[illegible] of the common law, must be wretched in the extreme.

The learned in maritime law give the same or nearly the same definitions of their code. However, we find in the case of the ship in question, that what was maritime law four, six, or fifty years ago, is not law under the same circumstances in 1805.

As the legislative power is the sovereign power, we naturally come to enquire how the law came to be changed; because the change of law must necessarily be an act of the sovereign power, real or usurped, wherever it appears.

The question then occurs—is there any legitimate sovereignty of the ocean? Independent nations, whenever unshackled and unawed by danger, have uniformly denied the existence of any sovereignty on the ocean, which has been pertinently and properly called the common road or highway of all nations. And we naturally connects itself with this metaphor, that he who commits a depredation on this common highway, is no better than the robber who goes upon the highway on land, to levy contributions on the peaceable and industrious traveller.

A desire to understand a subject, which appears to be a general cause of the present and of many former wars, has led us to turn some attention to it—and we shall endeavor to give such a sketch of the naval contests, which either took place in consequence of the assumption of this pragmatic sovereignty, or with an intention to snatch it from those by whom it has been assumed. Should this subject not branch out too much for a newspaper essay, we may perhaps give some comparative views of the principles of maritime tactics, as practised in various epochas, to some of which we referred some time since in analysing the account of the late naval rencountre, which appeared in an English paper. At present we shall not enquire into the principles of naval tactics, nor the size and structure of ships, but of the political transactions involved in the various contests for an absolute dominion on the Ocean.

The English writers carry up the history of their navy to the days of the heptarchy, and proudly display the success of Offa monarch of Mercia in his contest for the dominion of the sea with Charlemagne. The establishment of a naval power by Alfred the great is dwelt on with a complacency that cannot be too much applauded, because it had its foundation in the virtuous spirit of freedom which nerved the British arm to repel invading foes and to preserve their national independence. Alfred's fleet is represented as amounting to 120 sail. Those of Edgar one of his successors amounted to 3600—the largest of these vessels however carried no more than 50 men. This is the first of the monarchs of Britain whom we find claiming the sovereignty of the ocean, and assuming the following vain glorious title—"Edgar emperor and lord of all the kings of the ocean and of all the nations which surround it." And as an ingenious writer remarks, as "the triumphs of pride are always outrageous," this sovereign of the ocean caused eight tributary kings to row him in a barge.

The irruptions of the Danes snatched the sovereignty of the ocean from its usurpers, who were obliged to pay the ignominious tribute called Danegeld. Canute the invader and conqueror of Britain aspired to the vain glorious insolence, of not barely ruling on the ocean, but of forbidding its waters to encroach with their tides—which nevertheless had the presumption to disobey.

The successors of Canute appear not to have imitated him. Harold is the next who appears to have collected a considerable fleet; but another invader, William of Normandy, possessed himself of the pretension to the sovereignty of the ocean with the absolute sovereignty of England. His successors, until the period of the crusades, paid little attention to naval affairs. Richard carried on one expedition 150 sail.

King John was the next who appears to have aimed at the sovereignty. By this pusillanimous tyrant, it was ordained, that all foreign vessels should *salute* the English ships upon pain of confinement and corporal chastisement. And this ordinance contained these extraordinary clauses—'Any ships or vessels laden or sailing on the seas, that will not lower or take down their flags at the command of the king's lieutenant, or of the admiral of the king, or his lieutenant, but fight against any of my fleet; such if they be taken shall be reputed as enemies, and their ships, vessels and goods, seized and confiscated as the goods of enemies; although the masters or owners should afterwards come and alledge the said ships, or vessels and goods to belong to our lord the king; and that the hands on board be chastised by imprisonment, at discretion, for their rebellious conduct.' It was to maintain this sovereignty that the *five ports* (now called *Cinque* ports) were established who had certain immunities for supplying 57 sail of vessels for the king's service. The ports were Hastings, Romney, Hithe, Dover, and Sandwich, all opposite the French coast, and on those points where invasion would be most to be apprehended because most convenient for the invader.

Edward I. re-asserted the same authority, but he appears to have limited it to the English seas, the words of the ordinance are—"especially to retain and maintain the sovereignty which the kings of England exclusively possessed, on the said seas, with regard to the declaration, amendment, and interpretation of the laws by them made for the government of all manner of persons passing through the said seas."

