by the principles of maritime law as respected by maritime courts of all nations and adopted by most, if not by all, of them on the continent of Europe.[856]

Although a number of Supreme Court decisions had earlier sustained the broader admiralty jurisdiction on specific issues,[857] it was not until 1848 that the Court ruled squarely in its favor, which it did by declaring that "whatever may have been the doubt, originally, as to the true construction of the grant, whether it had reference to the jurisdiction in England, or to the more enlarged one that existed in other maritime countries, the question has become settled by legislative and judicial interpretation, which ought not now to be disturbed." [858] The Court thereupon proceeded to hold that admiralty had jurisdiction *in personam* as well as *in rem* over controversies arising out of contracts of affreightment between New York and Providence.

Power of Congress To Modify Maritime Law.—The Constitution does not identify the source of the substantive law to be applied in the federal courts in cases of admiralty and maritime jurisdiction. Nevertheless, the grant of power to the federal courts in Article III necessarily implies the existence of a substantive maritime law which, if they are required to do so, the federal courts can fashion for themselves.[859] But what of the power of Congress in this area? In *The Lottawanna*,[860] Justice Bradley undertook a definitive exposition of the subject. No doubt, the opinion of the Court notes, there exists "a great mass of maritime law which is the same in all commercial countries," still "the maritime law is only so far operative as law in any country as it is adopted by the laws and

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[856] *E.g.*, DeLovio v. Boit, 7 Fed. Cas. 418 (No. 3776) (C.C.D. Mass. 1815) (Justice Story); *The Seneca*, 21 Fed. Cas. 1801 (No. 12670) C.C.E.D. Pa. 1829) (Justice Washington).

[857] *The Vengeance*, 3 U.S. (3 Dall.) 297 (1796); *The Schooner Sally*, 6 U.S. (2 Cr.) 406 (1805); *The Schooner Betsy*, 8 U.S. (4 Cr.) 443 (1808); *The Samuel*, 14 U.S. (1 Wheat.) 9 (1816); *The Octavig*, 14 U.S. (1 Wheat.) 20 (1816).

[858] New Jersey Steam Navigation Co. v. Merchants' Bank of Boston, 47 U.S. (6 How.) 334, 386 (1848); *see also* Waring v. Clarke, 46 U.S. (5 How.) 441 (1847).

[859] Swift & Co. Packers v. Compania Columbiana Del Caribe, 339 U.S. 684, 690, 691 (1950); Halcyon Lines v. Haenn Ship Ceiling & Refitting Corp., 342 U.S. 282, 285 (1952); Romero v. International Terminal Operating Co., 358 U.S. 354, 360–61 (1959). For a recent example, *see* Moragne v. States Marine Lines, 398 U.S. 375 (1970); United States v. Reliable Transfer Co., 421 U.S. 397 (1975). *Compare The Lottawanna*, 88 U.S. (21 Wall.) 558, 576–77 (1875) ("But we must always remember that the court cannot make the law, it can only declare it. If, within its proper scope, any change is desired in its rules, other than those of procedure, it must be made by the legislative department"). States can no more override rules of judicial origin than they can override acts of Congress. Wilburn Boat Co. v. Firemen's Fund Ins. Co., 348 U.S. 310, 314 (1955).

[860] 88 U.S. (21 Wall.) 558 (1875).