

THE SPECIFIC CONTRACT LAW.

Money lender, and cannot be loaned at less than five per cent. on miscellaneous security and four per cent. on government bonds. Large amounts of capital could be put to use in the State, but the money is not there. Large amounts of money were offered at four per cent. without takers. Finance report in N. Y. Tribune for Sept. 30, 1865.

The rate of interest in Oregon is one per cent. per month on the face of the note, and no additional one-half per cent. per month "on honor," and none to be had at those rates. What is the cause of this? Can any friend of the specific contract tell why it is, that in New York millions of money is offered at four per cent., without takers, while in Oregon it could be had at all sixteen per cent.?

We have our belief about this matter; we have expressed it heretofore, and will do so again in this article.

The rate of interest is always higher in a country that confines the business transactions to a currency entirely metallic. It becomes so from the very nature of the currency itself. The metal in the coin is the representative of the value. If that metal or coin is lost or destroyed, the owner of it has lost, absolutely lost, forever, the property which it represented. That incident of gold and silver money converts the metal into a "precious treasure," that is to be guarded, watched, hoarded and protected in a peculiar manner, which thus makes the use of it risky, dangerous and uncertain, because it may be stolen or lost by shipwreck, and all this directly tends to make its use expensive and cumbersome. Not so with Government bonds. They are daily registered and numbered. If stolen, lost or destroyed, their payment can be stopped at the depository, and the rightful owner can have duplicates issued for those lost. The difference in this case is this: in one instance the coined metal was the representative of the value, and being lost, the value is lost to the owner; in the other case, the promise of the Government, written upon the paper, represented the value, but the paper being lost, the promise is not destroyed, but may be renewed upon another piece of paper, and therefore the value represented by the promise is not lost.

Believing the above to be correct, we think it constitutes one reason why the rate of interest is four times as great in Oregon as in New York—our standard here being metallic currency, while in New York it is Government bonds and notes.

There is another reason for the difference. Money is but the representative of value. Gold has no greater intrinsic value than paper; and neither has it any greater money value than Congress chooses to give it. Taking money to be nothing more than it is—the representative of value—there might be then, in any country, money in amount sufficient to represent all the property in such country which is actually for sale. While this reasoning is strictly correct in the abstract, it might sometimes produce an inflation of prices, as was the case in the Eastern States during the war. But it cannot be said that such a supply of money has ever injured any country, and has always aided in rapidly developing it, and made its people permanently richer and more comfortable, as has been illustrated in all the rapidly developed States of the West. Agreeing, then, that we should have a money representative of the property actually on sale, in order to a prompt development of the country, where, we inquire, is the money representative of such property in Oregon? It is not here; it never has been here. There is not gold and silver enough in any country to represent that class of property. It is an impossibility for such a thing to exist, for the reason that it does not exist in sufficient quantities. No commercial or manufacturing country has ever been able to do business properly on an exclusively metallic currency; and such countries have always resorted to a paper representative. The case with us then is simply an insufficiency of money currency. We have not the gold, and it cannot be obtained. So it was with Secretary Chase, when the nation commenced to put down the rebellion. We did not have money enough for such an undertaking—it was not in the country—and so Congress created money, and just as good money, too, as ever paid honest debts. The scarcity of money then—the insufficiency in amount of our currency—makes that little which we do have of more value; that is, while it does not represent any more property than if there were four times as much of it, yet the use of what we have is made of more value, and will command four times as high a price, or interest, by reason of the scarcity of it, than if we possessed four times as much as we now do. That there is a scarcity of currency in the State, there can be no doubt. We see men every day hunting money to borrow, and offering not only high rates of interest, but also a bonus for the accommodation. We want money to develop our rich quartz mines in Santiam and all over eastern Oregon, and our inexhaustible beds of iron ore in the Willamette Valley, but we have not got it. All our good mines are rapidly passing into the hands of Eastern men, who never intend to come here to live, who do not care whether the State improves or not, but whose sole object is to get the net profits of our mines and take it away. Eastern capitalists are not to be discouraged; it is better for the State that they should get the profits of the mines than have it lie idle in the hills; but how much better would it be for Oregon and all our people if our mines were developed by our own citizens, who intend to live here and spend their money here!

