

GOVERNMENT NOTIFICATION.

The following *Draft Ordinance* "for the Supreme Court," read a first time at a Meeting of the Legislative Council held this day, is published for general information.

By Order,

L. D'ALMADA E CASTRO,
Clerk of Councils.

Council Room, Victoria, Hongkong, 22d February, 1858.

HONGKONG.

ANNO VIGESIMO PRIMO VICTORIÆ REGINÆ.

No. of 1858.

By His Excellency SIR JOHN BOWRING, Knight, LL.D., Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British Subjects in China, with the Advice of the Legislative Council of Hongkong.

An Ordinance for the Supreme Court.

[February, 1858.]

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| <p>Title.</p> <p>Preamble.</p> <p>Proceedings in Term and after Term.</p> <p>Criminal Sessions.</p> <p>The Court, &c., to be closed between the 20th August and the 1st October.</p> <p>Equitable Jurisdiction extended.</p> <p>Stay of proceedings in such case.</p> <p>Inspection of Documents.</p> <p>Juries to consist of Seven.</p> <p>Vesting Order in case of moveables, wheresoever locally situate.</p> <p>Power to increase or decrease fixed Allowances.</p> <p>Powers of the Taxing Master extended.</p> <p>As to distance and time in Taxation.</p> <p>Uniformity of Fees in certain cases.</p> <p>Hearing and postponement of cases in the Summary Jurisdiction.</p> <p>Bailiff's Fees.</p> | <p>Be it enacted and ordained by His Excellency The Governor of Hongkong, with the Advice of the Legislative Council thereof, as follows:—</p> <p>I. Causes, Actions, and all Proceedings whatever, may be heard, had, prosecuted, and determined, as well during Term as in Vacation.</p> <p>II. The Sessions for the despatch of the Criminal Business of the said Court, shall begin on the Sixteenth Day of each Month, in which such Sessions are, or shall be, appointed to be holden.</p> <p>III. Except for the purpose of issuing Writs, receiving Petitions, or completing any Hearing, Inquiry, or Trial, actually commenced on or before the Day next hereinafter mentioned, the said Court, and the Offices thereof, shall be closed from the Evening of the Twentieth Day of August in each Year, and remain closed until the Morning of the Tenth Day of October, then next following.</p> <p>IV. It shall not be necessary to institute any Proceeding on the Equity side of the said Court, for the purpose of bringing before the Court any equitable Claim, Defence, or Question, incident or collateral to, or arising out of or in the course of, any Proceeding on any other side of the said Court (except the Summary Jurisdiction thereof), or in aid of such last-mentioned proceeding: But every such Claim, Defence, or Question may be so heard, or determined, on Petition presented, or Motion made, and intitled respectively in such last-mentioned proceeding, or as the Court shall direct: And in every such case the said Court shall have the like power to direct inquiries, accounts, and other preliminary or consequential matters, and to enforce its said Directions, and to make interlocutory or final Orders and Decrees in the premises respectively, as in a Suit or Proceeding commenced by Bill, Petition, Claim, Case, or Summons, on the Equity side of the said Court.</p> <p>V. The said Court may stay Proceedings instituted under Section Four, or in any separate suit or matter in Equity, if the said Court shall be of opinion that the same ought not, or (as the case may be) ought to be prosecuted under the said Section: And it shall have power to impose such terms, and give such directions upon such stay of Proceedings with respect to Costs, Admissions, or otherwise, as shall be deemed meet.</p> <p>VI. Applications for Inspection under Ordinance No. 3 of 1852, Section Four, may be made at any time before Trial or Hearing.</p> <p>VII. Whether in Civil or in Criminal Cases, and whether in Proceedings before the said Court, or before the Sheriff, or a Commissioner, or an Officer of the same, every Jury (not being a Coroner's Jury) shall always consist of Seven Men, and the unanimous Verdict or Finding of every such Jury, or of the Majority thereof, shall be in all cases final for all purposes soever.</p> <p>VIII. The Jurisdiction of the said Court to grant Vesting Orders of the Estate and Effects of Insolvent Debtors, is hereby declared to extend to all their Moveable Property wheresoever locally situate; yet so as that the said Debtors are themselves personally subject to the jurisdiction of the said Court in respect of their Insolvency.</p> <p>IX. Wheresoever it shall appear to the said Court (except when sitting in its Admiralty Jurisdiction) that Allowances of any kind, as fixed by former enactments, ought generally or in any particular case to be increased or decreased in proportion to the value of money within this Colony, or the fluctuations thereof, or the difference of currency, it shall be lawful for the said Court to authorise or direct the same respectively to be so increased or decreased accordingly.</p> <p>X. The Provisions of Section Nine shall be deemed to empower the said Court, likewise to authorise or direct the Taxing Master thereof (but only in each particular case) to exercise the like discretion in the discharge of his own functions: And he is hereby further empowered, without such authority or direction, to make such Allowances in Taxation, as he may deem reasonable and fair, in respect of matters not expressly provided for by Ordinance, or Rule, or Order of the Court, for the time being.</p> <p>XI. In Taxation of Charges of Attornies, Solicitors, or Proctors, for their attendances, and of allowances of Fees to Counsel, distance and time shall be taken into account, and the same shall be computed respectively from and back to the Office, Chambers, or Residence of the Practitioner, and from the time of departure thence to the time of return thither respectively.</p> <p>XII. The Fees payable to Attornies, Solicitors, or Proctors in respect of Drawing, Copying, and Engrossing Documents shall be the same in every jurisdiction of the said Court, (except the Summary and Admiralty Jurisdictions thereof,) and shall be ascertained and determined according to the Scale contained in the General Rule of the said Court of Michaelmas Term, in the Eighteenth Year of the Queen, dated the 31st Day of October, 1854,—so far as the same can be thereunto applied by the Taxing Master; but the Fees of Court in the said Jurisdictions (except as aforesaid) for copying or engrossing shall in no case exceed the rates provided by the First Schedule to the Ordinance No. 14 of 1850.</p> <p>XIII. Except by consent, no Cause or Matter within the Summary Jurisdiction shall be set down for hearing before at least Four clear Days from the service of the Plaint, nor postponed unless at least Twenty-four Hours' notice in writing thereof hath been first given to the Registrar: And (except by consent) it shall not be competent to the Defendant to enter into any special defence, <i>exempli gratia</i>, set-off, illegality, want of consideration, infancy, or the statute of limitations, unless at least Twenty-four Hours' written Notice thereof hath been first given to the Plaintiff or his Attorney.</p> <p>XIV. All Fees payable to the Bailiff or Under Bailiff of the said Court in the Summary Jurisdiction thereof, shall be henceforth evenly divided between the said two Officers, when and as the same shall be received.</p> |
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GOVERNMENT NOTIFICATION.

