

Sections VIII to XI inclusive were read and agreed to.

A new Clause was added, providing for summary convictions for Burglaries, &c., and the same being agreed to, was introduced as Section XII.

The title of the Ordinance was then amended by the insertion of the words "Summary Jurisdictions and," after the word "for."

The Council having agreed to the amendments made in Committee, the Ordinance was passed under the title of "*An Ordinance for Summary Jurisdictions and Appeals to the Supreme Court*," being No. 4 of 1858.

It was ordered, that this Ordinance be published, in English and Chinese, in the *Government Gazette*, for general information.

The Ordinance "for extending to this Colony certain Imperial Enactments, and certain Rules and Orders of the Superior Courts," was laid on the Table, and read a second time;

And the Council went into Committee upon the said Ordinance.

Section I was adopted.

Section II was amended by adding the following Clause: "and all powers vested in any Superior Court, or Judge, or Officer, by any of the hereby extended Enactments, shall be deemed to be hereby respectively vested in the said Supreme Court and its Officers."

Sections III and IV were adopted.

Section V was amended by inserting the words "under the rank of Inspector" after the word "Colony," and by substituting the word "Secretary" for "Treasurer."

The remaining Sections were read and agreed to.

Certain clerical corrections were made in the first Schedule attached to the Ordinance, and agreed to.

The Ordinance having gone through Committee, it was resolved that the same do pass; and that the title thereof be, "*An Ordinance for extending to this Colony certain Imperial Enactments, and certain Rules and Orders of the Superior Courts*," being No. 5 of 1858.

It was ordered, that this Ordinance be published in the next *Government Gazette* for general information.

It was moved by Mr Lyall, seconded by Mr Dent, and carried unanimously,—

That all Acts of Parliament or Clauses of Acts, and all Orders of Courts referred to in the above Ordinance, be printed in full in the *Hongkong Government Gazette*.

The Governor laid on the table a draft Ordinance for amending Ordinance No. 11 of 1844, and repealing Ordinances No. 4 of 1845, and No. 4 of 1853. It was read a first time, and ordered to be printed for circulation amongst members.

The Council then adjourned *sine die*.

By Order of His Excellency The Governor,

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

HONGKONG.

ANNO VIGESIMO PRIMO VICTORIÆ REGINÆ.

No. 3 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.

[22d March, 1858.]

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

Proceedings in Term and out of Term.

I. Causes, Actions, and all Proceedings whatever, may be heard, had, prosecuted, and determined, as well in Term as out of Term.

Criminal Sessions.

II. The Ordinary Sessions for the despatch of the Criminal Business of the said Court, shall begin on the Eighteenth Day of each Month, in which such Sessions are, or shall be, appointed to be holden, or, if the said Day shall be a *dies non*, then on the first lawful Day next following.

The Court, &c., to be closed between the 20th August and the 12th October.

III. Except for the purpose of issuing Writs, receiving Petitions, or completing any Sessions, 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 Twelfth Day of October, then next following.

Equitable Jurisdiction extended.

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, and determined, on Petition presented, or Motion made, and intituled 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.

Stay of Proceedings in such Case.

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.

Inspection of Documents.

VI. Applications for Inspection under Ordinance No. 3 of 1852, Section Four, may be made at any time before Trial or Hearing.

Juries to consist of Seven.

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, where the Case is not capital, of the Majority thereof, shall be in all cases final for all purposes soever.

Applications in matters of mere account to be made within one day after issue joined, at latest.

VIII. Where the matter in dispute between the parties to any action consists wholly or in part of matters of mere account, which cannot be conveniently tried in the ordinary way, it shall be the duty of the Plaintiff or his Attorney, or (in his or their default,) for the Defendant, or his Attorney, to make such application as is provided by Ordinance No. 6 of 1855, Section Two, to the Court or in Judge's Chambers within One Day after issue is joined between the said Parties at the latest.

Vesting Order in case of moveables, wheresoever locally situate.

IX. 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.

X. Whosoever 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.

Power to increase or decrease fixed Allowances.

XI. The Provisions of Section Ten 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.

Powers of the Taxing Master extended.

XII. 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.

As to distance and time in Taxation.

