

1858

August 25th

At a Special Meeting of City Council held this day present His Worship the Mayor Aldermen Noble Fugatey, Thomson, Twining, Luwds Cochran, Morrissey, Twining, Wills, King, Moir, Conway, Jennings and Bell.

The City Council were summoned to approve of the valuation Books, and the transaction of other business

Read over proceedings of 19 and 26 July

Report Committee Public Accounts

Alderman Thomson Chairman submits a report of Committee of Public Accounts, of 12 August

Report Committee Common

Alderman Bell Chairman submits a report of Committee of Common,

Memo of Henry Fanning.

Alderman Caldwell submits a Memorial of Henry Fanning the Contractor for Building Commercial Wharf Drain

Report City Property

Alderman Conway submits report of Committee of City Property of 31st July.

Report City Hospital

Alderman Cochran Chairman submits report of Committee of City Hospital of 23 July 1858

Memo Special Committee re the Act for relief of Stephen Seldon.

Alderman Thomson submits Draft of a Memorial of Special Committee on subject of the Act relative to Mr Stephen Seldon.

Letter of John Longard of 24 July 1858

His Worship the Mayor submits and reads a Letter from City Treasurer to pay off £700 of the debt due on the City Market.

His Worship the Mayor submits and reads a Letter from John Longard Esqr of 24th July relative to his resigning the office of Alderman.

His Worship the Mayor's answer thereto the above is read (See Letter Book)

Letter Thomas Hosterman

His Worship the Mayor submits a Letter from Thomas Hosterman of 2 August on subject of Queen Pool road.

His

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Letter Health Inspector & R.R. Pringle Esq^r

His Worship the Mayor submits a Letter from Health Inspector of 2nd July with a Letter from R.R. Pringle Esq^r

Likewise a Letter from Health Inspector of 5 August with a Letter of R.R. Pringle Esq^r

Communication W. Ritchie Esq^r relate Common

His Worship the Mayor submits a Communication from S. W. Ritchie Esq^r of 5th Aug^t 1858 relative to Common, (See Page 368) (City Sept^r)

His Worship the Mayor brings to the notice of Council the probability of General Williams arrival in this City, when the following resolution is introduced

Resolved that a Committee be appointed to devise measures to welcome in a suitable manner our distinguished fellow countryman General Williams the Hero of Wars. Moved by Alderman Twining seconded by Alderman Thomson, passed unanimously

Resolved that a Committee be appointed to devise measures to welcome in a suitable manner our distinguished fellow countryman General Williams the Hero of Wars. Moved by Alderman Twining seconded by Alderman Thomson, passed unanimously

Committee Aldermen Twining, Thomson, Jennings and His Honor the Recorder

On Motion that the order of the day be suspended and the report of Committee Public Accounts this day submitted be taken up, passed.

Report Committee Public Accounts Aug^t 13th 1858

Committee of Public Accounts. Present Chairman, Aldermen Bell and Noble

The following accounts were presented

Common		
Horticultural Society for Trees		£ 21-11-6
Robert Austen	5 Plans &c	3-0-0
W ^m Ellis	Work housemen	" 15-0
John Stinn	Truckage	" 6-9
Sunday, W ^m Warren	Cartage	7-4-0
W. G. Fuller	Fire Works	12-10-0
Lordly & Stimpson	Candles &c	10-2-6
Cemetery Hosp. Society	Trees &c	26-15-6
City Property James Haser	Repairs &c	7-18-6 1/2
Fire Department		
George Ashmore	Salary &c	10-6-9

S. W.

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G W Caldwell, Turnishing hose, £18-12-6
Bridewell

C. O. Hunter	Supplies &c	55° 15-0
Bell & Anderson	Osnaburg	9-9-0
Mary O'Brien	Wool	1-12-10
Thomas Keating	Straw &c	2-5-0
Smith & Mitchell	Reps. Hoysdrants	1-6-03
Wm. Poyke	Reheads &c	5-3-0
Tolson & Eastwood	Blambrets	16-5-0
John A. Bell	Osnaburg	2-8-5 1/2
Wm. McDonald	Salary	£12-10-0
June	Or Sundrys	<u>3-15-4</u> 9-14-8
July	Or Sundrys	<u>1-13-3</u> 11-0-0

All of which is respectfully submitted and recommended to be paid

Sig^d James Thomson
Chairman

Moved by Alderman Swining seconded by Alderman Bell That His Worship the Mayor draw checks for above amounts, passed.

