

New Orleans Republican. OFFICIAL JOURNAL OF THE UNITED STATES. CITY COUNCIL—OFFICIAL. REGULAR MEETING.

CITY HALL, NEW ORLEANS, Tuesday, August 16, 1870. Mayor Flanders called the Council to order at half-past seven P. M. and presided over the meeting.

Present: Administrators J. R. West (Improvements), Alfred Shaw (Accounts), L. T. Delassize (Public Buildings), S. C. Emley (Commerce), E. W. Pierce (Police), J. S. Walton (Finance), and H. Bonzano (Assessments).

The minutes of the last meeting were amended in respect to the reference of a number of accounts which had been erroneously referred to the Mayor.

Communications from the Mayor.

MATHEW OF NEW ORLEANS, August 16, 1870. ADMINISTRATORS—On the subject of the communication of Mrs. Myra Clark Gaines, submitting a claim upon the city amounting to four millions nine hundred and ninety-six thousand and thirty-nine dollars and fifty-two cents.

Mr. Emley called up the ordinance to settle with A. Thomson & Co. for an excess of \$2553 of water rent paid by them. Mr. Bonzano wanted to know how so large a reclamation could occur, and moved to lay the resolution over.

Mr. Emley moved that his broad assize ordinance be stricken from the calendar, as he found it impracticable. It was so ordered. Mr. Walton voting alone in the negative.

Mr. Shaw introduced the following ordinance: An ordinance providing for the payment of the several accounts therein named.

Be it ordained, That the following appropriations be and they are hereby made, and that the Administrator of Public Accounts be and he is hereby authorized to draw out of the Treasury the sum of \$5,370 00.

Mr. Emley presented a petition from Mr. Joseph Ellis, asking to have some of Coroner Koch's bills, of which he is the holder, put on the floating debt, and moved that it be referred to the Mayor.

The Mayor read the petition to the Council as follows: NEW ORLEANS, AUGUST 15, 1870. To the Honorable Board of Administrators of the City of New Orleans.

GENTLEMEN—Your petitioner respectfully represents that he is the owner by purchase of an account of J. G. Roche, Coroner, against the city of New Orleans for the month of January, 1870, amounting to nine hundred and fifty dollars, the same being due by the city of New Orleans to the Finance Committee February 2, 1870, and registered by J. O. Landry, Controller, February 5, 1870.

That in accordance with the published order of the Administrator of Finance this account was presented, filed with and received the approval of that Bureau to take its place as a portion of the floating debt of the city of New Orleans, in view of the fact that the Mayor of the city, that officer has said claim stricken from the rolls, leaving your petitioner only the coercive and unenforced debt of the city, unless this action be corrected by your body.

Your petitioner, therefore, requests such action of your Board as will save him useless delay and expenditure in the collection of his debt.

Very respectfully, JOSEPH ELLISON.

This was a matter, the Mayor said, with which the Council had nothing to do. The law prescribed who were to put claims upon the floating debt. That office was limited to the Administrator of Accounts, the Administrator of Finance and the Mayor.

He believed nearly all these Coroner's claims were illegal and almost scandalous. The Coroners held inquiries on small-pox patients, on fever patients, and still-born children, and returned verdicts of "died of small-pox," "died of fever," or "died of premature birth." Not one in ten inquiries was a death by violence or unnatural cause; but instead of simply holding a "view," for which they would be entitled to charge five dollars only, they held an inquest in every case, and charged the city thirty dollars. In this way they ran up bills of nineteen hundred dollars a month, when, if they did their duty, the bills would not amount to more than a hundred and ninety dollars a month.

Mr. Walton seconded the motion, which was unanimously carried.

Mr. Emley presented a petition from Mr. Julius Hardouin, and on that petition of record the following resolution, which was passed: Resolved, That permission is hereby granted to Julius Hardouin to erect and operate a steam engine at No. 273 Roman street, for sawing wood and lumber, for box making, etc.

Mr. Shaw presented a petition from the executors of the late Joshua Poches, which was referred to the Department of Finance.

Petitions of Dr. B. Dowler, C. C. Haley and Green A. Elder, agents of J. W. Price, were referred to the Department of Assessments.

An account of Charles Lanier, P. Irwin and G. W. Roper was referred to the Department of Accounts.

A petition to erect a steam rice mill at the corner of Port and Peters streets was referred to the Administrator of Commerce.

A proposal of J. O. Belknap to erect an ornamental fountain on Canal street was referred to the Department of Improvements.

A petition of residents of Conti street against the establishment of a lively stable was referred to the Department of Police.

