

1858

December 11th
Continued

Report Continued
permits the erection of fences of wood - even within the reserved distance of 600 yards. The words invariably used are, "except fences of wood"

2. Though it does not appear that permission was asked of the General Commanding for the erection of the present fences yet it cannot be doubted that the enclosures were made with the full cognisance of the military authorities, and without remonstrance or objection from any quarter whatever,

3. It is equally clear that no portion of the enclosures encroaches upon that part of the Common which the Committee contend has always been known and used as the Exercising Ground or namely, the North Eastern part,

Report Continued

4. It is the belief of the Committee that the restriction had reference, mainly if not solely to a time of War, and it is needless to add, that in such an event, the citizens would cheerfully and promptly remove not only all fences but every other impediment which the exigencies of the case might require.

From the foregoing observations the Committee infer that the words "except fences of wood" were accidentally overlooked in the Act of 1851 and they recommend that the Council shall petition the Legislature to amend the Act by restoring the words thus inadvertently omitted,

The restriction referring to the 600 yards is however but a small and comparatively insignificant part of the claim now for the first time put forward by the military authorities. From the correspondence between His Worship the Mayor and Mr. Ritchie it will appear that the Major General requires the removal of all fences to the northward of the Cemetery and in fact claims for the use of the Corps, the whole of the Common North of Spring Garden road. The Document upon which this preposterous claim is founded dates A.D. 1800 in which year an Order was issued by the General Sessions granting to His Majesty the King the use of the Common for an encamping and exercising ground and defining the bounds of the same.

It is admitted by the Major General's legal adviser that an order of the Magistrates in Sessions gave no legal right whatever, as they had no power to give any such right, and so far there is no difference of opinion. But it is contended that subsequent recognition of this document as a basis of legislation gave it a value equivalent to an Act of the Legislature.

Leaving the subtleties of this point for discussion by Gentlemen learned in the Law, the Committee feel it their duty to give what they conceive to be a just and practical view of the question at issue. The original

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Report Continued

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The original grant from the in 1763 gives the whole Common of 240 acres to the inhabitants of the Town of Halifax, as a place of pasturage for ever. But it appears that at some early period - in the Duke of Kent's time it is said - the military authorities cleared and levelled a portion of the Common for an exercising ground. Now the terms employed in the different Acts referring to the Common wherever occurring, evidently point to the North West end as the portion thus cleared and occupied being the same part in fact, which has been used from the time of clearing to the present day. The allusions found in papers and documents referring to the Common exactly correspond with the general impression and recollections of the inhabitants of whom many now living, can testify that no part has ever been used for an exercising ground, except the part still used for that purpose, the remainder of the Common, up to a very recent period being for the most part an unsightly morass covered with water and totally unsuitable either for encamping or for the evolutions of Troops.

Report Continued

When the Magistrates in the year 1800 gave nearly three fourths of the Common for military purposes & some faint idea of the absurdity and injustice of the transaction appears to have occurred to them as they stipulated for a part of the beach at Point Pleasant which was to be considered an equivalent for the right of Pasturage of which they were depriving the inhabitants. The equivalent, however, such as it was, was never enjoyed and indeed until recent explorations had discovered the document in which it was mentioned, was unknown to the inhabitants.

In 1818, by an Act of the Legislature a portion of the Common was laid off in Lots and leased. The Act was subsequently disallowed, but some of the leases being part of the Common now claimed by the Military remain undisturbed to this day.

The Act of 1829 reserves the "North part" of the Common to Her Majesty's use, but permits the granting of leases and enacts that no more than 100 acres shall be granted at any one time. If the order in sessions in 1800 was of any value, this Act of 1829 was an anomaly, for the order of 1800 had previously conceded the whole of the Common to the North of Fishes Bridge - or about 160 acres leaving only some 80 acres out of which 80 acres the Act gave permission to grant leases "not exceeding 100 acres each."

The Act of 1830 states that Lots may be

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leased for public cemeteries or any other public purposes that may be considered useful or beneficial to the inhabitants. The Committee submit that a Cricket ground comes fairly within that category.