It will not be disputed for a moment that we greatly need a railroad through the Willamette Valley, yet where is the money in Oregon to build that road, or even ten miles of it? It is not here, although the farms and manufactures are here to give such a road a good traffic. Now, if this is the scarcity of money or currency in Oregon? Here are the reasons: Gold always seeks the desert market, and that State is a country which confines its commercial transactions to a gold currency, will become impoverished by a continuous exportation of its precious metals, unless it shuts up the gates of foreign commerce and isolates itself from the temptations of great profits. Very well, says old Dunbar, "if gold is so valuable, why not keep it for our currency?" But we have tried and cannot keep it. All foreign nations will take our gold, but not our greenbacks, and to get our gold they rush in their cheap goods, get

WOOL AND WOOLEN MANUFACTURES IN OREGON.

We are led to prepare an article on this subject at this time from some statements which appeared in the San Francisco Bulletin of October 18th, concerning woolen manufactures in California, and from which we take the following:

The "Pioneer" and "Mission" mills are the only woolen factories on the Pacific coast, with the exception of two small mills in Oregon. One of these mills is located at Salem, and was established several years ago. The other is located in operation only about one month, and is located at Oregon City. The amount of work done is small in comparison with the San Francisco mills, but they deserve mention in this connection as showing the present condition of woolen manufactures on the Pacific coast. With the increase of the production, and the great improvement in the quality of the wool that is now making on the Pacific side, we may reasonably expect that woolen manufactures on the coast will be rapidly extended, and we are able to supply our own population with all kinds of woolen goods, and with the aid of the cheap labor of our Celestial neighbors, perhaps compete with other communities in supplying the markets of the world.

This statement in the Bulletin is only equalled by another one in the same article, which claims that the "Pioneer" factory, of San Francisco, was the first woolen mill established on the Pacific coast. This statement of the Bulletin editor betrays either a lamentable ignorance of the history of the development of the Pacific coast, or a disposition to pervert the truth; and from the uniform course of the Bulletin to misrepresent and belittle everything in Oregon, we are inclined to the latter view of the case. The Pioneer mill of California was constructed in 1858, and set in motion some time in the year 1859; while the "Willamette Woolen Factory," at Salem, Oregon, was erected by the farmers of this valley in 1857, and set in operation in 1858, a full year before the Pioneer mill had turned a wheel. To carry the history a little further, the first woolen machinery (except our grandmothers' looms) set in motion on the Pacific coast was in the "Willamette Woolen Factory," at Salem, Oregon, and the first blanket woven thereon was woven on the 16th day of January, 1858, by Miss Mary E. Pratt, daughter of L. E. Pratt, Esq., the superintendent of the factory at that time, and at the present time the superintendent of the Oregon City Factory. We hope the lady has preserved that blanket, for it is surely a higher honor to her, and a more fitting testimonial to send down to the future, than a graduation diploma from the most celebrated seminary of learning in the whole land. Just reflect upon what a gigantic and glorious future of manufactures and commerce that blanket was the beginning!

As to the size of our mills we have not exact information on all points. The Willamette Woolen Factory, at this place, is about one hundred and eighty feet in length by fifty in width, and including the basement and attic, which is all crowded and occupied, is four stories high. The Oregon City Factory is one hundred and ninety feet in length by fifty in width, and four stories high. Of the only two mills in California, the Pioneer mill is only one hundred and forty-seven feet long and fifty wide, and two stories high, and the Mission mill is only one hundred and sixty feet long by fifty wide, with a cross wing on one end of one hundred and twenty by sixty feet, and two stories high; so that, by actual figures, our "little mills" in Oregon are more the largest; and in point of solidity and architectural finish, the Oregon City mill is far ahead of any factory on the coast. In point of machinery, although our mills are not equal to the California mills, yet what we have got is made to do more and better work, by being run constantly night and day, by skilled mill mechanics, while the California mills run but ten months, and then in the hands of Chinese. The Willamette Woolen Factory consumes six thousand pounds of soap per month, employs ninety men and women (all white), works up thirty thousand pounds of wool per month, and turns out a thousand yards of cloth per day, and all with only four sets of cards, seven jacks and thirty looms. The Factory is under the superintendence of J. Hoyt, Esq., than whom a better mechanic or manager cannot be found. Mr. Hoyt has everything down to a scratch, and secures every the immense amount of soap used in the mill at the low price of one and one-half cents per pound. Mr. H. will make and save money for the Company. The Willamette Company has met with large success, and made a good deal of money. They sell about one-third of their manufactures in San Francisco and the balance here and at Portland. Of the goods sold at San Francisco we have the most flattering report. On the same day the Bulletin editor wrote his article, so grossly misrepresenting Oregon, Messrs. Badger & Lindenberg, a leading dry-goods house of San Francisco, wrote to Mr. Hoyt of the Willamette mill, acknowledging the receipt of some goods made at the "small mill in Oregon," as follows: "The samples sent us are very pretty and ahead of anything made here. Your cloths are finer than any made here. The case of customers sent here are very beautiful and good goods, and we have sold them all. We hope you will soon send us a large lot. Enclosed find some new French patterns," etc. etc. In addition to this, we will notify the "big mills of California," that Mr. Hoyt is now manufacturing some flannels, which, for fineness of texture, will surpass anything ever seen in the San Francisco market.

