THE DAILY EVENING TELEGRAPH .- PHILADELPHIA, TUESDAY, JANUARY 16, 1866.

THE NEW YORK PRESS.

Editorial Opinions of the Leading Journals Upon the Most Important Topics of the Hour.

COMPILED EVERY DAY FOR EVENING TELEGRAPH.

The Amended Bill for the Protection of the Freed Negroes. From the Times.

The bill to enlarge the Freedmen's Bureau, as amended by the Judiciary Committee, has been presented by Mr. Trumbull to the Senate.

It provides for the continuance of the Bureau, and extension to all parts of the United States. where freedmen may be. For this purpose there are to be twelve ireedmen's districts, with an Assistant Commissioner over each, with subdistricts and the necessary clerks. The President is authorized to place the whole, it he deems it best, under officers from the army, and to give all employee of the Bureau military protection. For destitute retugees and negroes, the Secretary of War is authorized to issue provisions, fuel, and clothing.

The important feature, however, is the authority given by the President to reserva for the freedmen and loyal refugees unoccupied lands in Florida. Mississippi, and Arkansas, not exceeding in all three million acres of good land. Each family or laborer is to have forty acres, at such rent as may be agreed upon between the Commissioner and the treedmen. After a time the tenants can purchase and own the lands on valuation-this latter to be determined by the Commissioner, under direction of the President.

The titles granted under General Sherman's special field order of January 16, 1865, are con-firmed and made valid.

Again, the pauper freedmen-now depending on the Government for support-are to be pro-vided with such lands in the different districts as the United States may be able to purchase, and the Commissioner shall build upon them such schools and asylums as may be necessary and from time to time he is to let and sell those lands to the freedmen, in the same manner with the public lands; provided, however, that the lots shall never be sold for less than the cost to the United States.

Another section authorizes the President to extend military protection to the freedmen in all cases of laws making discrimination against them on account of color; and still another prescribes punishment for subjecting freedmen to slavery. This important bill was discussed yesterday

before the Senate. We speak advisedly when we say that no one motion of more importance will come before the Senate during this session.

The suffrage might ultimately be of benefit to the intelligent negroes, but for the whole race at this time land is of more value than votes. This bill is really an act to raise up a suddenly emancipated race from their condition of depend ents or proletaires to that of landowners and freeholders. It recognizes the great economical fact that the possession of land is one of the principal elements in the advance and elevation of a poor peasantry. It offers to the negro what the Government has already offered to the emigrant white peasant from Europe, the stimulus of land to induce him to settle and labor. Observing the tearful effect in Jamaica of throwing obstacles before an emancipated race, in their purchase and renting of real estate, the framers of this bill have made it as easy as possible. All can have ground, if they will; even the paupers are to be put on farms, and all can secure the fee of their little plots by proper industry and economy. The act secures the protection of the negro, and really thus aids the white. If the black laborer be badly treated by the planters, he will inevitably retreat to the unoccupied lands, and rent his plot from the Government, leaving the large estates to shift for themselves.

If unjust laws are passed against him, solely on account of his color, he can appeal to military protection, and the President (if he choose) can defend him against imquitous State or local legislation. If efforts are made to re-enslave him, the authors are liable to punishment. The edu-

But the real reconstruction is proceeding at the South—this at Washington being only the shadow. From every side we ball evidences of a growing accord between the whites and blacks, based on a consciou-ness that their interests are not antagonistic but identical. It is morally certain that all the fair to middling cotton that can be grown in 1866 may be sold at 25 to 30 cents per pound in gold, which affords a net profit of 15 to 20 cents. In other words, the labor of each able-bodied, experienced field-hand will produce, on the average, at least \$500 worth of cotton while the cost of hiring and feeding such field hand will not average \$250. Assuming that there are to day one million negroes in the South who can be hired to make cotton (and there are more than one million, but not all full hands) the profit on their labor for the current year will be

on their labor, for the current year whiles ruf-\$250,000,000. Now there are many penniless ruf-fans and rowdies at the South, but they have not full sway there; while the more intelligent, re-putable, property-holding class have all a deep stake in the establishment of mutual confidence and goodwill between whites and blacks. And this. work, with some local interruptions, is rapidly proceeding. We have received a copy of the regulations framed and adopted by the planters of Monroe county. Alabama, for the government of their

dealings with the freedmen; and they evince a humanity and consideration which were signally wanting in those framed last spring by the land-holders of several sections of old Virginia. They might be improved; but considering that their authors were till lately slaveholders, and are dealing with those who were then their slaves, they are even commendable.

