SPIRIT OF THE PRESS.

EDITORIAL OPINIONS OF THE LEADING JOURNALS UPON CURRENT TOPICS—COMPILED EVERY DAY FOR THE EVENING TELEGRAPH.

The Trial of Surratt.

From the Times.

The second of the great trials occasioned by the assassination of President Lincoln has been brought to a close, and the wearisome discussion of its intricate details has resulted in a disagreement of the jury. This virtual verdict of "not proven" reflects the judgment of the community, expressing by its divided voice the doubts in most cool minds which nothing in the trial has cleared up—first, the doubt what crime Surratt was an accomplice in, and next the doubt as to what extent he was an accomplice in any crime.

Neither this trial nor that of which it was the sequel deserves to be called a political one. All parties demanded them, and probably all but partisans are satisfied with the results of both. The greatness of the crime shocked instincts common to mankind, and the conscience of the civilized world called for its punishment. The fatal blow fell on President Lincoln, not as the leader of a party, nor even as the chief of a divided empire, but as the head of a great nation, wringing a cry of horror from Republicans and Demorats alike at the North, which was echoed with despair deepening its tone from the seat of the Rebellion. It was a crime so enormous that history marks its few parallels as wonders of blended fanaticism and depravity. All mankind called down sure and speedy doom on the heads of its perpetrators. When, therefore, the Government, availing itself of the existing state of war, cited the criminals before a Military Commission, which, while respecting their rights, refused all delays and brushed aside the fictions and technicalities usual and useful in common cases, letting in every ray of light from any quarter upon motives and persons, and scanning the widest range of circumstances, most candid persons agreed that a case transcending all experience was rightly tried in modes as extraordinary. Nor did sympathy for the sex of one of the actors degenerate into sentiment except in morbid minds. Guilty souls are of no sex, and impartial justice knows no tenderness for a freak of nature that embodies wickedness in a woman's form. The sentence and its execution, therefore, were generally approved, for it was felt that Government, had acted otherwise, would have been guilty of *lés majesté* against itself, and deserved contempt for its powerlessness to protect its existence from heinous outrage.

John H. Surratt was called to his account in a calmer state of the public mind, after time had appeased its righteous anger and the passion for retribution had been allayed. He has been tried by the regular and indulgent forms of a civil tribunal, prosecuted without vindictiveness, and skilfully and tenaciously defended before a jury chosen with strict impartiality. The uncertain result of his trial can scarcely surprise any one who has followed its singular course.

Singular in many respects—first, as to its connection with political interests. For though, as we have said, the mere offense had no political character, the energy of the prosecution was directed to revive the terrible national excitement that hung about the former trial, and borrow the grand scenery of that tragedy to decorate their smaller stage. Charged with a crime against life, Surratt was held to answer by implication for treason and revolt. The plain question of his guilt was complicated with the imputed wickedness of the Rebellion. This galvanizing of generous but dead emotion was unfair for the accused, though for that very reason it probably served his cause with the jury. Candor compels us to add that the presiding Judge seems to have adopted this theory of the prosecution, reinforcing itself by hatred of a bad cause, on one or two occasions to which we shall revert. Closely connected with this was another peculiarity of the trial; we mean the extreme personal bitterness with which it was conducted, although Judge Fisher, in noticing this bitterness as unusual, proved that he was unaccustomed to that fencing without the button so common in New York Courts, and to those cool insolences with which a noted radical leader delighted to disgust the Boston Bar; yet it is true of both sides, and notably of the defense, that their insulting disregard of the feelings of witnesses, and their irritated bandying of taunts were quite beneath the gravity of the occasion. Another special feature which aided to perplex the case and lengthen it inordinately, was the controversy over the character of witnesses. At one time, indeed, it seemed as if a whole county would become ranged on the side of attack or defense over the body of some writhing occupant of the stand. This building up one day of a stainless character, to be dashed on the next into the ruins of profligate disrepute—this ever-widening sweep of impeachment and rehabilitation — weakened the strength of both sides, and threw grave doubts upon the genuineness of most of the testimony. As well might the ancient ordeal by compurgators be revived, when twelve reckless friends, solemnly and vaguely swearing to the innocence of the accused, were met by as dauntless a dozen upholding with equal oaths and obstinacy his guilt. There can be little doubt that this bewildering uncertainty was a chief element in the jury's indecision. Another peculiarity of the case, adding to their embarrassment, was this—that Surratt was here, in fact, on trial for the second time. Intimately involved as he was with the former criminals, if the searching scrutiny of their trial into persons, places, and incidents did not inferentially clearly bring out his guilt, the jury could hardly have supposed him to be an active accomplice. And if this special re-examination of the circumstances as they affected him, with the addition of new ones, failed to enlighten their minds as to the dark places of the former trial, their conscientious doubts would be increased. For the prosecution had the advantage of using circumstantial evidence on record, which the new evidence should have so pieced out and accurately dovetailed with as to exclude any other possible conclusion than that of the prisoner's guilt; and discrepancy here, after double scrutiny, would double the force of doubt.

