

Leon Fink, "Liberty Before the Mast: The Nineteenth Century Sailor and the Political Narrative of Freedom"

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The sailor's freedom—or rather lack of it—exercised a peculiarly powerful hold on 19th century imaginations across the Atlantic world. Images of the tyrannical captain applying the cat o' nine tails, the drunken wastrel snatched from a seaside rooming house and dumped in a foc's'l, or the runaway chained in a ship's hold awaiting criminal charges have long mixed fascination with discomfort in the land-locked reader. Though applied to what often appeared an exotic, separate world of its own, however, the drama of liberty vs. license, rights vs. authority, and independence vs. dependency as enacted on the high seas, as writers of maritime fiction knew well, often touched themes affecting the home culture as well. Indeed, perhaps it was a deep ambivalence towards those larger issues that accounts for the contradictory impulses enshrined in Anglo-American law in various efforts to 'free,' 'reform,' or 'discipline' the sea-going labor force. With a central focus on the actions of the state towards the liberty and basic welfare of the 19th seaman, this chapter seeks to chart a political world in which the seamen's symbolic presence and supposed interests were regularly invoked by their social bettors, even as the seamen's voices themselves were scarcely heard.

For a brief few decades in the early to mid-19th century, the issue of the sailor's freedom gained nationwide prominence in the United States, though less so in Great Britain. Likely reflecting differences in social class and political structures as well as the contrasting fortunes of their shipping industries, the 'rights' of sailors undoubtedly figured more prominently as a public issue on the U.S. than the British side. In the U.S.,

the period witnessed a veritable literary battleground of liberty vs. tyranny and dissipation vs. redemption—themes central to American politics, laws, courts as well as public opinion--projected onto the ocean's waters. Given the heightened contemporary awareness of other forms of dependency (e.g. as witnessed by the anti-slavery, temperance, and women's rights movements), the continuing subjection of sailors might inevitably have raised hackles. Changes in the actual experience of sailing figured into the controversy: voyages were getting longer, discipline was getting more severe, and crews were increasingly recruited from the foreign-born and down-and-out. Using both literary and political evidence, the themes of freedom and dependence receive particular attention here through the lens of several interlocking maritime labor issues: anti-flogging agitation, the Negro seamen's acts, illicit recruiting, and the desertion problem, or the right to quit. The contemporary concern for seamen's labor, we note in passing, occurred even as U.S. economic and political focus was shifting away from the sea to inland challenges (in particular, economic development, slavery, and continental expansion), a shift marked by the precipitous decline of U.S. seafaring and shipping itself, post-1865.

As the U.S. shipping moon waned across the century, so waxed its British counterpart. Though initially the sailor's plight received a greater popular following in the U.S., political reforms in this arena tended to occur first on the British side, where, not coincidentally, merchant shipping claimed a larger and powerful role in the national political economy. From early on, in the British regulation of maritime labor, one detects many of the tensions that would long dog 'liberal' reform thought and action: between social discipline and welfare, between the intellectual identification of problems and their

political resolution, and, more generally, between top-down, administrative control and democratic empowerment. No fewer than eighty separate merchant shipping acts enacted by Parliament from 1840 to 1894 offers an abundant canvass for assessing the evolution of British social thought (some of which we will save for the following chapter). Yet, even as their lives were materially effected by changing government norms, merchant seamen remained in many respects a lower order among citizen-workers. So long as their own voices remained isolated and unorganized, both societies, in their own distinct ways, found ways to limit their freedom. By the end of the century, to be sure, a more clamorous democracy had made itself felt in both the U.S. and Britain. Only then, as new forms of organization among seamen and their allies took hold, do we see a break in a long tradition of relative confinement and paternal rule.

Just as they had served during the War of 1812, sailors' 'rights and liberties' remained for a few decades a touchstone of the quality and autonomy of American citizenship. For the same period the canonical literary works of the young nation would regularly seize on the sailor's world as a kind of national character test. As the literary critic, Thomas Philbrick, reminds us, "the primary frontier to most citizens of the new republic was the ocean."¹ Out of a spirit of maritime nationalism emerged the modern 'sea novel'—often recognized as a stepping-stone to more sophisticated fictional forms--of which James Fenimore Cooper was the first exemplar. His first sea-based offering, *The Pilot* (1824), appropriately enough, revolves around a patriotic plot set in Revolutionary times, wherein a fictional John Paul Jones sets out to capture a group of British notables in order to force a retraction of the policy of impressment.²

Yet, absent the foreign (read British) threat, Americans soon discovered that loss of self-government, and even tyranny, might emerge from more home-grown sources—and these too could be readily played out on a watery tableau. Sweeping aside earlier romantic images from writers caught up in the adventures of a maritime officer class, such were the darker revelations if not nightmare scenarios, implicit in the popular, ante-bellum works of Richard Henry Dana and Herman Melville, who had both gone to sea in the late 1830s or early 1840s. In an important sense, these early sea-based fictions already documented the displacement of maritime occupations from work that naturally preoccupied a coastal population to adventures in a more exotic, trans-oceanic tableau.³ However keen their perceptions, these ‘realist’ writers were also likely projecting their values and sympathies onto the sailor populations with whom they could sympathize if not fully identify. Dana’s documentary expose, Two Years Before the Mast (1840) was written by a Harvard man who sought out a maritime adventure before returning to law school. Contrasting a tyrannical Capt. Thompson (a possible forerunner to Simon Legree in Stowe’s Uncle Tom’s Cabin [1852]), given to regular flogging of his crew, with the more democratic, teacherly Capt. Faucon, Dana nevertheless distances himself from the mental and political capacities of the crew. While allowing that “in no state prison are the convicts more regularly set to work, and more closely watched” and urging incremental reforms on behalf of the wretched seafarers, Dana cautions against an out and out prohibition of corporal punishment: “I have no fancies about equality on board ship.”⁴ In part a function of the absolute need for discipline in a place of constant danger, the necessary shipboard hierarchy that Dana imagines as inevitable “in the present state

of mankind,” is also a function of the fact, as he reports, that “more than three fourths of the seamen in our merchant vessels are foreigners.”⁵

Equally a stranger to the society of the sea before his family’s ill fortune interrupted his middle-class education, Melville, once re-settled in Manhattan in the late 1840s, soon transformed his earlier maritime adventures into the stuff of human tragedy. While there is no shortage of exposé in his writings—where descriptions of the depredations of ‘crimps’ (or infamous saloon recruiters) and the cat o’ nine tails provided useful grist for humanitarian reformers’ mills—Melville maintains his own respectful distance from the sensibilities of the crew, even as he attacks their subjection to unwarranted authority. Indeed, an alternately romantic and despairing view of working-class mariners contributes to the power of Melville’s writings—particularly his subtle use of the sea to comment on America’s social landscape. Redburn (1849), e.g., captures the paradox of a workforce at once indispensable to world capitalism, the 19th century version of ‘globalization,’ yet wretchedly self-corrupting and shunned by respectable society:

they go and come round the globe; they are the true importers, and exporters of spices and silks; of fruits and wines and marbles...they are the *primum mobile* of all commerce; and in short, were they to emigrate in a body to man the navies of the moon, almost every thing would stop here on earth except its revolution on its axis, and the orators in the American Congress.

And yet, what are sailors? What in your heart do you think of that fellow staggering along the dock? Do you not give him a wide berth, shun him, and account him but little above the brutes that perish?It is useless to gainsay it; they are deemed almost the refuse and offscourings of the earth.⁶

Like the officer-apprentice Redburn, Melville’s own experiences at sea occasioned insight and sympathy yet hardly identification with the common merchant

sailor; if unfairly denigrated by the “better classes of people,” they remained something of a class apart to the author (and thus his readers as well):

Consider that, with the majority of them, the very fact of their being sailors, argues a certain recklessness and sensualism of character, ignorance, and depravity; consider that they are generally friendless and alone in the world; or if they have friends and relatives, they are almost constantly beyond the reach of their good influences...consider all this, and the reflecting mind must very soon perceive that the case of sailors, as a class, is not a very promising one.”⁷

The Marxist literary and social critic, C.L.R. James, most directly seized on the class dimensions of Moby Dick, a work that James extolled as “the first comprehensive statement in literature of the conditions and perspectives for the survival of Western civilization.” James suggests that the working class, in the form of the crew, ends up on the tragic periphery of Melville’s cosmic tale, heroes who are never quite given their narrative due. To make his case, James points to an analytical feint in Moby Dick’s Chapter 25:

If, then, to meanest mariners, and renegades and castaways, I shall hereafter ascribe high qualities, though dark; weave round them tragic graces; if even the most mournful, perchance the most abased, among them all, shall at times lift himself to the exalted mounts; if I shall touch that workman’s arm with some ethereal light; if I shall spread a rainbow over his disastrous set of sun; then against all mortal critics bear me out in it, thou just Spirit of Equality, which hast spread one royal mantle of humanity over all my kind.