An offer of William Green to undertake the superintendence of the repair of the markets was referred to the Administrator of Commerce.

The claim of H. C. Brown, contractor, was referred to the Administrator of Improvements.

Mr. Emley offered the following, which was adopted: WHEREAS, M. O. M. Redon, contractor for collecting the revenues of the Ninth Ward, has failed to comply with the terms and conditions of said contracts, and the same are hereby declared null and void, and the Administrator of Finance be and he is hereby authorized to place in the hands of the Collector of the Ninth Ward, for the purpose of collecting the revenues thereof, the following bills: Resolved, That the Administrator of Commerce rescind the leases of the Ninth Ward, Magazine and Sarapara markets, after ten days publication of notice thereof in the official journal, on the same terms and conditions, for the unexpired portion of O. M. Redon's lease. Be it further ordered, That the Administrator of Police be instructed to enter suit against O. M. Redon and his securities in solido, for any loss the city of New Orleans may sustain by the failure of O. M. Redon to fulfill the conditions of his contract.

Mr. West in the chair. Mr. Bonzano offered the following resolution and moved its adoption: Resolved, That in order more effectually to carry out ordinance No. 255, known as the "Bird" ordinance, that 1000 copies of said ordinance be printed in the French and English languages, and that the same be posted in the outskirts of the city in and about the Chattanooga and Pontchartrain railroad depots and stopping places, and that the Administrator of Police be requested to cause a detail of police to be placed on duty on the line of the Pontchartrain and Chattanooga railroads, particularly in the neighborhood of the point where the Chattanooga railroad leaves Elysian Fields and diverges to the eastward, that locality being particularly infested by game birds, who disregard the prohibitions of said ordinance.

Mr. Walton said he had a communication from a gentleman in the Third District on this very subject, complaining that the hunters, asserting the right to shoot wherever they pleased, endangered the lives of his family by the shots that came into his yard.

Mr. Pierce stated that the same person had communicated with him, and he had referred the communication to the Superintendent of Police.

received any rents or profits during the period in question from this property, because it was, when purchased by the city, a cypress swamp, and it was only after the city had thoughtfully ditched it and drained it that it became susceptible of habitation, and it was then, while vacant land, divided into squares and lots and sold out to various parties.

The only property alienated by the city, for which it may possibly be liable in warranty consists of the portion of the Blane tract above described, purchased in 1834, and afterward sold by the city. This tract of land consisted of 135 arpents, and is bounded by the Bayou St. John, Canal Carondelet, Bellechasse and Dorgenois streets.

In view of the decree entered by Judge Bradley, and the rights of the city thereunder, as shown above, it is hardly necessary for me to say that I consider the exhibit annexed to the petition of Mrs. Gaines as incorrect in every particular and mythical.

You desire to know whether it is better for the city to compromise or take her chances at law.

In view of the uncertainties attending all litigation, and considering that Mrs. Gaines may possibly succeed in recovering judgments against parties who purchased from the city, most of whom are persons of limited means, and who are not likely to be able to pay the sum to be paid should she succeed in the recovery of principal, and from the city, the sum to be paid should not exceed the amount of principal received, the best data I have been able to collect, I do not think this sum will be found to exceed \$150,000, as it is notorious that the sales of 1836 were cancelled, and the property thrown back upon the city, and afterward resold by the city at very low figures in 1840 and 1848.

In the interests of the city, the interests of the city requires me, in this connection, to call your attention to the suit brought by the city and other defendants in the Second District Court of New Orleans, to rescind the decree of the court in favor of Mrs. Gaines, rendered in the month of July, 1870.

I believe that this suit will result in establishing the defense that Daniel Clark did not make or leave the alleged will of 1813, and this would procure a reversal of the order of probate. The revocation of this order of probate would certainly and absolutely end this litigation. The opinions of the Supreme Court of the United States, rendered in favor of Mrs. Gaines, rest entirely on this decree of probate, which she admitted was rendered ex parte, but when attacked there, as at the courts of the United States, had no probate jurisdiction, the defendants must go into the Second District Court of New Orleans, and there bring an action of revocation.

The defendants have done, and above stated. This suit is now pending, and this action by the defendants, who are in possession of the property sued for, in my opinion, is not prescribed.

Having as briefly as possible answered the questions submitted, I beg to refer you to the more elaborate opinion of my colleagues, which are severally compiled by the financial committee, and the Finance Committee, and the then Mayor of the city.

It is manifestly impossible in a case of such importance and magnitude where the issues are so numerous, and the reasons so varied, to do more than state a few of the points, without extending a reply to unreasonable length.

