

An Ordinance for the 54
Alteration and Amendment
of an Ordinance, entitled
an Ordinance for the
Regulation & Establishment
of Fees of Office.....

Preamble.....
Whereas the Fees heretofore Claimed by and
allowed to the respective Officers concerned in
the Administration of Justice by virtue of
an Ordinance entitled an Ordinance for
the Regulation and Establishment of Fees of
Office, have been found to be unconformable
to the Constitution of the Supreme Court and
oppressive upon the Parties litigating therein;
and whereas the Subject ought to have the
benefit of the Laws of England and the Ordinances
of this Island without being burthened with
Expences which in many instances render
the Remedy to which he is entitled unavail-
ing and abortive — For prevention thereof
Be it Ordained and Ordered by His Honor the
President of His Majesty's Council for the
Island of Cape Breton and its Dependencies
by and with the advice and consent of the said
Council.

Council, and by the Authority of the same,
 that from and after the publication hereof
 no Officer or other Person, or Persons whatsoever,
 shall be Entitled to or demand for any reward
 or services by him or them done or performed
 in or by reason of their respective Offices herein
 after mentioned, any greater or other Fee or
 Fees, sum or sums of Money than is or are
 hereafter mentioned, allowed and established
 for the same - That is to say -

Supreme Court

For taking Affidavit and indorsing Writ for Bail to Chief Justice or Person by him Authorized for that purpose . . .	2. 0
Entry of every cause or information . . .	5. -
Every Cause or Information called in Court, and default, compromise, reference, or Verdict or Judgement therein . . .	10. -
Signing Judgement Roll or other record . . .	2. 6
Taxing Bill of Costs	2. 6
On every Writ or Summons granted out of Court	2. 6
Taking special Bail out of Court to Chief Justice or Person by him Autho- rized for that purpose	2. 0

In every Certiorari 5. -
 Hearing Argument on any point of Law
 and Judgement thereon } 5. -

Judge of Probate -

For taking probate of Will, granting
 Administration or Letters of Guardianship } 1. - -
 each
 Letters ad colligendum 10. -
 Warrant of Appraisement 9. -
 Decree of Distribution 1. - -

Register of Probate -

For probate of and Registering Will, Writing
 and Registering Administration and
 Guardianship - each - } 1. - -
 Drawing Bond and Attending execution
 thereof } 10. -
 Drawing and Registering Letters ad collig-
 -gendum } 10. -
 Citation and Service 6. 8
 Filing Inventory, Accounts &c. 1. -
 Every Search 3. 6
 Copy of Will & Probate per folio of 72 words 1. -
 Certificate and Seal 6. 8
 Drawing and Registering decree of distribu-
 -tion } 10. -

Warrant

Warrant of Appraisement signed and sealed - - - 6 -
 Every Exhibit 6

Justice of the Peace -

For Issuing any Summons or Warrant - - - 2. 6
 Subpoena 2. 6
 Judgement 2. 6
 Execution 2. 6
 Every Bond or Recognizance at length - - - 3. -
 Every Affidavit or examination in Writing - - - 2. 6
 On every Appeal to Sessions or Certiorari to
 the Supreme Court (the expence of Appeal
 or Removal by Certiorari to be paid by the
 party Appealing or removing) proceeding
 per folio of 72 Words - - - 1. -

Party acting as Attorney & Counsel -

Retainer and taking Instructions - - - 1. 10. -
 Warrant to prosecute & having the same filed - - - 3. 4
 Drawing Affidavit to hold to Bail. - - - 3. 4
 Drawing any Writ, Summons or other
 process whatsoever - - - 6. 8
 Every Copy thereof with such Notices as
 thereto belongs - - - 1. 3
 Attending Chief Justice or Person by him
 for such purpose Authorised to take such
 Affidavit & endorse the Writ thereupon - - - 3. 4

