

1860  
July 18th  
Continued

this Committee. The Council will perceive that the Estimate exceeds by Four Thousand pounds the amount allowed by law to be assessed upon the City except by consent of the Governor and Council. They would therefore recommend in order to keep the credit of the City unimpaired that application be made to the Governor and Council for leave to assess for Two Thousand pounds additional and that an account be opened with one of the Banks for the other Two Thousand pounds to make up the required amount.

The Council will perceive that only three of the Committee were present to consider the foregoing Estimate, being unable to get a quorum for that purpose they therefore thought it best to proceed with the business at once as the permission of the Governor and Council has yet to be obtained before the Assessment can be levied, which will cause further delay and funds are immediately required to meet the demands against the City.

All of which is respectfully Submitted

Sig<sup>th</sup> Philip Thompson Chairman  
John A Bell  
John D. Nash  
Approved M. H. Pichey

Alderman Evans gives notice of Reconsideration

The following resolution is next introduced

Resolved that the Report of the Committee of Public Accounts having been received and adopted That application be made to the Lieutenant Governor and Council to assess the City for £2000 pursuant to law and in accordance with the recommendation contained in said report.

Moved by Alderman Twining seconded by Alderman Bell.

Alderman Evans introduced an amendment which not being seconded. The original resolution is put and carried 11 voting for the same and 1 against it.

Read report of Committee of Common relative to Settlement of suit with Major General Trollope.

Report

The Committee of Common having given their serious consideration to the recent proposal of the Major General in reference to the differences between the corporation and the War Department, now Report,

That they still hold the views they formerly held with regard to the rights of the citizens respecting the Common, but the arguments upon which their conclusions

Recd. rel to application to Governor & Council for leave to Assess £ 2000 additional

Report Committee Common relative to Settlement of Suit of Common

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were founded having been fully set forth in their previous reports, it is not necessary to repeat them here. The Committee believe that the views they then entertained were entirely consistent both with the facts of the case, and with the law, fairly construed, but viewing the question in its present aspect and upon the suggestion of the judges of the Supreme Court a majority of the Committee are disposed to compromise the matter in dispute, provided an amicable arrangement can be made without too great a sacrifice on the part of the City and provided also, that sufficient guarantees can be given that the arrangement so made, shall be a permanent one.

The Committee confess that they were disappointed in the results of the law suit, which by the way they beg to remind the Council was not sought by them but in a manner, forced upon them by the General and his legal advisers as will appear from the correspondence. Considering the trouble and pains the Committee took to collect information and put it into shape, in order that the public might understand the question, considering also that the case on behalf of the City was really a very strong one, and ably presented to the Court by the Council acting for the corporation - the result of the trial was extremely unsatisfactory and not such as to induce the Committee to look forward to a new trial with any great degree of hopefulness. It must be remembered that an adverse decision would place the citizens completely in the power of the War Department, as regards the North Common, and at the late trial, the City narrowly escaped that undesirable state of affairs, the cause having been dismissed, in consequence of the jury being equally divided. Further than this, the Committee did certainly expect to have received support from the press whereas with the exception of an occasional anonymous notice, the Newspapers were either entirely indifferent, or seemed to be under an impression that the Committee had been rash and precipitate and ought not to have allowed matters to go so far. A similar indifference the Committee regret to say pervaded the great mass of the citizens. Nor must it be forgotten, that the omission of a few words accidental or otherwise, when the Act of Incorporation was revised in 1851 has given the War Department an advantage so great, that had it not been for that most unfortunate omission, the probability is, the present controversy never would have arisen.