We can only say, therefore, that we will, with pleasure, at any time you may desire, submit our views upon any points you deem it proper to specify.

J. MCCONNELL.

The following is the letter of Mrs. Gaines: To the Honorable Mayor and Board of Administrators of the City of New Orleans.

GENTLEMEN—I respectfully withdraw my claim against the city of New Orleans by compromise, and request that the documents pertaining to the same may be returned to me.

Very respectfully, MYRA CLARK GAINES.

August 16, 1870. The report was received and adopted, and with the communications enclosed was ordered to be printed.

The Mayor also reported as follows: On the petition of L. Pessou, Recorder of Births, Deaths and Marriages, to have a vacant room in the City Hall, for the purpose of having there no vacant rooms in this building, except such as are required for the administration of the city government pure and simple.

BENJ. F. FLANDERS, Mayor.

Adopted. The Mayor and Administrator of Finance presented the following report: NEW ORLEANS, August 16, 1870. To the City Council of New Orleans.

In the matter of the communication of F. L. Claiborne, asking an appropriation to be made for the purchase of the late Julian Poydras, we respectfully report: 1. That we fully concur in all that is said in praise of the "great philanthropist" who died on the 10th of July, 1869, at the Charity Hospital, and with the Poydras Female Orphan Asylum, which latter institution has been enriched by his munificence.

2. That while these are our sentiments, we are nevertheless compelled by the financial condition of the city, to recommend that the request for an appropriation be not granted.

Respectfully submitted, BENJAMIN F. FLANDERS, Mayor.

JOHN S. WALTON, Administrator of Finance.

Mr. Bonzano would like the Administrator of Finance to explain the reasons why the request made for the purchase of the late Julian Poydras was not very large, he thought the Council ought to show its appreciation of the munificence of Julian Poydras.

Mr. Walton did not know that any other reason was necessary than that the one given. He did not believe that the city was a charitable institution, and doubted very much whether as Administrators, they had the right to give a dollar to any charitable purpose. He was very well satisfied the Council had no right to give money in the direction that he had given it. As to the merits of Mr. Poydras, he was willing to go as far as anybody in recognizing them, but if there was any money necessary to remove the body of the dead philanthropist, which he thought unlikely, after the appropriation of five hundred dollars already made by the parish of Point Coupee, he thought it would be highly proper for the committee to apply to the Poydras Female Orphan Asylum, an institution worth at least a hundred thousand dollars through the munificence of Mr. Poydras.

The report was adopted.

By Mr. Delassize: DEPARTMENT OF WATERWORKS, New Orleans, August 15, 1870. To the City Council of New Orleans.

The undersigned begs leave to report for the purpose of the petition of the property owners of Melpomene street, asking the laying of a water pipe on that street, from Magazine to Camp street.

As to the city of New Orleans, the only property for which a decree of possession is to be entered is that shown to be claimed by the city at the time of the filing of this suit, as shown by the answers to the interrogatories to be claimed and owned by the city, to wit, the following: The square comprised between St. Peter street, between the Canal street and Lake road, as shown on said sketch, and on which the draining machine for draining the city is located; also, three other squares, comprising the squares between St. Ann and St. Peter streets.

That said defendant do account to the said complainant for the rents and profits of said portions of said tract of land so defined to be surrendered, and delivered by it to said complainant, and this court doth further order, adjudge and decree that an account be taken by J. B. Weller, master in chancery of the rents and profits of the said portions of said land now held as aforesaid, by the defendant, the city of New Orleans, from the time when the said land came into possession of it to the date of the filing of this suit, and of all other portion or portions of said tract of land set forth in the answer of defendant and exhibits thereto annexed, and from the twenty-sixth of September, 1834, to the days and dates when the said defendant, the city of New Orleans, sold or disposed of the same to other parties, and to report the same to this court, said account to be made according to the laws of the State of Louisiana.

Thus it is seen that the city loses five vacant squares of ground.

Now, as to the issue of rents or profits, in my opinion, the city will not under this decree be held liable for anything whatever.

1. Because the city has never received any rents.

2. Because Judge Bradley held in his supplemental opinion, filed June 16, 1870, that the rents of the city, so far as the Mayor Waterman in 1852, in which it is stated that the city never received any revenues whatever from the property, should stand null and void, and that the city should stand under a definite issue has been made, and is now pending before United States Commissioner Walker, in which the city's defense, that she received no rents, stands upon a satisfactory proof to the contrary.

To any one possessing the slightest acquaintance with the facts, it is obvious that the city not only did not, but could not have

before the Council was the extension of the water pipe to Melpomene street.

