MEMPHIS APPEAL

OFFICIAL JOURNAL OF THE CITY.

SATURDAY MORNING, : AUGUST 5, 1871

☞ We wish all merchants to understand that this office will not be responsible for and will not pay any debts created by any individual connected with the office, in any capacity, unless the same shall have first been presented to and accepted for payment by G. W. Alexander, Business Manager of the APPEAL.

A CORRESPONDENT of an agricultural paper asks: "Where can wool be profitably grown?" We are of the opinion that there is no place where it can more profitably be grown than on the back of a sheep.—*Courier-Journal.*

From the sheepish character which the *Journal's* "Prenticeana" column has manifested for some time, we have rather suspected the *C. J.* had taken up the wool-growing business.

Grant's Usurpation Well Represented.

The best government the world ever saw seems to be very appropriately represented in Mississippi by certain emissaries yclept United States Marshals, who are engaged in working up Ku-Klux outrages. The Columbus *Index* represents them as "thieves and scoundrels, who would disgrace any position outside of a penitentiary:

"Huggins, accused of perjury and subornation of perjury.

"Whisler, with sworn information filed against him in two counties for robbery, and under arrest for a horrible murder; a dealer in counterfeit Confederate money during the war.

"Reid, said to be a defaulting sheriff from Nashoba county, with an indictment now pending over him, and the party who figured here under trial as an express robber, and was got off by the military, or rather the confusion between the civil and military authorities.

"Taliaferro, the swiftest witness ever found by the Outrage Committee in Washington, guilty of most reckless perjury, published as a horse-thief and a notorious scoundrel.

"These parties are believed to be engaged in a villainous conspiracy, working up cases in order to get the Governor's reward of $5000 for every Ku-Klux arrested—utterly unscrupulous, screened by the Government in their plans, still it is proof of disloyalty that the Southern people complain!"

Drop It.

The Selma *Times* says: "The hue and cry that is kept up by our cotemporaries over the New Departure, is rapidly accomplishing for the Radical party that which we had hoped they, in all their power and with all their patronage, could not do for themselves, to-wit: the re-election of President Grant." For that very reason we think it is time to drop it. There never was any good reason for introducing such a heresy at all, and less harm will come from abolishing it now than will come from continuing and forcing on the Democrats this semi-departure to Radicalism. The Democratic party was well, wished to be better, took Radical departure medicine, and here it is. We must begin again. With the *Times*, "we say to all sides, 'let us have peace.'" But we shall never have peace and submission from a patriotic and free people, so long as we attempt to stand with one foot on the rock of the Constitution and the other on the sea of usurping Radicalism. The present Democratic party, as made up of former Whigs and Democrats, has always hitherto stood on the platform of "principles, not men." The twig was bent to honesty, and the tree will not depart from it. It remains for trimmers and spoilsmen to force their departure from principle, or to return to their duty. In one case defeat is certain. In the other we may hope the patriotic rally for the Constitution may result in the re-establishment of good government and the security of Republican institutions.

Ohio Politics.

The Columbus (Miss.) *Democrat* (which, by-the-bye, for candor and ability ranks some of the cotemporaries of more reputation) says its means of obtaining information from Ohio are more than commonly good. It has carefully watched the canvass there so far, and says: "We give it as our deliberate opinion that the result of it will be the complete and overwhelming defeat of the Democracy. Like the Dent movement in Mississippi, the "new departure" there has divided and dispirited, and demoralized the party. Apathy and indifference prevail even in those localities where partisan feeling ran the highest. Large numbers will not vote at all, and those who intend to do so feel but little, if any, interest in the struggle. The cause of this deplorable condition of affairs is easily explained. The politicians, to advance their own selfish ends, disregarded the views and wishes of the people in the matter of framing a platform, and the people feeling deeply and keenly the indignity implied, are paying them in their own coin. Ohio is the State which gave birth to the "new departure," and is the field upon which the merits of that political device will first be tried. We are confident the issue will prove to be as we predict. If the country at large will take it as a condemnation of the policy of abandoning the principles of Democracy and entering a race with Radicalism for the spoils of office, it will not have been brought about in vain. Indeed, the disaster may prove of great practical benefit to us. It may be the means of driving dissension from our ranks. Convinced, by its teachings, that victories cannot be won, nor power regained by pursuing the tortuous paths of deception, chicanery and double-dealing, the men who are responsible for it may have the good sense to subordinate their selfish views to the wishes of the people in the future."

For the South Alone.

The Ku-Klux measure was not for the north. It *could not be safely executed there!* Grant dare not drag to Albany citizens from all portions of New York, as he would drag those of Mississippi to Jackson, or those of Tennessee to Nashville or Memphis. The Washington correspondent of the New York *Herald* (which is as good a newspaper as one of its lying proclivities could be) says:

Several hints have recently been in circulation here respecting certain movements of the judiciary in the Southern States, under the advice and instructions of the Attorney General's office, and there is already enough to show that the initiative has been taken to prosecute thoroughly, by the Federal authority, every instance of outlawry south of the Potomac which can by any system of torture be construed akin to a violation of the Ku-Klux statute. The department is extremely reticent concerning the plans which have been adopted in this particular, and the Attorney General, in the exercise of secrecy, has given explicit orders that reporters of the public press are not to be informed of anything whatever transpiring in that department of the Government.

