

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.

Cases to be transmitted, &c., within Three Days; and set down Four clear Days before argument.

VI. Within Three clear Days after a Case has been delivered to an Appellant under this Ordinance, he shall first transmit a Copy thereof with a Notice in Writing of his Appeal to the Respondent, and shall thereupon transmit the said Case to the Supreme Court, and the Case when so transmitted shall be set down for argument in Court or in Chambers, by the Registrar of the said Court, at the request of either party, Four clear Days before the day appointed for the said argument; yet so as that Notice in Writing of the same having been so set down be given by the party so requesting, to the opposite party, Four clear Days before the day so appointed.

Orders of the Court shall be conclusive.

VII. The Supreme Court shall hear and determine every question of Law or Fact, arising upon a Case so set down, and shall (according to the circumstances thereof) affirm, amend, or reverse, the determination in respect whereof the said Case shall have been stated, or remit the matter of such determination with the said Court's opinion thereon to the said Justice, or make such other order with respect to the said matter, as shall be requisite to the due adjudication thereof, or remit the said Case to him, with direction to make a new determination, or (as the case may be) to amend the same, and to return it to the said Court, within such time as the said Court may direct, and shall postpone judgment thereon, until after the same shall have been so returned, and then shall deliver judgment thereon accordingly, as to the said Court shall seem meet; and the said Court may likewise make all such Orders with respect to Costs, as shall be deemed meet; save that no Justice, who shall have stated and delivered a Case under this Ordinance, shall be liable to Costs for or by reason of the same, or of the determination in respect whereof the same shall have been stated.

Determinations after Appeal may be enforced.

VIII. The Laws relating to the enforcement by Justices or others, of determinations of Justices not appealed against under this Ordinance, shall extend to and be applied by Justices or others in the enforcement of determinations affirmed, or amended, or made, under this Ordinance, and also to the judgments of the said Supreme Court, upon any Appeals under the same; and all Justices shall be bound to conform themselves in the premises to the directions, opinions, and judgments of the said Court.

Certiorari or Mandamus not required.

IX. No Certiorari, Mandamus, or other Writ, shall be requisite for carrying into effect this Ordinance.

Forfeited Recognisance.

X. The Laws for the time being in force with respect to the proceeding upon Recognisances forfeited before Justices or at Sessions, shall extend to all Recognisances which shall be taken under this Ordinance, and any of the Conditions whereof shall not have been complied with; yet so as that, upon every such Recognisance there shall be endorsed the Certificate of a Justice, stating in what respect the said Conditions have not been complied with, which Certificate shall be deemed to be *prima facie* evidence of the forfeiture of the said Recognisance.

General Rules and Orders of the Supreme Court.

XI. The Supreme Court shall have power (with consent of the Legislative Council) to make and alter from time to time any General Rules and Orders of Court, for the better regulation of the practice and proceedings under this Ordinance, and subject thereto and to this Ordinance the said practice and proceedings shall be regulated, so far as practicable, by analogy to the practice and proceedings for the time being observed in the Superior Courts of Law at Westminster, with respect to Appeals under the Act of Parliament of the Twenty-first Year of the Queen, Chapter Forty-three.

21 Vict. c. 43. Summary Convictions for Burglaries, &c.

XII. Henceforward the Summary Jurisdiction of Petty Sessions in Criminal Cases shall not be ousted merely because the Offence charged or proved shall amount to a Burglary, Housebreaking, breaking or entering a Curtilage, stealing in a Dwelling-house, Shop, or Curtilage, or stealing from the Person: Yet so as that it shall be the duty of the said Court and of all Justices (where the Offence is of an aggravated nature) to commit such Offenders to the Supreme Court for trial.

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. 5 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 extending to this Colony certain Imperial Enactments, and certain Rules and Orders of the Superior Courts.*

[22d March, 1858.]

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

Schedules of Acts, Rules, and Orders, extended.

I. The Acts and Parts of Acts of Parliament, and the Rules, Orders, and Regulations, of the Superior Courts of Westminster, respectively specified in the Schedules hereunto annexed, are hereby extended to this Colony, subject to the Provisions next hereinafter contained.

Courts and Officers here may execute the extended Enactments.

II. The said extended Enactments shall be so construed, as to enable the Provisions thereof to be executed and enforced by any Courts and Officers respectively (howsoever designated), having or exercising the same or similar or analogous functions to those belonging to, or exercisable by, the Courts and Officers respectively (howsoever designated) to which the said Enactments relate: 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.

Courts of Probate and Divorce, &c.

III. For the purposes of this Ordinance, the Supreme Court shall be deemed to be the "*Court of Probate*," and "*The Court of Divorce and Matrimonial Causes*;" and also (in its Summary Jurisdiction) a "*County Court*."

Construction of 21 Vict. c. 77.

IV. The Sections of the Act of the Twenty-first Year of the Queen, Chapter Seventy-seven, numbered from Fifty-four to Sixty both inclusive, shall be read and construed as though the Value of One Thousand Dollars were substituted therein for the respective Values of Two Hundred Pounds and Three Hundred Pounds, therein expressed.

Special provision for Policemen.

V. Persons employed in the Police Force of this Colony, under the rank of Inspector, and dying here whilst so employed, shall not be deemed to be within the meaning of the last two Sections; but the Superintendent of Police for the time being is hereby constituted the Official Administrator of their Estates, and required to get in and administer the same with the sanction of the Colonial Secretary, and within One Month after the decease of any such Person to certify the same, and the amount in value of the Estate and Effects of such Persons, by Certificate under his hand to the Registrar of the Supreme Court, for registry in the said Court of Probate.

Rules and Orders and Tables of Fees published by the English Courts.

VI. All Rules of Court, Orders of Court, and Tables of Fees, made or published, or to be made or published by the proper Courts in England, and in force there under the Enactments hereby extended, or any of them, may be recognised and adopted as applicable to this Colony by the said Supreme Court.