

tice in America, where the principles of the criminal code are the same as in England and Ireland, would seem to afford a better subject of comparison. The most recent suggestions by jurists in the United States point to the abolition of the office of coroner, and to the substitution of the district attorney as an investigator into crime; and the State of Massachusetts, I believe, has given practical recognition to the suggestion by prospectively abolishing coroners in that state.

It is scarcely necessary for me observe that two principles which have been acted on in all legal reforms are to be kept steadily in view: the first, that no public servant should be compelled to discharge duties entirely dissimilar from those he contracted for; and the second that when an officer's duties are abolished he should be amply compensated for his loss. I may add further, that such changes as I have tried to suggest are the kind of changes that can with the least public inconvenience be gradually introduced. On the vacating of a coroner's place, the duty of inquiry into deaths and all other suspicious cases might be transferred to the sessional crown solicitor, if he were willing for the additional remuneration to undertake the additional duty; and again, as a crown solicitor's place became vacant, the sessional crown solicitor might be promoted to the place without surrendering his sessional work, on a salary fit to remunerate him for the entire duty; or in large counties the work might be divided between two, who should be each responsible for his own district. And finally, it might and I think should, in future appointments be made a condition that the solicitor should reside in the county, and take the oversight and conduct from the commencement of all criminal investigations within his district as a responsible public prosecutor.

---

VIII.—*Report of the International Law Committee, on the Impediments to the Trade between the United Kingdom and America which exist in Dublin from the unsatisfactory state of the Law as to Foreign Sailors.*

[Read by Philip H. Bagenal, Esq., 26th June, 1877.]

WE requested Mr. Bagenal, one of our body, to make enquiries as to what impediments to the trade between The United Kingdom and America exist in the port of Dublin; and he wrote to the United States consul. The answer, in effect, was that the chief complaints were a lack of power to act on the side of the local authorities as well as on the side of the consul; that the United States and the United Kingdom have no treaty regarding sailors; that police aid to recover deserters is extended sometimes, and that by courtesy only. The consul's note ended with a suggestion that a reciprocal convention between the two countries would arrange matters satisfactorily.

Mr. Kent, in his commentaries on the American law, says the

marine law of the United States is the same as the marine law of Europe. The American shipping laws, indeed, are merely the English shipping laws of seventy-five years ago, without any of the enlightened legislation shown in the act of 17 & 18 Vic. c. 104. According to the old general maritime law, a seaman by desertion from his ship incurs a forfeiture of his wages; but by the statute law of the United Kingdom there is a large discretion in the court as to the amount of punishment and extent of forfeiture to be applied in each case. The deserter is liable under the statute, if he desert in a foreign port, to forfeit all or any part of the wages he may earn in any other ship in which he may be employed until his next return to the United Kingdom. This is no doubt a very useful measure

The seamen employed in the American merchant service are made subject to special regulations, prescribed by acts of Congress, for their government and protection; but it does not appear that there is sufficient power for either the local authorities in the United Kingdom or the captains of American ships, enabling them to deal with the defaults of seamen. The American shipping articles are contracts in writing or in print, declaring the voyage and the term for which the seamen are shipped, and the rate of wages, and when the seamen are to render themselves on board; and the articles are to be signed by every seaman or mariner on all voyages from the United States to a foreign port. The seamen are made subject to forfeitures if they do not render themselves on board according to the contract, or if they desert the service; and they are liable to summary imprisonment for desertion, and to be detained until the ship is ready to sail.

The act of Congress of 1829, c. 202, provided for the apprehension of deserters from certain foreign vessels in the ports of the United States; but it does not appear that there is any authority in The United Kingdom except under the general maritime law, to assist masters to retake a deserting foreign seaman.

The act of Congress of July 20th, 1840, c. 23, authorizes an examination by the consul or commercial agent in a foreign port into the complaints of mariners, and it is made the duty of consuls to reclaim deserters by every means within their power, and lend their aid to the local authorities for that purpose. There can be no doubt that more frequently appeals would be made to local authorities for assistance in compelling foreign seamen to fulfil their contracts and render themselves on board, if quick and easy redress could be obtained; but at present it would seem that captains, in order to save time, rather try to inveigle back a deserting seaman than apply for help to the local authorities, perhaps to be informed that there was not sufficient power to act. Again, in the case of a mutiny or mutinous conduct, there is no doubt captains are inclined more to patch up a quarrel and put to sea with a crew in a more or less dangerous state, than apply for protection to the local authorities, where, unless they bound themselves over to prosecute, no action would be taken by the magistrate. In many cases, of course, this would be impossible, as the ship might have cleared out of port long before the time came for the case to go to trial.

In whatever court it may hereafter be decided to have the jurisdiction in such a branch of international law, there can be little doubt that owing to the friendly relations at present between the United States, and the United Kingdom, and the small differences at present existing in the ordinary contracts of trade and commerce between the two countries, very little difficulty ought to be experienced in obtaining a convention, assimilating as much as possible, the laws affecting the trade of both countries.

There is no reason why we should not recognise in our own courts any contract between foreign sailors and owners or captains, which are not inconsistent with our own laws. It would be for the benefit of the sailor, as well as of the captain, and the knowledge of there being a complete jurisdiction in the port to which a ship is bound would have a salutary effect upon all parties.

A short review of the relations between the United Kingdom and the United States is absolutely necessary, to understand why there is so great a lack of useful treaties and conventions between the two countries on the subject in hand, up to comparatively a very recent date.