As interference by the general government to suppress outlawry in the Northern States has been somewhat more loudly called for in that quarter since the passage of the Ku-Klux bill than by anything which has occurred in the Southern States, we may very fairly conclude the law was not made for general operation, and was expected to be made effective for a partisan purpose. All that is transpiring goes to show the execution of such designs. Whether Ulysses will succeed in re-electing himself with the aid of his carpet-bag agents, making arrests on suspicion of being a Democrat, and with the help of carrion-scavenger marshals, who never scruple, with a quick ear to suspicion, to make arrests, remains to be seen. We wonder if the White-Hall incest case, which proved to be nothing worse than a bouncing little contraband, which Eaton nosed out as in his line, and the Radical organ published for buncomb, could not, "by any system of torture, be construed akin to a violation of the Ku-Klux statute?"

No Success by Deserting Principle.

They are not few who believe it would be better to lose the race for the next presidency than to win it at the expense of accepting for true the doctrines of the usurpers. The proposition is the work of third-party men and clique politicians, who would destroy the Democratic and build up the Radical party, so only that they gain the spoils. Better, far better, the Democratic party should remain out of power for twenty years than gain power by advocating and asserting in their own behalf the iniquitous doctrines of the "higher law." If it is done in good faith it is a concession of principle. If in bad faith, we know not where we are to land by it; and if rogues are to take the helm, there is no choice among them worthy a heavy sacrifice of principle or anything else. The New York *Day Book* forcibly and well says:

All men of sense of both parties know perfectly well that the Fourteenth and Fifteenth amendments were designed to rob, and do rob, the States of certain powers which they never delegated to the Federal Government, powers which are indispensible to the freedom of the States, and which can never be surrendered without a total destruction of the system framed by our fathers. We believe there are enough of the true old-line Democrats and true old-line Whigs to form a *constitutional party* which will be able to effectually resist the monstrous delusion of conceding to "fraud and military despotism" the acquiescence due to *fundamental law.* At any rate, this monstrous demand of the old deserters from Democracy, that the principles of the party be killed as a condition of their return to it, will be resisted with a determination that the obtuse advocates of the "departure have not yet dreamed of. Vast numbers of intelligent Democrats honestly believe that it would be infinitely better to let Grant go in again, than for the Democratic party to succeed on the terms of such a surrender. *It never will succeed on such terms.*"

[OFFICIAL]

GENERAL COUNCIL.

CITY HALL, MEMPHIS, Apr. 2, 1871.

At a regular meeting of the Board of Mayor and Aldermen of the city of Memphis, on Wednesday evening at 7½ o'clock, August 2, 1871—present: Hon. John Johnson, Mayor; Messrs. President Moffett, Dwyer, Mackall, Cartwright, Holst, Cicalla, Bettis and Pendergrast.

A quorum being announced, the Chairman took his seat, called the members present to order, and had the roll of Aldermen called; when, on motion, the reading of the minutes of the proceedings of the Board, for the present, was suspended, and the pending business proceeded with.

Monthly reports were received from the following city officers: City Comptroller, City Treasurer, City Tax Collector, Wharfmaster, Market Masters (North and South), Hospital Physician (City and Marine reports), City Inspector, City Lamp Cleaner, City Recorder, Chief of Police, City Engineer (office expenditures and ward expenditures) and City Dispensary. For particulars touching the foregoing reports reference is made to the published proceedings of the Common Council of this date, August 2, 1871, where the reports (itemized) will be found at length.

The report of the Committee on Accounts was received and published at length in the Council proceedings of this date, August 2, 1871.

Resignations from the Hospital Physician for hospital stores, and City Register for blank report book and large scrap book, both granted by the Board of Aldermen and concurred in by Council, August 2, 1871.

Upon a resolution that the property owners on the east side of Peyton avenue, from Raleigh road to Safiarans street, be required to lay a sidewalk three feet wide within thirty days; your Board of Aldermen Improvement Committee report favorably.

Adopted by Board of Aldermen, August 2, 1871.

Upon a resolution that the property holders on both sides of Fourth street between Henkel alley and Jefferson street, be notified by the sergeant-at-arms to have their sidewalks graded and paved within the next thirty days; a doptedl by Council, July 6, 1871; referred to Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen Improvement Committee report favorably.

Report adopted by Board of Aldermen, August 2, 1871.

Upon a resolution that the City Engineer have laid down a crossing at the intersection of Alabama street and Exchange street extended, as soon as practicable; adopted by Council, July 6, 1871; referred to Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen's Improvement Committee report favorable, provided the side-walks to crossing have been laid.