Emphasizing Melville’s romantically positive portraits of the South Sea Islander and African harpooners—who, according to James, stand in for the polyglot labor force that dug canals, built railroads, and worked the American fishing fleet—James posits an author who “intends to make the crew the real heroes of his book, but...is afraid of criticism.” Even if the latter statement goes unverified, James is surely right that Melville, in the end, sticks with the characters he knows best, and, as James says, thus

“drops the meanest mariners, renegades and castaways, and goes back to the officers.”⁸

As a certifiably ‘exotic’ class, merchant seamen, it seems, even in the hands of their most sympathetic contemporary commentator, cannot quite claim the character development of their more fully ‘American,’ perhaps more morally-complex, social betters.⁹

The ‘exotic’ element captured during the golden age of American maritime fiction may help explain both the appeal and restricted life span of the genre. As Daniel Vickers has argued, the complexity of social relations highlighted in the works of Cooper, Dana, and Melville took place during the sunset of American presence among seafarers and indeed, not long before the precipitous decline of the U.S. as a world shipping power. Thus, even as better ships and peaceful relations with Britain sparked an upsurge in foreign trade in the post-1820 years and offered the promise of longer voyages to adventuresome young seamen, the American (and especially New England) romance with seafaring proved short-lived. Outside the fishing and coastal trade, Vickers estimates that two-thirds of the U.S. fleet was already foreign-born by 1839.¹⁰ Indeed, the violent drama of seaboard relations captured by Dana and Melville partly stemmed from shipowner and master attempts to control a larger, more heterogeneous labor force and impose new disciplinary standards on longer, trans-oceanic voyages.¹¹ In a kind of chicken-and-egg syndrome, historians suggest, the exceptional ‘hard driving’ by American ‘bucko mates’ and captains led native sons to flee salt-water service, and the resulting demographic imbalance only accelerated the process.¹² The mid-19th century American fleet, as Elmo Paul Hohman noted in his classic 1956 study, witnessed “at once the highest development of sailing-ship design and operation and the lowest degradation of seagoing labor.”¹³

By the time of the Civil War, seafaring had notably diminished as part of the national identity. Not only did popular writing of the new era focus inland and westward, but the most striking exception also underscored association of the sea with foreign territory. Edward Everett Hale's fictional patriotic tale, The Man Without a Country (1863), which sold 500,000 copies by 1875, concerns the travail of Philip Nolan, who, having cursed his country when apprehended as a confederate of the Aaron Burr treason plot in 1817, is consigned to life-long imprisonment on a Navy ship where he is "never to hear the name of the United States again." The appeal of the story rests in the pathos—and unavailing regret--of a man who comes to appreciate that which he can no longer have:

Youngster [Nolan tells the narrator], let that show you what it is to be without a family, without a home, and without a country....Remember, boy, that behind all these men you have to do with, behind officers, and government, and people even, there is the Country Herself, your Country, and that you belong to Her as you belong to your own mother. Stand by Her, boy, as you would stand by your mother if those devils there had got hold of her today!"¹⁴

Meant (and appreciated) at the time as a paean to the federal Union in wartime, the watery location of Nolan's estrangement from his country is, nevertheless, telling. The imagined community of the United States, whether as nation or empire, was now a decidedly land-centered construct. Home was where the hearth was. By contrast, the British equivalent to Philip Nolan would never have been considered 'stateless' or homeless so long as he was safely berthed on one of Her Majesty's ships. Far more than in the American case, British national and imperial identity was intimately bound up with the security and prosperity arranged by trade and a robust, sea-going presence.¹⁵

If not always sea-centered in location, the maritime world suffused early 19th century British literature even as it did its American counterpart. Yet, the differences in perspective were telling. Rather than explore the exoticism of the merchant seaman, British fiction more neatly connected the maritime world to the mainsprings of national interest. The Royal Navy, and in particular the officer class, assumed the leading role. Reverberations from the battles of the Nile and Trafalgar in the Napoleonic Wars echoed for years in the popular imagination, where Admiral Lord Nelson also served as a quintessential exemplar of national gentlemanly attributes. The open and honest midshipman, William Price, in Jane Austen's Mansfield Park (1814) thus contrasts with decadence and hypocrisy of those around him, and even a monarch's stature (in this case William IV, 1830-1837) could be enhanced by an accolade as 'the Sailor King.'¹⁶ On the popular stage as well, 'nautical melodrama' maintained its attraction throughout the century. In 1804, for example, Sadler's Wells, calling itself the Aquatic Theatre, "installed on its stage a water-tank, fed by the New River, that measured approximately a hundred by a forty and two feet," upon which it displayed "lavish marine entertainments and spectacles for about an eleven-year period."¹⁷

Rather than a setting for the isolated soul-searching of alienated (Captain Ahab) or utterly estranged (Philip Nolan) individual characters, British writers commonly presented the sea-world—whether the navy or the merchant marine—in comparatively positive, comfortable, even nostalgic terms. With particular reference to Dombey and Son, a novel which captures the pathos of a changing commercial world, biographer Peter Ackroyd thus draws attention to the "connection [Charles] Dickens generally makes between sailors and neatness or cleanliness; as if life on board ship was for him the

epitome of the safe, private, and carefully arranged world to which he was always drawn.”¹⁸ The popular 19th century expression of orderliness, ‘ship shape and Bristol fashion,’ suggests that Dickens was in good company.¹⁹

Such presentation tended to avoid more dissonant images of the common seaman’s life, as evident in the figure of ‘Jolly Jack Tar’ who made frequent appearance on the melodramatic stage. “Sailor-actor” Thomas Potter Cooke was reportedly “known and idolized for his nautical parts, which he performed by the dozen: Union Jack, Ben Brace, Tom Tackle, Jack Stedfast, Bob Stay, Jack Junk, Mat Merriton, Bill Bluff, Harry Bowline [and] Ben Billow.”²⁰ Most commonly, notes literary critic John Peck, the sailor as portrayed in British maritime fiction “is cheerful, brave, and contented, not the kind of person who is likely to indulge in political agitation.”²¹ Typical of the dominant mode was the work of Captain William N. Glascock, whose naval sketches from the 1830s are “full of the honest qualities of good seamanhood.”²²

To be sure, the grievances of ordinary sailors—which, most famously spilled out in the 1797 mutinies at Spithead and the Nore-- did provoke popular sympathy. Playwright Douglas Jerrold thus stood out for his heroizing of rebel seamen, including mutineer Richard Parker in his rendition of *The Mutiny at the Nore* (1830). In response to the law-and-order talk of a landlubbing clerk, Parker’s confrere, Jack Adams pleads for the audience’s compassion:

I know that every sailor there (though there may something to complain of, and they’ve gone on the wrong tack to remedy it) has done old England service; I know that many a brave heart there has watched, fought, bled, for his country; has spent years upon the salt sea in storms and peril; has had the waves beating over him and the shots flying about him, whilst you, and such as you, have been scratching your sixpences together, taking your grog with the curtains drawn, the doors listed, your feet upon your fender, and your wife and children alongside of you.²³

Though capable of political inflection, the British sea story remained more moralistic than 'realistic' until Joseph Conrad, at the end of the century, presented a much starker and more nuanced view of British maritime work and social life.

Even as contrasting elements of national identity played out in Anglo-American maritime fiction, the essential similarity of Atlantic seamen's political status is more apparent when we turn to the public record. The issues surrounding 'impressment'—the subject of the previous chapter—formed only the tip of public concern regarding that class that was in both countries considered part of the 'nation's property.' All in all, a rigid standard of legal discipline governed both British and American seamen, at once limiting their freedoms and guaranteeing them certain protections well in advance of other domestic classes of labor or occupations. Assumptions about the group character and behavior of mariners, moreover, were deeply rooted in Anglo-American statutes as well as the British common law. Yet, within the more rights-conscious society of the 19th century, the coercion that accompanied longstanding tradition inevitably became politically controversial.

The peculiar status of seamen in the eyes of the state was of venerable origin. Regulation of the merchant seaman began as early as the stipulation in the laws of ancient Rhodes (900 B.C) that bound the sailor in a serf-like contract to his ship, and the subsequent 'Rolls of Oléron,' a set of late-medieval codes that elaborated duties, wages, and punishment in untoward events ranging from sickness to insubordination to

shipwreck.²⁴ Much of the early legal inheritance transferred into British practice--as in the law of 1729 that at once established the modern-day signing of ship's articles and defined the crime of "desertion" (with a punishment of up to thirty days' hard labor)—and into generally derivative American laws of 1790 and 1792 as well.²⁵ As late as 1779, it is worth noting, Virginia statutes were still invoking "the laws of Oléron and the Rhodian and Imperial Laws" as relevant precedent.²⁶ Similarly extending ancient custom, in 1798, the U.S. federal government established the beginnings of a chain of hospitals for disabled seamen that would "constitute the largest federal health care program until the social insurance systems of the twentieth century."²⁷

The special regulatory regime established for Anglo-American sailors doubly assumed both the importance and weakness of this occupational group. As a matter of law, the question of freedom was also always bound up with a distinctly paternalistic pose in the treatment of merchant seamen.

Particularly influential in setting legal precedent on both sides of the Atlantic was Lord Stowell (William Scott), who sat on the High Court of Admiralty for thirty years beginning in 1798. Concerned that seamen, left to themselves, would be regularly disadvantaged when dealing with wealthy merchant shipowners, Stowell, in 1822, invoked admiralty authority over a party who "is easy and careless, illiterate and unthinking [and has] no such resources, in his own intelligence and experience in habits of business, as can enable him to take accurate measures of postponed payments, with proper estimate of profit and loss." A year later, positively citing Stowell's opinion, U.S. Supreme Court Justice Joseph Story (of later *Amistad* fame), in a case reaffirming the legitimacy of the federal marine hospital system, formally christened seamen "wards of

the admiralty” while further characterizing them as “generally poor and friendless...they are unprotected and need counsel...they are thoughtless and require indulgence...they are credulous and complying; and are easily overreached.”²⁸

For all their formal similarity in treatment, however, an important difference in context likely affected popular perception of the sailor class in Britain as compared to the young United States. In the post-revolutionary context of American “free-labor” rights, the treatment of seamen, clinging to Anglo (and even more ancient) precedent, constituted an anomalous social category. Whereas other white workers were experiencing the rapid elimination of coercive contracts, enforceable through criminal punishment—with indenture effectively ended by 1830—seamen’s employment stood out precisely for its relative unfreedom.²⁹ It was thus little coincidence that the administrative apparatus for arresting runaway seamen, as detailed in one of the early acts of the First Congress of the United States in 1790—including the right of any justice of the peace to apprehend the deserter and place him in gaol and punishment for “any person [who] shall harbor or secrete” the fugitive—would serve as a prototype for the nation’s first Fugitive Slave Law of 1793. (As we shall see this was not the last time that the legal fate of seamen and slaves would be intertwined.) Still, it should be noted that at a post-revolutionary moment in which the country was celebrating not only the heightened status of the ordinary free worker but also moving (in the north) to get rid of slavery, the penalty for desertion was reduced from the British standard of jail time to monetary damages.³⁰ The very poignancy of American writing about seamen’s lives in the early to mid-nineteenth century may thus be partly explained by the peculiar mix of freedom and coercion that still clung to this one among “free”-labor occupations. While

British seamen were no different than miners or textile workers in their subjection to the rigid penalties of master and servant laws (until 1875 for the others, until 1880 for seamen), American seamen stood out for the contrast between their lives and national norms. No wonder they made good copy.

