cal an assemblage of men in force, in a military posture, to be necessary to constitute the fact of levying war.—The idea he appears to suggest, that the apparatus of war is necessary, has been very justly combatted by an able judge who has written a valuable treatise on the subject of treason; but it is not recollected that his position, that the assembly should be in a posture of war for any treasonable purpose, has ever been denied. Hawk. ch. 17, sec. 23, says, "That not only those who rebel against the king and take up arms to dethrone him, but also in many other cases, those who in a violent and forcible manner withstand his lawful authority are said to levy war against him, and therefore those that build a fort or castle against the king's forces, or keep together a much number of men against the king's express command, have been adjudged to levy war against him."

The cases put by Hawkins are all cases of actual force and violence. "Those who rebel against the king and take up arms to dethrone him," may by other cases those "who in a violent and forcible manner withstand his lawful authority." "Those that build a fort or castle against his forces, or keep together a much number of men against his express command."

These cases are obviously cases of force and violence.

Hawkins next proceeds to describe cases in which war is considered to be levied under the statute, although it was not directly made against the government. This lord Hale terms an interpretative or constructive levying of war, and it will be perceived that he puts no case in which actual force is dispensed with.

"Those also, he says, who make an insurrection in order to redress a public grievance, whether it be real or pretended one, and of their own authority attempt with force to redress it, are said to levy war against the king, although they have no direct design against his person, in much as they intentionally break his prerogative in attempting to do that by private authority which he by public justice ought to do, which manifestly tends to a downright rebellion. As where great numbers by force attempt to remove certain pieces from the king, &c." The cases here put by Hawkins of a constructive levying of war, do in terms imply force as a consistent part of the description of the offence.

Judge Foster, in his valuable treatise on treason, states the opinion which has been quoted from lord Hale, and differs from that writer as far as the latter might seem to require swords, pistols, sabres, &c. what he terms the pomp and pageantry of war, as essential circumstances to constitute the fact of levying war. In the cases of Damaree and Purchase, he says, "the want of those circumstances weighed nothing with the court, although the prisoner's counsel insisted much on that point." But he adds, "the number of the insurgents supplied the want of military weapons; and they were provided with axes, crows and other tools of the like nature, proper for the mischief they intended to effect. *Furor arma ministrat.*"

It is apparent that judge Foster here alludes to an assemblage in force, or as lord Hale terms it, "in a warlike posture"—that is in a condition to attack or proceed upon the treason which had been contemplated. In the author of afterwards states at large the cases of Damaree and Purchase from this state trials, and their case shows that the insurgents not only assembled in force, in the posture of war, but in condition to execute the treasonable design, but they did actually carry it into execution, and did treat the guards who were sent to disperse them.

Judge Foster states, sec. 4, all insurrections to effect a redress of grievances of the public and general concern *by an armed force*, to be in contempt of the law, high treason within the clause of levying war.

The charge put by Foster of constructive levying of war, all contain as a material ingredient, the actual employment of force. After giving a length this branch of his subject, he proceeds to state the law in a case of actual levying of war, that is where the war is intended directly against the government.

He says, sec. 9, "An assembly armed & arrayed is a warlike manner for a treasonable purpose is *beyond doubt* in things not *between fuscuum*. Listing and marching musters, and other acts without coming to a battle or action. So creasing on the king's subjects under a French commission, France being then at war with us, was held to be adhering to the king's enemies though no other act of hostility be proved.

"An assembly armed and arrayed in a warlike manner for any treasonable purpose," is certainly in a state of force—in a condition to execute the treason for which they assemble. The words "listing and marching" which are over acts of levying war, so in the arrangement of the statutes, also imply a state of force, though that state is not expressly mentioned. For the purpose of words, which state a particular event as not having happened, prove that event to have been the war circumstance to those which have happened—they are "without coming to a battle or action." "If once be entered and march," (that is if they march prepared for action) it is consistent for actions marching to a technical term applied to the movement of a military corps) is in no wise act of levying war though they do not come to a battle or action. This exposition is rendered the stronger by what seems to be put in the same sentence as a parallel case with respect to adhering to an enemy. It is cruising under a commission from an enemy without committing any other act of hostility. Cruising is the act of sailing in warlike form and in a condition to assail those of whom the cruiser is in quest.