Report adopted by Board of Aldermen, August 2, 1871.

Upon a resolution that the property owners on the west side of Winchester avenue, between the Memphis and Charleston railroad crossing and the plank walk, recently laid down by the city, be notified to lay down a plank sidewalk, inside of thirty days; adopted by Council, July 6, 1871; referred to Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen's Improvement Committee report favorable.

Report adopted by Board of Aldermen, August 2, 1871.

Upon a resolution that the City Engineer have laid down a crossing on Exchange street extended, in front of the alley between Bull Run street's intersection of Alabama and Exchange street extended, adopted by Council, July 6, 1871, and referred to the Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen's Improvement Committee report favorable, provided sidewalks have been laid.

Report adopted by Board of Aldermen, August 2, 1871.

Upon a resolution that the City Engineer have laid down a crossing on the alley on Mosby street, west of Winchester avenue, as soon as practicable; adopted by Council, July 6, 1871, and referred to Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen's Improvement Committee report that they are advised that there is no such alley as the one mentioned in the resolution.

Report adopted by Board of Aldermen, August 2, 1871.

Upon a resolution that the City Engineer have repaired, without delay, the plank sidewalk on Bull Run street; adopted by Council, July 6, 1871; referred to Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen's Improvement Committee report that the property owners repair the sidewalks mentioned in the resolution.

Report adopted by Board, August 2, 1871.

Upon a resolution that the property owners on the east side of Fourth street, between Exchange and Market streets, be notified by the sergeant-at-arms to have their sidewalks graded and paved within the next thirty days; a doptedl by Council, July 6, 1871; referred to Improvement Committee by Board of Aldermen, July 6, 1871; your Board of Aldermen's Improvement Committee report favorably.

Report adopted by Board of Aldermen, August 2, 1871.

The Improvement Committee, on the petition of J. G. Lonsdale and others praying for the opening and grading of Orleans street east to the corporation line, report favorably. Report adopted by Board of Aldermen, August 2, 1871.

The Improvement Committee, on a resolution that the City Engineer have the alley between Leonard and Orleans streets from Third street to the alley east graded, etc., report favorably. Report adopted by Board of Aldermen, August 2, 1871.

The report of the Special Committee and City Engineer, etc., that the property owners on the north side of Court, between Lauderdale and Orleans streets, be permitted to lay down plank, instead of brick side-walks, as the grading is not complete; adopted by Board of Aldermen, August 2, 1871.

The Ordinance Committee, in relation to the City Engineer's preparing a map of the city, etc., amended by the Board of Aldermen and passed a second and final reading, August 2, 1871.

Upon the petition of the Memphis and Arkansas River Packet Company, J. D. Adams, agent, asking permission to remove their wharf boat immediately below the St. Louis Packet Company's wharf boat. Referred by Board of Aldermen to their Landing Committee, July 5, 1871; prayer granted by Council, July 6, 1871; your Board of Aldermen's Wharf and Landing Committee report favorably.

Adopted by Board, August 2, 1871.

Upon a resolution that for the purpose of improving the wharf or landing, the building and lot on the southeast corner of Washington and Water streets be condemned for public uses as a street or part of the public landing, and that the Mayor be and is hereby authorized to appoint commissioners to value the same, referred to Council's Improvement Committee, May 4, 1871, your Council's Wharf and Landing Committee report favorably. Adopted by Council, June 7, 1871. Referred to Wharf and Landing Committee by Board, June 8, 1871; your Board of Aldermen's Wharf and Landing Committee report favorably.

Adopted by Board of Alderman, August 2, 1871.

Upon a resolution that six lamp-posts be erected on the levee, as follows: Two lamp-posts to be erected between Union and Monroe streets, two between Monroe and Court streets, and two between Court and Jefferson streets; referred to Gas Committee by Council, June 8, 1871; your Council's Gas Committee report in favor of two lamps between Union and Monroe streets, also one in front of tarpaulin shed, between Jefferson and Court streets; adopted by Council, July 5, 1871; referred to Gas Committee by Board of Aldermen, July 5, 1871; your Board of Aldermen's Gas Committee report favorably.

Adopted by Board, August 2, 1871.

Upon the petition of the colored congregation occupying Collins' Chapel, on Washington and Orleans streets, praying that a lamp post be placed at or near the corner of Washington and Orleans streets, referred by the Council to their Gas Committee, June, 8, 1871; your Council Gas Committee report favorable.

Resolved, That the prayer of the colored congregation be granted.

Report adopted by Council, July 5, 1871. Referred to Gas Committee by Board of Aldermen, July 5, 1871.

Your Board of Aldermen Gas Committee report favorably, provided the multiple be there, or to cost nothing to the city of Memphis.

Report adopted by the Board of Aldermen, August 2, 1871.

On a resolution that the City Engineer erect a lamp post on Talbott street, south side, 162½ feet from Shelby street etc.; Board of Aldermen's Gas Committee report favorably. Report adopted, August 2, 1871.

