

An Ordinance for the more Easy  
and Speedy Recovery of small Debts.

Be it Ordained and Ordered by His  
Excellency the Lieutenant Governor by  
and with the Advice and Consent of  
His Majesty's Council and by the  
authority of the same it is hereby  
Ordained and Ordered That all Suits  
for Debts and Demands wherein the  
amount of the whole Matters to be  
examined tried and determined shall  
not exceed the Sum of Five Pounds shall  
and may be cognizable before and heard  
tried and determined in a summary  
manner by any two or more Commissioners  
to be by His Excellency the Governor or  
Commander in Chief of this His  
Majesty's Island of Cape Breton and  
its Dependancies by Commission under

His

This Privy Seal appointed according to the  
Principles of Law and Equity.

And be it further Ordained and Ordered  
That such Commissioners or any two or  
more of them shall meet and hold a  
Court for hearing said Causes once in  
every Week in each of the Districts of  
this Island and its Dependencies, that  
is to say on every Monday.

And be it further Ordained and  
Ordered That the Proceedings before the  
said Commissioners shall be by Summons  
Warrant of Distress against the Goods  
and Chattels of the Debtor or Warrant  
of Commitment upon the return of the  
Warrant of Distress of Nulla bona or an  
insufficiency to satisfy the whole Debt  
and Costs.

And be it further Ordained and Ordered  
That when either of the Parties shall  
desire it and tender to the Court the  
extra Costs to be thereby incurred the

Said

said Court shall immediately cause a Jury of five lawful Persons to be immediately summoned and sworn to hear such Cause and give an unanimous Verdict therein whereupon the Court shall give Judgement according to the Course of the common Law of England and the laws and Ordinances of this Island not being repugnant thereto and Issue Proceps of Executions in manner aforesaid.

Provided never the less that when either of the Parties shall think himself or themselves aggrieved by the Judgement of the said Court of Commissioners such Party shall on Motion be admitted to suspend Execution of such Judgement upon entering into Recognizance to the Use of the Adverse Party with one or more sufficient Surety or Sureties if by the Plaintiff in the Sum of Ten Pounds

conditioned

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conditioned to remove said Cause  
by Certiorari into the Supreme Court  
of Judicature or Supreme Court of common  
Pleas when such a Court shall be  
opened and perform the final Judgment  
there to be given if by the Defendants  
in the like Sum of Ten Pounds and  
the amount of the Debt Damages  
and Costs awarded against him by the  
said Commissioners conditioned in  
like Manner to remove the said  
Cause by Certiorari into the Supreme  
Court at its then or next Session and to  
perform the final Judgment there  
to be given.

And be it further Ordained and  
Ordained that His Majesty's Chief Justice  
of this Island shall be and is hereby  
authorized upon Petition of the  
Party after having given recognizance  
as aforesaid or in case the Judgment  
of the said Commissioners shall  
have

have been executed upon like Petition  
 and such Petitioner, entering into a like  
 Recognizance before the said Chief Justice  
 or a Commissioner for taking Affidavits,  
 Recognizances and Bail in the Sum  
 of Ten Pounds conditioned to perform  
 the Judgement to be finally given  
 in said Cause a Writ of Certiorari  
 Directed to such Commissioners to remove  
 the Process and Proceedings of such Cause  
 into the Supreme Court of Judicature  
 or Supreme Court of Common Pleas  
 where in the Cause shall be reheard tried  
 and determined in like Manner as  
 Causes originally instituted in and  
 brought to Issue in such respective  
 Supreme Court, and Execution shall  
 Issue thereupon, accordingly. And in case  
 the Party entering into the Recognizance  
 as aforesaid shall neglect to sue out  
 and Prosecute such Writ of Certiorari  
 agreeable to such Recognizance upon

Motion

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motion and affidavit in open Court  
and due notice given to the adverse  
Party Process of Distress or Commitment  
as the Case may require shall and  
may be issued by such respective  
supreme Court for levying the amount  
of such Recognizance.