As to some of the details of the case, the plea of an *alibi* set up by the defense scarcely stands established amid the conflict of evidence, though not so lamely supported but that the respectable character of the witnesses from Elmira in its favor must have had great weight. On the other hand, the drooped handkerchief, which is the chief link of circumstantial proof as to Surratt's flight through St. Albans, may very well, on the balanced evidence, have been lost either by him or by the detective who chose that line of pursuit. Judge Fisher, in his zeal to second the theory of the prosecution, seems to us to have erred in admitting the doubtful testimony of Surratt's cruelty to Union soldiers as establishing malice against the Government. Had the state of war, and the savagery of war, nothing to do with this? So also we think he was wrong in excluding evidence tending to show that Surratt was employed by the Rebel Government before the assassination, at Richmond, upon business which he was carrying out after its date, at Montreal. But there is no question that he was right in excluding two pieces of evidence vital to the defense—the entry in the hotel register at Canandaigua, and the copy of an agreement between Booth and the three remaining conspirators. The latter document, however, is before the public, and will materially affect their view as to whether there was an original conspiracy to abduct, afterwards abandoned, and a new, original conspiracy concocted for the darker crime.

It is not difficult to follow in imagination the dubitations through which the jury probably wavered towards a settlement upon the following conclusions:—First, that there was a plot to abduct the President by force, in which the accused probably took an active part; but that, notwithstanding the broad views pressed by the prosecution, a state of war deprived this plot of its most heinous features, and reduced it to a *coup de main*, ambitious to become a *coup d'état*. Next, that this plan was utterly abandoned, and a new and more violent project of assassination conceived, the proof of Surratt's complicity in which is inconclusive, while the proof of his presence at Washington during its execution is at least disputable. And, lastly, even admitting the legal doctrines of the prosecution, nevertheless, since his part in the murder, unproved as a fact, only results as a deduction from an artificial rule of law, imputing to him an intent not shown, the application of these doctrines to his case would be too stern for real justice.

Much cannot be said in praise of Judge Fisher's charge to the jury. Though laboriously put together, it is at once diffuse and turgid. The attention of the lawyer, won by the lucid eloquence of Mansfield and the weight and pith of Marshall's pregnant sentences, or held by the vigorous sense of Oakley and the polished erudition of Duer—would that later models could be oftener cited!—turns wearily away from platitudes enlivened by a Sunday School recitation, or a barbecue tirade. There are serious faults, too, in its substance. The defense, deprecating political anger, maintained that the killing of the President was no more heinous than the murder of a common citizen. The Judge elaborately perverts this into the statement, which he combats with much fustian, that the killing of an elected ruler is less enormous than the assassination of an anointed one. Again, the defense urged that as the indictment charged only the killing of an individual, there was no warrant for deepening the horror of the jury by dwelling on the crime of treason in killing a ruler. In commenting upon this the Judge drags in judicial cognizance of the fact that the victim was a President, and strangely jumbles together the legal rules with regard to accessories in treason and those with regard to agents in ordinary crimes. On the other hand, his remarks on the character of *alibi* proof are just and applicable; and his censure of the disrepect offered to the Court by the defense in assuring the jury that they were to judge of the law, is richly deserved.

This disagreement, and the comparatively tame interest with which the community has followed the course of the trial, are signs of the quiet into which the popular temper has subsided from the passionate agitations of two years ago. Or, rather, they indicate the restored calmness of the great majority of the nation, as contrasted with the fury still burning in the bosoms of a few extreme men, and which inspired one of the most reckless among them with evil courage to utter, on the floor of Congress, such dark insinuations against the Chief Magistrate as filled all honorable minds with shuddering disgust.

