Baltimore Price Current.

CORRECTED WEEKLY.

Articles.	*Per.*	*Prices.*		
BREAD, ship,	cwt.	$3		
navy,	—	4	25	
pilot,	—	5	50	
BEEF, northern mess,	bbl.	15	50	*plenty*
cargo, No. 1,	—	13	50	*do.*
——, No. 2,	—	11	50	*do.*
BACON,	lb.		11	12
BUTTER, for exportation,	—		15	18
COFFEE, Batavia,	—		30	
W. India best gr.	—		29	
do. com.	—		26	
COTTON, W. India island,	—		26	35
Louisiana,	—		24	
Georgia, upland,	—		22	23
Sea-Island,	—			*none*
CORDAGE, American,	—		16	
Russia,	—		10	12
CHOCOLATE,	—		20	30
CANDLES, mould	—		20	
dipt,	—		17	
spermaceti,	—		45	50
CHEESE, American,	—		11	13
English, best,	—		40	45
DUCK, Russia,	blt.		33	35
Holland,	—		40	45
Ravens,	—	15		
Russia Sheeting,	piece	22		23
FISH, cod, dry,	qut.	4	50	
salmon,	bbl	16		
herrings, (new)	—	4	25	
mackerel,	—	8		9
shad (new)	—	7		
FLAXSEED, rough,	bush.			
clew sed,	esk.			
*FLOUR, superfine,	bbl.	5	75	6
fine,	—	5	25	
middlings,	—	5		
rye,	—	4		
GUNPOWDER, Engl. 25	lb.	10		
Do Baltimore manufac.	—	9		
GRAIN, Indian corn,	bush.		55	60
wheat, Virginia,	—	1		1 10
do. Maryland,	—	1		1 15
Rye,	—		65	
Barley,	—	1		
Clover seed,	—			
Oats,	—		33	37
HEMP, Russia,	ton.	305		310
Country,	lb.		9	
HOPS, *(fresh)*	lb.		12	*dull*
HOG'S LARD,	—		15	*do.*
IRON, pig,	ton.	45		48
Country bar,	—	115		
Russia,	—			110
Swedes, best,	—	115		
Hoop,	—	173		
Sheet,	—	220		225
Nail rods,	—	140		150
Castings,	—	80		90
LEATHER, sole,	lb		18	19
§LUMBER, *per 100 ft.*				
oak, timb. & scant	—	2		2 25
boards, all sizes,	—	2	12	2 50
pine scantling, do.	—	1	25	1 50
boards, 4-4	—	2	50	
do. 5-4	—	1	50	2
white do. com. 4-4	—	2	25	
do. clear, 4-4	—	2	50	3 50
shingles, cyp. 18 inch	M.	2	50	3 50
juniper, 24 do.	—	6	50	8 50
do. com. do.	—	4		5
staves, w. o. pipe	—	40		45
do. hhd.	—	30		
do. bbl.	—	15		20
red oak, bbl.	—	10		
do hhd.	—	18		
hhd. heading,	—	40		
MEAL, corn, kiln-dried,	bbl.	4		
NANKINS, short,	pc.		85	87
NAVAL STORES, tar,	bbl.	2	25	2 50
pitch,	—	3		3 50
turpentine,	—	2	25	2 50
rosin,	—	2	25	2 50
spirits turpentine,	gal.		35	37
varnish, bright,	—		30	
black,	—		30	
PORK, northern mess,	bbl.	24		*dull*
Prime	—	18		*do.*
Cargo	—	17	50	*do.*
Baltimore navy	—	20		*do.*
——— Prime,	—	17	50	*do.*
southern, 2d,	—	15		*do.*
PLAISTER PARIS, Fr.	ton	7	50	
PORTER, London,	doz.	2	50	3
American,	—	1	25	
RICE, *(new)* per 100	lb.	3	75	*dull*
SOAP, American, white,	lb.		10	12
do. brown,	—		8	9
Castile,	—		17	18
SALTPETRE, rough, Am.	—		18	
refined,	—		25	
SASSAFRAS,	ton	12		14
SPIRITS, Brandy, F. 4th p	gal.		98	
Cogniac, 4th p.	—	1	12	1 20
Barcelona, 1st p.	—		85	
do. 4th p.	—		90	
Gin, Hol'd, 1st p.	—	1	3	
do. American,	—			62
Rum, Jam. 4th p.	—		93	95
St. Croix, 3 & 4	—			*none*
Antigua, 3 & 4	—		76	78
Windward Island 2d	—		62	
Windward Island 3d	—		67	
Windward Island 4th	—		75	
American,	—		46	47
Whiskey,	—		48	
SUGARS, Havana, white,	cwt.	13		
do. brown,	—	9	50	
clayed, white,	—	12	50	
do. brown,	—	11	50	
muscov. 1st qual.	—	9		13
Louisiana	—	8		12
India, 1st qual.	—	10	50	12
loaf,	lb.		20	
lump,	—		18	
†SALT, St Ubes,	bush.		55	60
Lisbon,	—		60	
Cadiz,	—		45	50
Liverpool, blown,	—		45	50
ground,	—		60	
Turks-Island,	—		65	70
Isle of May,	—		60	65
SHOT, of all sizes,	cwt.	12	50	13
TOBACCO, Maryland, 100	lb.			
Upper Patuxent, 1st	—	7		7 50
Lower Patuxent, 1st	—	6		6 50
Potomac, 1st,	—	5		5 50
East shore, 1st	—	5		
Virginia, fat,	—	6	50	
do middling,	—	5	50	
Rappahannock,	—	4		5
Georgia,	—			*none*
TALLOW, American,	lb.		14	
WAX, bees,	—		40	42
WINES, Madeira, L. P.	gal.	2	50	3
do. L. M.	—	1	15	1 65
do. N. Y. M	—	1	12	1 50
Lisbon,	—	1	10	1 15
Sherry,	—	1	20	1 25
Corsica,	—		65	68
Teneriffe,	—		80	1
Claret,	doz.	5		10
do. new,	esk.	33		40
Malaga,	gal.		95	
Port,	—	1	30	1 35

