

**LANCASTER, Penn., Aug. 6.**  
**DISTRESSING.**

An unfortunate circumstance happened on Friday last at the distillery of Mr. Alexander Patterson, in Rapho township. Mr. Patterson being desirous of deepening the well at his distillery for the purpose of obtaining a more plentiful supply of water, employed George Conway and William Woods, and with them descended into the well. Mr. Patterson left the well, and the workmen after cleaning out the loose stones and dirt, commenced digging the rock at the bottom; while at work, about 8 o'clock the lower part of the wall suddenly gave way and fell in upon the workmen. This happened about 10 o'clock on the morning of Friday. A number of the neighbours immediately collected at the spot, and Joseph Simpson ventured into the well, and upon calling aloud was answered by the two men from below, who begged assistance. Joseph Simpson immediately commenced filling the bucket with stones. James Long went down to assist him, but observed it was not safe, and made his way out of the well, which he had scarcely effected when the remainder of the wall fell in and buried Simpson about 30 feet deep. The people above immediately commenced removing the mass of earth and stones that covered their unfortunate neighbours, and persevered until about 10 o'clock at night, when they got so far as to be able to converse with Joseph Simpson; at this time the earth and loose ground from above caved in upon George Earl, George Keffer, a Mr. Grider and a Mr. Barlow, who were engaged in removing the rubbish. Mr. Barlow was instantly killed, the other three were extricated without much difficulty, but considerably bruised. A crib of wood was then formed to sustain the loose earth and stones from caving in again and rendering their labour abortive. With great exertions it was completed by three o'clock on Saturday morning, when the labour of removing the rubbish was recommenced with strong hopes of success. About six o'clock the body of Barlow was found, a bout ten o'clock, they reached Simpson, who was very much cut about the head and bruised about the shoulders, and greatly exhausted by loss of blood. He is however considered at present out of danger. About five o'clock in the afternoon, Wm. Woods was discovered standing upright on the bottom of the well, wedged in with the stones that had fallen around and upon him. Conway was dead. Woods says that Conway lived about twelve hours, that he conversed with him until about that time, when poor Conway told him he was gone, that the water was rising upon him and he would be drowned. He felt his hand pressing his legs several times after his death had failed as if it taken that he was still living. When the wall first caved in Conway was sitting in the act of boring, Woods was standing by his side. Woods was much cut and bruised but no bones broken, he is likely to recover. Woods was buried 30 hours, 45 feet from the surface; under a mass of stone and earth which on caving in the third time filled the well to the top. It is an extraordinary fact that though these men were buried under such a depth of stone and earth, they experienced no difficulty in breathing.—Gazette.

**Norfolk, Aug. 7.**  
**THE MACEDONIAN.**

The U. S. frigate Macedonian has removed from Hampton Roads and anchored in the bays of Craney Island, where she has landed her sick. The Alert steamship was towed down to Craney Island yesterday to receive on board the healthy part of the crew, until the Macedonian can be properly cleaned.—We understand that several new cases of disease have occurred on board the Macedonian since her arrival, and that the number of her sick yesterday morning was sixty. Doctor Cowdery of the Navy, has been added to the number of surgeons in attendance on the sick.

George Pearce, 1st Lt. died this day on Craney Island.

Since our last we have been politely favored with a list of the officers who died on board the Macedonian during her late and unfortunate cruise, which is as follows:  
Lieut. George W. Isaacs.  
Lieut. James Clements, (Marine Corps.)  
Doctor John Cadle, Surgeon.  
Midshipmen Isaac H. Rand, Oliver W. Wood.  
Christopher T. Emmett, Abraham Hosack, Alexander M. Murray, Herman Rutgers, Mr. John L. Sickles, Captain's Clerk.

**PITCAIRN'S ISLAND.**

We have been politely favoured with the following extract of a letter from a gentleman in Valparaiso, to his friend in this city, dated May 5, 1822.

"I enclose you a sketch from the Journal of Captain Archer, of the whale ship Russell, of New Bedford.—At daylight saw Pitcairn's Island bearing S. by E. 7 or 8 leagues off, stood for it, and while we were within about 3 or 4 miles of the shore, we were boarded by the most interesting crew of ten young men that I had ever seen—at noon we lay aback near the land. From all I had read and learned otherwise respecting inhabitants of Pitcairn's Island, I was inclined to have the following notice posted up in the fore part of our ship before we had any communication with the inhabitants.

