

MUNICIPAL MATTERS.

SALE OF THE MARKETS.

A Noticeable Decrease, Compared With the Previous Month.

Yesterday at noon the revenues of the city markets (for November), the aggregate showing a noticeable decrease as compared with the sale of the revenues for October:

French Fruit and Vegetable, A. Dumestre,	\$3,550
French Meat, J. Armand,	3,325
Poultry and Eggs, C. F. Foster,	2,740
Trois, Henry Laquie,	1,590
Washington and Port, Jacob Hoth,	1,185
St. Bernard, C. A. Cronzelle,	290
La Breton, D. Dantaguan,	225
St. Mary, J. Dumestre,	140
Magazine, J. Clavier,	1,640
Clabonne, D. Montezum,	265
Jefferson, J. Machado,	125
Rosapara, Louis Leter,	180
Ninth Street, J. B. Dumas,	620
Algeria, J. Larrive,	35
Dryades, J. Matheson,	1,905

Total, \$16,656

For last month the same markets brought \$16,626, or a difference against the city of nearly \$300, whereas, according to all precedents, the sale should have shown an improvement on the previous month.

AID FOR FERNANDINA.

The Mayor Appoints a Committee to Provide for the Needed Relief.

Mayor Pilsbury received the following letter yesterday from the Mayor of that distressed community, Fernandina, Florida:

FERNANDINA, Fla., Oct. 26, 1877.

Hon. E. Pilsbury, Mayor, and H. G. Foster, Secretary New Orleans Exchange:

For three months our city has been visited by a terrible scourge, the yellow fever, and there are no prospects of its early abatement. Our population has been terribly decreased, and those who were spared are in a perilous and destitute condition. Our appeal to the Northern and Western cities has been but partially answered, and unfortunately their generous benevolent aid has not been sufficient for the great and inexpressible destitution which still continues to reign and which threatens us in the future. Women with many children are widows; children are left orphans and helpless.

As the Crescent City is well renowned for its benevolence and generosity, we come to you to appeal in the name of a distressed and destitute people for help. That the Almighty may have you in His holy keeping and send forth His mercy to succor the poor and afflicted, is the prayer of your humble petitioners.

S. T. RIDDELL, Mayor.

Considering the inability of the corporation to lend any pecuniary assistance to our neighbors, the Mayor resorts to appeal to our people to give their aid toward such a worthy object, and has, besides, appointed the following committee of our citizens to organize an entertainment, or series of entertainments, for the benefit of the Fernandina sufferers:

John Phelps, chairman; W. C. Black, J. K. Roberts, L. N. Marks, Samuel Boyd, I. W. Patton, Geo. Foster, J. Dixon Bruns, Adolph Meyer and Frank McCall.

The Mayor expresses the hope that our young men with spirit and the committee, with their zeal and spirit which they have already so frequently manifested in the cause of charity.

THE RIVER SURVEY.

A Favorable Report from Washington.

The Mayor received the information from Washington yesterday that his request for the appointment of United States Engineers to make a hydrographic survey of the Mississippi, in accordance with the advice of General Beauregard, had been favorably received by General Humphreys and the Secretary of War, and steps were immediately taken looking to the formation of the board.

THE GAS QUESTION.

The Mayor Won't Stand the Prices of the Gas Company.

The contracts of the city with the New Orleans and Jeff. Gas Company will terminate with the present year, and the Mayor, who has been for some time gathering notes on the subject of gas illumination, says that he does not propose to renew the contracts at the prices or on the basis of the present contract, he believes, he says, from the data in his possession, that the New Orleans company, whose legal status he is even inclined to doubt, is charging the general public too much for their home illumination. The cost of lighting up the streets, markets and public buildings of the city is summed up as follows:

Paid to Jefferson City Gas Company, per month, for lighting 635 street lamps, \$2,645 85	
Public buildings, 53 20	
Total, \$2,699 05	
Paid to New Orleans Gas Company, levee lamps, 40 at \$45 75 per annum, \$1,830 00	
Market lamps, 165 at \$22 50, 3,682 50	
Street lamps, 3340 at \$29 17, 97,427 80	
Total, \$106,937 32	
Public buildings for one month (September), \$924 30	
The lighting of public buildings at that rate (September) a portion of the levee lamps at \$10,891 60 per annum; and of Jefferson City at \$2639 05 per month, would be \$32,438 63.	

