

## SESSIONAL PAPER No. 18

for the determination of property in the year 1764 Confined Originally in their Session to two Terms in the year and only now enlarged to three, might have made it necessary to Create Smaller Jurisdictions in order to conform in some Measure to the Ancient practice of the Colony, and to give a freer and quicker Circulation to the Course of Justice, yet we apprehend that even under those circumstances, the Authority given to the Justices hath been both too largely and too confidently entrusted, and requires to be retrenched, if not wholly taken away in almost every Instance.

But that is not all; what is still more unfortunate; we find even those powers large as they are, to have been in some instances extended, and a Jurisdiction usurped to the great prejudice of the parties whose property has been the Subject of it, without any right (as we conceive) to interpose in such Matters, as derived from that Ordinance, or any other Authority that has yet come to our knowledge: for, by the ill penning of that Ordinance, and for want of a Clause which should have expressly forbid them to intermeddle in those Matters, the Justices of Montreal have to our knowledge in one Instance, and probably in many others which have passed without notice, assumed to themselves powers of a Nature not fit to be exercised by any Summary Jurisdiction whatsoever in consequence of which Titles to Land have been determined & possessions disturbed in a way unknown to the Laws of England and inconsistent with the Solemnity and Deliberation which is due to Matters of so high and important a Nature. And we are not without Information, that even in cases where personal property only has been in dispute, One Magistrate in particular under pretence that it was at the desire & request of both the contending parties, has by himself exercised a Jurisdiction Considerably beyond what the Ordinance has allowed even to three Justices in full Court at their Quarter Sessions.

From an Omission of a Similar nature and for want of ascertaining the manner in which their Judgements were to be enforced, we find the Magistrates to have assumed another very high and dangerous Authority, in the exercise of which the Goals are constantly filled with numbers of unhappy Objects, and whole families reduced to beggary and ruin. It being a Common practice and the usual Method of their process to take Lands in Execution and order them to be sold for the payment of ever so small a debt, or in case there are no Lands to satisfy the debt to commit the party to prison the sad Consequences whereof, and wretched Servitude to which a people are reduced whose persons and property are thus exposed, we believe we \*