Mr. Bonzano asked what the expense would be.

Mr. Delassize said about three thousand dollars.

The resolution was read a second time and laid over.

By Mr. Pierce: OFFICE OF ADMINISTRATOR OF FINANCE, New Orleans, August 16, 1870. To the City Council of New Orleans.

Some months since there were received at this department oral applications from several officials connected with the police force, for two new prison wagons, as those in use were old and dilapidated. Upon examination and consultation with the Warden at the Workhouse, it was the opinion that they might be put in repair at that institution, and still be of considerable service, and thus save the city an unnecessary expense.

One of these wagons has been put in thorough repair, but after a further examination of the other leads me to believe that it would not be economy to make any outlay upon it. I have been informed that this wagon was built in the North, and has been in use twelve or fifteen years. The other wagon was built at the Workhouse two or three years ago, and, since being repaired, has broken down in the street with the regularity of a clock, and is now in the hands of the Superintendent of Police that two prison wagons are necessary, with which the Administrator of Police be authorized to procure a new prison wagon, and the adoption of the accompanying resolution.

E. W. PIERCE, Administrator.

Be it resolved by the Council, etc., That the Administrator of Police be and he is hereby authorized to contract for a new prison wagon, to be built of the best material and in the most substantial manner, at a cost not to exceed eight hundred and fifty dollars.

The report was received, and the resolution was read a second time and laid over.

By Mr. Bonzano: Messrs. Parham and Blunt having furnished satisfactory proof that they were not engaged in any business after January, 1868, and that they had no capital invested in any city during that year, either individually or in joint account; be it therefore Resolved, That the Administrator of Public Accounts is hereby authorized to cancel the bills of 1868 against Messrs. Parham and Blunt for the year 1868, the assessment being on capital of \$5000.

Adopted.

By Mr. Bonzano: Resolved, That the assessment for 1869 on property of Zachary Bruenn, thirty by one hundred and ninety-five feet, square, situated in the Third District, be changed from \$14,000 to \$10,500, that amount being a correct valuation of the property, and the Administrator of Public Accounts is hereby authorized to furnish the Administrator of Finance with a new tax bill accordingly.

Adopted.

Mr. Shaw remarked that he did not understand the relief which the Administrator of Assessments was instructed to give to tax-payers to apply to cases of neglect on the part of the person assessed.

Mr. Bonzano moved that the report be laid over.

Agreed to.

By Mr. Bonzano: Resolved, That in consideration of an error made in the dimension of the property in square 323, fifth assessment district, belonging to the City of New Orleans, the assessment for 1869 be reduced from \$5000 to \$3000, the correct valuation of said property, and the Administrator of Public Accounts is hereby authorized to furnish the Administrator of Finance with a correct tax bill accordingly.

The Mayor asked the Administrator of Assessments whether, if he found an assessment for 1869 too small, he could raise it.

Mr. Bonzano said he would not hesitate to do so, only unfortunately such cases were not brought under his notice.

By Mr. Bonzano: Resolved, That the assessment for 1869, against D. W. C. Sanford & Co., on capital \$50,000 and income \$10,500, be changed to the correct amount of \$23,000 (income included), and the Administrator of Finance is hereby authorized to furnish the Administrator of Finance a corrected tax bill accordingly.

Laid over.

By Mr. Bonzano: Report by the Administrator of Assessments on the petition of D. D. Rogers, residing at 215 Poydras street, near the corner of Dauphine, eighth assessment district.

JUDGMENT HAS BEEN RENDERED BY THE Third District Court in favor of the city against R. M. Montgomery, for the unpaid taxes of 1867 and 1868, on a certain lot of ground situated in square eighty, eighth assessment district, measuring thirty feet front on Esplanade by one hundred and fifteen feet in depth, and the Sheriff has seized said lot to satisfy the writs passed in his favor.

This property was purchased of Montgomery in 1866 by D. D. Rogers, and the transfer to him duly entered upon the assessment book, but the assessment of the same property was also allowed to remain in the name of Montgomery, thus erroneously occasioning a double assessment for the years 1867, 1868 and 1869. Mr. Rogers shows the receipts for 1866, 1867 and 1868. I recommend the adoption of the following resolution: Resolved, That the City Attorney is hereby directed to cancel the judgments rendered by the Third District Court in favor of the city against R. M. Montgomery, for the tax of 1867 and 1868 on a certain lot of ground in square eighty, eighth assessment district, measuring thirty feet front on Esplanade, by one hundred and fifteen feet in depth, and the Sheriff is hereby authorized to return the writs in his hands. The Administrator of Finance be and he is hereby authorized to cancel tax bill No. 3992, for the tax on the above mentioned lot for the year 1869.

