

1859
June 13th
Continued

Moved by Alderman Ritchey seconded by Alderman Jennings - that the Letter of Mr. Ritchie and report of Superintendent of Streets be referred to the Aldermen of the Ward to report upon, passed.

His Worship the Mayor submits and reads Letter from J. W. Johnston Esq^r and Sons on behalf of Mr. Stephen Seldon relative to injuries or loss sustained by him at the Fire 1st January 1857.

Letter J. W. Johnston & Sons relative to injuries sustained by Stephen Seldon.

Halifax 11 June 1859
Henry Bruce Esq^r
Mayor of the City of Halifax

Sir

We beg again to call your attention to the act passed in the session of 1856 Chap 94 for the relief of Stephen Seldon from the loss occasioned by the pulling down of his house in this City on the 1st January 1857. This act provides that the order for pulling down his house shall have the same force and validity as if the same had been given in strict conformity with the provisions of section 6 Chap 99 of the revised Statutes of Tiers and Firewards, and we request that the City Council will make the order for the valuation of the damages so sustained by Mr. Seldon, and have the amount assessed with as little delay as possible as Mr. Seldon has already suffered severely by the delay that has occurred since the fire in settling his claim.

Awaiting your reply

we have the honor to be

Your obedient Servants

J. W. Johnston & Sons

Alderman Thompson moves that the order of the day be suspended and that he have leave to introduce a resolution which being granted the following resolution is introduced.

Resolved to the suspension of Rule 2nd for conducting business of Council

Whereas the operation of the second Rule for conducting the Business of this Council passed on 22 February 1857 tends to retard the proceedings of the Council, We therefore resolved that the said Rule be suspended till this day twelve months. Moved by Alderman Thompson seconded by Alderman Hay - passed.

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Council next proceed to take into
Continued Consideration the order of the ^{day} Alderman. Hignow
ity. Notice of reconsideration of resolution relative
to assessment for Railway Interest, when following
resolution is introduced.

Resol. rel. to Assess-
ment for Railway Inter-
est on Citizens of
Halifax

Whereas an Act to authorize
the construction of certain Railways in this Province,
passed the 31st day of March 1854 from the Harbour
of Halifax to the frontier of New Brunswick with
branch lines extending to the Harbour of Pictou
and Victoria Beach, and the Trunk line to be first
completed.

Be it therefore resolved, That in the
opinion of this Council the Citizens of Halifax are
not liable to pay any portion of the Interest, due on
Monies expended on the Provincial Railway, till the
Trunk line shall be first completed, as contemplated
by the City Council, Moved by Alderman Hignow
Seconded by Alderman Richey which on
being put is passed 10 Voting for it and 2 against
it and the names being called for they appeared
thus.

For resolution	Against it
Aldermen Hignow - Richey	Aldermen Caldwell
Lounds - Fair	Conway
Thompson - Thompson	
Hignow - Jennings	
Bell - Cogswell	

On Motion order of the day is
suspended and Alderman Cogswell has leave to
introduce a resolution, when following resolution is
introduced.

Resol. rel. to the
publishing proceedings
rel. to Fish. Mark
Dock in City Papers

Whereas the greater part of the
Dock lying between the Fish Market Slip and the Queens
Wharf has been lately granted to the War Department
under an incorrect representation, that this Council
had given its consent and approval to the passing of
the said grant.

And whereas the said grant continues
in force notwithstanding the urgent remonstrances to
the Provincial Government. Resolved that the whole
of the communications which have passed between this
Council and the Provincial Government relative to
the said Grant be published in two of the Morning
Papers and the Acadian Recorder -

Resolved that a
Memorial be drawn up and transmitted to His

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Royal Highness the Commander in Chief praying his interposition to cause the said grant to be altered or annulled so far as it infringes on the rights of the City. Moved by Alderman Cogswell seconded by Alderman Mignowitz - passed.