Now then, if the Bulletin editor wears a decent suit of light, beautiful cassimere, and will take the trouble to inquire, he will doubtless find that it was made at the "small mill in Oregon." The above letter speaks for itself, and while speaking of it, we will call the attention of our merchants to the fact that Messrs. Badger & Lindenberg are in the wholesale trade, manufacture their clothing out of honest woolen goods made here in Oregon, are doing all they can to extend the sale and increase the popularity of our manufactures, advertise in the Oregon Statesman, and deserve and should receive the patronage of Oregon merchants.

We have already stated the size of the Oregon City Factory; we add that it is so constructed that an L of eighty or one hundred by fifty feet cannot be added without stopping the machinery an hour, or in the least interfering with the work going on. The mill is calculated to run ten sets of machinery, sixty double-width looms, and fourteen spinning jacks with thirty-three hundred spindles, and will have a capacity to work about thirty-five thousand pounds of wool per month. Its water power is unsurpassed in the world, and the Company own sufficient to drive all the above machinery at the highest rate of speed, employing about one hundred and sixty operators. Mr. Pratt is the pioneer of wool manufactures on the coast, and enjoys a very high reputation as an able and skillful manufacturer. Although the Oregon City Company did not get water on its wheel until about eight weeks ago, it already has goods in the market for sale, and we are informed that they are of very fine quality. In addition to these mills, Oregon can boast

OF THE "BROWNIE FACTORY," IN LINN COUNTY, WHICH, ALTHOUGH UNFORTUNATELY BURNED DOWN LAST SPRING, IS ALREADY REBUILT AND RAPIDLY PREPARING FOR ITS NEW MACHINERY, WHICH IS ON THE WAY FROM NEW YORK.

When running, the Brownie mill would work up about one hundred and fifty thousand pounds of wool per annum, and its goods enjoyed a very high reputation, both at home and abroad. We have not learned what will be the capacity of the new mill, but we are able to say that it will not be many months until it will again be in operation.

Oregon can also boast of the "Ellendale Woolen Factory," "over in Polk," which is not a mere yarn establishment, as even some Oregonians would fain believe, but a complete woolen factory, running two sets of machinery, and having a capacity to work up about one hundred thousand pounds of wool per annum, and making every description of cloth from army blankets to fine flannels and cassimers. But for the loss of one or two small articles of machinery on the Brother Jonathan, the factory would now be making cloth; and until they arrive, upon a telegraphic order which has been sent, the mill can do nothing but carding and spinning, which it is now doing. The Ellendale Company has purchased considerable wool, in addition to the very fine stocks of wool grown by some of its stockholders, and also increased its capital stock \$20,000, and is now on the highway to prosperity. We do not remember the name of its superintendent.

Of these last two named factories the Bulletin seems never to have heard, and we suppose that their existence will be news to it. Although they are not large mills, yet, with the other mills named and those proposed in other counties, they go to show the fact that Oregon is rapidly getting a woolen factory in each of its principal wool-growing counties, and that our State is really far in advance of California in the manufacture of woolen goods. The people of Benton county propose to build a woolen mill at Corvallis; the people of Wasco at the Dalles; the people of Columbia at St. Helens; the people of Jackson and Josephine at some point in Rogue River Valley; a corporation is now organized by good men to build one at Springfield, in Lane county; and no better point for a woolen mill exists in Oregon than at Roseburg, in Umpqua Valley.