It is also to be observed that with the exception of the order in sessions which is the grand source and fountain of all the trouble, the rights of the Military are not mentioned in any Act previous to that of 1829. In the year 1853 twenty acres were set apart for a Cemetery on the summit of Camp Hill but the General Commanding having objected, on the ground that the spot might be required for military occupation in time of War, the Citizens though they had incurred the expense of fencing, acknowledged the reasonableness of the objection by removing the Cemetery further to the Southward. Had the War Department at that time been aware of the rights now claimed, without doubt a different course would have been pursued on that occasion. Since that time the military authorities have sought and obtained possession by another arrangement of the desired part of Camp Hill, which if there was any validity in the Order of Sessions they might have claimed without any new arrangement.

In addition to these instances in which the provisions of the order in sessions of 1800 have been glaringly disregarded, it is within the knowledge of the Citizens that with the exception of the North Eastern portion so frequently alluded to, the military authorities have never made any effort to drain or level any part of the Common. Nor have they hitherto presented any obstacles to the various improvements which have been carried on by the Citizens for a series of years. In the course of these operations the citizens have expended many thousand pounds, and have incurred a debt which the produce of the fields reclaimed is gradually reducing, but which will probably remain a perpetual burden if the enclosures be removed.

Finally the Committee maintain that the space allotted to the military as described in the resolutions accompanying the Report of 8th August, is greater than the space originally cleared and used by them. Indeed it will be found that the space reserved for the use of Her Majesty's Troops embraces the whole of the ancient Exercising Ground and also adds a considerable area of bog, which up to this time, the military have neither levelled, nor cleared. The presumption is the additional space has not been needed.

Thom

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 December 10th
 Continued

Report Continued

Upon all these considerations, the Committee having been interrupted in the execution of their plan and conscientiously believing that the Citizens have right on their side, hereby recommend His Worship the Mayor to enter an action in the name of the corporation, against Major General Trollope for trespass, in order that the question may be argued and settled by a verdict in Her Majesty's Supreme Court.

All of which is respectfully submitted

Sigs John A Bell
 Chairman

Halifax 10th December
 1858

When following resolution is next introduced

Resolved to the publishing of report of Committee of Common.

Resolved that the Report of the Committee of Common as submitted by the Chairman to the Council on the 10th day of December 1858, be received adopted and published for the information of the Citizens.

Moved by Alderman Richey seconded by Alderman Morrissey - Passed.

Read following report of the Committee of Public Accounts this day submitted - is next taken up and read.

Report Committee Public Accounts
 9 December 1858

met this day and the Chairman presented

Office of City Auditor,
 Halifax, N.S. 20th April 1859

Alderman Allen
 Sir
 The balance to credit of the City Treasury at present is \$2,183.65 -

credits including

Orig. Surveys and Carriers	2 - 10 - 0
John Kelly (Plans & Surveys)	7 - 15 - 0
Eleanor Warren Carting	2 - 2 - 0
Do	1 - 10 - 0
D. McPherson (Carpenter Work)	8 - 11 - 11
Halifax Gas Company	480 - 0 - 0

Public Accounts
 J. A. Caldwell

Accounts were

\$ 1 - 11 - 03
1 - 10 - 0
3 - 15 - 0
2 - 10 - 0
7 - 15 - 0
2 - 2 - 0
1 - 10 - 0
8 - 11 - 11
480 - 0 - 0
3 - 5 - 9
over

Bridewell

William Pyke (Meat to 30 Nov 1858)

512-10-11

1858
December 10th
Continued

Report Continued

From all these considerations, the Committee having been interrupted in the execution of their plan and conscientiously believing that the citizens have right on their side, hereby recommend His Worship the Mayor to enter an action in the name of the corporation, against Major General Trollope for trespass, in order that the question may be argued and settled by a verdict in Her Majesty's Supreme Court.

