

Question put and carried,—the Ordinance being numbered “No. 9 of 1864.”

The Bill for preventing Frauds upon Creditors by Secret Bills of Sale of Personal Chattels, was read a second time,—

And the Council went into Committee upon the said Bill.

- Section 1 agreed to.
- Section 2 amended, and agreed to.
- Section 3 agreed to.
- Section 4 amended and agreed to, and first Blank filled up.
- Section 5—Blank filled up, and Section agreed to.
- Sections 6 to 8 inclusive, agreed to.
- Preamble agreed to.
- Title agreed to.

The Bill having gone through Committee, the GOVERNOR put the Question—That this Bill, as amended, do pass, and that the Title be—“*An Ordinance for preventing Frauds upon Creditors by Secret Bills of Sale of Personal Chattels.*”

Question put and carried,—the Ordinance being numbered “No. 10 of 1864.”

Read a first time a Bill, entitled “An Ordinance for the Incorporation, Regulation, and winding up of Trading Companies and other Associations.”

The Council adjourned to Tuesday, the 13th Instant, at noon.

HERCULES G. R. ROBINSON,
Governor.

Read and approved, this 13th Day of September, 1864.

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

HONGKONG.

ANNO VICESIMO OCTAVO VICTORIÆ REGINÆ.

No. 11 of 1864.

By His Excellency SIR HERCULES GEORGE ROBERT ROBINSON, Knight, Governor and Commander-in-Chief of the Colony of Hongkong and its Dependencies, and Vice-Admiral of the same, with the Advice of the Legislative Council of Hongkong.

HERCULES G. R. ROBINSON.

An Ordinance for consolidating and amending the Laws relative to Jurors and Juries. Title.

[13th September, 1864.]

Whereas the Laws relative to the Summoning of Jurors and the formation of Juries are numerous and complicated, and it is expedient to consolidate and simplify the same, and in some respects to amend the said Laws: Be it enacted by His Excellency the Governor of Hongkong, with the Advice of the Legislative Council thereof, as follows:— Preamble.

I. The several Ordinances and Parts of Ordinances set forth in Schedule (A) to this Ordinance annexed, are hereby repealed to the extent to which the same are by such Schedule expressed to be repealed, except as to the now existing “Jurors’ List,” which shall continue in force until the first day of March now next ensuing, and except as to anything done or fine incurred before the coming into operation of this Ordinance. Ordinances repealed.

II. All Questions of Fact, whether of a Civil or Criminal nature, upon which Issue shall be taken in the course of any Proceeding in the Supreme Court, or before the Sheriff, Commissioner or other Officer of the same, and all Questions of Idiocy, Lunacy and Unsoundness of Mind shall, except in Cases otherwise provided for, be tried by a Jury of Seven Men. All questions of fact except &c., to be decided by a Jury of Seven.

III. In the event of any of the Jurors dissenting from the residue, the Verdict of a Majority shall be held and deemed to all intents and purposes to be the Verdict of the Jury; Provided always, that if any Person be arraigned for any Offence visited by the Jury; Provided always, that if any Person be arraigned for any Offence visited by Verdict of Majority to be Verdict of Jury unless in Capital Cases where unanimity is requisite.

the Law with Capital Punishment, then and in such case the Jury must be unanimous in their Verdict of Guilty, but if such Majority should find such Person guilty of a less Crime than the Capital one, then Sentence of Law shall follow the Verdict of the Majority.

Who qualified to serve as Jurors.

IV. Every Male Person between the Ages of Twenty-one and Sixty Years, being of sound Mind, and not afflicted with Deafness, Blindness, or other Infirmity, who shall be a good and sufficient Person resident within the Colony, shall be qualified and liable to serve as a Juror: Provided, that no Member of the Colonial Councils, nor Person holding any Office or Situation of Emolument under the Crown, nor salaried Foreign Functionaries of Foreign Governments not carrying on business, nor any Barrister, Physician, Attorney, or Surgeon actually practising as such within the Colony, nor any Chemist or Druggist carrying on his business therein, nor any Clergyman or Dissenting Minister, nor any Officer employed in the Military or Naval Service of Her Majesty, nor any Person ignorant of the English Language, shall be, or be deemed liable to serve as, a Juror.

