

*Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1802. National Archives of the United Kingdom CO 219/2.*

42 George III – Chapter 2

**An Ordinance for the regulation and establishment of Fees of Office.**

Island of Cape Breton

Whereas the fees herefore taken by the different Officers herein after mentioned in this Island for services by them performed in their respective Offices are not sufficiently ascertained in order therefore to regulate and establish them in future, And to prevent undue exactions and exorbitant demands touching the same

Be it Ordained and Ordered by His Honor the President by and with the Advice of His Majesty's Council and by the Authority of the same it is hereby Ordained and Ordered that From and after the Publication hereof No Offices or other person or persons whatsoever for any service or services to be done or performed in their respective Offices herein after mentioned shall exact or demand any greater or other Fee or Fees sum or sums of Money than is or are herein after set down, allowed and established for the same. That is to say

Supreme Court in Civil Actions

Entry of every cause - for the whole Court	5/—	
Taking affidavit & indorsing writ for bail to the Senior or other Justice who shall do the same	2/6	}
Every Cause tried & final Judgement the whole court Present.....	10/—	
Hearing demurrer argued & Judgement thereon.....	5/—	} To Senior or other Justice who shall do the same
Taxing Bill of Costs.....	2/6	
Taking special Bail.....	2/6	
Signing Judgment Roll or other Record.....	2/6	

Judge of Probates Fees

Taking probate of will, Granting Administration or Letters of Guardianship, each.....	20/—	}
Letters Ad Collegendum.....	10/—	
Warrant of Appraisement.....	9/—	
Decree of Distribution.....	20/—	

### Register of Probate Fees

Probate & Registering a Will, Writing & Registering Administration and Guardianship - each	} 20/—
Drawing Bond & attending Execution thereof	10/—
Drawing and Registering Letters Ad. Collegendum	10/—
Citation and Service.....	6/8
Filing Inventory Accounts &c.....	1/—
All searches.....	3/4
Copy of Will & Probate per folio of 72 words.....	1/—
Certificate and Seal.....	6/8
Writing & Registering Decree for distribution.....	10/—
Warrant of Appraisement signed & sealed.....	6/—
Every Exhibit.....	—/6

### Justice of Peace Fees

Issuing warrant, writ or Summons under Hand & Seal	2/6
Subpoena.....	2/6
Judgment.....	2/6
Execution.....	2/6
Bond or Recognizance at length.....	3/—
Affidavit or Examination in writing.....	2/6
Sending proceedings in Civil Causes to superior Court on appeal to be paid by the party	} 1/—
Appealing per Folio	

### Attornies Fees

Retaining fee in every Cause.....	40/—
Drawing Common Affidavit.....	2/6
Drawing Affidavit for holding to Bail in special Cases.....	5/—
Attending Judge to indorse writs.....	5/—
Attending Instructions from Client each time.....	3/4
Warrant to Prosecute.....	3/4
Every Writ, Bail, or other Original Common process, each	5/—
Capias.....	2/6
Notice on Common Bail Process.....	2/6
Copy.....	1/3
Non Omittas Capias, Latital Capias, Testatum Capias, Scire Facias, Habeas Corpus, Venire Facias, Writ of Inquirey, Writ of Error, or other Meine Process by Special Writ.....	} 7/6

