

SPiRiT OF THE PRESS.

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

The Convention and the Judiciary.

The report presented to the Constitutional Convention by its Committee on the Judiciary bears the marks of that compromise between discordant views of which it is said to be the result. Its half-way propositions can hardly fail to be greatly modified in one direction or the other, after discussion. The elective principle, which is the distinctive feature of our present system, is either its prime excellence or its grand mistake. If the Convention decides that it is the former, the provision for a life-long term of office will hardly be allowed to stand in the way of a more frequent recurrence to it; if the latter, then there is no logic in admitting even its single application. The great difficulty lies in harmonizing the interests of New York city, which suffers from the pernicious effects of the elective system, with those of the country districts where its results have been more tolerable; and this is the problem which the report evades without even stating it.

The proposed Court of Impeachment retains those features of the present one in its composition, and in the limitation of the punishment it may inflict, to which objection has already been expressed in these columns. If such a Court is to be of any more practical use than it has hitherto been, it is worth while to examine whether its impartiality may not be secured, and its effectiveness increased, in the manner heretofore suggested. A halting and timid reform is indicated for the Court of Appeals. Its altered composition of seven permanent Judges would be a great improvement on its present variable character, besides embodying the excellent principle to which deserved prominence is given in a special section of the report touching the Supreme Court, that no Judge shall sit in review of his opinion—a principle so essential to the due administration of justice that it is a wonder it was ever disregarded. But the course which this anomaly has brought down on the present Court of Appeals is far less grave than that provoked by its tardiness in disposing of business. Only professional men and their suffering clients can form any idea of the manner in which this delay of justice has often become equivalent to its denial. Nor would a permanent session of court be so small a cure for the evil, even if it were possible to add that burden to the present exhausting labors of its members. The time required for mature consultation and the preparation of opinions forbids the idea of a continuous hearing of arguments, which seems to the uninitiated a simple remedy for delay. The true cure will be found in increasing the number of judges to double that proposed, if necessary, and classifying the causes brought for their consideration. Let a large Court of Appeals be divided into two or more sections, each of which shall decide upon a particular class of cases, a discrimination being made between those of legal and those of equitable nature, or between those brought from different localities, or between those known as preferred and those known as ordinary cases. And let the different sections alternate in the trial of these different classes. The increased expense of salaries is not worth considering for a moment where interests so important are involved. Is it fair that the State should save itself the cost of an expeditionary administration of justice at the expense of its citizens, who, as suitors, are ruined by delay?

Yet the report regards this difficulty as so insuperable that it intends to perpetuate it. The plan for a commission to clear the arrears of the present calendar is necessary, and the proposed selection of commissioners, judicious—but can no better expedient be devised than its renewal as often as the mischief grows unbearable, encumbering the machine of justice with a fifth-wheel, to be set spinning at intervals of ten years because the other four are not large enough? With regard to the Supreme Court the report recommends certain changes which are only changes, and others to be commended as improvements. There is no great difference between the present arrangement of eight judicial districts, each comprising New York, containing four judges, and the new division into four departments, each subdivided into two districts, with eight judges to each country department. If it is intended to distribute the judges unequally among the districts, according to population, there is some reason of symmetry for the change. And the increase of the court sitting in general term to four judges instead of three, is an improvement. But so long as it is required that a general term should sit in each district, the present serious inconvenience of conflicting decisions in eight separate independent jurisdictions remains uncorrected. The Pennsylvania system of a single general term passing from district to district seems preferable. When we come, however, to the reforms offered for the city of New York, we find something to approve, though rather as to kind than as to degree. Although it might be better to treat this city, containing nearly one-sixth of the population of the whole State, as a single department with eight or ten judges, instead of a district with only the majority of those ten—for, according to the plan, there must be at least four judges to make a General Term in the judicial force is a boon to be thankful for. New York city now has in its Supreme Court and courts of nearly similar jurisdiction fourteen judges; the report gives it sixteen, more equally distributed among the different courts—a welcome addition to the number of judges, though by no means a sufficient one. We are aware that much of the delay in the trial of causes in the city might be prevented by a different arrangement of business in the courts, and that very much of it is chargeable to the procrastinating habits of the Bar, which no legislation can amend; yet, a larger increase in the number of judges, combined with their equal distribution among the several courts, would promote the expeditious administration of justice.