Names of Residents to be given to Sheriff on demand for the purpose of forming Jury List.

V. Every Person on demand by the Sheriff, or some Person duly authorized by him, shall deliver in writing to the Sheriff or authorized Person as aforesaid, his Christian or other Names, and the Surname or Names at full length, under Penalty of his refusing or neglecting so to do of a Sum not exceeding One hundred Dollars.

Penalty how levied.

VI. Such Fine shall be imposed and levied at the discretion and under Order of the Supreme Court, on Complaint made by the Sheriff to the said Court in that behalf.

Disposal of Fines.

VII. All Fines so levied shall be paid into the hands of the Registrar of the Supreme Court, and by him accounted for to the Colonial Treasurer.

Sheriff to make out Jury List and transmit same to Registrar, who shall forward the same through the Clerk of the Councils to the Governor and Legislative Council for Approval or Alteration.

VIII. The Sheriff shall make a List in Alphabetical Order of all Men who shall be qualified to serve as Jurors, setting forth the Christian or other Names and Surnames of each at full length, together with his Place of Abode, and shall sign and transmit a Copy of such List to the Registrar of the Supreme Court, who shall thereupon cause a Copy of such List to be posted for the Term of One Fortnight on or in some conspicuous Part of the Court House, to the end that the Inhabitants of the Colony may, as the Case shall be, apply by Notice in writing to the Registrar, requiring that their Names may be respectively either added to or struck off from the said List, upon Cause duly assigned in such Notice; and the Registrar immediately after the Expiration of the Time for posting such List, shall forward the same, and such Notices as may be so served on him, to the Clerk of the Legislative Council, to the end that the Governor with the Advice of the Council (and he and they are hereby empowered so to do) may strike off or add such Name or Names from among those of the said Inhabitants as to the said Governor and Council may appear fit, and the said List when so approved of, or altered, shall be returned to the Registrar by the Clerk of the Council and called the "Jurors' List."

Jury List.

IX. Every Jury List in force within the Colony shall contain the Surnames of all men who shall be qualified and liable to serve on Juries, together with the Christian or other Names by which such Persons are usually known, whether such Names shall have been delivered in writing in accordance with the provisions in Section Five, or have been inserted therein by the Sheriff, or by the Governor and Legislative Council.

Penalty on Sheriff for neglect of Duty.

X. If the Sheriff or other Minister, or Officer, shall wilfully insert or omit in the List of Jurors the Name of any Man which ought not to be so inserted or omitted according to the List of Jurors so to be made out as aforesaid, or shall fail to sign and transmit a correct Copy of such List to the Registrar as hereinbefore directed, or shall otherwise fail well and truly to do and perform all and every the Acts, Matters and Things, hereby required to be by him performed, such Sheriff or other Minister, or Officer, shall be fined at the discretion of the Court.

Jury List to be in use for One Year.

XI. On or before the First Day of February in each Year, the Sheriff shall make out and transmit a fresh Jury List, in Manner and Form as hereinbefore directed; and such fresh Jury List, when so transmitted, and approved of or altered as aforesaid, shall be brought into use the First Day of March then next following, and shall continue to be used for One Year.

Manner of forming Panel.

XII. When the Jury List shall be completed and returned to the Registrar, he shall cause the Names therein to be written on separate Cards and placed in a Ballot Box to be kept for that purpose, and whenever it shall be requisite to summon a Jury,

the Sheriff shall attend at the Registrar's Office and, in the presence of him or his Deputy, draw from the said Box Eighteen, and at Criminal Sessions, Thirty of the said Names to form a Panel, and the Cards so drawn shall thereupon be locked up in a separate Box therein to remain until the entire of the Names in the Ballot Box shall be exhausted by subsequent Panels, when all the Names of the Jurors shall be returned to the Ballot Box, if required, for the purposes of the current Year, and in such Case the Names shall again be redrawn in manner aforesaid.

