SIR M. B. BEGBIE, C. J.—The argument in this case has arisen under the following circumstances:

The plaintiffs, the owners of the ship "Thrasher," completely wrecked on the 14th July, 1880, while being towed by two tugs from Nanaimo, have commenced an action in the Supreme Court against the owners of the two tugs, alleging that the loss was occasioned by the neglect and misconduct of the tugs, and they claim $80,000 damages. Certain issues of fact were tried before myself and a special jury in June last, and on the 12th July I gave judgment in favor of the defendants, mainly in accordance with the findings of the jury. The plaintiffs were dissatisfied with my charge to the jury, with the findings, and generally with the judgment; and they wished to obtain a new trial, or to have judgment entered up for them, and to apply immediately to the full Court for that purpose. But the local Act, No. 1 of 1881, had in the meantime come in force on the 28th June last, the 28th section of which enacts that a full Court shall only sit once in each year, on a day to be named in the rules of Court, and by section 32 such rules were to be made by the Lieut.-Governor in Council. A full Court of the Supreme Court here had sat on the 27th June, and no day had been as yet appointed under the authority of the above statute for the sitting of the full Court: and it evidently might not be appointed for a considerable time. It was not concealed on the part of the plaintiffs that if the opinion of the full Court here should be unfavorable to them, they intended to take the case by way of appeal to the Supreme Court at Ottawa; but that Court does not generally take an appeal direct from a *nisi prius* decision. I therefore suggested that the plaintiffs should apply to that Court for special leave to appeal direct; and authorized them to state that in my opinion, from the magnitude of the amount at stake, the importance of the points of law involved and, above all, the indefinite delay which very recent local legislation had imposed upon any application to the full Court here, I thought it a case in which this unusual sort of appeal should be entertained, if consistent with the practice of that Court. An application to that effect was accordingly made to the Supreme Court of Canada, but that Court declined to entertain any appeal until the *nisi prius* decision had been submitted for review before the full Court here. An application was then made to myself in Chambers (7th November) and ultimately to all the judges on the 24th November, requesting that a full Court might be held by us forthwith of our own authority; and the ground was taken that the above sections 28 and 32 were *ultra vires*, unconstitutional, and void, so far as they hindered this. A notice, however, had then been recently published in the *Gazette* intituled a "Report "of a Committee of Council approved by the Lieut.-Governor," in which it was recommended that certain alterations in the rules of practice heretofore in use should be made, and also that a full Court should be held on the 19th of December. I therefore desired that the application should stand over until that day, when the validity of the objections to the above sections might be considered, and if overruled, that the application might then be made to us as a full Court; and that notice of that order should be given to the law advisers of the Crown.

On the 19th of December accordingly the three Judges now in Victoria (Mr. Justice McCreight being detained at Richfield) sat together, not as a full Court, but to determine whether we were then lawfully sitting as a full Court. A technical objection was immediately taken