On a resolution that the Engineer erect lamp posts at sundry places on Hernando, De Soto, Calhoun, etc., etc., report favorable and adopted by Board of Aldermen, August 2, '71. See Council proceedings for particulars.

On the petition of T. B. Edgington, in relation to the erection of a factory contiguous to lot No. 399, of Mrs. Flynn, the Committee report that they have examined the premises and do not see that the erections are in violation of the Fire Ordinances. Report adopted by Board of Aldermen, August 2, 1871.

The petitions of Wm. Messick and Spalding & Bidwell, praying for a reduction of the City Privilege Tax on Theaters, etc., referred by Board of Aldermen to their Finance Committee.

The petition of John Finley, a cripple, asking aid from the city, etc., referred by Board of Aldermen to their Committee on Claims, August 2, '71.

The petition of the German Protestant Congregation, asking permission to erect a new Church building on the east side of Third street, north of the alley between Jefferson and Court streets. Prayer granted by Board of Aldermen, Aug. 2, 1871.

Upon the petition of Rice Dulen, asking compensation for use of his cistern water and injury done to his gate, etc., by the fire department, your joint Council's and Board of Aldermen's Fire Committee report adversely. Report adopted by Board of Aldermen, August 2, 1871.

Upon the petition of John A. Allen, asking permission to erect a frame building on the west side of DeSoto street, near the bridge, prayer granted by Board of Aldermen, August 2, 1871.

Upon the petition of Benjamin Fenton, President of the Oil Works, etc., on lots 424, 425, 426 and 427, west side of Front street, etc., on which the Oil Factory buildings and works stand, asking permission to erect certain platforms, etc.; referred by Board of Aldermen to his Honor the Mayor, City Attorney and City Engineer, for investigation, and report, August 2, 1871.

By Alderman Pendergrast:

Resolved, That the Market Committee shall fix the fees on the market stalls for the ensuing year, and report at the next regular meeting.

Referred to Market Committee.

By Alderman Pendergrast: A resolution that the property-owners on Rayburn avenue be instructed to lay down plank sidewalks within thirty days.

Adopted by Board of Aldermen, August 2, 1871.

By Alderman Pendergrast:

Resolved, That the City Engineer be authorized to have lamp posts erected at the following places: One midway between Shelby and Main streets, south side; one midway between Shelby and Tennessee streets, south side; one on northwest corner of Tennessee and Calhoun streets; referred to gas committee by Board of Aldermen, August 2, 1871.

When the Board adjourned to 7½ o'clock p.m., Wednesday evening, August 2, 1871. L. R. RICHARDS, City Register.

ADJOURNED MEETING, BOARD OF ALDERMEN.

CITY HALL, MEMPHIS, August 2, 1871.

At an adjourned meeting of the Board of Mayor and Aldermen, on Wednesday evening, August 2, 1871—present: Hon. John Johnson, Mayor; Messrs. President Moffett, Dwyer, Mallon, Mackall, Cartwright, Holst, Cicalla, Bettis and Pendergrast, Aldermen.

A quorum being announced, the Chairman took his seat, called the members present to order and had the roll of Aldermen called, when the unfinished business before the Board was taken up and proceeded with, etc.

Upon a resolution that oil lamps be erected on the old Raleigh road, between the intersection of Alabama street, and the intersection of Winchester avenue, the same to be put up under the supervision of the City Engineer, referred to Gas Committee of Council, June 8, 1871, your Gas Committee report favorably, and that the posts be placed three hundred feet apart.

Adopted by Council, July 5, 1871. Tabled by Board of Aldermen, July 5, 1871.

Upon a resolution that the City Engineer have two oil lamps erected on Mosby street, between Jones avenue and Winchester avenue, to be placed at a proper distance apart; also two on Mosby street, between Hill street and Winchester avenue; also one at the crossing of the Memphis and Ohio railroad on Winchester avenue, referred to Gas Committee, June 8, 1871, your Council Gas Committee report favorably, and also that one be placed on the west side of Winchester avenue, south of the railroad crossing or the Memphis and Ohio railroad.

Adopted by Council, July 5, 1871. Tabled by Board of Aldermen, July 5, 1871. Vote reconsidered and resolution adopted by Board of Aldermen, August 2, 1871.

An ordinance in relation to dogs was laid on the table by the Board of Aldermen.

By Alderman Cicalli:

Resolved, That the City Engineer be authorized to have lamp posts erected at the following places: One on the northwest corner of Vance and Mulberry streets, one between Vance and Pontotoc, on Mulberry street, and one on Hernando street, between Vance and Linden, at the proper usual distance apart.

Referred by the Board of Aldermen to their Gas Committee, August 2, 1871.

By Alderman Dwyer: A resolution that the City Engineer grade the alley between Main and Second streets, from Winchester to Concord street.