Notice reconsideration re to the Buildings Steam Boat Wharf.

Council next take up Alderman Conways notice of reconsideration relative to the removal of Buildings South end of Steam Boat Wharf. Moved by Alderman Conway seconded by Alderman Jennings That said Notice be reconsidered which on being put is lost by voting for it and 8 against it and the names being called for they appeared thus.

For Motion	Against it
Alderman Bugbey & Moir	Ald. Thomson & Swining
Wills & King	Caldwell & Bell
Conway & Jennings	Cochran & Gounds
	Morrissey & Noble.

Council next take up returns of valuation of Books of Assessment for 1858. when following resolution is introduced

Resol. re to the General Assesst Books for year 1858

The Valuation Books of the General Assessment for the Current year returned by the City Assessor to the office of the City Clerk one Book for each Ward clearly and correctly made up in writing signed by the City Assessor and respective Ward Assessors having

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Having been seen and approved of by the Council,
Resolved that the said valuation Books be returned to the said City Assessor in order that he may proceed without delay to make up one General Book of Assessment for the City therefrom in which there shall be distinctly shown the amount of the rates upon each individual or Company and that the Assessor shall without delay make up and sign the said General Book of Assessment and return the same to the office of the City Clerk.

Moved by Alderman Caldwell seconded by Alderman Ring passed

The following resolution is next introduced

Resolved That the penalty for not returning an account of their property for the last year by the Nova Scotia Building Society be enforced under 31 Section of the Act relative to assessment in the City of Halifax Moved by Alderman Thomson seconded by Alderman Conway passed 12 Noting for and 1 against it.

Resolved to the penalty of Nova Scotia Building Society.

Read Memorial of Henry Manning on account of his contract this day submitted when following resolution is introduced

Resolved that the sum of fifty pounds be paid to Henry Manning on account of work done in excavating a Drain at foot of Jacob Street and that His Worship the Mayor be requested to draw a check for the same. Moved by Alderman Conway seconded by Alderman Caldwell.

Resolved re: Memo Henry Manning for payment of Drain.

On Motion the order of the day is suspended and the report of Committee of Common this day submitted is next taken up and read

Report of Committee of Common re: Letter of W. Ritchie Esq.

Report

The Committee to whom the Letter of John W. Ritchie Esq. on behalf of Major General Trollope was referred on the subject of the Common, having had the matter under their consideration now report.

1743 That it appears that in the year 1743 a Grant under the great Seal of the Province was passed to John Collier and others of a tract of Land in the rear of the Town for the use of the Inhabitants of the Town of Halifax as a Common. The Copy of the Grant

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August 15th among the City Records, states the quantity of land
Continued to be 355 acres. The Provincial Acts which refer to
the Grant call it 240 acres.

1770 In the tenth year of Geo 3 Chap 4 1st Vol P.L.
160 an act was passed, by which the Justices in session
of the respective Counties are empowered to make regul-
ations for the several Townships in respect to any
tracts of land, held as Common. This Act merely
empowers the Justices to make regulation for the
management of such Common Land but gives no
power or authority to alienate or dispose of any part
of it.

1800 In the year 1800 it appears by an extract from
the records of the General Sessions of the Peace which
accompanies this report, that the Justices for the
County of Halifax assumed without any legal
authority to make an arrangement by which the use of
the North part of the Common was given for the purpose
of exercising and encamping the Troops, whenever His
Majesty's service and the defense of the Town might
require.

In this the Committee apprehend the
Justices exceeded their authority but the arrangement
no doubt led to the reservation contained in the
subsequent Provincial Statutes touching the Common
under which alone the use of the exercising Ground, so
termed, on the North end of the Common, can now be
claimed. The Committee understand that under these
proceedings of the sessions all the Land lying to the
Northward of Pykes Bridge is now claimed as the
exercising Ground. though no part has ever been
occupied as such except the North West end.