Eventually, reports of the extreme treatment of sailors stirred growing dissent ashore. Of the wide range of post-impressment issues, ‘flogging’ and its association with the slavemaster’s cat-o-nine-tails touched off the biggest storm. Though focused on abuse in the navies of both the U.S. and Britain, agitation as well as legislative remedies spilled out into the civilian arena of maritime operations.

In a world of nominally free laborers, reports of ship-board flogging—the punishment of choice by masters determined to maintain discipline over ever-larger work crews—inevitably engendered public discomfort. Once generally accepted as part of master-servant relations, physical punishment as an inducement to labor had become anathema on land. Accounts like that of John Randolph of Roanoke, Virginia, who traveled on an American man-of-war to take up his duties as ambassador Russia in 1830, were telling. Randolph reported that he saw more flogging on his single voyage than had taken place on his own plantation of five hundred slaves across ten years.³¹ A similarly graphic narrative of victimization was relayed by Jacksonian radical William Leggett, who nurtured a life-long hatred for tyranny rooted in Navy experience and court-martial for insubordinate behavior.³² Leggett’s 1834 story, “Brought to the Gangway,” told the story of a young sailor, who, daring to stand up to the false accusations of an officer with a penchant to “flog first, and report afterwards,” suffers a brutal whipping before tackling

his oppressor in a final, drowning embrace.³³ By 1835, a larger domestic movement against corporal punishment was reflected in lawful penalties for unjustified beating of the crew. Charles Dana's Two Years Before the Mast (1840) and Melville's Redburn: His First Voyage (1849) and White-Jacket, or The World in a Man-of-War (1850) further stirred public revulsion and helped prompt ultimate legislative redress in 1850.³⁴ In Britain, a similar pattern of reform agitation against flogging, beginning in the 1810s and gaining parliamentary advocates like William Cobbett and Joseph Hume, contributed to more "professional" codes of supervisory conduct in the Naval Discipline Acts of 1860-1866.³⁵

The U.S. anti-flogging measure, included in a Naval appropriation act passed a mere nine days after narrow agreement on the Compromise of 1850, inevitably engaged contemporary sensibilities around slavery and freedom. The shadow of the lash used on plantation fieldhands was ever-present in U.S. discussions of this maritime reform. Whig Sen. John Parker Hale of New Hampshire, a strong anti-slavery advocate, opened discussion on the measure by suggesting that flogging created more disciplinary problems than it solved. Surely, he suggested, "when we have done so much to heal the 'bleeding wounds' of a violated Constitution, the Senate of the United States will not consent that the bleeding wounds of the lacerated backs of the white citizens of this republic shall be longer submitted to this brutalizing punishment." Yet, Hannibal Hamlin of Maine (who, six years later would bolt from the Democrats and then serve as Lincoln's running mate in 1860) went further: opposition to flogging, he insisted, came from "all creeds in religion, all parties in politics....They look upon it, as I do, as being a reproach that any man should stand up, at this stage of the world, and demand corporal punishment

at this day.”³⁶ Defenders of flogging pointed to the lack of desirable alternatives. Conscious of the contemporary rise of the prison system, Democratic Congressman, Abraham Venable (N.C.) argued, “You must substitute some punishment, and the only one left is confinement. The lazy and the worthless sailor would not object to this, and in the gale and the storm good and true sailors have all the duty to perform. The bad ones are never better pleased than when they have nothing to do—imprisonment is to them an escape from work.”³⁷ As an alternative to an outright ban, some defenders of the traditional discipline proposed instead to abolish the liquor allotment and/or ban liquor entirely on board ship. Such a remedy (which did not pass), however, struck Rep. Isaac E. Morse of Louisiana as worse than the cure. His intervention, again, suggested that the issue of sailor punishment invoked larger divisions about workplace authority in an era of contention between free and coercive labor (not to mention perhaps a differing view of the physical effects of spirituous beverages):

If the sailors are thus to be exempted on the one hand from the punishment of a breach of the rules of the service, and, on the other, to be deprived of all stimulus to exertion, what is to become of the vessel in a crisis of difficulty and danger? Was the captain to call his sailors on deck as a sort of town meeting and consult with them whether he ought to take in sail in the fury of a storm?³⁸

Like the compromise measure on new territories, the naval bill’s razor-thin, 26 to 24, margin in the Senate directly testified to the nation’s larger sectional polarization. As historian Harold Langley has documented, of the twenty-six votes to abolish flogging, twenty-four came from the North and the other two from border states. The overwhelmingly southern opposition, for example, included that of Jefferson Davis.³⁹ Southern resistance, ironically, also accounts for the bill’s extension to the merchant marine, where flogging was less common but not unknown, as well as the navy.⁴⁰ In a

failed ploy to derail the bill which he opposed, Florida Sen. David Yulee successfully inserted the words “and on board vessels of commerce” after the word “navy.”⁴¹

Though never reversed, the flogging ban caused initial consternation within the U.S. Navy itself. Within months of the passage of the restrictive legislation, the Secretary of the Navy submitted a report to the Senate, documenting widespread complaints of “insubordination and serious irregularities among the seamen of the navy, tending to show that the power to restrain bad men is lost to the service, and that no substitute for flogging has been found.” The most notorious incident concerned the recent arrival of the U.S. frigate *Brandywine* at New York, where reportedly more than half her crew (nearly 300 men) “left the ship in violation of orders, evincing entire indifference to regulations and to the authority placed over them.” (7) Among the “substitutes” for flogging initially proposed by the service lay a mixture of carrots and sticks: on the one hand better pay, more careful recruiting, and good-conduct discharges that would ensure priority of future employment; on the other hand, bad conduct discharges, “accompanied by a mark on some part of the person, usually covered by their clothes, of the letter B, in indelible ink, to be inflicted by a sentence of a summary court-martial.” Such physical identifiers could not be considered cruel, argued the secretary, “as few sailors are without marks [i.e. tatoos] made in that way.”⁴² Once the Navy’s attempt to restore flogging failed, Congress in 1855 and again in 1862 established new guideposts for naval discipline. A system of summary court martials for minor offenses included the sentencing of guilty men to solitary confinement, with or without leg irons and/or a diet of bread and water for a limited time.⁴³

To an important degree, the campaigns against flogging derived from a larger vector of trans-Atlantic, evangelical-centered reform linking sailors to other unfortunate subjects. The British Bible Society began proselytizing among sailors in London as early as 1790, and a Mariners' Church was established in New York in 1821. Bethel societies (or Methodist meeting centers for sailors) multiplied on both sides of the Atlantic—the American Seamen's Friend Society boasted nearly one hundred local auxiliaries by the mid-1840s—aimed initially at self-reformation and temperance but inevitably also addressing the mistreatment of their sailor flock.⁴⁴ Directly boarding ships in port for meetings with the crew, the evangelicals quickly appreciated the link between the “evil” of brothels and groghouses and the larger toll of violence aboard ships, both naval and mercantile. Ardent spirits, argued the American Sailor's Magazine, rendered sailors so disorderly that the lash often followed the daily grog ration. Yet, corporal punishment, the purported ‘solution’ to bad behavior, only further infantilized its victim, depriving him, be he plantation slave or free sailor, of the “last vestige of self-respect.”⁴⁵ A spate of first-person testimonies by reformed alcoholics in the 1830s and 1840s mixed sometimes lurid accounts of debauchery with an effective appeal to limit the exercise of violence against woebegone sailors and seamen.⁴⁶

It was just such reform logic among evangelicals that alarmed a conservative temperament like that of James Fenimore Cooper. “It is seldom,” counseled Cooper in his revised, 1849 preface to The Pilot at a time of both anti-flogging campaigns and his own defense of landlords' rights amidst anti-rent campaigns in New York, “that any institution, practice, or system, is improved by the blind interference of those who know nothing about it. Better would it be to trust to the experience of those who have long

governed turbulent men, than to the impulsive experiments of those who rarely regard more than one side of a question.” Moreover, Cooper knew exactly who was keeping the social pot boiling. “There is an uneasy desire,” he continued, “among a vast many well-disposed persons to get the fruits of the Christian Faith, without troubling themselves about the Faith itself. This is done under the sanction of Peace Societies, Temperance and Moral Reform Societies, in which the end is too often mistaken for the means.”⁴⁷ Though, to such eyes, social improvement (including the end of flogging) had better be left to voluntary measures, evangelical activists saw no contradiction in calling both individual and community to moral account at one and the same time.⁴⁸

As it happened, the evangelical campaigns against slavery and sailor abuse overlapped in the case of one famous American family. James Garrison, elder brother of the radical abolitionist and an unrestrained alcoholic since age fourteen, disappeared from his New England home for over two decades. In September 1839 an unexpected summons from the Charleston Navy Yard reunited the editor of *The Liberator* with his long-lost brother, now a “weather-beaten sailor,” “wretched, with shaking hands, the drunkard’s splotched face, and a gaunt frame bent nearly double with a spinal complaint.” He had been whipped on several occasions for drunkenness and once placed in double irons for twenty-eight days.⁴⁹ As William Lloyd Garrison’s biographer describes the irony, “While Lloyd had made his name protesting the lash, James had suffered under it, enduring abuse in the merchant marine and the U.S. Navy that, in its physical cruelty and denial of rights, rivaled anything that Garrison had published in *The Liberator* about slavery.”⁵⁰ Though William Lloyd encouraged his brother to commit his sad account to paper, the editor chose not to publish it in his anti-slavery organ. Simple

embarrassment may explain such reticence, but one wonders also if such a tale of near-‘white slavery’ may also have been thought to divert *The Liberator’s* readers from the cause at hand.