In 1782 the treaty of peace and acknowledgment of the United States independence was concluded; but for several years grave disputes were rife among both parties on the subject of mutual infractions of this treaty. The United States government, however, became further exasperated by the British Admiralty Instructions of 1793 to ships of war and privateers, ordering the seizure of all neutral vessels laden with corn, flour, or meal, destined for French ports, and of all neutral vessels, except those of Denmark and Sweden, attempting to enter any blockaded port. As Denmark, Sweden, and the United States were the principal neutral maritime powers, there was no question as to the vessels against which this provision was aimed.

From the year 1800 to 1807 the American complaints of hostile aggression by the United Kingdom against the commerce of the United States became redoubled. In 1806 the whole coast from the Elbe to Brest was declared to be in a state of blockade. By this Act the well established principles of the law of nations which have fixed the boundary between the rights of belligerents and neutrals were violated. The next act of the British government was an Order in Council of 1807, by which neutral powers were prohibited from trading from one port to another of France or her allies, or any other country with which the United Kingdom might not freely trade. Another order in council of the same year, of a more rigorous character, with regard to blockade and captures at sea, together with the aggressive attitude of the British government, alarmed the American President, Mr. Madison, so much that he transmitted a confidential message to Congress, in which war with the United Kingdom was recommended.

But there was another subject of complaint which, as much as the orders in council drove America to war with the United Kingdom. This was the impressment of American seamen by the British. In answer to the complaints of the American government, Lord Castle-

reagh declared in Parliament that not more than 1,700 Americans could be found in our navy, while 16,000 British sailors were serving in the American navy. The British system of impressment not only irritated the Americans, but drove great numbers of the British sailors into the American service; and to obviate this, the British government proposed that the true American seamen should always carry with them certificates of their citizenship. This Mr. Jefferson refused. He had been incessantly complaining that American commerce and navigation had been suffering continually from British wrong and violence, which were never offered to their flag by any other nation. Jefferson held, that the simplest rule would be that a vessel being American should be sufficient evidence that every man on board was an American citizen; that the flag ought to proclaim the citizenship of the whole crew, and not allow of any search or press. The result of these three grievances—the restriction of the trade of neutrals, the alleged British right of search on board American vessels for British seamen, and the alleged right of impressment, was the war of 1812. The words of the historian Miss Martineau on the subject are remarkable:—"We plunged into a contest as purposeless as foolish, as unnecessary as it was ill managed, useless, and merely as a war discreditable to us. During its progress we find recorded, incessant arguments as to what the war was about, whether about the orders in council, or the right of search; and the war ended without the settlement of any question that had been proposed."

It will be seen, then, that up to 1812 the relations between the United Kingdom and the United States were such as to preclude any settlement of the law of international marine.

After the peace of 1814 there were several negotiations between the United Kingdom and America, and the result was the commercial convention of 1815, which was renewed 1818 and 1827; but no mention was made in any of these conventions of any solution of the questions of impressment, or right of search, which had been the origin of the war of 1812.

But probably what embarrassed statesmen of both countries most in their endeavours to promote commercial harmony, was the great and burning question of the slave trade. As long as any portion of the American navy consisted of slaves who had no political status, it was impossible to contemplate any convention that would be in any way binding between American captains and seamen in our ports. The feeling in the United Kingdom since the beginning of the century had been strongly in favour of the abolition of the slave trade, and the subject was again and again mooted between statesmen of both countries; but all efforts to conclude a treaty to that effect proved abortive.

In 1833 the abolition of slavery in the British colonies was effected by statute, and other statutes were passed in 1838 to carry into immediate execution any treaty with any foreign power for the suppression of the slave trade. This pointed to an expectation that America was about to follow the example so nobly set by the United Kingdom, but the feeling on the subject was greatly divided, and the opposition proved too strong. When, however, in 1850 the

Fugitive Slave Law was passed in America, the future emancipation of the slaves in the United States might well have been despaired of, for this measure recommended the remanding of escaped fugitives into slavery as a duty binding on good citizens. It was of course impossible for the United Kingdom to recognise such a law as that, it being one of the first principles of our law, that anyone setting foot upon British soil becomes at once free; and hence another difficulty arose about any attempt to assimilate the British and the American law of marine.

The whole difficulty, however, of the slave question was solved by the event of the American Civil War. In 1862 a treaty was ratified between the United States and the United Kingdom for the suppression of the slave trade, and thus another obstacle to the assimilation of our law of marine removed.

The important question of American citizenship and the constant refusal of the United Kingdom to recognise it, has been already adverted to as an obstacle in the way of reform in the laws of marine, and it was not until 1870 that any direct legislation was effected upon the subject.

In that year a convention was concluded between the two countries, regulating reciprocally the naturalization of citizens in either dominions, and the renunciation of such citizenship. In this measure was removed the last and most important obstacle to the assimilation of the British and American law of marine. It was one of the causes which led to the war of 1812, and a question of which the importance may be estimated by the length of time which elapsed before its final adjustment.

There is now no reason why, by a convention to that effect, we should not recognize, in a court properly constituted for the purpose, any contract between sailors and captains, not inconsistent with our own laws. In the case of mutiny, desertion, or disputes between captains and traders, it would be an incalculable boon to have a tribunal competent to consider any such differences, and to give a quick and final judgment thereon. It is for this object that we drew up the report, which has already been read at the Society's meetings.

We recommend that this report be brought under the notice of the International Law Congress, at their meeting at Antwerp in August next.

---

IX.—*Report of the Charity Organisation Committee on the Organisation of the Courts by which Drunkenness is punished, in connexion with suggested extension of the Justices' Clerks Act, 1877, to Ireland.*

[Read by Constantine Molloy, Esq., on 26th June, 1877.]

I.—*The Working of the existing Punishments for Drunkenness.*

IN investigating the causes of distress, drunkenness appears at once to be one of the chief causes. It is also intimately connected with