the constitution of the United States rests. Had that constitution, after giving to Congress legislative functions, stopped, then Congress would have been as absolute as parliament. But the constitution goes on to enumerate the legislative powers given to Congress, *e. g.*, to coin money, to provide for an army and navy; and even the most latitudinarian expositors of the constitution agree that this enumeration restricts the legislative power of Congress to the exercise of these delegated functions.

3. It remains, then, to consider how far the power to impose hard labor is included in the power to impose imprisonment, limited as the latter is from its being made distinguishable, in the statute, from the power to fine and the power to impose a penalty. And the first remark to be made is, that hard labor is not a punishment inflicted at common law as a concomitant to imprisonment. The records of the English criminal courts will be searched in vain for any instance of this cumulation; and the histories of the times, whether coming to us in the guise of annals or of fiction, show that the English prisons were far from being tenanted by persons forced to "hard labor." It was only by force of specific statutes that the "workhouse" was established as a method of employing certain classes of convicts; nor was "hard labor," as a concomitant of "imprisonment," introduced in England until the statutes establishing penal servitude. There was no law until that period authorizing it, and the judges were precluded from imposing it by the clause in the bill of rights (1 W. & M., sess. 2, c. 2, *preamble*,) forbidding the infliction of "illegal and cruel punishments." Hard labor cannot be spoken of as cruel, but, in view of the fact that it was unknown as a common law punishment, it must be regarded in England as "illegal" until authorized by act of parliament."

Mr. Wharton concludes by referring to the rulings of the courts in the United States. This portion of the article we hold over for the present.

SPONGING ON PROFESSIONAL MEN.

In an amusing little book published not long ago, "John Bull et son Ile," the English solicitor's bill of costs comes in for its share of satire. The following little bill is printed as a sample:—

	s.	d.
"To receiving a letter from you and reading it	3.	6.
To writing the answer	3.	6.
To hiring a cab	5.	0.
To thinking of your affair in the cab	3.	6.
To listening to your remarks	3.	6.
To answering them	3.	6.
To meeting your father-in-law and speaking to him of your affair	3.	6.

This is a long way behind many of the old stories of solicitors' bills, with which our readers are no doubt familiar. One of these runs somewhat in this way: A person with a lawsuit on hand was bathing in the sea at Brighton, when he observed the head of his solicitor rise above the water. He immediately hailed him with the inquiry, "Mr. Jones, how is my case getting on?" "Famously," cried Mr. Jones, who immediately dived out of sight, and put an end to the consultation. At a later date the client read in his bill of costs the following item:—

	s.	d.
To conferring with you at the sea-side as to your case	5.	0.

But however much amusement may be extracted from such anecdotes (and lawyers are usually most prodigal in using them), it is well known that professional gentlemen have more or less to protect themselves against those who would use their brains and experience without any acknowledgment. Some of the daily journals have been inclined to gibe at the case of *Cooke* v. *Penfold*, which is noted in the present issue. It seems to us that these writers are geese, and that they are simply producing the *sifflement* which comes most natural to them. What are the facts? Mr. Penfold, a rural gentleman, had been appointed trustee to an estate. He was in doubt as to the legal form of conveyance, and he set out to town for advice. He meets Mr. Brooke in a railway car. He knows him to be a lawyer, and he submits the difficulty to him, and obtains a reply. Mr. Brooke gives an opinion for which Mr. Penfold would no doubt quote him as the authority, and if it were incorrect, Mr. Brooke's reputation would, doubtless, suffer. What was the upshot? The firm of Cooke & Brooke, to which Mr. Brooke belongs, a firm, by the way, practising at Montreal, sent in to Mr. Penfold the very moderate memorandum of charge of $3 for professional advice. Mr.