THE NEW YORK PRESS.

EDITORIAL OPINIONS OF THE LEADING JOURNALS UPON CURRENT TOPICS.

COMPILED EYERY DAY FOR EVENING TELEGRAPH

The Points of the Davis Trial-Why Mr. Davis Has Not Been Tried. From the Tribune,

Mr. Johnson repeatedly declared, in his recent tour, that he had no power over the trial of Jefferson Davis, and vaguely intimated that the delay was the fault of the Chief-Justice of the United States. That this accusation was utterly without foundation we propose to show:-

First. The Chief Justice has no more to do with the trial of Jeff. Davis than any other justice, except that it happens that the Chief Justice was allotted or assigned to the circuit in which Virginia is, to accommodate Judge Swayne, who desired to be allotted the circuit in which Ohio is.

Second. The Chief Justice, when he holds a court, tries what cases be happens to find on the docket, if they are ready for trial. It makes no difference to him who the parties are; his duty

is to administer the law.

Third, The Chief Justice has never inquired, and probably never will inquire, what cases are to come before him, except in the regular course and way. He neither seeks nor shuns the re-sponsibility of trying Jefferson Davis, or any

other man.
Fourth, The Chief Justice has held three terms of the Circuit Court for the District of Maryland since his appointment, nearly two years ago. These were indictments for treason ending at the first term, and, except in certain cales where the accused individually have been pardoned, they are pending yet. The Govern-ment has not inought proper to proceed to trial in any of these cases. It the Government had desired a judicial exposition of the law of trea-son, it might have been had from the Chief Justice at either of those terms, in April and November, 1865, or in April, 1866,

Fifth. Early last spring, Bradley T. Johnsona double traitor, if treason consists in levying war against his own State as well as against the United States—was arrested in Maryland for treason, and was held to bail by the District Judge. General Grant requested to have him discharged without bail, on the ground that he was not liable to arrest or trial, because he had een paroled at the time of the surrender of Lee or Johnston; and the President thereupon ordered the discharge through the Attorney-General, and, on motion of the District Attorney, under direction of the Attorney-General, the District Judge directed the discharge. Upon the propriety of this interference by the Execu-tive with the course of regular judicial proceedings, it is unnecessary to express an opinion, though it affords abundant ground for the reflection of thoughtful men. It prevented the expression of a judicial opinion as to the effect military paroles upon habilities to punish-

ment for treason and other crimes.
Sixth. The Chief Justice held no Court in Virginia in 1865, because the the writ of habeas cornus was suspended, andmartial law enforced within its territory; in his judgment all Courts in a region under martial law must be quasi military courts, and it was neither right nor proper that the Chief Justice, or any associate Justice of the Supreme Court of the United States-the highest tribunal of the nation, and head of one of the co-ordinate departments of the Government—should nold a Court subject to the control or supervision of the Executive Department, exercising the military power. In this judgment, all lawyers of respectability, of

whatever political opinions, will concur. Seventh. Soon after the adjournment of the Supreme Court in April last, the President issued a proclamation, the effect of which seemed to the Chief Justice to be the abrogation of martial law and military government, and the restoration of the writ of habeas corpus in all the States except Texas; and we understand he determined thereupon to hold a Circuit Court at the ensuing May Term in Virginia; but various Executive orders, inconsistent with the conclusion that military government had ceased, soon followed the proclamation, and led to an apprehension that the construction put upon it was not intended by the President. The Chief Justice, it is, thereore, to be presumed, reconsidered his purpose to hold a Circuit Court.

Righth. Desirous, however, to omit no duty, the Chief Justice, it is reported, called on the President in April or May last, and requested him to issue a proclamation (of which the Chief Justice submitted a draft) declaring, in equivocal terms, that martial law was abrogated and the writ of habeas corpus restored in all cases of which the courts of the United States had jurisdiction, and in respect to all process issuing from such courts. This was not done.