The Reform Bill in the House of Lords.

From the Tribune.

A cable despatch dated London, August 9, states that on that night the House of Commons had a long and exciting debate on the amendments which had been made to the Reform bill in the House of Lords. These amendments modified the lodger, copyhold, and leasehold franchises, allowed the use of voting papers, conferred the franchise upon the undergraduates of the Universities, and provided for the representation of minorities. The House of Commons made short work of the amendments adopted by the Upper House, promptly rejecting every one of them save the one which provides for the representation of minorities. The cable has not given us any further information on the character of these amendments except that, according to a despatch of July 30, the lodger franchise was raised from £10 to £15 per annum, and the copyhold franchise from £5 to £10, while, according to a subsequent despatch, dated August 6, the increase of the lodger franchise from £10 to £15 was reconsidered and rejected. The cable has never informed us of any other amendment respecting the lodger franchise having been adopted by the Lords and submitted to the Commons.

Our steamer despatches give an account of the discussion which took place in the House of Lords on the 29th of July on the first six clauses of the bill. The amendment increasing the lodger franchise from £10 per annum to £15 was proposed by Lord Cairns, adopted by the Government, and passed by a vote of 121 to 89. An amendment to clause 5, raising the copyhold and leasehold qualification from £5 to £10, was proposed by the Earl of Harrowby, likewise agreed to by the Government, and carried by 119 to 56. The Marquis of Salisbury had given notice of his intention "to insert a clause after Clause 27, having for its object to enable all persons duly registered as voters for any county or borough, in lieu of attending in person, to vote under proper regulations by a voting paper." This amendment, as indicated by the cable despatch, was agreed to by the Lords, but not concurred in by the Commons.

Of the two other amendments mentioned in the cable despatch, conferring the franchise upon the undergraduates of the universities, and providing for the representation of minorities, no notice had been given up to the date of our latest advices.

With regard to copyhold franchise, a term which is entirely unknown in our politics, it may be remarked that copyhold tenants or copyholders are the representatives of the old class of villeins or serfs in feudal times, who hold their land on condition of taking annually an oath of fealty to the lord of the manor, in his court, and of rendering to him a certain fixed portion of the products of the farm. The money rent into which this feudal service is now universally commuted cannot be changed or increased by the lord, and with this exception the copyholder is practically a freeholder, though not the owner of the fee simple. The evidence of his title is the registry of his name in the "copy" of the rolls of the manor court, and hence the name copyholder.

Representation in Legislatures.

From the Evening Post.

One of the matters under consideration in the Constitutional Convention is the number of members which shall be authorized in each branch of the Legislature. We have urged that the number should be considerably increased. Below we give a statement of the number of the senators and representatives in every State Legislature in the Union, by way of showing the practice in these different States.

Congress, under the Articles of Confederation, was composed of delegates chosen from each State, not less than two nor more than seven in number, every State having, however, but one vote.

The Congress of the Constitution is composed of a Senate consisting of two senators chosen by the Legislature of each State, and of a House of Representatives, to consist of such a number as may be fixed by statute. The representative number was fixed at first at thirty thousand, but was enlarged as the population increased, until 1850, when the law was passed to fix the number of representatives at two hundred and thirty-three, with the addition of representatives from States newly admitted.

In New York the Constitution of 1777 provided for a Legislature, to consist of an Assembly of at least seventy members, to be chosen by freeholders worth twenty pounds each, and tax-paying householders; and of a Senate of twenty-four freeholders, to be elected by freeholders owning freeholds, of one hundred pounds each. It was further provided that an enumeration should be made once in every seven years, after which there should be a new appointment, adding to or diminishing the number of senators or members of Assembly whenever the number of inhabitants would warrant it; and the number of senators was restricted to one hundred and of members of Assembly to three hundred. The Convention of 1801 fixed the number of senators at thirty-two, and made the Assembly to consist of one hundred, which might be increased, as the population would warrant, to one hundred and fifty.

The Constitutions of 1821 and 1846 fixed the number of senators at thirty-two and of members of Assembly at one hundred and twenty-eight. Thus it will be seen that we have gone backwards from early times.