By Alderman Cartwright: A resolution that a lamp-post be erected between Madison street bridge and the Charleston railroad depot; adopted by Board of Aldermen, August 2, 1871.

BUSINESS FROM COMMON COUNCIL.

Upon the petition of Roush & Cunningham, claiming thirteen dollars from the city for alleged injury done to their wagon by the falling of Orleans street bridge, south of Vance street; referred by Board of Aldermen to their Committee on Claims; concurred in by Council by a like reference to their Claims Committee, July 5, 1871; your joint Board of Aldermen and Council Committee on Claims report favorably.

Adopted by Council, August 2, 1871, and concurred in by Board of Aldermen, August 2, 1871.

Be it ordained by the General Council of the city of Memphis, That section 31 of the Privilege ordinance, approved April 14, 1870, be amended to read as follows: "Every keeper of a junk or rag store, per annum, $125."

Passed first reading by Council; rules suspended and passed second reading by Council, August 2, 1871. Passed first reading, and, by a suspension of the charter, the ordinance passed second and final reading by Board of Aldermen, August 2, 1871.

Upon the petition of A. Cordes, in relation to an order of the General Council, requiring him to lay down sidewalks on the south side of Overton street, east of Third, praying for relief, referred by Council to their Improvement Committee, July 5, 1871; your Council's Improvement Committee report in favor of the original resolution that the owners of the above property be required to lay down plank sidewalks.

Adopted by Council, August 2, 1871. Concurred in by Board, August 2, 1871.

MEMPHIS, July 5, 1871.

To the Honorable General Council:

A plan for the extension of Main street north to the corporation line is herewith submitted. The cost of making the same in passable condition, the right of way being first obtained, is estimated to be $4500. Respectfully submitted,

J. H. HUMPHREYS, City Engineer.

Report received and referred to Council's Improvement Committee, July 5, 1871.

Your joint Improvement Committee report favorably; that the City Engineer advertise for bids for grading and building a wooden bridge; provided, however, that the right of way can be obtained without cost to the city.

Adopted by Council, August 2, 1871. Adopted by Board, August 2, 1871.

By Councilman Grehan:

Resolved, That the City Engineer be instructed to prepare a grade of Winchester avenue, so as to carry the water down said street, which has heretofore passed down Robeson street.

Referred by Council to their Improvement Committee, June 8, 1871. Your joint Improvement Committee report favorably, that the grade of Winchester avenue be so fixed as to comply with the resolution, and it is so recommended by the City Engineer. Adopted by Council, August 2, 1871. Adopted by Board, August 2, 1871.

To the Honorable General Council:

Your joint Improvement Committee respectfully report that they have opened the bid for building a culvert on Orleans and Jasmin streets. Bid of Joseph Haines: Excavation per cubic yard, 40 cents; building of culvert, per lineal foot, $5 46; brick work on wing wall, per 1000, $18. Bid of O. H. Piper & Co.: Excavation per cubic yard, 50 cents; building of culvert, per lineal foot, $5; brick on wing wall, per 1000, $19. We recommend that the work be awarded to Messrs. O. H. Piper & Co., as the lowest bidders.

Adopted by Council, August 2, 1871. Adopted by Board of Aldermen, August 2, 1871.

Upon the petition of Mary Flannery, praying for the opening of Fulton street, referred to Board of Aldermen's Improvement Committee, June 7, 1871, your Improvement Committee of the Board of Aldermen report that the Chief of Police notify all parties that have any obstruction on Fulton street, from Poplar to Market, to remove the same within thirty days, and that the City Engineer have said street opened; report referred to the City Attorney by Board of Aldermen, July 5, 1871; concurred in by Council, July 5, 1871.

I find, by reference to the records in the office of the Register, that on the 26th day of June, 1852, the Board of Mayor and Aldermen, by resolution, received the estimate of Joseph Wright for the filling of Fulton street, and directed the Recorder to certify on the back of the same that the city would pay the amount of the estimate when the street was required for use by the city, say ($584 56).

On the 15th of January, 1867, Francis Baird, as executor of Joseph Wright, transferred the benefit of the contract to Martin Reynolds, and afterward, on the 19th day of the same month, Martin Reynolds transferred the same to M. E. and J. W. Cochran, who now own it.

Upon paying the estimate the city has a right to open the street as prayed for.

W. M. RANDOLPH, City Attorney.

Received by Board of Aldermen.

By Alderman Bettis: A resolution that the Improvement Committee investigate the practicability of opening and improving Fourth street from Court to Madison street.

Report of the Real Estate Committee on the petition of J. A. Speed, etc. Report referred to a special committee of Board of Aldermen—Messrs. Cartwright, Dwyer and Bettis—August 2, 1871.

The petition of Charles Jones, in relation to his claim against the city for the erection of Gayoso street bridge, etc. Referred by Board of Aldermen to their Committee on Accounts.

Report of the Finance Committee on the application of W. B. Greenlaw, to have the city transfer the Memphis and Little Rock railroad stock on the books of the company to him, the Committee report favorably.