Ninth. Subsequently, however, another proclamation was issued, affirming the restoration of peace throughout the whole country, which has, as yet, been followed by no order asserting the continuance of military government. Under the proclamation, therefore, it seems fair to conclude that martial law and military govern-ment are permanently abrogated, and the writ of habeas corpus fully restored; and this conclusion warrants the holding of courts by the Chief Justice and Associate Justices as the law may direct.
Tenth. There is no act act of Congress, how-

ever, which authorizes the holding of any Cir-cuit Court in Virginia until the November term -beginning the fourth Monday in Novemberunless the Chief Justice shall order a special term, as he is authorized to do by an act of the ast session. The Chief Justice would, no doubt, order a special term if the District Attorney and the Attorney-General should represent to him that such a proceeding is needed for the admin-

istration of public justice.

Eleventh. An act of the last session of Congrass changes all the circuits (except the first and second, which include the districts in New England and New York), and reduces the nomber from ten to nine; but it neither makes nor authorizes any altotment of the Chief Justice or Associate Justices to these new circuits; and it seems doubtful whether the old allotment gives any jurisdiction to hold courts in the district which happen to remain in the same circuits numerically as at the time of that allotment: while it is quite certain that neither the Chief Justice nor any Associate Justice can exercise jurisdiction in any circuit except by allotment or assignment under an act of Congress. It is a matter of extreme doubt, therefore, whether the Chief Justice can, after all, hold any court in Virginia until after some further legislation by Congress making or authorizing allotments to the new circuits.

Twelfth. The absence of the Chief Justice or a Justice of the Supreme Court from any Circuit does not, however, prevent the holding of Cir-cuit Courts; for the law provides expressly that, in the absence of a Justice of the Supreme Court, a Circuit Court may be held by the District Juage. Circuit Courts have, accordingly, been held in all the Circuits within the Rebel States by the District Juages ever since the establishment of the authority of the United States and the appointment of such Juages. These courts, during military government, were held, of course, subject to military control and supervision, to which, under the circumstances, supervision, to which, under the circumstances, District Judges might, perhaps, more properly submit than the Justices of the Supreme Court. Of course, any trial which might have taken place, the Chief Justice or an Associate Justice being present, might have taken place, with equal jurisdiction and equal effect, the Chief Justice or an Associate Justice being absent.

he Administration and the New York Democracy—The Constitutional Amendment.

From the Herald. President Johnson's anticipations of the formation of a new and powerful conservative Northern party, based upon the Philadelphia August National Convention, have been scattered to the winds. It appears, too, from the very interesting and important letter from on

of our Washington correspondents, published in Monday's Herald, that the President in a recent conversation with a member of his Capiner, attributed the failure of this Philadelphia movement mainly to "the failure of the Democratic and conservative politicians to put their best men in nomination, and not to any un soundness in his doctrine." "Then," he added soundness in his doctrine." "Then," he added, almost petulantly, "take New York. Had they (the Democrats and conservatives) at the late Albany Convention, nominated Dix, or Wool. or Slocum, or one of several others who rush on my mind, for Governor, success would have been certain; but because a pack of reckless politicians see fit to put forth against the present popular incumbent a cancidate of local reputation (Mr. Hoffman), because, forsooth, a good man, a good Mayor of a city, I and my national policy must be measured by his bushel. Still we must not despair."

It further appears, however, that the President had hardly expressed his hopes of the success of his late favorite restoration plan against the plan of Congress "when unfavorable indications came pouring in from all parts of the country premonishing him of his danger, and of the further danger of delay, and deciding him to take time by the forelock." We are next in-formed that "correspondence was accordingly opened with the Governors of the lately Rebel hous States as to the propriety," in view of the success of the Congressional plan in the North, "of ratifying the Constitutional Amendment," and that "the Governors of South Carolina and Alabama have already replied, signifying a readiness to assemble the Legislatures or their States and recommend the adoption of the amendment if the President adjudges it expe dient to do so, or to co-operate with him in any course he may deem it advisable to pursue." Regarding the President as their best friend in behalf of their earliest possible restoration to their proper constitutional relations with the Government, they are prepared to aid him in

any course which he may advise to that end. Here we have two or three important points gained in behalf of a speedy restoration of the South on the basis of the constitutional compact proposed by Congress. First, in the stupidity of New York Democracy, whose leaders are indeed those old foolish "Bourbons who never learn anything and never rorget anything," it is settled that the experiment inaugurated at Phila-delphia for the formation of a new national conservative party has collapsed, and that the Northern elections of this fall are to be fought between the old Democratic peace party of the war and the Union war party which, by force of arms, put down the late gigantic Southern Re-bellion. As an active leader of this Union war party, President Johnson saw, from the beginning of his war with the radicals, that in turning over his cause to the party and leaders of the Chicago shent-per-shent Convention he would be rushing to a certain and disastrous deteat. Hence his efforts to bring about a new party organization, involving the burial of the old Democratic party, and the fusion of its disbanded elements on a new platform, with a new name and new leaders, from all the old party

materials thus recast in a new form.