Resol. rel. to Comm. -
itted to prepare a
Memorial on Subject
of Fish Mark. Docks

Committee Aldermen Mignowitz, Cogswell, and His Honor the Recorder

On Motion the order of the day is suspended and report of Committee relative to the New Engine House is taken up, the same is read

Committee Room May 27 1859

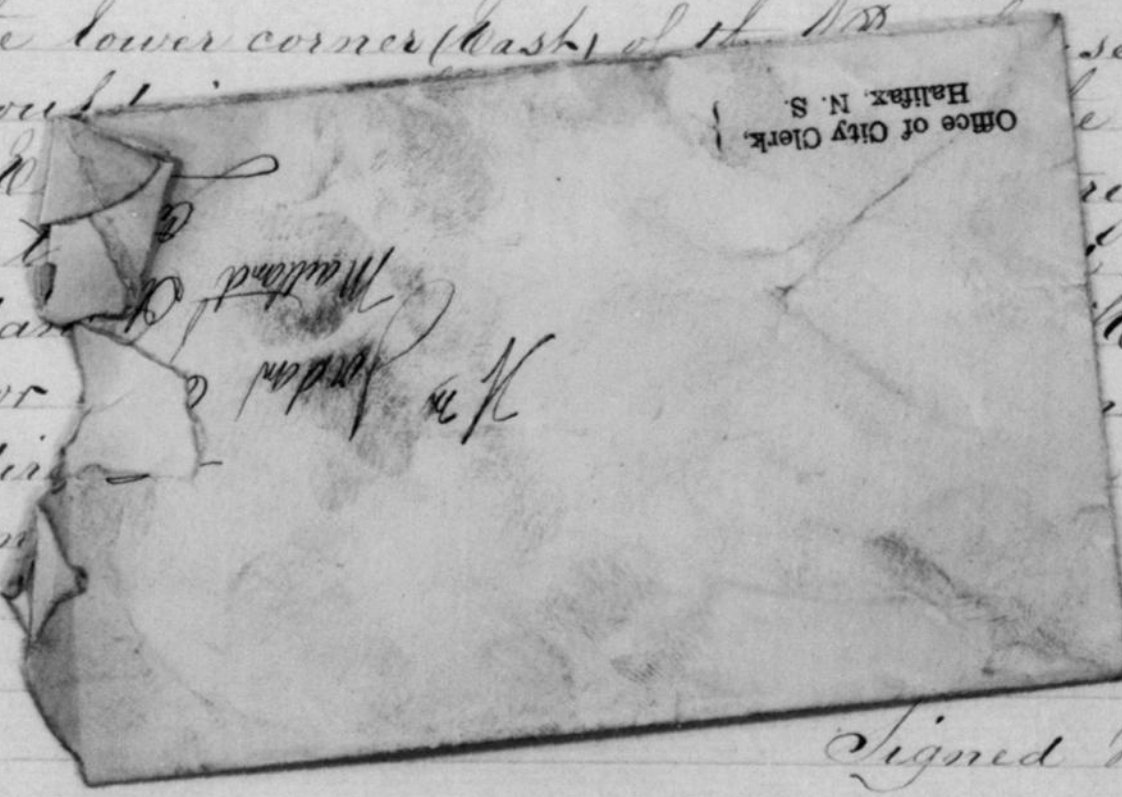
The Committee appointed to superintend the erection of the New Engine House met this day. Present Aldermen Towns, Blair, Barnstead & Jennings and the Chairman.

Report Committee
rel. to New Engine
House

The object of the meeting was to consider the best mode of obtaining easier access for the engines to the said Building.

Your Committee find on examination of the side walk and Street in front of the said Engine house that it is considerable lower than the side walk on the opposite (or south) side and if the North side walk and Street were raised from the Poor house gate to the lower corner (East) of the Engine house burying Ground it would

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the easy admission of
refuse recommend
and the superin-
His Worship the
action and under
direction of said
ably submitted

Signed W. Mignowitz
Chairman

When it is moved by Alderman Cogswell seconded by Alderman Bell that said report be adopted - amendment Moved by Alderman Thompson seconded by Alderman Riches that said report be referred to Superintendent of Streets to report which amendment being put is lost 2 Voting for it and 8 against it - Original is then put and passed -

Resol. rel. to the
Report on New
Engine House.

