

**UNIFORMITY OF MERCHANT SHIPPING LEGISLATION AND
ADMIRALTY JURISDICTION THROUGHOUT THE
BRITISH EMPIRE.**

The Statute of Westminster, came into force on the 11th day of December, 1931. The general effect of the Statute is that the Colonial Laws Validity Act, so far as it applies to any law made by a Dominion after the commencement of the Act, is repealed; that hereafter instead of the legislation of the Imperial Parliament overriding repugnant Dominion legislation, Dominion legislation within its sphere of operations, is supreme; that each Dominion has the right to repeal or amend Imperial legislation extending to such Dominion, including legislation relating to Merchant Shipping and Admiralty Courts; that each Dominion has power to make laws having extra-territorial operation; that each Dominion has full power over its own ships both extra-territorially and intra-territorially and also complete jurisdiction over all ships which enter its harbours or territorial waters; that each Dominion has full control over its own Admiralty Courts, including power to define the jurisdiction and procedure of such Courts.

The Statute was passed by the Parliament at Westminster on the recommendation of the Imperial Conference, 1930, approving and adopting the Report of the Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929.

The fact should be kept prominently in mind that the Report of the 1929 Conference made recommendations, which were approved by the 1930 Imperial Conference, as to the necessity for uniformity in Shipping and Admiralty Court legislation, which are in the highest degree important in the interests of Empire unity and which should be implemented before any of the Dominions enact new laws relating to Shipping or to Admiralty Courts.

With respect to Admiralty Courts, the Committee of 1929 strongly emphasized

“that so far as is possible there should be uniform jurisdiction and procedure in all Admiralty Courts in the British Commonwealth of Nations, subject, of course, to such variations as may be required in matters of purely local or domestic interest.”

The only way to obtain such uniform jurisdiction and procedure is to appoint a British Commonwealth Committee, composed of representatives from Great Britain and the Dominions, which should

be entrusted with the task of preparing the necessary legislation and rules of procedure

With respect to Merchant Shipping legislation the Committee of 1929, after pointing out that shipping is a world-wide interest in which uniformity is from the nature of the case desirable, indicated in their Report a number of matters in which uniformity of laws throughout the British Commonwealth would be of great importance in the interests of all. Their recommendation was that, in respect of these matters, an agreement should be prepared covering a term of years for execution by Great Britain and all the Dominions. A shipping agreement along the lines indicated was approved by the 1930 Conference and was executed on December 10th, 1931, by Great Britain and by all the Dominions. The Report of the 1929 Committee also indicated that legislation would be necessary in order to implement that agreement. This is quite obvious, but it is further quite obvious that if it is left to each Dominion to separately translate the agreement into a statute, the result will be anything but uniformity. Even a layman appreciates the fact that a very slight difference in the wording of a statute may change its whole meaning.

Here again, therefore, it is necessary to have a British Commonwealth Committee whose duty it would be to prepare model sections for a statute covering the many matters dealt with in the shipping agreement.

It is rumoured that Canada is to take the lead in suggesting the appointment of a British Commonwealth Committee to deal with both shipping and Admiralty Court legislation. The appointment should not be long delayed and in the meantime, each Dominion should agree not to introduce any legislation in any way changing the present position. Any Committee entrusted with the task of drafting a new Merchant Shipping Act for adoption throughout the British Commonwealth would naturally follow the model of the present Imperial Act. That Act, however, dates back over seventy-five years, or to the year 1854. It has frequently been amended but never revised or rewritten since that date. The Act was drafted in the days of sailing ships and before the cable, radio and other modern aids to navigation and shipping were in use. The present Act with its amendments has served its purpose well, but there is no doubt that for these modern days it can be greatly improved. Here then is an opportunity for a well selected Committee to prepare a modern Act to regulate and protect Merchant Shipping throughout the British Empire in all general matters, but not, of course, including regulation in matters of merely local or domestic concern.

The Statute of Westminster is entitled, "An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930" and was based on the Balfour report defining the status of Great Britain and the Dominions. This report describes "free institutions" as the life-blood of the British Empire and "free co-operation" as its instrument. Uniformity of legislation with respect to Shipping and Admiralty Courts is important in itself but the free co-operation of Great Britain and the Dominions in bringing about uniformity of laws in these and other matters will be an instrument to assist in cementing the unity of the Empire. If, on the contrary, the nations composing the British Commonwealth neglect to freely co-operate in the important matter of uniformity of legislation in such essential matters as Shipping, it will be an indication that the ties of Empire have not been strengthened by the enactment of the Statute of Westminster.

CHARLES J. BURCHELL.

Halifax.

EDITOR'S NOTE.—Mr. Burchell was Chairman of the Committee on Merchant Shipping Legislation at the Conference on the operation of Dominion Legislation and Merchant Shipping Legislation held in London, 1929.
