

Resolved, That a Committee be appointed to amend and reverse the Act of Incorporation and that the Recorder be requested to have a Draft of the same prepared as soon as possible to be submitted to the City Council for their consideration, in order that a Bill may be prepared for the continuation of the Act of Incorporation to be laid before the Legislature at the approaching Session which is being but is passed.

Resolved, That Aldermen Poyer Fairbanks, Caldwell Jennings Nesumeon & Mr. Billings be the Committee.

Read following Petition of Matthew Martin as also Overseers Certificate:

To His Worship Andrew MacKenlay Esquire Mayor of the City of Halifax of the Province of Nova Scotia in Council. & & &  
 The Petition of Matthew Martin of the City of Halifax  
 Humbly Sheweth

That your Petitioner entered into a certain Contract with the legal authorities of the City of Halifax to complete a Drain situated in Gerrish Street according to Specification for the stipulated sum of thirty two pounds ten Shillings, which work has been duly performed as may be seen by the Certificate annexed to this

Petition, that Your Petitioner is much in want of the said sum of money in order to liquidate claims incurred upon him in completing the said Work. He humbly hopes that Your Worship in Council will please order and direct that the said money will be paid to him without further delay and Your Petitioner will be ever grateful for the same.

Dec<sup>r</sup>: 22<sup>d</sup> 1845. (Signed) Matthew Martin.

I do hereby Certify that I superintended the Drain built by Matthew Martin in Gerrish Street from the time of my removing until the same was completed which was full two thirds of the work, and that said Drain is finished in the usual manner Contract work is done, and I do further Certify that I have reason to believe from enquiry I have made that the former part of said Work was done in the same manner.

(Signed) Jacob Currie

When the following Resolution is introduced:

In compliance with a Resolution of the City Council of 12<sup>th</sup> August last that a sum of twenty pounds should be granted from the general fund of Commissioners of Streets for the completion of a Drain in Gerrish Street and the same having been completed for some time past.

Resolved, That His Worship the Mayor be authorized to draw a check for that amount as part payment of said Contract.

To which the following Amendment is introduced:

Resolved That the sum of Thirty two pounds ten shillings be paid Matthew Martin being the full amount of his contract for a Drain in Gerrish Street.

Which amendment being put is passed, the original Resolution is therefore lost. And the names being called for stood thus:—

— For the amendment —

Messrs Thompson  
 Hugg  
 Fairbanks  
 Bellings  
 Cleary  
 Sinclair  
 Waters  
 Black  
 Pryor  
 Hunter. 10

— Against it —

Messrs Newman  
 Clarke  
 Richardson  
 Mignowitz  
 Jennings 5

Read Report from Commissioners of Streets on subject of accounts of Commissioners of Streets of Wards No 5 & 6.

Read Report of Jacob Curie on the same subject.

Read Minutes of Commissioners of Streets of 22<sup>d</sup> and 29<sup>th</sup> November and of 13<sup>th</sup> and 16<sup>th</sup> December on the same subject, when after some discussion the Council adjourn until tomorrow at two o'clock.

Halifax December 24<sup>th</sup> 1845

An Adjourned Meeting of the City Council held this day Present His Worship the Mayor, Aldermen Pryor, Caldwell, Jennings, Kemmeon, Fairbanks and Winters. Messrs Cleary, Richardson, Thompson, Mignowit, Hunter, Clarke, Creamer and Rugg.

Read over proceedings of yesterday.

On Motion Messrs B. C. Breken and James W. Merkel were appointed Firewards for Ward No 5.

— Warder of Kay —

John W. Purp

— Fence Viewers —

William S. More

Henry Hopkins

Robert Graham

The following account is ordered to be paid.

Edward Young for expediture at Police Office 23 Dec 1845 \$10.50

Read Petition of Messrs Hopkins on subject of their Apperment for 1845, when the following Resolution is introduced

Resolved, That Messrs Hopkins having made their appeal and the same having been decided upon at a full Meeting of the Council it is incompetent for the Council to take any action on the subject.

Which on being put is passed.

Read the Report of Commissioners of Streets on subject of accounts between Wards No. 5 & 6, when the following Resolution is introduced:

Resolved, That the Report just read be received and entered on the Minutes of the Council,

to which the following amendment is introduced:

Resolved, That the Report now on the Table be referred to the Commissioners of Streets in order that Mr. Winters may be heard upon it.

Which amendment being put is lost by the casting vote of His Worship.