Though sailors were sometimes likened to slaves in the minds of reformers, the racial connections to maritime employment and regulation proved more complex. Despite certain parallels in the mistreatment of slaves and sailors and notwithstanding the horrors of the Middle Passage, the sea often represented a realm of relative freedom for African-Americans. The latter theme is notable, for example, in the two paradigmatic slave narratives of Olaudah Equiano (1789) and Frederick Douglass (1845). Equiano, whether or not he directly experienced the middle passage, spent considerable time as a seaman, first as a slave of a British naval officer, then, as a freeman as a hairdresser and steward, and finally, as a colonizer to both Central America and Sierra Leone. Without romanticizing the sea, Equiano, as literary scholar Elizabeth Schultz summarized, found there “the respect of his fellows and the dignity of work.” Late in life, as he put it in his *Narrative*, he still “thought of visiting old ocean again.”⁵¹ After sustaining a severe beating from a group of white ships’ carpenter apprentices on the Baltimore docks, the slave Douglass took advantage of his own maritime knowledge to secure free black sailor’s papers and journey north (via train) to New Bedford, where, again working as a dock laborer, he saw “the nearest approach to freedom and equality that I had ever seen.”⁵²

Perhaps it is not surprising, then, that free blacks took so readily to maritime occupations. “Relatively high wages, stable employment, and personal fulfillment,”

according to one study, explains the disproportionate presence of black mariners in northern U.S. port cities; indeed, “by 1825, “blacks occupied nearly one-fifth of all berths aboard foreign-bound vessels leaving Philadelphia and New York” and likely one-quarter from Providence, RI, and Boston. Even in smaller New England ports like Salem, Massachusetts, where their employment was restricted to the position of ship’s cook or steward, seafaring remained the “most popular form of black employment” through 1840.⁵³

Yet, the very image of freedom that the ship at sea inspired in the enslaved Douglass panicked southern slave owners and their political defenders. Most tangibly, such fears led, in the aftermath of the aborted slave insurrection of Charleston’s skilled free-black sailor and carpenter Denmark Vesey—with its plan to ferry escaped slaves to Haiti—to the restrictive South Carolina Negro Seamen’s Act in 1822. According to this act, and similar legislation subsequently passed in five other southern coastal states, free negro sailors were effectively quarantined once they arrived in a southern port, with their custodial expenses charged against the offending ship itself. Failure to comply with the quarantine, the law stipulated, mandated enslavement, though this was subsequently moderated to mere whipping. With enforcement particularly strict in South Carolina and New Orleans, an estimated 10,000 colored sailors were victimized by such legislation.⁵⁴

Political dispute over the Negro Seamen’s Acts quickly escalated from a focus on free black sailors into a much larger debate, with both national and international repercussions. On the international front, both France and Great Britain complained repeatedly and vociferously that its treaty laws with the U.S. had been abrogated whenever its normal commerce in southern ports was interrupted by the seizure of Negro

crew members.⁵⁵ British authorities pursued two cases with particular verve. In 1822 Secretary of State John Quincy Adams, after applying informal pressure to state officials, had assured the British minister in Washington, Stratford Canning, that British subjects would experience no further cause for complaint from the state's seamen's laws. In 1823, however, at the behest of the South Carolina Association—a group of prominent citizens determined to enforce the black codes--the freeman Henry Elkison was taken from his ship in Charleston and lodged in prison. Despite a ruling from Supreme Court Justice William Johnson (a native of South Carolina) and a subsequent finding by U.S. Attorney General William Wirt that, citing the constitutional international and interstate commerce clause (art. 1, sec. 8), found in favor of federal jurisdiction in the matter, no effective action was taken to reverse the state initiatives.⁵⁶

The matter festered among the states, and between southern states and their international trading partners for decades. A protest petition from Boston's major merchants and shipowners triggered hearings and a pointed exchange with southern defenders of the Negro seamen acts in 1843. Citing the constitutional authority variously of the aforementioned 'commerce clause,' the 'supremacy clause' (art. 6) regarding federal enforcement of treaty rights, and the 'privilege and immunity' clause (art. 4, sec. 2) that "citizens of each state shall be entitled to all privileges and immunities of citizens of the several States," the subsequent majority report of the House Commerce Committee backed the petitioners, proposing override legislation to counter the state-based legislation. The police power of individual states, the committee majority argued, can never justify the arbitrary seizure—"charged with no crime and infected with no contagion"--of an entire class of people recognized with citizenship rights in another

state. “For some of the stations on board both of our sail ships and steamboats,” explained the report, “colored mariners are thought to possess peculiar qualifications. They are very generally employed as firemen, laborers, stewards, and cooks. The memorialists state that it is frequently *necessary* to employ them. The abduction of persons so employed immediately on the arrival of a vessel in port, and their detention at a heavy expense until the very moment of its departure, cannot be less an injury to their employers than it is an outrage on themselves.”⁵⁷

Yet, until the Civil War, the South effectively defended its exclusion of free black seamen. By a vote of 86 to 59, the House of Representatives tabled the Commerce Committee’s recommendation. Moreover, the Boston petitioners’ alternative strategy to institute civil suits in the offending states with the hope of testing the acts’ constitutionality before the Supreme Court was also turned back. In two celebrated cases, agents seeking to bring suits on behalf of quarantined seamen in South Carolina and Louisiana were threatened with mob violence and driven back to Massachusetts.⁵⁸ Meanwhile, southern lawmakers, backed by the opinion of President Andrew Jackson’s attorney general, John Macpherson Berrien, also stoutly defended their actions as matters of constitutional principle. Offering the minority report of the Commerce Committee, N.C. Whig Kenneth Rayner subtly challenged the northern petitioners’ defense of Negro seamen as “citizens” entitled to “all the rights and privileges...of the highest class of society.” First, countered Rayner, “the term citizens, as used in the Constitution,” insisted Rayner, “has no specific or definite meaning, only so far as qualified by the regulations which the respective States may have adopted in defining their ‘privileges and immunities.’” Secondly, he noted with ample illustration, free blacks were already

disqualified from several rights of full citizenship across the northern as well as the southern states. Suffrage, militia service, and rights to inter-marriage with whites were regularly barred to blacks. Rayner thus dismissed the claims of Negro sailors—they were not citizens but (and here he quoted from noted jurist, James Kent) “essentially a degraded caste, of inferior rank and station in society.”⁵⁹ Many of those opposed to the South Carolina legislation as a breach of federal jurisdiction, could not gainsay such arguments. Former Attorney General Wirt, for example, had himself ruled in 1821 that free negroes in Virginia did not constitute “citizens,” in the sense of having the right, under U.S. shipping law, to “command vessels” in the foreign or coasting trade.⁶⁰

Perhaps more fundamentally, the southerners defended the Negro seamen’s acts as a form of state police power vested in the ‘reserve’ clause of the Constitution’s Tenth Amendment. Comparing the acts to state quarantine legislation, Berrien asked rhetorically, would it be fair to the southern states “to withhold from them the power of protecting themselves as they may against the introduction among their colored people of that moral contagion, compared with which physical pestilence, in the utmost imaginable extent of its horrors, would be light and trifling?”⁶¹ Anticipating his state’s advocacy of ‘nullification’ (or selective enforcement) of federal tariffs in 1832 and ultimate secession in 1860, South Carolina Governor John L. Wilson declared allegiance to the Negro Seamen’s Act in 1824 in no uncertain terms: “[If] an appeal to...the right of self-government be disregarded...there would be more glory in forming a rampart with our bodies than to be...the slaves of a great consolidated Government.”⁶²

Southern defense of the Negro seamen’s acts carried long historical coattails. When he replaced Berrien as Jackson’s attorney general in 1832, Roger B. Taney more

than concurred with his predecessor's constitutional defense of the restrictive acts. In an official, advisory opinion, Taney went further, denying Negroes, free or slave, any rights under the Constitution: "The African race," wrote Taney, "are everywhere a degraded class, and exercise no political influence."⁶³ Unpublished at the time, Taney resurrected the substance of this opinion as chief justice of the Supreme Court within his momentous Dred Scott decision of 1857. Even as a freeman, read the decision, Scott had no standing to bring suit as a citizen in a federal court; by the logic of the Constitution he was, whether emancipated or not, rather part of "a subordinate and inferior class of beings."⁶⁴

Yet, aside from the special, race-based restrictions, how free were any seamen as a class of workers? In the Atlantic world of the mid to late-19th century, controversy around this question tended to gather around one central feature of the seaworker's enterprise: his inability to quit (on penalty of criminal, usually physical punishment) within the life of his contract. As slavery defender George Fitzhugh noted in 1854, "Abolish negro slavery, and how much slavery still remains. Soldiers and sailors in Europe enlist for life: here, for five years. Are they not slaves who have not only sold their liberties, but their lives also? And they are worse treated than domestic slaves. No domestic affection and self-interest extend their aegis over them. No kind mistress, like a guardian angel, provides for them in health, tends them in sickness, and soothes their dying pillow."⁶⁵

Compared to most land-locked occupations, the degree of compulsion at work was undoubtedly severe. Yet, Fitzhugh did not foresee (or chose to overlook) a key aspect of the sailor's lot. Though admittedly no equivalent to the slave mistress of

Fitzhugh's imagination, the government itself played the role of guardian over the seamen's welfare. Part coercive, part protective, the government's role on both sides of the Atlantic ultimately figured mightily in defining the character of the seamen's experience at work as well as shaping seamen unionism and seamen politics. To be sure, the seamen's own constituency, together with its broader-based labor allies, would ultimately figure in the mix.