The Committee feel that they would be bound to uphold the rights of the citizens under all and every discouragement so long as they deemed there was a prospect of a favourable issue to the City. But they are equally bound to exercise a wise discretion, and they think it would be better under existing circumstances to make some sacrifice, for the purpose of securing the rights that remain, rather than to risk a new trial with the possibility of making our position worse instead of better. It has been objected to the

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Major General's proposition, that it requires the City to make not a compromise, but a surrender of all its rights. The Committee do not so regard the General's proposition. In Mr. Pritchies letter of 5<sup>th</sup> May 1858, he states that "he has been urged by the Major General Commanding the Troops; to take the necessary legal steps to have all existing erections on the Northern part of the Common removed without delay, and to prevent further encroachments". By the northern part of the Common here we referred to the Committee understand the General to mean the whole of the Common north of Spring Garden Road, and that such was his meaning is evident from Mr. Pritchies next letter of 9<sup>th</sup> Sept<sup>r</sup> in which he says that the General will not at present interfere with certain enclosures within the limits referred to but will only require the removal of all the fences to the North of the Burial Ground. The General here plainly intimates that the whole of the enclosed fields may be required for military exercises, and it is as well for the Council to remember that the law as it presents stands, actually gives him the power to level the fences of all the cultivated fields on the Common.

The proposal now made by the Major General is that the Corporation shall leave open and free of fences or other obstructions, the whole of the Common north of the Bell Road, so called, including the part which it was in contemplation to lease to the Cricket Club, and also the space surrounding the property of the War Department on Camp Hill. In return the General waives his claim to the remaining enclosures on the Common, in other words he relinquishes all claim to the whole of the Common south of the Bell Road, excepting the space known as Camp Hill. In effect, the Major General abandons the larger part of his claim, while on the other hand as the exclusive right of the City Council over the South Common is unquestionable, and the right of the War Department to the use of the North Eastern Section has not been disputed, the question simply resolves itself into this, whether the City Council shall continue the law suit for the purpose of asserting the right to restore the fence around the north triangular field, and the right to erect fences around the proposed Cricket Ground and Camp Hill.

It is to be observed that the Citizens are not required to relinquish any other claim or right. The fee simple of the whole Common is vested in the citizens and cannot be alienated from them; the control of the whole Common remains with the City Council as before. The right of the Citizens to the Common as a place of pasturage or recreation, continues intact, nothing is relinquished except the privilege of erecting fences or other buildings north of those already in existence, and such being the case, the Committee cannot think they are failing in their duty to their constituents, in recommending that a vexatious and irritating dispute shall be terminated if possible, by a compromise on the basis suggested.

As the matter is one of considerable moment, and it

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was upon the recommendation of this Committee that the rights of the City were defended in the Supreme Court, the Committee trust that the reasons they now give for adopting another course will be understood and approved by the City Council and the citizens generally,

All of which is submitted

Sigs John A Bell  
Chairman

Mathew Lovvords

Jos Jennings

Charles Twining

W. C. Moir

Committee

Protest of Aldm<sup>n</sup>  
Cogswell against  
Settlement of the  
Suits of Common

on same subject

Read Protest of Alderman Cogswell  
(2<sup>nd</sup> title)

Read proposal of J W Ritchie

Esq Attorney of Major General Trollope relative to the settlement of dispute.

Halifax July 4<sup>th</sup> 1860

Sir

I have been authorized by Major General Trollope to make the following proposals for the settlement of the questions involved in the suit between the City of Halifax and the Military viz

All that part of the Common lying to the North of the triangular field to remain open unenclosed and unobstructed for exercising and encamping the troops. The other fields at present enclosed lying between the Horticultural Societys Gardens and Bell Street to remain enclosed as at present and not to be interfered with by the Military unless in the opinion of the Commander of the Forces it should become indispensably necessary for the public Defense. Nothing herein to affect the rights of the Citizens to the use of any part of the Common for Pasturage and recreation, subject only to the right of the military to exercise and encamp on the north portion as hereinbefore described and nothing herein to affect the title of the Military to the seven and a half acres on Camp Hill owned by the British Government.

Your obedient Servant

Sigs J. W. Ritchie

on same subject.

Read proposals of Committee of Common

Halifax G. G. In the Supreme Court 1860

Cause

The City of Halifax

vs  
Richard S Nelson Def<sup>t</sup>

In order to settle the differences which

1860  
 July 18<sup>th</sup> have arisen between the War Department and the City relative  
 Continued to the public Common and the occupation thereof.