The Original Resolution is then put and carried, and the names being called for they stood thus

For the Resolution Messrs Kemmeon, Creamer, Clarke, Richardson,

Mignowit, Jennings, Rugg, Hunter, Fairbanks & Black

Against the Resolution Messrs Sinclair, Billings, Cleary, Winters, Pryor & Caldwell.

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— December 24<sup>th</sup> —

The following Resolution is next introduced:

Resolved, That the further consideration of the report of Commissioners of Streets between Mr. Hunter and Mr. Newman be dismissed.

which Resolution being put is passed, and the names being called for stood thus:

— For the Resolution —

- Mr. Newman
- Thompson
- Creamer
- Clarke
- Richardson
- Minority
- Jennings
- Rugg
- Hunter
- Fairbanks 10.

— Against the Resolution —

- Mr. Sinclair
- Billing
- Glenn
- Pryor
- Caldwell
- Black 6.

Mr. Alderman Pryor gives notice for the reconsideration of this matter at the next meeting of the Council

The Council then adjourned

Halifax December 29<sup>th</sup> 1845

B. C. Brehm having taken the oath of Office required by Law is this day sworn into Office as Fire Ward for the City of Halifax in presence of His Worship the Mayor.

James H. Mersel having taken the oath of Office required by Law is this day sworn into office as Fireward for the City of Halifax in the presence of Alderman Hemmison

Halifax January 2<sup>d</sup> 1846

John Fay, Lewis Jacobs, Hugh Lyle, Patrick Walsh, Joseph Mier, Joseph Whidden, Samuel Kay, John Cleverdon, John Longard jun, James Isles, W. J. Coleman, A. L. West, Alex. McDonald, Joshua Brush, and John J. Longard having taken the oath prescribed by Law are this day sworn into Office as Fire Constables for the City

January 3<sup>rd</sup> Charles Murdock having taken the oath prescribed by Law is this day sworn into office as Fire Constable for the City

January 8<sup>th</sup> John Silver having taken the oath prescribed by Law is this day sworn into Office as Fire Constable for the City

January 15<sup>th</sup> George O'ron, Joseph Milward, John Bauer, Thomas Bauer and Charles Robson having taken the oath prescribed by Law are this day sworn into Office as Fire Constables of the City

Halifax January 16<sup>th</sup> 1846.

At a Special Meeting of the City Council held this day  
Present His Worship the Mayor, Aldermen Pryor, Caldwell,  
Jennings Hemmison, Fairbanks & Deputies. Messrs Anderson  
Cleary, Richardson, Thomson, Sinclair, Black, Mignowitz  
Hunter, Clarke, Creamer, Billing and Rugg.

Read over proceedings of 24<sup>th</sup> December last.

The Council were summoned to take into consideration  
the subject standing over from last meeting - The By Law  
relative to the Watch - The Subject of Weighing Machine  
the appointment of several Fire Constables, and the transacting  
of other business.

Mr. Alderman Hemmison Chairman of the Committee  
on the subject of the Opinion of His Honour the Recorder and the two  
legal Gentlemen whose Opinion they were requested to obtain  
on Subject of Assessments on the various Banks, hands  
in the said Opinions, as also the following Report:

The Committee appointed to obtain opinions  
from His Honour the Recorder, and two other  
professional Gentlemen on the present assessment  
laws, beg leave to report that they have performed  
that duty, and now submit the opinions of His Honour  
the Recorder, Messrs Young and Gray, for the consideration  
of the Council.

The Committee take leave to recommend to the  
Council, that as some ambiguity in the said Acts  
appears to exist, that His Honour the Recorder -  
together with Messrs Young and Gray, be directed to  
prepare a Bill in amendment of the present Acts  
to be submitted to the Legislature for their approval at  
as early a day as practicable.

(Signed) A Hemmison  
Chairman

Which opinions and report, on motion are ordered,  
to lie on the table until tomorrow.

