

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

1909.

January 15.

DON LEWIS *v.* KALU APPU *et al.*

P. C., Matara, 26,513.

Obstruction to Police Vidane—Police Officer—Ordinance No. 16 of 1865, s. 53.

A Police Vidane of a village is not a " Police Officer " within the meaning of section 53 of Ordinance No. 16 of 1865.

A PPEAL by the Attorney-General from an acquittal on a charge of obstructing a Police Officer in the discharge of his duty. The facts sufficiently appear in the judgment.

Walter Pereira, K.C., S.-G., for the Crown.

January 15, 1909. HUTCHINSON C.J.—

This is an appeal by the Attorney-General against the acquittal of two men on a charge of obstructing the complainant, a Police Officer, in the discharge of his duty. The complainant describes himself as " Police Officer of Tudawe ; " the Solicitor-General informs us that his proper title is " Police Vidane," and that he is an officer appointed and paid by, and under the orders of, the Government

1909. Agent. He stopped a man who was driving a hackery on the road
 January 15. without a light after dark and took charge of the cart, and whilst he
 HUTCHINSON was taking it to the Police Station the two other men took it away
 C.J. from him by force. The driver pleaded guilty to the charge of
 driving without a light, an offence under section 53 of Ordinance
 No. 16 of 1865; the Magistrate fined him Rs. 2.50 and acquitted
 the other two men, "as in law the Police Officer cannot make the
 accused, under section 53 of Ordinance No. 16 of 1865, come to
 the station." That section enacts that any person who on any road
 within the limits of any town drives any conveyance after dark without
 lighted lanterns shall be liable to fine, and that any Police Officer
 may take into custody without warrant any person who within his
 view commits the offence. The question is whether a Police Vidane
 of a village is a Police Officer within the meaning of that section.

The Ordinance is one "to provide for the establishment and regu-
 lation of a Police Force in this Island." It empowers the Governor
 in Council to establish a Police Force in certain towns and rural
 districts; the Governor is to appoint the Chief Superintendent and
 Provincial and District Inspectors, and the Chief Superintendent is
 to appoint the sergeants and constables; there are provisions for
 the expenses of the Police Force; the Chief Superintendent is
 empowered to make rules for their observance, and every Police
 Officer is to have all powers of a Police Officer in every part of the
 Island. Section 6 enacts that in the Ordinance the expression
 "Police Officer" shall include "the Chief Superintendent of Police,
 Inspectors, sergeants, and constables."

The Solicitor-General asks for a decision of the question, on which
 he says there has been some difference of opinion, whether a Police
 Vidane is a Police Officer within the meaning of this Ordinance.
 The word "police" is, in my opinion, used throughout the Ordinance
 of the Police to be established and maintained under the Ordinance.
 The words "shall include" in section 6 are, of course, not the same
 as "shall mean;" but in my opinion it is not possible to hold that
 the term "Police Officer" in this Ordinance includes a Police Vidane
 who is not appointed or paid under the Ordinance, and to whom
 many of its provisions are quite inapplicable.

I dismiss the appeal.

Appeal dismissed.