

Laws of Her Majesty's Province of Newfoundland, passed in the year 1859.

22 Victoria – Chapter 3

An Act to Remove Doubts respecting the Constitution of the Supreme Court. (Passed 20th April, 1859.)

Whereas by an Act passed in the Parliament of the United Kingdom in the Fifth Year of the Reign of His Majesty King George the Fourth, entitled “An Act for the better administration of Justice in Newfoundland, and for other purposes,” and by the Royal Charter of Justice issued thereupon, it is declared and provided, that the Supreme Court of the said Island shall be holden by and be composed of a Chief Judge and two Assistant Judges: And whereas doubts have arisen as to the necessity of the said Three Judges being actually present on the Trial of Issues and the transaction of other business in the said Court.

Be it Enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, That in the event of the temporary illness of any of the said Judges, or sitting apart for the assessment of damages and other matters hereinafter provided, all Actions, Suits and other Proceedings, of what nature or kind soever, which now are or hereafter may be pending in the said Supreme Court, may be tried, heard, and determined, before the remaining Judge or Judges, as fully and effectually, to all intents and purposes, as if the Three Judges were actually present; except, in cases of Treason and Capital Felony, when Three Judges shall be present; and on the hearing of rules for new trials, motions in arrest of judgment, and of appeals, and re-hearing in Suits in Equity, when Two Judges shall be present. Provided that nothing herein contained shall prevent or incapacitate any of the said Three Judges from performing any act or transacting any business which a single Judge of the said Court might, before the passing of this Act, lawfully perform or transact.

II. When a pressure of business in the said Supreme Court shall require, and the same can with convenience be done, it shall be lawful for any one of the Judges, during term, to sit apart from the rest for the assessment of damages, and to hear and determine ordinary motions and other interlocutory and summary suits and matters pending in the said Court.

III. That it shall be lawful for the Supreme Court to issue Original Process directed to any of the Sheriffs in the said Island, and returnable before the Northern or Southern Circuit Courts respectively, when the defendant resides or has a place of business within the jurisdiction of the Court into which said Process shall be returnable; and such Process shall be executed in the same manner, and shall be duly returned into the Court where it is made returnable, and shall have the same force and effect, as if the same had been issued by the Court before which it is made returnable.