

Laws of Her Majesty's Province of Newfoundland, passed in the year 1852.

15 Victoria – Chapter 15

An Act to remove Doubts with reference to the application of certain portions of the Criminal Law of England to this Island. (Passed 14th June, 1852.)

Whereas in and by an Act of the Governor, Council and Assembly of Newfoundland, passed in the First Year of Her Majesty's Reign, entitled "An Act to extend the Criminal Laws of England to this Colony, under certain modifications," it is enacted that the Criminal Laws and Statutes of the Imperial Parliament in force in England on the Twentieth Day of June, in the Year of Our Lord One Thousand Eight Hundred and Thirty-Seven, should, so far as the same can be applied, extend to and be the Law of this Island and its Dependencies, in all cases; and that all Statutes of the Imperial Parliament of Great Britain in further amendment or alteration of the Criminal Law of England, passed, or which might be passed, subsequently to the Twentieth Day of June aforesaid, should, in Twelve Months after the passing of the same respectively, extend to and be the Law of this Colony, so far as the same can be applied: And whereas an Act was passed in the Imperial Parliament of the United Kingdom of Great Britain and Ireland, in the Eleventh and Twelfth Years of Her Majesty's Reign, entitled "An Act for the further amendment of the Administration of the Criminal Law," whereby it is provided that Questions of Law arising upon the Trial of any Person for Treason, Felony, or Misdemeanor, before any Court of Oyer and Terminer, or Gaol Delivery, or Court of Quarter Sessions, shall and may, at the discretion of the Judge or Commissioner, or Justices of the Peace, before whom the case shall have been tried, be reserved for the consideration of the Justices of either Bench, or the Barons of the Exchequer, in the manner in and by the said Act specified: And whereas, it is by the said Act further enacted, that the Jurisdiction and Authorities thereby given to the Justices of either Bench, and the Barons of the Exchequer, shall and may be exercised by the said Justices and Barons, or Five of them at the least, of whom the Lord Chief Justice of the Court of Queen's Bench, and the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of Exchequer, or one of such Chiefs, at least, shall be part: And whereas, in the application of the said Act to this Colony, Doubts have arisen whether the Supreme Court of this Island, by reason of the limited number of the Judges thereof, can lawfully exercise the Jurisdiction and Authorities in and by the said Act conferred upon the said Justices and Barons, or any Five of them, as in and by the said Act provided; and it is expedient to remove such doubts:

Be it therefore enacted, by the Governor, Council and Assembly, in Legislative Session convened, and by the authority of the same, that when any Person shall have been convicted of any Felony or Misdemeanor before any of the Circuit Courts of this Island, or any Court of Oyer and Terminer other than the Supreme Court, or before any Court of Sessions, the Judge or Commissioner or Justices of the Peace before whom the case shall have been tried, may, in his or their discretion, reserve any Question of Law which shall have arisen on the Trial for the consideration of the Judges of the Supreme Court of this Island; and there-upon the like Proceedings may be had as to respiting execution of the judgment on such conviction—postponing Judgment until such Question shall have been considered and decided,—the committing to Prison the Person convicted, or the taking Bail for his appearance to receive Judgment, or to render himself in Execution,—the stating in a Case, to be signed in the usual

manner, the Question or Questions which shall have been so reserved, with the special circumstances upon which the same shall have arisen and the certifying and transmitting of the same to the Supreme Court,—as in and by the said recited Act are directed and prescribed, in reference to Questions of Law to be reserved in the manner therein provided.

II. And be it further enacted, That the Jurisdiction and Authorities by the said Act given to the Justices of either Bench, and Barons of the Exchequer, shall and may, in this Island, be exercised by the Supreme Court of Newfoundland during the regular Terms or Sittings of the same Court, or by the Judges thereof at any time or times during Vacation that they may deem convenient and appoint for such purpose.

III. And be it further enacted, That all Judges, Commissioners, and Courts of Quarter Sessions, before any of whom any such Person shall be tried and convicted; and all Justices, Registrars, Clerks of the Peace, Sheriffs and Gaolers, in this Island and its Dependencies, shall and may respectively have and exercise all and every such Authorities, Powers and Discretion, as in and by the said recited Act of the Imperial Parliament are given and granted to, or may be exercised by, the Judges, Commissioners, Courts of Session, Clerks, Sheriff and Gaolers, in the second Section of the said recited Act mentioned.

IV. And be it further enacted, That it shall be lawful for any one of the Circuit Courts of this Island before which any person shall be convicted of any offence, and upon such offence shall be sentenced to imprisonment with or without hard labor, or for any Judge of any such Circuit Court, to order and direct that the whole or any portion of such imprisonment shall take place in any Gaol or Prison in this Island, although the same may not be within the limits of the jurisdiction of such Circuit Court; and a certified copy of the Sentence of the Court, or of any order for such imprisonment, under the hand of the Clerk of such Circuit Court, shall be a sufficient warrant and authority to all Sheriffs, Gaolers, and Constables respectively, for the removal from one District to another of any such Convict, and for the carrying into execution such sentence of imprisonment, or order, as the case may be.