The Council next proceed to take into consideration  
the subject standing over from last Council viz the  
report of Commissioners of Streets on subject of  
between Commissioners of Streets of Wards Nos 5 and 6  
when following resolution is introduced

Resolved that the report of the Commissioners  
of Streets relative to the between Commissioners

of Streets of Wards Nos 5 and 6 be again referred to these Gentlemen to afford an opportunity to Mr Alderman Winters to be heard upon them, and that the decision of the Commissioners of Streets be final and conclusive, between the Parties

To which the following amendment is introduced

Resolved that the subject of difference between the Commissioners of Wards Nos 5 and 6 having been so fully investigated both by the Boards of Commissioners of Streets and by the Council at its last Meeting - it is not expedient to consider further the matter and therefore confirm the record now on the journals of the Council

Which amendment being put is carried - the original resolution is therefore lost, and the names being called they stood thus

For the Amendment	Against it
Mr Messmore	Mr Anderson
Creaner	Billings
Richardson	Cleary
Seunings	Sinclair
Thompson	Winters
Clark	Black
Rugg	Caldwell
Hunter	Proyer 8
Fairbanks	
Magnovitz 10	

Read a Bye-law or ordinance relative to Watch first time

Read following report on Subject of Weigh Scales:

"The Committee of Weigh Scales met this day for the purpose of opening the several tenders according to the advertisement in the papers, made under a resolution of the Council on the 13<sup>th</sup> November and agree to submit the same at the next meeting of the Council.

(sgd) Chas Mc Cleary

A Messmore

James Thompson

William Caldwell

John Winters

C D Hunter "

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Which on motion is received and ordered to lie on the Table until tomorrow.

Read the following Resolution of Board of Aldermen and Committee of Poor's Asylum on subject of that Establishment when on Motion it is Resolved, that the City Council will meet the Commissioners of the Poor on Wednesday morning next and that the Commissioners be informed thereof...

The following persons are appointed Fire Constables for the City:

— Ward No 1 —  
 Charles W. Hill  
 — Ward No 2 —  
 James Fielding  
 — Ward No 3 —  
 William Sidmarsh  
 John B. Seishman

— Ward No 5 —  
 Charles Beamish  
 Edward Brown  
 — Ward No 6 —  
 John Smith

The Council then adjourned until tomorrow at two O'clock



Halifax January 17<sup>th</sup> 1846

At an Adjourned Meeting of the City Council held this day  
Present, His Worship the Mayor, Aldermen Pryn, Caldwell, Jennings,  
Hemmeon, Fairbanks & Winters. Messrs Cleay, Richardson, Thomson,  
Sinclair, Black, Mignowit, Hunt, Clarke, Creamer, Billing & Rugg.

Read over proceedings of 15<sup>th</sup> January instant

Read Bye Law or Ordinance relative to Watch a second  
time.

Read Report of Committee on subject of Weighing Machine  
(See yesterday's proceedings fol. 177)

Read the several offers of G. N. Russell, Power  
and Thomas Keating of places for said Weighing Machine.

Read also report of Committee on same subject as entered  
28 October 1845 (fol. 149) when the following Resolution is introduced:

Resolved, That the Report of the Committee of Weigh Scales  
of 28<sup>th</sup> October last be adopted provided the place chosen for the  
position of the said scales be not on private property.

to which the following amendment is introduced:

Resolved, That Mr. Keating be requested to make a proposition  
to the City Council as to the terms which he would lease the  
premises as described in the plan now before the Board  
for a Hay Scale and a Hay Market, and the term of years  
in time for the City Council to consider the same at its next  
meeting.

Which Amendment being put is passed - the Original  
Resolution is therefore lost.

The Council adjourned until Monday at two  
O'clock.

Halifax January 19<sup>th</sup> 1845

At an Adjourned Meeting of the City Council held this day Present, His Worship the Mayor, Aldermen Pryor Caldwell, Jennings, Hemmeon, Fairbanks, and Councillors Messrs Anderson, Cleary, Richardson, Thomson, Sinclair Hunter, & Clarke.

Read over proceedings of Saturday last  
Read Bye Law or Ordinance relative to the Watch for the third time, when the following Resolution is introduced:

Resolved That the foregoing Bye Law be transmitted to the Secretary of the Province with a request that he be pleased, as early as he conveniently can, to submit the same to his Excellency the Lieutenant Governor and Council for their approval

which on being put is passed.

The City Council next proceed to take into consideration the several opinions on subject of Assessment Acts - when the following Resolution is introduced:

Resolved, That the business of the day be gone into by reading the Opinions of Messrs Gray and Young and The Recorder regarding the Assessment Act

which on being put is passed.

Read the following Opinion of Mr. Young:-

"Case submitted for my Opinion by a Committee of the City Council as follows:-

The opinion wished to be obtained by the Committee on the subject of the Assessment made on any Banking Firm or Marine Assurance Association or Joint Stock Company is

First - Whether the Acts in existence previous to 1844 authorize the Assessment on Capital or Stock or on profits only?

Second - Whether the amendment of the 9<sup>th</sup> clause passed in 1844 does not authorize it clearly and definitely?