The subjoined Opium Ordinance, as amended in Committee at a Meeting of the Legislative Council held this day, is hereby published for general information.

By Order,

L. D'ALMADA E CASTRO,
Clerk of Councils.

Council Room, Victoria, Hongkong, 22d February, 1858.

HONGKONG.

ANNO VIGESIMO PRIMO VICTORIÆ REGINÆ.

No. of 1858.

By His Excellency SIR JOHN BOWRING, Knight, LL.D., Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies, and Vice-Admiral of the same, Her Majesty's Plenipotentiary and Chief Superintendent of the Trade of British Subjects in China, with the Advice of the Legislative Council of Hongkong.

An Ordinance for licensing and regulating the Sale of prepared Opium.

Title.

[February, 1858.]

Be it enacted and ordained by His Excellency The Governor of Hongkong, with the Advice of the Legislative Council thereof, as follows:—

Preamble.

I. The whole of Ordinance No. 3 of 1845, and also so much of Ordinances No. 5 of 1845, and No. 4 of 1845, as relate to Smoking Divans, or to Opium, Bhaang, Ganja, Paun, Betel, or Betel Leaf, and all Regulations of the Governor in Council in anywise relating to the premises or any of them, are hereby repealed.

Repeal of Ordinance parts of Ordinances Nos. 3 of 1845, and 4 of 1845, and 5 of 1853.

II. His Excellency the Governor in Council may grant unto any Persons, for such Considerations, upon such Conditions, and for such Terms or Periods, and in such Form as from Time to Time shall be by His said Excellency in Council regulated and determined, and also previously notified to the Public in the *Hongkong Government Gazette*, the sole Privilege of boiling and preparing Opium, and of Selling and Retailing within the said Colony, or the Waters thereof, Opium so boiled or prepared: And such Privilege may from Time to Time be granted to the highest Bidder, to be ascertained either by Public Auction or by Tender, to be made in pursuance of Notice to be published in the said *Gazette* to that effect.