* *Store prices.*
§ *Board measurement.*
† *Cargo prices.*
‡ *Second qualities of Patuxent, are 2 dollars Potoac & Eastern-shore 1 dollar less.*

AVERAGE PRICE OF STOCKS.

8 per cents,	101
6 do.	96
3 do.	60 a 62
Louisiana, do.	*none*
U. S. Bank Stock,	112 a 114
Maryland Bank Stock,	350
Baltimore do.	350
Union Bank of Maryland do.	56 a 56 1-2
Mechanics' Bank,	13 1-2
Alexandria Bank do.	190 a 195
Farmers Bank do.	par
Columbia do.	par
Potomac do	90
Baltimore Insurance Shares,	260
Maryland do.	400
Marine do.	360
Chesapeake do.	140
Union do	130
Water Stock,	100 a 105

TRIAL OF AARON BURR,

(Continued by adjournment, and held at the capitol, in the hall in the house of delegates) for High Treason against the United States.

OPINION

Of the court on a motion to arrest the evidence—delivered on

Monday, August 31.

The question now to be decided has been argued in a manner worthy of its importance, and with an earnestness evincing a strong conviction felt by the counsel on each side that the law is with them.

A degree of eloquence seldom displayed on any occasion has embellished a solidity of argument and depth of research by which the court had been greatly aided in forming the opinion it is about to deliver.

The testimony adduced on the part of the United States, to prove the overt act laid in the indictment, havng shown, and the attorney for the United States having admitted, that the prisoner was not present when that act whatever may be its character, was committed, and there being no reason to doubt but that he was at a great distance and in a different state, it is objected to the testimony offered on the part of the United States, to connect him with those who committed the overt act, that such testimony is totally irrevalent and must therefore be rejected

The arguments in support of this motion respect in part the merits of the case as it may be supposed to stand independent of the pleadings, and in part as exhibited by the pleadings.

On the first division of the subject two points are made.

1st. That conformably to the constitution of the United States, no man can be convicted of treason, who was not present when the war was levied.

2nd. That if this construction be errone ous, no testimony can be received to charge one man with the overt acts of others, until those overt acts as laid in the indictment be proved to the satisfaction of the court.

The queestion which arises on the construction of the constitution, in every point of view in which it can be contemplated, is of infinite moment to the people of this country and to their government, and requires the most temperate and deliberate consideration.

"Treason against the United States, shall consist only in levying war against them."