Adopted by Board of Aldermen, August 2, 1871.

By Councilman Ruffin:

Resolved, That the City Attorney be requested to report at the next regular meeting whether or not the city is liable for damage done by the Fire Department to cisterns or any other property upon the premises of other parties. Adopted by Council, July 5, 1871.

In my opinion, the city is not liable for damages done by the Fire Department in extinguishing fires. Section 20, of article 4, of the ordinances to be found at page 282 of Bridges' digest, prohibits the Fire Department, or any member thereof, from damaging or destroying any property, public or private, unless it shall be positively necessary to preserve or protect property that is in immediate danger of being destroyed or damaged by fire, and then only in obedience to the orders of the Chief Engineer, or a Captain. The duty could not be the same without the ordinance. If, therefore, a fire company damages or destroys property *unnecessarily*, the parties causing the damage or destruction act in violation of duty, and are trespassers, and are personally liable to the owner of the property for the loss they occasion; but the city is not liable for such loss.

If the property is destroyed or damaged from *positive necessity*, to preserve or protect property that is in immediate danger of being destroyed or damaged by fire, then such necessity is a perfect protection to the fire company causing the destruction or damage, and neither such fire company, nor the city, is liable to the owner of the property for the loss he sustains.

This doctrine results from the implied assent of every member of the community that his own individual welfare shall, in all cases of necessity, yield to that of the community; and that his property, liberty and life, shall, under certain circumstances, be placed in jeopardy, or even sacrificed, for the public good.

The doctrine is well settled in England, where it is said, "No one ever thought the common law gave an action against an individual who pulled down a house, or raised a bulwark on private property, for the defense of the kingdom against the King's enemies, or the pulling down of a house, when necessary, in order to arrest the progress of a fire."

It is also the common law of the American States. In some of them it has been modified, or partially superseded by statutes, as in the State of New York.

The statute of New York is commented on, and the common law stated and discussed in the cases of Mayor, etc., vs. New York; 25 Wendell's R., 157, and Russell vs. the Mayor, etc., of New York, 2 Denio R., 461. There are also numerous other cases in the same State, and cases to the same effect in New Jersey, California and other States. Chancellor Kent, p. 338-9, vol. 2, of his commentaries states the law the same way.

In Tennessee we have no statute on the subject, and consequently the common law rule prevails.

The damaging or destruction of property for the purpose of saving other property from damage or destruction is not the taking of private property for public use within the meaning of our constitution. It is the exercise of a right or power that belonged, at common law, to every individual who might always justify the destruction of property to the owner, by showing the necessity of his doing so to save life or other property. The distinction between the exercise of this power and the taking of private property for public use, is clearly set out in the authorities already referred to.

While it may appear, and really is, harsh that the property of one man may be destroyed or damaged to save another's, without compensation to him, yet such is the law, and until there is legislation by the State on the subject the persons injured are without remedy.

W. M. RANDOLPH, City Attorney.

Report received and adopted and ordered published. Concurred in by Board of Aldermen, August 2, 1871.

By Alderman Mackall:

Resolved, That the pay of the stationhouse and Recorder's clerk be increased from $100 per month, to $125 per month.

Alderman Holst, being seconded, moved to lay the resolution on the table, which was lost by the following vote: Ayes, Cicalla and Pendergrast—2; nays, Dwyer, Mallon, Mackall, Cartwright and Bettis—5.

When, on motion, the resolution was referred to the Board of Aldermen's Finance Committee, August 2, 1871.

The petition of H. H. Hampson, and divers others, that the public alley, between Beale and Gayoso streets, on Hernando street, nearly opposite the South Market-house, is a public nuisance, and pray that the same be abated. Referred by Board of Aldermen to their Improvement Committee. Prayer granted by Council, August 2, 1871.

By Councilman Smith:

Resolved, That the Chickasaw Boat Club have permission to keep their boat-house where it is now moored, between Jefferson and Adams streets.

Adopted by Council, August 2, 1781 Concurred in by Board, August 2, 1871.

By Councilman Grehan:

Resolved, That all bids hereafter submitted to the General Council be opened by the Secretary in open Council.

Adopted by Council, August 2, 1871. Laid on the table by Board, August 2, 1871.

By Councilman Smith:

Resolved, That the Chief of Police be directed to have the cabins removed on Sixth street immediately. Adopted by Board, August 2, 1871. Laid on table by Board of Aldermen, August 2, '71.

By Councilman Smith:

Resolved, That the City Engineer be directed to place wooden crossings at the intersection of Seventh and Alabama streets, both across Seventh and Alabama streets. Referred to City Engineer. Concurred in by Board, August 2, 1871.

By Councilman Smith:

Resolved, That the City Engineer be directed to place wooden lamp posts at the following places, to wit: One at the corner of Jackson and Fifth streets, one at the corner of Jackson and Seventh streets, one at the corner of Georgia and Seventh streets, one at the corner of Broadway and Seventh streets, and one at the corner of Alabama and Seventh streets.

