The New Orleans Bee.

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NEW ORLEANS DAILY BEE

DUFOUR & LIMET, PUBLISHERS,

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TERMS OF THE BEE.

Subscription—Daily, per annum, in advance, $10; half yearly, $5; quarterly, $2. Five paper—single copies, 10 cents.

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PER YEAR.....$3.

NEW ORLEANS:
SUNDAY MORNING, DEC. 25, 1870.

Amusements This Evening.

ACADEMY OF MUSIC—"Le Voyage en Chine."

VARIETIES THEATRE—Miss Julia Thompson in "Paris or the Apple of Discord."

FRENCH OPERA HOUSE—"The Gaiety Comique and "Female Minstrels."

We procure so valuable a Christmas present wife, at so little cost, as a year life in the Continental.

OTHER COMMENTS ON THE MAYOR'S MESSAGE.

The message of Mayor Flanders to the Council, upon which we made some remarks yesterday, is well worthy the study of all who feel an interest in our civil affairs. It contains a full and faithful of the present condition of government in all its departments, and suggests the remedies applicable to the various evils from which the city now suffering. There is one part of the message which particularly demands the early attention of those who have the power of amending the laws of the State. We mean the Mayor's observations on the working of the city charter and relations of the members of the Council with their presiding officer. Referring to the statements of Mr. Flanders, the Mayor under the charter is the driver of the coach, having no vote in Council nor the power of vetoing ordinances adopted by his colleagues, and he has no power over their expenditures. He has only such influence over them as they may be disposed to recognize that is to say, the Mayor is the figure head of the city government and only an ornamental member of the same. As we remarked yesterday, the government of the city resides in the Board of Administrators, and City Hall being the mere agents of the Governor Warmoth, who, it is well known, required from each of those whom appointed a letter of resignation with a blank date, which he could fill in at pleasure, and which he held in *terrorem* over their heads. Whether this be true or not, it is undeniable that no member of the Council, who wishes to remain in office, would undertake to oppose the will of Governor Warmoth in the smallest details of the City Hall. In creating and appointing the inferior officers and employees there is no power of him to make such changes. We see how adroitly Gov. Warmoth has thrown advantage and that of his friends in the charter which, in its main features, was devised by his political adherents.

Mayor's recommendations in regard to prisoners sentenced by the Recorder, cost of the Coroner's department, city administrations, and the cost of city printing, must command the attention of our citizens. He tells us that the cost of keeping the prisoners has run from twenty-seven thousand dollars in 1867 to eighty-five thousand dollars in the form of the Coroner, which in 1868, and prior thereto, from thirteen to thousand dollars, and in 1869 were substituted by a salary of thousand dollars, now amount to thousand dollars per annum. The annual cost of the city printing in 1852 to 1858 varied from nine hundred to thirty-five thousand dollars, the present expenditure reaches as high as thousand dollars. These expenses for prisoners, for coroner's office and for printing being beyond the control of the Council. State legislation necessary before any reform can be had. A retrenchment exceeding seven thousand dollars on expenditures for these purposes alone, the Mayor says could and ought to be effected. While the cost of salaries of city employés, by reducing them to the standard of previous administrations, one hundred and dollars more can be saved. We have observations on the message to-day appending its concluding paragraphs.

The comparison of the estimates of receipt with previous expenditures of the city, it must be borne in mind that in comparing our expenditures with those of such large cities as Boston, which is to be extravagant, and which have made the city into its present great dimensions, the comparison is not fair to our estimate.

We pointed out a few of the items of city expenditure wherein we think retrenchment and economy may be practiced, and I express an opinion that, with the efforts in those directions, the estimated amount of current expenditures for the year 1871, may be reduced four hundred thousand dollars. This, added to reduction of the police and other taxes, which may be asked the Legislature to authorize, will relieve the city of the burden of at least eight hundred thousand dollars. Now, if we turn to the total amount of receipts for the coming year, I think it may be easily shown that, through an excess of caution, the estimated receipts were made two hundred thousand dollars less, than by a rigid construction of the revenue laws would be secured to the city. A total relief from thus be afforded of one million of dollars.

To secure this result, it is, of course, necessary that rigid economy and retrenchment should be exercised, and no extravagance or delinquency on the part of city officials in any respects is intended against any department of the city government. It is of course, expected when this reform went into effect that the result would not only be greater vigor of administration, but greater economy also. The new plan of city government has undoubtedly many advantages. It has been pointed out the fact that there is natural tendency to have seven city officials, acting independently, or nearly so, each other, instead of one, each of whom, after expecting and assuming to himself all the business of the city, refusing the petition for rehearing, the several writs of error operate as a supersedeas and stay execution, under the 25th section of the Judiciary act. 2 How., 338. 6 Wall. 155.

Sufficient bonds were given in each of these cases as to the writs of error, and for to operate as a supersedeas and stay execution on the judgments and were filed in time. 6 Wall, 195.

Writs of error issued under the 25th section of the Judiciary act have the same effect as if the judgments or decrees were rendered in a Circuit Court.

Such a writ of error is in the nature of a commission by which the Judges of one court are authorized to examine a record upon which a judgment or decree was given in another court; and has the effect when all the necessary conditions are complied with, to remove that record into the court granting the writ of error; and the 25th section of the Judiciary act provides, that the jurisdiction of the subordinate court where the record remained when the writ of error was sued out and served, shall be suspended until the cause is remanded from the appellate tribunal. 6 Wheat., 410. 20 How., 437. 5 Wall., 192.

Where, under the law the judgment of the highest court is required to be returned to the subordinate for execution, it is error from this court will operate as a supersedeas, if granted and served within ten days from the return entry of the proceeding in the court from which the record was removed. 3 Wall., 486, 450. 2 Wheat, 336.

Writs of error do not become a supersedeas and stay execution by virtue of any process issued by this court merely as such; the act of Congress, where the conditions prescribed by the 25th section of the judiciary act are complied with, operates to suspend the jurisdiction of the subordinate court and stay execution until the case is remanded. 14 How. 336, 2 How. 185, 18 How. 505, 16 How. 148.

All the conditions necessary to give the writs effect as a supersedeas and stay execution were complied with in these cases, and if the subordinate court should proceed to issue the mal process, it is incompetent for this court to issue a supersedeas, as an exercise of appellate power to correct the error. 2 How. 75.

The court has no power to grant the remedy in such a case, even before the return day of the writ of error, and any injunction or attachment for such a purpose from the time the party in whose power the writ was granted, has complied with the requirements of the law to operate as a supersedeas and stay execution. 7 Wall. 575.

The supersedeas cannot be granted because nothing has been done by the Supreme Court of the State since the writs of error were served and became a supersedeas, inconsistent with the prohibition contained in the acts of Congress which gives the writs of error that effect.

Beyond that legal appeal, in the form granted by the subordinate court, operated as a stay of execution and suspended the jurisdiction of the court to proceed further in the cause until the same should be remanded.

Independent of statutory regulations, the form of supersedeas has little or no application in equity suits.

An appeal from the decision of the court denying the application for an injunction does not operate as an injunction or stay of proceedings pending the appeal; nor does an appeal from an order dissolving an injunction suspend the operation of the order so far as to entitle the appellant to stay the proceedings pending the appeal, as a matter of right, either in a suit at law or in equity.

Neither an injunction nor a decree dissolving an injunction granted in a circuit court is reversed or nullified by an appeal or writ of error before the cause is heard and decided.

Judgments and decrees of the State, as well as the Circuit Courts, are brought here for examination, and the only effect of the appeal or writ of error, each of the tribunals, instead of one, each of which, after expecting and assuming to it