The Legislature of Tennessee, we are assured, will review its unwise action of last year and accord to the freedmen every civil right—such as to sue in courts, hold lands, give testmoliy, de., &c. And other Southern Legislatures will follow in the footsteps of this one. Washington letters state that General Howard is the product of latters from his subschuster.

is in the receipt of latters from his subordinates in the Freedmen's Bureau throughout the South, showing an improved state of feeling between ex-masters and freedmen, and justifying san-guine hopes for the future. Hiring is brisk; and few blacks persist in idleness when offered pay for work. One of the despatches says:--

"The Freedman's Bureau is in receipt of a large number of reports from the South showing that the negroes are commencing the new year in a satisfac-tory manner. General Wayne writes from Alabama that general improvement continues to be manifest. The demand for labor still exceeds the supply, and freedmen show a marked preference for living with Northern men, of whom there are about 5000 in the State. Those planters who ill treated the freedmen last year find it almost impossible to secure labor during this and it almost impossible to secure labor during this, and some have been compelled to aban-con their farms in consequence."

It is this latter class who get up negro insurrections on paper, and raise the reports that negroes will not work. The fact is, they refuse to work for those only whom they know as cruel and dishonest—and these are, after all, but a fraction. We have met scores of ex-slaveholders of late, and every one of them had found it easy to hire all the labor he wanted -generally that of his former slaves—at satisfactory prices. And every one of them obtained from his freedmen as much work as he required.

Let the South have time to realize fully that tavery is dead beyond the hope of resurrection, and she will come out all right. What she mainly needs are time, patience, and hearty goodwill.

Constructive Treason-Place of Trial.

From the World.

The recent letter of the Attorney-General of the United States, transmitted to the Senate by the President in reply to a resolution inquiring, among other things, why Jefferson Davis has not been arraigned on the charge of treason, con' tains the following paragraph:---

The question then, arises, Where and when must the trial thereof be head? In that clause of the Con-stitution mentioned in the resolution of the Senate, it is plainly written that they must be hold in the State and district "wherein the crime shall have been committed." I know that many persons of been committed." I know that many persons of learning and ability extertain the opinion that the Commander-in-chief of the Rebel armies should be regarded as constitutionally present with all the in-surgents who prosecuted hostilities and made raids upon the northerniand southern borders of the loval States. This doctrine of constructive presence, car-ried out to its logical consequences, would make all who had been connected with the Rebet armies limble to trial in any States and district into which any portion of those armies had made the slightest in-cursion. Not being persuaded of the correctness of that opinion, but regarding the doctrine mentioned. as of doubtful constitutionality, I have thought it not proper to advise you to cave criminal proceed-ings to be instituted against Jefferson Davis or any other insurgenis in States or districts in which they were not actually present during the prosecution of hostilities.

preme Court had adopted the whole doctrine of the English books on the subject of accessories 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 circomstances must concur. They must 'perform a part which will furnish the overt not:' and they must be 'leagued in the conspiracy.' The person who comes within this description, in the opinion of the Court, levies war."