Copy, each.....	3/9
Every Declaration, Plea, Replication, Rejoinder, Surrejoinder, Rebutter, Surrebutter - per Folio	} 1/6
Every Copy for service and filing.....	—/9d
Common Demurrer or Joinder in Demurrer.....	5/—
Copies of D(emurrer) for service and filing.....	2/6
Notice of Trial, or Notice of Execution of Writ of Inquiry, each.....	} 2/6
Countermand of Notices.....	2/6
Each copy of Countermand for service of filing.....	1/3
Subpoena for Witnesses.....	5/—
Copy for Witnesses.....	2/6
Travel for service of Notice of Trial, or Notice of Executing Writ of inquiry or for service of Subpoena or other proceedings when personal service is required by Law, or by order of Court payable for going only per Mile.....	} 1/—
Summary Bill of Exception in open Court for Misdirection of the Judge.....	} 2/6
Motion for Common Rule for Amercing the Sherrif for Judgment by default for new Trial, for Arrest of Judgment or other common Motion.....	} 5/—
Regular Bill of Exceptions per Folio.....	1/6
Assignment of causes for new trial or for Arrest of Judgment per Folio.....	} 1/6
Copies of writ for service or Filing per Foli.....	9d
Drawing special Bail piece.....	2/6
Notice of exception to Bail and service thereof.....	2/6
Every continuance or Imparlance.....	2/6
Every Retrascit, Nolle Proseque Nonpros.....	5/6
Drawing Affidavit for special Imparlance and assigning causes therefore.....	} 7/6
Attending Balloting or striking a special Jury.....	15/—
Attending Inquisition before Sherriff.....	23/4
Drawing common rule in ejectment or other common Rules each.....	} 5/—
Every Copy for service or Filing.....	2/6
Drawing Rules of Court for Arbitration or other special Rules.....	} 5/—
Every Copy for service or filing, each.....	5/—
Concession of Lease, Entry, & Ouster in Ejectment.....	13/4
Notice to Tenant in Possession or to Landlord.....	7/6
Copies for service or Filing - each.....	3/9
Affidavit of Lease, Entry & Ouster and serving Declaration where no Tenant in possession	10/—
Aquiring Demurrer or special Verdict.....	11/8

Fee to Council on Trial.....	23/4
Making up Issue - per Folio.....	1/6
Each Copy for Service & filing, per Folio.....	9d
Making up record.....Do.....	1/6
Engrossing the same.....Do.....	1/6
Drawing entry of satisfaction on the Record by Warrant - per Folio.....	} 5/—
Attending Judge with Record or Judgment Roll	5/—
Scerie Facias, Eligit Capias adsatis faciendum Venditioni, Exponas Distringas, Writ of Possession, Exigent or other process of Execution.....	} 7/6
Term Fee.....	5/—
Making up Costs.....	6/—
Notice of Taxing Costs.....	2/6
Attending to get the same taxed.....	5/—
Copy to file and every Copy required by the parties other Copying necessary to be done in Conducting a Cause - per Folio.....	} 1/6

Clerks Fees Supreme Court Plea Side

Entering Action & Filing Affidavit of Debt.....	2/6
Signing & Sealing every writ, Execution or other Process.....	} 2/6
Filing every Writ and entering return.....	1/6
Filing Declaration and all other Pleadings.....	1/—
Entering Appearance.....	1/6
Entering & filing every Motion or Rule.....	1/6
Copy of every Rule given by the Clerk.....	2/6
Swearing and Impanelling Jury.....	1/6
Swearing each Witness or Constable.....	1/—
Taking and entering Verdict.....	1/6
Entering Judgment.....	2/6
Entering default, Retraxit, Noble prosique Non pros, Nonsuit or other discontinuance.....	} 1/6
Entering Confession, Lease, Entry, & Ouster.....	1/6
Copies of all Records or Pleadings per Folio.....	9d
Filing every Exhibit in a Cause depending.....	6d
Attending Striking special Jury & Copy of pannel to be given to each party.....	} 5/—
Filing Affidavit in Court in Writing.....	1/—
Searching the Records.....	1/—
Taking & Filing special Bail Piece.....	1/6
Taking and Entering every Recognizance.....	1/6
Sealing & Signing Subpoena.....	2/6
Filing the Roll in every action.....	1/—
Filing Bill of Costs.....	1/—