1818 In the year 1818, an Act 58 Geo 3 Chap 10 2nd Vol P.L.
26, was passed for the "improvement" and so forth by which
Act the Common was vested in Trustees, and Commissioners
were appointed, by whom a portion of the Common was
directed to be laid off in Lots and Leased. There is
no suspending clause in this Act, and no reservation
for Military purposes, though Lord Dalhousie was
Commander in Chief of the Forces, as well as Lieut-
Governor, but this Act is marked in the Statute Book
as "Disallowed by His Majesty" a number of Leases
however were granted before the disallowance.

In the year

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August 13th 1829 In the year 1829, An Act 10th Geo 4th Chap 52
Continued 4th Vol P.L 59, was passed authorizing the appointment
of Commissioners of Common, It refers to the Leases granted
under the act of 1818 and confirms them, and enacts that
no more than one hundred acres shall be leased at any
one time. This Act also gives the Justices in session power
to make "regulations" and by the last clause it enacts
that nothing in the act contained shall extend to the
North part of the said Common used as an exercising
Ground for His Majestys Troops, This Act which has
a suspending clause passed when Sir Peregrine Maitland
was Lieut. Governor, and also Commander of the Forces,

1831 In 1831, An Act 1st William 4th Chap 4 Vol 4
P.L 89 was passed by which 12 acres siting the citadel
were granted to His Majesty, By the 5th Section it enacts
That no houses, Buildings, or Walls, nor any other than
"fences of wood" shall be erected or built on any part
of the said Common of Halifax lying to the Northward
and Westward of the Lots leased and within the space
or distance of 500 yards of the salient angles of the
fortifications, but the said portion of the Common may
be leased and appropriated to and for the purpose of
Gardens or orchards, or other purposes from which no
injury or impediment can result to the defence of the
Citadel. This Act says nothing about the Exercising
Ground, but by the 6th Section it enacts, That all Leases
of any part of the Common, within the limits aforesaid,
to be given granted or confirmed, under and by virtue of
the said Act, concerning the Common of Halifax, shall
contain the conditions, limitations and restrictions herein
before prescribed, with respect to the erection of building
fences &c, and for all other purposes the Act of 1829
shall go into operation, Sir Peregrine Maitland

was also the Lieut Governor and Commander of the Forces
when this Act passed. From this Act it is quite evident
that the Exercising Ground was not understood as embr-
acing any part of the Common occupied or leased or
proposed to be leased by the Committee of Common.

1834 In 1834 An Act 4th Wm 4th Chap 41 4 Vol P.L 349
was passed which transferred the whole control of the
Common to Commissioners. This Act reserves the use of the
North End known and used as the exercising Ground
for the use of the Troops.

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In 1841, The first Act of Incorporation was passed, Chap. 55 Section 18 enacting that the City Council shall for the future have the sole control and management of the Common, subject to the rights and privileges of Her Majesty retained therein. At this time Her Majesty had no rights in, or privileges connected with the Common, except the use of the North End known and used as the exercising Ground and the right to prevent buildings or erections of a certain kind to be made within a specified distance of the fortifications on the Citadel.

This Act was amended in 1842-44-45 46-48-49 and 50 but no alteration touching the Common was made.

1851 In 1851 The present Act was passed.

By this Act the Exercising Ground at the North End of the Common is required to be kept always open and free for the use of Her Majesty's Troops.

No Building or Fence &c is to be put up within 1800 feet of the salient angles of the Fortress of Citadel Hill. Subject to the foregoing appropriations and leasehold interests, the Common is vested in the City.

It will be perceived that a restriction is introduced into this Act which is not contained in the former Acts and which the Committee suppose was not intentional. By the former some but wooden fences were allowed within 1800 feet of the Citadel, by this Act, no fences of any description are allowed within that distance. There was no reason for any such restriction as the temporary wooden fences in use can never offer any impediment to the defence of the citadel, and by the act of 1831 the North portion of the Common may be leased or appropriated for gardens or orchards or other purposes not incompatible with the defence of the fort.

