

the 22nd of February 1866, and Sec. 224 of the Code of Criminal Procedure, from which he should have learnt that the terms of the Code are not, as he supposes, indefinite, but fixed. Fifteen days is the longest period for which an accused person can be remanded by order of a Magistrate.

The Magistrate should be requested to see that the circular above referred to is fully carried out in the Thaná collectorate.

1868.
REG.
v.
SURKYA
DHA'KU.

REG. v. PURSHOTAM VA' LJI.

April 15.

Chairman of Municipal Commissioners appointed under Act XXVI. of 1850—Public Servant—Ind. Penal Code, Sec. 174.

The Chairman of Municipal Commissioners appointed under Act XXVI. of 1850, although a public servant, is not legally competent as such to issue an order for attendance before him.

Held, accordingly, that disobedience of such an order was not an offence within Sec. 174 of the Indian Penal Code.

THE prisoner was convicted on the 26th of November 1867, by the Second Class Subordinate Magistrate of Bassein, in the Thaná District, of non-attendance in obedience to a summons from a public servant, and sentenced, under Sec. 174 of the Indian Penal Code, to pay a fine of one rupee, or in default to suffer simple imprisonment for two days.

The record and proceedings were referred for the orders of the Court, under Sec. 434 of the Criminal Procedure Code, by J. W. Robertson, Acting Magistrate of the District, with the following remarks :—

“On examination of the records and exhibits in the case, it appears that the summons disobeyed by the accused was issued by the Chairman of the Bassein Municipality, requiring him to attend on a certain date before him, to afford explanation in respect to certain excavations made by him in a cer-

legally detain a prisoner in custody for more than twenty-four hours without an express authority from a Magistrate, and this should not be extended beyond fifteen days without a hearing and a remand by an officer of competent jurisdiction. Prisoners in custody under such a remand should, of course, be enumerated in the Return under the head of the Magisterial Officers concerned.”

1868.
REG.
v.
PURSHOTAM
VA'LI.

tain Municipal road. The Chairman of a Municipality is not, I consider, a public servant, as contemplated by Sec. 174 of the Indian Penal Code, competent to issue a summons, or an order for attendance. The summons issued by him, directing the appearance of the accused under the section referred to, was not, it appears to me, legally binding, and the sentence passed is, therefore, contrary to law."

PER CURIAM (NEWTON, Acting C.J., and TUCKER, J.) :—The Court considers that the Chairman of the Commissioners appointed, under Act XXVI. of 1850, for the Town of Bassein, is a public servant. But the accused has not been shown to be guilty of non-attendance in obedience to any order issued by a public servant, which the Chairman, as such public servant, was legally competent to issue. The Court, therefore, reverses the conviction and sentence.

Conviction and sentence reversed.

April 15.

REG. v. KA'LYA' bin FAKI'R.

Service of Summons—Refusal to sign a Summons—Ind. Pen. Code, Sec. 173.

Refusing to sign a summons by an accused person does not constitute the offence of intentionally preventing the service of a summons on himself, under Sec. 173 of the Indian Penal Code.

THE records and proceedings in this case were called for, under Sec. 404 of the Code of Criminal Procedure.

The facts were as follow :—

A summons was issued requiring the accused to appear in person, on the 14th of December 1867, in the Magistrate's Court at Tháná, to answer a complaint preferred against him. The summons was taken to the house of the accused, and was read over and explained to him, and he was asked to acknowledge service by signing the summons, but he declined to do so. For this he was convicted by I. Drúcup, Magistrate F. P. at Tháná, "of having intentionally refused to sign, and so prevented the service on himself of the summons," and sentenced, on the 16th of December 1867, under