It is hereby agreed that the above suit be discontinued each party paying their own Costs, and that hereafter all the Common which lies to the North of the Bell Road so called - shall remain and be kept unenclosed and open - and free from any obstruction to the exercising and encamping the Troops thereon, and that it be kept in order at the expense of the War Department who shall be authorized to level the same and make such improvements thereon as may from time to time be necessary for Military purposes as above mentioned.

That the fields lying to the South of the said Road and between it and the Horticultural Gardens shall remain enclosed as at present with wooden fences so long as the City may require them, unless the said fences should have to be removed for the purpose of the defense of the Citadel - pursuant to the third Section of the Act relative to the Common.

Nothing herein contained to affect the rights of the City or of the City Council to make or improve any roads across the Common pursuant to Law or to the use of the Common by the Citizens for pasturage of cattle or for recreation - subject nevertheless to the right of the Military to exercise or encamp on the North portion thereof as hereinbefore described or to affect the title of the War Department to Seven and one half acres on the Camp Hill.

When following Resolution is next introduced

Resd. authorising  
 Committee of Common  
 to settle the Suit.

Resolved that the Committee of Common be authorized to settle the Suit relative to Common upon the terms specified in the Report submitted by the Chairman the Committee taking care to have the agreement sanctioned by the ~~Executive~~ War Department so far as the same may be deemed necessary and that the Recorder be associated with the Committee in effecting such settlement Moved by Alderman Twining seconded by Alderman Thompson to which the following amendment is introduced

Resolved that the Report of the Committee of Common relative to a compromise of the Law suit with the War Department and the protest to the said Report be published in of the City Papers Moved by Alderman Cogswell seconded by Alderman James Duggan which amendment on being put is lost 3 Voting for the same and 9 against it and the names being called for appeared thus -

For the Amendment  
 Alderman John Duggan  
 James Duggan  
 Cogswell

Against it  
 Ald. Stair, Jennings  
 Barnstead, Evens  
 Lounds, Twining  
 Thompson, Bell

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The following amendment is next introduced.

Resolved that the subject of the compromise of the law suit respecting the Common lie over to the next meeting. Moved by Alderman Cogswell seconded by Alderman Thompson, which on being put is passed 10 Voting for the same and 1 against it.

The order of the day is next suspended to take up report of Committee of Tenders of the 18<sup>th</sup> inst submitted this day -

Committee Room  
18 July 1860

Committee of Tenders met this day Present Aldermen Conway Barnstead Puggan and the Chairman,

Report Committee  
Tenders July 18<sup>th</sup>  
1860 rel to the  
Building Market  
Slip

The following Tenders for erection of building on the Market Slip were opened

No 1	Christopher Park	\$2834.0.0
2	Robert Malcolm	2416.0.0
3	John Gillard & J. Norris	2367.1.6
4	Davis & Barton	2540.0.0
5	George Lang	2551.10.0
6	Rufus Foster	2840.0.0
7	Thomas Sanders	<u>2010.0.0</u>

The Tender of Thomas Sanders being the lowest the Committee recommend that it be accepted on his furnishing the requisite security for due performance of the work

Sig<sup>dy</sup> Mathew H. Richey  
Chairman

Mr Motion said Report is received and adopted 9 Voting for the same and 2 against it.

The order of the day is again suspended to allow Alderman Evans to introduce a resolution 9 Voting for it and 1 against it when following resolution is introduced.

Resolved that this Council do reconsider the vote passed at its last meeting against Horse Racing on the Common and adhere to their previous vote giving the citizens permission for the same. Providing it do not occupy more than one day, and do not take place on the day or days of the other sports on the Common Moved by Alderman Evans seconded by Ald. John Puggan which on being put is lost 3 Voting for the same and 7 against it

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Continued

The order of the day is again suspended to allow Alderman Cogswell to introduce a resolution when following resolution is introduced,

Resol. rel. to Committee City Prison being empowered to provide dinner for City Prisoners

Resolved that the Committee of City Prison be empowered and required to provide the inmates of that institution with a suitable dinner on the occasion of the visit of H.R.H. the Prince of Wales. Moved by Alderman Cogswell seconded by Alderman James Puggan which on being put is passed.