As we meant to continue this subject we will here offer a few remarks. The case of the Essex, captain Orne, and the other before mentioned, appears to have been determined by the common law of Edward I. For as antiquity is always a good foundation for a legal principle, it is not to be presumed, that a letter of a modern secretary of state such as lord Hawkesbury could supercede an ordinance of king John or of Edw. I. And here we see not only a precedent for the English king's privy council, to *alter* and *amend* interpretations of laws, but that they were in those days intended to comprehend "*all manner of persons.*"

No. II.

Those who admire all that is ancient, however incompatible with the state of society in modern times, cannot be displeased at the variety of precedents which we have undertaken to lay before them, demonstrating the antiquity of the pretensions to the sovereignty of the ocean. On the other hand those who are disposed to question the right of prescription, when opposed to reason and moral right, will not be at least unamused by the illustration.

The monarchs of the 13th century differed only in name from the leaders of a banditti; and their depredations upon each other, and upon the feeble chiefs who ruled the divided communities, which have been since united into powerful kingdoms, afford but too many examples of the lawless spirit of depredation, which at the distance of six centuries prevails among people called civilised—among kings affecting to be disciples of the religion of Christ, and among nations affecting the distinction of wisdom. As it is not our purpose to notice the cruelties exercised in those days, we shall pass over the history of the barbarities practised which brought about an alliance between Philip of France and Eric VIII. of Norway, for the vindication of the free navigation of the sea against the sovereignty assumed by Edward.

Eric provided 200 gallies and 100 other armed vessels. These however not being adequate, Philip of France engaged Geofroy de Comerci, a priest, to fit out a number of gallies at Calais; and these being equipped without the aid of Eric, the French landed at, attacked, and burned Dover, which produced a counter attack against Cherburg, and the burning of the abbey thereof by the English.

Petty warfare continued under the reign of Edwd. III. and their old rival irritated by the pretensions of Edwd. to the throne of France attacked the English with great vigor on their favorite element. They landed at Portsmouth, attacked, and laid it in ashes; and proceeded to Southampton, which they plundered, and retired to Dieppe with their infamous booty. They made similar descents on Hastings, in Kent, in various parts in Cornwall, Devonshire, and in the Medway; and captured two of the largest vessels in the English navy.

Edward with a fleet of from 240 to 300 vessels took the command himself, and determined to attack Philip whose force amounted to 400 ships, 120 of which were larger than the accustomed size of ships of war in those days. The English met their adversary in the road of Sluys and advanced towards them in two lines, with the wind, which the French did not dispute. In the action the Flemings joined the English fleet and the French were defeated with a loss of 200 vessels; Edward as a manifestation of his power hung Behuchet one of the French commanders at the yard arm. The conflicts on the land for several years from the battle of Crecy to that of Poicters, appear to have diminished the importance of various naval combats, in which the parties were alternately discomfited and victorious; the most eventful of which took place before Rochelle in 1346, in which the Spanish fleet then possessed of the ablest seamen in Europe, being called to aid Charles V. obtained a signal victory over the English, taking the admiral earl of Pembroke prisoner, with whom they returned to Spain.

Edward soon after died, when a Spanish fleet of 140 sail under a French admiral made a descent upon Rye, which they plundered; they proceeded thence to the Isle of Wight which they also ravaged, and treated in succession, Lyme, Plymouth, Poole, Dartmouth, and Penzance in the same manner; they menaced Dover but made no impression but that of terror for which the accounts of the neighboring depredations had too well prepared the inhabitants.

Edward had acted so arbitrarily during his reign, in impressing and seizing ships belonging to individuals in virtue of his prerogative, that his successor Richard II. found it impracticable to collect a fleet. Parliament in vain complained of the decay of the fleet; a single port could formerly supply more than the whole nation at that time. Commerce was destroyed. Richard adopted an expedient, nevertheless, which shewed he was disposed to maintain his pretensions to the sovereignty of the sea; he *imposed a tribute on all vessels touching on the coasts or passing through certain latitudes.* This imposition incensed the commercial people of all Europe, and prepared them to combine against the power of England. The tribute is now exacted under the name of *light house duties*, and those who cannot retaliate submit to an imposition which is levied under a pretence to which one tenth of the produce is not applied.