The New York Democracy, in adhering to their old broken and disjointed tools, have defeated this new national party movement. The President thus has no alternative left him but to fall in with the reconstruction plan of Congress; but the points thus gained, we are sure, from the fact recited as to the present inclinations of Mr. Johnson, will immensely facilitate the work of Southern restoration. Had the new party been organized as contemplated, the conflict between the President and the radicals might have delayed for several years to come the re admission of the excluded States into Congress. Now we see no obstacle to their admission which may not be overcome before the 4th of March,

Next, in falling in with the general movement of the North in support of the Congressional plan of Southern restoration, and in thus bringing the excluded Southern States to a ratiuca-tion which will open at once to them the doors of Congress, the President will gain the important advantage of a decisive balance of power in Congress against the radicals. It is just the difference in his favor of twenty members added to the Senate, any how, and from forty to sixty in the House, as the States concerned, each for itself, may determine on the question of suffrage or no suffrage to their black population.

We congratulate the President on the good respect before him, resulting from the stupidity of the Northern, and especially the New York Democracy. The Union party of the war, with the plan of Congress, will carry him through the task of Southern restoration on a solid and satisfactory basis. A word from him to the several States directly concerned, and the work is done. Then, with a full Congress of all the States in council, the radicals will become a powerless faction, and the Administration will become the master of the situation and the succession.

The Objections to the Constitutional Amendment. From the Times.

One strong argument, urged for factious purposes by the Democrats, is that the Southern States will never accept the third section of the Constitutional amendment.

This section, it will be remembered, excludes from the Senate or the House, or from any United States or State office, civil or military, any person who had previously taken an oath to support the Constitution as a member of Congress, or an officer of the United States, or a member of any State Legislature, or as a judicial or executive State officer, and has engaged in or given aid to the Rebellion. It is urged by Democratic journals that this exclusion will embrace all the prominent leaders of the Souta, and that we cannot expect of the Rebel Statesindeed, that it would be the height of baseness -that they should gain all the benefits of amnesty and leave their leaders to punishment They claim that in the view of the South at their statesmen and generals and others were engaged in a righteous cause which has been unsuccessful, and that now to deliberately abandon these trusted servants after defeat to political exile, is what could not be expected or demanded of the insurgent States. If this exclusion were a law forced upon them by their conquerors, it would be different, and might be borne; but to enact it themselves, and to make it a part of the organic law of the nation when without their adoption the amendment might never be passed, it is too much to ask from any population. The Rebel States, it is said, will stay out for years rather than accept it, and therefore it becomes an impracticable proposition of settlement.

We admit that there is some force in the objection, but there are also very strong counter-

we admit that there is some force in the objection; but there are also very strong countervaling considerations. It must be borne in mind that this disability can be removed by a two-thirds vote of each House in any individual case, so that persons presenting themselves from the insurgent States who had not been particu-

the insurgent States who had not been particularly obnoxious in the Rebellion might be immediately received, even though they were reached by the provisions of this section.

Then again, in all probability, a large number of "rew men" will now come to the surface at the South, who have never been in any Federal or State office, who are ambitious, and who will seek office under the State or National Governments. These men will naturally seek to win over their communities to accept the amendment, and if adopted, they will be the first to present themselves to Congress, or to their own Legislstures.

Republics, too, are ungrateful; the Southern States will be no exception; they will gradually neglect or forget their leaders. It may be that they will see that it was especially the unbridled ambition of a few desperate and able men which precipitated war, and them obstructed peace, and finally overthrew all in a common ruin.

They will hardly be willing to sacrifice all the great advantages of sharing in the Government of the country for the sake of these few leaders. They will prefer to give them up, or to let them take their chance of admission to Con-ries, rather than for themselves to remain "out of the Union," or under the direct Govern-ment of Washington.