But who can explain the proposition to submit to popular vote three years hence the question whether judges shall be elected or appointed? A report drawn on any coherent plan should frankly have approved one or the other of these irreconcilable systems. Why shirk this very knot of all controversy about the judiciary, and throw over to the future that trouble which, unquestionably before all others, this Convention has expected and called upon in some way to head? Is not the time as ripe for a conclusion upon it as it ever will be? or must we still suffer till ripeness grows to rotteness? Suppose the report to be accepted by the Convention, and its action sustained by popular vote, and that the judges take office, as it provides, in 1868, will the people be content in 1870 merely to assert so mained a right, or so illusory a

privilege, as that of having the chance to elect at some indefinite period successors to the officers who have just been placed on the bench for a lifetime? We may depend upon it, if the people mean to elect judges at all, they mean to elect them often. In truth the idea of a life-long term, and that of popular choice, are logically hostile to each other, and it is because we condemn the latter that we so warmly approve the theory of the Report in regard to the former, though with little hope that it will be permitted to go into practice.

Should the plan of conferring a long term of office, however, be adopted, we trust it will first be purged of an element of injustice which it contains. Judges of the higher courts are to hold their seats up to seventy years of age, but as they cannot all resign before they are expected to die at that exact period, they will remain to many an honest, laborious public servant, removed in the ripeness of his judicial powers, some years which he will be yet too old to devote to the active toils of the noble profession he is fit for. In such cases a moderate retiring pension would be a just and cheap reward for the State to bestow on those who will have devoted the prime of their lives to its service.

Mr. Seward in Real Estate.

There is a rather musty anecdote of a French husband who was made happy by tidings that his wife had presented him with an heir. His joy was doubled, an hour later, by the announcement of a second accession to his family circle; but when, after a further interval, the nurse appeared to congratulate him on the birth of a third responsibility, he jumped from his seat, exclaiming, "I must go and put a stop to this business!" In a kindred spirit, we were disposed to tolerate the purchase of Wallrusia as a rather costly act of deference to our august ally, the Emperor of all the Russias (Wallrusia henceforth excepted); but the reports of further investments excite alarm and repulsion. If common report may be trusted, the country is already "let in" for the following sums:—

Table with 2 columns: Country, Amount. Wallrusia (undoubted), \$7,200,000; East of Samana (St. Domingo), 5,000,000; Danish West Indies, 8,000,000.

And it is cuttishly added that Governor Seward cannot be spared at this time from the State Department, because he has several delicate operations in the same line as yet uncompleted. General Prim, says a European report, expects soon to be master of Spain, when he will forth with replenish his exchequer by selling our magnificent Secretary of the "ever-faithful" island of Cuba for a round hundred millions, and perhaps throw in Porto Rico to sweeten the bargain. In short, there is no end to the outlandish possessions we may acquire if Mr. Seward shall remain long enough in the State Department, and our money (or credit) shall hold out.

Our repugnance to these operations is known to be radical and invincible. They seem to us to assume as their basis the monarchial idea of government. Why should thirty millions here pay a money to have one million (or less) elsewhere live under a common government with us? We cannot have colonies, dependencies, subjects, without renouncing the essential conception of democratic institutions. If Cuba, or any other territory, chooses to redeem herself from European thraldom by a payment of money, that is her own affair, and, if she shall afterwards make overtures for a place in our Union, we would have them considered with every desire to find them acceptable; but to buy the alliance of any people to degrade our political system. What can we buy so much as an "equivalent" for what we can proffer them?

Hitherto, our invulnerability to European attack has been a substantial guarantee against foreign wars. While we are essentially continental and compact, we could, if at war, damage any foreign power more than it could injure us. Even California will be invulnerable from the hour in which our Pacific Railroad is completed. But the acquisition of Wallrusia exposes us to annoyance from any great naval power; while West India possessions will enormously increase the cost of any future conflict with Great Britain or France. Either we must dismantle and abandon at the first intimation of war, or we must fortify, provision and garrison a fearful coast—a cost which imposes no corresponding burden on our enemy, who may assail or ignore at pleasure. If we try a half-and-half policy, as we probably shall, the armaments and garrisons of our West Indies would very soon fall a prey to the foe. In no conceivable contingency could they fail to prove a source of weakness and of ruinous cost.

We want to pay our national debt. During the last two years we have reduced it by two hundred and fifty millions of dollars, or about one-eleventh of its fearful amount when the civil war closed. We want to go on paying, and Mr. Seward's operations on the other, make us heart-sick. Do, Mr. McCulloch, use up that hundred millions of coin in paying off public debt of some kind, before Governor Seward can make ducks and drakes of it in the real estate market! We fear that custodians may prove recreant, that Congress may repeal more taxes, that thieves may break through and steal—but we fear, above all, the operations of the President, à la "Mrs. Toole's." The safest investment for spare funds, the surest safeguard against their misuse, is found in paying honest debts.