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Council next proceed to take into Continued Consideration the order of the ^{day} Alderman. Hignowitz. Notice of reconsideration of resolution relative to assessment for Railway Interest, when following resolution is introduced.

Resol. rel. to Assess-
ment for Railway Inter-
est on Citizens of
Halifax.

Whereas an Act to authorize the construction of certain Railways in this Province passed the 31st day of March 1854 from the Harbour of Halifax to the frontier of New Brunswick with branch lines extending to the Harbour of Pictou and Victoria Beach, and the Trunk line to be first completed.

Be it therefore resolved, That in the opinion of this Council the Citizens of Halifax are not liable to pay any portion of the Interest, due on Monies expended on the Provincial Railway, till the Trunk line shall be first completed, as contemplated by the City Council, Moved by Alderman. Hignowitz, seconded by Alderman Richey which on being put is passed 10 Voting for it and 2 against it and the names being called for they appeared thus.

For resolution	Against it
Alderman Hignowitz	Alderman Caldwell
Lindsay	Conway
Thompson	
Hennings	
Belt	Wogswell

On Motion order of the day is suspended and Alderman Wogswell has leave to introduce a resolution, when following resolution is introduced.

Resol. rel. to the
publishing proceedings
rel. to the W. Mark
Doch in City Papers

part of the and the Queen's Department is Council the passing of grant continues instances to that the whole of the communications which have passed between this Council and the Provincial Government relative to the said Grant be published in two of the Morning Papers and the Acadian Recorder -



Resolved that a Memorial be drawn up and transmitted to His

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Royal Highness the Commander in Chief praying his interposition to cause the said grant to be altered or annulled so far as it infringes on the rights of the City. Moved by Alderman Cogswell seconded by Alderman Mignowitz - passed.

Resolved to Committee to prepare a Memorial on Subject of Fish Mark Docks

Committee Aldermen Mignowitz, Cogswell, and His Honor the Recorder

On Motion the order of the day is suspended and report of Committee relative to the New Engine House is taken up, the same is read

Committee doorn May 27 1859

The Committee appointed to superintend the erection of the New Engine House met this day. Present Aldermen Towns, Min, Barnstead Jennings and the Chairman.

Report Committee rel. to New Engine House

The object of the meeting was to consider the best mode of obtaining easier access for the engines to the said Building. Your Committee find on examination of the side walk and Street in front of the said Engine house that it is considerable lower than the side walk on the opposite (or south) side and if the North side walk and Street were raised from the Poor house gate to the lower corner (East) of the Poor house burying Ground it would give sufficient height for the easy admission of the Engines. Your Committee therefore recommend that the sidewalk be forthwith raised, and the superintendant of Streets be instructed by His Worship the Mayor to complete the same in conjunction and under the direction of the Committee for the erection of said Engine House

All of which is respectfully submitted

Signed W. Mignowitz
Chairman

When it is moved by Alderman Cogswell seconded by Alderman Bell that said report be adopted. Moved by Alderman Thompson seconded by Alderman Richey that said report be referred to Superintendant of Streets to report which amendment being put is lost 2 Voting for it and 8 against it. Original is then put and passed.

Resolved to the Report on New Engine House.

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On Motion of Alderman Bell seconded
by Alderman Mignowitz, the order of the day is suspended
and the Memorial to Her Majesty relative to the
Common is taken up the same is read.

Memorial to the
Queen, to the
Commons

To the Queen's Most Excellent Majesty
The Petition of the Mayor and Aldermen of the City
of Halifax, in Nova Scotia:
Most humbly Sheweth,

That in 1760 and 1763 a
piece of land, containing about 240 acres, bounded on the east
by the present citadel of Halifax, was granted by the crown,
in the reign of your majesty's royal grandfather, King George
the Third, as a Common for the use of the inhabitants of the
(then) town, now the City of Halifax; and this land was fully
vested in the City Corporation of Halifax by the act of Incorpora-
tion in 1841, and powers of improving managing and leasing
it were given to the city council by the provincial act of
1851.