All of which is respectfully submitted

Sigs John A Bell

Chairman

Halifax 10th December
1858

When following resolution is not introduced

Resolved to the publishing of report of Committee of Common.

Resolved that the Report of the Committee of Common as submitted by the Chairman to the Council on the 10th day of December 1858, be received, adopted and published for the information of the Citizens. Moved by Alderman Richey seconded by Alderman Morrissey - Passed.

Read following report of the Committee of Public Accounts this day submitted - is not taken up and read.

Halifax December 9th 1858

Report Committee Public Accounts
December 1858

The Committee of Public Accounts met this day Present Aldermen May, Bell, Caldwell and the Chairman

The following accounts were presented

Witts		
Smith & Mitchell (Plumbers work)	£	1-11-03
Halifax Water Co	Nov 1 st	1-10-0
William Stevens Iron Work		3-15-0
Brig Swordfish & Owners		2-10-0
John Kelly (Plans & Surveys)		7-15-0
Eleanor Warren Carting		2-2-0
Do Do		1-10-0
Q. McPherson (Carpenter Work)		8-11-11
Halifax Gas Company		480-0-0
Bridewell		
William Pyke (Meat to 30 Nov 1858)		3-5-9

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December 10th
Continued

Bridewell

Califac Water Co to 1st Nov	L 3-15-0
Phillip Telson (Leather)	11-5-4
R. Noble & Sons (Grey Cotton)	4-6-5
Messrs Lachys Stone July 24th	1-8-0 1/2
C. D. Murters. Meal &c	75-2-9
Wm. McDonald Keeper bal	10-3-4 1/2
Do Do Nov 30	1-15-2 16-18-6 1/2

All of which are recommended to be paid

December 9th 1858
Signed Philip Thomson
Chairman

On Motion said report is adopted and His Worship the Mayor requested to draw checks for said accounts

Five Wards and
Five Constables
Elected.

The City Council next proceed to elect five Wards and five Constables to fill up vacancies when the following Gentlemen are elected to the office.

Ward No 1	Ward No 3	Ward No 4
James Kerr	Chas W. Dickson	John Richardson

On Motion Captain Caldwell of Engine Company and Captain Corne are elected Fire-Ward.

The following Gentlemen are elected to the Office of Fire Constable,

Ward No 1	Ward No 3	Ward No 4
Thomas Post	John Pugh	William Fallister Sr
	Wm Wilson	

Ward No 5
John Mumford.

Bonds of
City Officers
Approved.

The following Bonds of City Officers having been submitted to City Council and approved of, are duly filed.
James H. Clarke as City Clerk. John L. Cragg asst. Cl.
Laurence Hartshorne as City Treasurer. George Irwin as City Marshall. Wm. J. Morris as Clerk of License. James Pollock as Superintendent of Streets. John O. Kraegen as Clerk of Streets. John Parker. John Winters. Samuel Carters and William Grant as Weighers of Flour - Joseph McGill. James Fortune. Philip Perrier. Dennis Heffernan. Thomas Wilson Junr. Richard Fitzgerald John Brennan, and Edward Paul as Weighers of Oil.

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December 10th
Continued

The City Council next take up report of Committee of City Property relative to Crown Lands ungranted within the City as likewise relative to Pock Woek Lake -

Read said report of 10th December

Report of the
Committee of City
Property rel-
to Pock Woek
Lake -

The Committee of City Property having had under their consideration the matters committed to them by resolution of the Council on the 12th of November last and also the Communication from the Office of the Provincial Secretary with accompanying documents relative to the grant of Pock Woek Lake also referred to them by the Committee beg leave to report in part as follows. That your Committee in order to procure in terms of the resolution a return of all the lands held by the Crown within the limits of the City, specifying the extent thereof and the dates of the recent grants, also a return of all the ungranted lands within the limits of the City and to ascertain what rights had been acquired by private persons in the Pock Woek Lake or adjoining lands and also to elicit information respecting such other lakes, especially those at Birch Cove as might at any future time be made available for the purposes of the City, after a very satisfactory interview with the Commissioner of Crown Lands, addressed to that Gentleman a communication detailing the various particulars on which they desired information.