(TO BE CONTINUED.)

Foreign Intelligence.

New York, Sept. 12.

The fast sailing ship Rebecca Jones, captain Waite, arrived at this port at a late hour last night, in 31 days from Liverpool, and brings the dates down to the 8th August and Liverpool to the 10th. Also dispatches from the American legation in London to the secretary of state. When the Robert Burns sailed the American vessels were hurrying off being in daily expectation of an embargo. A London paper of the 8th says, "It is said that there will be no embargo laid on American vessels. The Cincinnati sailed on the 9th, the Liverpool on the 10th."

The fast sailing ship George, captain Taylor, arrived at this place the evening, in 28 days from Greenock. She left there on the 13th of August, with captain Dupuis on board, lightly furnished. Gen editor of the *Mercantile Advertiser* with Greenock papers to the 12th, a file of the London Courier to the 9th, a Liverpool paper of the 10th, and Shipping List to the 12th, inclusive. We have avail ourselves of all the interesting matter but our paper being pre-occupied at the time they come into our hands, we shall, therefore, as they have necessarily been confined. We have in reserve the treaty between Prussia and France, the 17th Bulletin from the Grand Army, and several other interesting articles which shall be duly noticed in our next number.

The London papers are crowded with extracts from American papers, relative to the attack on the frigate Chesapeake, by the Britannic, and Portsmouth's frigate Leopard, which made a very unfavorable impression upon the minds of the merchants and manufacturers in England.

LONDON, AUGUST 4.

The differences with America are likely to be adjusted. The right of searching ships of war has been given up, been insisted upon by our ministers.

AUG. 7.

We understand that orders have been issued to Liverpool and other ports, from the Alien Office, that all passports granted before and since the embargo be cancelled as null and void, and no passports be permitted to leave the country.

AUGUST 6.

It was yesterday strongly reported that the Swedes and the German Legion had actually engaged, and many killed, wounded, and made prisoners, 5000 Dutch and Spanish troops.—Government have received no intelligence with respect to the sorde, and no advices have been received from the continent this morning.

It was reported last night, that attempts had been made on the King of Sweden, by a French officer, who had been made upon Buenos Ayres, which had failed. We trust the same report will be confirmed.

It was reported yesterday evening, that a great embargo was laid on shipping. The American captains caught the alarm, and no less than twelve of them quitted our shores in a hurry, and dropped down the river immediately. The rumour is unfounded. It is perfectly true, however, that no passports are granted, and no foreigners permitted to leave the country.

AUGUST 9.

Up to this hour no advices have been received from either the continent or their division of our fleets, which have proceeded on the expedition.

Yesterday evening we experienced a trifling arrivance, in consequence of the rejection of the Swedish ministers, which had been reported, contained articles hostile to the interests of this country, and Jackson's mission to the continent we are informed, was in consequence of the 13th article of this treaty, which proposes the mediation of Sweden to promote a peace between Britain and France, which ministers, it appears, have professed their dislike for a permanent and equitable peace. Mr. Jackson's mission to the continent, is on which France is disposed to treat with us, to enter into negotiation of the views of our cabinet, and to create, by every honorable means, facilities to negotiation. The Emperor Napoleon, we are assured, has renewed to our cabinet, declarations of the most cordial and unbiased friendship.

Nothing to report yesterday respecting the expedition—we have reason to be engaged to the Northward, information of their progress is hourly expected in numbers. The Russians to embarked at Hull and Grimsby, still remain there; other corps have been ordered to join them, and they are expected to sail the latter end of the week.

Observer.

We are still without any further accounts of the progress of our grand expedition, towards which public opinion is now so anxiously directed.—The promptitude and vigor with which it has been sent on its important destination, are, we believe, unexampled.—For what remains to be done, we are to look to British valor and enterprise; and in this view expectation is to be apprehend any disappointment.

Englishman.