The following resolution is next introduced

Resolved that this Council meet in a body to attend the funeral of the late Chief Justice Sir Brenton Halliburton to take place tomorrow Thursday at 4 o'clock. Moved by Alderman Cogswell seconded by Alderman Moir and passed.

The following resolution is next introduced

Resol. rel. to Commissioners of Poor providing a dinner for Inmates on the visit of H.R.H. Prince of Wales.

Resolved that in the event of the Commissioners of the Poor deciding to give the inmates of that establishment a dinner on the visit of H.R.H. the Prince of Wales the City Council will give the sum of Twenty pounds towards defraying the expense of the same. Moved by Alderman Jennings seconded by Alderman James Puggan (which on being put is passed,) to which the following amendment is introduced

Resolved that as this Council have to contribute their share toward the maintenance of the Poor Asylum out of the City Funds, Resolved that the Resolution before the Council is uncalled for. Moved by Alderman Evans seconded by Alderman Thompson which amendment on being put there appeared for the same & against it 6 amendment lost.

The original resolution is then put and carried by voting for the same and 4 against it

Alderman Evans gives notice of reconsideration -

On Motion

The Council adjourn

Co Resol. in amend. to above

1860

July 30<sup>th</sup>

At a Special Meeting of City Council held this day Present His Worship the Mayor Aldermen Pugsley, Bogswell, Puggan, Lownds, Barnstead, Nash, Twining, Thompson James Puggan, Moir, Trennamin, Everts Leahy, Conway, Roome Bell, Kisher, and Jennings,

The City Council were summoned to Present the Address to His Royal Highness the Prince of Wales at the Dockyard,

Council proceed to the Dockyard when on the landing of His Royal Highness the following address was read by His Honor the Recorder,

To His Royal Highness Albert Edward, Prince of Wales, Prince of the United Kingdom, Duke of Saxe-Coburg and Gotha, Prince of Saxe-Coburg and Gotha, Duke of Cornwall and Rothesay, Earl of Dublin, Chester and Carrick, Baron of Renfrew, Lord of the Isles, Great Steward of Scotland, Knight of the Garter &c &c &c.

May it Please your Royal Highness.

We the Mayor and Aldermen of the City of Halifax in Nova Scotia, in the name of the Citizens, do most cordially welcome your Royal Highness to our shores.

We rejoice that our City should be thus highly honored by the presence of the son of our revered and beloved Queen, the grandson of that illustrious Duke whose memory is gratefully cherished as the warm and constant friend of Nova Scotia, and the heir apparent to the powerful and glorious Empire over which Her Majesty has, for so many years, so wisely and so beneficially ruled,

We venture

on being put it passed lost 2 voting for it and 12 against it and the names being called for they appeared thus

For the Amendment  
Alderman Leahy  
Everts

Against it  
Ald. Pugsley, Conway, Moir, Trennamin, Lownds, Twining, John Puggan, Nash, Barnstead, James Puggan, Bogswell, Thompson

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July 18<sup>th</sup>  
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We venture to approach your Royal Highness  
with the expression of an earnest hope, that your  
sojourn in this City and on this side the Atlantic  
may be attended with much pleasure.

We are fondly persuaded that  
the reception which awaits Your Royal Highness  
in every section of Her Majesty's North American  
dominions will not only impress you with the  
conviction that devotion to the British Throne and  
attachment to British institutions, form abiding  
elements in the minds of the inhabitants, but  
that the lustre which has been shed on the crown  
by the Christian and domestic virtues of our  
Most Gracious Sovereign, is justly and gratefully  
appreciated by all her subjects.