"It is the impression of the Russell's owners, that the most part of her company were from respectable families—it is desirable that their conduct towards the islanders will verify the opinion; as this island has been hitherto but little frequented, they will be less susceptible of fraud than a more general intercourse with world would justify. It is desired that every officer and man will abstain from all licentiousness in word or deed—to treat them kindly, courteously, and with the strictest good faith. As profane swearing has become an unfashionable thing even on board of a man of war, it is quite time it were laid aside by a whaleman, particularly at this time, as these islanders have been taught to adore their maker, and are accustomed to hear his name blasphemed—and they were struck with horror when they heard some of the crew of an American ship swear, and said it was against the laws of their God, their country and their conscience.—Ship Russell, 3 mo. 6th, 1822."

**LATE & IMPORTANT**

From the Columbian Republic.  
By the arrival of the schooner Mary and Ann, Captain Gates, in fifteen days from Lagayra, we have received letters and papers from Caracas to the 23d of July inclusive. Fed. Gaz.

**WAR OF THE SOUTH TERMINATED.**

Gazette Extraordinary of Colombia.  
Monday, June 21, 1822.  
Government has just received accounts from the head quarters of the Liberator, at Pasto, dated June 8, including the capitulation conceded by the liberating army to the Spaniards, who defended Pasto and Quito, in virtue of which those places were occupied—the first by his Excellency the Liberator. President on the 8th of June, and the second by Gen. Sucre the 25th of May. The brilliant marches made from Bombona and Pichincha, preceding those capitulations, obliged the enemy to surrender, and the Liberator of the south was as generous as they were valiant.

The Colombian Guards have augmented their reputation, and the warriors of Pichincha have manifested that their love for liberty was paramount to all other considerations.

The war of the south has terminated with glory to the arms of Colombia. A million of Americans are thus added to the family of the republic; and the conqueror of a hundred battles, the generous enemy of Spain, the great of Colombia, the immortal Bolivar, has added new lustre to his immeasurable glory.

There is little else of moment in the papers before us, but a letter from an officer of rank, which we have had the pleasure to peruse, says—"A junction is about to be formed between the division of Maracaybo and that of Bouhette, when Morales will be attacked and his career terminated."

**MARYLAND GAZETTE.**

Annapolis, Thursday, Aug. 15.

**BANK OFFICERS.**—On Monday last, Henry H. Harwood, Jonathan Pinkney, Samuel Maynard, Richard M. Chase, Thomas Franklin, and James Clay, were severally re-elected officers of the Farmers Bank of Maryland, for the ensuing year.

**COUNTY CANDIDATES.**  
The people of this county will have a choice of candidates to vote for at the next election. In addition to the caucus ticket published some months since,

**ABNER LINTHICUM,**  
and  
**GEORGE HOWARD, of Brice,**  
(both democrats) have announced themselves willing to represent the county in the next legislature, should their fellow citizens think proper to elect them.

**COURT OF APPEALS,**  
Dec. Term, 1821.

*The State vs. Buchanan and others.*  
Opinion of Chief Justice J. Delivered at last Term.

CHASE, Ch. J. In this case four questions have been submitted to the court for their consideration.

1. Whether the State has the right to issue a writ of error in this case?
2. Whether the record has been legally and properly transmitted?
3. Whether the court has jurisdiction over this case?
4. Whether the facts charged in the indictment constitute the offence of conspiracy at the common law?

1. As to the first. This is a question which arises on demurrer to the indictment, and is solely and exclusively a question for the court to decide on the legal sufficiency of the indictment.

