of the law administered by the Court further than may be necessary to define the limits of its jurisdiction. I would here merely remark that the law by which the proceedings of the Court are governed is founded on the maritime laws of ancient Europe, modified and controlled by Acts of Parliament and common usage.*

I shall, in the first place, glance at the origin and history of the jurisdiction, without which it would be impossible to show you clearly its present limits, and the principles on which they have been fixed; why it is that the Court takes cognisance of suits for wages, bottomry, salvage, &c., and not of causes of charter-parties, marine insurance, necessaries supplied to a ship not foreign, &c.

The origin of the Court is involved in the same obscurity which rests on the early history of the Courts of Common Law. Some writers, and amongst them Blackstone, have assigned the origin of the Amiralty Court to the reign of Edward III.; but subsequent investigations have shown that it existed at a much earlier date. One old writer † concludes that "decision of marine cases was not put out of the king's house, and committed to the charge of the admiral, until the time of King Edward III." From this I infer that this Court, like the Courts of Westminster, was originally attached to the king's household.

In the reign of Richard II., grandson of Edward III., two statutes were passed relating to the Admiralty jurisdiction, which have been generally termed the "restraining statutes." They were founded on frequent petitions of the Commons against the admiral, the substance of which was, "that the admiral and his officers held pleas of contract arising in the bodies of counties, of trespasses, debts, quarrels, wears, kiddles, breaking open of houses, carrying away goods, illegal imprisonment, excessive fees, and extortion." ‡

The first of these statutes was the 13 Rich. II., c. 5. It enacted that "the admirals and their deputies shall not meddle, henceforth, of anything done *within the realm*, but only of a thing done upon the sea, according as it hath been duly used in the time of the noble King Edward III., grandfather of our Lord the King that now is."

The next was the statute 15 Rich. II., c. 3. It enacted "that of all manner of contracts, pleas, and quereles, and of all other things done or arising within *the bodies of counties*, as well by land as by water, and also of wreck of the sea, the Admiral's Court shall have no manner of cognisance, power, nor jurisdiction," but that the same should be remedied at common law.

One question which arose on the construction of the first of these statutes, was as to what was the jurisdiction of the Admiralty, as "*duly used*" in the reign of Edward III.; which has given rise to a great deal of learned discussion. Mr. Justice Story, in his able judgment in *De Lovio* v. *Boit*, (2 Gallison's Reports, 398,) which has been well termed a "learned and elaborate essay on the Admiralty jurisdiction, and one of the most elementry views on the subject extant," after reviewing the ancient authorities, comes to the conclusion, "that before and in the reign of Edward III. the Admiralty exercised jurisdiction—1. Over matters of prize and its incidents. 2. Over torts and offences in ports within the ebb and flow of the tide, on the British seas and on the high seas. 3. Over contracts and other matters regulated and provided for by the laws of Olerom and other special ordinances. And 4, (as the commission of Robert de Herle shows) over maritime causes in general."

This, it must be admitted, is a favourable view of the ancient jurisdiction; yet Mr. Justice Story challenges the production of "any authority previous to the 13 Rich. II., which properly considered, impeaches the jurisdiction of the Admiralty as here asserted." It is true that Lord Coke, in his view of the Admiralty jurisdiction, in his 4th Institute has made citations from ancient cases, which seem to impugn or weaken the conclusions so drawn; but then, as Mr. Justice Story remarks, "It is well known with what zeal, ability, and diligence, Lord Coke endeavored to break down the Court of Chancery, as well as the Admiralty. It would have been fortunate for the maritime world, if his labours in the latter case had been as unsuccessful as in the former. There are many persons who are dismayed at the danger and difficulty of encountering any opinion supported by the authority of Lord Coke. To quiet the apprehension of such persons, it may not be unfit to declare, in the language of Mr. Justice Buller, that with 'respect to what is said relative to the Admiralty jurisdiction in 4 Inst. 135, that part of Lord Coke's work has been always received with great caution, and frequently contradicted. He seems to have entertained not only a jealousy of, but an enmity against, that jurisdiction.'"

The Courts of Common Law adopted and followed Lord Coke's views. They put the narrowest construction upon the language of the restraining statutes. In the reigns of James I. and Charles I., attempts were made to put an end to the unseemly conflict between the two jurisdictions; but after the restoration it was renewed with more vigour than ever. Prohibitions to the Admiralty Court were issued by the Common Law Courts almost as of course; and if they had consistently followed out their construction of the restraining statutes to its logical consequences, the Admiralty Court would have been shorn of all its important jurisdiction. What, in substance, the Common Law Courts contended for, and so far as they could, held, was as follows:—

1. That the jurisdiction of the Admiralty is confined to contracts and things made and done upon the sea, and to be executed upon the sea; whereas all important maritime contracts are necessarily, from the nature of the case, entered into on land.

2. That the Admiralty Court has no jurisdiction over maritime contracts made within the bodies of counties or beyond sea, although of a maritime nature.

3. *Nor* of contracts made upon the sea, if to be executed upon land, or not of a maritime nature, or under seal, or containing any unusual stipulations.

4. *Nor* over torts, offences or injuries done in ports, or within the bodies of counties, notwithstanding the places be within the ebb and flow of the tide.

On the other hand, the Admiralty Court asserted its jurisdiction over all maratime contracts, contending that the subject matter, and not locality, was the true test; and as to torts, &c., it claimed cognisance over all those committed on the high seas, and so far as the tide ebbs and flows.

The Admiralty Court always asserted jurisdiction over things done beyond sea; for such cases it was peculiarly well suited, being, even as to its ordinary jurisdiction, a sort of international court; whereas our Common Law Courts, in their early history, according to the narrow views then prevailing held that they could take cognisance only of things done within the realm. At length they got over the difficulty, as they had done in other cases, by the aid of a fiction—viz., by supposing the things to have been done at Cheapside and such like places, and holding that such averments were not traversable.

In the language of Mr. Justice Story, in the case from which I have already cited:—"The Courts of Common Law, by a silent and steady march, have gradually extended the limits of their own authority, until they have usurped or acquired concurrent jurisdiction over all causes, except of prize, within the cognisance of the Admiralty. And even as to matters of prize, its exclusive authority was not finally admitted and confirmed till the great cause of *Lindo* v. *Rodney* (2 Doug. 613). almost within our own times. It is curious, indeed, to observe the progress of the pretensions of the Courts of Common Law

* Browne's Civil & Ad. Law, p. 34; Pritchard's Adm. Digest, Introduction, p. vii.
† Lambard. ‡ Wynne's Life of Jenkins, p. 78