Yet, even before any appreciable sailor-based reform effort was manifest, the foundations for widespread political regulation and governance of maritime occupations had been laid by landmark legislation affecting both shipowners and seamen. If by no means entirely to the seamen's liking, the British Merchant Shipping Acts of 1850, 1854, and 1867 (which effectively replaced or revised features of the earlier Navigation Acts) and the American Shipping Commissioners' Act of 1872 (largely an imitation of its British counterparts) set the parameters of the seamen's liberty, welfare, and 'slavery' for decades to come.

The mid-Victorian legislation on both sides of the Atlantic amounted, as David M. Williams summarized the 1867 act, to "a strange mixture of protective paternalism and rigid, sometimes harsh supervision."⁶⁶ A typical, if clichéd, expression of sentiment towards the seamen among legislators was the exposition of New York Representative (himself a large shipowner), Fernando Wood, amidst discussion of the 1872 bill:

It is said—and there is great truth in the statement—that the sailors now have none to care for them; that they pursue lives of toil, of trial, and of danger, for a compensation which is almost nothing; and that their feet no sooner touch the soil than they become the victims of those who stand ready to prey upon them; who take from them fraudulently and sometimes violently their hard earnings, and then destroy, as far as possible, their moral, mental, and physical powers, in order to hold absolute control over them until they again ship to go upon the perilous deep.⁶⁷

Resting, as Williams suggests, on a simultaneous concern and contempt for the sailor class as self-governing subjects, their legislative guardians served up an elaborate grid of protections. On the one hand, for example, the Merchant Shipping Act of 1854 specified the variety and amount of food a captain must supply his crew and even required weighing scales to ensure compliance with the legislated standards. To the same end, the original draft of the U.S. act of 1872 allotted seamen daily rations of meat, potatoes, peas, flour, rice, coffee or tea, even as an amendment specified that “for potatoes onions may be substituted.”⁶⁸ The British Merchant Shipping Amendment Act of 1867, likewise, expanded the seaman’s minimal sleeping space to twelve feet and sought to guarantee him privy access.⁶⁹ Even such attempts to ‘improve’ the seaman, however, were usually accompanied by unmistakable condescension. Thus, the clause in the 1867 act enforcing the provision of lime juice against scurvy specified that a refusal to drink the ration be regarded as “disobedience of orders” and entered in the ship’s log.⁷⁰ As in the control of prostitutes in port towns under the Contagious Disease Acts of the 1860s, attitudes implicit in legislation directed at sailor subjects ranged from seeing them as innocents at risk to ‘degenerate misfits.’⁷¹

Legislators themselves worried, on both economic and moral grounds, over how far to stretch paternalist protections over the sea-going labor force. Despite expressed fears about the rise of foreign sailors in the British fleet, for example, there was little sentiment in Parliament for going back to the Navigation Act-era institutionalization of an apprentice program for young sailors.⁷² The limits of consensus for government protections were, perhaps, best revealed in ineffectual efforts to end ‘crimping,’ or the

system of boarding-house owner control of sailor hiring. The local shipping offices established by the Mercantile Marine Act of 1850 were supposed to replace such 'exploitative' middlemen with an 'honest' commercial exchange between shipmaster and crew, brokered only by the government referee. In practice, however, the crimp (often a former sailor himself) was both better situated and better ensconced in sailor culture — having extended board, shelter, and credit during periods of unemployment or shore leave-- than either employers or government officials.⁷³ Thus, despite anti-crimp measures like the establishment of seamen's savings banks and harsh penalties on outsiders who boarded ships before they had docked, sailortown saloons long remained the prime source of sailor recruitment. An enduring source of crimp control was the long-established advance note offered the sailor when he registered for a voyage. Often signed over to the crimp to pay for accumulated boarding house debts, the advance note was further attacked by some shipowners as a prime goad to desertion. Yet, for decades, no action was taken against the note. As Her Majesty's government's chief spokesman explained in 1854, despite "regret" about the "improvidence into which seamen were but too frequently led," a sailor was not "to be treated like a child or a minor, as one who could not be entrusted with his own resources" or "placed under restrictions from which every landsman was free, in making his own contracts."⁷⁴

Debate over how far to extend the 'protection' of seamen served further to highlight the peculiar and ambivalent status that this class of workers occupied in Anglo-American political thought. All male and overwhelmingly young, rough in dress and speech as well as "reckless and improvident," seafarers on the one hand fit a hyper-masculine ideal of independence and adventurousness.⁷⁵ How indeed could such men be

treated as children or minors? Yet, their very ‘incompleteness’ as solitary male figures in a political universe built on ‘household’ (male and female) stability shaped the seaman’s image as both a pathetic and potentially dangerous subject. Even the married seaman--separated for extended periods from his family and frequently leaving them for periods on the public dole--could not realize the nineteenth-century provider ideal.⁷⁶ However exaggerated, the image of Jack Tar—“footloose, careless, and fancy-free” took powerful hold in the larger culture, helping to confirm “the prejudices of a class convinced of the seafarer’s social and moral inferiority.”⁷⁷ Cut off from civilizing, female influences, the lowly seaman would need to be ‘domesticated’ by a surrounding apparatus of both employer and state-based controls. A seaman’s governance began with his signing of the articles of agreement. More than any other class of worker in the 19th century, the seaman’s contract partook of the basic qualities of the marriage contract—service (to the master) in exchange for protection or basic welfare.⁷⁸

By far the most coercive aspect of the paternalist labor codes was the treatment of desertion--or withdrawal from work during the life of a contract --the penalties for which were only slowly and incrementally updated across the century. Curiously, on the British side (as alluded to in Chapter 1), the very loosening of mercantilist market controls occasioned only greater concern regarding seamen’s conduct. Apparently typical was a Maltese marine official’s warning in 1849 of the “recklessness of sailors, their ignorance and credibility, their want of forethought added to habits of dissipation which render them liable to every species of loss and robbery.” Thus Henry Labouchere, who shepherded the repeal of the Navigation Acts through Parliament, also oversaw the Mercantile Marine Act of 1850 that, in deference to

shipowner demands, lengthened the imprisonment penalties for desertion.⁷⁹

Incorporating the new disciplinary standard, the mammoth Merchant Seamen Act of 1854 (a consolidation of previously prevailing codes that took up a fifth of the national statute book for the year) devoted twenty-one clauses to sailor discipline, specifying capture without warrant and then forfeiture of wages and up to twelve weeks of imprisonment “with or without hard labour” for desertion and then, in case of any uncertainty as to the unity of command, up to ten weeks of the same treatment for “neglecting or refusing, without reasonable Cause, to join his Ship, or to proceed to sea in his Ship, or for Absence without Leave at any Time within Twenty-four Hours of the Ship’s sailing from any Port either at the Commencement or during the Progress of nay Voyage, or for Absence at any Time without Leave and without sufficient Reason from his Ship or from his Duty not amounting to Desertion or not treated as such by the Master.”⁸⁰ Though a month at hard labor may have been the more standard sentence, the maximum exaction was not uncommon.⁸¹ Reflecting deep-seated attitudes towards both seamen and national security, draconian treatment of seamen’s breach of contract (lightened for other workers in the Employers and Workmen Act of 1875) continued until the category of “desertion” was finally abolished from British law in 1970.⁸²

The U.S. law initially followed closely on English precedent, but for one important particular. The First Congress in July 1790 gave “any justice of the peace,” “upon complaint of the master,” the right to issue a warrant for the apprehension of a deserting sailor, and spelled out specific monetary damages for the infraction.⁸³ Though this statute implied that imprisonment was to be inflicted “only as the alternative of failure to respond in monetary damages,” selective state laws went further; Maryland, for

example, as Richard B. Morris long ago documented, regularly arrested deserting seamen, both before and after the Thirteenth Amendment formally abolished “involuntary servitude.”⁸⁴ Whatever initial anomaly existed between the Anglo-American countries, it was formally erased when the U.S. Shipping Commissioners’ Act of 1872 added punishment of imprisonment to a maritime regulatory act that virtually mimicked the British wording of 1854.⁸⁵ The 1872 legislation offers a compelling example of what historian Amy Dru Stanley calls the “legends of contract freedom” that dominated American political thinking in the post-Civil War years.⁸⁶ As with the treatment of freedmen, vagrants, and wives, Republican legislators, fresh from the triumph over slavery, extended the doctrine of contract enforcement to merchant shipping. At the center of the new legislation, a new set of public officials, the shipping commissioners, were charged with overseeing and enforcing the traditional articles of agreement between a master or shipowner and his seamen. Tightening a whole set of disciplinary codes, the act extended imprisonment for desertion to not more than three months and also established a one-month sentence for “refusal to proceed to sea.” Moreover, masters, owners, shipping commissioners, and local constables were permitted to apprehend and detain any absconding suspect, “without first procuring a warrant” in the pursuit of ultimate justice.⁸⁷ Though the law would shortly be seen by organized-sailor representatives as the source of “the most drastic evils of maritime usage,” the labor provisions sailed through Congress without dissent.⁸⁸ Massachusetts Congressman Benjamin F. Butler, for example, a Radical Republican and former Union general who had backed the eight-hour day, greenback financing of the debt, as well as women suffrage—and, who ironically had easily bested erstwhile maritime reformer, Richard

