended with unnecessary trouble and inconvenience. It was very proper that such a restriction should be imposed upon the manufacture and the wholesale disposal of percussion-caps; but the power of granting licenses for retail sale might, he thought, be safely entrusted to local Magistrates or Commissioners of Police as in the case of other ammunition and of arms.

THE VICE-PRESIDENT said, the difference had been advisedly made, because it was thought desirable to render the sale of percussion-caps more difficult than the sale of other ammunition or of arms. The Honorable Member would see, however, that the Section empowered the Governor-General in Council or the Executive Government specially to authorize any Officer to grant licenses for the sale of percussion-caps.

The Section was then passed as it stood.

Sections IX to XIII were passed as they stood.

Section XIV declared that Section XII (which prohibited the importation of arms, ammunition, sulphur, or saltpetre without license) and Section XIII (which provided the penalty for importation without license) should not apply to arms and ammunition imported for private use; but that the Collector of Customs might detain such arms or ammunition until he should receive orders of Government.

MR. PEACOCK said, this Section might be taken by some to mean that giving notice to the Collector of Customs would relieve them from the obligation of giving the notice to a Magistrate required by Section I. That, however, was not intended; and to prevent misunderstanding in the matter, he moved

that the following be added to the Section:—

"Nothing in this Section shall exempt any person from the obligation of giving notice of arms under the provisions of Section I."

The amendment was agreed to, and the Section then passed.

Section XV provided that the Governor-General in Council might prohibit the transport of "arms, ammunition, or military stores, or any particular description of arms, ammunition, or military stores, including sulphur and saltpetre, from one part of India to another."

MR. PEACOCK said, the wording of the Section was not quite accurate. Its meaning was that the terms "ammunition or military stores" should be deemed to include sulphur and saltpetre; that was to say, that the Government might prohibit the importation of ammunition or military stores if the military stores included sulphur and saltpetre. On this view of the reading, it might be contended that the Section gave no power to the Government to prohibit the importation of ammunition or military stores, unless the ammunition or military stores had sulphur and saltpetre with them. He, therefore, proposed to move amendments which would make the Section run thus:—

"The Governor-General in Council may by order prohibit the transport of arms, ammunition, military stores, sulphur, or saltpetre, or any particular description of arms, ammunition, or military stores, from one part of India to another."

The amendments were severally moved, and agreed to.

MR. PEACOCK said, there might be cases in which the Government would see fit to allow arms or ammunition to be transported from one part of the country to another, subject to certain conditions; and to provide for such cases, he moved that the following be inserted after the word "order" in the 10th line of the Section—

—"or prohibit the transport thereof except according to such rules and conditions as may be specified in the order."

The amendment was agreed to, and the Section then passed.

Section XVI provided the penalty for prohibited transport.

MR. PEACOCK said, in answer to a question from the Chief Justice, that

the first member of the Section, which provided a fine not exceeding five hundred Rupees and the confiscation of the articles, applied to openly transporting or attempting to transport—and the second, which provided imprisonment with or without hard labor in addition to fine and confiscation, to smuggling or attempting to smuggle. In the latter case, in addition to the offence of transporting, there would be the offence of concealing.

The Section was passed, after some verbal amendments.

Section XVII authorized Government "to prohibit the sale of sulphur without license, and require all persons having sulphur in their possession to give notice thereof," under a penalty not exceeding five hundred Rupees.

MR. PEACOCK said, he thought that the Section did not go far enough.

It said—

"Whenever the Governor-General in Council, or the Executive Government, shall consider it necessary so to do, they may by order prohibit the sale of sulphur without license, and require all persons having sulphur in their possession, to give notice thereof, &c."

The object of the Government was, not to license the sale of sulphur, which was the meaning of this wording, but to prohibit its sale altogether, except in particular cases—such as that of a person requiring it for the manufacture of sulphuric acid, or for some other purpose than that of manufacturing gun-powder; when they might grant special licenses, under certain conditions—as, for instance, the inspection of the premises in which the sulphur might be kept, &c. He should, therefore, move that the words "without license" be left out of the Section, and the word "may" be inserted before the word "require."

THE CHIEF JUSTICE said, he would prefer to keep the Section as it stood, and to specify in it who were to be the Authorities to grant licenses. The Council had done that in the case of percussion-caps; and it was of greater importance to put a check upon the sale of that article than upon the sale of sulphur, which was used for so many purposes other than the manufacture of gun-powder. It appeared to him that it was a stronger thing to say—"We will prohibit you from selling sulphur, reserving to the Government the right of

granting exemption under certain conditions"—than to say—"If you continue to sell sulphur, you must take out a license," which implied that the seller had a *prima facie* right to a license.