It is claimed, too, by the objectors, that they will never accept nerro suffrage. They are not obliged to. If they prefer to be represented by fewer members, and to preserve the ballot for the white race, they are at liberty to do so. But this need not prevent their acceptance of the amendment. Without the additional representation of the black population, they will still possess the same power in the Senate as of still possess the same power in the Senate as of old and a powhrful compact body in the House. They will still command a large electoral vote, and they will be anxious to throw it for the next President. They may, not improbably, hope to keep the negro out for many years if they desire it, and still wield a powerful influence in national politics—to be increased by the creaion of new States in Texas.

We do not know what there is in this feature the amendment which should prevent the Southern States from accepting it. Their peo-ple are ambitious. They desire to be delivered ple are ambitious. They desire to be delivered from military control and Freedmen's Bureaus, and to all the Federal and State offices again, and shine in the great arena of national affairs, and be fully conscious that they are parts of this great republic. To obtain these important ends they may well be willing to accept a diminished representation and an exclusion of their most obnoxious leaders. We believe they will be so, and that before the next Presidential will be so, and that before the next Presidential election, possibly within the year, the amend-

ment may be a part of the Constitution.

To any Northern man of the least power of weighing future results there can be no doubt of the immense benefits which will result to the nation from the acceptance of the amendment. We have repeatedly stated them. But some of them are included in the very objections which we have been answering, and deserve attention-The Free States ought to be able to exclude certain persons from the south from taking seats in our National Legislature. It would be a mockery to the patriotic dead, and an insult to the host of living who have sacrificed so much to put down this Rebellion, to see such men as Jefferson Davis, or Mr. Benjamin, or numbers of others, some stained with the blood of the Innocent, and all promoters and leaders of the insurrection, taking their seats again in the halls of the Capitol. We have always urged that it is very desirable to break up the old leaders of secession at the South, and the third section of the amendment has a tendency to accomplish this. We believe that all conservative and patriotic men at the North will soon acknowledge the great importance of the Constitutional Amendment, and we have great hopes that in time the South will accept it.

Shall the South Gain by the Rebellion!" From the World.

The head and front of the radical argument for forcing the Constitutional amendment on the South is comprised in this question. If the Constitution remains unaltered, the radicals say, the South, since emancipation, will have representatives for five-fifths instead of threetifths of its colored population. The four millions of slaves counted, before the war, for only two million four hundred thousand in the representative basis; and if they now count for four millions, the South will have gamed what is equivalent to a representative population of one million six hundred thousand by their treason against the Government. It is contended by the radicals that this gain in Southern repre-sentation would be a reward conterred, where a ounishment ought to be inflicted on the enemie of the Union. It is on this ground chiefly that the racicals demand a surrender, by the South, or a portion of its constitutional representation.

This reasoning, which is the main argumenta-tive reliance of the radicals, seems plausible only while it is not examined. It is like arguing you enter a farmer's orchard and cut down his fruit trees, you have conferred on him a benefit because he will then have less trouble in gathering his fruit. The Southern gain, about which the radicals make such an outery, could easily be prevented by restoring to the South its former property in its slaves. If a balance were struck between their producious loss of property and their slight increase in representation, the South would say that this advantage had been purchased at an exorbitant price. To represent the South as having gained by its aftered relation to the black race, in consequence of the war, is a gross affront to common sense. of the political languages in unsettling men's judgments, than the pretense that, i Constitution remains unamended

Southern peorle are gainers by the Rebellion.

To say nothing of the terrible sufferings of those four bloody years, of the lives lost, the property destroyed, the business interrupted, the banks, savings institutions, and insurance companies ruined, the towns sacked and burned, the cotton crops reduced more than one half, the homes made desolate, the mortification of defeat-to say nothing on these neads, which alone suffice to show that the South made a terrible, a calamitous blunder, we can prove that the Rebellion brought its own punishment, if we confine our view merely to the changes effected by the war in the relative condition of the black and white races. If the to the South, it is a gam which could have been purchased at any time within the last seventy years by the simple emancipation of their slaves. The slaves were not emancipated, because, in Southern estimation, a few more representatives in Congress would have been