Henry Dana, Jr. in the Congressional election of 1868 by calling him “an aristocrat of the snobbiest sort”—was a vocal advocate of the 1872 bill.⁸⁹ Indeed, regarding enforcement of seamen conduct, Butler personally advanced the punishment clause for “assaulting any master or mate” from six months to two years.⁹⁰ It was a further sign that seamen occupied the boundary waters of free labor status.⁹¹

To be sure, the onerous legal penalties for quitting within the term of a seaman’s contract by no means disposed of the reality of desertion. As Matthew Taylor Rafferty discovered in his study of New York federal and district court records, 1790-1861, desertions in the U.S. merchant fleet occurred on “almost every journey.”⁹² British desertions, especially to North America, were reportedly up dramatically in the 1840s, due both to a general American labor shortage and especially the boom in soft-wood shipbuilding and the need for new crews to deliver them to European buyers. According to a British official in 1847, “nearly all the men who to Quebec and New Brunswick desert.”⁹³ Nor did Britain’s mid-century legislation seem to matter. Another major survey, this one of some 54,000 British and Canadian crew members who sailed from St. John, New Brunswick in the years 1863-1914, some 23 percent reportedly (and this was likely an understatement) deserted at intermediate ports of call, including an astronomical 49 percent on trips to New York City.⁹⁴ Despite its legal excoriation, therefore, desertion proved an ineradicable part of Atlantic world shipping. As Marcus Rediker demonstrated for the eighteenth century, desertion “was used in complex and ingenious ways.” Escape from brutal officers, assertion of the seaman’s autonomy, or mere attraction of higher wages all made for options within what Rediker neatly labeled “the sprawling nature of the international labor market.”⁹⁵ It was not just sailor agency, however, that contributed

to the institutionalization of desertion. Crimps regularly offered inducements to ‘jump ship’—in order that they could bargain with masters over subsequent contracts; while, on extended, potentially costly, layovers in port, masters themselves might induce the same actions.⁹⁶

Even as prosecutions for desertion declined by the end of the 19th century (with the act initially decriminalized in Great Britain in 1880, then formally recriminalized in 1894, as discussed in a later chapter), this symbol of the seaman’s relative ‘unfreedom’ as compared to any other group of ostensibly free laborers, weighed heavily, especially in the United States. Not surprisingly, therefore, the political impact of the rise of sailor unionism centered precisely on the elimination of these classic criminal sanctions for quitting work. The Sailors’ Union of the Pacific, established in 1891 from a merger of two earlier West Coast maritime unions, within a year formed the nucleus of a nationwide federation of regional organizations, the International Seamen’s Union. Directed by its secretary and leading strategist, Andrew Furuseth, the new union’s legislative committee worked closely with San Francisco Democratic Congressman and former judge, James Maguire on a host of reform proposals. Named for its sponsor, the Maguire Act of February 1895 formally abolished imprisonment for desertion in the coastal trade.⁹⁷

Yet, the protection of seamen in U.S. ports imagined by Maguire Act supporters was rudely undermined by the *Arago* case, 1895-1898. A group of sailors who had shipped on the Chile-bound barquentine *Arago* from San Francisco in May 1895 grew dissatisfied with conditions on board and, relying on the logic of the Maguire Act, departed the voyage at the first port of call in Astoria, Oregon. They were seized,

imprisoned, returned to the *Arago* against their will, and then, still refusing to work, imprisoned again when the ship returned to San Francisco. In January 1897 an extended legal challenge mounted by the seamen's union terminated with a Supreme Court decision (*Robertson v. Baldwin*) that not merely denied the men protection from the Maguire Act (on grounds that they had signed up for an international, not a 'coastal,' voyage) but also ratified some of the oldest prohibitions on sailor activity.⁹⁸ Denying the defendants protection from the Thirteenth Amendment (which the sailors' counsel, Representative Maguire, had sought to invoke), the majority opinion, delivered by Justice Henry Billings Brown, grouped seafaring among "services which have from time immemorial been treated as exceptional." Noting that "nearly all maritime nations" had made provisions for the criminal punishment "for desertion, or absence without leave during the life of the shipping articles," the ruling self-consciously confirmed the practice of both the U.S. Congress and the British Parliament in treating seamen "as deficient in that full and intelligent responsibility for their acts which is accredited to ordinary adults, and as needing the protection of the law in the same sense which minors and wards are entitled to the protection of their parents and guardians....The ancient characterization of seamen as 'wards of the admiralty' is even more accurate now than it was formerly."⁹⁹

In a stinging dissent, Justice John Harlan attacked the *Robertson* decision as a basic abrogation of American liberties. First, he reaffirmed the reach of the prohibition of "involuntary servitude" in American law and took particular aim at the seamen's initial imprisonment, without a judicial proceeding, on board the *Arago*. Involuntary servitude in the United States, noted Harlan, "can only exist lawfully as a punishment for crime of which the party shall have been duly convicted.... It would by no means follow that

government could, by force applied in advance of due conviction of some crime, compel a freeman to render personal services in respect of the private business of another.”

Secondly, Harlan fairly ridiculed the court’s resort to precedent:

The court refers to the laws of the ancient Rhodians, which are supposed to have antedated the Christian era. But those laws, whatever they may have been, were enacted at a time when no account was taken of man as man, when human life and human liberty were regarded as of little value, and when the powers of Government were employed to gratify the ambition and the pleasures of despotic rulers rather than promote the welfare of the people.

Finally, Harlan challenged the psychology used to justify the peculiar confinement of seamen. “I am unable to understand,” said Harlan, “how the necessity for the protection of seamen against those who take advantage of them can be made the basis of legislation compelling them, against their will, and by force, to render personal service for others engaged in private business. Their supposed helpless condition is thus made the excuse for imposing upon them burdens that could not be imposed upon other classes without depriving them of rights that inhere in personal freedom.”¹⁰⁰ Following Harlan’s logic, seamen’s advocates immediately labeled *Robertson* the “Second Dred Scott Decision.” Though likely unaware of the relation of the ‘first Dred Scott Decision’ to the prior treatment of Negro seamen, seamen’s union counsel, William Macarthur, would explain in 1899: “In both cases the rule of personal liberty has been taken exception to—in the case of the negro on account of his color; in that of the seaman because of his calling.”¹⁰¹

Robertson v. Baldwin carried an extended impact, only partly affecting the seamen themselves. In the post-Reconstruction South of the 1880s, in particular, state legislatures had also criminal sanctions to punish breaches in agricultural labor contracts. Until *Robertson*, however, as Robert J. Steinfeld has documented, in order to avoid direct

conflict with the Thirteenth Amendment and anti-peonage law, the state legislation subtly hid its intentions behind an ‘anti-fraud’ rationale. Now, for years to come, “such subtlety would be unnecessary”; several southern states invoked *Robertson* in defense of contract labor laws.¹⁰²

For American seamen, the legal horizons were actually much brighter. Only months after the *Robertson* decision and under heavy union pressure, Congress passed the White Act. This act geographically extended the sailor’s immunity from imprisonment for desertion under the Maguire Act from U.S. ports to those foreign parts participating in the “domestic trade” (Canada, West Indies, Mexico) and also reduced the term of imprisonment for desertion in a foreign port from three months to not more than one month. The national political consensus was clearly moving in Justice Harlan’s direction.¹⁰³ Even as employers rarely sought the criminal punishment applied in the *Arago* case, U.S. law soon incorporated the principle of complete repeal of penal sanctions demanded by the seamen’s union. Indeed, support for the principle would prove capacious enough to hide under its folds a whole new round of seamen’s reform legislation.

¹ Thomas Philbrick, “Cooper and the Literary Discovery of the Sea,” Paper presented at the 7th Cooper Seminar, *James Fenimore Cooper: His Country and His Art*, State

University of New York College of Oneonta, July 1989, James Fenimore Cooper Society Website, <http://www.oneonta.edu/external/cooper/articles>

² The Pilot: A Tale of the Sea (Albany: SUNY Press, 1986), 73; Though still bathed in a romantic glow, The Pilot's cockswain, Long Tom Coffin, also offers the first extended positive portrayal of a common sailor. Previous references to sea-going life, e.g. by Lord Byron and Sir Walter Scott, as well as the contemporaneous works of British Captain Frederick Marryat, concentrated (as did Cooper's stories for the most part) on the adventures of the officer class, with ordinary sailors taking only subordinate, often comic, roles. Hugh Egan, "Cooper and His Contemporaries," in Haskell Springer, ed., America and the Sea: A Literary History (Athens: University of Georgia Press, 1995), 69; John Seelye, "Introduction," in Richard Henry Dana, Jr., Two Years Before the Mast (New York: New American Library, 2000 [1840]), xi.

³ Daniel Vickers, Young Men and the Sea: Yankee Seafarers in the Age of Sail (New Haven: Yale University Press, 2005), 163-213.

⁴ Dana, 12, 376.

⁵ Dana, 376, 381.

⁶ Herman Melville, Redburn (New York: Modern Library, 2002 [1849]), 162-63; Frederick Crews, Review of Anderw Delbanco, Melville: His World and Work, New York Review of Books 57 (Dec. 1, 2005), 6-12.

⁷ Redburn, 160-61; On Melville's perceptions of ordinary seamen, see Valerie Burton, "'As I wuz a-rolling down the Highway one morn': Fictions of the 19th Century English Sailortown," in Bernhard Klein, ed., Fictions of the Sea: Critical Perspectives on the Ocean in British Literature and Culture (Burlington, Vt.: Ashgate Publishing Company, 2002), 142.

