SPIRIT OF THE PRESS.

Editorial Opinions of the Leading Journals upon Current Topics—Compiled Every Day for the Evening Telegraph.

PRISON STATISTICS IN THE UNITED STATES.

From the N. Y. Evening Post.

The study of the latest reports of the State prisons in the United States brings to light many statistical items which are suggestive as well as interesting.

Of our thirty-seven States, three—Delaware, Nebraska, and West Virginia—are without State prisons; one—New York—has five, including the Criminal Lunatic Asylum; one—Indiana—has three; and one—Pennsylvania—has two; the remainder have one each. There are, therefore, forty in the country. The estimated value of the real and personal property of these institutions is about $12,000,000. The number of cells is 13,338, and their average dimensions eight feet long, four and a half wide, and seven high, giving 252 feet as the cubic contents of each, or just about one half the size required for the proper sanitary accommodation of a convict.

The average daily number of prisoners is 16,311; the whole number of officers and attendants, 1242, and the aggregate salaries paid them, $958,472. The average number of prisoners to each attendant is twelve; the extremes being in the State of Nevada, where here is an attendant for every two and a half convicts; and Virginia, where there is but one to every twenty. It is remarkable that the prisons in these two States also represent the extreme differences in discipline; that of Nevada being the most coercive, that of Virginia the least so, of all the prisons of the Union.

The total ordinary expenditure of the prisons was $3,340,535; the total earnings, $2,376,909; the aggregate excess of expenditures over earnings in thirty prisons was $877,281; the aggregate excess of earnings over expenditures in the other ten, $111,955; leaving an aggregate of deficits amounting to $765,326.

The average *per capita* cost of convicts in the State prisons, including salaries, was $200, and the average *per capita* earnings, including all the prisoners, whether productive laborers or not, were $130. The most economically administered prison was the Albany Penitentiary (the prison of the District of Columbia), where the inmates were subsisted and governed for $113 each; the most expensive was that of Nevada, where each man cost $1254. Had all the State prisons of the country been managed with the same economy as the Albany Penitentiary, their earnings would have paid expenses and left a surplus of $448,232.

The whole number of inmates engaged in remunerative labor was 12,070, being a fraction less than one-fourth.

The contract system of labor prevails in eighteen State prisons; that of working the men on State account in twelve. The average annual earnings per man, in the former, were $127; in the latter, exclusive of the two prisons of Pennsylvania, $262; including them, $208. The average per diem paid by contractors was fifty-one and a half cents; the extremes being found in the Massachusetts prison, where it was ninety-four cents, and in that of New Jersey, where it was thirty-five. The average number of hours of labor is nine and three-quarters.

The average length of sentences (excluding of course those sentenced for life) is, for the whole country, 4 years and 14 days, the prisons of Virginia and South Carolina furnishing the extremes; the average terms being in the first 8 years, and in the second 2 years. It is noticeable that the length of sentences is shorter by more than a fourth in the Northern than in the Southern States; being in the former 3 years and 9 months, in the latter 4 years, 10 months, and 16 days, although persons are sentenced to State prison for far more trivial offenses at the South than at the North; in Tennessee, for example, for stealing a fence rail valued at 8 cents. The proportion of sentences for life in all the prisons together is about 5 per cent., and the period of detention for this class of prisoners is, on an average, between 7 and 8 years. A man sentenced for life has a better chance for an early release than one sentenced for 20 or even 15 years.

Of the inmates of our State prisons, 28 per cent. are returned as wholly illiterate; 70 per cent. as intemperate; and 77 per cent. as never having learned a trade. These figures show to what a fearful extent ignorance, drink, the want of industrial training, and idleness and evil associations as the combined results of all, are stimulants or occasions of crime.

There is one class of percentages deducible from these reports which has a sad significance. Nearly one-fourth of all the inmates of these grim abodes of guilt and crime and wretchedness are minors—mere boys, ranging from twenty years down to the child that has not reached his teens!

Will not all good citizens be moved by such an exhibition, first, to devise preventive agencies to keep these youths from falling into crime; and, secondly, to found reformatory homes, houses of discipline, in which curative healing processes shall be applied to them after they have fallen?

About one-tenth of the inmates of our State prisons in a given year receive executive clemency. These sixteen hundred annually pardoned criminals represent many times that number of applicants; in fact those who do not apply are a small minority. The desire and expectation of pardon, on the part of convicts, has become a sore evil. They are always hoping, planning, working to get out, and this makes them restless, irritable, and unfit for reformatory influences. The true plan is to place our prisons on a proper basis, make their administration permanent, put them into the hands of competent officers, and then perhaps to extend still further the admirable New York plan, by which the prisoner's pardon is put in his own hands; the terms of imprisonment being regularly shortened by complete evidence of reformation.