If the facts charged constitute the crime of conspiracy at the common law, it is a misdemeanor, and is punishable by fine and imprisonment. Supposing, for argument sake, the court below had determined the indictment was sufficient, and the offence a conspiracy at the common law, there cannot be a question but that the defendants would have had a right to a writ of error to have the judgment of the court below reviewed, and the law settled. Where the offence is a misdemeanor, it is the right of the party to have a writ of error *ex debito iustitia*—the allowance of the Attorney General is not a matter of course, and never refused. In this State the allowance of the Attorney General is not necessary, and never applied for. What good reason can be assigned why the State should not have a writ of error? The right ought to be reciprocal, at least in the case of a misdemeanor. In the margin of *Winchester's case*, reported in *Sir William Jones and Croke Charles*, the right of the King to a writ of error was not questioned. The right of the party accused to bring a writ of error was taken away by the words of the statute of James 1, ch. 3; but the right of the King remained—the King not being named in the statute. The offence charged, was reprobation and a misdemeanor, which subjected the party to a fine. This case unequivocally establishes the right of the King to bring a writ of error in the case of a misdemeanor; the court of King's Bench acted on the record returned under it, and pronounced a judgment of reversal. The defect in the judgment in the court below was the want of the *ideo capiatur*. The motives which induced the King, or the Attorney General, to issue the writ of error, could not have been a subject of inquiry in the Superior court.

2. As to the question whether the record has been legally and properly transmitted? I am of opinion that the record has been legally transmitted, and is properly before the court. The act of 1713, ch. 4, provides fully for the transmission of records in all cases civil and criminal, and the mode prescribed by that act has been fully and strictly pursued. The fourth section of that act directs, that the party appealing, or suing out such writ of error, shall procure a transcript of the full proceedings of the said court, &c. under the hand of the clerk of the said court, and the seal thereof, and shall cause the same to be transmitted to the court, &c. upon which transcript the said court shall proceed to give judgment. The transmission of the record in this case has been made pursuant to the fourth section of the act of 1713, ch. 4, and in strict conformity to it, and the previous order of the court below is by no means necessary.

3. As to the third question, whether the courts of Maryland have jurisdiction over this case? It is the duty of this court to refrain from the exercise of any jurisdiction or authority which exclusively belong to the tribunals of the United States. In considering this question, it will be necessary to ascertain the power and jurisdiction of the courts of the United States, and to fix with precision the line of division between them and the State courts.

By the third article, and first section of the constitution of the General Government, the judicial power of the United States shall be vested in one Supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. By the second section, the judicial power shall extend to all cases in law and equity, arising under the said constitution, the laws of the United States, &c. These sections of the third article comprehend all the powers vested in the judiciary of the United States, so far as respects the question under the consideration of the court.

This is not a question or case arising under the constitution of the United States, nor under the laws of the United States. The law of the United States, establishing the Bank of the United States, does not create any offence against the United States; and it has been determined by the Supreme court, that the common law of England is not a part of the laws of the United States; and that decision has been since recognized and sanctioned, although some of the judges expressed a willingness to hear an argument on the question.

It is a position, not to be controverted, I think, that all power not granted by the constitution to the General Government, is still retained in the States, or the people, and is to be exercised in the manner and way the constitutions and laws of the several States respectively prescribe. If the offence charged had been committed prior to the establishment of the constitution of the General Government, and during the

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By the third article, and first section of the constitution of the General Government, the judicial power of the United States shall be vested in one Supreme court, and in such inferior courts as the Congress may from time to time ordain and establish. By the second section, the judicial power shall extend to all cases in law and equity, arising under the said constitution, the laws of the United States, &c. These sections of the third article comprehend all the powers vested in the judiciary of the United States, so far as respects the question under the consideration of the court.

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It is a position, not to be controverted, I think, that all power not granted by the constitution to the General Government, is still retained in the States, or the people, and is to be exercised in the manner and way the constitutions and laws of the several States respectively prescribe. If the offence charged had been committed prior to the establishment of the constitution of the General Government, and during the

existence of the first Bank of the United States, there cannot be a doubt, but what it would have been recognizable by the courts of the State in which the offence was committed, and punishable according to the laws of such State. I therefore am of opinion, that the courts of this State have jurisdiction over the offence charged in the indictment.

4. Having disposed of the preliminary questions, and all impediments to the removal of this case being removed, the consideration of the fourth and last question, I shall now endeavour to express my opinion upon it, and shall do it in as concise and plain a manner as possible, consistent with perspicuity.