RECAPITULATION.

Paid to Jefferson company, per annum, \$32,438 63

Paid to New Orleans Gas Light Company, per annum, 117,478 92

Total, \$149,917 55

Paid for coal oil lamps, 1510 street lamps at \$14 30 per annum, \$21,592 00

\$3 market lamps at \$15 50, 46,500 00

Total, \$21,794 50

making a grand total of \$171,732 02 for lighting up the city, its markets and the public buildings for one year. We may notice here the extraordinary fact, which for the first time has struck us, that the street lamps are on two-foot burners (the market and a portion of the levee lamps are four-foot burners) which accounts in part for the mysterious light they give, and which has provoked so much criticism among strangers visiting our city.

To return to our first proposition, Mayor Pilsbury thinks that the charges of the gas companies are by one-half greater than they should be, and that for a city as poorly lighted as New Orleans is, the amount paid for illumination, or attempt at illumination, is exorbitant. We may have something more to say on the subject as soon as our counterparts and out the fact and give us their views upon it. It may be that they will do so to-morrow, or two weeks hence—as usual when city news is concerned.

THE FOURTEENTH OF SEPTEMBER.

Dr. J. Dixon Bruns, on behalf of the sub-committee appointed on Friday evening by the Opera House Committee, waited upon Mayor Pilsbury yesterday regarding the securing of the necessary ground whereon to erect the monument in honor of the brave men who fell on the 14th of September, 1874, in defense of the liberties of our people. His honor informed Dr. Bruns that his application would be submitted *pro forma* to the Council on Tuesday, and that everything would be done in the power of the city authorities to facilitate the committee in carrying out the project, which every honest man in Louisiana would like to see accomplished.

OTHER TOWN HALL TOPICS.

Administrator Cavanaugh will arrive in this city from Selma by the evening train of the Mobile Railroad.

The wharves of the First District were completed yesterday. There are two yet to be completed in the Second District and three in the Third.

The Board of Assessors were notified by the information that the St. Charles Theatre assessment had been maintained by the courts at \$40,000.

Superintendent Rogers is still occupied in drawing the lines of school districts, and will probably have the work completed by Wednesday next.

Administrator McCall, with commendable thoroughness, has issued his instructions to the city contractors to have all the roads leading to the various cemeteries in perfect order for all

FENDERSON AND WHISKY BILL.

The Governor in Doubt as to the Signing of their Death Warrants.

The Governor is greatly distressed in regard to his duty in disposing of David Fenderon and "Whisky Bill," who are under sentence of death for murder. These men were convicted on indictments presented by the Frank Grand Jury, impeached by Judge Brangan when sitting as Judge of the Superior Criminal Court by appointment of Judge Atchoa. They were convicted, however, and sentenced, after Judge Brangan had been appointed to the judgeship by Kellogg, subsequent to the death of Judge Atchoa.

It may be remembered that Judge Atchoa, being unable to attend to the duties of his office, believed himself authorized by the act creating the Superior Criminal Court to appoint a judge *ad interim* to supply his place on the bench of that court, and under this interpretation of the law, Judge Brangan to the position some time in the month of February, 1874. Judge Brangan, under this appointment, assumed the duties of the office, embraced a Grand Jury and proceeded to the trial of all cases brought before the court. He selected the appointment of Judge Atchoa, merely supplying his place *ad interim* till the 12th of April, when he was regularly appointed to the bench of the Superior Criminal Court by Kellogg, to supply the vacancy occasioned by the death of Judge Atchoa. Prior to the 12th of April he was merely judge *ad interim* by appointment of Judge Atchoa, but after that date his visitation of authority was by appointment and commission of the Governor of the State.

Judge Brangan's authority was questioned, and the legality of the Grand Jury impeached by him during his occupancy of the bench *ad interim* denied in a number of cases, which were appealed to the Supreme Court, and upon which decisions were provoked. In the first of these cases that of the State against Pete Phillips, convicted on an indictment found by the Frank Grand Jury—the one impeached by Brangan—before Judge Brangan, while acting as Judge *ad interim*, and by him sentenced to a term of five years in the penitentiary, the Supreme Court decided that "the statute No. 123 of the General Assembly of 1874, conferring on the Judge of the Superior Criminal Court the power to appoint an *ad interim* judge, is unconstitutional, because it provides a mode of choosing judges different from that prescribed in the constitution." 27 A. 663.