What is the natural import of the words "levying of war? And who may be said to levy it?" Had their first application to treason been made by our constitution, they would certainly have admitted of some latitude of construction. Taken most literally, they are parhaps of the same import with the words raising or creating war, but as those who join after the commencement are equally the objects of punishment, there would propably be a general admission, that the term also comprehended making war, or carrying on war. In the construction which courts would be required to give these words, it is not improbable that those who should raise, create, make or carry on war might be comprehended. The various acts which would be considered as coming within the term, would be settled by a course of decisions, and it would be affirming boldly to say, that those only who actually constituted a portion of the military force appearing in arms could be considered as levying war. There is no difficulty in affirming that there must be a war or the crime of levying it cannot exist, but there would often be considerable difficulty in affirming that a particular act did or did not involve the person committing it in the guilt and in the fact of levying war. If for example, an army should be actually raised for the avowed purpose of carrying on open war against the United States and subverting their government, the point must be weighed very deliberately, before a judge would venture to decide that an overt act of levying war had not been committed by a commissary of purchases, who never saw the army, but who, knowing its object and leagueing himself with the rebels, supplied that army with provisions, or by recruiting officer holding a commission in the rebel service, who, though never in camp, executed the particular duty assigned to him.

But the term is not for the first time applied to treason by the constitution of the United States. It is a technical term. It is used in a very old statute of that country, whose language is our language, and whose laws form the substratum of our laws. It is scarcely conceivable that the term was not employed by the framers of our constitution in the sense which had been affixed to it by those from whom we borrowed it. So far as the meaning of any terms, particularly terms of art, is completely ascertained, those by whom they are employed must be considered as employing them in that ascertained meaning, unless the contrary be proved by the context. It is therefore reasonable to suppose, unless it be incompatible with other expressions of the constitution, that the term "levying war" is used in that instrument in the same sense in which it was understood in England and in this country, to have been used in the statute of the 25th of Edward 3d, from which it was borrowed.

It is said that this meaning is to be collected only from adjudged cases. But this position cannot be conceded to the extent in which it is laid down. The superior authority of adjudged cases will never be controverted. But those celebrated elementary writers, who have stated the principles of the law, whose statements have received the common approbation of legal men, are not to be disregarded. Principles laid down by such writers as Coke, Hale, Foster and Blackstone, are not lightly to be rejected. These books are in the hands of every student. Legal opinions are formed upon them, and those opinions are afterwards carried to the bar, the bench & the legislature. In the exposition of terms, therefore, used in instruments of the present day, the definitions and the dicta of those authors, if not contradicted by adjudications, and if compatible with the words of the statute, are entitled to respect. It is to be regretted that they do not shed as much light on this part of the subject as is to be wished.

Coke does not give a complete definition of the term, but puts cases which amount to levying war. "An actual rebellion or insurrection, he says, is a levying of war." In whom? Coke does not say whether in those only who appear in arms, or in all of those who take part in the rebellion or insurrection by real open deed.

Hale, in treating on the same subject, puts many cases which shall constitute a levying of war, without which no act can amount to treason; but he does not particularize the parts to be performed by the different persons concerned in that war, which shall be sufficient to fix on each the guilt of levying it.

Foster says, "the joining with rebels in an act of rebellion, or with enemies in acts of hostility, will make a man a traitor."—"Furnishing rebels or enemies with money, arms, ammunition or other necessaries will *prima facie* make a man a traitor."

Foster does not say that he would be a traitor under the words of the statute independent of the legal rule which attaches the guilt of the principal to an accessary, nor that his treason is occassioned by that rule. In England this discrimination need not be made except for the purpose of framing the indictment, and therefore in the English books we do not perceive any effort to make it. Thus surrendering a castle to rebels, being in confederacy with them is said by Hale and Foster to be treason under the clause of levying war, but whether it be levying war in fact, or aiding those who levy it is not said. Upon this point Blackstone is not more satisfactory. Although we may find among the commentators upon treason enough to satisfy the inquiry, what is a state of internal war? Yet no precise information can be acquired from them which would enable us to decide with clearness whether persons not in arms but taking part in a rebellion, could be said to levy war independent of that doctrine which attaches to the accessary the guilt of his principal.

If in adjudged cases this question has been taken up and directly decided, this court has not seen those cases. The arguments which may be drawn from the form of the indictmen, though strong, is not conclusive. In the precedent found in Tremaine, Mary Speake, who was indicted for furnishing provisions to the party of the duke of Monmouth, is indicted for furnishing provisions to those who were levying war, not for levying war herself. It may correctly be argued that had this act amounted to levying war, she would have been indicted for levying war, and the furnishing provisions would have been laid as the overt act. The court felt this when the precedent was produced. But the argument though strong is not conclusive, because in England the inquiry whether she had become a trator by levying war, or by giving aid and comfort to those who were levying war, was unimportant, and because too it does not appear from the indictment that she was actually concerned in the rebellion, that she belonged to the rebel party, or was guilty of any thing further than a criminal speculation in selling them provisions.