The Spaniards and the Scots with their fleets levied severe contributions on England for several years, and defeated numerous squadrons detached to attack them, and break up the blockade of the English coasts.

Charles VI. of France resolved to invade England, and "from the port of Seville to the coast of Prussia, there was not left one large vessel that was not at the service of France." It was computed that there were 1500 vessels!—The alarm was greater in England than was justified by the issue, for the design was abandoned without being attempted, and the joy was as great in England as if they had repelled the enemy.

Cannon were soon after introduced in naval combat; and the failure of the project of invasion, spirited up some enterprizing officers who fitted out a fleet in Normandy; attacked an English fleet; captured and carried them into port; they sent back the admiral Hugh Spencer upon his parole.

These incidents caused the revival of the project of invasion. The constable de Clisson and the admiral Vienne, had each a fleet fitted out at Treguir and Harfleur. The latter admiral held the political dogma that *the English were most vulnerable in their own island*, and great expectations were obtained from the valor and experience of both. But through the interference of the duke de Bretagne, this also was never carried into operation.

The English confined their enterprises to marauding or buccaneering for several years, attended by the usual vicissitudes of irregular undertakings. A small fleet under the count de St. Pol, landed in Hampshire and plundered the Isle of Wight, but with no other effect. A similar enterprize was undertaken with the like effect by the British.

However, upon the revolt of the Welch in 1405, the count de la Marche and the marshal Montmorenci landed in Wales, the latter at the head of 12,000 men, took and destroyed Hereford; and afterwards penetrated into England, ravaging the country as far as Winchester, but was soon after obliged to retreat out of the country.

These naval expeditions, combined with the ambitious pretensions of their kings, laid the foundation of that national hostility which has not yet subsided, and which seems to portend to one or other of the powers a fortune and a fate similar to those of Rome and Carthage.

Having noticed so much of the historical transactions of the rival nations, let us for a moment speculate on the probable issue of the contention of the present day.

It appears that the passions of mankind are already engaged in the interests of one or the other party. The citizens of America it would seem ought to view them alike with equal indifference or apprehension. From the English we experience neither justice nor a decent respect on the ocean. If this is her conduct towards us, when on the verge of national extinction, what should we have to expect, were she to obtain a complete triumph over her rival and give the law on the ocean as her Edwards and Henrys did in the narrow seas, "*to all manner of persons passing thro' the seas.*"

On the other hand, if her rivals should triumph—if by one desperate stroke she should annihilate the combined forces, turn her whole power along with the force to be obtained from conquered enemies upon the shore of England—James II. of England, who was no ordinary seaman, declared that "no invader of England who ever carried a force with him failed to conquer." If such should be the issue—and more wonderful events have arisen to amaze the unexpecting and confident part of mankind, we ask upon this hypothetical case, what would be the effect?

Deductions from such hypotheses may be of use, they may teach rash men consideration—they may teach even the prejudiced some useful lessons of prudence.

FROM THE COMMONWEALTH.

Pittsburgh, October 30.

ALLEGHENY COUNTY.

Adjourned Court of Common Pleas,
October 25, 1805.

Present—ROBERTS, *President*,
WALLACE & M'DOWELL, *Associates.*

Commonwealth of Pennsylvania, vs. *E. Pentland.* — *Rule to shew cause why an attachment should not issue against the defendant for an alledged contempt of said court.*

It was contended by MOUNTAIN, for the defendant, that the doctrine of attachment was contrary to the genius of the common law, repugnant to the principles of our constitution and the genius of our laws, and therefore should be resorted to only in cases of necessity, as for contempt committed in the presence of the court, or by the officers of the court; and that in *this* case the remedy was by indictment. He examined the cases in which the supreme court had punished contempts, not committed in their presence, nor by the officers of the court—insisted that the supreme court had not the transcendant powers of the Court of King's Bench, the cases of contempt being enumerated in the act of 1722—and he contended, that granting the supreme court had this transcendant power, it did not follow, of course, that the court of common pleas had the same power. He took a full view of the argument of Mr. *Lewis*, in the legislature, in the cause of *Oswald*, and proved that his positions were not supported by law. To the objection, that in the act of 1722, no mention was made of contempts committed in the presence of the court, he answered, that no law was requisite to invest courts with that power—it was like the right of self preservation. And, in conclusion, he contended that the editor of "The Commonwealth" could not be punished, inasmuch as he had published the truth—in the course of his argument, he said that the doubts entertained by judge Breckenridge, in the case of Passmore, as to the extent of the purgation in cases of contempt, proved that courts knew little about the doctrine.