The 30<sup>th</sup> Section of the Act of Incorporation authorizes "a rate or assessment, to be assessed and levied on real or personal property or both, within the said City, or upon the owners or occupiers thereof in respect of such property." The words "ability or capacity" are not used and I am clearly of opinion that City Rates under this Act could only be levied on visible

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and tangible property locally situated within the City. The tax was meant to operate as a property, not as an income tax. At the same time I am of opinion that all property of every kind was liable and that many of the exemptions which obtain under the Poor Laws in England did not apply. Household furniture there is not rateable: here I think it was. There the rate is confined to visible property yielding profit in the parish, and no personal property of an inhabitant can be rated, but the clear liquidated surplus, after paying all his debts. Here I think under the Act of 1841 no such inquiry was contemplated. The Assessors indeed would look to the circumstances of a party, but strictly speaking, all his property both real and personal within the City was liable to be assessed. Now I conceive, the Capital of a Bank or Insurance Company actually paid in, and subsisting in money or its equivalent, to be property just as much as a Stock of Goods. It has a positive value in the Market of the world, it requires and receives protection as much and it is equally with goods to be accounted personal property within the City. Why then should it not be taxed? In England money lent on real Securities is not rateable, it is no longer property in the hands of the owner, and may be lent on Securities not within the parish. In one case indeed, it was held that hard money was not rateable by the English Act, because like Household furniture it did not produce profit, a reason which does not apply to our Act of 1841. But in a subsequent case it was held, that if a person choose to keep his property in money and the fact of his possessing it be clearly proved, he is rateable for that. It is of no consequence, as it seems to me, whether the money was in the vaults of a Corporation, or of a private individual, though on this point I am aware there is a difference of opinion.

Under the Act of 1841 the rate is to be levied on the property or on the owners or occupiers in respect thereof, and money being property and a Bank or Insurance Company owning and possessing it as part of their Stock, I cannot bring myself to entertain a doubt that it was a legitimate subject for Assessment under the original Act of 1841.

The 5<sup>th</sup> Section of the Act of 1843, after a specific provision for the rating of real Estate, directs a further assessment according to the ability or capacity of the inhabitants. Many doubts have been raised on the true meaning of these terms, and my own idea of them was somewhat vague till I had studied their import with a view to this Opinion. In England it has been held that the Assessment for the relief of the Poor ought to

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be so contrived that each Inhabitant should contribute according to his ability which is to be ascertained by his possessions in the Parish and every Inhabitant ought to be rated according to the present value of his Estate. In the legislation of this Province County Charges were at one time directed to be assessed on the Inhabitants in each Township in the justest and most equal manner the Justices could devise; then they were to be equally assessed on the Inhabitants of the County according to their ability. And now they are to be assessed upon the Inhabitants in the most just and most equal manner their Assessors can devise by an equal pound rate on the real or personal property whereof such Inhabitants shall be respectively in the occupation or possession within the County, regard being had to the value of the rents of the real Estate and the capability of the personal Estate to produce profit. Poor rates again were at one time to be assessed on the Inhabitants as near as might be according to their abilities. Now they are to be assessed on the Inhabitants in just and equal proportion as near as may be, according to the known Estate, either real or personal of such Inhabitants. There is a wide distinction then between the principle of Assessment for County and for Poor Rates. Whether our Legislature intended such distinction may perhaps be questioned but it plainly arises out of the language they have employed. County charges are to be rated on property within the County. Poor rates are to be assessed on the Inhabitants according to their known Estate, without adding the important limitation, that such Estate, as in the other case, is to be within the County. I infer therefore that a man is chargeable for Poor Rates according to his means which the Assessors in the absence of any provision for the purpose are to arrive at, as they best may. In many cases they must determine a man's ability and set down the amount of his known Estate without accurate knowledge, in other words upon conjecture or opinion, which is not allowed in England but seems to have been designed here. Now in the fifth Section of the Act of 1843 the same principle is introduced. The mode in which real Estate is to be rated is prescribed, but the further Assessment on each Inhabitant is to be according to his ability or capacity. The limitation in the Act of 1841 is not repeated, and as I read the clause, the assessment is no longer confined to personal property within the City, but every Inhabitant is to pay according to his means, to be ascertained by the Assessors according to their best judgment, subject to appeal. The ninth Section directs that

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The assessors in making their Assessments on Banking, Insurance or Joint Stock Companies, as to the amount to be taxed or assessed for the ability or capacity of such Company to pay towards any City or County Assessments, beyond the real Estate they shall respectively occupy or be in possession of shall have regard to the amount of the actual profit derived by said Company on their business of the preceding Year. This clause introduced also a new principle in reference to such Companies. Under the Act of 1841 they were not liable except for the money or other property they actually held within the City. But now they were to be assessed for their ability or capacity, according to the best judgment of the assessors, such assessors having regard to their actual profits. The assessment then in 1843 was not to be on the Capital or Stock of the Company, but according to their supposed means, subject to appeal and revision.