Yesterday a bag of letters was received at the Post Office from Rotterdam, with letters dated on Saturday last. The expeditions from this country occasion much speculation and alarm in Holland. The garrisons of Alkmaar, Medlinbiek, &c. had been marched to the Helder, and the troops at Flushing had, in like manner, been re-enforced by drafts from the neighbouring garrisons, under an apprehension that these places were the objects of our attack.

Dispatches were yesterday afternoon received at the Foreign Office from the Court of Sweden.—Their contents have not transpired.

The threatened embargo on American vessels has not yet been adopted, but we are without the means of judging of the cause of this forbearance.—We are informed that the American minister was yesterday satisfied to our Cabinet, the Proclamation of the American Executive.

STRALSUND.

The following is a journal of the events which have taken place before Stralsund, since the Swedes were compelled to shut themselves up in the fortress.

STRALSUND, July 15.

"On Monday hostilities commenced, and yesterday the French were only two miles outside our gates. I stood with a pencil-man on the ramparts, one two hours, looking on, for we could see every movement quite distinctly. The French drove on, and at length all the Swedes, (no British troops were out) who at eight o'clock, returned into the garrison, and we commenced a fire from the town on the French line, for a considerable time, and killed and wounded. We are now shut up in the town, there is not a shot firing today. The French are now regularly throwing the town, by constructing approaches. The King was out, yesterday and I saw him yesterday; saw all the troops come in, the wounded, &c. The troops are delicious, and proud, but the troops still be shut home to go, if possible, if they are possible, then on home as fast as possible. In about a week I suppose we shall be in quarters. The troops only make a sally; and people here seem to fear it very much. The Swedes are fine with them, as they have done before at Rostock, &c. Three regiments of Germans, and 3000 Swedes; in all, take 18 or 20,000 men to garrison these works. I think, if they cannot with the enemy are Spanish, the other troops Italians and Dutch. A village was burnt yesterday, and I suppose, the sally by lightning; we have had a great deal lately.

JULY 17.

"Lord Cathcart arrived last night at Pawlowsk, and is much cheered at our coming up condition. Nothing new since yesterday. I have not been able to walk to the ramparts to get a look at the French, all yesterday or to-day. A Dutch vessel with wine, I think, decide whether we are to return or attack; we expect rather to return.

JULY 19.

"Strad and is as full as it can cram, and we can get but a quarter of a mile out of town, for fear the French sticking so close as we and a half Regiments will be cut off. Sunday, indeed, the churches are full of horses, and the pews are filled with soldiers, bread, cheese, &c.

JULY 20.

"The French are working at their batteries and sallies; and a pitching fring is going on to day. The King I am told visits the arrival of the mediator from the Emperor of Russia, before he does anything. The pickets of the army are close together. The French are quite round the town.

Half past 8 o'clock in the afternoon.

"I have just learned that lord Cathcart to-morrow removes his best quarters to Bergen, the capital of the Ile of Rugen; in all probability we shall go with him; it is said that the three regiments of the German Legion now here are ready to return to Bergen. The King also leaves Stralsund to day. To morrow it is imagined the town will be bombarded, or perhaps to night. We are now sparing at each other all day. Imagine how full this place is, when all the troops of Rugen, their carts, tents, &c. are driven in from before the enemy, with all the furniture and every thing they could get away."

TREATY BETWEEN FRANCE AND RUSSIA.

From the Royal Bagne Courant Extraordinary.—Tuesday, July 28, 1807.

PARIS, JULY 25.

Yesterday afternoon, at 4 o'clock the Prince Arch-Chancellor of the Empire laid the two treaties before the Senate, which have been concluded with Russia and Prussia. He at the same time made a very impressive and dignified address to the Senate.

Between his majesty the Emperor of the French, the King of Italy, and his imperial the Emperor of all the Russias.

His majesty the Emperor of the French, King of Italy, protector of the Confederation of the Rhine, and his majesty the Emperor of Russia, animated with the same interest in putting an end to the devastations of war, have for this purpose, nominated and furnished with full power on the part of his majesty the Emperor of France and King of Italy, Charles Maurice Talleyrand, prince of Benevento, great chamberlain and minister of foreign affairs, grand cordon of the Black, and the red eagle of the order of St. Hubert.