The question is important as it concerns the State, and the individuals accused, and has undergone a very full and elaborate discussion, and nothing has been omitted which splendid talents could urge, or ingenuity invent, to elucidate the subject, and place the question in every view of which it is susceptible; but as it appears to me, it lies within a small compass.

The indictment, after stating the establishment of the Bank of the United States by an act of Congress, and the relative situation of the accused to the bank and the stockholders thereof, charges that the said George Williams, so being one of the directors of the said Bank of the United States, and the said James A. Buchanan, so being president of the said office of discount and deposit of the said bank in the city of Baltimore, and the said James W. McCulloch, so being cashier of the said office of discount and deposit of the said bank in the city of Baltimore, being evil disposed and dishonest persons, and wickedly devising, contriving and intending, falsely, unlawfully, fraudulently, craftily and unjustly, and by indirect means, to cheat and impoverish the said President, Directors and Company, of the Bank of the United States, and to defraud them of their monies, funds, and promissory notes for the payment of money, commonly called Bank notes, and of their honest and fair gains to be derived under and pursuant to the said act of Congress from the use of their said monies, funds and promissory notes for the payment of money, commonly called Bank notes, on the eighth day of May, in the year of our Lord one thousand eight hundred and nineteen, at the city of Baltimore aforesaid, with force and arms, &c. did wickedly, fraudulently, and unlawfully conspire, combine, confederate, and agree together, by wrongful and indirect means, to cheat, defraud and impoverish the said President, Directors and Company, of the Bank of the United States, and by subtle, fraudulent, and indirect means, and diverse artful, unlawful, and dishonest devices and practices, to obtain and embezzle a large amount of money and promissory notes for the payment of money, commonly called Bank notes, to wit, of the amount and value of fifteen hundred thousand dollars current money of the United States, the same being then and there the property and part of the proper funds of the said President, Directors and Company, of the Bank of the United States, from and out of the said office of discount and deposit of the said bank in the city of Baltimore, without the knowledge, privity or consent, of the said President, Directors and Company, of the Bank of the United States, and also without the privity or consent or knowledge, of the directors and depositors of the said bank in the city of Baltimore, for the purpose of having and enjoying the use thereof for a long space of time, to wit, for the space of two months, without paying any interest, discount or equivalent, for the use thereof, and without securing the repayment thereof to the said corporation. And the more effectually and securely to perpetrate and conceal the same, that the said James W. McCulloch should, from time to time, falsely and fraudulently state, allege and represent to the said directors of the said office of discount and deposit in the city of Baltimore, that such monies and promissory notes, so agreed to be obtained and embezzled as aforesaid, were loaned on good, sufficient and ample security, in capital stock of the said bank, pledged and deposited therefor; and also should from time to time, make and fabricate false statements and vouchers respecting the same, and other property and funds of the said corporation, to be laid before and exhibited to the said directors of the said office of discount and deposit of the said bank in the city of Baltimore. And that the said George Williams, James A. Buchanan, and James W. McCulloch, being such officers of the said corporation as aforesaid, did then and there, in pursuance of and according to the said unlawful, false, and wicked conspiracy and confederacy, combination and agreement aforesaid, by indirect, subtle, wrongful, fraudulent, and unlawful means, and by divers artful and dishonest devices and practices, and without the knowledge, privity or consent, of the said President Directors and Company, of the Bank of the United States, and the Bank of the United States, and the directors and depositors of the said bank in the city of Baltimore, to obtain and embezzle a large amount of money and promissory notes for the payment of money, commonly called Bank notes, to wit, of the amount and value of fifteen hundred thousand dollars current money of the United States, for the purpose of having and enjoying the use thereof, for a long space of time, to wit, for the space of two months, without paying any interest, discount, or equivalent therefor, and without securing the repayment thereof to the said corporation, and that the said George Williams, James A. Buchanan, and James W. McCulloch, were then and there made, done and perpetrated, by the said George Williams, James A. Buchanan, and James W. McCulloch, in abuse and violation of their duty, and the trust reposed in them, and the oaths taken and lawfully sworn by them respectively as such officers of the said corporation as aforesaid, to the great damage of the said president, directors and company, to the evil example of all others in like manner offending, and against the peace, honor and dignity, of the state of Maryland, &c.