Drawing

Drawing any Declaration, Indictment or other Pleading except the General Issue	7. 6
Copy thereof for service or filing and serving or filing the same	2. 6
Making out and delivering a Bill of particulars	3. 4
Copy thereof	1. 3
Making up Issue	3. 4
Copy thereof with Notice of Trial endorsed thereon and service	2. 6
Making up the Record	3. 4
Drawing up Brief	11. 8
Conducting the Cause as Counsel in Court	1. 13. 4
Junior Counsel (if any employed) Copy of Brief	6. 8
Fee as Counsel in Court	17. —
Entry of the Cause for Trial	1. 3
Drawing Subpoena for Witnesses	3. 4
Penalty Ticket upon a Subpoena	1. 3
Travel for service of Notice of Trial or of executing a Writ of enquiry or for service of Subpoena or for any other service whether the same be required by Law or Order of Court to be personal or allowed to be in lieu of personal Service per Mile	1. 6
Making up Costs and giving Notice of taxing the same	5. —

Attending

Attending Chief Justice with the Record or Judgment	3. 4
Roll	3. 4
Attending the Taxation thereof	3. 4
Tennor fee	3. 4
Notice of Executing a Writ of Enquiry	2. 6
Attending the Inquisition	1. 3. 4
Countermand of Notice of Trial or Writ of Enquiry	2. -
Drawing any Arbitration Bond if the same be executed before declaration be filed or delivered	6. 0
Ditto if after declaration be filed or delivered	5. -
Drawing entry of satisfaction on the Record	3. 4
Entering appearance for Defendant	2. 6
Searching if any declaration be filed	2. 6
Taking Copy of Declaration	2. 6
Drawing General Issue and delivering the same	2. 6
Copying Issue and Notice of Trial	2. 6
Attendance at Chief Justices - each	3. 4
Drawing Common or Ordinary Affidavits each	2. 6
Drawing Affidavits of special Circumstances to be allowed for in the discretion of the Chief Justice not exceeding	6. 0
Motions of course - each	3. 4
Motions requiring Grounds to support the same to be stated to the Court	7. 6
Making the same absolute (if not so in the first instance or no cause be shewn) each	5. -

Arguing Points of Law 11. 8

Drawing up Rules on Motions which are granted 3. 4

Copy and Service thereof 2. 6

Drawing Declaration in Ejectment and
Notice to appear and defend 7. 6

Copy and service thereof 2. 6

Affidavit of service thereof 2. 6

Affidavit of Lease, entry and Ouster and
of service of Declaration where no
Tenant is in possession of the premises 6. 8

Drafting and Copying other than before
mentioned, per folio of 72 Words 1. —

Clerk of the Supreme Court.....

For filing Affidavit of Debt or Warrant
to prosecute and entering the same each
Signing and sealing every writ or other
process 1. 6

Endorsing entry of Warrant to prosecute
thereon 1. —

Filing every writ or process and entering
the return thereof 1. —

Entering each Action and each Appearance 1. —

Entering and filing every Rule 1. 6

Copy of every Rule given by the Clerk 1. —

Copy

Copy of every Record or Pleading per folio of } .. 1. -	
72 Words	
Filing every Affidavit	1. 6
Taking and filing every Bail piece	1. 6
Taking and Entering every Recognizance	1. 6
Signing and Sealing every Subpoena	1. 6
Swearing and empanneling Jury	1. 6
Swearing each Witness	1. 6
Taking and entering Verdict	1. 6
Entering the Judgement	1. 6
Entering Default, Nemo pro, or other } .. 1. 6	
Discontinuance	
Entering Confession of Lease, Entry and } .. 1. 6	
Ouster in Ejectment	
Searching the Records	1. 6
Attending the striking special Jury and } .. 5. -	
delivering a Copy of the Panel to each } .. 5. -	
party	
Filing the Roll in each action	1. -
Entering Notice of Taxation of Costs and } .. 1. 6	
Exhibiting Copy thereof	
Provost Marshal	
For service of every writ or process, except } .. 2. 6	
Venue Facias and Writ of Possession	

Caption Fee in bailable process	11. 8
Travel per Mile for any purpose in the performance of his duty to be computed from the place where the process is returnable to the place where the party is taken or served	1. 6
If the process be extraordinarily expensive. Additional Attendance to be in the discretion of the Chief Justice on Affidavit of the Circumstances	
Bail Bond for each Surety	3. 4
Swearing Appraisers and appraising property	3. 4
Each Appraiser	3. 4
Serving, receiving and paying all monies on Execution of £100. or in the £. and above £100. 6s. in the £ to £500. and above £500 3s. in the £.	
Service of Venue Facias and returning the panel in each cause	11. 8
Service of writ of possession	11. 8
Returning panel for special Jury	1. 3. 4
Making return of every writ	2. 6
Executing writ of enquiry summoning the Jury and returning Inquisition	1. 3. 4
Bringing up a prisoner by Habeas Corpus	7. 6
	Attending