In this case the indictment, trial, conviction and sentence were all secured by Judge Brangan, who was acting as judge *ad interim* of the Superior Criminal Court, and the question exists in the Governor's mind whether or not the decision of the Supreme Court disposing of it does not taint with illegality all the acts of Judge Brangan prior to his impeachment by Kellogg. The Grand Jury of April, 1874, Fenderon and "Whisky Bill" were indicted by the Grand Jury, but were tried, convicted and sentenced subsequent to the twelfth of April and after Judge Brangan held the commission of the court, and that he was not then judge of the court, but was acting under an appointment from Judge Atchoa, the presiding judge. This we cannot do. We have no legal means of knowing whether Judge Atchoa presided in the court that day or not, even if Judge Brangan was legally appointed judge of that court. Nor can we tell when the Grand Jury was impeached. The fact which the counsel will use as an *assumpsit* should have been shown in some legal way by the record, if it is a fact.

This judgment simply decides that the court could not take judicial cognizance of the facts impeaching the authority of Judge Brangan to impeach the grand jury, upon which the appeal was taken, and amounts to nothing else. It is a forced enforcement of the legal requirement that all exceptions to the venue must be made on the first day of the term, otherwise they are considered as waived. This judgment was rendered on a *supersedeas* appeal, but previous to this *supersedeas* had applied for a writ of habeas corpus, which had been refused by the Supreme Court. In passing upon this application the court said:

"The only illegality complained of is the selection of the Grand Jury by G. H. Brangan, while he acted under the appointment from Judge Atchoa and before his commission by the Governor. Can this illegality be inquired into after conviction and sentence by the writ of habeas corpus?" The court said not, and that the writ of habeas corpus was not the proper remedy. "The writ of habeas corpus was never designed to be a writ of error, by which the errors or irregularities of final judgments could be reviewed."

So, the *supersedeas*, Pete Phillips, convicted of a minor offense, was liberated upon the ground that Judge Brangan was not the lawful judge of the Superior Criminal Court prior to April 12, 1874, and that none of his acts prior to that date are entitled to any credit whatever; but Fenderon and "Whisky Bill" are not discharged, as they are convicted on an indictment that has been decided to be of no effect, upon mere technicalities of practice. In the first instance it was decided that habeas corpus was not the proper remedy, and in the second that the court could not take judicial cognizance of a fact not presented in the pleadings. These are circumstances which may well perplex a conscientious official, and the Governor is very positive in his determination not to sign the death warrants of these men unless he shall become convinced that they have been legally indicted, tried and condemned. He is not disposed to question the decisions of the Supreme Court, as legal propositions, but he is not obliged, in the exercise of his legal discretion, to take cognizance of facts which would certainly have operated the release of these condemned men had they not been excluded from the consideration of the Supreme Court by a mere technicality? The Governor not only is a conscientious man, and he is also an excellent lawyer, and we have no doubt that he will in the end reach a just and righteous conclusion, and one which will protect the interests of society as well as do entire justice to the men themselves. The position is a very trying one, but it is one which cannot be evaded, nor is Gov. Nicholls the man to resort to evasions of any kind. In asking the question we deeply sympathize with him, but what is he to do? If he pardons these men he recognizes the legality of their convictions, and that there would be no harm in signing their death warrants. Shall he simply order, arbitrarily, their release? Were this done, say some of the doctors, they would be re-arrested and put on trial a second time, for no man can be in jeopardy twice for the same offense. It would be argued that the jeopardy resulting from an illegal conviction is not such as the law contemplates; but it would be the merest folly to say that these men are not in jeopardy, and the most serious error in legal arguments presented by those who claim that the Governor can only take into consideration such circumstances as would control him in ordinary cases; but there is no limit to the executive discretion, and the matter may be safely left entirely to the Governor.

WHAT HOTEL-KEEPERS SAY.

What Our Hotel-keepers Say About Our Needs for a Pacific Railroad.

