

1858  
December 1<sup>st</sup>  
Continued

Committee Room  
16<sup>th</sup> November 1858

The Committee appointed to make arrangements for a New pound. Met this day at 3 PM  
Present Aldermen Mignowitz - Towns, Cogswell, Bell

The Committee having considered the Matter report as follows:

Report Committee  
rel. to New Pound

In the event of moving the Pound a difficulty presents itself from the want of any piece of land, suitable for the purpose at present owned by the City. The only available space is some part of the Common, but there are several objections to using any part of the Common for a Pound. The distance from the City is too great for convenience and the site too exposed to answer the purposes either of shelter or of safety. Upon enquiry we find it is the opinion of the Learned Recorder that the space at present occupied as a Pound cannot be legally appropriated for any other use, without an act of the Legislature and consequently that the New Engine House cannot be erected on the site proposed. If that opinion be sound - as we presume it is, the Committee have decided that it would be wiser - at least for the present to leave the Pound where it is - and have it somewhat enlarged and improved.

They would also recommend the Council to purchase a piece of ground for an Engine House - which it is said can be had in the neighbourhood without difficulty.

Sig<sup>th</sup> H. Mignowitz  
Chairman

when following resolution is introduced

Resolved rel. to Site  
for New Engine House

Resolved that a Portion of the Garden at the North end of the City Bridewell be taken for the Building of a New Engine House agreeable to the Plan and Specification. Moved by Alderman Mignowitz seconded by Alderman Twisting to which following amendment is introduced

Resolved rel. to Site  
for New Pound

Resolved that the New Engine House be erected on the site of the Pound now occupied as such, and further resolved that the New Pound be erected on the North West Corner of the Bridewell Garden. Moved by Alderman Jennings seconded by Alderman Caldwell which amendment being put is passed 10  
Noting

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December 1<sup>st</sup> Voting for it and against it and the names being continued called for they appeared thus,

For Amendment	Against it
Aldermen Caldwell, Bell	Aldermen Lounds
Twining, Wills	Mignault,
Barnstead, Jennings	Horriestall
Conway - Thompson	Cogswell,
Moir - Richey 10	4

On Motion the order of the day is suspended and the reports of Committee Tenders this day submitted is next taken up

Read report of Committee of Tenders relative to the loan for the City Hospital

Committee Room

Halifax Dec 1<sup>st</sup> 1858

Committee of Tenders met this day present Aldermen Richey, Wills and the Chairman

The Committee opened following Tenders for loan to Build City Hospital

No 1 Tender Andrew Uniacke Esq<sup>r</sup> will lend the City the sum of £4500 at Six per Cent agreeable to Advertisement

No 2 Diocesan Church Society will lend £400 at Six per Cent.

No 3 Edward Gilpin will lend £200 at Six per Cent.

No 4 William A. Black will lend £1500 at Six per Cent

No 5 William Stairs will lend £2000 at Six per Cent to be paid as required

No 6 Samuel Tremannin will lend £1000 on the first or second of next January at Five per Cent.

The Committee therefore beg leave to submit the same to the Council for their decision,

respectfully submitted

Sigs Jeremiah Conway  
Chairman

Report Committee  
Tenders relative  
to loan for City  
Hospital

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where on Motion the report as far as Mr Samuel Freeman's offer for £1000 is concerned be adopted which Motion on being put is passed.

Resolved to Report Committee Tenders from City Hospital

It is then moved and seconded that the remaining portion of amount required £3500 be left to His Worship the Mayor to arrange with the parties tendering which on being put is passed

Read following report of Committee of Tenders of 27 Nov 1858, relative to Blue Stone.

Committee Room  
Halifax Nov<sup>r</sup> 27<sup>th</sup> 1858

Committee of Tenders met this day  
Present - Alderman King, Barnstead, Kichley and the Chairman

Report Tenders re. to Stone of Bridewell

The Committee opened the following Tenders for supplying the Bridewell with Three hundred Tons of Blue Stone.

- 1 Not Wm. Deats Tender 2/4 per Ton
- 2 Philip Gough " 1/10 " "
- 3 Timothy Lane " 2/10 " "
- 4 John Kline " 1/3 " "
- 5 Thomas Connely " 1/6 " "
- 6 Patrick Maher " 1/5 " "
- 7 John Godley " 1/4 1/2 " "
- 8 Thomas Boyer " 1/8 " "
- 9 John Whyte " 1/3 " "

The Tenders of John Kline and John Whyte being the same as to price the Committee begs leave to submit the matter to this Council for their decision.