To this indictment there is a general demurrer, by which the facts set forth in the indictment are confessed and admitted by the accused to be true, for the purpose of submitting the question to the decision of the court, whether the facts charged constitute any offence indictable and punishable according to the common law of England?

In order to determine this question, it becomes necessary to consider what is the common law of England as respects this case, and whether the common law of England is the law of this State?

The common law of England is derived from immemorial usage and custom, originating from acts of parliament not recorded, or which are lost, or have been destroyed. It is a system of jurisprudence founded on the immutable principles of justice, and denominated by the great luminary of the law of England, the perfection of reason. The evidence of it are treatises of the sage of the law, the judicial records and adjudications of the courts of justice in England.

The people of Maryland have not only recognized the common law of England as the law of the State, but by the Declaration of Rights made by them in Convention in 1776, claimed and asserted a right to the common law of England as it was then understood in Maryland, and had been recognized to us by the reports of adjudged cases decided by the courts of England, and understood by learned men of the profession who had written on that subject. The common law of Maryland, as it was understood at the time of the Declaration of Rights, without restraint or modification. Whether particular parts of the common law are applicable to our local circumstances and situation, and our general code of laws and jurisprudence, is a question that comes within the province of the courts of justice, and is to be decided by them. The common law, like our acts of Assembly, are subject to the control and modification of the Legislature, and may be abrogated or changed by the General Assembly may think proper, so great inconveniences, if any, can result from the power being deposited with the Legislature, to decide what the common law is, and its applicability to the circumstances of the State, and what part has become obsolete from non use or other causes.

I think it may be assumed, as a position which cannot be controverted, and is free from doubt, that the common law of England, as it was understood at the time of the Declaration of Rights, was the law of Maryland; and I think the position is equally

clear, that it must be determined by the writings of learned men of the profession, by the judicial records and adjudged cases of the courts of England.

The question now occurs, do the facts contained in the indictment constitute the crime of offence of conspiracy, and is it indictable and punishable at common law, indictable and punishable as a misdemeanor?

Sergeants Bawley, in his plea of the Crown, ch. 7, in defining conspiracy at common law, makes use of strong and expressive language, and says: "I say a conspiracy, but that all confederacies whatsoever, conspire to injure a third person, are highly criminal at common law, where divers persons confederate together by indirect means to impoverish a third person. This definition is corroborated and supported by adjudged cases in the courts in England, and especially in the court of King's Bench in 1 L. 125, 1 Burn's Justice, 355; The King vs. Sterling and others, brewers of London, information for unlawfully conspiring to impoverish the said King, by selling orders that no small beer, called gallon beer, should be made for a certain time, &c. The whole court concurred in opinion, and gave judgment for the King."

The statute 35 Geo. 1 de conspiratoribus, was made in affirmance of the common law, and is a final definition of the instances or cases of conspiracy mentioned in it; but certainly it does not comprehend all the cases of conspiracy at the common law, which is manifest from the adjudged cases of the courts of England on that subject.

I consider the adjudications of the courts of England, prior to the era of the independence of America, as authority to shew what the common law of England is, at the time of the country, and since that time, to be respected as the opinions of enlightened Judges of the jurisprudence of England.

The better opinion appears to be, that a conspiracy to do an unlawful act is an indictable offence, although the object of the conspiracy is not executed. In this case the conspiracy to cheat, defraud and impoverish the Bank of the United States, by appropriating the monies, promissory notes, and funds of the bank to the use of the accused, has been proved by the admission and confession of the defendants, and a consummation of all the overt acts has been fully established.

The *Poulterer's case*, 9 Coke, 56, 57—The *felony allegans* is a false binding, each to the other, by bond or promise, to execute some unlawful act. Before the unlawful act executed, the law punishes the coadjunction, confederacy or false alliance, to the end to prevent the unlawful act *quia quod dicitur prohibetur, prohibetur et id per quod periturus ad illud: Et effectus puniuntur licet non sequatur effectus; and in these cases the common law is a law of mercy, for it prevents the malignant from doing mischief, and the innocent from suffering it.* The defendants were punished by fine and imprisonment.