His majesty the Emperor of all the Russias has on his part appointed prince Lucchesi, his actual privy counsellor, member of the council of state, and of the senate, chancellor of all the orders in the empire, ambassador extraordinary, and plenipotentiary of his majesty of all the Russias to his majesty the Emperor of Austria; knight of the Russian order of St. Andrew, of St. Alexander, of St. John, of the first class of the order of St. Wolodimir, and of the second class of the Prussian order of the black and red eagle, of the Bavarian order of St. Hubert, and the Danish order of Dannebrog, and of the grand cross, and bailiff and grand cross of the sovereign order of St. John of Jerusalem; and prince Dolgoruki Lucchesi, knight of honorary general of the armies of his majesty the Emperor of all the Russias, knight of the first class of the St. Anne, of the military order of St. Jerge, and of the third class of the order of St. Wladimir.

The above mentioned, after exchanging their full powers, have agreed upon the following articles.

Art. 1. From the day of exchanging the ratification of the present treaties, there shall be perfect peace and amity between his majesty the Emperor of the French and King of Italy, and his majesty the Emperor of all the Russias.

Art. 2. Hostilities shall immediately cease at all points by sea or land, as soon as the ratification of this present treaty shall be officially received. In the meantime, the high contracting parties shall dispatch orders to their respectively to the respective generals and commanders.

Art. 3. All ships of war or other vessels, belonging to the high contracting parties, which may at the time of this treaty be captured after the signing of this treaty shall be restored. In case of the vessels being sold their value shall be returned.

Art. 4. Out of the esteem for his majesty the Emperor of all the Russias, and to afford to him a proof of his sincerity and friendship, he will, in the bosom of immutable confidence and friendship, the Emperor of all the Russias wishes that all the countries, towns, and territories, conquered from the King of Prussia, the Aryedt of Hesse, by the emperor of all the Russias, should be restored, namely, that part of the Duchy of Magdeburg, situated on the right bank of the Rhine; the Marck of Prussia, the Duchy of Marck, the Middle and New Marck of Brandenburgh, with the exception of the Circle of Kottbus, in Lower Lusace; the Duchy of Pomeranie, Upper, Lower, and New Silesia, and the Duchy of Glotz; that part of the districts of the Netze, which is situated to the provinces of the Duchy of Posnania and Schneidemuhl through Waldau to the Vistula, and extending along the frontiers of the Circle of Dobrzyn; and the margin of the river Netze and of the canal of Bromberg from Bromberg to the Vistula and back, must remain open and free of all tolls; Pomerelia; the island of Nogat; the country on the right bank of the Vistula and of the Nogat, to the West of Old Prussia, and the Ermeland of the Bishop of Colm; Ermeland, Lastly, the kingdom of Prussia, as it was on the 1st of January, 1772, together with the fortress of Spandau, Stettin, Custrin, Glogau, Brieson, Sarnowitz, Peiskow, Brieg, Kosel, and Glatz, and in general all fortresses, citadels, castles, towns, and parts of the country above named, in the same condition in which these fortresses, citadels, castles, and strong holds may be at present; also, in addition to the above, the city and district of Grodno.

Art. 5. These provinces, which, on the 1st January, 1772, formed a part of the kingdom of Poland, and have since, at different times, been subjected to Russia, with the exception of the countries named or alluded to in the preceding article, and of those which shall be detached hereafter, (as the city) shall become the possession of his majesty the King of Saxony, with power of possessing sovereignty, under the title of the Duchy of Warsaw, and shall be governed according to a regulation, which shall insure the liberties and privileges of the people of the said Duchy, and be entered with the security of the neighboring states.

Art. 6. The city of Dantzic, with a territory of two leagues around the same, is restored to her former independence, under the protection of his majesty the King of Prussia and his majesty the King of Saxony; to be governed according to the laws by which she was governed at the time when she ceased to be her own master.

Art. 7. For a communication between the kingdom of Saxony and the territory of Warsaw, his majesty the King of Saxony is to have the free use of a military road through the states of