To this Communication your Committee received in the present week the reply which they now submit herewith. With reference to the last branch of the resolution requiring your Committee to request of the Provincial Government to make no further grants of land within the limits of the City without giving a refusal thereof to the Council your Committee beg leave to report that the matter has been brought by them to the notice of the Government and they have been informed that it will receive consideration, but as yet no definite answer has been communicated.

Your Committee would conclude their report with a recommendation that a survey of the lakes at Birch Cove be immediately made,

All of which are respectfully submitted

Sgt. Jeremiah Conway
Chairman

Halifax
10 December 1858

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December 10th
Continued

Read Letter from Deputy Secretary of
Province of 26th Nov^r 1858 (See file)

Communication
from Crown Land
Office.

Read Communication from Comm-
issioners of Crown Land Department of 3rd December and Plan
accompanying the same. (See file) (Plan in Jim Box)
when following resolution is introdu-
ced.

Resol. re: report
Committee City
Property, re: to
Birch Cove Lake
&c &c

Resolved that the report of the
Committee of City Property be adopted, and that said
Committee be authorised to employ a competent person
to survey the Lake at Birch Cove with a view to obtain-
ing a Grant for the same; Moved by Alderman
Mignowitz seconded by Alderman Jennings - passed.

On Motion the Committee of Common
are requested to name the roads on the Common and
report to this Council.

On Motion
"Council rise"
Henry Taylor
Mayor

December 17th

Charles W. Dickson Esq^r sworn into
Office as Fire Ward for the City in Ward Three.

Henry Taylor
Mayor

1858
December 27th

At a Quarterly Meeting of City Council. Present His Worship the Mayor, Aldermen Cogswell, Caldwell, Towns, Morrissey, Thompson, Twining, Moir, Mignowitz, Horriestall, Conway, Jennings, Bill, Richey,

Read over proceedings of 10 December

Alderman Conway Chairman submits report of Committee of Tenders - received -

Alderman Thompson submits a report of Special Committee relative to unpaid Taxes, received -

Petition of Francis Stevens relative to opening of Bye roads -

Alderman Cogswell submits Petition Francis Stevens & others relative to the opening of the Bye roads.

The City Council proceed to the Election of the various Measurers of Salt, Coal, Wood &c for ensuing year -

Return of Supervisor of Salt & Grain

Read following return of the Supervisor of Salt & Grain Measurers -

Salt	59,430	Hogsheads	at 2 th per hhd	\$495	5	0
Wheat	1,653	Bushels	at 2 th per 100 bush	2	1	4
Oats	110,260	Bushels	at 2 th per 100 bush	22	16	6
Indian Corn	16,180	Bushels	at 2 th " " "	32	4	6
Barley	14,420	Bushels	" 2 th " " "	28	0	6
<u>Dran</u>	<u>2,560</u>	<u>Bushels</u>	<u>" 2th " " "</u>	<u>5</u>	<u>19</u>	<u>0</u>
				\$	67	6

Expenses 11 16 10

Divided by 8 gives to \$ 8 4 10
each Measurer \$ 83 1 33

Sigs. John Martin
- Supervisor -

Read application of John Martin and others the Old Measurers when it is Moved that the late Measurers be continued in Office, which on being put is carried 11 voting for it and 3 against it -

The following resolution is next introduced

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December 29th
Continued
Resol. re. addition
of Sal. Measurers of Salt &
Grain

Resolved that an additional Measure
of Salt & Grain be added to the present number of Salt
& Grain Measurers the service of the public requiring the
same. Moved by Alderman Mignowitz seconded by
Alderman Morrissey - passed.

On Motion the usual advertisement
is ordered to be inserted.

On Motion John Martin is appointed
Supervisor of Measurers of Salt & Grain.