XIII. The Sheriff shall, before the Sitting of any Court whereat a Jury shall be necessary, issue Summonses according to the Form in the Schedule (B,) hereunto annexed, requiring the Attendance thereof of the Persons so drawn from the Ballot Box, and every such Summons shall be personally served upon, or left at the usual Place of Abode of, the Person so summoned Two clear Days before the Day appointed for the Sitting of the Court. For Summoning Juries.

XIV. The Sheriff shall also, at the same time, cause to be delivered to the Registrar, Deputy Registrar or Clerk of the Court, a Panel containing the names, places of Abode, and Additions, of the Persons so summoned. Panel.

XV. If any Juror having been duly served with such Summons, shall fail to attend, or being present shall not appear when called, or after appearance shall withdraw himself without the Permission of the Court, the Court shall, unless some reasonable excuse be proved on Oath or Affidavit or otherwise to the Satisfaction of the Court, set upon the Person so making Default such Fine, not exceeding the Sum of One Hundred Dollars, as to the said Court shall seem meet. Penalty for Non-attendance.

XVI. At the Sitting of the Court the Names of all the Jurors summoned shall be written on separate pieces of Card of equal Size and put into a Box, and the Registrar, Deputy Registrar or Clerk of the said Court shall, in open Court, draw therefrom until Seven Jurors appear, who, after all just Causes of Challenge allowed, shall remain as fair and indifferent, and the same shall be done whenever it shall be necessary to form a new Jury. Jury to be balloted for.

XVII. When and so often as the List of Jurors shall have been transmitted by the Registrar in manner aforesaid to the Governor and Legislative Council, he and they shall mark off, and designate with the Term, "Special Juror," not less than Twenty-four of the Names contained in the List, and the Names of such Special Jurors shall be formed into a separate List; and if either the Plaintiff or the Defendant in any Suit or Action, or the Prosecutor or Defendant in any Indictment or Information other than for Treason or Felony, shall be desirous of having such Suit or Action, Indictment or Information, tried by a Special Jury, (such Special Jury to consist of Seven Men so marked or designated as aforesaid,) it shall be lawful for the Court to order and appoint a Special Jury to be struck by the Registrar, and summoned in the manner provided with respect to Common Jurors; Provided that the Party applying for such Special Jury, and who shall have obtained a Rule or Order of the Court for that purpose, shall, on entering the Cause for Trial, deposit with the Registrar or other Officer of the Court, a Sum sufficient to cover the expenses of the Special Jury; otherwise the Rule or Order of Court to be of no effect. And it is hereby further provided, that Special Jurors shall be exempt from serving on any Common Jury, and that the Verdict of every Special Jury shall be subject to the said Provisions respecting Majorities, as if it were a Common Jury. Governor and Council to mark off the Names of not less than Twenty-four Persons in the General Jury List, who shall be liable to serve as Special Jurors.

XVIII. Nothing herein contained shall prevent the Court from exempting in its Discretion any Person or Persons from serving as a Juror on any Trial, or from removing their Names from the List of Jurors, on Cause being shewn for so doing. Power to the Court to exempt Jurors.

XIX. No Person who shall be put upon his Trial either for Treason, Felony, or Misdemeanour, shall be allowed to challenge any of the Jurors except for Cause. No Challenge except for Cause.

XX. Whenever there shall be a Deficiency of Jurors, it shall be lawful for the Court, at the Prayer of either of the Parties in the Cause, with or without the consent of the opposite Party, to put upon the Jury so many good and lawful Men of the Bystanders, as shall be sufficient to make up the full Number thereof. Talesman.

