

*Ordinances of the Lieutenant Governor and Council of His Majesty's Province of Cape Breton passed in the year 1805.* National Archives of the United Kingdom CO 219/2.

45 George III – Chapter 2

**An Ordinance for the Establishment of a Western District being an Ordinance passed the 20th July 1803 for regulating the times of holding the Supreme Court and Sessions of the Peace in the Island of Cape Breton and its Dependencies Published the 3rd August 1803.**

Whereas the Convenience Ease and Benefit of His Majesty's ^faithful and loyal Subjects residing on the Island Madam a Dependency of this Island and in the Western parts of this Province, which were the objects of an Ordinance passed the 20th July 1803, and Published 3rd August 1803 for regulating the times of holding the Supreme Court and Sessions of the Peace in the Island of Cape Breton and its Dependencies cannot be promoted and carried in to effect agreeable to the intention thereof, by reason of no district being defend and expressed which should ^and ought to Comprehend the local jurisdiction of the Supreme Court and Courts of Sessions of the Peace in and for that part of this Government. And whereas such uncertainty enables vexatious and ill disposed litigants wantonly to harras their Opponants by electing to prefer their suits either at Arischat [Arichat] or at Sydney according to their caprice or pleasure to the great and unnecessary increase of Expence and Difficulty in the respect to the Witnesses and production of Evidence and contrary the true intent and meaning of the said Ordinance –

For remedy where be it Ordained and Ordered by His Honor Major General John Despard President of His Majestys Council by and with the advice and consent of the said Council, That from and after the publication hereof the Western District of this Government shall reach or extend to and limited or bounded by the parts and places herein aforementioned, that is to say from Chetican [Cheticamp] to Grand Riviere including all Settlements, Creeks and Rivers, along that Coast and the Island of Madam [Isle Madame] – And all Causes of Action and other matters of Civil or Criminal Cognizance arising within the said District shall be examinable or triable before the Supreme Court or Court of Sessions of the place to be holden in and for the said District, or shall be inquirable within the same as the Case may be – And in like manner all Causes or Action or other matters arising without the said District shall be examinable or triable before the Supreme Court or Court of Sessions of the Peace to be holden for such parts of this Government as are not comprehended within such Western District as aforesaid, and shall be inquirable within such Parts so exclusive of such District as the Case may be – Provided nevertheless that nothing herein Contained shall on any wise abridge, alter or affect the Powers or Authority of the said Court or either of them as recognized and allowed by an Ordinance examined and confirmed the 6th April 1803 “for regulating the times of holding the Supreme Court and Sessions of the Peace in the Island of Cape Breton and & its Dependencies”

Be it all such powers and every such Authority shall obtained and be in force within the said Western District pursuant to the said last recited Ordinance, and the practices and proceedings of such Courts shall be regulated accordingly – And whereas by the Cost recited Ordinance it is Ordained and Ordered that the Practice and Proceedings of the said Courts shall be strictly Conformable to the Practice and Proceedings of the Courts of Kings Bench and of the General

Quarter Session of the Peace in the several Counties in England, and according to the Common Law of England, so far as the same are applicable to the Circumstances of this Island, and according to the Laws and Ordinance of the Island not being repugnant thereunto – And whereas a Considerable part of the practice of such respective Courts is regulated by divers Acts of Parliament as well in respect to bail, Costs, and Damages, Privilege of divers Officers in respect to Venue and duty of Sheriff, as to various other matters which being part of the Laws of England have been extended by His Majesty's Gracious favour to the Inhabitants of Cape Breton and appertain particularly to the Jurisdiction of the said Courts – Be it therefore Ordained and Ordered that in addition to the practice and proceedings of the said Courts being regulated by the course prescribed by the said recited Ordinance, such Parliamentary Provisions as form part of the practice and proceedings of the Court of Kings Bench and Courts of Sessions of the Peace in England, and are applicable to the Circumstances of this Island, be adopted and become part of the Practice and proceedings of the Supreme Court and the Courts of Sessions of the Peace within this Government And be it Ordained and ordered by the Authority aforesaid that in Order to accommodate the Inhabitants of the said Western District, the Supreme Court shall here-after be holden for the said District on the third Monday in August in each year instead of the third Monday in September the time appointed heretofore for holding the said Court

And be it Ordained and Ordered by the authority aforesaid that the Sessions of the Peaces for the said Western District shall be holden at Arischat on the first Monday in April and the first Monday in December in each and every year.

And be it Ordained and Ordered by the authority aforesaid that the grand Jury for the said Western District shall have all powers and Authorities allowed used and exercised by the Grand Jury for those parts of this Government which are not Comprehended within the limits of the said District, and that in respect to the Choice and Presentment of Constable for the Approbation and Appointment of the Court of Sessions, the Grand Juries for the respective parts of this Government shall not be limited in such Choice and presentment, but shall Choose and present to the respective Courts of Sessions a sufficient Number of Constables for the Public service at the various parts of this Island and its Dependencies, as to them might seem necessary.

And be it Ordained and Ordered by the Authority aforesaid that all the duties, powers, and Authorities directed and granted by the Laws of England to Justices of the Peace in respect to the backing of any Warrant which may have been issued against any person or Persons who shall have escaped into and shall be within the Jurisdiction of any other Magistrate, and also in respect to the levying under any Warrant of Distress out of the Jurisdiction of the Justice granting such Warrant where no distress can be found within the Jurisdiction of such Justice, and all other duties, powers, & authorities which apply or appertain to Justices of the Peace in England in regard to their Acts as they respect other Counties, than those wherein they respectively reside, or within which only they have Jurisdiction, shall extend and have similar force and efficacy within and in respect to the said Western Division, in regard to the duties, powers, and authorities of any Justice of the Peace within any other part of this Government, and in like manner shall such duties, powers and authorities of Justices of the Peace within the said Division be extended and have force and efficacy in regard to other parts of this Government no Comprehended or forming part of such division as aforesaid

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Approved, Ordained & Ordered  
accordingly in Council the  
third of June 1805 –

John Despard Majr Genl  
& President of Council