The Act of 1844 in its second and fifth sections, seems to me to recognise the assessment of individuals according to their ability or capacity, in the sense in which I understand these expressions. The fourth section touching Banking, Insurance and Joint Stock Companies, and proposing to be an amendment of the ninth section of the Act of 1843 underwent, I believe, some changes in its passage through the Legislature, and as it now stands is rather obscurely worded. To me however, it is abundantly clear that as the rate or assessment upon such Companies is to operate in the words of the clause, "as a property tax and not as an income tax," and as the clause is amended by inserting the words "upon the Stock or Capital of such Association or Company," and further as the assessors in estimating the ability or capacity of the Company (to pay these two words having been, as I presume, accidentally omitted) towards the City or County, rates are to have regard to the profit derived from such Stock or Capital, as may be actually employed by such Company in their business of the preceding year in the same manner and to the same effect as is expressed in the fifth section of the amended Act regarding real Estate; it has therefore become the duty of the Assessors to ascertain as well as they can the Stock or Capital of such Companies actually employed, and to assess such Stock or Capital as the basis of their assessment, just as the value of real Estate is the basis of Assessments thereon. Assuming this basis the Assessors have still to estimate the ability or capacity of the Company to pay in reference to their profits: And where there is no capital actually employed

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or existing in this Province as is the case with some of the Companies, the assessors as I think must estimate their ability or capacity to pay, by the extent of their transactions here, their profits thereon, and that proportion of their capital which may be fairly supposed to be the basis of such transactions. As regards those Companies or Associations including of course the Three Banks, which have an actual Stock or Capital employed here, I have no difficulty whatever in the construction of this clause. As regards those Companies which have little or no Capital employed here I confess that in my view the construction of the clause is exceedingly doubtful, as the rate is not to operate as an income tax "further than as the same may apply to ability or capacity as aforesaid," and there is no Capital or property on which it can operate.

If it be intended then to apply to the Legislature for any alteration of these acts in the ensuing Session I would be disposed to recommend that the clause in question should be simplified and improved; that the meaning intended to be given to the words "ability or capacity" whether of individuals or Companies should be declared, and that the same principle should be made to apply within the City to all assessments for City, County and Poor rates.

In framing such a Bill the Legislation of Massachusetts and Maine, to which I have also had reference, might afford some valuable hints.

Lastly, at the desire of the Committee and in order to compress what I have already said into the narrowest compass I am of Opinion, that Banking, Fire and Marine Assurance Associations and Joint Stock Companies were liable to assessment

First, Under the Act of 1841, for all their property, including money or its equivalent being within the City, and Secondly, Under the Act of 1843 in respect of their ability or capacity to pay in reference to the extent of their transactions and their profits.

and Thirdly, That they are now liable to assessment under the Act of 1844 on their Stock or Capital, the assessors taking that as the basis on which to estimate their ability or capacity to pay, and having reference to their profits derived from the Stock or Capital actually employed.

Halifax January 9<sup>th</sup> 1846

(sgd) W. Young

Read the following Opinion of Mr. Gray:

I have been required to answer two questions submitted for my opinion by a Committee of the City Council relative to Assessments viz:

1<sup>st</sup> Whether the Acts in existence previous to 1843 authorize the assessment on Capital or Stock or on profits only of any Banking Fire or Marine Assurance Association or Joint Stock Company.

2<sup>nd</sup> Whether the Amendment of the ninth clause of the Act of 1843 passed in 1844 does not authorize an assessment on Capital or Stock clearly and definitely.