We had intended to give an accurate estimate of the amount of wool produced in Oregon this year, but we will defer it for another article; saying, merely, that the Willamette Woolen Factory has already purchased three hundred thousand pounds, the Oregon City Factory one hundred and fifty thousand pounds; Knapp, Burrell & Co. have shipped fifty thousand pounds of the best wool in the State to New York, and a very large amount has been purchased in the valley for the California mills, proving satisfactorily enough that we can not only excel California on both cloth and mills, but also on the raw material.

THE GRAY FAMILY.—Herschel V. Johnson, of Georgia, was talking recently in one of the Washington hotels, after his parlor, when a bystander told him he could not talk that way in Washington. Mr. Johnson replied that he was pardoned, and he did not know of any power in Washington to prevent his uttering his sentiments. The gentleman rose before him and said, "I know a power in Washington that can prevent it—it is the power of a loyal man." Mr. J. stopped, and afterwards inquiring who it was that stopped him, was told that it was Major General John W. Geary.

John W. Geary is a "regular brick." He was the first "Alcade" (an officer having some more and higher powers than our Justice of the Peace) in the City of San Francisco, after the discovery of gold in California, and had to settle disputes arising in a population of the roughest men from all parts of the world, and all made reckless with an abundance of money. He was also one of the Governors of Kansas. Mr. Geary, of Linn county, is a brother of the General.

FIGHT IN A "BEAR GARDEN."—John Maginnis, the candidate for Lieut. Governor on the State Rights Democratic ticket in Ohio, made a speech at Hillsboro, in that State, on the 16th of September, and in the course of his remarks made some disparaging reflections upon the "War Democracy ticket," and thereupon Corporal Pike, a returned soldier, "who fights with Morgan," rushed upon Maginnis, with revolver, when a desperate close fight took place, in which both Maginnis and the soldier were badly hurt. There didn't seem to be much love and affection among the Democratic factions in the Buckeye State.

HEAVY BOXES.—The California Steam Navigation Company are now running three steamers under bond, which have been seized by the Collector of the Oregon District for violating the act of March 2d, 1859, the Pacific, the Oregon, and the Active. The Pacific is bonded for \$25,000, the Oregon for \$125,000, and the Active for \$65,000. These steamers are all claimed to be forfeited to the United States, together with their keels, apparel, and furniture, and we are informed that the C. S. N. Company has put the money in bank at San Francisco before they could get their bonds filled in Portland. The aggregate value of these three steamers amounts to \$410,000. Add to this the bond for appearance to answer in the United States District Court of Oregon, given by Capt. Burns of the Oregon, \$15,000, that of Peter Macfie, first officer of the Oregon, \$15,000, that of Captain Turner, and Melville Oriskany, first mate, both of the Active, under bonds of \$10,000 each. Besides this, Burns is under \$10,000 bonds to answer for his conduct last winter in the Pacific case. These bonds amount in the aggregate to \$485,000, most of which is already put up in bank, and which Uncle Sam claims the right to draw out to indemnify him for certain claims on opinion and slight facts, which he says he thinks he is entitled to, but which he is sure he never got. He must have a pretty active agent in this district looking after his interests. We suggest to ourselves that they try to get the Custom House removed to the "Upper Town," again, and have the old rebel sympathizing insolent put back in office.

CONFISCATION OF THE OREGONIANS.—The editor of the "Oregon Free Press" writes that he was informed by the Collector of the Oregon District for the year 1862, that it is now proposed to trace the Oregonians, and one Abolitionist traced to the Oregonians, and we have heard that the Oregonians have been traced to the Oregonians. We now learn that the present local editor of the Oregonian is also a Copperhead, and two years ago ran a vile Copperhead sheet up in Idaho. There is another Copperhead traced to the Oregonians. No wonder that the Oregonians publishes in its columns that it does not like the Union men of Salem; no wonder that Holbrook of Idaho gets a complimentary notice in the Oregonian. Two Copperheads riding the Oregonian since 1862, say nothing of the editors furnished privately by Senator Holbrook, while running on the independent ticket, and the general supervision of Copperhead A. C. Walling. Well, that will do for now.

A NEW STOCK.—Messrs. G. W. Gray & Co. advertise in another column an entirely new stock of merchandise, which they have for sale at their new store on State street. These merchandise are lately received from the States, and we have heard that they are selling goods in Salem at "States prices." Here is a new stock, but advise our readers to go and see.