thus purchased at infinitely too dear a price. It is a curious commentary on the boasted philanthropy of the radicals, that they gruoge the boon which has been conterred upon the negroes, it it is to be attended with any meidental advantage to the white population of the South. While the South has been compelled to sacrifice an amount of property equal to our whole national debt, these wonderful philanthropisus can look with no complacency on the freedom of the negroes, it that freedom costs the North the diminution of a dozen votes from their majority in Congress, although the North ern majority is so great that the loss makes no practical difference. What better is the South for its gain, so long as, with its additional representatives, it still remains in a hopeless minority? But the benevolent and philanthropic radicals are sore at seeing freedom bestowed upon four millions of human beings, if we are to pay so unsubstantial a price as a slight diminution of the superfluously large Northern majority in Congress. A marvellous exhibition of disinte

rested love of the blacks! By the equitable arrangements of the Consti tution, taxation and representation are adjusted by the same rule. The Constitution deducts two-afths from the slave population as a basis of representation, and it at the same time deducts two-fitths from the slave population as a basis of direct taxation. The tax deduction was regarded as an equitable offset to the representative de-duction. It the whole slave population had been excluded from the basis of representation, it would likewise have been excluded from the basis of taxation. But if it had all been included in one, it would have been equally included in the other, in pursuance of the great principle for which our foresathers fought in the Revolu-tion, that taxation and representation must go

hand in hand. This equitable principle will continue to prevail in the unamended Constitution. All that the South gains by emancipation on the representative side of the account, is balanced by an quivalent loss on the taxation side. Five-fifths instead of three-fifths of the negroes will be counted in the representative basis; but to balance this, there will be a corresponding in crease in the burdens imposed on the South by direct taxation. This view alone suffices to ex-pose the deceitful hollowness of the radical outcry about the Southern gain by the Rebellion. The proposed amendment violates a fundamental principle of the Constitution, by increasing the basis of taxation to the full limit of the whole population, while reducing representation to the white basis. It is not satisfied with desiroying the balance by taking weights out of one scale; it at the same time puts additional

weights into the other,
Another fatal object to the amendment as a
measure to be forced upon the South, is, that it
keeps no faith with the loval population of the
Southern States. Of the slave States, Maryland,
Delaware, Kentucky, and Massouri never secested. Why should they be punished for the

Rebellion of the others? A majority of the people of the Southern States did not originally approve of the Rebellion. They were forced into it against their better judgment. They were conscripted into the Rebel armies; worthless Confederate paper was forced upon them as a surrency; they were subjected to enormous taxes, to forced loans, and to the tyranny of the Confederate Government. Is it just—is it not rather an outrage upon justice—for the Federal Government to punish them for its own failure to protect them from such tyranny

Readers will perceive that we have here been arguing rather from the principles of equity that underlie the Constitution, than from the Constitution itself. As the Constitution stands, the right of all the States to full representation is incontrovertible. The right is confessed in the very proposal to amend; if the right did not exist the proposed amendment would be superfluous. But the States whose representait is proposed to curtail have a right to determine for themselves whether they will ratify: if they decline, the Constitution must remain as it is.

SPECIAL NOTICES.

CITY COMMISSIONERS' OFFICE. THE ASSESSORS OF THE CITY OF PHILABELPHIA, September 25 1886.

TO THE ASSESSORS OF THE CITY OF PHILABELPHIA, September 25 1886.

The fime for holding the Extra Assessment being advertised wrong, the City Commissioners would hereby notify the critices and Assessors the time for holding the Extra Assessment, according to law, is from the hours of I.P. M to 10 o'clock P M, on the 25th, 27th, and 25th days o' SEPIEMBER.

9 25 2449

JAMES SHAW, Clerk.

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SPECIAL NOTICE.

Stelen, September 29, 1866, Five bonds of the Reading Railread Company, of one thousand collars each duo A. D. 1870. Conpons payable ectober 1 and April 1. Numbered as follows: - 561, 716, 7381, 2782, and 2792. Payment of the above-named bonds and coupons having been stopped all persons are hereby cautioned against negotiating the same. The speciel attention of bankers brokers, and others is called to this notice.

The above reward will be paid for their recovery cany into matton leading to the same.

