terer, with knowledge by him that she took them without her husband's authority, was sufficient to maintain the indictment for felony against him.

No counsel appeared on either side.

LORD CAMPBELL, C. J.—We are clearly of opinion that the conviction is right. The general rule of law is, that a wife cannot be guilty of larceny if she takes her husband's goods. There is, legally, no taking, because they are one person in the eyes of the law. But the rule is subject to this qualification—if she commit adultery, she has determined her quality of wife, and has no longer any property in her husband's goods. The prisoner is to be considered in the same position as if he had taken the goods. If the wife commit adultery, and take her husband's goods and deliver them to the adulterer, it is felony in him, because no consent of the husband can be presumed. It is a stealing by the prisoner, who is not at liberty to avail himself of the consent of the wife, as showing the consent of the dominus of the goods. The case comes within express authority originally laid down in Dalton,[1] and repeated in every text-book.

ALDERSON, B.—It is not clear that the adulterous wife may be convicted, but he who receives from the adulterous wife may be convicted.

Conviction affirmed.

ABSTRACTS OF RECENT AMERICAN CASES.[2]

In the Circuit Court of the United States, for Pennsylvania.

Abandonment in Admiralty.—Where a vessel is injured and sunk by collision, in such a place or under such circumstances, that for a small sum of money in comparison with the value of the vessel and cargo, she can be raised and repaired and the cargo recovered with slight damage, her owners have no right to abandon her and claim for a total loss. *Clarke* vs. *The Steamer Fashion.*

The doctrine of abandonment as connected with cases of insurance, has not been imported into Courts of Admiralty. *Id.*

[1] Dalton's Just. Peace, 353; and see 1 Russ. Cr. 23, by Greaves, 3d ed.

[2] We are indebted to the reporter for the abstracts of 2d Wallace, Jr., who has kindly furnished us the sheets in advance of publication.

Admiralty.—The Pennsylvania Pilot Act of March, 1803, which "obliges" vessels going out or coming into the port of Philadelphia to receive a pilot, under a "penalty" and "forfeiture" of half-pilotage, which the act makes a lien upon the ship, and recoverable in the Admiralty, not being, as is decided, compulsory, but optional, the ship need not take a pilot, if it prefers to pay the penalty or forfeiture. Hence, there being a direct privity between the pilot and the ship, the latter is liable in Admiralty for damage caused by his acts. *Smith* vs. *The Creole and The Sampson.*

The lien for wages of a seaman, who is himself a part owner of the vessel on which he serves, is discharged by a sheriff's sale of her, on execution against her owners. And this, although as a general principle, a sheriff's sale of a vessel does not discharge the sailor's lien upon her. *Gallatin & Wood* vs. *The Pilot.*

Agency.—Where a larger vessel—a ship—is in tow of a small one—a steam tug—the latter is in law regarded as the servant of the former; and being thus its agent, and so bound to obey its orders, is not responsible for damage in the proper course of the employment. *Smith* vs. *The Creole and The Sampson.*

Capias and Satisfaciendum.—Where one, having arrested his debtor defendant on a *ca. sa.*, sets him at liberty on certain terms, at *his* instance, it being "expressly acknowledged" by the defendant that this is done "for *his* accommodation, *without any prejudice whatever* to arise to the plaintiff's right by the enlargement" as aforesaid, "or *otherwise however*;" the debt is paid at law. No further execution of any sort can be issued there. And the agreement having been drawn and signed by the plaintiff's own attorney, a learned and able counsellor at law, a Court of Equity will not interpose to enjoin the defendant from pleading this discharge as payment, by allegations in a bill *demurred to*, that there was either a mistake common to both parties as to the effect of the agreement; or else that the plaintiff not knowing its effect, while the defendant did know it, it would be a fraud in the defendant now to profit by the plaintiff's misconception or ignorance of what he was doing; and set up at law the payment by his liberation on the *ca. sa.* *Magniac* vs. *Thomson.*

Challenge of Jurors.—One who being summoned as a juror in a case, where treason was charged to have been committed—stated, on being challenged, that he had read the newspaper accounts of the facts at the time, and come to his own conclusions—*had made up his mind*, that the offence was treason, though he had not expressed that opinion,—nor appa-

rently formed nor expressed an opinion that the defendant was or was not engaged in the offence—is incompetent to sit as a juror. *Walsh's Case.*

One who has formed a conditional, but not an absolute opinion on the law of treason: *e. g.*, who says he can't understand how treason can be committed against the United States, if such and such facts do not constitute it, is competent to sit as a juror, if he says that, on being instructed by the Court, that the opinion is erroneous, such opinion will cease to influence him as a juror. *Reynolds's Case.*

The prosecution have no right to ask a juror, whether he has *so* made up his mind [on facts?] as that *it could* not be altered in the course of a trial; there being no obligation on the prisoner to take upon him the burden of changing the juror's mind to the extent, that even if this question were answered negatively, he might have to do it, to procure an acquittal. *Whitman's Case.*

One who, without forming or expressng any opinion as to the matter to be tried, had "formed an opinion that the laws had been outraged," is competent. *Brinton's Case.*