I think it is established by the decisions of the courts of England, that a conspiracy to cheat is an offence indictable and punishable at common law—*Res vs. Healthy*, 5 Burr. 1125. A cheat or imposition on any person only is not indictable at common law, but a conspiracy to cheat by two or more is indictable at common law, because ordinary care and caution is no guard against it. Indictment against *Macarty* and others, for a combination to cheat in imposing on the prosecutor stale beer mixed with water, for port wine—6 Mod. 301. Indictment against *Cope* and others, for a conspiracy to ruin the trade of the prosecutor by bribing his apprentices to put grease into the paste which had spoiled his cards—1 Stra. 144. Indictment against *Kinnersley* and *Nord*, for a conspiracy to charge Lord *Nord* and with endeavouring to compel a money lender, *More*, to order to *extort* money from Lord *Sunderland*. The whole court gave judgment in support of the indictment and punished *Kinnersley* by fine, imprisonment, &c. and sentenced *More* to stand in the pillory, suffer a year's imprisonment, and to give security for his good behaviour—1 Stra. 193, 196. Indictment against *Rispol*, 3 Burr. 1320. The indictment sets forth, that *Rispol*, and two others, did wickedly and unlawfully conspire among themselves, falsely to accuse *John Chilton* with having taken a quantity of human hair out of a bag, &c. for the purpose of extorting and extorting money from the said *John Chilton*. The court were of opinion, that the indictment was well laid, and that the gist of the offence is the unlawful conspiring to injure *Chilton* by this false charge.

A combination among labourers or mechanics to raise their wages is a conspiracy at common law, and indictable (8 Mod. 10.) although lawful for each separately to raise his wages.

I consider the doctrine so firmly established by the decisions of the courts of England, prior to the era of our independence, that a combination or confederacy to do an unlawful act, is a conspiracy indictable and punishable at common law, that I have deemed it unnecessary to refer to all the cases relative to this question, and therefore have contented myself with citing some of those which appear to me most apposite.

The opinion of Lord *Ellenborough*, in 13 East, 250, does not impugn, but strongly sanctions and confirms this doctrine. He says the cases of conspiracy have gone far enough—he should be sorry to push them any further. The charge in the indictment was for committing a civil trespass. He says, all the cases in conspiracy prosecuted on the ground that the object of the conspiracy is to be effected by some falsity, and the demurrer overruled.

**CAPE MESURADO.**

The schooner Calypso, arrived at Baltimore 65 days from the United States Colony, Cape Mesurado, having on board Doctor Aries and Mr. Wilkberger, agents of the Colonization Society. Dr. Aries gives us the following favourable accounts of the present state of the colony—the people are contented & happy—the country healthy and fertile, and a few of the colonists who were disposed to return & disaffected, have retired to the British settlements. The natives are very friendly to the colony and all its concerns are in the most prosperous condition—Two of the colonists, Joseph Blake and Zera Hall, both of Philadelphia, have returned to their families. Blake's family had lately been in distress in this country. We learn that Doctor Coker has returned from the Colony, bearing a British Declaration of Rights, and is engaged teaching a school at Sierra Leone. Fed. Gaz.

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Sergeants Bawley, in his plea of the Crown, ch. 7, in defining conspiracy at common law, makes use of strong and expressive language, and says: "I say a conspiracy, but that all confederacies whatsoever, conspire to injure a third person, are highly criminal at common law, where divers persons confederate together by indirect means to impoverish a third person. This definition is corroborated and supported by adjudged cases in the courts in England, and especially in the court of King's Bench in 1 L. 125, 1 Burn's Justice, 355; The King vs. Sterling and others, brewers of London, information for unlawfully conspiring to impoverish the said King, by selling orders that no small beer, called gallon beer, should be made for a certain time, &c. The whole court concurred in opinion, and gave judgment for the King."

The statute 35 Geo. 1 de conspiratoribus, was made in affirmance of the common law, and is a final definition of the instances or cases of conspiracy mentioned in it; but certainly it does not comprehend all the cases of conspiracy at the common law, which is manifest from the adjudged cases of the courts of England on that subject.