The Chief Justice further commented on the opinion of the Supreme Cours which he had so recently drawn up, and extracted from it the proposition that, where a body of men are assem-bled for the purpose of making war against the Government, and are in condition to make that war, the assemblage is an act of levying war, and, therefore, neither arms nor application of force or violence to sensible objects are indis-pensably necessary to constitute that offense. These preliminary and side points disposed of,

These preliminary and side points disposed of, Judge Marshall came to the pivot of the ques-tion submitted, which was, whether an indict-ment charging Burr with levying war on Blen-nerhassett's Island, and containing no overt act, could be supported, and jurisdiction of the Circuit Court in Virginia sustained, by proof that war was levied at that place by other persons, in the absence of the prisoner in another circuit, even admitting those persons to be con-nected with him in one common conspiracy. It will be noted how completely the inquiry

covers the case of Jeffarson Davis. That is to say, could indictments respectively charging Davis with lovying war, either in the District of Columbia, Maryland, or Pennsylvania, and con-taining no other overt acts, be supported, and the jurisdiction of the Federal courts in either of those circuits, supported, by proof that war was levied in those places by an army under general lirection of Davis, who remained all the while in Richmond.

No analysis can do justice to the keen logic and comprehensive grasp with which the Chiel Justice reached a conclusion in the negative, and the opinion is too long for publication in full. We can only give the concluding sentences of this able judicial exposition of the American law of treason :---

The present indiciment charges the prisoner with levying war against the United States, and alleges an overt act of levying war. That overt act must be proved, according to the maadates of the Consti-tution and of the act of Congress, by two witnesses. It is not proved by a single witness. The presence of the accused has been stated to be an essential com-ponent part of the overt act in this indictment, unless the common law principle respecting acces-some should render it unnecessary; and there is not only no witness who has proved his actual or legal only ho with as who has proved his actual of legal presence, but the fact of his absence is not contro-verted. The counsel for the prosecution offer to give in evidence subsequent transactions at a differ-ent place, and in a different State, in order to prove -what? The overt act laid in the indictment that the prisoner was one of those who assembled at Biesperhassett's Island? No, that is not alloged, the set known that and for the indictment is not Bleoperhassett's Island? No, that is not alloged. Is is well known that such testimony is not competent to establish such a tact. The Constitu-tion and the aw require that the facts should be established by two witnesses, not by the establishment [of other facts from witch the jury might reason to this fact. The testimony, then, is not relevant. If it can be introduced, it is only in the character of corrologra-tive or confirmatory testimony, after the overt act has been proved by two witnesses, in such manner has been proved by two witnesses, in such manner that the question of fact ought to be lefe with the jury. The conclusion that, in this state of things no testimony can be admissible, is so inevitable that the counsel for the United States could not resist it. do not understand them to deny that, if the overt act he not proved by two witnesses, so as to be sub-mitted to the jur , all o her testimony must be urrelemitted to the jur, all other testimony must be irrete-vant, because no other testimony can prove the act Now, an assemblage on Blennerha sett's Island is proved by the requisite number of witnesses; and the Court might sut mit it to the jury whether that assemblage amounted to the lowing of war; but the presence of the accused at that assemblage being nowhere allered, except in the indictment, the overt act is not proved by a single witness; and, of conse-quence, all other testimony must be irrelevant. The only difference between this motion as made

and the motion in the form which the counsel for the United states would admit to be regular is this: it is not general for the rejection of all iestimony. It might be particular with respect to each witness as auduced. But can this be wished? Or can it be deemed necessary? If enough be proved to show that the indictment cannot be supported, and that no testimony, unless it be of that description which the attorney for the United States declares himself not to possiss, can be relevant, why should a ques-tion be taken on each witness? The opinion of this court on the order of fastimony

has frequently been adverted to as deciding the

It is contradiction between the two opinions exist, the court cannot perceive it. It was said that levy-ing war is an act compounded of law and jact, of which the jury aided by the court must judge. To that decharation the court still adheres.