The Committee having carefully examined all the acts and papers submitted to them are of opinion therefore and Report, That the Commander in Chief of Her Majesty's forces in this Province has no right to interfere or control the management of the Common, the fee simple of which is vested by Law in the City and that so long as the North part of the Common known and used as the Exercising Ground for the use of the Troops is kept open and free and no fence is erected within the distance prescribed by the

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the Acts from the Citadel - the whole disposition and control of the Common rests with the City Council, and the Committee now submit several resolutions in answer to the application on behalf of Major General Drollope. They would also add that any objection to the erection of wooden fences on the Common on behalf of the Commander of the forces seems rather unreasonable when the lessee of the Government Lt on Camp Hill has already erected a fence which however useful to him, is not at all ornamental to the Common, or creditable as a Government work.

Halifax 10th August 1858

By John A. Bell
Chairman.

when following resolution is introduced

Resol. rel. to
Common Leases
and rights of Her
Majestys Troops
therein

His Worship the Mayor having laid before the Council a Letter from J. W. Ritchie Esq on behalf of Major General Drollope relative to the Common and reference being had to the Acts of Incorporation and other Provincial Acts and documents touching the rights asserted in the Letter,

It is therefore resolved that under the Acts of Incorporation the Common with all the rights annexed thereto with the exception specified in Chap 5 of the Act of the Incorporation of 1851 is vested in the City Council.

Resolved the Committee be directed to proceed at once to have the Leases completed but in such a manner as not to interfere with any rights of Her Majesty.

Resolved that under the reservation before mentioned Her Majestys Troops are entitled to the use only of that part of the Common which lies north of the Road leading from Parkville Street to St. Andrews Cross at the entrance of the Quinpool road and east of the Pond in the centre of the Common and the ditch leading into it from the North and that subject to such use the control of that part of the Common is vested in the City Council.

Resolved that the City Council are sincerely desirous to preserve the good feeling and harmony which have hitherto existed between the Citizens and the Military authorities and have not the slightest intention

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intention of encroaching upon any right or privilege
hitherto enjoyed by Her Majesty's Troops upon the
Common or elsewhere.

Resolved that the Mayor be
requested to enclose a copy of the foregoing resolution
to Mr. Ritchie in reply to his Letter Moved by
Alderman Bell seconded by Alderman Conway
passed.

It is moved and seconded
that the order of the day be suspended and that
report of Committee of City Hospital this day sub-
mitted be now taken up and read. passed. the
same is read

The Committee of City Hospital met
this day present Aldermen Caldwell, Ring, Noble
and the Chairman

Report Committee
City Hospital
23 July 1855

Your Committee beg leave most
respectfully to report that the outbuildings of the City
Hospital are nearly finished. they find that the
specification does not include painting the roofs of
said buildings. they would therefore recommend
that paint be placed on the same.

Your Committee further recom-
mend that one hundred pounds be paid to
Mr. [Name] late Architect of the City Hospital
for [Name] to the 11th inst.

Your Committee also report
that [Name] Mr. Augustus Wright the
superintendent of the City Hospital and recommend
that [Name] twelve shillings and six pence per
day commencing on the 11th inst.

Most respectfully submitted

James Cochran
Chairman

Moved by Alderman Twining
seconded by Alderman Lounds that said report be
received and adopted which being put is passed.

On Motion the order of the day is
suspended and the report of Committee City Property
is read
(See Report see Next Page)

Handwritten notes on a piece of paper taped to the page:
I have written the names of the
Committee members in the margin
of the report and have written
the names of the Aldermen who
seconded the report in the margin
of the minutes.

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August 15th the Acts from the Citadel - the whole disposition and Continued control of the Common rests with the City Council and the Committee now submit several Resolutions in answer to the application on behalf of Major General Wollope. They would also add that any objection to the erection of wooden fences on the Common on behalf of the Commander of the forces seems rather unreasonable when the lessee of the Government Lot on Camp Hill has already erected a fence which however useful to him, is not at all ornamental to the Common, or creditable as a Government work.

Halifax 10th August 1858

By John A. Bell
Chairman.

When following resolution is introduced

Resol - rel to
Common Leases
and rights of Her
Majestys Troops
therein

His Worship the Mayor having laid before the Council a Letter from J. W. Ritchie Esq on behalf of Major General Wollope relative to the Common and reference to the Acts of Incorporation and other Acts and documents touching the rights asser

Resolved that under the Acts of Incorporation the Council have with all the rights annexed thereto with the exception of those specified in Chap 5 of the Act of the Incorporation the rights vested in the City Council.