On the first question I conceive there can be little doubt that before the Act of 1843 and while the City Assessments were regulated by the fifth clause of the Original Act of Incorporation, the assessment upon any Banking Fire or Marine Assurance Association or Joint Stock Company must have been confined to such Real Estate or local visible personal property as was in the occupation or possession of such Association or Company, and that neither Capital or profits were subject to be rated or assessed. By the fifth clause of the Act of 1843 after directing the attention of the Assessors to the rent of real Estate as a criterion of its value the terms of the original Act are varied inasmuch as instead of "on Real and Personal property" the assessment is to be made upon the real Estate and further according to the ability or capacity of any such Inhabitant to pay towards said Assessment. I will not stop to enquire whether the substitution of the words "ability or capacity" as used in this clause for the words "personal property" substantially changes the character of the assessment as respects the nature of the property to be assessed though this is a grave and serious question upon which difficulty may arise, but will proceed to the consideration of the subject in hand, the answer to the first query before stated. This depends upon the ninth clause of the Act of 1843, which directs that in any assessment upon any such Association or Company as above alluded to the Assessors "as to the amount to be taxed or assessed for the ability or capacity of any such Company or Association to pay towards any City or County Assessments beyond the Real Estate they shall respectively occupy or be in possession of shall have regard to the actual profit derived by said Company or Association on their business of the preceding year."

(By)

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By this clause the term ability or capacity to pay used by the Legislature intended of course some subject of assessment over and above the Real Estate in the occupation of the Company or Association and it is then necessary to enquire what was that subject for ability or capacity as used in this act must be referable to some means or property in possession and enjoyment of the Company or Association. It may mean local visible property and that is the description of property to which alone I think under the English authorities and decisions it would apply or the Legislature may have intended to charge other sources of enrichment beyond local visible property and that must appear from the language of the Act itself. There is nothing in the ninth clause of the Act of 1843 expressly defining the meaning of the words "ability or capacity" as applied to an Association or Joint Stock Company but I should consider that as regard is directed to be had to the actual profits and no reference to Capital that by this clause the profit of the preceding year would be the measure of the ability or capacity to pay and therefore that under the Acts prior to 1844 the assessment should be limited to profit only.

We must now proceed to the second question dependant entirely upon the construction and effect of the fourth clause of the Act of 1844 amending the ninth clause of the Act of 1843. This latter clause the ninth of the Act of 1843 directed the assessors to have regard to the profit of the preceding year without adding more, and the amending of that clause necessarily presupposes that it was designed that the ability or capacity of the Association or Company assessed was not to be confined to profit only, which I think was the natural import of the Act of 1843, but was to be extended to something beyond mere profit. If it were not so why pass any amendment to a clause sufficiently clear in itself?

The intention of the amendment is to supply what was a defect in the Act of 1843 that was for what purpose the assessors were to have regard to the profit of the preceding year.

It is to be regretted that when this amendment was passed it should have included any words calculated to confuse its meaning and intention. It was intended to define the measure of the ability or capacity of any Association or Company liable to assessment and it does so to a certain extent. It directs that the assessors shall have regard to the profit in the same manner as they are to have regard to rent of real estate, and that the assessment is intended to operate as a

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property tax and not as an income tax. This therefore excludes the idea of assessing profits only and if it mean anything, extends the operation of the Assessment to the Capital or property of any Company or Association which may be profitably employed, placing that upon the same footing as Real Estate; but unfortunately qualifying words have been added which lead to some doubt and confusion. After stating that the intention was that the assessment should operate as a property tax and not as an income tax these words are added "further than as the same may apply to ability or capacity as aforesaid." Now the whole object of the clause was more clearly to ascertain what was ability or capacity, and if the assessment is to be an income tax when applied to ability or capacity, the whole intent and meaning of the previous portion of the clause would be defeated. The only meaning I can attach to this clause is that it designed and intended to assimilate for the purposes of assessment the Capital of any such Association or Company as it referred to, and which may be profitably employed, to Real Estate. I give this as my opinion upon a fair construction of the clause of the Act of 1843 as amended by that of 1844 not however without confessing that the qualifying words alluded to are somewhat at variance with this construction. It follows therefore that though I cannot say it does so clearly and definitely that I am of opinion that the Act of 1844 does contemplate the assessment upon Capital or Stock.

Halifax 14<sup>th</sup> January 1846  
 (Signed) James F. Gray

Read the following Opinion of His Honor the Recorder:

"The following has been submitted to me by the City Council.

The Opinion wished to be obtained by the Committee on the subject of the Assessment made on any Banking, Fire or Marine Assurance Association or Joint Stock Company is

1<sup>st</sup> Whether the Acts in existence previous to 1844 authorize the Assessment on Capital or Stock only?

2<sup>ndly</sup> Whether the amendment of the 9<sup>th</sup> clause, passed in 1844 does not authorize it clearly and definitely?