In Alabama the General Assembly consisted of a House of Representatives, chosen biennially, one hundred in number, apportioned on the basis of white population, and of a Senate comprising not less than one-fourth nor more than one-third the number of representatives, holding office four years, half to go out every second year.

In Arkansas the General Assembly consisted of a House of Representatives, elected every year, and to number not less than twenty-five nor more than one hundred, as determined by apportionment of white population; and of a Senate composed of members to be chosen every four years, to consist of not less than seventeen nor more than thirty-three members, as determined by apportionment of white population, half to go out of office every second year.

In California the Constitution provides that members of Assembly shall not number less than twenty-four nor more than thirty-six until the number of inhabitants amounts to one hundred thousand, when they are to be apportioned so that the whole number shall never be less than thirty nor more than eighty. The number of Senators must not be less than one-third nor more than one-half that of members of Assembly.

In Connecticut the Senate has not less than eighteen nor more than twenty-four members, chosen annually; and the House of Representatives has two hundred and thirty-seven members, chosen by towns, every town having one, and the larger towns two or more.

In Delaware the Senate is chosen for four years, three from each county, and the House of Representatives is elected biennially, and has seven members for each county, regardless of population. There are three counties, and Newcastle has as large a population as both the others.

In Florida the Senate numbers twenty-nine and the House fifty-nine members.

Georgia has forty-four Senators and one hundred and sixty-nine members in the House, elected biennially.

In Illinois the Senate has twenty-five members, and the House seventy-five, elected biennially, by districts.

In Indiana the Senate is not to exceed fifty, and the House one hundred, elected and meeting biennially.

In Iowa the Senate must not exceed fifty, nor the House one hundred, apportioned among the counties; no representative district to contain more than four counties; and every county or district having more than half the number required for a representative to be entitled to one additional.

In Kansas the House has seventy-five members, chosen for one year, and the Senate fifty-five, elected biennially.

In Kentucky the House is chosen biennially, and has one hundred members, and the Senate has thirty-eight members, holding for four years.

In Louisiana the House has one hundred and eighteen members, chosen biennially, and the Senate thirty-six, holding for four years.

In Maine the House has one hundred and fifty-one members, chosen annually; and the Senate not less than twenty nor more than thirty-one.

In Maryland the House has at present eighty members, and the Senate has one member for each county, and three for Baltimore, twenty-four in all.

In Massachusetts the Senate is composed of forty members, and the House two hundred and forty, chosen annually.

In Michigan the Senate has thirty-two members, chosen biennially, and the House has not less than sixty-four nor more than one hundred, chosen biennially by single districts.

Minnesota has one senator for five thousand inhabitants and one representative for every two thousand. The present number is thirty-seven senators and eighty representatives.

In Mississippi each county has a representative, also every city or town having a sufficient population, besides fractions. The whole number must not be less than thirty-six nor over one hundred. The Senate must not be less than one-quarter nor more than one-third the number of representatives.

In Missouri the Senate has thirty-four members, elected by districts for four years, and the House one hundred, elected biennially.

In Nebraska the Senate has thirteen members and the House thirty-nine, chosen every two years.

In Nevada the aggregate number of both Houses is limited to seventy-five, and the Senate must not have less than one-third nor more than half the number of members of Assembly. At present it has eighteen Senators and thirty-six Assemblymen.

In New Hampshire the Senate has twelve members, and every town, parish, or place having one hundred and fifty ratable male polls is entitled to one representative, and one for every additional three hundred.

In New Jersey the Senate has a member from every county in the State. Senators hold for three years. The House is not to exceed sixty members.

In North Carolina the Senate has fifty members, and the House of Commons one hundred and twenty.

In Ohio the Senate has thirty-five and the House about one hundred members.

In Oregon the Senate has thirty and the House sixty members.

In Pennsylvania the House has ninety-nine members, and the Senate thirty-three.

In Rhode Island the Senate has a member from every town or city of the State; and the House one member from every town and city, and one additional from every portion of population exceeding half the ratio—the whole number being limited to seventy-two.

In South Carolina the Senate was composed of a member from each election district, and an additional one for Charleston; and the House had one hundred and twenty-four members.

In Tennessee the House has seventy-five members, and the Senate twenty-five.

In Texas the Senators must not be less than nineteen nor more than thirty-three; the Representatives not less than forty-five nor more than ninety.