I consider the adjudications of the courts of England, prior to the era of the independence of America, as authority to shew what the common law of England is, at the time of the country, and since that time, to be respected as the opinions of enlightened Judges of the jurisprudence of England.

The better opinion appears to be, that a conspiracy to do an unlawful act is an indictable offence, although the object of the conspiracy is not executed. In this case the conspiracy to cheat, defraud and impoverish the Bank of the United States, by appropriating the monies, promissory notes, and funds of the bank to the use of the accused, has been proved by the admission and confession of the defendants, and a consummation of all the overt acts has been fully established.

The *Poulterer's case*, 9 Coke, 56, 57—The *felony allegans* is a false binding, each to the other, by bond or promise, to execute some unlawful act. Before the unlawful act executed, the law punishes the coadjunction, confederacy or false alliance, to the end to prevent the unlawful act *quia quod dicitur prohibetur, prohibetur et id per quod periturus ad illud: Et effectus puniuntur licet non sequatur effectus; and in these cases the common law is a law of mercy, for it prevents the malignant from doing mischief, and the innocent from suffering it.* The defendants were punished by fine and imprisonment.

I think it is established by the decisions of the courts of England, that a conspiracy to cheat is an offence indictable and punishable at common law—*Res vs. Healthy*, 5 Burr. 1125. A cheat or imposition on any person only is not indictable at common law, but a conspiracy to cheat by two or more is indictable at common law, because ordinary care and caution is no guard against it. Indictment against *Macarty* and others, for a combination to cheat in imposing on the prosecutor stale beer mixed with water, for port wine—6 Mod. 301. Indictment against *Cope* and others, for a conspiracy to ruin the trade of the prosecutor by bribing his apprentices to put grease into the paste which had spoiled his cards—1 Stra. 144. Indictment against *Kinnersley* and *Nord*, for a conspiracy to charge Lord *Nord* and with endeavouring to compel a money lender, *More*, to order to *extort* money from Lord *Sunderland*. The whole court gave judgment in support of the indictment and punished *Kinnersley* by fine, imprisonment, &c. and sentenced *More* to stand in the pillory, suffer a year's imprisonment, and to give security for his good behaviour—1 Stra. 193, 196. Indictment against *Rispol*, 3 Burr. 1320. The indictment sets forth, that *Rispol*, and two others, did wickedly and unlawfully conspire among themselves, falsely to accuse *John Chilton* with having taken a quantity of human hair out of a bag, &c. for the purpose of extorting and extorting money from the said *John Chilton*. The court were of opinion, that the indictment was well laid, and that the gist of the offence is the unlawful conspiring to injure *Chilton* by this false charge.

A combination among labourers or mechanics to raise their wages is a conspiracy at common law, and indictable (8 Mod. 10.) although lawful for each separately to raise his wages.

I consider the doctrine so firmly established by the decisions of the courts of England, prior to the era of our independence, that a combination or confederacy to do an unlawful act, is a conspiracy indictable and punishable at common law, that I have deemed it unnecessary to refer to all the cases relative to this question, and therefore have contented myself with citing some of those which appear to me most apposite.

The opinion of Lord *Ellenborough*, in 13 East, 250, does not impugn, but strongly sanctions and confirms this doctrine. He says the cases of conspiracy have gone far enough—he should be sorry to push them any further. The charge in the indictment was for committing a civil trespass. He says, all the cases in conspiracy prosecuted on the ground that the object of the conspiracy is to be effected by some falsity, and the demurrer overruled.

**CAPE MESURADO.**

The schooner Calypso, arrived at Baltimore 65 days from the United States Colony, Cape Mesurado, having on board Doctor Aries and Mr. Wilkberger, agents of the Colonization Society. Dr. Aries gives us the following favourable accounts of the present state of the colony—the people are contented & happy—the country healthy and fertile, and a few of the colonists who were disposed to return & disaffected, have retired to the British settlements. The natives are very friendly to the colony and all its concerns are in the most prosperous condition—Two of the colonists, Joseph Blake and Zera Hall, both of Philadelphia, have returned to their families. Blake's family had lately been in distress in this country. We learn that Doctor Coker has returned from the Colony, bearing a British Declaration of Rights, and is engaged teaching a school at Sierra Leone. Fed. Gaz.