APPROPRIATELY NAMED.—This establishment is now open opposite the new hotel. Mr. Clark, the proprietor, intends to pay special attention to prescriptions and the compounding of medicines, and has made preparations accordingly. In addition to this, he keeps all the staple articles in the Drug store line, from coal oil to perfumery, and carries on all reasonable rates. Clark is a deserving man, and we hope to see him liberally patronized.

THE LATEST.—New York, Oct. 25.—The Fenian Cause, says a new section at the Astor House. Members say everything is progressing finely. The military plan by which the Fenian Cause is to be carried out can be secured, was submitted and discussed, and a decisive action was taken.

It is further stated that the Congress has passed a great scheme for the redemption of the Fenian Cause, and that the most perfect unanimity prevails.

Intelligence has been received by the Government that an influential delegation of Canadians is shortly to come here to make an effort to establish the Fenian Cause in the United States and Canada.

The World's special agent, a dispatch has been received stating that the New Orleans convention will sustain President Johnson.

It is reported that Caleb Cushing, Mr. Adams in England, and Mr. Adams in return he will become Secretary of State.

The Herald prints private dispatches from West Point, Miss., dated the 20th inst., stating that President Johnson has discovered most splendid success in this Department, and has received the arrest of Harrison Johnson, Special Treasury Agent at Columbus, and all his sub-agents in this Department.

THE PLATE OF TRIAL FOR TREASON.

As all are aware, since the capture of Jeff. Davis, there has been a deal of speculation, conjecture, and some crude assertions, concerning the place where Davis was legally liable to be tried for treason. The legality of the indictment said to have been found against him in some of the Courts of the District of Columbia, founded upon the attack on Washington under the command of Breckinridge, became the point of inquiry. At first it was quite commonly assumed that Davis, being commander-in-chief of the late Confederacy, was legally committed to an overt act in the District. This opinion, however, then so confidently asserted, seems now to be less and less relied on.

Nearly the whole of the American law of treason, as established by the courts—what Beaman used to call "Judge-made law"—is to be found in the various opinions given by Chief Justice Marshall, in the progress of the trial of Burr. The matters transpiring at the trial, and the rulings of the court, have been so obscured and overlaid by the popular controversies and acrimony concerning the prosecution, the defense and the court, that the most that seems to be generally known of it is that in some way the law was so ruled as to acquit the accused. The indictment charged Burr with being one of many that levied war against the United States, in assembling in a filibustering expedition against the Spanish colonies or to levy war against the United States, was doubtful. But in the ruling of the court, the latter conclusion is assumed to be true. But Burr was not shown to be present, but was absent at the time.

Under these circumstances, the court ruled substantially as follows: That if Burr was not with the party at the Island, and that his cooperation was to be afforded elsewhere, at a great distance, that if the acts to be performed by him were distinct from those of the party assembled at the Island, then Burr could not be charged with acts committed at the Island. Upon the question of whether an accessory before the fact, or one who procures or incites the particular act of levying war, thereby commits treason, under the Constitution of the United States? The court declined to express an opinion, but declared that if such an act came within the constitutional definition of treason, that then such procurement or incitement is itself an overt act of levying war, and could not be charged in the indictment. They could not do otherwise.

It was not one of the assemblages on the Island, as charged in the indictment, and if he procured or incited it, he was undoubtedly the fact, he was not so accused, and could not be tried for it upon that indictment.

Assuming then, that to procure, incite, or direct others to levy war against the United States, is itself an overt, independent act constituting treason, from these rulings it inevitably follows, and the court so declared, that the offender must be tried in the State wherein the act of levying war, or the incitement to place or happen. The premises being admitted, the 6th amendment to the Constitution determines the rest, by providing:—"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and District wherein the crime shall have been committed, which District shall have been previously ascertained by law."

Assuming, then, that the attack on Washington was directed by Davis, as commander-in-chief, or otherwise, of the late Confederacy, although not present and participating therein, the ruling in Burr's case does not determine whether such direction would be treason in Davis or not; but if it determines that he must be charged with it directly, and tried where the direction was given.