Laid over.

By Mr. Walton: I have received a verbal communication from Thomas Haggerty, asking payment of two hundred and fifty dollars (\$250) and interest thereon, which he says the city owes him.

On examination I find that on the twenty-third of June, 1864, the City Railroad Company paid into the City Treasury the sum of five hundred dollars (\$500), to be placed at interest for the benefit of the orphan children of Mrs. Haggerty.

On the twenty-sixth of October, 1867, John Haggerty having become of age, and being a resident of the city, he is placed at interest for the benefit of the orphan children of Mrs. Haggerty.

On the fourth of August, 1868, the interest was paid on the remainder for one year to the City of New Orleans.

In view of the circumstances, I recommend the adoption of the following resolution: Resolved, That the sum of two hundred and fifty dollars (\$250), and interest thereon, at eight per cent from August 4, 1868, be paid to Thomas Haggerty, when he shall produce evidence to show that John Haggerty was the only child of Mrs. Haggerty, for whose benefit the above sum was deposited.

JOHN S. WALTON, Administrator of Finance.

Adopted.

By Mr. Delassize: Resolved, That the Administrator of Public Accounts warrant on the Department of Finance for the sum of seventeen hundred dollars in favor of H. De Malley, for the rent of the Insane Asylum, be and he is hereby authorized to issue resolution 257, Administrative series.

A vote was taken, and the Mayor declared the resolution carried.

By Mr. West: Resolved, That the Administrator of Improvements be and he is hereby authorized to make a monthly sum of fifty (\$50) dollars

for his personal expenses in horse keeping, during the commencement of the present term.

Adopted.

Petitions. Mr. Pierce presented a petition from Behan & Thorn, asking that they might be allowed interest on certain warrants held by them, which was referred to the Mayor.

Mr. Pierce presented a petition from Morano and others residing near the Third District Pound, representing said pound to be a nuisance, owing to the howling of the dogs confined therein; and further, that the police are allowed to shoot the dogs so confined, thereby endangering the lives of people residing in that vicinity.

The petition was referred back to the Department of Police.

Mr. Emley presented a petition with respect to the condition of the streets in the Third District, which was referred to the Administrator of Improvements.

A petition of residents of the Sixth District to have a road made, was referred to the Department of Improvements.

Mr. Emley presented a petition from Mr. Joseph Ellis, asking to have some of Coroner Koch's bills, of which he is the holder, put on the floating debt, and moved that it be referred to the Mayor.

The Mayor read the petition to the Council as follows: NEW ORLEANS, AUGUST 15, 1870. To the Honorable Board of Administrators of the City of New Orleans.

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insane Insane Asylum in 1869. L. Vattier, for wood for Insane Asylum in 1869. 39 00 536 30

McClosky, Bigley & Co. for the following registered bills, viz: Bills on City Hall, \$36 25

February 5, 1870, for Little Sisters of the Poor, 14 50

February 21, 1870, for St. Mary's Orphan Asylum, 14 50

January 14, 1870, for John's School, 14 50

January 22, 1870, for Fish Prison, 72 50

February 8, 1870, for Insane Asylum, 7 25

January 4, 1870, for City Workhouse, 37 00

March 14, 1870, for draining machine, 3610 00—2943 50

P. Lessasser, as transferee of survey registered bills of the Mayor, City Clerk Sixth District Court, viz: \$38 50, \$16 50, \$11 25, \$57 50, \$269 50, 943 25

C. C. Haley for reimbursement of Gray & Millage, three registered bills for burying the indigent dead and conveying the indigent sick to the hospital, 900 00

M. T. Gillane, for rent of Third District pound in January, February and March, 1870, 60 00

L. Pessou, Recorder of Births and Deaths, registered bill for recording deaths that occurred in the charitable institutions of the city in January and February, 1870, 237 00

Hassard & Poirer, registered bill for registered bills of lumber, 432 37

William O. Meagher, transferee of W. H. Toler, for registered bill for services rendered in obtaining notices on committees for three months, to March 31, 1870, 15 00

J. Strauss, transferee of E. Hoffmann, for registered bill of stamps, 92 90

J. H. Ludwigen, four for registered bills, approved by Administrator of Police, for sundry supplies for House of Refuge and Workhouse, 909 25

J. H. Ludwigen, for registered account, approved by Finance Committee, 474 05

Slocumb, Baker, registered bill approved by Administrator of Improvements, dated November 4, 1869, 60 00