XXI. The Names of the Persons sworn as Common Jurors in manner aforesaid, shall be marked on the List; and those Names so drawn shall be kept apart by themselves until all the Names in the Ballot Box shall have been drawn: Provided always, that if any Case shall be brought on to be tried in the Court before the Jury in any As to new Jury for new Cases.

other Case shall have brought in their Verdict, it shall be lawful for the Court to order another Jury to be drawn from the Residue of the said Cards for the Trial of the Case which shall be so brought on to be tried: Provided also, that where no Objection shall be made on behalf of the Plaintiff or Prosecutor, or on behalf of the Defendant or Prisoner, it shall be lawful for the Court to try any Case with the same Jury that shall have previously tried, or been drawn to try any other Case, or to order the Name of any Person on such Jury, whom both Parties may consent to withdraw or who may be justly challenged or excused by the Court, to be set aside and another Name to be drawn from the Box, and to try the Case with the Residue of such original Jury, and with such Person or Persons whose Name or Names shall be so drawn and who shall appear and be approved as indifferent, and so as often and as long as any Case remains to be tried.

How Jury when sworn or charged with any Prisoner, to be kept.

XXII. After the Jury in any Case shall have been sworn, or charged with any Prisoner, they shall be kept in some convenient Place in Court apart by themselves until the Chief Justice or other presiding Judge has summed up the Evidence and has left the Case with the Jury, and if any such Jury shall desire to withdraw for the purpose of considering their Verdict, then they shall be kept by an Officer of the Court in some convenient Place apart by themselves until they are agreed upon their Verdict, or be discharged therefrom by the Court; and the Officer shall be sworn that he will suffer none to have access to them, or speak to them, and that he will not speak to them himself except to ask whether they are agreed upon their Verdict, or to communicate between them and the Court.

How Jury to be kept when necessary to adjourn the Court.

XXIII. Whenever it may be necessary for the Court to adjourn the further Sitting of the Court during the trial of any Case, it shall be competent to the Court to direct the Jury to be removed to some convenient Place in the neighbourhood of the Court during the said Adjournment, under the charge of a Proper Officer of the Court.

Provision in Case of Death or Disability of Juror.

XXIV. If during the trial of any Action, Indictment, or Information, any one or any two of the said Jurors shall be disabled by Death, Illness, or bodily Infirmary from serving on the Jury, it shall be lawful for the Court in its Discretion to order the Trial of such Action, Indictment or Information, to be proceeded with in like manner as if the full Number of Jurors had continued to serve on the Jury, and any Verdict returned by the remaining Jurors, or by a Majority, shall be of equal Validity and have the same Force and Effect as if it had been returned by a Jury consisting of the full Number of Seven Jurors: Provided always that in Capital Cases the remaining Jurors must be unanimous in their Verdict in order to warrant Sentence of Capital Punishment being passed on the Prisoner; but if he be found Guilty of a Crime less than the Capital one on which he is arraigned, then Sentence shall follow the finding of such Majority; Provided always, that it shall be lawful for the Court, instead of proceeding with the Trial with the remaining Jurors, to cause a new Jury to be impanelled, sworn and charged with any Prisoner; and the Action, Indictment or Information shall be tried as if such First Jury had not been impanelled.

In Case Jury cannot agree upon Verdict.

XXV. Whenever the Jury in any Case has withdrawn, and been kept apart for the purpose of considering their Verdict, and shall not have returned the same before all the other Cases for Trial at the same Sittings or Sessions shall have been disposed of, and when it shall sufficiently appear to the Court that the said Jury cannot agree upon a Verdict, and that there is not such a Majority as aforesaid agreeing, the Court shall discharge such Jury, and shall cause a new Jury to be impanelled and sworn and charged with any Prisoner, and the Action, Indictment or Information shall be tried as if such First Jury had not been impanelled.

Verdict.