In the course of the argument against the doctrine of constructive presence in treason, which the prosecution sought to maintain, the Chief Justice, in one of his illustrations, almost literally anticipated Davis' case and the events of the late civil war. He says:

"It is conceived by the court to be possible that a person may be concerned in a treasonable conspiracy, and yet be legally, as well as actually, absent while some one act of treason is perpetrated. If a rebellion should be so extensive as to spread through every State in the Union, it will scarcely be contented that every individual concerned in it is legally present at every overt act committed in the course of the rebellion. It would be a very violent presumption (indeed, too violent to be made without clear authority) to presume that even the chief of the rebel army was legally present at every such overt act. If the main rebel army, with the chief at its head, should be prosecuting war at one extremity of our territory—say in New Hampshire—this chief should be there, and not in some distant part of the country for the purpose of it; if his indictment, instead of alleging an overt act which was true, in point of fact, should allege that he had assembled some small party, which, in truth, he had not seen; and had levied war, by engaging in a skirmish in Georgia, at a time when, in reality, he was fighting a battle in New Hampshire; if such evidence would support an indictment by the fact that he was legally present, though really absent, all would say that that purpose was these provisions of the Constitution, which direct the place of trial, and obtain that the accused shall be informed of the nature and cause of the accusation? * * * * *

If a person levying war in Kentucky may be said to be constructively present and assembled with a party carrying on war in Virginia, at a great distance from him, then he is present at every overt act anywhere; he may be tried in any State on the continent where any overt act was committed, and he is liable to be tried for the guilt of an overt act laid in the indictment in which he had no personal participation, by proving that he advised it or committed other acts."

As will be seen, I have not attempted to discuss this question, but only to put before the public the Burr case, as it is supposed to bear upon the present. Yet I cannot refrain from one observation in closing. No one can study Burr's case carefully, in the light of contemporary history, without concluding that, if the court at all misapprehended the law of treason, the error was not in the fact of the defendant. No one questions either the ability or integrity of learning of Marshall. They are beyond my criticism. But whatever of human infirmity he had—and who is altogether perfect?—must have inclined him to shield the helpless and fallen Burr from the tender mercies of Jefferson, then wielding the full power of the American Executive to prosecute the conviction of one who had dared to be his rival for the Presidency of the United States.

It is safe to presume, then, that the Burr case furnishes the limit of the law in favor of the defendant, and that, under circumstances altogether dissimilar, it may be ruled somewhat more favorably to the prosecution.

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If a person levying war in Kentucky may be said to be constructively present and assembled with a party carrying on war in Virginia, at a great distance from him, then he is present at every overt act anywhere; he may be tried in any State on the continent where any overt act was committed, and he is liable to be tried for the guilt of an overt act laid in the indictment in which he had no personal participation, by proving that he advised it or committed other acts."

As will be seen, I have not attempted to discuss this question, but only to put before the public the Burr case, as it is supposed to bear upon the present. Yet I cannot refrain from one observation in closing. No one can study Burr's case carefully, in the light of contemporary history, without concluding that, if the court at all misapprehended the law of treason, the error was not in the fact of the defendant. No one questions either the ability or integrity of learning of Marshall. They are beyond my criticism. But whatever of human infirmity he had—and who is altogether perfect?—must have inclined him to shield the helpless and fallen Burr from the tender mercies of Jefferson, then wielding the full power of the American Executive to prosecute the conviction of one who had dared to be his rival for the Presidency of the United States.

It is safe to presume, then, that the Burr case furnishes the limit of the law in favor of the defendant, and that, under circumstances altogether dissimilar, it may be ruled somewhat more favorably to the prosecution.

THE LATEST.

New York, Oct. 25.—The Fenian Cause, says a new section at the Astor House. Members say everything is progressing finely. The military plan by which the Fenian Cause is to be carried out can be secured, was submitted and discussed, and a decisive action was taken.

It is further stated that the Congress has passed a great scheme for the redemption of the Fenian Cause, and that the most perfect unanimity prevails.

Intelligence has been received by the Government that an influential delegation of Canadians is shortly to come here to make an effort to establish the Fenian Cause in the United States and Canada.

The World's special agent, a dispatch has been received stating that the New Orleans convention will sustain President Johnson.

It is reported that Caleb Cushing, Mr. Adams in England, and Mr. Adams in return he will become Secretary of State.

