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

the prevalence of vice, as it weakens the checks against immorality. So again, the distress and low moral tone that spring from drunkenness, are prolific sources of crime.

The first matter to investigate is, whether the existing punishments in Ireland for drunkenness, and for the assaults and violence it gives rise to, are in a satisfactory state. Upon this point Sir Michael Hicks Beach, Chief Secretary for Ireland, when introducing the Prisons Bill on the 9th of February in the present year, states:—

> "As to the sentences of forty-eight hours for drunkenness, he believed they did much more harm than good. Anybody who had taken notice of the judicial statistics of Ireland, would have noticed with regret the terrible increase of the offences of drunkenness in that country. He was bound to say that this state of things was owing to the mistaken leniency of the magistrates and infinitesimal fines, and the absurdly short and unsatisfactory terms of imprisonment that were imposed."

The Irish statistics thus referred to presented a singular contrast to the English. While in a portion of the population of England and Wales equal to that of Ireland, the number of persons committed for offences determined summarily in 1875 was 21,214, as compared with 18,729; the number fined in Ireland was 170,056 as compared with 76,531 in a corresponding portion of the population of England and Wales. In Ireland those sent to gaol for upwards of three months on summary convictions were, in 1875, only 415; while the corresponding number for equal population in England was 880. The number sent to gaol for fourteen days and under was 8,820 in a portion of England, compared with 9,068 in equal population in Ireland.

While the prevalence of inadequate punishments, which the Chief Secretary has called attention to, and the causes of it, has received little attention in Ireland, we find that the corresponding question in England (though inadequate punishments are less prevalent there) has attracted the notice of the Howard Association, and that body has directed attention to a cause which would not, in the first instance, be suspected. The Association traces the prevalence of small punishments to the system of paying magistrates clerks by fees on each proceeding taken, instead of by fixed salary.

The principle thus proposed to be applied to the magistrates' clerks in England, is one that was recognized in Ireland fifty-six years ago as to higher officials of the superior courts. Statute 1 & 2 Geo. IV. c. 53, passed in 1821, provided that no fees should be taken by the officials named in it, from the commencement of the act; but in lieu thereof additional yearly salaries should be paid to such officials.

The wise principle thus laid down so long ago, has been applied, from time to time, to the subordinate officers of the superior and other courts, and has been embodied in all the modern reconstruction of courts and officers.

Justices' Clerks Bill (1877) *for England.*

In the present session a remedy has been proposed for the evil of English justices' clerks being paid by fees. It proceeds on the principle of making compulsory the payment of justices' clerks by

salary instead of fees—a change which justices had been *allowed* to carry out in England since 1851, under statute 14 & 15 Vic., c. 55. By that Act salaries fixed by justices of counties or boroughs were to be paid out of county rates or borough funds, and the fees were to be accounted for to those rates or funds on which the salary was charged. This enactment led to a very salutary change in favour of the poor. By section 12 it is provided that where clerks are paid by salary instead of fees—

> "Any justices or justice before whom any proceeding is had, wherever a fee is payable, which being accounted for," etc., or "before whom any person is summoned for non-payment of any such fee, may remit such fee, in whole or in part, for poverty or other reasonable cause, at their or his discretion."

Under the English act of 1851 the salaries of petty sessions' clerks may be from time to time varied on the recommendation of the justices, by the Secretary of State.

The bill of 1877 is to be construed with the English act of 1851; but it expressly repeals

> "So much of sections 9 and 10 of the act of 1851 as empowers a Secretary of State to direct that a clerk be paid by fees in lieu of salary (either generally or in respect of exceptional business)."

The bill of 1877 provides that the payment of clerks of petty sessions by salary under the English act of 1851 (14 & 15 Vic., c. 55-59) shall be made compulsory. It further provides that the salary shall cover all business (except the business of giving copies of depositions, if that business is excepted by the order).

The bill *allows* the salary to vary according to the number of the cases or amount of the business. The bill then, after provisions for having only one clerk in each district, and provisions as to the qualifications of clerks, proceeds to provide in the very opposite direction to the Irish legislation on that subject since 1858. In Ireland the salary is made to depend on the amount of fees received. In England it is proposed to make the scale of fees depend on the salary fixed.

Accordingly, the 30th section of the English Summary Jurisdiction Act (Administration of Justice, No. 2, 1848, 11 & 12 Vic., c. 43) is repealed, and provision is made for the case when

> "The aggregate amount received . . in respect of Court fees unduly exceeds or unduly falls below the aggregate amount paid . . by way of salary to the clerks of the petty sessions divisions."

In such case the local authority, with the assent of the Home Secretary, or the Home Secretary, independent of the local authority, is authorised to settle a table of fees, either increasing or reducing them.

Application of English Justices' Clerks Bill (1877) *to Ireland.*

A very important question is thus raised as to how Irish magistrates' clerks are circumstanced.