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can count on large and immediate returns on the invest ments. Il aving an ore that readily yields ten dollars per Flassee by the m United States currency. Steerage passage from Liverpool or Queenstown, \$30 gold or its equivalent. Tickets can be bought here by persons sending for their friends. For further information apply at the Company's Offices No. 111 WALNUT St 4. Philadelphia. ushel, some estimate can be made of the value of thi property. With the present imperfect system of mining in this locality, and absence of proper machinery, ten tons of this one can be taken out daily from every shaft opened. Estimating, say fitteen bushe's to the ton, the daily yield will be fitteen hundred dollars from one shaft. FOR NEW YORK. --DESPATCH and Switzure Lines, via Delaware and harman t anal. The steamers of these lines are leaving daily at 12 o'clock M., and 8 o'clock F. M., from third pier above Walnut street. For freight, which will be taken on arcommodating terms, apply to William M. BAISD & C3., No. 134 S. allowing three hundred dollars per day for expenses. The net product will be # 1200 per day; counting 300 working days to the year, the yearly proceeds will be \$369,900. which yield can be largely increased by extending the works. This is considered a very low estimate of the DELAWARE Avenue. capacity of this mine by experienced miners of that locality. The Assayer of the United States Mint at ROBERT SHOEMAKER & CO. Chariette, in speaking of this property, says it has few equals in productiveness in that country, and with proper management and machinery the above product N. E. Cor. of FOURTH and RACE Streets, can be doubled.

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cation and shelter of those destitute persons. now dependent on the Government, are secured by this bill, its framers recognizing in this ab-normal state of things a certain duty of the United States towards those unfortunate men, though such matters ordinarily ought to belong to the State and local authorities. We are glad to see, also, that General Sherman's most wise arrangement for his destitute freedmen and for other loyal freedmen is to be con firmed. The owners of the Sea Islands were the most rabid Rebels; they opened this wicked Rebellion; their lands have been cultivated by loval blacks who trusted to General Sherman's orders and to the promises of our officers. We do not believe in any general confiscation, but in this particular case, the black loyalists being settled on the plantations, it seems just that the owners should be the sufferers. When we speak of the importance of this bill we are looking to the future of the white as well as the black race. We believe that the real interest of the planters

From the beginning the great effort of this journal has been to harmonize labor and capital in the South. If the two are permanently separated (as the mad passion of so many at the South would inevitably bring about), then fare-well for a generation to the peace, the pros-perity, and the wealth of the Southern States.

The great use of the Freedmen's Bureau is just this-to reconcile the master and his paid laborer. It is a third power (if we may so call it) put in by the Government between the employing class and the laboring, to guard the interests of both.

The freedmen need some authority in whose advice they can have confidence; some power besides the courts of planters to arrange their contracts, and to compel them to observe them and force them to labor; some department to discourage pauperism and idleness, promote education, arrange wages, protect rights, and force the planfers also to fulfil their engagements.

In ordinary times the local authorities would be sufficient for this. But after such a terrible war as the late one, with emancipation forced by the bayonet, we cannot expect the old slaveholding class to do full justice to those who were once their property. It would not be in human nature. The Government comes in for a time, till matters settle themselves. Under the Bureau (if wisely administered) the South may yet heat the wounds of war, and the industrious blacks may be a source of greater wealth to the country than they were in slavery. Without some such administration we fear only confusion, disorder, disorganization of labor, poverty, and revolution.

As a maiter of fact, we trust that the blacks will never be driven to the "unoccupied lands." They are worth vastly more on the large estates than as pioneers. But their continuance in cot-ton and sugar and rice labor will depend on the wisdom, justice, and kindness of their employers. The Government can merely protect them and punish idieness,

Progress of Reconstruction.

From the Tribune.

We rejoice to learn that the good work of reconstruction is proceeding at the South with cheerful rapidity. We say at the South, in con-tradistinction to what is doing at Washington; though we believe that there also all is going well. It was a happy idea of Congress to send the whole subject of reconstruction to a Joint Committee, clothing that committee with ample power. We trust that committee w II persevere in keeping its own counsel, and will investigate thoroughly, fearlessly, deliberately. Let the two Houses meantime shut off debate on the main question, and let the country and all sections of it be patient, assured that a wise and safe conclusion will in due time be reached. We cannot doubt that all the Southern States will be represented in Congress before the close of this session.

til mit salver post andreunts funt (a) 20-21 September (North International West 11)

We are curious to know the names of the 'many persons of learning and ability" who are referred to by Mr. Speed. In the case of Bollman and Swartwout, two of

the alleged accomplices of Burr, brought before the Supreme Court in 1807 on a writ of habeas corpus, that tribunal announced, as American law, the following propositions:-

1. To constitute treason, war must be actually levied.

2. A conspiracy to subvert the Government by force is not treason. 3. If a body of men be actually assembled for the

purpose of effecting, by force, a treasonable design, all who perform any part, however minute and however remote from the scene of action, and who are actually leagued in the general conspiracy, are

4 It an offense be committed on land, the offender must be tried by the Court having juri diction over that locality where the offense was committed.