The Step Backward.

General Grant has surrendered to the President. This fact was unexpected. It took the country by surprise. It is still the theme of universal talk.

What is a just judgment of the case? General Grant is one of the idols of the people. His name is a household word. His portrait hangs in public galleries, in city mansions, and in prairie cabins. His military services have carried forth the whole nation's admiration. His name belongs to one of the brightest (and yet one of the darkest) pages of our history. Such a man's laurels ought not to be rudely disturbed. Such a man's conduct ought not to be lightly called in question.

But it is neither to be denied nor concealed, nor explained away, that General Grant has, within the last few weeks, greatly disappointed the American people. He has, within this public press more freely criticized, both in the former time since he became a famous man. Moreover (much as we dislike to make the confession), these criticisms have been just. There is a natural desire among men to have one's heroes perfect—without blemish or flaw;

and, when they are not so in reality, we strive to paint them so in our imagination. But even Grant is now proven to be not a hero in all points.

The President commands Mr. Stanton to abandon an office in which Mr. Stanton has been commanded by the Republicans to stay. The Secretary justly declines; but, in view of superior force, retires under protest. General Grant, to the astonishment of the country, voluntarily accepts Mr. Stanton's vacated place—a place which, in the circumstances, no member of the Republican party could accept without forfeiting his standing in the party, and without losing the confidence of the country. The new Secretary's first act is then an order for the removal of one of the faithfullest of his old officers—a gallant soldier, who better deserves retention at New Orleans than the President's recent resignation at Washington. Greatly to General Grant's praise, he protested—warmly and nobly—against the displacement both of Stanton and Sheridan. His letter in behalf of Stanton was marked "private;" and though the injunction of privacy has been removed by the author, the President seems to be too great a coward to exhibit the letter to his fellow-countrymen. The protest in behalf of Sheridan was so honest, indignant, and manly that it thrilled the country, and gave us all a sudden hope that the renegade of the White House had found his master in the hero of Vicksburg. General Grant justly insisted that, if Sheridan were removed, Sheridan's orders should nevertheless remain in force. The exact language of General Grant is as follows:—"To continue to execute all orders he might find in force in the Fifth Military District at the time of his assuming command of it, unless authorized by the General of the Army to annul, alter, or modify them." General Grant had a plain and unmistakable legal right to issue such an injunction, or any other which he saw fit. His legal right to do this was expressly vested in him by act of Congress, March, 1867, in these words:—"Section 2. And be it further enacted, That the commander of any district named in said act shall have power, subject to the disapproval of the General of the Army of the United States, and to have effect until disapproved, when the proper administration of such commander shall be suspended or removed from office, or to suspend or remove from office, or to exercise, in such district, under any power, authority, or appointment, derived from such act, or granted by or claiming under any such act, or the government thereof, or any municipal or other division thereof, and upon such suspension or removal, such commander, subject to the disapproval of the General aforesaid, shall have power to provide from time to time for the performance of the duties of such officer or person so suspended or removed, or to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

"Section 3. And be it further enacted, That the General of the armies of the United States shall be invested with all the powers of suspension, removal, appointment, and detail in and to the several districts named in the preceding section to district commanders.

Now what is the meaning of these two sections of the Reconstruction act? The plain English of them is that the district commanders should be subject to General Grant, since he was a man whom Congress could trust; and not subject to the President, since he was a man whom Congress could not trust. The act expressly took away from the President certain powers which, if such act had been passed, would have been his, which, as soon as the act was passed, became General Grant's. And this was the President's own view of General Grant's powers under this act, as expressly set forth in his veto of the act! Thus, the President says, in his veto message, dated July 19, 1867:—"This act vests in the military commanders, subject only to the approval of the General of the armies of the United States, a restricted power to remove any civil or military officer in each of these ten States." He says, moreover, in the same message:—"The military commander is, as to the power of appointment, made to take the place of the President, and the General of the army the place of the Senate." Further he says:—"Military officers, looking to the authority given by these laws, rather than to the letter of the Constitution, will recognize no authority but the commander of the district and the General of the army. The power of the President is effectually taken away." Exactly so! And when this act of Congress, thus vetoed, was passed despite the veto, it was the President's own view of the matter which the President acted upon, namely, that military officers in the ten States should recognize no authority but the General of the army, and that "the power of the President" should be "effectually taken away."