MR. PEACOCK'S amendments were then put, and carried.

MR. PEACOCK moved that the following be added to the Section:—

"and all sulphur belonging to such persons shall be confiscated, if the convicting Magistrate shall so adjudge."

It appeared to him that, if the Law required a person having sulphur in his possession to give notice of the fact, and he neglected to give such notice, his sulphur ought to be liable to confiscation, as arms were made liable by a preceding Section.

The amendment was agreed to, and the Section then passed.

Section XVIII was passed after an amendment.

Section XIX was passed as it stood.

MR. PEACOCK moved that the following new Section be introduced after Section XIX:—

"The Government may exempt any person from the provisions of Sections XVII and XVIII upon such conditions, if any, as such Government may consider necessary."

Agreed to.

Section XX authorized "any Magistrate or Commissioner of Police," upon reasonable cause for suspicion, to enter and search houses "for arms or ammunition liable to confiscation." It also authorized a Magistrate to delegate this power to any of his European Assistants.

After amendments similar to those introduced into Section III on the motion of Mr. LeGeyt—

MR. PEACOCK moved amendments by which sulphur was included in the Section.

The amendments were severally agreed to.

MR. LEGEYT moved that the words "or to any Superintendent of Police subject to his orders" be inserted after the words "to his European Assistants," with special reference to the system at Bombay.

MR. PEACOCK said, the power conferred by the Section was the power of entry and search; and he doubted whether it should be competent to a

Magistrate to delegate that to a Superintendent of Police.

MR. LEGEYT said, the Superintendent of Police at Bombay had the power of apprehension of offenders, and search for stolen goods.

THE CHIEF JUSTICE observed that the Presidency of Bombay seemed to have a nomenclature peculiar to itself.

MR. LEGEYT said, the office of Superintendent of Police as it existed at Bombay, did not exist at either of the other Presidencies. It was an office of recent creation, and was filled either by a Commissioned Officer in the Army or an Uncovenanted gentleman. The Superintendent had the control of the whole of the Executive Police of the Zillah, and had Magisterial powers, which, however, were confined to apprehension of offenders and search for stolen goods. He was the person who apprehended offenders, collected witnesses, and brought all the parties before the Magistrate—in fact, he was the Head of the Executive Police force, and his salary was between eight hundred and one thousand Rupees per month.

THE CHIEF JUSTICE said, he saw no objection to allow these powers to an Officer such as the Honorable Member had described the Superintendent of Police in the Presidency town of Bombay to be; but he did object to the introduction of the general term "Superintendent of Police" which, in the other Presidencies, might mean a very inferior and different Officer. The Honorable Member might introduce a separate Section at the end of the Bill to say that the words "Commissioner of Police" as used in the Bill, should apply only to the Superintendents of Police in the Presidency of Bombay.

The Section was then passed, as amended on the motion of Mr. Peacock.

Section XXI authorized "the Governor-General of India in Council, or the Executive Government of any Presidency or place, or the Chief Commissioners of the Punjab and Oude respectively, or the Commissioner of Nagpore, or any other persons authorized by Government," to order a general search "for arms."

MR. LEGEYT moved amendments by which the Commissioner of Scinde was included in the Section.

The amendments were severally agreed to.

MR. PEACOCK moved an amendment by which "ammunition or sulphur" may also be made the subjects of an order for search.

The amendment was agreed to, and the Section then passed.

Section XXII provided the penalty for not producing or for concealing arms or ammunition when search was made.

It was passed after an amendment making it applicable to sulphur also.

Section XXIII provided the penalty for making, using, or keeping cannon &c. without license.

MR. CURRIE said, it might happen that, at the time this Act was extended to a particular district, some Zemindars or others residing in the district might be in possession of small pieces of cannon which they would rather get rid of than take out licenses to retain. The Section, as it stood, did not give the option of surrendering the arms in such cases. He thought it desirable that the option should be given; and begged to move that the following be inserted after the word "Government" in the 21st line of the Section:—

"Any person who has in his possession any cannon, howitzer, or mortar at the time when this Section takes effect in any district or place, and who shall be unwilling to apply for a license to retain possession thereof, may surrender the same to the Magistrate or Commissioner of Police within such period as aforesaid."

The amendment was agreed to, and the Section then passed.

Sections XXIV and XXV were passed as they stood.