It was but a short time after the adjournment of the court which pronounced this opinion that Burr himself was arraigned at the bar of the Circuit Court of the United States, sitting in Richmond, and Chief Justice Marshall presiding. One count of the indictment charged that the prisoner, with a number of unknown persons, levied war on Blennerhassett's Island, in the county of Wood, in the District of Virginia; and another count added the circumstance of pro-ceeding from that island down the river, for the ourpose of seizing New Orleans by force. testimony adduced on the part of the United States to prove the overt act haid in the Indictment made it clear, and the attorney for the prosecution admitted, that Burr was not present when that act was committed, but was a great distance off, and in another State. In this posture of the case it was proposed by the Government to connect the accused with the transactions on Blennerhassett's Island by collateral testimony of opinions expressed, intentions manifested, and extrusic circumstances happening out of the district. To this proposal objection was made by the defense, and the stress of the whole case, as it atter wards turned out, lay in this objection. Mr. Wirt spoke of the objection in these words:-

"The motion is a bold and original stroke in the noble science of defense. It marks the genius and hand of a master. For it gives to the prisoner every possible advantage, while it gives him the full benefit of his legal defense. It cuts off from the prosecution all that evidence which goes to connect the prisoner with the assem-blage on the island, to explain the destination and objects of the assemblage, and to atamp beyond controversy the character of treason

upon it." "The "master" alluded to by Mr. Wirt was doubtless the prisoner at the bar, who was throughout that long and splendid display, on both sides, of matterly management, legal acumen, and forensic eloquence, the inspiring and controlling apirit of the defense. For we remem-ber that in the report of the trial taken in short hand by Robertson, it was Burr who first an-nonneed to the Court objection to the introduc-

tion of the collateral testimony. The discussion which arose upon the motion lasted a week. All the counsel employed spoke at length. Wickham ovened; Bandolph followed on the same side; McRae and Wirt replied for the prosecution. Botis came next for the ac-cused; Lee and Marfin spoke in turn; and Randolph closed the argument of nearly five hundred printed octavo pages. The English language nowhere offers such a full and perfect exposition

of the law of treason. The Chief Justice, in the beginning of his long opinion, alludes to the case of Boliman, decided n the Supreme Court, and said :--Some gentlemen have argued as if the Su-

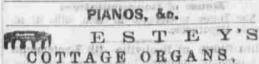
with a lotten and before the stand is the standard

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It was said that if the overt set were not proved by two wilnesses, no testimony in its nature cor-roborative or confirmatory was admissible or could

be relevant. be relevant. From that declaration there is certainly no de-parture. It has been asked, in allusion to the present case, if a general commanding an army should detach troops for a distant service, would tho men composite that detachment be traators, and would the commander in chief escape punishment? Lot the optimum which has been group augure this Let the opinion which has been given answer this ouestion. Appearing at the head of an army would, according to this opinion, be an overt act in leaving war. De aching a military corts for military purposes, must also be an overt act of levying war. It is not precented that he would not be pun-brable for these areas. is nable for these acts. It is only said that he may be tried and convicted on his own acts, in the State where those acts were committed, not on the acts of others in the State where those others acted. We are at a loss to understand how any "per-son of learning and ability," familiar with the doctrines of criminal law expounded by Federal judges, and recognizing the limited territorial jurisdiction of the Circuit Courts, could claim that Jefferson Davis can be legally convicted o treason in every judicial district into which his army penetrated. It is mortifying that such igno rance should prevail, and that such uninformed people should be called learned and able-but so it is.

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