Such was the President's own interpretation of the act when he vetoed it; but, now that he wishes to use the law for his own tyrannous purposes, he has found out a different interpretation—an interpretation by which military officers shall not "recognize the authority of the General of the Army," and by which the "power of the President" shall not be "effectually taken away"—an interpretation, too, which he has even persuaded General Grant to accept. But General Grant might have said to the President, "Sir, if the text of the law is not, of itself, sufficiently plain as to what are my powers, have, in addition, your own official interpretation of the law, dated July 19, to warrant me in my resistance to your schemes." Perhaps he did say this in that conversation in which (as the Tribune's correspondent informs us) "he told Mr. Johnson very plainly that a correct interpretation of the Reconstruction act gave the President no authority to overrule the General's instructions to Thomas in respect to carrying out the orders of Sheridan." Or perhaps he said something like it in that letter to the President (since withdrawn and cancelled) in which we are told that "he made a direct issue with the Executive in regard to the assignment of General Hancock," the same letter in which (as we are also told) he stated "that the Reconstruction act vests in him the power to see that the District Commanders under him faithfully execute the law, and subjects to his approval or disapproval all orders that they may issue"—the same letter in which (as we are still further told) he argues that "the President had no right to annul paragraph 5, which directed Thomas to keep in force the orders of Sheridan."

General Grant abandons not only his original interpretation of the law, but also the President's interpretation of it last July; and he now unites with the President in a different interpretation for August. The General of the Army thus presents to the public the singular spectacle of having entered upon a contest with the Executive without a definite knowledge either of his own powers or of the President's. He begins with one understanding of these powers, and ends with another. The President, General Grant, instead of conquering his antagonist, is conquered by him. Now, if General Grant became convinced that he was wrong in his attempt to resist the President, certainly it was manly and honest in him (as it would have been in any

other man) to retract and amend his error. But we cannot refrain from saying that, even if he was wrong in the first place, and right now, the whole proceeding exhibits in an unhappy light the inadequacy of his judgment in political affairs. All parties must agree that one thing is clear—and that is, either General Grant ought not to have made a fight, or else he ought not to have made a surrender. Such a man as General Grant never figures well in taking a step backward. When, therefore, he lately planted himself on "Section 5," we expected him to "fight it out on that line, if it took all summer." Perhaps, however, he will yet retrieve himself. Meanwhile the country wishes him not to snub, but to conquer the President.

Summer, Wilson, and Butler on the Situation.

Senators Sumner and Wilson and General Butler, all of Massachusetts, and all leading radicals in Congress, have been giving pretty freely their views and opinions on the present crisis, and on the principal characters, issues, and difficulties of the political situation. These views and opinions are very interesting, and especially in reference to President Johnson, the impeachment question, General Grant, Chief Justice Chase, and the Presidential succession.

Beginning with Senator Sumner: he pronounces the removal of Secretary Stanton at this time as "a national calamity," that the action of General Grant in consenting to take his place is difficult to explain, and that, considered as a Presidential candidate, "we are left in harrowing uncertainty in regard to his opinions; that President Johnson "is perverse, pig-headed, and brutal;" that "of course he is a usurper and a tyrant;" that "the wonder is Congress did not act accordingly long ago;" and "put him at once into a straight jacket;" that at last, however, he will be impeached and removed, and "that if any person calling himself a Republican takes the side of the President it will be Mr. Fessenden," styled by Wendell Phillips "a dyspeptic Scotch terrier," but who, according to Sumner, is a pugacious customer, like Johnson, "though of a much finer fibre," and who "has always had a soft side for Johnson."

Such is in a nutshell, are the views and opinions of Senator Sumner on the subjects presented. His colleague, Wilson, though running in the same general channel, diverges here and there from the track of Sumner. According to Senator Wilson, the Congressional scheme of reconstruction, though embarrassed and delayed by Mr. Johnson, must go through to its consummation. Wilson believes, though a late believer, that "deserves impeachment," and that such has become the prevailing judgment of the republican party. In the opinion of Wilson, Grant and Stanton are in the happiest accord; and Grant, like Stanton, has gone into the War Department "to do what he could and save what he could for the country." As regards President Johnson, Mr. Wilson thinks that "he goes by fits and starts;" that, "in fact, he acts like a man on a 'bust,' who goes to sleep and wakes up and breaks things, and then goes to sleep again, and so on till he gets sober." "In my idea," says the Senator, "he is a foolish man, governed by gusts of passion and temper; and a disappointed man, because he really believed he was going to succeed." Mr. Wilson does not know who Mr. Chase is a Presidential candidate or not, but thinks the United States fitted to be President of the United States. Only the other day, however, General Grant was the champion of Wilson against the field.

