

Nunc Pro Tunc Definition:

Latin: deemed retroactive. Nunc pro tunc is a Latin expression in common legal use in the English language. It means now for then. In general, a court ruling "nunc pro tunc" applies retroactively to correct an earlier ruling.

(Latin) now for then; deemed retroactive - a Court order or judgment which has been antedated.

From *Krueger v Raccah* (1981) the Saskatchewan Court of Queen's Bench defined *nunc pro tunc* as follows:

"(T) he common law power of the Court to permit that to be done now which ought to have been done before. The power is used sparingly and traditionally its exercise has been confined to a narrower range of facts and circumstances..."

"Most often one encounters the power being used to overcome an administrative failure of the Court, in the nature of a slip or omission where there is no prejudice to the parties, rather than in the cure of a failing of one of the litigants."

It is said that the rationale behind the doctrine of *nunc pro tunc* is that the parties should not be prejudiced by an act or omission of the court, especially a delay in delivering reasons or judgment.

In *Chitty's Archbold's Practice of the Court of Queen's Bench* (1858), as cited in *Turner v. London and South-Western Railway Company*:

"The Court will in general permit a judgment to be entered nunc pro tunc, where the signing of it has been delayed by the act of the Court."

"Therefore, if a party die after a special verdict, or after a special case has been stated for the opinion of the Court, or after a motion in arrest of judgment, or for a new trial, or after a demurrer set down for argument, and pending the time taken for argument, or whilst the Court are considering their judgment, the Court will allow judgment to be entered up after the death nunc pro tunc in order that a party may not be prejudiced by a delay arising from the act of the Court."

In a family law context, *Parker v Atkinson* (1993):

"There is inherent jurisdiction in the Court to make orders nunc pro tunc to validate proceedings which have been carried out and have been found ineffective by reason of some slip or oversight having been made in the conduct of such proceedings, and to ensure against some injustice resulting therefrom."

In *Legroulx v. Canada* (1998), the Tax Court adopted this definition of *non pro tunc*:

"The order of a court that a proceeding be dated with an earlier date than the date it actually took place, or that the same effect be produced as if the proceeding had happened at an earlier date."