THE LIMITATIONS OF DEFENSE.

From the N. Y. Tribune.

It will be remembered, at least by all our readers who are interested in celebrated cases, that some years ago Lord William Russell, an aged nobleman, was barbarously murdered in his own London house by a Swiss valet, who upon his trial was defended by Mr. Charles Phillips. The line of defense adopted by the distinguished advocate was that the murder was committed by the female servants of the house, and he also argued that bloody articles found in the prisoner's box were placed there by policemen with a view to the reward offered for his discovery and conviction. Suddenly, in the very middle of the trial, Mr. Phillips was astonished by receiving from his client a full confession of guilt. But he did not swerve a hair's breadth from the line of defense which he had adopted. He lifted his eyes to Heaven, and fervently declared to the jury that God alone knew who had committed this murder! He continued his insinuations against the housemaid especially, the result of which was that the poor girl was carried to an insane asylum. Mr. Phillips did his client no good, however, for he was convicted, and in due time executed.

A despatch from this city to the Chicago *Tribune* (which we have reason to believe substantially correct), in speaking of a criminal case which has attracted, we may say engrossed, the public attention, says of a prominent lawyer who has conducted the defense, that he has apologized privately for indecent allusions to a lady, said that he believed nothing of them, and that he only made certain remarks (and this is the point we wish to emphasize) "in the hope of helping his client." It is to the general character of the professional morality thus indicated that we ask the attention of the reader. It must often happen that an advocate is called upon to defend a person known by him to be guilty, but, the *onus probandi* being upon the prosecution, the party at bar is entitled to all the benefits of the laws of evidence; and as the trial starts with a presumption of his innocence, it is the duty of his advocate to the best of his ability, by fair comments upon the evidence, to secure, if he can, an acquittal. But it should be understood, and we suspect that it is not generally or well understood by the public, that the benevolent presumption of innocence is less intended for the protection of the prisoner than for the safety of many innocent men, who, if the rules of evidence were broken down, might unjustly suffer. The law simply forbears to press a conviction when a conviction might establish a dangerous and inequitable precedent.

So far, then, the duty of counsel to watch the testimony, and to maintain upon it a theory of the prisoner's innocence, may be conceded. But he would err egregiously who supposes that this great privilege, or this simple right, if he please so to consider it, is not limited both by the good sense and by the good faith of counsel. The right carefully and ingeniously to defend one person who is not on trial by no means implies the right extra-judicially to arraign another person who is not on trial at all. The advocate for the defense holds no license to travel out of the record in quest of extraneous facts, or more probably of notions which may possibly help his client at the expense of somebody else. For instance, upon the trial of John Jones for murder, it is barely possible that the Court might hold as admissible evidence to show that the murder was committed by some highly respectable and perfectly innocent member of society. Now, such is the nature of practice, that if an advocate sees fit to rise and suggest guilt in the most astonishing and unsuspected quarter, although the Court may and would probably silence him as soon as possible, the mischief would be done before the scandal could be arrested. This is an inevitable infirmity of legal procedure from which in the nature of things there is no escape, except through the chivalry and honor of counsel. All the more, possessing this tremendous power, should the advocate be careful so to use it that the rights of other parties outside the case may not be in the least compromised. This, indeed, is his best policy, for in the end a system of roving inquisitions in quest of evidence half true to bolster up theories wholly untenable can do the advocate no good. It is a game at which, if it is to be permitted, the prosecution can, in the nature of things, beat him in nine cases out of ten.

The general idea is that an advocate, in managing the cause of his client, should remember his client alone; and within proper limitations, and as between the respondent and the Government, the idea is a good and sound one. But surely, even the most remote deductions from this theory give a practitioner in the criminal courts no moral right, however he may suppress the true, to suggest the false to the damage of innocent persons. In conducting a cross-examination, for instance, it may be proper for counsel to presuppose that the memory of the witness has failed him upon the direct, or that he has not shown the proper relation to each other of the facts brought out in his evidence; but, except in rare and palpable cases, we should very much doubt the moral right of cross-examining counsel to assume that the witness has already committed perjury; and to do this merely for the sake of confusing and embarrassing a witness would be ungentlemanly and dishonorable in the extreme, however it might be professionally considered. Thus we see that the apparent license which the leniency of the law allows to a criminal defense is itself hedged about by certain laws of personal honor. The advocate himself is an officer of the court, and has a personal interest in maintaining its dignity, its equity, and its good name. He is to save his client, if he can, but he is not to save him at the expense of other reputations. If he is paid for burnishing one character, it does not charter him maliciously to blacken another. He may comment fairly upon the evidence; but hint, innuendo, and malicious suggestion are not now, never have been, never will be, in court or out of it, such a commentary.