It is not deemed necessary to trace the doctrine that in treason all are principals to its source. Its origin is most probably stated correctly by judge Tucker, in a work the merit of which is with pleasure acknowledged. But if a spurious doctrine has been introduced into the common law, and has for centuries been admitted as genuine, it would require great hardihood in a judge to reject it. Accordingly we find those of the English jurists who seem to disapprove the principle declaring that it is now too firmly settled to be shaken.

It is unnecessary to trace this doctrine to its source for another reason. The terms of the constitution comprise no question respecting principal and accessary, so far as either may be truly and in fact said to levy war: Whether in England a person would be indicted in express terms for levying war, or for assisting others in levying war, yet if in correct and legal language he can be said to have levied war, and if it has never been decided that the act would not amount to levying war, his case may without violent construction be brought within the letter and the plain meaning of the constitution.

In examining these words, the argument which may be drawn from felonies, as for example from murder, is not more conclusive. Murder is the single act of killing with malice aforethought. But war is a complex operation composed of many parts, co-operating with each other. No one man or body of men can perform them all, if the war be of any continuance. Although then, in correct and in law language, he alone is said to have murdered another who has perpetrated the fact of killing, or has been present aiding that fact, it does not follow that he alone can have levied war who has borne arms. All those who perform the various and essential military parts of prosecuting the war, which must be assigned to different persons, may with correctness and accuracy be said to levy war.

Taking this view of the subject, it appears to the court that those who perform a part in the prosecution of the war may correctly be said to levy war and to commit treason under the constitution. It will be observed, that this opinion does not extend to the case of a person who performs no act in the prosecution of the war, who counsels and advises it, or who, being engaged in the conspiracy, fails to perform his part. Whether such persons may be implicated by the doctrine, that whatever would make a man an accessary in felony makes him a principal in treason, or are excluded, because that doctrine is inapplicable to the U. States, the constitution having declared that treason shall consist only in levying war, and having made the proof of *overt acts* necessary to conviction, is a question of vast importance, which it would be proper for the supreme court to take a fit occasion to decide, but which an inferior tribunal would be unwilling to determine, unless the case before them should require it.

It may now be proper to notice the opinion of the supreme court, in the case of the United States against Bollman and Swartwout. It is said that this opinion, in declaring that those who do not bear arms may yet be guilty of treason, is contrary to law, and is not obligatory, because it is extra-judicial, and was delivered on a point not argued. This court is therefore required to depart from the principle there laid down.

It is true, that in that case, after forming the opinion that no treason could be committed, because no treasonable assemblage had taken place, the court might have dispensed with proceeding further in the doctrines of treason. But it is to be remembered, that the judges might act separately, and perhaps at the same time, on the various prosecutions that might be instituted, and that no appeal lay from their decisions. Opposite judgments on the point would have presented a state of things infinitely to be deplored by all. It was not surprising then that they should have made some attempt to settle principles which would probably occur, and which were in some degree connected with the points before them.

The court had employed some reasoning to shew that without the actual embodying of men war could not be levied. It might have been inferred from this, that those only who were so embodied could be guily of treason. Not only to exclude this inference, but also to affirm the contrary, the court proceeded to observe. "It is not the intention of the court to say that no individual can be guilty of this crime who has not appeared in arms against his country. On the contrary, if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable object, all those who perform any part, however minute, or however remote from the scene of action, and who are actually leagued in the general conspiracy, are to be considered as traitors."

This court is told that if this opinion be incorrect it ought not to be obeyed, because it was extra judicial. For myself, I can say that I could not lightly be prevailed upon to disobey it, were I even convinced it was erroneous, but I would certainly use any means which the law placed in my power to carry the question again before the supreme court, for re-consideration, in a case in which it would directly occur and be fully argued.

The court which gave this opinion was composed of four judges. At the time I thought them unanimous, but I have since had reason so suppose that one of them, whose opinion is entitled to great respect, and whose indisposition prevented his entering into the discussions on some of those points which were not essential to the decision of the very case under consideration, did not concur in this particular point with his brethren. Had the opinion been unanimous, it would have been given by a majority of the judges. But should the three who were absent concur with that judge who was present, and who perhaps dissents from what was then the opinion of the court, a majority of the judges might overrule this decision. I should therefore feel no objection, although I then thought, and still think the opinion perfectly correct, to carry the point if possible again before the supreme court, if the case should depend upon it.