Referred to the Gas Committee by the Council, August 2, 1871. Concurred in by the Board of Aldermen, August 2, 1871.

By Councilman Twohig:

Resolved, That the Sargeant-at-Arms be authorized to notify the property-owners on the South side of Vance, between DeSoto and Lauderdale streets, to repair and put down a brick sidewalk within the next thirty days.

Adopted by the Council, August 2, 1871. Adopted by the Board of Aldermen, August 2, 1871.

Alderman Holst: A resolution that the City Engineer have erected lamp posts on Union street, between Clinton street and the ferry landing.

Adopted by Board of Aldermen, August 2, 1871.

When the minutes of the proceedings of the Board of Aldermen, on the 5th of July, 1871, were read and adopted.

Thereupon the Board adjourned until to-morrow (Thursday) evening, July 3, 1871, at 7 o'clock. L. R. RICHARDS, City Register.

ADJOURNED MEETING, BOARD OF ALDERMEN.

CITY HALL, MEMPHIS, August 3, 1871.

At an adjourned meeting of the Board of Mayor and Aldermen, held Thursday evening, August 3, 1871—present: Hon. John Johnson, Mayor; Messrs. Chairman Moffet, Dwyer, Mallon, Cartwright, Holst and Bettis, Aldermen.

A quorum being announced, the Chairman took his seat and called the Board to order, and had the roll of Aldermen called, when the minutes of the previous meetings, July 5th, 6th and 18th, were read and adopted.

BUSINESS FROM COMMON COUNCIL.

By Councilman Eshmann:

Resolved, That the Street Commissioner be instructed to have the hack stands around Court Square cleaned up every Saturday during the summer season, this being required as a sanitary measure.

Adopted by Council, August 2, 1871. Amended by Board to read "City Engineer" instead of "Street Commissioner," and "twice per week" in place of "every Saturday." Adopted by Board, August 3, 1871.

By Councilman Zent:

Resolved, That the owners of property on the north side of Market street, and opposite Fourth street, be required to lay down brick sidewalks within the next thirty days.

Adopted by Council, August 2, 1871, and concurred in by Board, August 3, 1871.

By Councilman Zent:

Resolved, That the owners of the property southeast corner of Auction and Front (or agents of same) be required, within the next thirty days, to lay down a brick sidewalk on Auction street, and repair same on Front street, the same being impassable in rainy weather.

Adopted by Council, August 2, 1871. Concurred in by Board, August 3, 1871.

By Councilman Zent:

Resolved, That the owners of property northeast corner of Third and Overton be required, within the next thirty days, to grade and lay down a brick sidewalk from Overton street running north to the alley.

Adopted by Council, August 3, 1871. Concurred in by Board, August 3, 1871.

By Alderman Mackall:

Resolved, That the property-holders on the north and south sides of Court street be required to have the gutters cleaned and repaired, from Second street to the bayou, without delay.

Adopted by Board, August 3, 1871.

Whereupon the Board adjourned until the next regular meeting.

L. R. RICHARDS, City Register.

ADJOURNED MEETING, COMMON COUNCIL.

CITY HALL, MEMPHIS, August 3, 1871.

At an adjourned meeting of the Mayor and Common Council of the city of Memphis, on Thursday evening, August 3, 1871—present: Hon. John Johnson, Mayor; Messrs. Zent, Walsh, Chase, Lightburne, Amis, Eshmann, Maistesta, Bachman, Ruffin, Harvey, Signaigo, Twohig, Bennett, Grohan, Reder and Smith, Councilmen.

A quorum being announced, in the absence of President Duncan, Councilman Ruffin was called to the chair. On taking his seat he called the members present to order and had the roll of Councilmen called, etc., when the unfinished business before the Council was taken up and progressed with.

BUSINESS FROM BOARD OF ALDERMEN.

Upon the petition of J. G. Lonsdale, and divers others, praying for the opening, grading and improving Madison street, from Orleans street east to the corporation line; referred by Board of Aldermen to their Improvement Committee, July 5, 1871; Concurred in by Council, July 5, 1871; your joint Board of Aldermen's and Council's Improvement Committee report that they recommend the reference to a special committee of one from Board of Aldermen and two from Council to ascertain the cost for the right of way, etc.

Adopted by Board of Aldermen, August 2, 1871. Concurred in by Council, August 3, 1871.

Upon a resolution that the City Engineer have the alley between Concord and Overton streets, from Third street to the alley east, graded to the regular grade; referred to the Improvement Committee of the Board of Aldermen, July 5, 1871; concurred in by Council, July 5, 1871, by a like reference; your Joint Board of Aldermen and Council's Improvement Committee report favorably.

Report adopted by Board of Aldermen, August 2, 1871. Concurred in by Council, August 3, 1871.