Section XXVI said—

"The word 'Magistrate' shall include a person exercising the powers of Magistrate, and a Justice of the Peace; and every person hereby made punishable by a Justice of the Peace may be punished upon summary conviction."

MR. LEGEYNT said, he thought that the latter part of the Section was likely to lead to trouble and confusion in Bombay. He alluded to the words "Justice of the Peace." Perhaps, in this Presidency and at Madras, they would not be found to be inconvenient; but in the Presidency of Bombay, there were three hundred and forty-five Justices of the Peace, two hundred and seventy-eight being Europeans, and sixty-seven Natives. Of this latter number, twenty-

six were officials in the Mofussil. He could not think that it was the intention of the Council that any of these twenty-six gentlemen, resident in the Mofussil, and filling offices such as those of Principal Sudder Ameen and Sudder Ameen, should be vested with the powers which this Bill gave. Many of the European Justices, also, might leave the Presidency town for Poona and other places of public resort, at particular seasons of the year; and he thought that even if they should think it necessary to exercise, as Justices, the powers given by this Bill, they might come into conflict with the established local Courts. He would leave it only to the stipendiary Magistrates to enforce the provisions of this Act; and he should move to amend the Section accordingly.

THE CHIEF JUSTICE said, he could not see any ground for the amendment proposed. The object of the Section was to enable Justices of the Peace to deal with the offences created by the Act in a summary way; and it appeared to him that any such inconvenience as that which the Honorable Member supposed would occur in Bombay, might be entirely obviated by the mere addition of the words "having jurisdiction to try and convict for any offence in a summary way in that place" after the words "a Justice of the Peace."

MR. LEGEYNT said, any of the three hundred and forty-five Justices of the Peace scattered over the Presidency of Bombay would have that jurisdiction as such Justices.

THE CHIEF JUSTICE said, he begged to deny that they had the slightest power of summary conviction, if they were beyond the limits of the Presidency town. Under the 33 Geo. III. c. 52, almost every Covenanted Officer of the East India Company, and under the 2 and 3 William IV, c. 117, many native subjects had been appointed Justices of the Peace; but they were only conservators of the Peace, and had no power of summary conviction out of the Presidency, where it was not specially given to them.

MR. PEACOCK said, he had always thought that it was contrary to Law for native subjects to exercise the powers of Justices of the Peace in any place beyond a Presidency town. Statute 33 Geo. III. c. 52 provided—

"That it shall and may be lawful to and for the Governor-General in Council of Fort William in Bengal for the time being to nominate and appoint such and so many of the Covenanted Servants of the said Company, or other British Inhabitants, as the said Governor-General in Council shall think properly qualified, to act as Justices of the Peace within and for the said Provinces and Presidencies, and places thereto subordinate respectively."

A similar power was given to the Governor in Council of Madras and Bombay respectively by the 47 Geo. III. c. 68.

These Acts were amended by the 2 and 3 William IV. c. 117, which provided—

"That it shall and may be lawful for the Governor-General of Fort William in Bengal, the Governor in Council of Fort St. George, and the Governor in Council of Bombay respectively, to nominate and appoint any persons resident within the territories aforesaid, and not being the subjects of any foreign state, whom the said Governor-General in Council and Governors in Council respectively shall think properly qualified, and who will bind themselves by such oaths or solemn affirmations as may from time to time be prescribed in that behalf by the said Governor-General in Council and Governors in Council respectively, to act *within and for the Towns of Calcutta, Madras, and Bombay respectively* as Justices of the Peace."

The Statute of Geo. III. only authorized covenanted servants of the East India Company, or other British inhabitants, to be appointed Justices of the Peace within the different Presidencies. That was found to be insufficient; and the Statute of William IV. enacted that any person might be appointed a Justice of the Peace for a *Presidency town*; but it gave no authority for such an appointment for any place beyond a Presidency town. It confined Native Justices of the Peace to the towns of Calcutta, Madras, and Bombay. If, therefore, there were any Native Justices of the Peace in Bombay beyond the Presidency town, it appeared to him that they must have been appointed without any authority of Law.