In saying that I still think the opinion perfectly correct, I do not consider myself as going further than the preceding reasoning goes. Some gentlemen have argued as if the supreme court had adopted the whole doctrine of the English books on the subject of accessaries to treason. But certainly such is not the fact. Those only who perform a part, and who are leagued in the conspiracy, are declared to be traitors. To complete the definition, both circumstances must concur. They must "perform a part," which will furnish the overt act, and they must be "leagued in the conspiracy." The person who comes within this description, in the opinion of the court levies war. The present motion, however, does not rest upon this point; for, if under this indictment the United States might be let in to prove the part performed by the prisoner, if he did perform any part, the court could not stop the testimony in its present stage.

2d. The second point involves the character of the overt act which has been given in evidence, and calls upon the court to declare, whether that act can amount to levying war. Although the court ought now to avoid any analysis of the testimony which has been offered in this case, provided the decision of the motion should not rest upon it, yet many reasons concur in giving a peculiar propriety to a delivery, in the course of these trials, of a detailed opinion on the question, what is levying war? As this question has been argued at great length, it may probably save much trouble to the counsel, now to give that opinion.

In opening the case it was contended by the attorney for the United States, and has since been maintained on the part of the prosecution, that neither arms nor the application of force or violence are indispensably necessary to constitute the fact of levying war. To illustrate these positions, several cases have been stated many of which would clearly amount to treason. In all of them, except that which was probably intended to be this case and on which no observation will be made, the object of the assemblage was clearly treasonable; its character was unequivocal, and was demonstrated by evidence furnished by the assemblage itself; there was no necessity to rely upon information drawn from extrinsic sources or in order to understand the fact, to pursue a course of intricate reasoning and to conjecture motives. A force is supposed to be collected for an avowed treasonable object, in a condition to attempt that object, and to have commenced the attempt by moving towards it. I state these particulars, because although the cases put may establish the doctrine they are intended to support, may prove that the absence of arms or the failure to apply force to sensible objects by the actual commission of violence on those objects may be supplied by other circumstances, yet they also serve to show that the mind requires those circumstances, to be satisfied that a war is levied.

Their construction of the opinion of the supreme court, is, I think, thus far correct. It is certainly the opinion which was at the time entertained by myself, and which is still entertained. If a rebel army, avowing its hostility to the sovereign power, should front that of the government should march and countermarch before it, should manœuvre in its face, and should then disperse from any cause whatever, without firing a gun, I confess I could not, without some surprise, hear gentlemen seriously contend that this would not amount to an act of levying war. A case equally strong may be put with respect to the absence of military weapons. If the party be in a condition to execute the purposed treason without the usual implements of war, I can see no reason for requiring those implements in order to constitute the crime.

It is argued that no adjudged case can be produced from the English books, where actual violence has not been committed.—Suppose this were true. No adjudged case has, or it is believed, can be produced from those books in which it has been laid down that war cannot be levied without the actual application of violence to external objects. The silence of the reporters on this point may be readily accounted for. In cases of actual rebellion against the government, the most active and influential leaders are generally most actively engaged in the war, and as the object can never be to extend punishment to extermination, a sufficient number are found among those who have committed actual hostilities, to satisfy the avenging arm of justice. In cases of constructive treason, such as pulling down meeting houses, where the direct and avowed object is not the destruction of the sovereign power, some act of violence might be generally required to give to the crime a sufficient degree of malignity to convert it into treason, to render the guilt of any individual unequivocal.

But Vaughan's case is a case where there was no real application of violence, and where the act was adjudged to be treason. Gentlemen argue that Vaughan was only guilty of adhering to the king's enemies, but they have not the authority of the court for so saying. The judges unquestionably treat the cruizing of Vaughan as an overt act of levying war.

The opinions of the best elementary writers concur in declaring, that where a body of men are assembled for the purpose of making war against the government, and are in a condition to make that war, the assemblage is an act of levying war. These opinions are contradicted by no adjudged case, and are supported by Vaughan's case. This court is not inclined to controvert them.

But although in this respect the opinion of the supreme court has not been misunderstood on the part of the prosecution, that opinion seems not to have been fully adverted to in a very essential point, in which it is said to have been misconceived by others.