### Sherriff or Provost Marshals Fees

Serving every Original Process.....	2/6
Caption Fee on Bailble Process.....	11/8
Travel per Mile to be computed from the place where the process is returnable to the place where Defendant is taken or sured payable for going only....	} 1/—
Bail Bond for each person bound.....	
Service on the Amount of Sales of property taken on Scerie Facias or Elligit if under £50 - 1P Pound from £50 to £100 - 9dP Pound Above £100 - 6d-P Pound	
For appraising property and swearing appraisers.....	5/—
Poundage on Capias adsatis facundum for the whole Amount of Execution if under £50 1/— from £50 to £100 - 9d - above £100 - 6d	
Travel on all Writs of Executions the same as on Original Writs - per Mile.....	} 1/—
Returning Pannel for special Jury.....	
Bringing up Prisoners by Habeas Corpus.....	11/8
Travel the same as in other Cases-----	
Attending prisoner before a Judge on special Occasions	5/—
Making Return on every Writ.....	2/6
Executing writ of Enquirey, Summoning Jury & returning Inquisiton.....	} 23/4

### Jurors Fees

For every Cause tried by Common Jury each Juror.....	1/—
Ditto by special Jury - each Juror.....	2/6
Fees for Taking a view to be taxed at the discretion of the Court.....	}

### Witness's Fees

For every Days Attendance at Court.....	5/—
Travel per Mile to be computed from place of residence to the Court House, for coming only	} 1/—
The Attendance and expense of Travel & Conveyance of Aged or infirm Witnesses to be Taxed at the discretion of the Court.....	

### Cryers Fees

For every default or Transuit.....	8d
Calling and swearing Jury in every cause.....	1/6
Calling Jury for Verdict.....	1/—
Swearing every Witness or Constable.....	6d
Every person discharged by proclamation.....	6d

### Coroners Fees

For all services in Civil actions to be paid the same as the sherriff	
For taking Inquest of Office in lieu of all other Fees	50/—
To be paid out of the estate of the Deceased if sufficient otherwise to be paid from such public fund as the Governor or president for the time being shall think proper.	
The Funeral Expenses/not exceeding 20/—/ to be paid as above	
The Jury Fees and Travel to be the same as in other Cases	

Be it further Ordained & Ordered by the Authority aforesaid that in all cases wherein Judgment shall hereafter be given for the Plaintiff or Plaintiffs, all fees which shall be paid, due owing or payable such Plaintiff or Plaintiffs by virtue of this Ordinance shall be taxed against and shall be paid by the Defendant or Defendants in such cause or Causes – And that in all Causes that shall be instituted in any Court of Record, and which shall be retracted or discontinued without leave of the Court or Consent of the Defendant, or wherein Judgment shall be given for the Defendant or Defendants, all Fees, Costs, and Charges, which shall be paid, due Owing or payable by such Defendant or Defendants by Virtue of this Ordinance, shall be taxed against and shall be paid by such Plaintiff or Plaintiffs

And be it further Ordained by the Authority aforesaid that none of the Fees by this Ordinance allowed and established for Attornies shall be taxed or allowed to any but sworn Attornies regularly admitted into the Court wherein any cause shall be instituted or tried and in no causes wherein an Attorney is not really employed and for no other services than such as he shall actually do and perform in such Cause

And be it also Ordained and Ordered that no Fee, Costs, or Charges allowed and established by this Ordinance shall be charged to Defendant or Defendants, Plaintiff or Plaintiffs in any Action or Cause instituted or tried in any Court as a foresaid, unless a Bill of the particulars of such fees Costs, and Charges is first examined and taxed by the Senior Justice, or in his absence by some other Justice of the Court in which such Action or Cause shall be instituted or tried, and a Copy thereof delivered to the adverse party if required

Approved, Ordained & Ordered

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accordingly in Council the 20th  
Day of March 1802 and in the  
42nd Year of His Majesty's Reign  
(Signed) John Despard Majr. Genl.  
& President of Council

Passed in Council  
20th March 1802}  
Signed {A.C. Dodd  
Richd Stout  
Wm Cox  
Wm Campbell

A true Copy  
Will Plant: Dy: Clk: Council