XXVI. The Verdict of the Jury or Majority as hereinbefore mentioned shall in all Cases be given by the Foreman, in open Court, and in the presence of all the Jury, and if a Criminal Proceeding in the presence of the Prisoner, and shall thereupon be recorded by the Registrar of the Court; and the Registrar shall, before taking the Verdict, ask if they are all or by what Majority agreed thereon, and whether they find for the Plaintiff or for the Defendant, and in the Case of a Prisoner, whether they find such Prisoner "Guilty" or "Not Guilty;" and the Jury shall either pronounce a general Verdict for the Plaintiff or Defendant, or of "Guilty" or "Not Guilty," or else shall return a Special Verdict finding the Facts of the Case: Provided always, that the Jury may acquit any Prisoner of a Part of the Charge against him, and find him Guilty of the remainder.

Coroner's Jury to consist of three.

XXVII. On all Inquests to be held by the Coroner, no greater Number than Three Jurors shall be necessary.

XXVIII. When any Person shall have been duly summoned to attend as a Juror by the Coroner, and shall fail or neglect to attend at the Time and Place specified in such Summons, it shall be lawful for the Coroner to cause such Person to be openly called in his Court Three Times, to appear and serve as a Juror, and upon the Non-appearance of such Person, and Proof that such Summons has been served upon him, or left at his usual Place of Abode, to impose such Fine upon the Person so making Default not exceeding Fifty Dollars as to the Coroner shall seem fit; and the Coroner shall make out and sign a Certificate, containing the Name and Surname, the Residence and Trade or calling of every Person so making default, together with the amount of the Fine which shall have been imposed and the cause of such Fine, and shall transmit such Certificate to One of the Police Magistrates, who shall cause a Copy of such Certificate to be served upon the Person so fined, by having it left at his usual Place of Residence, or by sending the same through the Post Office, addressed as aforesaid, and thereupon such Magistrate shall cause such Fine to be levied according to the Provisions of Ordinance No. 10 of 1844, in the same manner as if the said Fine had been imposed by himself.

Any person duly summoned as a Juror not attending liable to a Penalty not exceeding Fifty Dollars.

Coroner to make out Certificate of Name, &c., of the defaulter to be transmitted to a Police Magistrate.

How copy of Certificate to be served and Penalty levied.

XXIX. This Ordinance may be cited for all Purposes as "The Jury Law Consolidation Ordinance, 1864."— Short Title.

Passed the Legislative Council of Hongkong, this 13th Day of September, 1864.

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

SCHEDULE (A.)

ORDINANCES TO BE REPEALED.

Date of Ordinance.	Title of Ordinance.	Extent of Repeal.
No. 5 of 1847.	An Ordinance for regulating Juries at Coroner's Inquests.....	The whole Ordinance.
No. 4 of 1851.	An Ordinance to repeal the Ordinances No. 7 of 1845, entitled "An Ordinance for the Regulation of Jurors and Juries," and No. 4 of 1849, passed for the amendment thereof, and to consolidate and amend the Enactments relating to Jurors and Juries.	The whole Ordinance.
No. 3 of 1855.	An Ordinance to remove Doubts as to the Legality of the Jury List to be in force from the first day of March 1855, and for enabling the Sheriff to render Names with greater accuracy in future Lists.	The whole Ordinance.
No. 7 of 1857.	An Ordinance for amending the Laws relating to Juries and Evidence.	So much of Section 9 as relates to Section 5 of Ordinance No. 4 of 1851, and to Sections 6 and 7 of the same Ordinance.
No. 3 of 1858.	An Ordinance for the Supreme Court.	Section 7.
No. 2 of 1860.	An Ordinance to amend the Law relating to Jurors and Witnesses.	Sections 5 & 6.
No. 4 of 1862.	An Ordinance to amend Ordinance No. 4 of 1851, and to increase the Jury Panel to Thirty.	The whole Ordinance.

SCHEDULE (B.)

SUMMONS TO JURORS.

Mr. A.B.
You are hereby summoned to appear as a Juror at the Supreme Court to be holden at in this Colony on the _____ day of _____ next at the hour of _____ o'clock in the forenoon, and there to attend from day to day until you shall be discharged from the Court.

(Signed) C.D.,
Sheriff.

N.B.—The Penalty for Disobedience hereto is any sum not exceeding One Hundred Dollars.