In the Bombay Railway Act (III of 1853), he had made offences committed against it, and to which a penalty was attached, punishable by "a Magistrate," without adding that a "Justice of the Peace" was included in that term. A question was raised at Bombay whether such offences were punishable by Magis-

trates of Police there; and it was decided that a Police Magistrate was not a Magistrate, but only a Justice of the Peace; and that he acted as a Police Magistrate merely by virtue of his being a Justice of the Peace. The decision was referred to the Government of India. It appeared to him at the time that a Police Magistrate was a Magistrate within the meaning of the Act; but he did not think it worth while to drive the Railway Company to an appeal when all doubt might at once be removed by a supplemental Act. Accordingly, an Act was passed to enable Justices of the Peace in Bombay to punish under the Act for offences to which a pecuniary penalty or forfeiture was attached. Another question also arose—namely, whether a Justice of the Peace acting as such could punish upon summary conviction. A Report of the Indian Law Commissioners was brought under consideration, in which Mr. Amos had entered elaborately into the question, and from which it appeared to be very doubtful whether a Justice of the Peace could convict summarily unless he had special authority to do so. Accordingly, words were introduced into the supplemental Act to meet that view. This was the origin of the introduction of the Clause to which allusion had been made in this and other similar Acts.

MR. LEGEYT replied, he was not prepared to say that the Native Justices to whom he had referred as residing in the Mofussil in Bombay, exercised the powers of Justices of the Peace. Perhaps they held the rank as only an honorary one, and performed the duties attached to it on their visits to the Presidency town.

After some conversation—

MR. LEGEYT moved amendments which made the Section run thus:—

"The word 'Magistrate' shall include *any* person exercising the *full* powers of Magistrate, &c."

The amendments were severally agreed to.

THE CHIEF JUSTICE moved that all the words after the word "Magistrate" in the 2nd line of the Section be omitted, in order that the following might be substituted for them:—

"and all powers of conviction and confiscation upon conviction given by this Act to a Magistrate, shall, within the Presidency Towns, and

in the Straits Settlement, be exercised by the Police Magistrates."

The amendment was agreed to, and the Section then passed.

Sections XXVII to XXIX were passed as they stood.

Section XXX was passed after amendments.

The Preamble and Title were passed as they stood.

The Council having resumed its sitting, the Bills settled in Committee were reported.

THE VICE-PRESIDENT said, under ordinary circumstances, he should have proceeded with the Arms and Ammunition Bill to-day. But so many alterations had been made in it in Committee that he thought it better that it should be reprinted for general information. He should therefore move that the Bill, as amended by the Committee of the whole Council, be published in the *Gazette* for general information.

Agreed to.

LIQUOR LICENSE (BOMBAY).

MR. LEGEYT moved that a communication received by him from the Government of Bombay, respecting licenses to retail liquor in that Town, be laid upon the table and referred to the Select Committee on the Bill "for appointing Municipal Commissioners, and for raising a Fund for Municipal purposes in the Town of Bombay."

Agreed to.

The Council adjourned.

Saturday, August 29, 1857.

PRESENT :

The Honorable J. A. Dorin, *Vice-President*,
in the Chair.

Hon. the Chief Justice,	P. W. LeGeyt, Esq.
Hon. Major General	E. Currie, Esq.
J. Low,	and
Hon. B. Peacock,	Hon. Sir A. W. Buller.

STRAITS' FERRIES.

MR. CURRIE moved the third reading of the Bill "for regulating Ferries in the Settlement of Prince of Wales' Island, Singapore, and Malacca."

The motion was carried, and the Bill read a third time.

MADRAS UNIVERSITY.

MR. LEGEYT moved the third reading of the Bill "to establish and incorporate an University at Madras."

The motion was carried, and the Bill read a third time.

ARMS AND AMMUNITION.

On the Order of the Day being read for the third reading of the Bill "relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same"—

THE VICE-PRESIDENT moved that the Bill be recommitted, for the purpose of considering proposed amendments.

Agreed to.

Section I required notice of possession of arms to be given to the Magistrate, or other Officer authorized, or, in the Presidency Towns or in the Straits Settlement, to the Commissioner of Police.

MR. PEACOCK moved that the word "authorized" after the word "Officer" in the 11th line of the Section be left out, in order that the word "specified" might be substituted for it.

MR. CURRIE said the words "or other Officer authorized" were not in the Bill before it was committed last Saturday. They were inserted on the motion of the Honorable Member for Bombay, with the view of making it lawful for notice of possession of arms to be given to the Superintendents of Police in that Presidency. It now appeared to him (Mr. Currie) that it would be better to omit the words from this Section, and to provide in another manner for the object which the Honorable Member had in view. As the Bill stood, it did not provide effectually for that which was intended. The words introduced into this Section would enable Superintendents of Police to receive notices. But there were no such words in Section III, which empowered "the Magistrate or Commissioner of Police" to cause a register to be prepared, and to grant certificates; nor in Section IV, which empowered "the