The Opium privilege to be sold to the highest Bidder.

III. The Person, if any, actually holding any such Privilege, or in default of any such Person, His Excellency in Council, is hereby empowered to grant Licenses to all proper Persons, authorising them to boil and prepare Opium, and to sell and retail Opium so boiled and prepared; but such Licenses shall be subject to such Conditions as shall from Time to Time be by His said Excellency in Council regulated and previously notified in manner aforesaid.

Who may grant Licenses.

IV. From henceforward, no Person not holding any such Privilege or License, or save as he may be by such Privilege or License in that behalf authorised, shall, within this Colony or the Waters thereof, boil or in any way prepare Opium, or sell, retail, or offer or expose for sale or retail, any boiled or prepared Opium; yet so that no Medical Practitioner, Chemist, or Druggist, shall be prevented from preparing or selling Opium *bonâ fide* for medicinal purposes, the burthen of proof whereof shall be upon any Person bringing the same in his defence.

Other dealings forbidden.

V. Persons employed in any Department of the Public Service and their families, and Persons in the employment of them, or of any of them, are disqualified from becoming or being in any way possessed of, or directly or indirectly interested in, any Privilege or License under this Ordinance, or the profits thereof, whether at Law or in Equity, and whether in their own right respectively, or in the right of another, and from suing for or in respect of, or in any way enforcing, the same.

Persons employed in the Public Service disqualified.

VI. The Laws relating to Nuisances shall not be affected by this Ordinance.

Nuisances.

VII. For the breach of any of the Regulations to be so made and notified as in Sections Two and Three mentioned, His said Excellency in Council is further empowered from Time to Time, to award and actually in the said *Gazette* all such Penalties as shall be deemed reasonable, which Penalties, when incurred, may be recovered and levied in Manner and Form provided by any Ordinance, for the time being in force, for regulating Summary Proceedings for Penalties before Justices of the Peace in the said Colony; and likewise all Violations or Disobediences of, or Defaults in compliance with, the Provisions of this Ordinance, or of any Regulations made under the Powers hereby created or conferred, shall be heard and determined summarily in the like manner.

Penalties may be awarded by His Excellency in Council for breach of Regulations, and all Proceedings under the same or this Ordinance to be Summary.

VIII. For every Offence against the Provisions of this Ordinance not otherwise provided for by any Regulations to be made and notified in Manner aforesaid by His said Excellency in Council, and actually in force, there shall be recovered and levied in manner aforesaid from, or imposed on the Offender in that behalf, the Penalties following, that is to say:

Penalties under this Ordinance.

For every First Offence, a Fine not exceeding Two Hundred and Fifty Dollars; or Imprisonment for a Term not exceeding Three Months, nor less than One Day.

And for every subsequent Offence, a Fine not exceeding Three Hundred Dollars; or Imprisonment for a Term not exceeding Six Months.

IX. If any Charge or Complaint shall be preferred under this Ordinance, or under any of the said Regulations by a Person holding any such Privilege or License as aforesaid, and upon the said Charge or Complaint the Defendant thereto shall be convicted, One-half of the pecuniary Penalty, (if any,) imposed upon the Defendant by the Court, shall be awarded and paid to the Person preferring such Charge or Complaint.

Informer to be paid One-half of the pecuniary Penalty.

X. In dismissing any Charge or Complaint under this Ordinance on the ground of the same being false, or frivolous and vexatious, it shall be the duty of the Court to impose upon the Person bringing the same, any Penalty not exceeding or other than the Penalty which the defendant, if convicted upon each Charge or Complaint, would have incurred; over and above all Penalties, (if any,) which the said Person may have likewise incurred in respect of his said Charge or Complaint, or of his Evidence in support thereof, under Ordinance No. 7 of 1857, Sections Six and Seven.

Penalties for false charges.

GOVERNMENT NOTIFICATION.

The subjoined List of Jurors, for the Year commencing on the 1st March, 1858, as revised and amended by His Excellency The Governor and the Legislative Council, is hereby published for general information.

By Order,

J. M. D'ALMADA E CASTRO,
for the Clerk of Councils.

Council Room, Victoria, Hongkong, 24th February, 1858.