And be it further Ordained and  
Ordered that the said Commissioners  
for holding a Court for Trial of Summons  
Causes shall in each District appoint  
a Clerk of said Court who shall keep  
exact Minutes and Entries of Judgments  
of said Court in a book to be for that  
purpose kept and shall also keep all  
other Process and Proceedings, make out  
Summonses and all Process and Receipts  
which shall run in the Names and be  
under the hands and Seals of any two  
or more of such Commissioners and  
every Summons shall be served on the

Defendants.

Defendants by reading the same personally  
 to him, her or them or giving to such  
 Defendant or leaving at his, her or their usual  
 Place or Places of abode an attested Copy  
 of such Summons at least three days  
 before the Day of return and sitting of the  
 Court And the said Summons and other  
 Process and Precepts of said Courts shall  
 be executed by the Court Marshal or  
 his Deputy.

And be it further Ordained and  
 Ordained that the Form of all Summons,  
 Warrants of Distress and Commitments  
 to be issued by such Commissioners shall  
 be in the Forms following Viz

Form of original Summons.

District of N. York

A. B and C. D. Esq<sup>rs</sup> Commissioners  
 for holding a Court for the summary trial  
 of small Debts and Demands within the

said

said District.

To the Governor, Marshal of the  
Island of Cape Breton and its  
Dependencies or to his Deputy or Deputy  
within the District aforesaid  
Greeting

We Command you to Summon &c.

of \_\_\_\_\_ in the said District  
(addition) if a Resident or to be found  
in this District to appear before His  
Majesty's said Court on Monday the

Day of \_\_\_\_\_ at  
at \_\_\_\_\_ o'clock in the \_\_\_\_\_ hour,

then and there to answer the Suit of

C. G. touching and concerning a Demand  
of the said C. G. amounting to the sum

of \_\_\_\_\_ said to be due at  
from the said C. G. to the said C. G. in

District aforesaid on the \_\_\_\_\_ day of

for Goods sold and Delivered

(Which done and performed) or by Note of

Hand or other Paper in writing as the

Case may be) therefore fail not and the

and.



and true make due return of this Receipt  
with your doings thereon. Given under  
our Hands and Seals at  
in the District aforesaid the \_\_\_\_\_ Day  
of \_\_\_\_\_ in the Year of His Majesty's  
Reign \_\_\_\_\_

A. B.  
C. D.  
Entered G. J. Clerk

Form of Warrant of Distress

District of \_\_\_\_\_ To Wit

A. B. and C. D. Esq<sup>rs</sup> Commissioners  
for holding a Court for the Summary Trial  
of small Debts and Demands within  
the said District

To The Sheriff Marshall of the Island  
of Cape Breton and its Dependancies  
or to his Deputy or Deputies within the  
District aforesaid.

Whereas

Whereas J. G. Lately in the said Court  
held at \_\_\_\_\_ on Monday the \_\_\_\_\_  
of \_\_\_\_\_ recovered against C. J. of \_\_\_\_\_  
the sum of \_\_\_\_\_  
Dollor Damage and \_\_\_\_\_ Costs  
Such. These are therefore in His Majesty's  
Name to command you forthwith to  
levy or cause to be levied by Distress and  
Public Sale of the Goods and Chattels of  
the said C. J. to be found within the  
said District the said Sums amounting  
together to the Sum of \_\_\_\_\_  
together with your own and  
more for this Precept giving at least three  
Days previous Public Notice of such Sale  
and returning the Overplus thereof if any  
to the said C. J. and make due return  
of this Precept with your doings thereon  
into the said Court within eight  
days from the date hereof or at the first  
Court day next after.

Given under our Hands and Seal  
at \_\_\_\_\_ in the District aforesaid  
the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_  
of His Majesty's reign  
Entered G. J. Clerk

Form of Warrant of Commitment  
for want of Distress, being found.

District of To Wit

A. B. and C. D. Esquires  
Commissioners for holding a Court for the  
Summary Trial of small Debts and  
Demands within the said District.