All of which are respectfully submitted

Sig<sup>d</sup> Jeremiah Conway  
Chairman

When on Motion said report is adopted so far John Whyte and John Kline is concerned and that they each have one half of the Contract.

The City Council next proceed to appoint the Fire Wards for the ensuing year. when following Gentlemen are elected to Office,

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December 1<sup>st</sup> — Ward No One —  
Continued Donald Murray  
Joseph Wier  
Henry Swining

Ward No Four —  
George Asson  
John Shaffer Junr  
James Jackson

Five Wards  
Appointed — Ward No Two —  
John D. Nash  
Joseph Fairbanks  
John McCulloch

Ward No Five —  
David Armstrong  
John Hogan  
Robert Woodill

Ward No Three —  
Samuel Morton  
William Ackhurst  
Maurice McCreath

Ward No Six —  
James Wilson  
Andrew Mackinlay  
George Ritchie

The City Council next proceed  
to appoint the Fire Constables for the ensuing year  
when the following Gentlemen are elected to Office

Fire Constables  
Appointed — Ward No One —  
John Cummings  
John Lanigan  
Mathew Young  
Robert Urquhart

Ward No Four —  
W. A. Hession, J. Parry, J. Richardson  
James Parker, Geo Jackson  
R. L. Ross, M. Donovan  
James Huber, D. Shepherd

Ward No Two —  
Samuel Nash  
John Romans  
John Holland  
George Bignell

Ward No Five —  
Purce Bowes  
Robert Westing  
P. M. Walsh  
Chas Wright

Ward No Three —  
Henry A Taylor  
George Crookill  
Leander Coaswell  
James Wallace

Ward No Six —  
Patrick Whiston  
Samuel Goodwin  
H. S. Marshall  
John Marvin

The City Council next proceed  
to elect Board of Health for ensuing year when the  
following Gentlemen are elected

Board of Health  
Appointed — Ward No One —  
Brenton Collins  
Jacob P. Miller

Ward No Two —  
Dr. Van Buxstirk  
William Stevens

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Ward No Three  
William Langley  
H. B. Laurillard

Ward No Four  
Charles I Wallace  
James Thompson

Ward No Five  
John Naylor  
Thomas H. Peters

Ward No Six  
Wm. L. Black  
M. L. Bell

Health Wardens  
Appointed

The following Gentlemen are next  
elected Health Wardens for ensuing year.

Ward No One  
John I. Wyld  
Thomas Penny Junr  
George Troys  
John Whitman

Ward No Four  
W. A. Hesson  
James Parkier  
R. J. Romans  
James Phelan

Ward No Two  
George Fraser  
John Leishman  
Thomas Graves  
John Longard

Ward No Five  
L. W. Dupre  
Wm. Kennells  
Edward Post  
James Scott

Ward No Three  
Roderick Fraser  
John H. Symons  
John W. Cabot  
P. Mc Ainish

Ward No Six  
George B. Anderson  
Edward De Wolf  
Joseph Kays  
M. P. Black Junr

Watchman  
Appointed

The City Council next proceed  
to elect a City Watchman  
Read over the various applic-  
cations and the names being called, John Kiefe is  
unanimously elected.

The Report of Committee of  
City Prison of 2<sup>nd</sup> November is read

Report Committee  
City Prison  
24 Nov 1858

The Committee of the City Prison  
report that on the 2<sup>nd</sup> of November last - they visited and  
inspected the works in progress at the Rockhead farm  
and found the exterior of the City Prison completed  
except a small part of the roof of the Centre Building  
which they presume has since been finished. The  
Carpenter informed the Committee that the Windows were  
ready to put in as soon as the blasting for the cells in  
the basement were completed.

The

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The Committee find that the chimneys which are in the centre building as now finished which is said to be pursuant to the contract are ten feet below the crown of the roof the centre building - and they conceive that it will be necessary for the safety of the Prison, the roof being of wood as well as to make the chimneys draw well that they shall be raised at least ten feet and have chimneys pots put on them - as at present they give the building a very unsightly appearance.

The Contract specifies that no alteration is to be made or any extra work allowed for, except by order of the Council the Committee therefore submit the matter for their consideration. The subject of Insurance on the Building is submitted for the consideration of the Council,

Halifax Committee Room

December 1<sup>st</sup> 1858Sig<sup>d</sup> Charles Twining  
Chairman

On Motion of Alderman Mignowitz seconded by Alderman Torrinstall that said report be adopted said Motion passed

The following resolution is introduced

Resol. - to Insur-  
ance of City Prison

Resolved that it is expedient that Insurance be effected on the City Prison, and that the Mayor be requested to have the same done to the amount of £2000. Moved by Alderman Twining seconded by Alderman Sennidgs passed to Voting for it and Against it.