Information addressed to

BENJAMIN FRANKLIN,

Chief Detective I olice,

Mayor's Office, Pauladeiphia

Chief Detective I olice, Mayor's Office, Philadelphia. Philadelphia. Septemb r 26, 1866. 9 26 Ft

THE PHILADELPHIA, GERMAN-TOWN, AND NORRISTOWN RAILBOAD COMPANY. The Board of Managers have this day declared a Dividend of FIVE PER CENT. or the Capital Stock, payable, clear of taxes, on and after the lat of October next. The transfer books of the Company will be closed on the 29th inst., and remain closed until the lat of October. 9 13th 3t A. F. DOUGHERTY, Treasurer.

THE ANNUAL MEETING OF THE Stockholders of the CRESCENT CITY OIL COMPANY will be held at their office. No 258 S. THIRD Street, on 1UESDAY, October 9, at 12 o'clock, noon, for the election of officers.

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BUREAU OF ORDNANCE, NAVY DEPARTMENT,)

WASHINGTON CITY, September 20, 1886. | There will be sold at Public Auction to the highes

bidders, at noon, on IHURSDAY, the elenteenth (18th) day of October, 1866, at the office of the Inspector of Ordnance, at the Navy Xard Brooklyn, New York, about twenty-eight hundred barrels

(2800) of powder, composed of cannon and mortal

The powders will be sold by sample, and in lots to

NAVY DEPARTMENT. WASHINGTON CITY, September 20, 1866 SALE OF NAVY POWDERS SALE OF NAVY POWDERS.

There will be sold at public auction, to the highest bidders at noon, THURSDAY, the eighteenth (18) day of October, 1866, at the office of the Inspector of Ordnance, at the Navy Yard, Brooklyn New York, about twenty-eight hundred (2800) barrels of powder, composed of Cannon and Mortar Powders.

The Powders will be sold by sample, and in lots to

suit purchasers

lerms—Cash, in Government funds; one-halft o be deposited on the conclusion of the sale and the remainder ten days af erwards, during which time the Powders must be promoved from the Magazine, otherwise they will revert to the Government.

Purchasers will be required to furnish their own packages where the Powder is not in barrels.

H. A. WISE,

9 22stutb11t Chief of Bureau.

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A term will commence on MONDAY, October I. The introductory lecture will be delivered on the evening of that day, at 8 o'clock, at the NOATH COLLEGE, NINTH at. near Market, by Prof. MORRIS. [91] tuses DELAWARE LAWN ACADEMY. - ENGLISH Classical Mathematical Boarding School for Boys Delanco, N. J., tweive miles above city—hourly accessi-ble. Circulars obtained at No. 21 South SEVENTH Street, No. 1334 (HES. UT Street, or of 98 ms. Rev. JOHN MCKELWAY, A. M., Principal

LEGAL NOTICES.

IN THE ORPHANS COURT FOR THE CITY AND COUNTY OF PHILADELPHIA.

Letate of Rev. SHEPPARD M. KULLOUK, deceased. The Auditor appointed by the Court to audit, settle, and adjust the account of JOHN M. KULLOUK, Administrator of the Estate of Rev. SHEPPARD M. KULLOUK, and the Estate of Rev. SHEPPARD M. KULLOUK, deceased and to report distribution of the parties interested for the accountant, will meet the parties interested for the purposes of his appointment, on W.E.DNFSDAY, Ostober 3, at 4 o'clock P. M., as his office, No. 142% S. FOURTH Street, in the city of Philadelphia.

JOSHUA SPERING. JOSHUA SPERING.

9 20 thstu51* IN THE COURT OF COMMON PLEAS FOR the City and County of Philadelphia.

Notice is hereby given to the creditors of GEORGE IL LEVIS. that he has pre-sented his petition of the Court of Common Fleas for the City and County of Philadelphia for the benefit of the Insolvent Laws of this Commonwest in and that a hearing thereon will be had before the said Court on the 5th day of October, 1806, at 16 o'clock in the morning. 920 21 22 25 27 25

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Bundreds of other names, all persons who would be carcium conscientious to whom they would permit the indersement of their names can be examined at his OFFICE, No. 1031 WALNUT Street.

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