Notwithstanding all that has heretofore been written and said in advocacy of the New Orleans Pacific Railway, it is our belief that at no time has its importance been more thoroughly appreciated and the necessity of its early completion been so generally recognized than at this present writing. Hundreds of those who, for one reason or another, opposed the scheme at its inception, have, to use the political term, "come over," and from the noisy thoroughfares of commerce to the more quiet suburbs, where the modest householder has his home, there come expressions of earnest desire to see this road completed and a new avenue to trade opened to our city. The apathy and largeness of which our people have for so long been accused appears to be breaking, and if the opinions gleaned from interviews with merchants, tradesmen and others can be any criterion, there can be but little doubt but what the property holder will realize the

MULTIPLUM BENEFITS.

to accrue, and with his capital come forward and build the small gap yet remaining to put us in close communication with the growing inland markets of Texas.

WHAT HOTEL-KEEPERS SAY.

A reporter of the DEMOCRAT dropped in upon Mr. Mumford, of the firm of Mumford & Watson, proprietors of that well known hotel, the City Hotel, and the case, already made plain, was made more so by that courteous gentleman.

Reporter.—Mr. Mumford, I have called upon you as connected with the hotel where probably more than anywhere else visitors from Texas resort, for the purpose of learning how far the recent encroachments of St. Louis have affected Texas trade, is that

Mr. Mumford.—Of course we have, sir; and a very great change, too. You can hardly tell how our business has been affected. Texas trade has dropped off of late since the two lines of railroad have been running through Northern Texas up to St. Louis.

Rep.—You, then, by the registered guests, can tell us, Mr. Mumford, why at one time there was hardly a train over the Morgan road that came in without bringing us from fifty to seventy-five guests. These arrivals were every day, and they came to

MAKE THEIR PURCHASERS.

and sometimes could not stay more than a day or two, and they would go to be replaced by more. Indeed, at one time we became so crowded we fitted up a large story over the 800-room hardware store, which was specially reserved for our Texas friends, and which was always full during the season. Owing to the falling off in travel we have not had occasion to use it for a long time.

Rep.—Do you think, Mr. Mumford, if our Pacific Railroad was completed to Texas, as projected, we would

once more?

Mr. Mumford.—Unquestionably. If we had rail communication to-day with Texas the results from it would be felt almost at once. Property would be enhanced in value, business would increase, and in every channel of commerce the benefits from this current would be felt.

Rep.—The Texans prefer dealing with the New Orleans merchants, do they not?

Mr. Mumford.—Yes, sir, and they would like it particularly if they did not have to cross the Gulf. A rule, the inland merchants have a horror of sea sickness, as do most other people, and if this rail communication was established, the trade would be much larger than it has heretofore been. I wish I could show you some registers of the hotel that are now packed away, for it would need but a moment's comparison between them and those of to-day to convince you of the large amount of travel here then and the loss we have sustained. It seems to me that every person who

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in New Orleans ought to recognize what seems a simple to those who by their avocation know best about the trade of this city. Visitors here always leave a considerable amount over and above what is required for necessities and outside of what might be called strictly inside of the term "the pocket money." This balance the value of property is too simple a proposition to require an answer, and what they invest strictly in business or trade every body knows is what gives a metropolis its wealth.

Rep.—Would not rents be increased if this tide set in towards us?

Mr. Mumford.—I believe they would, but all with whom I have spoken agree that they would willingly pay the advance, because the increase of traffic would mean a corresponding increase in the value of the property.

Rep.—The next gentleman called upon was

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of the commodious St. Charles Hotel, who was very emphatic in his views on the railroad question.

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Col. R.—With some warmth—"I'll give them to you with a great deal of pleasure, and I wish that something was done to push this great work forward, and that at once. To make the true condition of things plain, I will tell you that there need only to say that a few days ago I took the pains to look over the

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For the years 1870 and 1871. These registers show an average of forty or more arrivals by the Morgan Railroad daily. These arrivals would leave, outside of their ordinary bills, at least \$25 here. Now it is a rare thing for us to receive two days' travel.

Rep.—Has this travel fallen off then as much as this?

Col. R.—This is not all. It is not only in the falling off of those who formerly came here, but in the very trying one, which came to us, but they were nearly always accompanied by some one or two of their family. Now, in making their business trips, they go quickly by rail to St. Louis, transact what they have to do and return.

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Col. R.—There is none, sir. I can stand here and tell you almost with mathematical accuracy the condition of business here. I see by my own business falling off that the city is also suffering. I have seen a Texas being tapped by the Iron Mountain and the other line our books show what our trade with that State was and immediately following their opening how it fell off.

Rep.—This has materially advanced St. Louis in the last few days.

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