Attending with Prisoner before Chief Justice or Grand Jury.	} .. 5. -
Custody Fee for every Prisoner whatever payable on Discharge.	} .. 10. -

Gaoler

Fee payable on discharging every Prisoner .. 10. -

Jurors

For every Cause tried by a Common Jury each Jurymen	} .. 1. -
Ditto by a special Jury each Jurymen 2. 6
The fees for taking a view to be taxed at the Discretion of the Court	} ..

Witnesses

For each day attendance in Court 3. 6
Travel per Mile to be Computed from the place of residence to the Court House	} .. 1. 6
The Expence of Travel and Conveyance of Aged and infirm Witnesses to be taxed at the discretion of the Court on Affidavit of the Circumstances	

Crier

For every Cause called in Court 1. -
Calling the Jury for their Verdict 1. -
Calling each Witness or Constable 6

Every Prisoner discharged by proclamation - - - - - 59 6

Coroners

For taking Inquest of Office in lieu
of all other Fees - - - - - } 2. 10. -

The same to be paid out of the Estate
of the Deceased if it be sufficient,
otherwise to be paid out of such Public
Funds, as the Governor or President
for the time being shall think proper,
The Funeral Expences not exceeding
20^l to be paid in like manner, the
Jury fees and allowance of Travel
to be the same as in other Cases - - - - -

And Whereas the expence of prosecuting seizures
for the breach of the Laws of Revenue and
Trade and of an Ordinance of this Island made
for the prevention of illegally taking and
carrying away Coal from His Majesty's Mines
has hitherto been unreasonably great and has
far exceeded the Expence of proceeding to the
Condemnation of Prizes in the Admiralty
Court as directed by the 7th Article of His
Majesty's General Instructions, in order
therefore to Curtail the Expence heretofore
incurred

incurred in prosecuting such Seizures and to restrain
 the same in future within reasonable Bounds.

Be it Ordained and Ordered by the Authority
 aforesaid that from and after the publication
 hereof in any case wherein a prosecution shall
 be instituted for the forfeiture or Condemnation
 of any Seizure made for the breach of any of the
 said Laws or of the Ordinance aforesaid, the
 Fees demandable and payable for the same
 shall be as follows - That is to say -

Supreme Court.

For entry of the Information	5.
Every Information Called on in Court	10.
Signing Judgement Roll	2. 0
Taxing Bill of Costs	2. 0
Every Rule or Summons relating thereto granted	2. 6
Hearing Argument on any Point of Law.	5.

Attorney General -

Attending and Examining Proofs	1. 3. 4
Drawing Information	15.
Copy thereof and filing the same	8.
Citation of party Claiming to appear and make Claim, and delivery thereof to the Clerk in Court	8.

Drawing up Brief..... 15. —

Conducting the Cause in Court..... 2. 6. 8

Motion for proclamation for Claimants..... 3. 4

Motion for Trial..... 3. 4

Motion for Information to be read..... 3. 4

Motion for Judgement by default of }
 Claimants..... 3. 4

Making up Record..... 5. —

Making up Costs and giving Notice of }
 taxing the same..... 5. —

Attending taxation thereof..... 3. 4

Attending to sign the Roll..... 3. 4

Clerk in Court—

Reading and filing Information..... 6. 8

Entering and affixing Citation..... 2. 6

Swearing Evidence... each..... 1. —

Entering each Motion and Rule thereon..... 1. 6

Entering Judgement..... 1. 6

Crier—

Calling Claimants and Evidence..... 3. 4

And be it Ordained & Ordered

by the Authority aforesaid that in Case any such
 prosecution should be unavoidable protracted
 or be attended by Circumstances of a special
 Nature

Nature that such Additional Cost and Charges may be allowed by the Court as to the discretion of the Chief Justice may seem Reasonable and proper.

