

Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1785. National Archives of the United Kingdom CO 219/1.

25 George III – Chapter 4

An Ordinance for regulating and restraining the retailing of spirituous Liquors in small quantities without Licence.

Whereas in all well-regulated Governments, in order to prevent those evils which would otherwise arise, no person is allowed to retail spirituous Liquors, without first obtaining a regular licence for that purpose.

Be it therefore ordained and ordered, by His Excellency the Lieutenant Governor, by and with the Advice and Consent of His Majesty's Council, and it is hereby ordained and ordered by the Authority of the same, That from and after the publication of this Ordinance, no Person or Persons whomsoever within this Island and Dependencies, shall on any account or sentence whatsoever, Sell, Retail, Barter, Bargain, Exchange, or deliver any spirituous, or strong Liquors to any Person, or Persons whomsoever, in any less Quantity than three Gallons, *bona fide* delivered at one and the same Time, without a Licence for so doing, first had and obtained under the Hand and Seal of the Governor or Commander in Chief for the time being, of this Island, and Its Dependencies, (which Licence shall be, and continue inforce for such Term or Time only, as the said Governor or Commander in Chief for the Time being shall judge fit.) under the pain and penalty of forfeiting to His Majesty for the Public use of this Government for each, and every offence, a Fine of Nine pounds and cost of persecution to be recovered in a summary way, before any One of His Majesty's Justices of the Peace of the District wherein the said offence shall be committed, upon the oath of one or more credible witness or witnesses, the Party or Parties accused, being first duly summoned to appear, and permitted to produce and offer any Evidence, thereafter or thing in support of his, her, or their defence, which penalty on conviction, together with the cost of prosecution on each conviction, shall in case of default of immediate payment, be levied on the Goods and Chattels of the Offender or Offenders by Warrant of Distress and sale under the Hand and Seal of such Justice who shall have tried and determined the same, directed to the Provost Marshall, or his Deputy, or Deputies, on to all, or any of the Constables of the District, where the said offence shall have been committed are for want of such Goods and Chattels being found sufficient to satisfy such fine, and costs of Prosecution, Such offender, or Offenders shall by Warant under the Hand and Seal of such Justice be committed to the Common-Goal [Jail] of the said Island, or to the Goal [Jail] of District where the said Offence, shall have been committed, there to remain in close confinement, without Bail or *Main-prize* for the space of three Months, unless the said Fine, together with the Costs, charges and Goal-Fees [Jail-Fees], shall be sooner paid and satisfied, and in case the said Offender or Offenders shall not pay and satisfy such Fine, Costs, Charges, and Goal-Fees [Jail-Fees], within the space of Three Months, the said Offender or Offenders shall nevertheless be kept in close Confinement, until the said Costs, Charges and Goal Fees [Jail-Fees], are paid and satisfied, provided always that when a Distress and sale shall be made of any Goods or Chattels to satisfy the said Fine, Costs, and Charges, and a surplus shall remain, the same shall be paid to such Offender, or Offenders, or in case of a refusal to receive the

same, it shall be left in the Hands of the Justice before whom the Conviction shall be had, for the use of the said Offender or Offenders to be paid, whenever the same shall be demanded.

And be it further Ordained and Ordered by the Authority aforesaid, that all Licences to be granted, in manner aforesaid shall, by a Clerk of the Licences, to be appointed by His Excellency the Governor, or the Commander in Chief for the time being, be fairly entered in a Book to be kept by him for that purpose, as also an entry of the Days of Date and Time of granting and revoking the same Licences, for every of which Licence such Clerk shall be intitled to demand and receive from every Person or Persons obtaining the same, a fee of twenty shillings; which Book shall be open for the search and inspection of all Persons whomsoever, paying to such Clerk one shilling fee for every search and two shillings and six pence for each attested Copy or Extract.

And be it further Ordained and Ordered by the Authority aforesaid, that the Costs and Charges to be allowed upon every such Conviction, shall be as follows, and no other or greater. vizt.

Justices Fees.

For receiving each Information, and complaint, and issuing his summons to the Part accused and Witness to support the Charge; two shillings and six pence.

For the Examination of every Witness to be taken in Writing and signed by the Deponent and attested by the Justice two shillings and six pence.

For each Warrant of Distress and Sale, one Shilling.

For each Warrant of Commitment, one Shilling.

To the Provost Marshal or other Officer serving process. each summons two shillings and six pence.

For travelling charges if on Land, six pence each Mile; But should it be necessary to pass by water, the Cost attending the same shall be attended on Oath by the serving Officer, and shall then be regulated by the said Justice in such manner as he shall Judge right reasonable.

For buying and paying in the Fine and Costs one Shilling in every pound.

On every Commitment five shillings.

Travelling Charges if by Land each Mile six pence.

To each Witness on the Part of the prosecution to be allowed on conviction only, For every Days attendance two shillings and six pence. Travelling charges if by Land six pence. If by Water, the same as allowed to the Officer as above.

To the Goalers on every Commitment five shillings.

For every Discharge two shillings.

For every Days diet, if supplied by the Goaler [Jailer] one shilling.

And if any greater Fees shall be demanded and taken by any of the Officers or Persons in this Ordinance named, for any of the Matters or things aforesaid, the Offender or Offenders shall and may be prosecuted as for Extortions, in any of His Majesty's Courts of Record, within this Island and Its Dependencies, by Bill, Plaint, or Information, and on being duly Convicted shall pay a fine to His Majesty for the Public use of this Government, at the discretion of the Court before which such Conviction shall happen, not exceeding five Pounds with Costs of Suit, to be taxed, and shall be liable to pay to the party agrieved, treble the Sum or Sums so Extortionably demanded and taken provided always that nothing in this ordinance contained shall extend or be construed to extend to prevent any person or persons from supplying his, her, or their Servants, Tradesmen, or Labourers actually employed in their service, any such Daily, Weekly, or other allowance of Rum or other strong Liquors for their own particular use, and as part of their Diet.

And Whereas great disorder and injury may arise to His Majesty's Service, if Person's Licenced to retail Spirituous Liquors are not restrained from selling the same to the Soldiers without leave first had and obtained from the Commanding Officer of the Corps or Regiment or Company to which they respectively belong. Be it therefore hereby Ordained and Ordered by the Authority aforesaid, That no Licensed retailer shall sell, Barter, Exchange or deliver any Spirituous-Liquor to any soldier or soldiers within this Island, or Its Dependencies without the consent first had and obtained from the Officer commanding the Corps, Regiment, or Company to which he or they respectively do belong. and in case any such retainer or retailers, shall transgress in the premises; he, she, or they shall be liable to a fine of five pounds for every such Offence, with costs of prosecution, which fine shall be adjudged to His Majesty for the Public Use of this Government, to be recovered in the like manner as herein before is directed, in case of selling Spirituous Liquors without Licence.

Passed in Council
the 11th Day of August 1785.
R. Gibbons Prest.

Approved, ordained and ordered accordingly.
J. F. W. Des Barres

A true Copy, examined
and compared from the Minutes
of Council.
A Cuyler C. C.