On a careful perusal of the Acts in existence previous to 1844 my answer to the first question is that by the 50<sup>th</sup> Section of the Incorporation Act in 1841 Assessments were to be made

January 19<sup>th</sup>

on real or personal property or both within the City" and not on any Capital or profits. That afterwards by the 5<sup>th</sup> and 9<sup>th</sup> sections of the amending Act of 1843 assessments were authorized still not on the Capital or Stock but on the profits only of any Banking, Fire or Marine Assurance Association or joint Stock Company.

In approaching the 2<sup>d</sup> question I confess myself somewhat embarrassed, for though it might fairly be answered that "the amendment of the 9<sup>th</sup> clause of the Act of 1843 passed in 1844 does not authorize an assessment of Capital or Stock clearly and definitely" yet I conceive that it would be winking at the intention the Committee of the Council had in view in presenting the queries, and having by my association with that body experienced the impossibility of effecting an incontrovertibly fair and equal rate on the Associations and Companies alluded to and having transcribed my ideas on the subject before I had an opportunity of seeing the Opinions of the two learned Gentlemen to whom the same questions have been submitted I feel myself bound now to produce them even at the risk of being considered to differ with their opinions already furnished. Had circumstances allowed us to consult we might probably on throwing our ideas together have united in subscribing to the same answers, and I beg to append my former opinion connected with this subject to which I think the gentlemen now applied to would assent and which I apprehend must determine the matter of the last Assessments out of which these questions arise.

The 4<sup>th</sup> Section of the Act of 1844 evidently intended to define the words "ability or capacity" and contemplated a more clear and distinct mode of Assessment by extending their import beyond mere profits to the Stock or Capital actually employed and in the same way that real Estate was assessed, but these good intentions appear to me to be frustrated by an intended explanation as follows: "the said rate or assessment being intended to operate as a property tax and not as an income tax further than as the same may apply to ability or capacity as aforesaid." I fear therefore that the construction by any Court of Law would be against the operation of this amendment as purely a property tax to extend beyond the profits derived therefrom particularly where the Capital actually employed or a part thereof may be rated in other countries and there subject to taxation

(This)

This answer I submit with great deference and beg leave to recommend that another application be at once made to the Legislature and as I have reason to anticipate the aid of the Gentlemen already consulted I doubt not an Act might be produced which would obviate the difficulties under which we now labor.

Halifax 12<sup>th</sup> January 1845

(Signed) W. D. Sawers

Recorder

The following is a copy of the questions and opinion referred to in the foregoing statement.

"The questions submitted by the City Council to His Honor the Recorder this 12<sup>th</sup> day of August 1845 are as follows, viz:

1<sup>st</sup> Is the Assesment for ability to be made on the Capital or on the profits of any Banking, Fire or Marine Assurance Association or Joint Stock Company?

2<sup>ndly</sup> Is the statement of an Officer or Agent of such Company as to what they should be assessed binding upon the City Council?

Answer.

1<sup>st</sup> The Assesment should be made on such Stock or Capital as may be actually employed by any such Association or Company and a due regard to the profits thereon will enable the assessors to assimilate this rate to the Assesment made on Real Estate.

2<sup>ndly</sup> The City Council have discretionary power to adjust the assessments but the declaration of an Officer or Agent of such Association or Company made in conformity with the Act, should be taken as prima facie evidence until proof to the contrary is adduced.

(Signed) W. D. Sawers

Recorder

Read the following Report of the Committee on the same Subject:

When the following Resolution is introduced:

Resolved, That the Report of the Committee on the Assesment Act be received adopted and acted upon.

to which the following amendment is introduced:

Resolved, That the Report on subject of Assesment Act handed in be received, adopted and acted upon with the exception of that part recommending "that the Recorder and Messrs Young and Gray be directed to prepare a Bill in Amendment of present Acts."

(which

— January 19<sup>th</sup> —

which amendment being put is lost the original Resolution is therefore carried, and the names being called for stand thus:

— For the Amendment —	— Against the amendment —
Messrs Pryor	Messrs Creamer
Caldwell	Hemmeson
Black	Richardson
Sinclair	Thomson
Clary	Mignowitz
Winters	Hunter
Billing	Clarke
Anderson 8	Jennings
	Fairbanks 9

The following Resolution is next introduced:

Resolved That the foregoing Resolution be submitted to His Honor the Recorder and so soon as the said Bill is prepared that the same be laid before this Council for their information and approval.

to which the following Amendment is introduced:

Resolved That His Worship be requested to ascertain the expenses of the two legal Opinions on the Affirmment Law by Messrs Young & Gray and that they be laid before the Council at the next meeting.