In Vermont the Senate has thirty members, chosen annually; the House, one member for each town.

In Virginia the Senate has thirty-four members, elected for four years; the House one hundred and one.

In West Virginia the Senate has eighteen members; and the House forty-seven.

In Wisconsin the Assembly has not less than fifty-four, nor more than one hundred; the Senate not more than one-third nor less than one-fourth of members of Assembly.

In eleven of the States the number is either fixed at one hundred, or limited not to exceed that number. In fifteen States the number is fixed below one hundred. In seven States the number is fixed, ranging from one hundred and twenty to two hundred and forty. In four States the representation is by towns, and increases with the growth of population, with additions also by the creation of new towns.

Negro Supremacy and a Counter Revolution—The President's Position.

From the Herald.

The President hesitates. No practical step seems to have been taken in the attempt to relieve the Cabinet of Mr. Stanton, since the receipt of his defiance. Reporters assure us that Mr. Johnson has fortified himself with the opinion of his Cabinet as to his right to purge that body of obnoxious elements—the body deciding that he has the power. Others tell us that the President's resolution to eject Mr. Stanton has undergone no change, but that he will have a little "calm deliberation" before he acts. He will take counsel of his fears. "Councils of war never fight," and for a good reason: they are only called when the case is desperate, and judgment takes no account of the only things that can give success in desperate emergencies. Unimagined inspirations that defy calculation—bold strokes—startling acts—these achieve success in cases where councils of war always surrender; and these, in a moral sense, are now the elements of the President's position. He has gone too far to deliberate. Retreat would be ignominy and degradation; standing still would be no better. There is but one thing to do: he must go forward; and calmness is not the quality that is wanted now, but courage. Some modicum of such resolute energy of purpose as guided the acts of Andrew Jackson would be worth to him all the "cal deliberation" that even ended in milk and water. He has of his own will come to open issue with a Secretary; the Secretary has thrown in his face a sneering defiance, and he "deliberates." If the Secretary triumphs the President will stand before the nation the veriest pigmy that ever held so proud a place. But if the President go to the limit of possible action in the premises—if he show the will to rule—the occasion opens to him the promise of a better future than it seemed possible could ever fall to his share.

The radicals have blundered into a position that gives the President a golden opportunity—a chance to redeem his administration—to obliterate the memory of his great errors in taking advantage of the greater errors of his enemies. He can yet convince the radicals that, in giving up impeachment, on the ground that they could have no man more suitable to their purposes in his place, they counted with only a one-sided view of the possibilities. The country is justly alarmed at what has already become evident in the realization of the radical party programme. It is clear that this programme means no less than nigger supremacy in ten States, and the consequent division of the country on a worse basis than that which led to the Rebellion. We fought to free the nation from party domination guided by slaveholders, and we fall under a party domination based on the votes of the slaves we made free. We have set them free to make them our masters. We exchange a white tyranny for a black tyranny. This was not what the people meant when they gave lives without limit and money without stint to prosecute the war. Even those who desired to free the slaves would not have made them masters of the political destinies of any part of the nation; yet something very near to this must be the result of the policy of the radical leaders. Political domination in ten States is given to the nigger; and what did he do to deserve it? From fifty to a hundred thousand enlisted on our side, out of four millions, and the remainder stayed at home and did what they could against us and our cause in growing the corn that fed the Rebel armies. Not a single insurrection—not one organized blow for freedom—came from these slaves and sons of slaves during four years of a war that taxed the utmost energies of their masters. They were held in bonds by men at war with the nation, and they never added the weight of one little effort from their own side to aid the cause whose success was to make them free. They tamely ploughed and sowed, and meanwhile half a million white men were maimed in the struggle that was theirs as well as ours. And of such material we make voters! Into the hands of creatures who continued slaves while there was any one left to hold a whip over them, we put such power that they may become the arbiters of great political questions, and even balance votes with Northern as well as Southern white men! We degrade and adulterate the national life by introducing into it half a million servile, semi-brutal voters—all that the supremacy of an arrogant and dangerous faction may be secured and made permanent. And this, indeed—this making of nigger voters and driving the white men of the South from the polls—is the whole result of the war as radical leaders see it.