We earnestly implore the Giver  
of all Good to guard and protect you, to restore  
you in safety to the parent land, and to that  
illustrious family circle of which we regard you  
as the ornament and the pride, and that He  
may be graciously pleased long to spare Your  
Royal Highness to fulfil those distinguished  
destinies to which your high position points,

- (Signed) Samuel Caldwell, Mayor  
William Sutherland Recorder  
John L. Cragg City Clerk  
Henry E. Pugsley  
Charles Cogswell } Mnd 1  
John Duggan  
Mathew Towns  
Charles Barnstead } Mnd 2  
John P. Nash  
Charles Twining  
Philip Thompson } Mnd 3  
James Duggan  
W. C. Moir  
J. Hartshorne City Treas<sup>r</sup>

His Royal Highness was  
graciously pleased to reply to this address as  
follows,

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Gentlemen

I have been led to expect that the loyalty and attachment to the British Crown which exists among the Inhabitants of Halifax would insure to me a kind reception in your City, but the scene which I have witnessed this morning proves that my expectations are more than realized.

For your welcome to myself, I feel, I assure you sincere gratitude, but it is still more satisfactory to me, as a Son and as an Englishman, to witness your affectionate attachment to the Queen, and to the Laws and Institutions of our common Country.

Your allusion to my illustrious Grandfather is also most grateful to my feelings and I rejoice to find that his memory is cherished amongst you.

In your noble Harbour the Navies of Britain can ride in safety, whilst you prosecute that commercial activity, which under their protection would seem destined to make Halifax one of the most important Cities of the Western World, and to raise her Inhabitants to a high position of wealth and prosperity. That such may be the fate reserved for it by Providence is my earnest hope.

I request you to convey to the Citizens of whom you are representatives, my cordial thanks for the greeting they have given me.

After reading the above reply the Council proceeded to Government House with the procession where they adjourned.

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Cverts

Against it  
Ald. Pugsley, Conway, Moir  
Trennam, Lowndes, Twining  
John Duggan, Nash, Barnstead  
James Duggan, Cogswell, Thompson

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July 18<sup>th</sup>  
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Resol. rel. to Committee  
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1860  
July 23<sup>rd</sup>

At a Special Meeting of City Council held this day present His Worship the Mayor, Aldermen Coggswell John Duggan, Lounds, Nash, Twining, Thompson, Moir Tennaman, Evens, Leahy and Conway,

Read over proceedings of 18<sup>th</sup> July

1860

The City Council were summoned to take up Alderman Evens notice of reconsideration relative to Estimate for the present year and the transaction of other business,

Alderman Conway in absence of Chairman submits report of Committee of Tenders, received

The City Council next take up Alderman Evans notice of reconsideration relative to report and estimate of Committee of Public Accounts,

Read Report and Estimate of Committee of Public Accounts as submitted last Meeting.

A Motion is made that the Report and Estimate of the Committee of Public Accounts be reconsidered to which the following amendment is introduced that the Report and Estimate be adopted, which amendment on being put is passed,

The following resolution is next introduced

The report of the Committee of Public Accounts having been received and adopted, Resolved that the application be made to the Lieutenant Governor and Council to assess the Citizens for \$2,000 pursuant to Law, and in accordance with the recommendation contained in said report Moved by Alderman Twining seconded by Alderman Nash, to which the following amendment is introduced

Whereas the Estimate for the present year, has not been regularly passed by the Committee of Public Accounts as provided by the Charter of Incorporation before being brought to this Council for their concurrence,

Resolved that the Report and Estimate for the present year be laid on the table of this Council for the inspection of Members. Moved by Alderman Evens seconded by Alderman Leahy which amendment on being put is ~~passed~~ lost 2 voting for it and 12 against it and the names being called for they appeared thus

For the Amendment  
Alderman Leahy  
Evens

Against it  
Ald. Pugsley, Conway, Moir  
Tennaman, Lounds, Twining  
John Duggan, Nash, Barnstead  
James Duggan, Coggswell, Thompson

Resol. rel. to  
Estimate for  
1860