Resolved the Council be directed to proceed at once to have the Leases completed in such a manner as not to interfere with the rights of Her Majesty.

Resolved that until further notice the use of the mentioned Her Majestys Troops are to be confined to the use only of that part of the Common which lies north of the Road leading from Jackville Street to St. Andrews Cross at the entrance of the Quinpoole road and east of the Pond in the centre of the Common and the ditch leading into it from the North and that subject to such use the control of that part of the Common is vested in the City Council.

Resolved that the City Council are sincerely desirous to preserve the good feeling and harmony which have hitherto existed between the Citizens and the Military authorities and have not the slightest intention

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August 13th
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intention of encroaching upon any right or privilege
hitherto enjoyed by Her Majesty's Troops upon the
Commons or elsewhere.

Resolved that the Mayor be
requested to enclose a copy of the foregoing resolution
to Mr. Ritchie in reply to his Letter Moved by
Alderman Bell seconded by Alderman Conway,
passed.

It is moved and seconded
that the order of the day be suspended and that
report of Committee of City Hospital this day sub-
mitted be now taken up and read. passed. the
same is read

The Committee of City Hospital met
this day present Aldermen Caldwell, Ring, Noble
and the Chairman

Report Committee
City Hospital
23 July 1858

Your Committee beg leave most
respectfully to report that the outbuildings of the City
Hospital are nearly finished. they find that the
specification does not include painting the roofs of
said buildings. they would therefore recommend
that two coats of paint be placed on the same.

Your Committee further recom-
mend that the sum of One hundred pounds be paid to
Mr. William Gordon late Architect of the City Hospital
for his services up to the 11th inst.

Your Committee also report
that they have chosen Mr. Augustus Wright the
superintendent at City Hospital and recommend
that he receive Twelve shillings and six pence per
day for his services commencing on the 11th inst.

Committee Room
23rd July 1858

Most respectfully submitted

James Cochran
Chairman

Moved by Alderman Twining
seconded by Alderman Lounds that said report be
received and adopted which being put is passed.

On Motion the order of the day is
suspended and the report of Committee City Property
is read
(For Report see Next Page)

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August 15th
Continued

Committee Room Halifax
July 31st 1858

Committee of City Property met this day.
Present Aldermen Lowndes, King, Cochran, Conway
& Caldwell

Report City
Property Committee
of 31st July 1858.

The Committee adjourned and proceeded to the North City Wharf in order to examine the site lately occupied by the old building which was sold and removed on the 28th Instant the Committee are of opinion that a retaining wall should be immediately built at the North side of said property in order to retain any clay or rubbish deposited therein. The Committee would also recommend the extension of a drain which emptys its self into this property as far as the superintendant of Streets might deem advisable as a saving might be effected by building the drain in conjunction with the retaining wall. The Committee beg further to remark that however averse they are to any further expenditure of the City funds on this Property they are of opinion that they would be neglecting their duty by allowing it to remain in its present condition when a small sum now judiciously expended would repay both principal and Interest within a very limited period without any infringement on the rights of the Citizens or the Publick in general.

All of which are respectfully
Submitted
Sig^d Jeremiah Conway
acting Chairman

when following resolution is introduced

Resolved that the report just read relative to North City Wharf be adopted.

Resolved. to report
City Property
Committee,

Moved by Alderman Conway seconded by Alderman Lowndes to which following amendment is introduced

Resolved that the report of Committee lie on the Table for further consideration and that the Superintendant of Streets report what amount will be required for completing the same. Moved by Ald. Thomson seconded by Alderman Pugsley which amendment on being put is lost & Voting for it and against it the original is then put and passed

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Order of the day is suspended, and the draft of Memorial to Her Majesty on subject of Mr Stephen Seldons claim against the City is read

On Motion said Committee have leave to withdraw and amend said Memorial

Read Memorial as amended passed unanimously

To Her Most Gracious Majesty
The Queen

The Memorial of the Mayor and City Council of the City of Halifax, Province of Nova Scotia

Most Humbly Sheweth

That by an act in operation in this Province, Revised Statutes Chap 99 Sec 6 at least Three firewards must concur in directing a building to be pulled down at the occurrence of any fire in the City of Halifax.