⁸ C.L.R. James, Mariners, Renegades and Castaways: The Story of Herman Melville and the World We Live In (London: Allison & Bushy, 1985 [1953]), 24-25.

⁹ For an extended assessment of Melville's class and racial blinders, see Myra Jehlen, "Melville and Class," in Giles Gunn, ed., A Historical Guide to Herman Melville (New York: Oxford University Press, 2005), 83-103.

¹⁰ Vickers, 178; Cf. Charles Dana's estimate of three-quarters foreign crew. Dana, 381.

¹¹ Vickers, 196.

¹² Hutchins, 3-4; William Macarthur, "The American Seaman Under the Law," Forum, 26 (Feb., 1899), 726; John G. B. Hutchins, the dean of shipping industry historians, notes that British ships, circa 1830-1860 were "required to carry four men and a boy per 100 tons on sailing vessels" versus the U.S. custom of two to three men and a boy. A combination of hard driving and an increasing gap between "officers on quarterdeck and men in the forecandle," resulted "the almost total disappearance of native-born seamen." The American Maritime Industries and Public Policy, 1789-1914: An Economic History (New York: Russell and Russell, 1969 [1941]), 306; David Alexander, "Literacy Among Canadian and Foreign Seamen 1863-1899," 3-4 in Working Men Who Got Wet [#20, Nav Acts]

¹³ Elmo Paul Hohman, History of American Merchant Seamen (Hamden, Ct.: Shoe String Press, 1956), 7. Indeed, as late as the 1870s, an English steward on board an American sailing ship gave vent to the still-current opinion: "Boys, do you know this isn't a bad ship after all? I've always heard that an American ship one must steer clear of unless you

want to be kicked about like a dog by the officers.” Frederick Pease Harlow, The Making of a Sailor, or Sea Life Aboard a Yankee Square-Rigger (Salem: Marine Research Society, 1928), 300.

¹⁴ William P. Trent, et. al, eds., A History of American Literature, vol. 3 (New York: Cambridge University Press, 1921), 349; Edward Everett Hale, The Man Without a Country (New York: Macmillan, 1915), 8.

¹⁵ John Peck, Maritime Fiction: Sailors and the Sea in British and American Novels, 1719-1917 (New York: Palgrave, 2001) identifies Great Britain among the “maritime nations” that “construct a national fiction in which the sea is seen as part of their being.” (27)

¹⁶ Peck, 31, 33, 50 On Austen’s ultimately more nuanced view of the navy, see Peck, 36-41.

¹⁷ Michael R. Booth, English Melodrama (London: Herbert Jenkins, 1965) , 99-100. reference courtesy of Laura Kasson.

¹⁸ Peter Ackroyd, Dickens (New York: HarperCollins, 1990), 26; Even the harsher portrait of sailor violence contained in Captain Frederick Marryat’s fiction (e.g. Frank Mildmay [1829], Mr Midshipman Easy [1836]) celebrate a kind of anti-modernist, male heroism. Peck 50-69.

¹⁹ <http://www.phrases.org.uk/meanings/ship-shape%20and%20Bristol%20fashion.html>. The phrase binds a 17th century term ‘ship-shape’ with reference to the heyday of the trading port of Bristol; Peck, 36.

²⁰ Maurice Wilson Disher, Blood and Thunder: Mid-Victorian Melodrama and Its Origins (London: Frederick Muller, 1949), 13, 141; Booth, 108.

²¹ Peck, 28.

²² Charles Napier Robinson, The British Tar in Fact and Fiction (London: Harper and Brothers, 1911), 329.

²³ Douglas Jerrold, The Mutiny at the Nore: A Nautical Drama in Three Acts in Cumberland’s Minor Theatre, 5 (London: Davidson, [1831?]), 12.

²⁴ Macarthur, op. cit. x-xi; Macarthur, “The American Seaman Under the Law,” Forum, 26 (Feb., 1899), 718-31; “Law of Oléron” [www.mcallen.lib.tx.us/books/mari_law/law_oler.htm]

²⁵ Walter Macarthur, ed., The Seaman’s Contract, 1790-1918, A Complete Reprint of the Laws Relating to American Seamen, Enacted, Amended, and Repealed by the Congress of the United States (San Francisco: James H. Barry Co., 1919), xviii; An Act for the Government and Regulation of Seamen in the Merchants Service, U.S. Statutes at Large, 1, 131-135 (July 20, 1790); An Act Concerning Certain Fisheries of the United States, U.S. Statutes at Large, 1, 229-32 (Feb. 16, 1792).

²⁶ Richard B. Morris, Government and Labor in Early America (New York: Columbia University Press, 1946), 228.

²⁷ Gautham Rao, “Visible Hands: Customhouses, Law, Capitalism, and the Mercantile State of the Early Republic,” (Unpublished PhD diss., University of Chicago, 2008), 26.

²⁸ Martin J. Norris, “The Seaman as Ward of the Admiralty,” Michigan Law Review, 52 (Feb. 1954), 479-504, quotation 486, fn. 35.

²⁹ Robert J. Steinfeld, The Invention of Free Labor: The Employment Relation in English and American Law and Culture, 1350-1870 (Chapel Hill: University of North Carolina Press, 1991), 138-46, 163-72.

³⁰ U.S. Statutes at Large, 1st Cong., 2d. sess., ch. 29: 131-34 (1790), An Act for the government and regulation of Seamen in the merchants service; Macarthur, "American Seamen Under the Law, 724; I am indebted to private discussions with Robert Steinfeld for this comparative insight.

³¹ Randolph quoted in William McFee, The Law of the Sea (Philadelphia: J. B. Lippincott, 1950), 173.

³² Langley, 24-25.

³³ William Leggett, "Brought to the Gangway," in Naval Stories (New York: G&C& H Carvill, 1834), 153-79, quotation 160.

³⁴ Macarthur, "American Seaman Under the Law," 721, 727-28; Macarthur, The Seaman's Contract, 148; Though flogging was outlawed in the U.S. by the 1850 Act, other forms of physical punishment remained legal, and apparently, all too common, until the 'LaFollette' Act of 1915. Walter Macarthur, "American Seaman Under the Law,," 726-28; Matthew Taylor Rafferty, "The Republic Afloat: Violence, Labor, Manhood, and the Law at Sea, 1789-1861," (Unpublished PhD diss., Columbia University, 2003), 74.

³⁵ Eugene L. Rasor, Reform in the Royal Navy: A Social History of the Lower Deck, 1850 to 1880 (Hamden, Ct.: Archon Books, 1976), 10-11. In 1810 Cobbett had been sentenced to two years in prison for his printed attack on the vicious flogging of army mutineers at Ely in 1809: "Five hundred lashes each! Aye, that is right! Flog them! Flog! Flog! Flog! They deserve a flogging at every meal time. Lash them daily! Lash them daily!" (Rasor, 147, fn 29); Post-1860, "safe forbearance" was counseled in the use of physical punishment, with all physical punishment suspended in peacetime as of 1871, and extended to all contingencies in 1879; 'confinement' subsequently replaced punishment. Rasor, 55-58.

³⁶ Congressional Globe, 31st Cong, 1st sess., 1850, pt. 2: 2058-2059.

³⁷ Congressional Globe, 31st Cong, 1st sess., 1850, pt. 2: 1907; Norval Morris, The Oxford History of the Prison: The Practice of Punishment in Western Society (New York: Oxford University Press, 1997).

³⁸ Congressional Globe, 31st Cong, 1st sess., 1850, pt. 2: 1907.

³⁹ Langley, 192-205. The House vote was more lopsided, 131 to 29 for abolition, with the opposition dominated by southerners and New York merchant interests.

Congressional Globe, 31st Cong, 1st sess., 1850, pt. 2: 1850.

⁴⁰ Rafferty, 74.

⁴¹ Senate Journal, 31st Cong, 1st sess., 28 Sept. 1850, 691; U.S. Statutes at Large, 9, Naval Appropriation Act, 31st Cong., Sess.1, Ch. 80: 515. The unintended (at least by its sponsor) extension of the measure foreshadows the famous case of the extension of anti-discrimination language of the Civil Rights Act of 1964 on the basis of "sex" as well as "race."

⁴² Report from the Secretary of the Navy on the subject of the discipline of the Navy, 31st Cong., 2d sess., Jan. 10, 1851, Sen. Ex. Doc. No. 12: 5, 7.

⁴³ "Flogging in the U.S. Navy," Naval Historical Center, Department of the Navy, <http://www.history.navy.mil/library/online/flogging/htm>

⁴⁴ Langley, 46-66, 91.

⁴⁵ Sailor's Magazine, as cited in Myra C. Glenn, The Campaign Against Corporal Punishment: Prisoners, Sailors, Women, and Children in Antebellum America (Albany: State University of New York Press, 1984),

44.

⁴⁶ Myra C. Glenn, "Troubled Manhood in the Early Republic: The Life and Autobiography of Sailor Horace Lane," Journal of the Early Republic 26 (spring, 2006), 59-93.

⁴⁷ The Pilot, 8; <http://www.kirjasto.sci.fi/jcooper.htm>.

⁴⁸ I am still drawn to the influential argument of Donald G. Mathews, Slavery and Methodism: a chapter in American morality, 1780-1845 (Princeton, N.J.: Princeton University Press, 1965).

⁴⁹ Glenn, Campaign Against Corporal Punishment, 89.

⁵⁰ Henry Mayer, All on Fire: William Lloyd Garrison and the Abolition of Slavery (New York: St. Martin's Press, 1998), 20, 269-70.

⁵¹ Elizabeth Schultz, "African-American Literature," in Haskell Springer, **add here...** 237-38; <http://www.gutenberg.org/files/15399/15399-h/15399-h.htm>; on controversy surrounding the interpretation of Equiano's text, see Vincent Carretta, Equiano, the African: Biography of a Self Made Man (Athens, GA: University of Georgia Press, 2005).