BALDWIN, for the commonwealth, insisted upon the power of the court to proceed by attachment—he considered the practice sanctioned by the legislature in the acquittal of the impeached judges of the supreme court—and observed that the exercise of this power could not be repugnant to the constitution and laws of this commonwealth, which denied to any man the right of being a judge in his own cause—inasmuch, as the defendant's spirit for libelling *might* possibly carry him so far as to libel all the courts of the state, and then by sheltering himself behind this doctrine, no court could be found, free from imputation, in which he might be tried. He condemned the fashionable practice of railing against the system of common law, and declared the objections against it to be founded in ignorance, as the system of common law contained more morality than any other system extant, excepting the *Bible*. He defined common law to be common sense, from which he inferred, as a matter perfectly relevent to the case, that every man who possessed good common sense, was a good common lawyer. He did not know of any precedent, *reported*, in favor of the court of common pleas exercising the power of proceeding by attachment—but within his own personal knowledge, he knew of two cases, which occurred during the presidency of Mr. Addison, in which the court had exercised that power.

The opinion of the court, on the day following the argument, was, that they considered themselves possessed of the power of granting an attachment in the present case—but they rather chose to proceed by indictment, by which course the defendant, would, agreeably to the constitution, have the benefit of an impartial trial by a jury of the vicinage; and that, in pursuance of that determination, the editor of The Commonwealth should enter security, himself in 500 dollars, and two other sureties in 250 dollars each, for his appearance at the ensuing court of quarter session to be holden on the third Monday of December next, to answer the charge of having published a false, scandalous and malicious libel, with intent to defame the court aforesaid.

The issue of this cause, so far, is of importance to printers, and favorable to the liberty of the press, as it tends to discountenance the arbitrary and barbarous practice adopted by the supreme court of setting themselves up as an oracle of perfectability, and assuming the power of hearing, adjudging, and determining on the punishment of alledged offences, when they are themselves the party offended.

Communication of Governor Bloomfield to the Legislature of New Jersey, delivered Oct. 22.

Gentlemen of the legislature:

I have the honor to lay before you communications from the governors of North Carolina and Massachusetts, with resolutions of the legislatures of those states, proposing "an amendment to the federal constitution, so as to authorise and empower the Congress of the United States to pass a law, whenever they may deem it expedient, to prevent the further importation of slaves from any of the West India islands, from the coast of Africa, or elsewhere, into the United States, or any part thereof." Also a letter from the governor of Kentucky, proposing "such an amendment to the constitution of the United States, as shall confine the jurisdiction of the courts of the United States to cases in law and equity; arising under the constitution and laws of the United States, and treaties made, or which shall be made under their authority: cases affecting ambassadors, other public ministers and consuls; cases of admiralty and marine jurisdiction; controversies to which the United States shall be a party; to controversies between two or more states." And also resolutions of the legislature of Pennsylvania approving of the said proposed amendment by the legislature of Kentucky, and uniting in requesting the concurrence and co-operation of the legislature of the state of New Jersey, to procure the said amendment respecting the judiciary power of the courts of the United States.

Two hundred and fifty shares of stock in the Newark turnpike company, were subscribed in behalf of this state, and the monies appropriated, drawn from the Treasury conformable to the directions of the acts passed for this purpose by the last legislature.

The right of this state in the Newark Banking and Insurance company, has been transferred for one thousand five hundred and thirty dollars advance: and after the deduction of advertising in the eight newspapers in this state, and in one of the newspapers of New-York, the balance, one thousand four hundred and eighty-two dollars, has been paid to the Treasurer of this state.

A copy of the laws and three copies of the journals of the Senate and of the House of Representatives, of the second session of the eighth Congress; six octavo volumes of the late revised laws of Pennsylvania, and a copy of the late acts of the legislatures of Connecticut and N. Carolina, have been received and are deposited in your library.

