

public purpose, to wit: the forcible resistance of a public law of the United States.

Now, it was, unquestionably, a matter of fact for the Jury to decide upon the intention of that assemblage of men, and for what purpose they came together. If they found that it was merely temporary and caused alone by a motive to rescue these particular slaves of Mr. Gorsuch, it was not treason, but if it was an organization set on foot for the purpose of resisting the arrest of all fugitive slaves in that neighborhood who might be claimed under process according to the terms of the act of Congress, then I submit, that such a purpose, in such an assembly of men, carried out by force of arms, would be a resistance of a public general law, and could not correctly be said to be for a private purpose. I cannot conceive of a matter more vitally affecting the public, if not the Union itself, than the execution of this act of Congress, based on so fundamental an article of the Constitution.

But the court have intimated to the jury, that there was "no treason," because there "was no conspiracy to make a general and public resistance to any law of the United States."

This takes from the jury their prerogative to decide on the intention of the assembled multitude, which always is a matter of fact to be found by a jury.

But surely it was competent to infer a treasonable intent to resist all arrests of fugitive slaves, where the evidence showed a preconcerted assemblage almost instantaneously by the blowing of horns, of more than an hundred men, who deliberately defied the officer of the United States when he read the warrants, and fired upon his party, killing one and wounding others.

When the war-cry of the insurgents was, "we are free," and when, more especially, so far as the white prisoners were concerned, there was no evidence that they knew the slaves of Mr. Gorsuch, and one of them, Elijah Lewis, swore, on the trial of Hanway, that when he read the warrants at the time, he did not notice "for what negroes they were." From all these facts, and the proof of the wide-spread disloyalty and disaffection to the law, of all that neighborhood, it was hardly possible for a fair-minded jury to have doubted that this insurrection of armed men was not for the private purpose of rescuing these particular negroes, but for the general purpose of preventing any arrests of fugitive slaves in that neighborhood; that is, in effect, to prevent the execution of the fugitive slave act.

The Court then went on further to decide, that the insurrection "was but a sudden conclamatic or running together, to prevent the capture of certain of their friends, or to rescue them if arrested," thus evidently deciding the character and intention of the insurrection, which was the disputed matter of fact, on which the Jury were alone competent to pass.

Judge Grier likens this case to that of a band of smugglers re-