That in the year 1830 twelve acres of this Common were
freely given up, without any equivalent, by the then Magistrates
and people of Halifax, to enable the military authorities
to extend the glacis of the citadel, which was then and still
is in progress of completion.

That in the northeast angle of said Common a drill ground
for the use of the garrison and militia was established about
the year 1799 or 1800, while your majesty's father, the late
Prince Edward, Duke of Kent, was resident at Halifax
as commander in chief; by whose order the same was levelled
and fitted for use; which drill ground contains 50 ³/₄ acres
and is in its greatest length about 3000 feet, and varies in
width, being 1000 feet in its widest part.

That in 1800, shortly after the departure of H.R.H.
Duke of Kent from this province, the justices in sessions of the
peace for this County of Halifax (having as your petitioners
are advised and believe, no legal authority whatsoever so to do)
did by resolution appropriate not only the said drill ground
but all the northern part of said Common of much greater
extent for the use of the troops, on certain terms therein menti-
oned; but no deed passed, nor can we find that possession
was taken by the military beyond their original drill
ground, - the land adjoining which, being part of said
Common, on the west and elsewhere, was swampy and unfit
for that or any other use until recently cleared and drained
at a large expense by the city corporation.

That in several

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provincial acts passed in recent times a clause was introduced forbidding the erection on the Common of any permanent walls or fences within the distance of Six hundred yards from the salient angles of the fortress of citadel hill & thereby excepting wooden fences, unless by the permission of the commander in chief of your majestys forces in this province for the time being

That in a revision of the acts in 1851 this exception in favour of wooden fences was inadvertently omitted,

That at this period (1851) the greater part of the said Common was in a very rough and unimproved state, of little or no use for pasturage, and from its barren and rugged appearance was a deformity to the City,

That the corporation have since, at a great expense, reclaimed a great part of it, by removal of Stones, draining inclosing and planting border and ornamental trees and shrubs. That in the northern part of it they have enclosed several small fields with light wooden fencing, calculated to keep out cattle and that these fields are now grassy and ornamented where before they were a miserable waste.

That these improvements and fences on the Common were made and erected during the time that Generals Gore and Le Marchant were the military commanders in chief in this province and resided at Halifax, and that these works were conducted under their immediate observation, and daily and almost hourly inspection being within sight of the drill ground where they have often reviewed their troops, and in the vicinity of nearly all the roads which lead from the city in different directions, several of which cross or skirt the Common, and not only was there no objection whatever made by either of these commanders in chief to the erection of the fences and making the improvements in question but in the instance of General Le Marchant (who was also governor of this province) his gratification and approval of these improvements and plantation were frequently expressed, so that his permission within the very terms of the act may be considered to have been virtually given.

That subsequent to the erection of these fences (and as your petitioners then thought and still believe in consequence partly thereof) the army authorities here caused the large space of ground belonging to the glacis of citadel hill and adjoining the Common to be surrounded with a new wooden fence, it being observable that citadel hill had

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June 13th originally been inclosed with a picket fence, but for several
 Continued years had been suffered to remain quite uninclosed along
 its western bounds where it joins the Common. This wooden
 fence, which has been put up by the military authorities,
 being open to the same objection as the fences put up by
 the city. That early in the summer of 1858 the city council
 concluded it would be for the public good, to grant a free
 lease of that portion of the Common which lies westward
 of the drill ground, to the Halifax cricket club; when shortly
 after, to their surprise and annoyance, a letter was received
 by the Mayor, written by the attorney of Major General Trollope
 then and now the commander in chief at Halifax; in which
 letter and the correspondence that ensued thereon (hereto annexed)
 General Trollope in substance demands of the City,
 Firstly. The surrender of all the north part of the Common
 as a Drill ground; and

Secondly. The prostration of all the fences erected by the
 city, north of the cemetery, since 1851.