JUDGE HACKETT AND THE McFARLAND CASE.

From the N. Y. Sun.

We think the opinion is all but unanimous that Recorder Hackett presides over the Richardson-McFarland trial with dignity, ability, and impartiality. He has made two important rulings in the case, which have excited a good deal of comment among the members of the legal profession, as well as in other circles.

The first of the rulings to which we refer was the exclusion of the testimony offered by the defense in regard to certain transactions, such as Richardson's dictation of memoranda respecting the disposition of his property, and the so-called marriage ceremony, and other matters affecting him, in which Richardson bore a part in his room at the Astor House subsequent to the shooting.

The defense offered this testimony for the purpose of satisfying the jury that these transactions were of such a nature that they so aggravated Richardson's wound and state of body and mind that, except for their occurrence, death would not have happened; in a word, that the pistol shot was not the necessary and unavoidable cause of Richardson's death, but that it resulted legitimately from the excitement caused by these transactions. Now, arguing from first principles, and keeping clear of adjudicated cases, it would be very difficult to convince either a lawyer or a layman that such testimony was not admissible. The vital point at issue is the cause of Richardson's death. Suppose, after listening to all the testimony in regard to the shooting, the nature of the wound, and the kind of medical treatment to which it was subjected, and then, after listening to the testimony which has been excluded in regard to these other transactions, distinguished surgeons should be willing to swear as experts that, in their opinion, except for these other transactions Richardson would have recovered; has not the defense a right to introduce in evidence these transactions for the sound reason that they are pertinent to the main issue, namely, the cause of Richardson's death?

The Recorder seems to have based his ruling mainly upon a case decided by Chief Justice Bigelow, of Massachusetts, who, in his elaborate opinion, claims to have examined a large number of adjudications bearing upon the point. It may, however, turn out, as it often does, on a thorough exploration of these decisions, that a distinction runs through them which destroys their value as precedents in the McFarland case.

The second ruling of the Recorder to which we refer did doubtless, at the first blush, excite some surprise; but, when clearly understood, it will be found to be based on sound law and common sense.

The counsel for McFarland have interposed the defense of temporary insanity, or rather such a partial dethronement of the reason as to exempt McFarland from legal responsibility for the act of shooting Richardson. They endeavor to account for this state of mind by certain facts in respect to the relations existing between Richardson and McFarland's wife, which came to the personal knowledge of McFarland, and which he believed. They endeavor to account for it, also, by certain facts in regard to Richardson's agency in taking McFarland's children away from him, some of which facts were within the personal knowledge of McFarland, while others were reported to him and credited by him.

Now, the real point at issue in this branch of the case is, what was the state of McFarland's mind, what was the cause of that state, and was the condition of his mind such as to relieve him of legal responsibility, on an indictment for murder, for the shooting of Richardson?

Holding his clear intellect steady to this point, the Recorder well says that it makes no difference for the only purpose of this trial whether the facts which upset McFarland's mind were true or false. The question is not as to their truth or falsity, but whether McFarland believed them in whole or in part, and whether this belief was the cause of that condition of mind which, as his counsel allege, absolves him from legal responsibility for the act for which he is indicted.

That this is sound law nobody can dispute. That it will materially narrow the field which the prosecution will be allowed to traverse, when they come to put in their rebutting and explanatory proof, is seen at a glance. That, if rigidly enforced, it will leave many persons whose names figure conspicuously in this trial in very embarrassing positions, is painfully apparent.

THE WEALTH OF THE SOUTH.

From the N. Y. Times.

The highest proof of the folly of slavery, of the stern necessity of crushing the Rebellion, of the general wisdom of the reconstruction policy of Congress, and finally the highest assurance of our peace and solidity as a nation in times to come, is found in the present prosperous and contented condition of the South. States so lately rent by civil war, their towns sacked and their fields devastated, are now rich in resources. Men whose motto was, only five years ago, "war to the knife, and the knife to the hilt," now negotiate amicably with the objects of their former hatred, and appeal to them to supply the two great wants of the South, skilled labor and capital. The North responds with hearty will—the "era of good feeling" is fully come. Southern traders are again the mainstay of New York commerce, the old enmities pass out of the memory of men, and, best of all, a sane secessionist is to-day as much a *rara avis* as the "undevout astronomer." Ex-Governor Wise is contentedly arguing cases in the United States Supreme Court; Beauregard negotiates with Rosecrans for new railroad connections; Virginia, startled at the colored emigration to the cotton States, has found a new question in "what shall we do *without* the negro?"