Read following return of Supervisor
of Coal

Return of Super-
visor of Measurers
of Salt & Grain

Return of Coal Delivered and
Measured in the City of Halifax for year 1858

20,525 Chaldrons at 7/6 per Chald. = £141-8-0
Divide by 9 gives £15-5-4
to each Measurer

Halifax
Dec^r 24/58

Sig^d William S. Madden
Supervisor

Read application of W. S. Madden
Others the late Measurers to be continued in Office

Measurers of
Salt & Grain

Read application of David McPherson,
and the names being taken W. S. Madden C. S. Major
William Bilby, Mark Maddison, John O'Connors
Andrew Kisset, James Breslow, Samuel King
A. J. Smith are unanimously re-elected.

Measurers of
Coal Appointed

Moved by Alderman Mignowitz
seconded by Alderman Morrissey that William Bilby
be appointed Supervisor of Measurers of Coal to which
following amendment is introduced That W. S. Madden
be continued in Office as Supervisor which amendment
on being put is carried. W. S. Madden is therefore
appointed Supervisor of Coal for ensuing year.

Return of Wood
Measurers

Read following return of Measurers
of Wood -

6955 Cord

Sig^d Thomas James
Supervisor

1858

December 2nd
Continued

Read application of Thomas James and others late Measurers to be continued in office when Thomas James, Colin Wilson, Henry A. Parker are unanimously reelected.

On Motion Thomas James is appointed Supervisor of Measurers of Wood for the ensuing year.

Henry Spike
Return of
Surveyor of
Lumber.

Read following return of Henry Spike Surveyor of Lumber &c Return of Lumber &c surveyed

1288228 feet Pine, Spruce and Hemlock Boards & Plank
7084 feet Mahogany
136 Tons Hemlock & Birch Timber
10900 feet Birch Boards
5040 feet Hanging Timber
1134 feet Ash & rafter
220 wharf Logs Large & Small

Fees for Surveying above £ 4-12-9

Sig^d Henry Spike

Return of John
McPherson Surveyor
of Lumber.

Read following return of John McPherson Surveyor of Lumber &c Account of Lumber & Timber Surveyed from December 1st 1857 to November 30th 1858

672992 feet Pine Lumber
162988 Do Spruce Do
238500 Do Hemlock Do
16000 Do Hard Wood
82250 Do Sawed & Hewed Timber

Fees for Surveying above £ 58-12-6

Sig^d John McPherson
Surveyor

Return of James
Sutton Surveyor
of Lumber.

Read following return of James Sutton Surveyor of Lumber &c

665554 feet of Pine
183469 feet of Hemlock
140305 feet of Spruce
3634 feet of Hard Wood

Sig^d James Sutton
Surveyor.

1858

December 2nd

Continued -
Surveyors of
Lumber - -
Appointed

son and James Sutton are elected Surveyors of Lumber
for ensuing year

On Motion James Norwood
is appointed a Dealer of Leather for ensuing year -

On Motion James Morney and
William Newcombe are elected Inspectors of Pickled
and Fresh Beef & Pork for ensuing year -

Inspectors of
Brick & Lime
Appointed

On Motion Nicholas Wright
Robert Malcolm and James Reid are appointed Inspectors
of Brick Lime and Measurers of Mason Work for ensuing
year -

Inspectors of
Painters Work
Appointed

On Motion George Smithers, Maurice
Courney and John Murphy are appointed Inspectors
and Measurers of Painters Work for ensuing year -

Jence Viewers
Appointed

On Motion John Mumford, John
McKay and Alexander Bain are appointed Jence Viewers
for ensuing year -

Return of Clerk
of License

Read Return of Clerk of License for
Quarter ending 15th December 1858 "received"

Read Communication from Board
of Fire Wards of 23 December 1858 (in file)
When following resolution is next
introduced

Resolved - to the
Communication
of Fire Wards -

Resolved that the request of the Fire
Wards be complied with and His Worship the Mayor be
authorized to have the extracts necessary for their guidance
and information printed. Expenses not to exceed three pounds -
Moved by Alderman Mignowitz seconded by Alderman
Swinnery. "Passed"