Resol. - rel. - to  
Insurance on City  
Hospital

Resolved that it is expedient that Insurance be effected on the City Hospital and Out Houses to the amount of £3000 on the Hospital and £500 on the Out houses, and that His Worship the Mayor be requested to have the same effected. Moved by Alderman Rogswell seconded by Alderman Twining, passed.

Report Suptn  
Streets rel. - to  
Drain Morris  
Street -

Read report of Superintendent of Streets relative to Drain in Morris Street. On Motion of Alderman Twining seconded by Alderman Sennidgs the report stands over until next Meeting. (See file)

The following resolution is next introduced

Resol. - rel. - to Clerk  
License collecting  
Dents

Resolved that this Council do authorize W<sup>m</sup> Morris the present Clerk of License to collect

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December 1<sup>st</sup> and pay to the City Treasurer all rents derivable from  
Continued any property owned by the City - Moved by Alderman  
Conway seconded by Alderman Caldwell, passed,

The following resolution is next introduced

Whereas the rates of Taxes for Hacks  
& Trucks as at present established does not extend to  
all parts of the City.

Resol. rel. to the  
Hack & Truck  
Committee

It is therefore resolved that the  
Truck and Hack Committee be requested to revise  
the present tariff and establish rates which will  
embrace the limits of the City and report the same  
to this Council. Moved by Alderman Megrawitz  
seconded by Alderman Twining passed.

Resol. rel to a  
Drain Brunswick  
Street

Resolved that the Superintendent  
of Streets be directed to construct a short drain in order  
to carry off the Water from the Hydrant in No 6 Ward at  
the head of Brunswick Street or if the removal of the  
Hydrant be preferable that the Superintendent be at  
liberty to remove the Hydrant. Moved by Alderman  
Bell seconded by Alderman Jennings passed

On Motion "Council rise"

Henry Ferry  
Mayor

December 1<sup>st</sup>

The following <sup>Gentlemen</sup> were this day sworn  
into Office as Fire Wards for the City, Lemuel Morton  
John Hogan - Robert Woodill & Andrew McKinlay Jun<sup>r</sup>

Fire Constables  
Appointed &  
Sworn

The following Gentlemen were this  
day sworn into office as Fire Constables for the City in  
presence of His Worship the Mayor, Mathew Young  
Robert Murgahart - Samuel Nash - John Holland, George  
Bignell - Henry A Taylor, James Wallace David Shepherd  
Pierce Bowes - Patrick Whiston, John Marvin.

Henry Ferry  
Mayor

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Board Health  
- Sworn -

The following Gentlemen were this day sworn into office as Members of the Board of Health for the City, Brexton Collins, William Stevens, William Langley, H. G. Laurilliard, Charles S. Wallace, James Thompson & John Taylor - Tho<sup>s</sup> H. Peters

Health Wardens  
Sworn -

The following Gentlemen were this day sworn into office as Health Wardens for the City, George Traser, George Traser - John Lushman, Thos Graves, Rodrick Traser - John H. Symons, C. McAinsb, R. I. Romans - G. W. Dupo, Wm. Bonnets, Edward Lost, James Scott & Edwin De Wolf - Joseph Raze & M. Black in presence of Alderman Caldwell

Fire Constables  
Sworn -

John Romans, Michael O'Connor Samuel Goodwin and Henry S. Marshall sworn into office as Fire Constables for City in presence of Alderman Caldwell,

Henry Taylor  
Mayor

William A. Hesson sworn into office as Health Warden in presence of Alderman Caldwell

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George Jackson and C. M. Walsh sworn into office as Fire Constables in presence of Alderman Caldwell,

John T. Wylde sworn into office as Health Warden in presence of His Worship the Mayor

December 14<sup>th</sup>

George E. Ritchie sworn into office as a Fire Ward in presence of Alderman Caldwell,



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At a Special Meeting of City Council held this day Present His Worship the Mayor Aldermen May, Cogswell, Caldwell, Lounds, Barnstead, Morrissey, Twining, Thomson, Miss Wills, Mignowitz, Morris Fall, Conway, Bell & Richey

Read over proceedings of 1<sup>st</sup> of December.

The City Council were summoned to take into consideration the report of Committee of Common and the transaction of other business.