And Whereas the Expence of Escheating Land which has become forfeit by Non performance of the Conditions of the Grant, have hitherto been so unnecessarily high as to operate to the discouragement of Parties desirous of obtaining Grants of Land so forfeit and liable to Escheat - For remedy whereof, Be it Ordained and Ordered by the Authority aforesaid that the Fees of the Officers herein after mentioned in proceedings in relation to the Premises shall be as follows.....

Court of Escheats.

Commissioner.....	5..	10..	8
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Attorney General.

Drawing Information and filing the same ..	12..	-	
Copy thereof.....	6..	8	
As Counsel in Court.....	1..	3..	4
Each Motion.....	3..	4	
Attending Commissioner to sign Judgement ..	3..	4	

Clerk and Register

Drawing Citation	3.. 4
Each Copy and affixing the same	2. 6
Drawing Inquisition and filing the same	1. 3. 4
Making out Counterpart thereof for Attorney General	} .. 10. -
Swearing and Imparrelling the Jury	
Swearing each Witness	1. -
Every Copy of Inquisition per folio of 72 Words	} .. 1. -

Provost Marshal

Summoning Jury and returning panel 1. 3. 4

Jurors

The same as in Cases of Special Jury

Witnesses

The same as in other Cases.

Crier

Making proclamations each	1. 3
Calling Witnesses... each	6

And for the more certain speedy
and regular payment of the said Fees to the
respective Officers, and others thereto entitled
Be

Be it Ordained and Ordered

by the Authority aforesaid that (except in Cases wherein for special reasons the Chief Justice may think proper to postpone the same) Taxation of the Costs and Charges of each Action or of any proceeding at Law shall be made within one Calendar Month after the Expiration of the Term in which such Action shall have been tried and finally determined, or such proceedings shall have been had and that Notice of the Day and Hour of such taxation (such Day and Hour being convenient to the Chief Justice) shall be delivered in Writing by the Party or his Attorney to the Clerk in Court fourteen Days at least previous to such intended taxation in order that any Person or Persons whose Claim to Costs and Charges in or by reason of the Premises may not have been satisfied, may attend prefer such his, her, or their Claim

Taxation of Costs to be within one Month after proceedings ended

And Notice thereof delivered to the Clerk in Court —

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And be it Ordained and Ordered

by the Authority aforesaid that such Notice of taxation shall be agreeable to the form following — That is to say — Supreme Court Term in the Year of the Reign of King George the Third &c. —

Form of Notice of Taxation —

Notice

Notice of Taxation of Costs and Charges in the (Action
 Information or whatever the proceeding has been) as
 A. agt B. - K. agt C. - or B. agt A. (as the case may be)
 at the place of taxation on Day of at the Hour
 of D. L. Attorneys name which Notice shall
 be entered by the Clerk of the Supreme Court, and be
 affixed on some visible part of the Door of the
 Court House for perusal of all parties concerned,
 to whom it shall be deemed sufficient Notice of
 taxation of the Costs and Charges relating to the
 Action or proceeding therein mentioned.

And be it Ordained and Ordered
 by the Authority aforesaid that if any Claim or Claims
 which shall be made at the time of taxation shall
 appear to the Chief Justice to be legal and proper,
 and the same be unsatisfied, that in such Case the
 Chief Justice may refuse to tax the Bill of Costs
 and Charges, in such Action, Suit, or proceeding,
 provided nevertheless that if the party entitled
 to Costs shall at any future time be perious to
 avail himself of the Verdict or Adjudication in his
 favour, He shall and may upon giving fourteen
 Days Notice in manner aforesaid, have such
 Bill of Costs and Charges taxed, proof being produced
 for

29
to the satisfaction of the Chief Justice at the time of
such taxation, if the said Claim or Claims having been
adjusted either by payment thereof pursuant to Regard
Adjudication, or by the same having been disallowed
by some Court Competent to enquire therein or by
other satisfaction thereof. — And whereas it is
expedient and just that the party entitled to the
benefit of a Verdict or Adjudication in their favour
should not be unnecessarily delayed in obtaining
the fruits of such Verdict or Adjudication — Be it
Ordained and Ordered by the Authority aforesaid
that if any person or persons who shall have
made any Claim or Claims at the time of taxation
of any Bill of Costs and Charges as aforesaid shall
neglect to prosecute such Claim or Claims in some
Court Competent to entertain the Suit or shall
refuse the sum or sums Claimed or tender thereof
between the time of such taxation of the Costs and
Charges as aforesaid, and the time appointed for
the taxation of the Costs and Charges incurred
in the Course of any Action or proceeding at Law
tried or had in the next Term following, that in
any such case upon application for such purpose
made by the party desirous to tax the Costs and
Charges, the Chief Justice shall proceed upon