These measures which have
 embarrassed the corporation by stopping their progress in
 improving and leasing the Common, and compelled them
 to fail in their promise to the cricket club, have been followed
 up recently by their soldiers of the garrison going on the Common
 on the Ninth day of May in this year 1859, and there pulling
 down and levelling the fence of one of the best grass fields
 the city had inclosed.

The destruction of all the trees and shrubs which
 border this piece of land, and the ruin of the grass has
 been completed by the stray cattle of all kinds, that have
 availed themselves of the opening; and your petitioners
 understand that the General has determined to drill
 and exercise his soldiers upon the ground thus laid open,

Your petitioners are under the impression that all these
 proceedings on the part of General Trollope are essentially illegal
 and it will therefore be their duty on behalf of the corporation
 and the citizens of Halifax to resort to legal measures in
 your majestys Supreme court for this province, in order to
 protect the rights of the city in this valuable property, as far
 as law may serve but it is with extreme reluctance they feel
 themselves forced into this, to them, novel and disagreeable
 position of contending at law with your majestys chief
 military servants upon such points, as they only express the
 unanimous feeling of this City, when they say, that if it
 would conduce to your majestys advantage or the welfare
 of your crown, there is hardly any sacrifice they would not
 cheerfully make. That your petitioners believe it to be
 their duty at this time to lay their grievances before your

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majesty, and with all humility to represent the evil consequences that may and probably will ensue from a contest of this kind.

In respect of the claim set up to extend the drill ground as demanded, your petitioners believe it to be entirely groundless in law and in justice alike. However unfounded the title derived from a resolution of the quarter sessions must be - still, if the military had acted upon it, by levelling, draining and improving a larger space, and continuing to use it for a long time, some pretence might then arise: - but in fact beyond the smaller space, which has never been denied them, they have suffered the ground to remain an impassable bog and they are now enjoying a larger extent than before in consequence of the expense incurred by the city in draining the vicinity. Their fencing in all the extensive grounds appertaining to citadel hill, including the level spot of twelve acres given to the fortress by the city in 1830, is evidence to shew, that the want of space to exercise and encamp troops, now for the first time alleged, has not been hitherto felt.

We would further remark, that by the existing law of 1851 the General in command has full power to remove all these fences in time of war, or of a hostile attack on Halifax being threatened.

The ease and rapidity with which the fences alluded to have been levelled down, shew how little time or trouble would be required to remove them all if desirable.

For sixty years past the forces kept in this garrison have found no necessity to extend their drill grounds, or to interfere with the place in question, and it may not be amiss to state to your majesty that for a long time past the troops on this station have seldom exceeded two battalions of foot, with one company of artillery, and one another of engineers, and have never comprised the smallest detachment of cavalry.

Under these circumstances, we humbly trust your majesty will feel disposed graciously to concede somewhat of your extreme right, even when the case as General Stollope urges, and that you will not permit a course to be persevered in, which is too well calculated to promote litigation and inevitable dissatisfaction. That your memorialists fully confide in your majestys disposition to guard and protect their rights, their interests and their comfort.

Although they are removed by distance some thousands of Miles from the seat of your majestys government - they believe that colonists here will receive from your majesty a measure of justice and protection, not inferior to that

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enjoyed by those who live in the more immediate proximity of the throne. On this occasion they cannot omit to mention that the warm interest in the welfare of Halifax and of Nova Scotia evinced by your illustrious father while resident here, is among the facts of our civic history, best remembered at our firesides and most deeply appreciated in our hearts.

Your petitioners beg leave respectfully to refer to the copies of laws, documents, correspondence, and plans, herewith transmitted in explanation and proof of their statements.

And they most humbly and most respectfully solicit the intervention of the crown, to pacify and terminate a question which, while they regret it has ever been mooted, they as a corporation have not in their power to settle or adjust; while they are convinced that the slightest interposition of your majesty's prerogative will remove all difficulties, and thus restore that harmony and kindly feeling between the military and the city of Halifax which have existed from the earliest period of our colonial history.