The Herald prints private dispatches from West Point, Miss., dated the 20th inst., stating that President Johnson has discovered most splendid success in this Department, and has received the arrest of Harrison Johnson, Special Treasury Agent at Columbus, and all his sub-agents in this Department.

THE PLATE OF TRIAL FOR TREASON.

As all are aware, since the capture of Jeff. Davis, there has been a deal of speculation, conjecture, and some crude assertions, concerning the place where Davis was legally liable to be tried for treason. The legality of the indictment said to have been found against him in some of the Courts of the District of Columbia, founded upon the attack on Washington under the command of Breckinridge, became the point of inquiry. At first it was quite commonly assumed that Davis, being commander-in-chief of the late Confederacy, was legally committed to an overt act in the District. This opinion, however, then so confidently asserted, seems now to be less and less relied on.

Nearly the whole of the American law of treason, as established by the courts—what Beaman used to call "Judge-made law"—is to be found in the various opinions given by Chief Justice Marshall, in the progress of the trial of Burr. The matters transpiring at the trial, and the rulings of the court, have been so obscured and overlaid by the popular controversies and acrimony concerning the prosecution, the defense and the court, that the most that seems to be generally known of it is that in some way the law was so ruled as to acquit the accused. The indictment charged Burr with being one of many that levied war against the United States, in assembling in a filibustering expedition against the Spanish colonies or to levy war against the United States, was doubtful. But in the ruling of the court, the latter conclusion is assumed to be true. But Burr was not shown to be present, but was absent at the time.

Under these circumstances, the court ruled substantially as follows: That if Burr was not with the party at the Island, and that his cooperation was to be afforded elsewhere, at a great distance, that if the acts to be performed by him were distinct from those of the party assembled at the Island, then Burr could not be charged with acts committed at the Island. Upon the question of whether an accessory before the fact, or one who procures or incites the particular act of levying war, thereby commits treason, under the Constitution of the United States? The court declined to express an opinion, but declared that if such an act came within the constitutional definition of treason, that then such procurement or incitement is itself an overt act of levying war, and could not be charged in the indictment. They could not do otherwise.

It was not one of the assemblages on the Island, as charged in the indictment, and if he procured or incited it, he was undoubtedly the fact, he was not so accused, and could not be tried for it upon that indictment.

Assuming then, that to procure, incite, or direct others to levy war against the United States, is itself an overt, independent act constituting treason, from these rulings it inevitably follows, and the court so declared, that the offender must be tried in the State wherein the act of levying war, or the incitement to place or happen. The premises being admitted, the 6th amendment to the Constitution determines the rest, by providing:—"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and District wherein the crime shall have been committed, which District shall have been previously ascertained by law."

Assuming, then, that the attack on Washington was directed by Davis, as commander-in-chief, or otherwise, of the late Confederacy, although not present and participating therein, the ruling in Burr's case does not determine whether such direction would be treason in Davis or not; but if it determines that he must be charged with it directly, and tried where the direction was given.

In the course of the argument against the doctrine of constructive presence in treason, which the prosecution sought to maintain, the Chief Justice, in one of his illustrations, almost literally anticipated Davis' case and the events of the late civil war. He says:

"It is conceived by the court to be possible that a person may be concerned in a treasonable conspiracy, and yet be legally, as well as actually, absent while some one act of treason is perpetrated. If a rebellion should be so extensive as to spread through every State in the Union, it will scarcely be contented that every individual concerned in it is legally present at every overt act committed in the course of the rebellion. It would be a very violent presumption (indeed, too violent to be made without clear authority) to presume that even the chief of the rebel army was legally present at every such overt act. If the main rebel army, with the chief at its head, should be prosecuting war at one extremity of our territory—say in New Hampshire—this chief should be there, and not in some distant part of the country for the purpose of it; if his indictment, instead of alleging an overt act which was true, in point of fact, should allege that he had assembled some small party, which, in truth, he had not seen; and had levied war, by engaging in a skirmish in Georgia, at a time when, in reality, he was fighting a battle in New Hampshire; if such evidence would support an indictment by the fact that he was legally present, though really absent, all would say that that purpose was these provisions of the Constitution, which direct the place of trial, and obtain that the accused shall be informed of the nature and cause of the accusation? * * * * *

If a person levying war in Kentucky may be said to be constructively present and assembled with a party carrying on war in Virginia, at a great distance from him, then he is present at every overt act anywhere; he may be tried