

the neighborhood, and in the adjoining county of Chester, attended by delegates from Sadsbury township, where the murder was committed, at which, resolutions were passed, denouncing the act of Congress, known as the fugitive slave act, and declaring that the same ought to be resisted by force, whenever its execution was attempted.

But the court ruled this testimony inadmissible, because it was not in their view rebutting evidence, but rather matter in chief. Undoubtedly, this evidence if known to us in time, would have been competent in chief, but it did seem to us that it was clearly admissible as rebutting evidence, to explain the true origin and purpose of that organization which was referred by the defence, to a certain object and a certain date.

But the decisive points ruled, which were fatal to all the pending prosecutions, are to be found in the following passage, taken from the opinion of the court. "Without desiring to invade the prerogatives of the Jury, in judging of the facts of this case, the court feel bound to say, that they do not think the transaction with which the prisoner is charged with being connected, rises to the dignity of treason or a levying of war—not because the number or force was insufficient, but, 1st. For want of any proof of a previous conspiracy to make a general and public resistance to any law of the United States. 2nd. There is no evidence that any person concerned in the transaction knew that there were such acts of Congress as they were charged with conspiring to resist by force and arms, or had any other intention than to protect one another from what they termed kidnappers, (by which slang term they probably included not only actual kidnappers, but all masters and owners seeking to re-capture their slaves, and the officers and agents assisting them.)"

It will be observed here, that Judge Grier does not deny the Treason, "because of the insufficiency of the force" to levy war against the United States. He has therefore virtually adopted the rule laid down by Judge Chase, on the second trial of Friese in the United States Circuit Court, where that learned Judge declared "that the quantum of the force employed, neither lessens or diminishes the crime; whether by one hundred or one thousand persons is wholly immaterial."

But his Honor, Judge Grier, places the acquittal of Castner Hanway on two distinct grounds. First, "for want of any proof of a previous conspiracy to make a general and public resistance to any law of the United States."

He does not negative the idea, that there was evidence of some conspiracy, but he decides that there is no evidence of a conspiracy to do a particular thing, viz: "to make a general and public resistance to any law of the United States."

This, I humbly submit, is a new qualification of the rule laid down by the distinguished Judges, who had, as it was thought,