Next, in summing up the views of General Butler, he does not like the position of General Grant in the War Office. It is "a very difficult and dangerous role" that he has to play, and time must be left to tell the consequences. Butler does not know the confidence of the country. Seward has evidently determined to be re-elected on the Republican party "for its preference for Mr. Lincoln." "Impeachment is sure to come. The same causes which hindered it heretofore will now tend to bring it on," because President Wade's term in the White House must now of necessity be so short that his promotion will excite no jealousy, from the fact, even if so inclined, he can do no mischief against any candidate in his distribution of the spoils. It is on the national finances, however, that General Butler comes forth in the character of an enlightened statesman. When we say that his views on the ground money question in the leading details are those which have been ventilated through the Herald for many months past, we say all that is necessary in the General's defense, for on this ground no enemy can flank him and bottle him up.

Such are the views, in brief, of three of the most conspicuous Republican leaders of Massachusetts. What do they signify? What is the leading idea, party necessity and party purposes, in which they all concur? It is the impeachment of President Johnson. Differing on other men and other questions, Sumner, Wilson, and Butler are in harmony in regard to President Johnson. Nor do we any longer see any opposing voices from any corner of the Republican camp, against this general cry of impeachment. Mr. Johnson, doubtless, is aware of his danger, and is doing and will do all he can to hold his position. He cannot back out. He must maintain his ground. What then is to follow no man can tell. We may safely predict, however, that Southern reconstruction will be interrupted and delayed, that confusion will be worse confounded between President and Congress and in the Southern States, and that there will be no peace and no reconstruction until this Administration and the present Congress, and this rabid and revolutionary Republican party, are swept out of power by a new party movement representing the will of the people.

Reaction—A Great Democratic Victory in California.

From the N. Y. World. What Mr. Stevens calls "apathy," and what common sense calls reaction and a return to reason, is now the prominent political feature of the North. The people are tired of radicalism. Its old cant phrases about "justice," the "Rock of Ages," the "progress of liberty," and the like torchlight procession mottoes, have become meaningless from the fact that they were cant and nothing else. It has become a matter of dollars and cents; lower taxes; cheaper rents and food and clothing; in short, it has at last "come home," and the people refuse to sustain radicalism because they cannot afford it. It costs too much. This reaction began in the very stronghold of radicalism—New Hampshire. Here is the popular note in New Hampshire: In the years 1866 and 1867—

Table with 4 columns: Year, Dem., Rad., Dem., Rad. 1866: Dem. 40,433, Rad. 43,074; 1867: Dem. 39,384, Rad. 24,844.

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able in political annals; radicalism lost in the changed vote of a single year the entire State ticket, and three out of four Congressmen. The vote of 1866 and 1867 stood as follows:—

Table with 4 columns: Year, Dem., Rad., Dem., Rad. 1866: Dem. 40,433, Rad. 43,074; 1867: Dem. 39,384, Rad. 24,844.

Thus, in Connecticut, radicalism, with a majority of 541 in 1866, in 1867 was defeated by a Democratic majority of 892. The reaction in this State is still more marked, when we remember that only two years before the radical ticket was successful by more than 11,000 majority.

We have, as yet, only imperfect returns from elections this week in Vermont and California. Both are radical States. The vote in Vermont in 1866 was:—

Table with 4 columns: Year, Dem., Rad., Dem., Rad. 1866: Dem. 18,000, Rad. 15,000; 1867: Dem. 18,000, Rad. 15,000.

From California, however, we have the glorious news that the Democrats have elected the Governor and State candidates, two out of the three Congressmen, and a majority of members of the Legislature—securing, it will be seen, the election of a Democratic to the United States Senate. Whatever "explanations" defeated radicalism may offer, the fact cannot be argued away that this great Democratic victory is due to the irresistible popular reaction.

These elections and this reaction will be manifest in the returns in Pennsylvania and Ohio, especially in Ohio, where negro suffrage, which the State has heretofore rejected, is made a prominent issue this fall. In this connection, it is well to call attention to the table presented by the Personal Representative Society to the Albany Constitutional Convention, showing that in the elections last year in twenty-three States, the total radical vote was 2,061,871, against a total of 1,644,308 Democratic votes. The total radical majority is therefore 417,563, and a change of 208,787 votes, or only six per cent., would turn the balance against the radicals in every State.

Table with 4 columns: States, Republican, Democratic, Republican, Total. Lists states like Maine, Vermont, New Hampshire, etc., with corresponding vote counts.

This shows that a change of less than six per cent. in the aggregate vote would have given the Democrats the majority of the votes in the Union, whilst in several of the States a change of less than one per cent. would have altered the result. In view of the changes now actually making and the very general reaction, it would seem an appropriate time for the Tribune, Times, and Herald to publish their standing editorials on "The Death of the Democratic Party."

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