

of the Dominions on their request. Section 4, by requiring that any legislation shall expressly declare that it applies to the Dominions, also makes it clear, particularly to the Courts, that such legislation extends to the Dominions.

D. SECTIONS 5 AND 6: LEGISLATION CONCERNING MERCHANT SHIPPING AND COURTS OF ADMIRALTY

26. Section 5 provides :

5. Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

27. Under section 735 the New Zealand Parliament may, with respect to ships registered in New Zealand, repeal any of the provisions of the 1894 Act (Imperial) or its amendments, other than those which relate to emigrant ships. The New Zealand Parliament is then in a position to substitute its own laws. But the Act providing for repeal must be confirmed by His Majesty in Council and does not take effect until the approval has been proclaimed in New Zealand. This section, as well as section 736, combined with the Colonial Laws Validity Act, 1865, can and does produce unexpected as well as irksome results. If there should be any conflict of laws dealing with masters and seamen (Part II of the Imperial Act), the case is apparently to be governed by the 1894 Act and not by the laws of New Zealand. Our authority to make laws with extra-territorial effect may be questioned. New Zealand may not make laws repugnant to the Imperial statute affecting ships registered in other parts of the Commonwealth or in foreign countries.

Section 736 enables the New Zealand Parliament to regulate our coasting trade. Such legislation must, however, be reserved for the Royal Assent, it must treat all British ships alike, and preserve any coastal trading rights granted to a foreign Power before 1869.

The continued application to New Zealand of these two sections of the United Kingdom Statute is in accordance with neither the constitutional position of New Zealand nor the legal necessities of a sovereign legislative Assembly.

28. Section 6 provides :—

6. Without prejudice to the generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.