which amendment being put is lost the original Resolution is therefore carried, and the names being called for they stood thus:

— For the Amendment —	— Against it —
Messrs Pryor	Messrs Creamer
Caldwell	Hemmeson
Clary	Richardson
Black	Thomson
Billing	Mignowitz
Sinclair	Hunter
Anderson	Clarke
Winters 8	Jennings
	Fairbanks 9

The following Resolution is next introduced:

Resolved, That the Council will not authorize the payment of any further sum of money to Counsel relative to the Affirmment Act, until the amount of fees charged by Messrs Gray and Young for their Opinion on the Affirmment Act be laid before the Council.

which Resolution being put is lost, and the names (being)

being called for they stood thus:

- For the Resolution -

- Messrs Pryor
- Faldwell
- Black
- Stclair
- Winters
- Glancy
- Billing
- Anderson 8

- Against the Resolution -

- Messrs Jennings
- Clarke
- Mignourtz
- Thomson
- Richardson
- Horsman
- Hunter
- Creamer
- Fairbanks 9

The Council then adjourned.

Halifax January 22 1846

James Fielding, William Edmarsh, Charles Beamish and Edward Brown, having taken the Oath required by Law are this day sworn into Office as Fire Constables in presence of Alderman Pryor.

January 23 1846 John Smith having taken the Oath required by Law is this day sworn into Office as Fire Constable.

Halifax January 24<sup>th</sup> 1846.

At a Meeting of the Ward Assessors held this day in the Mayor's Room agreeably to Notice for the purpose of electing Ward Assessors for the several Wards, the said Assessors proceeded to the election by Ballot, when the following persons were elected for the Wards affixed to their respective names

Ward No 1. John Frider junior

2 William Full

3 Thomas Akind

4 John Opon

5 Jarr Starr

6 John Kline junr

when the said Assessors were severally sworn to perform their duties as such Ward Assessors according to the best of their judgment and to make a fair and impartial Assessment of their respecting Wards

Henry Poyer

Quorum

Halifax 26 January 1846

Adam Reid sworn into Office as Fire Constable for the City

Halifax February 5<sup>th</sup> 1846

The following Letter from the Secretary of the Province is this day received:

Provincial Secretary's Office  
Halifax February 4<sup>th</sup> 1846

Sir,

With reference to your letter of the 20<sup>th</sup> January, I have the honor to return approved and confirmed by His Excellency the Lieutenant Governor in Council, the Bye Law or Ordinance of the Mayor and City Council for establishing a Watch for the City of Halifax.

I have the honor to be

Yours

Your most obedient  
humble Servant

(signed) Rupert O. George

James S. Clarke Esq  
City Clerk  
Halifax.

— A Bye Law or Ordinance —  
for establishing a Watch for the City of Halifax.

— Whereas it has become necessary for the protection of the property and Inhabitants of the said City that a sufficient Watch at night should be established; and Whereas by an Act passed in the sixth year of Her present Majesty it is Enacted That it shall and may be lawful for the said City Council of the said City at a Meeting or Meetings of the said Council composed of not less than two thirds of the number thereof to make such Bye Laws, Orders and Regulations as to them shall seem meet.

Be it therefore Ordained, by the Mayor, Aldermen and Common Councilmen of the City of Halifax in City Council convened, that it shall and may be lawful to and for the Mayor and Aldermen from time to time and at all times hereafter whenever by a Resolution of the City Council it shall be deemed necessary, to employ, nominate and appoint such persons and so many as they may consider expedient to form a nightly Watch for the said City, out of which number one shall be selected by the said Mayor and Aldermen, to be Captain and Superintendent of said Watch.

That the said persons so appointed shall be severally sworn before the Mayor or one of the Aldermen of the said City, faithfully and impartially to perform the duty and office of a Special Constable and Watchman for said City.

That the Mayor and Aldermen shall, and they are hereby authorized to set such Watch at such hour after sunset as they shall judge expedient, and from and after such hour it shall be the duty of said Watchmen to perambulate the various Streets of the Ward to which they are appointed, and to apprehend and take into Custody, and to assist in apprehending and taking into Custody, all persons found drunk in the Streets, all persons committing a breach of the peace, or any person or persons guilty of idle or disorderly Conduct, or in any way tending to disturb the quiet peace and good order of the City, and said person or persons to convey to the Police Office there to be kept until eleven o'clock of the following morning, unless previously discharged by the Mayor or one of the Aldermen

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