That in the same Section of the same act it is provided that when a building is pulled down by the order of three firewards the owner shall be compensated for his loss by the proceeds of a tax to be levied for that purpose, except when the building pulled down shall be the building where the fire began or if any other building shall be pulled down or be begun to be pulled down which shall be on fire at the time the orders are given for pulling the same down or which shall take fire while such orders are being carried into execution,

That at a fire which happened in this City on the first of ~~March~~^{January} 1854 the house of Mr Stephen Seldon was ordered to be pulled down by one fireward acting in conjunction with two Aldermen.

That the house was insured in an Insurance office established and doing business in this City for the sum of £400. That an action was brought against the Company and a verdict obtained against them for the sum of £300 which has been paid to Mr Seldon and accepted by him in full of his claim against the company

That while Mr Seldens claim against the Insurance Company was only £300 he at the same time claimed from the City Council to be compensated for a loss amounting to more than £400.

That it may readily be conceived it

Memorial to Her Majesty rel to Act for relief of Stephen Seldon,

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was not the interest of Mr. Selden that a verdict should be obtained against the Insurance Company founded on evidence which would have disposed his claim for a larger amount against the City.

That your Memorialists cannot help feeling that if the act passed last session for the relief of Mr. Stephen Selden be permitted to go into operation great injustice will be done the Citizens of Halifax. That in any case your Memorialists look upon the passage of a law having an "ex post facto" operation as unconstitutional and as establishing a very dangerous precedent while one passed like the present against the repeated remonstrances of this Council rendering the City liable for the acts of unauthorized individuals would they think be attended with very pernicious consequences.

That your Memorialists have ever been actuated with a sincere desire to do justice to their fellow citizens and if they had believed that Mr. Selden had really suffered any injury from the order they would have co-operated with the Attorney General his counsel in obtaining the passage of an Act enabling them to tax the City for the loss Mr. Selden had thus sustained.

Your Memorialists deem it necessary to state that the Hon. W. Johnston who is Mr. Seldens Counsel is also the Attorney General of this Province and Leader of the Government.

Your Memorialists therefore humbly pray that your most Gracious Majesty will be pleased to withhold your assent from said Act,

For and on behalf of City Council

Sigth Henry Pryor
Mayor

"Council rise"

Henry Pryor
Mayor

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At a Special Meeting of City Council held this day present His Worship the Mayor Alderman Noble, Fughey, Thomson, Caldwell, Lownds, Cochran, Morrissey, Twining, Wilks, King, Moir, Horrihall and Jennings

The City Council were summoned to take into consideration certain resolutions passed by the Citizens relative to the reception of General Williams the Hero of Barr

The following resolutions passed at said Meeting of Citizens having been read

Resolutions of Citizens rel. to reception of General Williams

That the Citizens of Halifax will wait upon General Williams at Mr. Curhads Wharf on his arrival in the Steamer, to offer him congratulations and welcome on his first return to his native land after his exploits in the West. Moved by Judge Bliss seconded by J. W. Ritchie Esquire

That the Citizens of Halifax will unite in the address of Mayor and City Council to General Williams and will sign the same and that a Committee be appointed to wait on General Williams after his arrival to ascertain when and where it will be convenient for him to receive the address and also to afford the Citizens an opportunity to present their respects to him personally. Moved by the Hon. Attorney General seconded by J. S. Sawyer Esq.

Committee The Mayor, Attorney General, the Recorder, Judge Bliss, The Sheriff, J. W. Ritchie and John Tiffin Esq. M. P. Aldermen Jennings, Twining and Thomson.

That The Mayor and Corporation be requested to act as a Committee of Management for carrying out the first resolution. Moved by Doctor Cogswell seconded by Judge Bliss, and having been duly considered when following resolutions are introduced

Resolved that in accordance with the resolutions which passed the public Meeting, a Committee be appointed consisting of an Alderman from each Ward to conduct the welcome and that the City Council defray the requisite expenditure.

(Alderman Thomson asks leave to withdraw)
(Leave granted)