⁵² Douglass, Narrative of the Live of Frederick Douglass, An American Slave, (Boston: Bedford Books, 1993) 91; Douglass, Life and Times (1881), as quoted in Schultz, 240.

⁵³ Michael Sokolow, Charles Benson: Mariners of Color in the Age of Sail (Amherst: University of Massachusetts Press, 2003), 45-47.

⁵⁴ W. Jeffrey Bolster, Black Jacks: African American Seamen in the Age of Sail, (Cambridge, MA: Harvard University Press, 1997), 190-214. In the 1850s some states liberalized the Negro seamen's acts by requiring only that black seamen stay on board ship (as opposed to being placed in custody). Philip M Hamer, "British Consuls and the Negro Seamen Acts, 1850-1860," The Journal of Southern History 1 (May 1935), 138-68.

⁵⁵ Hamer, 144.

⁵⁶ Hamer, "Great Britain, the United States, and the Negro Seamen Acts, 1822-1848," The Journal of Southern History, 1 (Feb. 1935), 3-28.

⁵⁷ House Committee on Commerce, Free Colored Seamen—Majority and Minority Reports, 49-50, 27th Cong. 3d sess., 1843, Rept. No. 80: 3,6

⁵⁸ Hamer, "Great Britain..." 22-23.

⁵⁹ Free Colored Seamen, 40-42; On the state-delimited definitions of citizenship in this era, cm. William J. Novak, "The Legal Transformation of Citizenship in Nineteenth Century America," in Meg Jacobs, William J. Novak, and Julian E. Zelizer, The American Experiment: New Directions in American Political History (Princeton: Princeton University Press, 2003), 85-120.

⁶⁰ Opinions of Attorneys General, Message from the President of the United States, 31st Cong., 2d sess., 1851, "Rights of Free Virginia Negroes," Nov. 7, 1821. Ex. doc. No. 55: 329-31.

⁶¹ Free Colored Seamen, 51, 55; on the contemporary invocation of state quarantines, see Khaled J. Bloom, The Mississippi Valley's Great Yellow Fever Epidemic of 1878 (Baton Rouge: Louisiana State University Press, 1993), 36-37, 45-46.

⁶² Wilson, as quoted in Hamer, "Great Britain..." 11.

⁶³ Taney, as quoted in Don E. Fehrenbacher, The Dred Scott Case: Its Significance in American Law and Politics (New York: Oxford University Press, 1978), 70.

⁶⁴ Fehrenbacher, 343.

⁶⁵ George Fitzhugh, Sociology for the South, or the Failure of Free Society (Richmond: A. Morris, 1854), 85.

⁶⁶ David M. Williams, "Mid-Victorian Attitudes to Seamen," International Journal of Maritime History 3 (1991), 126.

⁶⁷ Congressional Globe, 42d Cong., 2d sess., 1872, Pt. 3: 2173

⁶⁸ Congressional Globe, 42d Cong., 2d sess., 1872, Pt. 3: 2208.

⁶⁹ *Ibid.*, 122; Course, 217..

⁷⁰ Williams, 114.

⁷¹ Judith R. Walkowitz, Prostitution and Victorian Society (New York: Cambridge University Press, 1980), 72-73; Williams, 126.

⁷² Hansard, 3d ser., vol. 130 (1854), 574-75;

⁷³ Rafferty, 42-43; Judith Fingard, Jack in Port: Sailortowns of Eastern Canada (Toronto: University of Toronto Press, 1982), 8-45. With her focus on British shipping to Canadian ports, Fingard offers a more subtle and sympathetic reading than most of the crimp's role in what she calls the "sailor labour market," including examples of crimp-sailor solidarity in pursuit of higher wages; Similarly, David Montgomery cites the 1867 case of a master stevedore's association bringing suit against waterfront tavern owners for effectively bargaining up the minimum wages of Boston seafarers. Citizen Worker: The Experience of Workers in the United States with Democracy and the Free Market during the Nineteenth Century (New York: Cambridge, 1993), 48.

⁷⁴ Hansard, 3d ser., vol. 130 (1854), 576, 582; Another form of the 'advance,' was the 'allotment' system, wherein a designated portion of the seaman's wages could be allotted to his wife, mother, et. al. or to an "original creditor," i.e. the crimp. See Macarthur, "American Seaman Under the Law, 724-76.

⁷⁵ A statistical sample of U.S. seamen in 1796-1803 and 1812-1815, e.g. revealed a mean age of 23 years old. Ira Dye, "Early American Merchant Seafarers," Proceedings of the American Philosophical Society 120 (Oct. 1976), 334-35

⁷⁶ Lisa Norling, Captain Ahab Had a Wife: New England Women and the Whalefishery, 1720-1870 (Chapel Hill: University of North Carolina Press, 2000), 214-61; Sokolow, 70-77.

⁷⁷ Valerie Burton, "The Myth of Bachelor Jack: Masculinity, Patriarchy and Seafaring Labour," in Colin Howell and Richard J. Twomey, eds., Jack Tar in history : essays in the history of maritime life and labour. (Fredericton, N.B.: Acadiensis Press, 1991), 179.

⁷⁸ For a comprehensive treatment of the interaction of wage labor and domestic contracts, see Amy Dru Stanley, From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation (New York: Cambridge, 1998).

⁷⁹ Dixon, "Seamen and the Law," 101-105.

⁸⁰ 17 & 18 Vict. (1854), cap. 104: 667-669.

⁸¹ Fingard, 150.

⁸² Dixon, "Seamen and the Law," 297.

⁸³ U.S. Statutes at Large, 1st Cong., 2d sess., 1790, Ch. 29: 131-32, 134.

⁸⁴ William McArthur, "The American Seamen Under the Law," 721; Richard B. Morris, "Labor Controls in Maryland in the Nineteenth Century," Journal of Southern History, 14 (Aug. 1945), 385-400.

⁸⁵ Congressional Globe, 42d Cong., 2d sess., 1872, Pt. 3: 2206. Indeed, Congressman and shipowner Fernando Wood of NY opposed the bill as a bureaucratic nightmare, modeled on a "failed" English law, unfit for "republican" government. (2173-76).

⁸⁶ Stanley, 35-40. See also Gunther Peck, "Contracting Coercion? Rethinking the Origins of Free Labor in Great Britain and the United States," Buffalo Law Review 51 (winter 2003), 201-18.

⁸⁷ Congressional Globe, 42d Cong., 2d sess., 1872, Pt. 3: 2206.

⁸⁸ Walter Macarthur, "The American Seaman Under the Law," Forum, 26 (Feb., 1899), 721.

⁸⁹ Gen. Butler's formative experience with the administration of labor contracts had come in 1862, when, administering the liberated sugar plantations of Louisiana, he devised policies to keep blacks—still technically slaves—at work according to a newly imposed wage system. Eric Foner, Reconstruction: America's Unfinished Revolution, 1863-1877, 55.491.

⁹⁰ Congressional Globe, 42d Cong., 2d sess., 1872, Pt. 3: 2206.

⁹¹ In addition to the case of merchant seamen, Robert J. Steinfeld has called attention to several other instances of late-19th and even early 20th century enforcement of penal sanctions in labor contract enforcement, seemingly at odds with the spirit of both the Thirteenth Amendment and subsequent anti-peonage laws. Coercion, Contract, and Free Labor in the Nineteenth Century (New York: Cambridge University Press, 2001), 275-89.

⁹² Rafferty, 56.

⁹³ Dixon, "Seamen and the Law," 96

⁹⁴ Lewis R. Fischer, "A Dereliction of Duty: The Problem of Desertion on Nineteenth Century Sailing Vessels," in Rosemary Ommer and Gerald Panting, eds., Working Men Who Got Wet: Proceedings of the Fourth Conference of the Atlantic Canada Shipping Project, July 24-July 26, 1980 (St. Johns: Memorial University of Newfoundland, 1980), 54-58; On the underreporting of desertions, see Fingard, 142.

⁹⁵ Marcus Rediker, Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700-1750 (New York: Cambridge University Press, 1987), 100-15.

⁹⁶ Course, 221-22, Macarthur, "American Seaman Under the Law," 229.

⁹⁷ Hyman Weintraub, Andrew Furuseth: Emancipator of the Seamen (Berkeley: University of California Press, 1959), 31-34; A legal anomaly, had, in fact, allowed prosecution of desertion in U.S. ports to lapse since an 1874 bill had eliminated the coastal trade from the bureaucracy of the far-reaching Shipping Commissioners' Act of 1872. As Furuseth, then with the Coast Seamen, discovered in 1887, the 1874 legislation unintentionally also withdrew the sailors from the sanctions of desertion in U.S. home ports, thus giving the union a powerful new strike tactic. Shipowners responded with remedial legislation in 1890, restoring 'desertion' penalties for the coastal trade—and thus also setting up the agenda for the Maguire Act. Paul S. Taylor, The Sailors' Union of the Pacific (New York: Arno Press, 1971 [1923]), 76-79.

⁹⁸ <http://www.sailors.org/pdf/history1-2.pdf>.

⁹⁹ Robertson v. Baldwin, 165 U.S. 275 (1897), 281, 283-86, 287-88.

¹⁰⁰ Ibid., 292-93, 298-99.

¹⁰¹ Weintraub, 35; Macarthur, "American Seaman Under the Law," 723.

¹⁰² Steinfeld, 266, 273, 277.

¹⁰³ Macarthur, The Seaman's Contract, 221-222; Hyman Weintraub, Andrew Furuseth: Emancipator of the Seamen (Berkeley: University of California Press, 1959), 42-43.