Although there is no provision by law for annual returns of the militia, to be made to the legislature; yet I take the liberty to submit to your inspection and consideration, a general return of the militia of New-Jersey, made to me by adj. gen. Hunt, for the current year, by which it is presumed you will be convinced of the necessity of some amendments being made in the present militia laws of this state.

JOSEPH BLOOMFIELD.

New Haven, Oct. 31.

As the making of woolen cloths is so greatly improved by the carding machines lately erected in different places, it is probable that this with the rapid increase of our inhabitants, will increase the demand for wool at least in proportion, and as the demand for wool has been greater than could be supplied, it remains for legislators to determine what further encouragement for the increase and improvement in sheep and wool may be necessary for the public good. That sheep afford light food, cloathing and an excellent manure, are facts so well known they need no comment. For a number of years past I have had a desire to improve the breed of sheep, and have taken some measures for that purpose. In the year 1800 I purchased a pair of sheep called the otter breed.—This breed of sheep are well known by some, but I presume are unheard of by many others. They generally have long round bodies, thick necks and breasts, broad hips, very short legs that stand wide apart, and some of them bend outwards. They cannot run or leap fences equal with others and mine have about the same quantity of wool as the other kind, and some finer. My lambs by those rams with other sheep have generally been either of the otter or common kind, but in some instances they partake partly of the shape of both, and I think these ameliorate the breed. In October, 1802, I obtained one of the Spanish Merino rams, imported by col. Humphreys, and put him with part of my sheep, and by this means in the spring, 1803, had some of the half blooded lambs. Soon after the lambs had come, I put them and their dams with my other sheep and lambs, and kept them together through the summer, and in the fall separated these lambs with my others from the old sheep, and so kept them through the winter. In the summer they were manifestly different, and wintered much better than my other lambs, that lay with them, and at shearing yielded one fifth more in weight of wool on an average than my other sheep, and the quality far superior—exceeding my expectation. This wool was spun and wove in my own family. The wool was carded and the cloth dressed at the works of col. Humphreys, at Rimman Falls, in Derby, and by reputable merchants that cloth has been judged to be equal in quality to English broad cloth from six to six dollars and a half per yard. The genuine breed of these sheep are nearly the same size of our common sheep, and completely covered with wool, exceeding fine and thick, and yield more wool than our common sheep and much more oily than the other wool, and by mixing them, mine have increased their size and wool. I have some of the three-quarter blooded; their wool bears a near resemblance to the genuine, and from my half blooded rams (the two last seasons) I have had a number of quarter blooded lambs, which are larger and yield more wool than my half blooded but not so fine. I have kept this breed with some of my other sheep for the purpose of fair experiment, and from the observations of three summers and two winters, they have done better in summer and winter than my others. I think they are a hardy, healthy breed of sheep. By these experiments and observations with others in my neighborhood, I am convinced that great improvement may be made in our sheep and wool by mixing the breed with them, worthy the attention of all that raise sheep, as well as the public.

DANIEL HOLBROOK.

Derby, Oct. 21, 1805.

Bennington, Oct. 28.

We mentioned in our last that the choice of a speaker, in the House of Representatives, was decided by a majority of twenty: we now find we were not then correctly informed, and that the vote stood as follows; For Mr. Aaron Leland, the republican candidate, 110, for Mr. Lewis R. Morris, the federal candidate, 71, and two scattering. Thus the majority, or republican strength over the federal, is 37 instead of 20.

An error was likewise committed from misinformation, with respect to the business before the house, relative to the conduct of the supreme court: The federal attempt at impeachment proved utterly abortive; the conduct of the judges was proven to be consonant to law, where the law was express; to long established precedent, where the law was silent; and to moderation and prudence, in every instance. Thus the wiles of office seekers, and the schemes of faction were rendered void, and the honor of republicanism evinced by the result. After passing the vote for exonerating the judges, from the charges brought against them, the republicans brought forward a vote, to postpone the election of the judges of the supreme court until a future day, which vote passed, and on the day appointed, the re-election of each of the judges was decided by respectable majorities.

When justice is laid to the line, and righteousness to the plummet, the complexion of virtue will be brightened, and the cause of republicanism advanced.

If any thing could make a party zealot blush, who, to carry his point, has descended to malignity, and aimed at the assassination of character; it would appear that shame and confusion of face ought to belong to the federalists of Vermont.—After evading an investigation of their plots against the judges of the supreme court, at the last session of as-