XIII. 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 1856.

Uniformity of Fees in certain cases.

XIV. 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, *exempli gratia*, 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.

Hearing and postponement of cases in the Summary Jurisdiction.

XV. 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.

Bailiff's Fees.

XVI. All Crown Fees payable under this or any Ordinance relating to the Supreme Court, and all Costs payable by or to the Crown (except in Admiralty cases), shall be paid in current Dollars only.

Crown Fees and Costs to be payable in Dollars only.

JOHN BOWRING.

Passed the Legislative Council of Hongkong,
this 22d Day of March, 1858.
L. D'ALMADA E CASTRO,
Clerk of Councils.

HONGKONG.

ANNO VIGESIMO PRIMO VICTORIÆ REGINÆ.

No. 4 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 Summary Jurisdictions and Appeals to the Supreme Court.

[22d March, 1858.]

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

I. The word "Justice" in this Ordinance shall include every Court of Summary Jurisdiction, and whether of primary Jurisdiction or appellate, except the Supreme Court; and the word "Party," shall include the Crown; and the word "Appellant" shall mean the party applying under Section Two of this Ordinance; and the word "Respondent" shall mean the opposite party.

"Justice" to include "Court," and "Party" to include "Crown." Meaning of "Appellant" and "Respondent."

II. Within Three clear Days after the determination by a Justice of any Suit, Information, or Complaint, which he hath or shall have power to determine in a summary way, either party to the matter so determined may apply in writing to the said Justice, to state and sign a case setting forth the facts of the said matter, and the grounds of the said determination, for the opinion of the Supreme Court thereon; which application the said Justice is hereby required to grant, unless he have reason to believe that the same is merely frivolous, (in which case only he may refuse the same,) and shall thereupon, upon receiving from the said Appellant the Crown Fee of One current Dollar, sign and deliver unto him a Certificate of such refusal; yet so as that, if any such application be made officially by the Attorney General, or under his fiat, the Justice to whom the same is made shall be bound to grant the same, whatever may be his belief in that behalf.

Application may be made within Three Days to state a Case;

and must be granted except it be frivolous.

III. On the said Application being granted, and before the said Case being stated and delivered by the said Justice, the Appellant shall enter into a Recognisance before him, or any other Justice exercising the same jurisdiction, with or without Sureties, and in what Sum to the said Justice shall seem meet, conditioned to prosecute his Appeal in that behalf, without delay and with effect, and to submit to the judgment of the said Supreme Court, and pay such Costs as may be awarded by the same; and the said Appellant shall likewise, before the delivering of the said Case, pay, in respect of the said Recognisance and Case respectively, to the Clerk taking the said Recognisance and delivering the said Case respectively, the Crown Fees according to the Scale following, that is to say:—

Recognisance of Appeal.

Fees payable.

For the said Recognisance, Two current Dollars.

For drawing and copying the Case, if not exceeding Five Folios of Seventy-two Words each, Three current Dollars.

If the Case exceed the said Five Folios, then for every additional Folio, Thirty Cents.

IV. If the Appellant be in Custody at the time of the taking of the said Recognisance, the same shall be further conditioned for his appearance before the said Justice, or (if that be unsuitable) before some other Justice, who shall be sitting and exercising the same Jurisdiction, within Ten Days after the judgment shall have been given by the Supreme Court on the said Appeal, to abide the said judgment, unless thereby the determination so appealed against shall have been reversed: And every such Appellant, upon entering into a Recognisance so further conditioned as aforesaid, shall be immediately liberated from such Custody.

Further condition in case Appellant is in Custody.

V. In case of the refusal of a Justice to state or deliver a Case under this Ordinance, the Appellant may, upon an Affidavit of the facts, apply to the Supreme Court for a Rule calling upon the said Justice, and the Respondent, to show cause why the said Case should not be stated or delivered; which Rule (if granted) may afterwards be made absolute or discharged by the said Court, with or without payment of Costs by the said Justice or either Party, as the circumstances shall require; and if the same be made absolute, the said Justice shall, upon being served therewith, and upon the Conditions specified in Sections Three and Four respectively being complied with, state and deliver a Case accordingly.

If the Justice refuses, the Supreme Court may rule a Case to be stated. Costs.