To the Provost Marshall of the Island  
of Cape Breton and its Dependancies or  
to his Deputy or Deputies within the  
District aforesaid.

Whereas *J. G.* lately in the said Court  
held at the day of the  
recovered against *C. F.* of the sum  
of Debt or Damage and  
Costs of Suit And it appears by  
Your Return on our Warrant of Distress  
Dated the Day of that  
Goods and Chattels of the said *C. F.* are  
not to be found within this District  
whereof to levy the said sum with  
Yours

for that manner

your fees and  
 whereby to buy more than  
 of the said Sums and there still remain  
 unsatisfied of the same the sum of  
 You are therefore hereby  
 in His Majesty's Name commanded  
 to take the body of the said C. F. and  
 him commit to His Majesty's Goal in  
 the District aforesaid there to remain  
 untill the said remaining Sums of  
 with your fees are fully  
 paid or untill he shall be otherwise  
 discharged by due course of Law. Given  
 under our Hands and Seals at  
 in the District aforesaid the Day  
 of in the Year of His  
 Majesty's Birth

Witness G. J. Clerk. -

Form of Centry of Judgement  
 District of  
 at Court for the Summary Trial of  
 Small Debts and Demands held  
 at

at \_\_\_\_\_ in the said District on  
the \_\_\_\_\_ day of \_\_\_\_\_

Present

J. A. B. } Esquires  
C. D. } Commissioners

Between C. F. Plaintiff  
and T. G. Defendant

for a demand of the said C. F. amounting  
to the sum of \_\_\_\_\_ said to be due

at \_\_\_\_\_ from the said C. F. to the  
said T. G. in the District aforesaid on the  
\_\_\_\_\_ day of \_\_\_\_\_ for &c. &c.

The Defendant having been duly summoned  
and appearing and the Parties their  
respective allegations and evidence being  
fully heard and understood by the Court

It is considered and adjudged that the  
said \_\_\_\_\_ do recover against the  
said \_\_\_\_\_ the sum of \_\_\_\_\_  
and his costs taxed at \_\_\_\_\_

And that Process thereupon be issued  
at the request of the said \_\_\_\_\_

W. J. Clerk  
J. A. B.  
C. D.

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And be it further Ordained and  
Ordered That nothing in this Ordinance  
shall extend or be construed to extend to  
empower the said Commissioners to hear  
try or determine any Matter or thing  
respecting Freehold or Real Estate or any  
Debt or Contract grounded upon or upon  
any sealed Instrument may be necessary  
required in Evidence or any true paper  
Suits or Causes sounding in Damages  
only or on any account unsettled under  
Hand where the whole amount shall  
exceed the Sum of Five Pounds, although  
the Balance demanded may be a  
less Sum any thing in this Ordinance  
contained to the contrary notwithstanding.

And be it further Ordained and  
Ordered That whenever the Summons  
shall appear to have been duly served  
and the Defendant or Defendants shall  
neglect or refuse to appear and

ANSWER

answer accordingly without lawfull  
and reasonable excuse the Court shall  
proceed to hear the Plaintiffs allegations  
and Evidence and give Judgement against  
the Defendant or Defendants by Default  
causing the same to be duly entered and  
shall thereupon award Executory Proceps  
as aforesaid.

And be it further Ordained and ordered  
That when it shall appear by the return  
of the Proost Marshall that any Person  
or Persons to avoid the Executory Proceps  
of the Court aforesaid shall shift his  
Residence out of the District wherein  
the Cause shall be instituted and shall  
not have therein sufficient Goods and  
Chattels to be found Whereon to make  
Distress The Party injured on producing  
and filing in the Office of the Chief Clerk  
of the Pleas in any of the Supreme  
Courts of this Island a Copy attested  
of the Proceedings below with an Affidavit

of

of the other Facts shall and may  
Institute an Action of Debt upon  
the Judgement below and take out  
Process and proceed to Judgement  
in such Supreme Court in like  
Manner as if the Matter in dispute  
had originally accrued in Value the  
aforesaid Sum of Five Pounds.