L. V. 1219

a Day by him appointed, and of which the Party,
so applying shall give notice as aforesaid to tax
the Costs and Charges in such Action or proceeding
at Law; upon a review of the proceedings or by such
means of ascertaining the same as Circumstances
may afford, and such Person or Persons so having
made such Claim or Claims as aforesaid and
having neglected to seek an Adjustment of the same
and every and all Person or Persons who shall
neglect to make or prefer any Claim to his or
their Costs or Charges in relation to the premises
at the time of Taxation, shall in case of prose-
cuting the same against the Party whom they either
have so delayed in respect of the Taxation of the
Bill of Costs or have omitted to apprise of such
Claim in due time, be entitled in case of a Verdict
in their favour to no damages for the retention
of their Debt nor Costs of Suit, and if nonsuited
discontinuing their suit, or Verdict against him,
her, or them shall be liable to double Costs.

And further to prevent unneces-
sary delay in respect to the successful Party
obtaining the fruits of the Verdict or Adjudication
in his, her, or their favour. Be it Ordained
and Ordered by the Authority aforesaid that
whenever the Attorney in the Cause or other
proceeding at Law shall wilfully or negligently
omit

omit to give such notice as aforesaid, and forthwith
to proceed to the taxation of the Bill of Costs
within the time herein before mentioned or shall
unjustly have neglected or refused to pay any fee
or charge, which he was liable to disburse in
the prosecution of the suit in which he was retained
or which he undertook to conduct, in every such
case such Attorney shall not be entitled to any
remuneration fee or gratuity for making up Costs
attending the taxation thereof, nor to his term fee
or any or either of such Fees, such disallowance
to be in the discretion of the Chief Justice, and the
same being exclusive of any remedy at Law,
to which the party aggrieved may be entitled, and
of the Controul incident to every Court over the
Officers thereof.

Be it further Ordained and
Ordered by the Authority aforesaid, that in every
Case wherein Judgement shall be given for the
Plaintiff or Plaintiffs, all fees which shall
have been paid, or shall be due owing or payable
by such Plaintiff or Plaintiffs by virtue of
this Ordinance shall be taxed against, and be
paid by the Defendant or Defendants in such
Cause or Causes, and that in all Causes which
shall be instituted in the Supreme Court
and which shall be retracted

or discontinued without leave of the Court or Consent of the Defendant or Defendants or wherein Judgement shall be given for the Defendant or Defendants, all fees, Costs and Charges which shall have been paid or shall be due, owing or payable by such Defendant or Defendants by Virtue of this Ordinance, which shall be taxed against and be paid by such Plaintiff or Plaintiffs.

And be it further Ordained and Ordered 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 to practice, and in no Cause or Causes wherein any Attorney is not actually employed and for no other Services than such as he shall actually have done and performed in such Cause - provided always that this shall not prejudice or effect the right to payment of Costs and Charges by the unsuccessful party where no Attorney shall have been employed by the party entitled to the same.

And be it also Ordained and Ordered that no fee, costs or charges allowed and established

48
Established by this Ordinance shall be charged
to the Defendant or Defendants, Plaintiff or
Plaintiffs in or by reason of any action or
proceeding at Law, unless a Bill of the particulars
of such Fees, Costs, and Charges is first examined
and taxed by the Chief Justice, or the person or
persons administering his Duties, and a Copy
thereof delivered to the adverse party if required
and notice of the taxation shall have been
given as aforesaid.

Passed in Council
the 28th Jan^y 1805-

Approved, Ordained & Ordered
accordingly in Council this
28th Day of January 1805-
and in the 45th Year of His
Majesty's Reign.

John Despard Major General
& President of Council