But the people are awakening to the true perception of this great matter, and it needs no extreme provision to know that the nation will eventually trample under its feet every vestige of the party that holds such ideas and has led it into this false position. The plain question for Mr. Johnson is whether he has the courage to take the current of this national tendency and make a bold fight with Congress and the radicals, now that they are in the wrong—to fight when he may have the people on his side, with the same spirit with which he assailed Congress when its acts were in harmony with the national will. If he has, the case is plain before him. He must make a clean sweep of all the present *personnel* of reconstruction. He must brush away all the commanders, and if there are no generals to take their places, make some. Taking thus a new departure, pursuing an honest policy of reconstruction, never losing sight of the real objects of the war, but breaking up utterly this mischievous attempt to secure nigger supremacy, he will merely go before the wishes of the people, and though an attempt at impeachment would come as sure as sunrise with the assembling of Congress, the attitude of the nation would awe it into silence. But the indications are that Mr. Johnson has not the mettle for this business. He limps far behind it, the political driveller and show of our history, who neither knows when to dare nor when to leave it alone; and the result will be that the people must bear patiently until the next Presidential election, when they can take the case in their own hands, and by the election of Grant put the national safety on sure ground against all the factions.

The Indian Peace Commissioners.

From the World.

The Commissioners appointed by the Government to treat with the Indians, who met in St. Louis last week, reassemble at Omaha to proceed thence into the Indian country. They are to meet the Northern Indians at Fort Laramie at the time of the September full moon, and the Southern Indians at Fort Larned at the time of the October full moon; this fixing the dates by moons being easily intelligible to unlettered tribes who have no other almanac. General Sherman, early last week, sent forward orders to the commanders of posts to provide necessary subsistence in both places for the assembled chiefs; to send runners inviting them to the conferences; and to refrain meanwhile from all hostilities which are not defensive. If the Indians can be induced to treat with the Commissioners, we trust that the result may be not only peace with the tribes and the removal of terror from the frontiers, but a permanent settlement of all Indian difficulties.

The hour has evidently struck for the final dissolution of the old method, inherited from our colonial infancy, and so incongruous to our political system, of dealing with the Indians by treaties as we do with independent foreign nations. It was a wise method in its day. Its former necessity is fully vindicated by the difficulties that attend its termination; for if the Indians are unmanagable as citizens subject to our laws when their numbers and area are so much reduced and their accessibility so much increased, what could have been done with them when they occupied the greater part of the continent, and were protected by interminable forests? The early settlers of the country were compelled to treat them as independent nations, because no other method was possible. If an Indian committed a murder or a trespass, a colonial government could not have sent a constable to arrest him and bring him to justice, for in trying to find the culprit the constable would have exposed himself, at every step, to a hundred flying tomahawks and arrows. Wrongs committed by Indians could be avenged only by war, the wrong-doer being punishable only by punishing his tribe, who protected and defended him. Where war is the only means of redress, a treaty is necessarily the only foundation of tranquillity. It has accordingly been found cheaper to purchase the lands of this continent from the Indians, than it would have been to take them by force and defend the settlers.

But the great progress of our settlements has made the independent nation theory obsolete, except so far as it can be made the instrument of its own explosion. The carrying of a railroad through the heart of the continent, and the impetus thus given to the inpouring of our people, make it certain that unless the Indians will consent to change their location and mode of life, nothing remains for them but a bloody extermination. It is fortunate that the recent troubles have occurred, if they lead to the collection and voluntary settlement of all Indians within a moderate space. We hope the liberality of the inducements offered by the Government will be sufficient to accomplish this object. The time has come for asserting our authority over them and claiming their allegiance. The idea that they have any original rights on this continent superior to ours is fanciful and sentimental. People sometimes talk about the Indians as if all who had ever lived were yet alive. But the truth is that the grandfathers of the Indians are as dead as our own, and the earth belongs not to the dead but to the living. We have been as long on this continent as the Indians. If birth here is a foundation for any claims, our claims on that ground are precisely as good as theirs. It is no greater a hardship for an Indian to be born subject to the authority of the Federal Government than it is for a pale face. We have no sympathy with unreflecting sentimentalism founded on a dead antiquity. The time has come when we must govern the Indians; govern them generously and paternally, we hope; but it is recorded in the book of destiny that we must either govern them or exterminate them. We are not hereafter to make treaties with them, but laws for them; or if treaties, only as the easiest method of bringing them under the dominion of laws.