Report Committee - City Prison -

Alderman Twining Chairman submits report of Committee of City Prison relative to Thomas Laidlaw Merchant and Thomas Mitchell Iron Founders as Bondsmen for Mr Robert Davis Contractor for finishing interior of City Prison.

Report Special Committee rel. to - Engine House -

Alderman Mignowitz submits report of Special Committee relative to the Building New Engine House.

Report Committee City Property - rel. to Pock Wock Lake -

Alderman Conway submits report of Committee of City Property relative to Pock Wock Lake and papers connected therewith

Alderman Thomson Chairman submits report of Committee Public Accounts of Dec 9<sup>th</sup>

Read following report of the Superintendent of Streets of 9<sup>th</sup> December relative to Works done at North Fish Market

Report Superintendant of Streets rel. to Works done at North Fish Market -

Streets Office  
Halifax 9<sup>th</sup> Dec<sup>r</sup> 1858

The Superintendent of Streets begs leave to report for the information of His Worship the Mayor and the City Council

That the Contractor has nearly completed Building the Sewer and Wall at the North City Wharf the placing the cross ties and securing them in the Wall is the principal part of the work unfinished and cannot be done securely until the vacant place on the wharf is raised with earth nearly the height of the retaining Wall, and which may be accomplished to good advantage on the first clearing of Streets - The

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December 10<sup>th</sup> The Contractor has received £30 and I think he is  
entitled to Sixty pounds which would leave a balance of  
£9-10-0 for the completion of the Works by the Contractor,

All of which is respectfully submitted

Sig<sup>d</sup> James Pollock,  
Supt<sup>r</sup> of Streets

When on Motion of Alderman Conway  
the order of the day is suspended the same considered and  
following resolution is introduced

Resol. rel to  
payment of Wm.  
Manton £1000  
account.

Resolved That the Report  
just read be adopted and that His Worship the Mayor  
be authorised to draw a check for £500 Moved by Alderman  
Conway seconded by Alderman Mignowitz, passed

On Motion of Alderman Swining  
the order of the day is suspended and the following resolu-  
tion is introduced

Resol. rel. to  
Davis sureties  
for finishing City  
Prison.

It is Resolved that the sureties  
proposed by Mr Robert Davis on his Contract for finishing  
the City Prison, Thomas Laidlaw and Thomas Mitchell  
be approved of Moved by Alderman Swining seconded  
by Alderman Fay passed.

Resol. rel to the  
Sureties of David  
son Graham -  
New Engine House

Resolved It is understood that  
Mess<sup>rs</sup> John Woodill and Richard Bincock sureties  
for the Contractors for erecting New Engine House be  
approved and accepted. Moved by Alderman Mignowitz  
seconded by Alderman Torristall passed.

Order of the day is suspended to take  
into consideration communication from Mr Wright to  
Alderman Cogswell when following resolution is intro-  
duced

Resol. rel. to  
alterations in the  
Specification for  
City Hospital

Resolved That the City Hospital  
Committee be authorised to make the alterations in the  
Specification recommended by Mr Wright in his letter  
to the Chairman dated 8<sup>th</sup> of December 1858 provided no  
additional expense be incurred Moved by Alderman  
Cogswell seconded by Alderman Conway passed.

Order of the Day is suspended to  
consider a resolution of Alderman Thompson relative to  
the removal of certain Gas Lamps,  
when following resolution is next  
introduced

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Read - rd to the  
removal of certain  
Lamp Posts

Resolved that the Gas Lamps at the  
Corner of Arayle and George Streets - Barrington and  
George Streets and Jacob and Brunswick Streets be  
removed to the following situations - namely  
One to be placed in the most convenient situ-  
ation at the head of the Parade Steps Arayle Street,  
One near the entrance to the Parade Barrin-  
-gton Street, and one at the head of Jacob Street,  
the Lamp at the foot of Round Church Hill to the  
Western side of the Street, Moved by Alderman  
Thompson seconded by Alderman Conway, passed.