Sig^d Henry P. Mayor
Mayor

James S. Clarke
City Clerk

Halifax N.S. June 1859.

when it is Moved by Alderman Ritchie seconded by Alderman Jennings that said Memorial be adopted & passed unanimously.

On Motion of Alderman Ritchie seconded by Alderman Jennings that the order of the day be suspended and that a Committee be appointed to report upon Mess^{rs} Johnston & Son Letter relative to claim of Mess^{rs} Stephen Selden for loss sustained by him at the Fire on 1st January 1854 when following were appointed the Committee.

Aldermen Ritchie, Jennings Mignowitz and His Honor the Recorder

On Motion
"Council Rise"

Henry P. Mayor
Mayor

Resol. rel Committee on Mr Johnston's Letter re-claim of S. Selden

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At a Quarterly Meeting of City Council held this day present His Worship the Mayor, Aldermen Pugsley, Cogswell, Caldwell, Morisey, Twining, Thompson, King, Moir, Wills, Mignowitz, Forrester, Conway, Jennings.

Read over proceedings of previous Meeting

Alderman Cogswell submits Memorial of Parishioners of St Lukes Parish for part of Cemetery.

Alderman Caldwell submits a Communication from Board of Fire Wards

Petition against Buildings Steam Boat Slip-

Alderman Morisey submits a Petition from Inhabitants against erecting any Building on the site of property leading to Steam Boat Slip.

Alderman King states that in consequence of the absence of S. W. Ritchie Esq. the Committee were not prepared to report upon his Communication on behalf of William Owens.

Report Committee City Property - re: buildings Steam Boat Slip-

Alderman Conway, Chairman submits report of Committee of City Property relative to the Buildings leading to the Steam Boat Wharf, with the opinion of Hon. Wm Young relative to the same.

His Worship the Mayor submits Communication from Hon. Provincial Secretary Office - as likewise report of Crown Land Department relative to grant of Water Lot near Queens Wharf.

Report Superintendant of Streets re: side Walk near New Engine House

His Worship the Mayor submits report of Superintendant of Streets relative to raising the side Walk opposite New Engine House. he reads the same.

Streets Office

Halifax 21st June 1859

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

That a careful survey has been made on Spring Garden Road with a view to raising the Street conformable to a Resolution of the City Council dated 13th Inst.

The entrances to the Engine House are elevated

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June 27th so much above the centre of the Street and sidewalks that very serious disarrangement would be occasioned in the horizontal formation of the Street.

The diagram annexed to the Report will show the convex form of the Street if raised from the Poor House Gate to Grafton Street to the height of the Granite Sill at the centre of the Engine House, and the red line the form of Street if raised to the height of the Granite Sill at the Eastern entrance. To raise the Street to either of the lines marked on the diagram would involve a Cartage of about 900 cubic yards of Stone and Gravel to be provided from some place at a probable cost of 2/6 or 3/6 per cubic yard the finishing the surface and paving the gutters an additional expense of

£ 15.0.0
900 cubic yards @ 2/6 112.10.0
127.10.0

all of which

is respectfully Submitted
(Signed) James Pollock
Supt of Streets

Report Supt of Streets rel to Drain South Street

His Worship the Mayor submits Report of Superintendent of Streets on Petition of Thomas K. Kinneas relative to Drain South Street.

Appointment of Ward Assessor Ward Five

Council proceed to elect a Ward Assessor in place of William Cunard Esq. absent from the Province On Motion of Alderman Conway seconded by Alderman Mignowitz, William T. West is appointed the Ward Assessor for said Ward - passed unanimously.

Communication Board Fire Wards

On Motion the order of the day is suspended and the Communication from Board of Fire Wards this day submitted is taken up.

Read communication from Board of Fire Wards of 20 June 1859 (See File)

Read resolution of 22 June (See File)

Read Minutes of Council relative to proceedings of Council on same subject, when following resolution is introduced.