Upon the petition of J. J. Amonett, asking to be relieved from laying a brick sidewalk in front of his property on the north side of Court street, between Lauderdale and Orleans streets; referred to City Engineer and City Attorney by Council, July 5, 1871; your Special Committee, City Engineer and City Attorney, recommend that the property owners on the north side of Court, between Lauderdale and Orleans streets, be permitted to lay down plank sidewalks instead of brick, as the street grading is not complete.

Report adopted by Board of Aldermen, August 2, 1871. Concurred in by Council, August 2, 1871.

Resolved, That a committee of three, with the City Attorney, be appointed to make an ordinance by which parties subletting land within the corporate limits may be obliged to lay out streets as near as possible in line with surrounding streets.

Referred to Committee from Council and Board of Aldermen.

In accordance with the above resolution, we have prepared and herewith submit an ordinance.

Report received and adopted.

An ordinance to provide for a map of the city, and for the opening of new streets, etc.

SECTION 1. Be it ordained by the General Council of the city of Memphis, That it shall be the duty of the City Engineer to prepare and submit to the General Council, for its approval, a map of the entire city, showing therein all the streets, lanes and alleys in the city, already dedicated or used as public highways, and also such additional streets, lanes and alleys as are proposed to be hereafter laid off and opened through the property not already subdivided.

SEC. 2. And be it further ordained, That when the said map shall be approved by the General Council, all the streets, lanes and alleys hereafter to be laid off in the city shall be made to conform to the streets, lanes and alleys appearing upon the said map, and no ground for a street, lane or alley shall be accepted by the city, or shall be recognized, opened, improved, maintained or used as a public highway by the city, unless the same conforms to the said map; nor even then, until the owner of such ground shall make, acknowledge and deliver to the city a proper conveyance of said ground, vesting in it the title thereto in fee simple absolute.

Amend by adding Section 3 as follows: "SEC. 3. And be it further ordained, That each property-owner contemplating a subdivision of his property, or the laying off of streets, lanes or alleys through the same, shall first consult the City Engineer in reference thereto, and shall obtain from him such information and instruction as will enable him to conform to the requirements of this ordinance."

SEC. 4. And be it further ordained, That this ordinance take effect and be in force from and after its passage, and that all ordinances inconsistent with this ordinance be, and the same are hereby repealed.

Passed first reading by Council, July 5; rules suspended under charter, passed second and final reading by Council, July 5, 1871. Passed first reading and referred to Ordinance Committee by Board of Aldermen, July 5, 1871.

We, your Committee from Board of Aldermen, report favorably, as amended.

Passed first reading by Board of Aldermen; rules suspended in accordance with the charter, and passed a second and final reading as amended.

Passed as amended first reading by Council; rules suspended as per charter requirements, and passed second and final reading by Council, August 3, 1871.

Upon a resolution that the City Engineer be instructed to erect one lamp post on the south side of Talbot street, 162½ feet from Shelby street, on the corner of the alley, between Shelby and Main streets, which was referred to Gas Committee, July 5, 1871, and concurred in by Council by a like reference to their Gas Committee, July 6, 1871, the joint Board of Aldermen and Council Gas Committee report favorably. Report adopted by Board of Aldermen, August 2, 1871, and concurred in by Council, August 3, 1871.

Upon a resolution that the City Engineer be authorized to have lamp posts erected at the following places: One on the northwest corner of Calhoun and Hernando road; one midway between Hernando road and DeSoto street, south side; one midway between DeSoto and Hernando streets, wood posts and oil lamps, south side; one on the northeast corner of Hernando and Calhoun streets; one midway between Hernando and Avery streets, on Calhoun, south side; one on the northeast corner of Avery and Calhoun streets; one on the southeast corner of Calhoun street and Raburn avenue; one on the northeast corner of Causey and Calhoun streets; one at or near the Gayoso bayou, south side; one at the corner of St. Martin and Calhoun streets, northeast corner. Referred to the Gas Committee of the Board of Aldermen, July 5, 1871. Concurred in by Council, July 5, 1871, by reference to their Gas Committee. Your Joint Board of Aldermen and Gas Committee report favorably.

Report adopted by Board of Aldermen, August 2, 1871. Concurred in by Council, August 3, 1871.

Upon the petition of T. B. Edgington, in relation to the erection of a factory contiguous to lot No. 399 of Mrs. Flynn, praying for relief, etc., referred by Council to their Fire Committee, July 3, 1871.

The Fire Committee, having examined the premises, cannot see that the Fire ordinance is in any way violated, but would recommend that the Chief of the Fire Department cause Messrs. Ames, Beattie & Co. to remove the entire amount of lumber, mattresses, etc., from the north wall of Mrs. Flynn's house.

Adopted by Board of Aldermen, August 2, 1871. Concurred in by Council, August 3, 1871.

On the petition of the Trustees of the German Protestant congregation, asking permission to erect a frame building on the east side of Third street, north of the alley between Jefferson and Court streets, etc. The F