The truest test of a solid political triumph is found in results like these—in a general absorption of the public mind in the material concerns of life. Of course our national bent of character, common to both sections, has much to do with this. The happiest omen at the close of the war was the rush made by Confederate generals and leaders for the vacant railroad superintendencies and presidencies, and for the organization of new express companies. The terrific energy which for five years expended itself in long campaigns and storms of battle could not die with the Rebellion—only the spear has become the ploughshare and the sword the pruning-hook. The South, somewhat disturbed by Bourbon fools, as it may be here and there, is neither an Ireland nor a Poland. It puts on few airs of martyrdom.

In fact, there can be small pretense among sensible men of the "merciless tyranny" of which mere demagogues complain in the face of a generally conceded agricultural and commercial prosperity. The securing of a good cotton crop implies faithful labor and domestic quiet. Last year this crop probably reached three millions of bales. At the average price paid this season it will realize, or is worth, about $310,000,000, currency, or over $250,000,000, in gold. More cotton has been raised in previous years, but never has more money been realized in the aggregate. The crop of 1859-60, almost five million bales, brought less money and had less purchasing power than that of 1869-70. Cotton has been deposed from the throne, but has since accepted office as First Lord of the Treasury.

The decrease in the aggregate of the cotton crop, therefore, does not imply any reduction in the wealth it produces. It is attributable to other causes than inability to plant and harvest. The war left behind some salutary lessons. It proved the folly of relying upon the North for corn and bacon, and a great breadth of land formerly employed in raising cotton, sugar, and tobacco is now occupied by cereals—the result being that the South has less to buy, while what she has to sell brings the same returns.

Another feature in the new wealth of the South is the earnest and successful effort it is making to establish manufactures, and that is another of the lessons of the war. Those who have fought along the splendid water-power of the James river, who have marched across Georgia, traversed the rich coal and iron regions of Alabama, or have seen in the far southwest Texas springs which are rivers boiling out from under the mountain sides, need not be told how much of power has lain idle or wasted itself away. The Comal river, in Texas, is only two miles long from its source to where it empties into the Guadaloupe; yet it is as large as the Merrimack, knows neither freshet nor drought, and has a rapid fall. Situated in the centre of the finest wool-growing country in the world, and surrounded by the industrious Germans of New-Braunfels, its surpassing advantages for woollen manufacture were never developed till during the war, when a splendid mill was erected and equipped with Manchester machinery. So, all over the South, the war has knocked the laziness out of the people and become a blessing in disguise.

The shrewd New England men knew well enough that in conquering the Rebellion they also built up a powerful competition. They see that they are no longer the only artisans, and that in liberating the slaves they have liberated not only four but twelve millions of active minds. Two years ago Mr. Wilson said in the Senate that New England recognized this fact, and intimated that if the iron-protectionists of Pennsylvania pushed their absurd pretensions—pretensions which have made it impossible to build an iron ship in an iron country—they might find New England ready to strike hands with the South for free trade. The North and South are assuming new commercial as well as political relations. A community of interest is growing up between them, and Pennsylvania monopolists may yet find themselves standing alone. Would it not be wise for the Camerons and the Kelleys to look to this?

THE BUREAU INVESTIGATION.

From the Missouri Republican.

The New York *Tribune* says:—

"General O. O. Howard is fortunate in his calumniators. Years ago it was Andrew Johnson who maligned him in long and frequent veto messages on the Freedmen's Bureau bill. Afterwards it was General Gordon Granger who went spying among the subordinates that he might find matter on which to ground indefinite and general abuse of the chief of the bureau, which it will be remembered was subsequently delivered in a long report, which read very much like the effort of an amateur correspondent of a fourth-class newspaper. Now it is Fernando Wood who impeaches the honesty of his administration of the affairs of the freedmen. If the witnesses who are to sustain these charges have no better standing with the public than the accusers, the prosecution will prove contemptible persecution. But there is little doubt that the result of the case, which some one has aptly termed 'Mackerelville vs. Havelock,' will be the complete vindication of General Howard."