Resol rel to Com. Board Fire Wards

On reading Communication of Fire Wards. Be it resolved that the City Clerk be requested to communicate to the Board of Fire Wards the action taken by the ~~different~~ Council upon the different matters submitted by them, with assurance that due attention

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will be paid there to. Moved by Alderman Pugsley
seconded by Alderman Swining, passed.

Report City Surveyor
referred to Special
Committee to report
upon -

Council next take up report of City
Surveyor relative to the Survey and Plans of the City of
Halifax.

Moved by Alderman Jennings seconded by
Alderman Swining that the same be referred to a
Committee of an Alderman from each Ward to examine
and report upon, passed.

Committee Aldermen May. Barnstead, Thompson
King, Mignowitz and Bell.

Council next take up By Law
relative to placing Nuisances on the Streets for second
reading

Read 1st Clause - When following resolution is
introduced

Resolved By Law
placing Nuisances
on Streets being
referred to Recorder

Resolved that His Honor the Recorder
be instructed to prepare a short Act in accordance with
the proposition of the Superintendent of Streets for the
prevention of refuse matter of any kind being deposited
in the Streets in order that the said Act may be
submitted to the Legislature for its sanction at the
first sitting of that body ensuing. Moved by Alderman
Cogswell seconded by Alderman Wills & passed 8
Voting for it and 3 against it.

On Motion order of the day is suspended
and the report of the Committee of City Property relative
to Buildings leading to Steam Boat Slip is taken up
the same is read.

Committee Room June 24th 1859

Report Committee
City Property re-
to Buildings Steam
Boat Slip -

The Committee of City Property met this
day present Alderman Lourds, Mignowitz, Thompson
and the Chairman.

The Chairman read the opinion of
the Hon. William Young relative to the erection of New
Buildings on the Market Slip on the site now occupied
by the Old Buildings.

when the following resolution is
introduced

Resolved That the opinion of the Hon.
Wm. Young now read be referred to the City Council
for their concurrence. passed

(Sig^{dy}) Jeremiah Conway
- Chairman -

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Read opinion of Hon. William Young on same subject,

Halifax June 20th 1859

Opinion of Hon
William Young
rel. to Erection
of New Buildings
Steam Boat Slip-

Gentlemen

In pursuance of the Resolution of the City Council dated the 15th April, I have looked into the questions that have arisen as to the buildings on the Market Slip and the rights of the City thereto.

For my opinion as to the legal title I beg to refer you to my letter of 4th June 1857. The original grant of the slip in 1794 describes it as "All that piece or parcel of land with the water in front thereof known and used as the Market Slip or landing, bounded westerly by George Street southerly by the water lot in the occupation of Messieurs Cochrane, northerly by the water lot granted to Beamish and Peoples and extending easterly into the Harbour of Halifax". The same description is repeated in the Grant of 1834, referring to a plan which comprehends several of the public lots in the neighbourhood of George Street, and seems to be a copy of the original plan annexed to the grant of 1794. It is shown by this plan that the mouth of the Slip situate on the east side of Water street and which was tested at my request to day, measures 115 feet and therefore there is no ground for the idea that either of the two streets extended to the east of that line or that the Public would have any right to complain provided the Main purpose of the Slip and the principal condition on which it was granted be observed. The condition is "that the above mentioned Market Slip or landing shall be kept and maintained in good repair as a public landing place free of toll or other tax or imposition for the Kings Slips Barrison and Servants at Halifax forever thereafter. The Act of 1799 Chap 1 authorised the construction "of a proper building near the public Slip for the accomodation of persons bringing vegetables and other victuals by Water" and I suspect that this authority was somewhat stretched by the erection of the small buildings one and one and a half story high that are now standing. I have referred to the memoranda of the search that was made at my instance into the records in 1857, and several of the books of session being missing the first trace I can find of the Market Slip shops is in October 1818 when the Court took into Consideration what repairs were necessary to be made thereto, and directed that an estimate should be obtained of the expence of putting up a second story on the shops, which second story the Court afterwards decided not to make but ordered that the shops should be roofed.

It appears