They at present derive their chief income from salary; but their salaries being charged on neither the local nor the general taxes are

not *fixed*, as the fund out of which their salaries are paid arises from the aggregate of the produce of the petty sessions stamps, and of the fines, which the crown is, under various acts of Parliament, entitled to in Ireland.

This results from the Petty Sessions Clerks Act (Ireland), 1858. The policy of which act is very clearly stated in a circular by Sir Thomas Larcom, issued in 1859, and published in Humphrey's *Justices of the Peace.*

> "One of the main objects of the late act was to pay clerks by salaries, from a fund to be derived from stamps and fines," etc.

Such being the source from which the salaries of the Irish petty sessions clerks are derived, the method in which the revision of their variable salaries takes place, becomes material, and this is explained in the circular of the Registrar of Petty Sessions Clerks, issued in 1875, with respect to the salaries to take effect from the 1st of January in that year:—

> "In fixing the salaries of clerks of petty sessions, the average of three years in productive petty sessions stamps is taken as a basis, to which is added a certain poundage out of the funds arising from fines. It will thus appear evident, the amount of salary must depend upon the amount of the fund arising from the production of petty sessions stamps (green and red), and the fines; and that in the event of any diminution of the fees and fines in any district, the salary will have to be reduced in proportion; while on the other hand, an increase of salary will depend on an increase of the fees and fines.
>
> "The salaries as now fixed are to continue at the same amount for three years, when they will, by order of the Lord Lieutenant, be again revised, and be liable to be either reduced or increased, as stated above.
>
> "You will thus see that the amount of your salary largely depends upon your own efforts to increase the fund arising from fees and fines.
>
> "I am the more particular to call your attention to this matter, because it has come to my knowledge that in not a few cases clerks are in the habit of neglecting to look after the fees and fines as they should do, believing that their salaries once fixed are not subject to change—a mistake which they cannot possibly make if they consider for a moment that the only fund available for the payment of their salaries, is that arising from the fees or productive petty sessions stamps and the fines at petty sessions."

It appears from this circular that the way in which petty sessions clerks' salaries are regulated in Ireland, gives them a direct interest, not only in the fee charged as in England, but in a very large number of cases in the amount of fines imposed. This arises from the crown fines having a different destination in Ireland and in England.

As the principle of the English Justices' Clerks Bill, 1877, is in advance of, and meets some of the defects of the Irish law, it is of importance that the principle involved in it should be extended to Ireland. For this purpose it is only necessary to provide as follows:

1. That the aggregate salaries of petty sessions' clerks in Ireland, and of the Registrar of petty sessions' clerks, and of his clerks, as from time to time fixed by the Lord Lieutenant, so far as payable out of petty sessions stamps and fines, shall be a charge on the aggregate grand jury cess in Ireland, whether administered by grand juries or town councils.

The contribution of each county, county of a city, or county of a town, to be in proportion to its valuation for county cess; and the contribution of any town separated from a county at large, to the county at large, shall be in proportion to its valuation on the tenement valuation.

2. That the aggregate of petty stamps and fines now applied to such salaries and superannuations, and the capital funds, the interest of which is applied to such salaries and superannuations, so far as so applied, should be transferred to the credit of the county cess or other local tax so charged with said salaries and superannuations.

3. That if the aggregate of the salaries so charged on grand jury cess and town contributions at the end of such period of three years, exceed the average amount of produce of petty sessions stamps and fines (exclusive of such capital sum so transferred) by more than the annual produce of such capital sum, it shall be lawful for the Lord Lieutenant of Ireland to increase the scale of petty sessions stamps; and if the average of the annual produce of petty sessions stamps and fines for a period of three years shall exceed the amount of said salaries and superannuations payable at the end of such three years, then it shall be lawful for the Lord Lieutenant to reduce the scale of petty sessions stamps.

4. The 12th section of the English act, 1851, allowing justices in special cases to exempt from petty session stamps, might be extended to Ireland.

Conclusion.

This extension of the principle of the English bill of 1877 to Ireland would impose no real burden on local taxation, as the funds transferred would be equivalent in the long run to the charge created. It would simply protect the salaries and superannuations from the precarious position they are now in of depending upon an uncertain fund. It would terminate any possible interest of any officer to increase the business of his own court, or the amount of fine imposed in any case, or in any substitution of fine for imprisonment, in cases where imprisonment would be a more effectual check.

If this principle were sanctioned for the salaries of the petty sessions clerks from stamps and fines, it might readily be applied to their remuneration for collecting the dog licence stamps.

In this way the organisation of petty sessions clerks under central authority, which is in some respects in advance of that which prevails in England, would be brought into harmony with the principles on which officers of the superior courts are organised, and which has in the present session been applied to the justices' clerks in England and Wales.