Fire Constable
Ward One, Three
and Five -

The following appointments
are next made,
Charles Carman Fire Constable for Ward One
James Leddy Do Do " Ward Three
Augustus LeCain Do Do " Ward Five

His Worship the Mayor submits
report of His Honor the Recorder relative to the Railway
Causes tried before Supreme Court

On Motion Alderman Thompson
is substituted instead of Alderman Wills on the revising
Committee of City Charter -

1858

December 24th
Continued

Read the report of the Committee of
Tenders this day submitted
Committee Room
Halifax Dec^r 24th 1858

Report Committee
Tenders relative
to Supplies for
1859

Committee of Tenders met this day
Present Alderman Hay, Barnstead, Richey and the
Chairman

Opened the following Tenders
for Stationary &c for one year -

A & W. Mackinlay Tender
James Bossip Co

On taking into Consideration the various articles in
those Tenders the Committee would recommend the
Tender of Mess^{rs} A & W. Mackinlay be accepted.

Opened Three Tenders for Printing
Blanks and Hand Bills -

No	Name	Blanks ^{quiro}	of Handbills
1	H. W. Blackadar	1/10	1/6
2	Compton & Bowden	1/6	1/6
3	W. A. Penney	1/8 1/2	1/8 1/2
4	Bowes & Son	1/8 1/2	1/8 1/2

Committee recommend the Tender
of W. A. Penney for Printing be accepted.

Opened Tenders for Advertising
in Weekly & Daily papers.

Weekly Paper

W. A. Penney 1/4 per square of Continuance
Compton & Bowden 1/10 " " one fourth

H. W. Blackadar 1/8 per square of Continuance

Committee recommend Tenders of
W. A. Penney and H. W. Blackadar be accepted -

Opened Tender John Stewart for
Supplies for Bridewell, there being only one Tender the
Committee recommend it be accepted.

for 100 Heads and Feet

Opened Two Tenders
Wm. Owens Heads of Feet 1/2
Wm. Pope Co 1/2 " "

Committee recommend the Tender
of William Owens it being the lowest be accepted.

Respectfully submitted

Jeremiah Conway
Chairman

1858

December 27th

Continued

The Motion said report is received and adopted
parties tenders accepted to give the necessary security.

Read report of His Honor the
Recorder this day submitted relative to the Railway
damages suits in Supreme Court

Report His Honor
Recorder
rel. to Railway
damages suits
in Supreme Court

"Railway appeals"

Having been requested by resolution
of the City Council to assist Nephew Clarke Esquire who
was appointed by the Sessions to defend the ten
railway damages appeals pending in the Supreme
Court. I beg leave to report that I gave my assistance
accordingly in preparing and conducting the defence
of those suits - further that the ten suits were tried
before a Jury last winter and that Mr Clarke and
myself being of opinion that the verdicts in nine of
those cases were reasonable under the evidence there
adduced although in some of those cases the amount
of the verdict was greater than that given by the Sheriff
Jury - there was only one case, that of Mr W. Stenry
with which we were wholly dissatisfied. In that case
we moved for and obtained a rule nisi to set aside
the verdict, which was after argument confirmed by
the Supreme Court at its present December Term - and said
verdict has been accordingly set aside, the other nine
being acquiesced in.

All which is respectfully submitted.

Dec^r 28th 1858

Sig^l B. M. Murdoch
Recorder

Memo. As my services in those causes form no part of
my official duties as Recorder and not having been empl-
-oied by the Sessions but by the City Council. I beg leave
to refer to the Council to adjudge me such Counsel
fee in those ten Cases as they may deem right and
proper -

B. M.

when following resolution is introduced

Resol. rel. to £25
being paid the
Recorder for
Services in Railway
Suits -

Resolved that the sum of £25 be paid
to the Recorder as Counsel fee for the ten Railway causes
which he was directed to defend by the City Council -
Moved by Alderman Morrissey seconded by Alderman
Waldwell & passed unanimously -