

80. There are a number of subjects in which uniformity has hitherto been secured through the medium of Acts of the Parliament of the United Kingdom of general application. Where uniformity is desirable on the ground of common concern or practical convenience, we think that this end should in the future be sought by means of concurrent or reciprocal action based upon agreement. We recommend that uniformity of the law of prize and co-ordination of prize jurisdiction should, agreeably with the above principle, be maintained. With regard to such subjects as fugitive offenders, foreign enlistment, and extradition in certain of its aspects, we recommend that before any alteration is made in the existing law there should be prior consultation and, so far as possible, agreement.

81. Our attention has been drawn to the definition of the word "colony" in section 18 of the Interpretation Act, 1889, and we suggest that the opportunity should be taken of the proposed Act to be passed by the Parliament of the United Kingdom to amend this definition. We have accordingly prepared the following clause:—

"In this Act and in every Act passed after the commencement of this Act the expression 'Dominion' means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and the Irish Free State, or any of them; and the expression 'colony' shall, notwithstanding anything in the Interpretation Act, 1889, not include a Dominion or any Province or State forming part of a Dominion."

82. In making the recommendations contained in this part of our report, we have proceeded on the assumption that the necessary legislation and the constitutional conventions to which we have referred will in due course receive the approval of the Parliaments of the Dominions concerned.

## PART VI.—MERCHANT SHIPPING LEGISLATION AND COLONIAL COURTS OF ADMIRALTY ACT, 1890.

### I. MERCHANT SHIPPING LEGISLATION.

#### *Present Position.*

83. The general position is that the Dominions are empowered by their Constitutions to enact laws relating to merchant shipping subject to varying limitations. For instance, in the Constitutions of Canada and Australia\* "navigation and shipping" is expressly mentioned as one of the matters in respect of which their Parliaments may legislate, but under legislation extending to the Dominions, or to the territories which now constitute the Dominions, which was enacted by the Parliament of the United Kingdom before 1911, and which is still the controlling legislation in respect of merchant shipping, the Legislatures of the Dominions are treated as subordinate Legislatures. The reason for this is not difficult to understand when it is explained that the Merchant Shipping Act, 1854, which was made for the situation existing at that date, is substantially the legislation which continues to be applicable to the Dominions. The Merchant Shipping Act, 1894, which with its amendments is now the governing Act, was merely a re-enactment of the 1854 Act, with the insertion of amendments made during the intervening years. In the year 1854 none of the Dominions as such was in existence, and it is obvious that legislation cast in a form appropriate to the constitutional status of the British possessions over half a century ago must be inconsistent with the facts and constitutional relationships obtaining in the British Commonwealth of Nations as that system exists to-day.

84. Since the year 1911 the practice has been established that enactments of the Parliament of the United Kingdom in relation to merchant shipping and navigation have not been made applicable to the Dominions. In general, all shipping legislation passed by the Parliament of the United Kingdom since that date has been so framed as not to extend to the Dominions.

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\* In the case of Australia, this is qualified by the fact that "navigation and shipping" is itself comprised within the matter of trade and commerce with other countries and among the States, so that intra-State shipping belongs not to the Commonwealth Parliament but to the States. The consequences arising from this division of power within Australia itself lie outside the consideration of this Conference.