Read following Opinion of Hon.  
William Young relative to the Common -

In the Matter of the Halifax Common

Opinion of Hon.  
William Young  
relative to Common

I have attentively considered the  
papers submitted to me by order of the City Council  
and all the acts the Province which bear upon the  
occupancy and title of the Halifax Common -  
The original order of Survey signed by Governor  
Laurence, March 28<sup>th</sup> 1760 directs the Chief Surveyor  
"to admeasure and lay out unto the inhabitants,  
"of the Peninsula of Halifax two Hundred and thirty  
five acres of land lying in the Township of Halifax  
for a perpetual common for pasturage for the sole  
use and benefit of the said inhabitants"

The return of same date describes four lots as  
having been so laid out and it was registered by order  
of the Governor as "a survey made for the Town Common"  
Founded upon these documents a grant was passed  
by Governor Belcher under the seal of the Province June  
23<sup>rd</sup> 1763 vesting in certain Public Officers the above  
four lots with five acres more making two Hundred  
land forty acres in all "said lands being surveyed laid  
out and registered for a Common for the inhabitants  
of the Town of Halifax" All the grantees are long  
since dead, but the Acts of Incorporation have  
transferred the title of this as of other Public properties  
to the City and no question as to the title can arise -

The provincial act of 1770 empowered the Gene-  
ral Sessions in the several counties to affix and settle  
such regulations as they might think most proper  
and convenient to be observed and followed by the  
inhabitants in the several townships within such  
County in regard to the Commons belonging to the  
same"

When the

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Continued powers in relation to particular Commons, they passed special acts for that purpose as in 1789 for the Dartmouth Common restraining however any alienation of the Common field and in 1803 for Digby Common permitting a part of it not exceeding one third part of the whole to be leased such leases not to exceed the term of three years.

The inhabitants of Halifax having thus been clothed with a Public right and having enjoyed that right from the year 1765 it may be safely asserted that no power could deprive them of it, except an act of the Legislature. The Crown had no such power and the Sessions of the Peace could regulate only, but could neither restrain nor take away the rights of the inhabitants. It is too clear then to be denied that the General Sessions in their order of September 1800 exceeded their authority. They direct that in future all that part of the Common of the Town of Halifax which lies to the Northward of the road leading from Pyles ropewalk (being the present Spring garden road) across the said Common shall and may be used for the purpose of exercising and encamping His Majestys Troops thereupon when and so often as the Commander in Chief of His Majestys forces in the Province of Nova Scotia or the Commanding Officer of His Majestys Troops at Halifax for the time being shall think necessary, except so much thereof as shall be necessary to furnish highways for the passing and repassing of His Majestys subjects. The part of the Common so described comprehends about One Hundred and Sixty acres, leaving about Eighty acres to the South, and on the face of it the order, admitting that it may, as it could not, but injure the inhabitants in their rights of pasturage, professes to find a compensation therefor in the concession by the Commander in Chief of certain Military Grounds which the inhabitants as it is stated by the Recorder have never been permitted to use. I have no hesitation in declaring that this order, however well intended at the time, was wholly illegal and conferred no right whatever on the Military authorities to the injury of the inhabitants.

Had the whole North part of the Common however, been fenced in or exclusively used, used and possessed since the date of the order for Military purposes. I incline to think that the title having passed out of the Crown to Trustees though for a Public use, would have been affected by so long a prescription, and therefore I think that the Military

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Military authorities independantly of any act of the Legislature, have acquired a right to the use of that portion of the Common to the North East which they have actually improved and possessed. The more extended claim recently set up to all the land north of the Burying ground, I understand to be founded not so much on the agreement or order itself as on the Legislative restrictions of which it is said to have formed the basis - Now it may be confidently answered that not a single act recognizes this order as binding or admits the claim of the Military Authorities to the extent which the order conferred. "The first Act of 1818 afterwards disallowed by His Majesty authorised the leasing of certain lots part of which lay to the North of Spring garden road and were therefore an encroachment on the limits of the order. "The acts of 1829 & 1830 (the last of which amending the first was specially confirmed by His Majesty in 1832) permit the granting of leases to the extent of One Hundred Acres there being only eighty acres South of Spring garden road, and direct that lots for Public Cemeteries, Bridewell, or any other Public purpose which may be considered useful and beneficial to the inhabitants may be assigned by the Commissioners of the Common and so held and used with the approbation of the Governor in Council. These Legislative Acts are totally inconsistent with the order of 1800 or the claim now advanced, because One Hundred Acres of the Common could not be leased, nor could lands be appropriated thereon for Public Cemeteries or prisons without taking a considerable portion of the North part.