One who had "certainly expressed an unfavorable opinion towards the course of these gentleman,"—that is a party of persons with whom the prisoner agreed in opinion; the person summoned being sensible of no such bias as would affect his opinion, as juror; having neither formed nor expressed any opinion as to the guilt or innocence of the prisoner, or of the other persons charged to have participated with him in the offence; not presuming to be a judge whether the offence was treason; knowing none of "these gentlemen" individually, and meaning to express nothing more than an opinion against the transaction, and that the persons engaged in it ought to be punished, is competent. *Lyons's Case.*

One who had formed, though not expressed, "some opinion" relative to the matter to be tried—who had made up his mind as to the subject of *treason*, provided the facts were proved, but not as to the guilt of the prisoner, was recommended by the Court to be withdrawn; the trial being one for treason; the definition of which word in application, though not abstractly, had not yet been perfectly settled by judicial decision; and the Court considering that his answer indicated that he might have "made up his mind" on the law of treason or made it up differently from what the Court would decide. *Smith's Case.*

The Court, in the early empanelling of jurors, where the number unchallenged are yet great—or in particular trials, or in particular circumstances,—as where public opinion has been abused by the party press—or where there is reason to suppose that the opinion of the neighbor-

hood from which the jurors came, may be biased—will allow more searching and particular questions to be put to the persons summoned as jurors, than it would afterwards, where it appears that a jury, such as would be entirely desirable, cannot be had; or where the case has not excited public interest. It will seek in the first instance, and as far as practicable, to have a jury not only free from legal bias, but even from any even light impressions about the case at all. *United States* vs. *Hanway.*

Collision.—Although the Court cannot establish a rule to bind vessels navigating the high seas to carry signal lights, yet, where one vessel does so and another does not, the Court, in case of a collision, will go some way to treat the dark boat as the wrong doer. *Barque Delaware* vs. *Steamer Osprey.*

The Court going in advance of hitherto adjudicated cases, would seem to enforce the obligation upon all boats navigating bays and rivers, not only to show lights on an approach, but to carry them constantly. *Id.*

A vessel which moors alongside of another at a wharf or elsewhere, becomes responsible to the other, for all injuries resulting from her proximity, which human skill or precaution could have guarded against. *Vantine* vs. *The Lake.*

The schooner L., on entering the dock at high tide, was directed by her consignees to be moored to an adjoining wharf of which they were lessees, outside of The M. J., a smaller vessel. There was not in the dock during part of the ebb, enough water for The L., though there was sufficient for The M. J.; of which fact the consignees, but not the master of The L., were aware. No objection was made at the time from The M. J., nor any caution given. On the tide receding, The L., on this account, and from the bottom of the dock being banked up in the middle from accidental causes, (with which the consignees were also acquainted,) careened over on The M. J., crushing her timbers, and causing her to fill and sink. As soon as the danger was perceived, a measure of prevention was suggested by The M. J., but rejected as useless. *Held,* that The L. was bound to know the depth of water in the dock, or at any rate was responsible for the directions of the consignees, who had full knowledge; and that she had not taken proper precaution before or after the injury. The L. condemned in damages. *Id.*

Besides the costs of repairs in this case, charges for wharfage while repairing; for the time of one of the owners, and of the crew in raising and clearing out the injured vessel; and for the loss of profits to the vessel while sunk, and during the time she was being repaired, allowed by the Court in the assessment of damages. *Id.*

Comity between States.—The exercise of Admiralty jurisdiction in suits by foreign seamen for wages, is matter of comity rather than of duty; and generally speaking, is exercised only under such circumstances as might infer the presumption of a request from the foreign State; as, for example, where a voyage is ended or broken up, and the seamen discharged; or where there is strong reason to believe that there would be a failure of remedy, in case the mariners were compelled to await an opportunity of obtaining redress in their own courts. *Gonzales* vs. *Minor.*

Consul.—A consul of a Foreign Power, though not entitled to represent his sovereign in a country where the sovereign has an ambassador, is entitled to intervene for all *subjects* of that Power interested: and though he should not set forth the particulars of his claim, still it will do if they can be fully gathered from the allegations of the libel and the case it sets forth. *Robson* vs. *The Huntress.*

Copyright.—A prose translation (having no qualities of a paraphrase) of a copyright prose romance, which the author had himself caused to be translated in a way he liked, and copyrighted, is not an infringement of the author's copyright of the original. *Stowe* vs. *Thomas.*

Counsel and Counsel Fees.—Admitting, for the sake of argument, that the allegation of a mistake of the law would give jurisdiction to a court of equity in a common case, and be a ground for relief; yet the Court will not listen to the allegation that a member of the bar has made such a mistake. It can hardly be successfully averred even by the party whose counsel, he would confess, has made it. *Magniac* vs. *Thomson.*

On a habeas corpus, in a question of conflict between State and Federal process, counsel have no right to appear in defence of the State process, unless in some way authorized by the State or its proper officers; and, after return made, the Court refused to hear as counsel a member of the bar, who showed no such authority; nor any authority beyond that of the person executing the State writ. *Ex parte Jenkins.*

In a prosecution in the Circuit for treason, in the alleged commission of which a citizen of a State, without the Circuit, had been assaulted and killed, the Court approves of the presence of special counsel from that State; as well counsel coming here by order of the governor of the State, as counsel employed by the friends of the deceased. *United States* vs. *Hanway.*

Although, perhaps, in aggravated cases of appeal, where the judgment of the District Court in Admiralty is affirmed, the Court might add by