We have no desire to prejudge General Howard in the investigation now pending in regard to the management of the Freedmen's Bureau, but we nevertheless insist that such stuff as the above is in very bad taste, to say the least. President Johnson undoubtedly did direct the attention of Congress to the Freedmen's Bureau, and intimated strongly that it would do no harm to keep a strict eye upon the workings of that machine; and in so doing he was simply performing one of the most important duties incumbent upon his high office. The President is not merely the executor of laws, but he is, or should be, the guardian of the people's rights and the people's money. Here is an institution which, as it is now officially declared, has disbursed not less than twelve million dollars, and this immense sum has flowed through the hands of General Howard without either check or restriction. Congress ought not to have waited for the suggestions of President Johnson, or the report of General Gordon Granger, before giving the matter a thorough sifting, and if the examination had resulted satisfactorily, so much the better for General Howard and the country; if not, then the evils of mal-administration might have been nipped in the bud, and the treasury saved from further depletion. But when Congress spurned the advice of President Johnson because they hated him, and laughed at Granger's report because he was a conservative, they virtually shouldered the entire responsibility of Howard and his bureau, and the onus of whatever errors or blunders he may have committed they must share.

When a committee of investigation is appointed at the request of Mr. Fernando Wood, Congress in effect acknowledges that there may have been some truth in the criticisms of President Johnson and General Granger, and that at any rate it will do no harm to look into the whereabouts of the twelve millions aforesaid; but this is very much like locking the stable-door after the horse is stolen. Suppose, for instance, it should be ascertained that a few hundred thousand dollars, more or less, have been waste or misapplied by General Howard, what recourse is there now? No bonds were required of this officer for the faithful discharge of his duties, and whatever funds, if any, he has diverted from the proper channel, are gone past all recovery. The investigating process ought to have begun years ago, and President Johnson was right, eminently right, when he urged it again and again.

The *Tribune's* comparison of Howard to Havelock might as well have been omitted, for, without the slightest irreverence, we may say that "the Christian hero" business is a drug in the market. General Howard has blazoned his religious professions from the housetops, and done a vast amount of seasonable and unseasonable preaching with tongue and pen, but the nation just now is much more interested in knowing something about his practice, and if the fruit should prove worthless, there will be no difference of opinion as to the character of the tree which produced it.

General Havelock saved India from the grasp of the Sepoy rebellion, and died before the British Government had opportunity to reward him for his inestimable services. Had he lived, and been appointed commissioner of a Sepoy bureau for the education and elevation of the Hindoos, from what we know of the man, we doubt very much whether Havelock would have invested $24,000, which did not belong to him, in bonds of the First Congregational Church, or ordered a university built at Government expense of worthless brick, because he happened to be one of the owners of the patent right. "Comparisons," as Mrs. Malaprop would say, "are sometimes 'odorous.'"

WOMEN AT OXFORD.

From the Cincinnati Commercial.

The woman's rights movement is making much less noise is England than in this country, but much more substantial progress in the right direction. The official announcement contained in our foreign telegrams of Wednesday, that the delegates for conducting the local examination of Oxford University have decided to admit girls on the same footing as the other sex, is one of the most significant events of the age, and should it assume tangible shape at the examinations which occur in June, will undoubtedly be imitated by every prominent institution of learning in Europe and America. Where Oxford leads, none need be afraid to follow, for it is not only the greatest university in the world, but perhaps the most conservative and aristocratic of all. Dating back to the year 1050, and believed by many to have been founded by Alfred the Great, the history of Oxford is a part, and almost the best and brightest part, of the history of the nation of which it has long been the pride and ornament. The present code of statutes was framed by Archbishop Laud in 1629, and confirmed by Charles I in 1635. The chancellor is elected for life by the convocation, and for the last two centuries has always been chosen from the ranks of the highest nobility. The late Earl of Derby held the position at the time of his death. The actual head or executive officer is the vice chancellor, who is nominated every year by the chancellor, and usually holds it, by successive reappointments, four years. The seniscallus, or high steward, is also a nobleman nominated for life by the chancellor. The discipline and general management of the whole establishment are in the hands of a large staff of officials working together in the harmony of the most perfect system. Nineteen colleges and five halls—the latter not incorporated—are attached to the university proper, and each is governed by its own head, elected for life, and its own laws; though all the members are obliged to obey the rules of the University. Five hundred and fifty-seven fellows, or poor scholars, are supported by these colleges; these are usually chosen after having gained their bachelor's degree, and are the tutors, and with, the head, form what is known as the body of corporate proprietors. The total annual income of Oxford is set down at £460,000, or about $2,300,000 of our money. The number of members entered upon the books is between six and seven thousand; the number of actual students about fifteen hundred. The libraries connected with the university are among the finest in existence; the Bodleian alone, which was opened in 1602, contains 260,000 volumes. Galleries of pictures and statuary, museums of antiquities, and every appliance which the ingenuity and liberality of man can devise for the cultivation of the useful and the beautiful, are here to be found upon the most magnificent scale; and when women can enter the walls of classic, venerable, imperial Oxford, her perfect equality with man, at least in the pursuit of knowledge, need never afterwards be disputed.