"58 Geo 3 Ch 15

10 Geo 4<sup>th</sup> Ch 32

1 Will 4<sup>th</sup> Ch 4

The leases under the Act of 1818 confirmed by that of 1830 lay in part to the North and therefore when the Act of 1829 which is the first recognition of the military right declares in the 15<sup>th</sup> section that "Nothing in this act contained shall extend to the North part of said Common used as an exercising ground for His Majesty's Troops" it is obvious that this reservation is confined to the portion already indicated at the North West Corner. The Acts of 1835, 1837 and 1843 in relation to a Public Cemetery the latter giving it its present boundaries are all Legislative assertions of a right independant of the order of September 1800 and the Act of 1834 in reserving "the free and uninterrupted use at all times and on such way and for such purposes as may be requisite by His Majesty's Troops, of the north part of said Common now used and known as the exercising

3 W 4<sup>th</sup> Ch 32

7 W 4<sup>th</sup> Ch 76

6 Vic Ch 36

4<sup>th</sup> Will 4<sup>th</sup> Ch 71

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December 10<sup>th</sup> exercising Ground for the said troops", which it is added shall continue to be used as such exercising ground as heretofore" plainly refers only to the exercising ground at the North East. When the incorporation acts therefore vested the Common in the City "subject nevertheless to the rights and privileges of Her Majesty the Queen retained therein". I cannot bring myself to doubt that these rights and privileges were intended to be and were in fact limited to the grant of twelve acres by the Act of 1830, the Special provisions in the same Act against the erection of buildings or permanent fences within Six Hundred Yards of the fortification, the grant under the Act of 1839 and the use of the exercising ground as then actually occupied.

"Act. Ch. 25

The right of erecting wooden fences within the Six hundred Yards under the Act of 1830 has been lost under the 3<sup>rd</sup> Section of Chapter 5<sup>th</sup> of the Corporation Act of 1851, but if the omission as has been suggested was purely accidental the Legislature I presume will rectify it. The larger question which I have discussed is obviously of great importance. The General Commanding in the assertion of what he holds to be the rights of the War Department or of the Crown, while "he will not at present interfere with certain of the inclosures within the limits above referred to: that is all inclosures North of Spring Garden road, or at least all inclosures to the North of the road leading to the east centre of the burying ground." will require the removal of all the fences to the North of the burial ground which surround the two triangular fields or inclosures and those on Windmill or Camp Hill; and he has proceeded to dig up and level the spot that was to have been leased to the Cricket Club.

How this claim is to be upheld by the Crown in the face of the numerous Legislative Acts to which the Crown has assented, I am at some loss to apprehend but there is no doubt that the claim will be earnestly though courteously urged, and in my judgment it ought to be firmly but courteously resisted. I would suggest then to the Council either an address to the Crown which may bring relief by an order from Her Majesty, or an action for the Trespasses already committed, when the whole matter after the extent of the use and other facts shall have been ascertained by the finding of a Jury, will be argued before the Supreme Court and finally adjudicated.

Halifax 30 November 1858

Sigs. W. Young

2. C. *where*

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Read following report of the Committee  
of Common of 10<sup>th</sup> December 1858

Report Committee  
of Common of 10<sup>th</sup>  
December 1858

The Committee of Common has to report, that in accordance with the intention which this Council has acted upon for several years of draining and otherwise improving the Common, the Committee having the same end in view, during the past summer leased some portions of the Common for a term of years, not doubting that they possessed full power and authority to give and execute any such leases. On the 7<sup>th</sup> of July last, this complacent feeling was disturbed by the receipt of a letter from S. W. Ritchie Esq on behalf of Major General Trollope, claiming for the Military authorities the use of one of the lots leased by the Committee, and also of several enclosures previously made. The claim thus unexpectedly set up by the Major General commanded the Committee to an investigation of the legal acts and documents referring to the Common the results of which investigation were embodied in a Report which was submitted to the Council on the 10<sup>th</sup> of August of the present year. It is satisfactory to state that the views adopted in that Report agree in substance with the opinion of His Honor the Recorder, and have since been further strengthened by the concurrence of the Hon. William Young Queens Counsel.

The Committee had hoped that the moderation of their statements would have prevented further opposition, but as they have been disappointed in that expectation, and legal steps have become inevitable it is now necessary to explain what the demands of the Major General really are.

By the revised Act of Incorporation of 1851 Section 3 it is declared that "no person shall put up any building fence or other erection within 1800 feet of the Fortress on Citadel Hill, without the permission of the Commanding in Chief of Her Majestys Forces in this Province. Whatever portions therefore of the present enclosures on the Common may happen to be within the reserved distance of 600 yards or so placed without the permission of the General Commanding must be allowed to be in contravention of the Act of 1851.

With regard to this part of the question however it must be observed,

1<sup>st</sup> That every Act of the Legislature, referring to the Common, previous to 1851, expressly permits