

points of law should be first disposed of. The Supreme Court of Newfoundland, after hearing argument, held that the statement of defence disclosed no answer to the plaintiffs' claim, but gave the defendant leave to amend. In their Lordships' opinion this judgment was clearly right, unless the defendant's acts can be justified on the ground that they were done by the authority of the Crown for the purpose of enforcing obedience to a treaty or agreement entered into between Her Majesty and a foreign power. The suggestion that they can be justified as acts of State, or that the court was not competent to enquire into a matter involving the construction of treaties and other acts of State, is wholly untenable. The learned Attorney-General, who argued the case before their Lordships on behalf of appellant, conceded that he could not maintain the proposition that the Crown could sanction an invasion by its officers of the rights of private individuals whenever it was necessary in order to compel obedience to the provisions of the treaty. The proposition he contended for was a more limited one. The power of making treaties of peace is, as he truly said, vested by our constitution in the Crown. He urged that there must of necessity also reside in the Crown the power of compelling its subjects to obey the provisions of a treaty arrived at for the purpose of putting an end to a state of war. He further contended that if this be so, the power must equally extend to the provisions of a treaty having for its object the preservation of peace; that an agreement which was arrived at to avert a war which was imminent was akin to a treaty of peace, and subject to the same constitutional law. Whether the power contended for does exist in the case of treaties of peace, and whether, if so, it exists equally in the case of treaties akin to a treaty of peace, or whether in both or either of these cases interference with private rights can be authorized otherwise than by the Legislature, are grave questions upon which their Lordships do not find it necessary to express an opinion. Their Lordships agree with the court below in thinking that the allegations contained in the statement of defence do not bring the case within the limits of the proposition for which alone the appellant's counsel contended. Their Lordships will, therefore, humbly advise her Majesty that the appeal should be dismissed with costs.