

SPECIAL MEETING

A F T E R N O O N S E S S I O N

4.10 o'clock,
Council Chamber,
City Hall,
October 31st 1930

A special meeting of the City Council was held this afternoon. At the above named hour there were present His Worship the Mayor, and Aldermen Mitchell, Dickie, Stech, Donovan, Redmond, Cragg, McInnes, McCarthy, McDonald, Shields, Drysdale, O'Malley, Adams, Smeltzer and Probert.

The meeting was called pursuant to the following requisition:

We, the undersigned members of the Halifax City Council, do respectfully request His Worship the Mayor to call a special meeting of the City Council for 4 o'clock p.m., Friday, October 31st 1930, to deal with the report of the Committee on Works re unemployment relief.

City Hall,
Oct., 28th, 1930

Sgd. Walter Mitchell,
W.E.G. Shields,
Frank Adams,
W.E. Donovan,
W.J. O'Toole,
James W. McCarthy

✓
BILL POSTERS LICENSE
IDEAL DAIRY

Alderman McInnes, Chairman of the Committee on Laws and Privileges asked that the order of business be temporarily suspended to allow him to submit a report of the Laws and Privileges Committee recommending that a Bill Posters License be granted to the Ideal Dairy. Granted.

Moved by Alderman McInnes seconded by Alderman Dickie that the report of the Laws and Privileges Committee recommending the granting

October 31st 1930

of a Bill Posters License to the Ideal Dairy
be granted. Motion passed

✓
UNEMPLOYMENT RELIEF

Read reports of the Committee on
Works and City Engineer on unemployment relief:

City Engineer's Office,
Halifax, N.S.,
October 22nd, 1930

His Worship the Mayor.

Sir:

The following letter from the
Minister of Highways to His Worship the Mayor,
dated October 16th, has been referred to me for
report:

"As requested by you over the
telephone, I am sending you herewith a copy
of the Order of the Governor in Council, P.C.
2246, made on the 26th September, making
certain regulations in respect to disbursements
under the Unemployment Relief Act, 1930.

"Proposals have been made to this
Department on behalf of the city in respect
to the reconstruction of the Dutch Village Road
up to National Highway standard. This is a
matter in which the city is primarily interested,
and I would be pleased to have your views in
respect to same"

Last July the Dutch Village Road
was in bad condition and it was then suggested to the
Department of Highways that as this road was a
connecting link between the main trunk highways
numbers 2 and 3, and was carrying a constantly in-
creasing traffic, that it should be improved and
surfaced with a more permanent material than gravel.
Nothing came of this at the time and temporary
repairs were made. Subsequently proposals were
made by the Board of Trade that the northern end
of this road from Fairview to a point near the
Halifax and Southwestern Railway crossing should be
relocated to give a more direct and straighter
route. Until detailed surveys and estimates have
been made of the proposed alteration, no intelligent
report can be made on the scheme. If this road
is to be made the terminus of the national highway
it would appear that the Federal and Provincial
governments could fairly be asked to bear the expense
of its construction, especially in view of the
fact that no aid has been given to the City in
building other trunk roads within its limits,
as has been and is being done in the case of other
towns in the Province. That part of the road
between the Arm Bridge and Mumford Road will

October 31st 1930

necessarily have to be in approximately the same location as at present, and work could be begun there within a very short time, which would tend to help out the unemployment situation.

In the meantime relief for any unemployment that may develop can be had by the construction of several sewers and the extension of water pipes which it will be necessary to build in the near future, among others Inglis Street Extension, Robie Street and Oakland Road, and Chebucto Road from the end of the present sewer to Kline Street. This road should be paved at the earliest possible time and the sewer should be built first. The estimated cost of these is about \$60,000. Others might also be mentioned. The order of the Government in Council p.c. 2246 made on the 26th of September provides in Section 4 that, "the Minister may enter into an agreement with the Government of a Province in which any municipality is situate for the payment to such municipality by the Government of Canada of Twenty-five per centum of the cost of such public works and undertakings as may be necessary to provide suitable work for the unemployed and by the Government of the province of twenty-five per centum of the said cost, and that fifty per centum of the said cost shall be assumed and borne by the municipality".

It will be noted that the granting of relief money is not restricted to road work but may be given for any "public work or undertaking", so that it would appear that the Governments have power to aid the City to the extent of one-half the cost of these works.

Other work that can be undertaken can be the widening and construction of a sidewalk on Kempt Road between the two subways, and further grading at the Airport adjoining Chebucto Road. In the former case the City has no money available for its share, but in the latter there will probably be some balance left from the amount authorized to be borrowed.

It is recommended that the Committee on Works appoint a small sub-committee to wait upon the Minister of Highways and ask,

(1) that the Government make surveys and obtain an estimate of cost of improving the Dutch Village Road, and that on their completion these to be submitted to the City when, if approved, the work should be undertaken as a Government measure, or in the alternative a further discussion could be had as to the apportionment of cost;

(2) that pending action on the road question the Government agree to furnish half the cost of the sewer and water extensions mentioned;

(3) that the Government furnish half the cost of such other municipal work as may be undertaken for the relief of the unemployed.

Respectfully submitted

H. V. Johnston

CITY ENGINEER

October 31st 1930

City Engineer's Office,
Halifax, N.S.,
October 27th, 1930

UNEMPLOYMENT RELIEF

His Worship the Mayor.

Sir:

I beg to report that the sub-committee appointed by the Committee on Works to interview the Government regarding available funds for work to relieve the unemployment situation, had a meeting with Honorable Mr. Black, Minister of Highways, who had with him the Honorable Messrs. Doull and Goucher, members of the Government.

The Deputy Mayor read the report of the City Engineer, dated October 22nd, on this matter. A long discussion on the question of Dominion and Provincial aid towards the proposals put forward ensued.

The attitude of the Minister, apparently, is that no money should be given to Halifax unless the Province would get some benefit through its expenditure. He stated that a larger amount of the money available than was its fair share was being and was proposed to be spent within the Municipality of Halifax on work on the roads at Ship Harbour, the grade crossing at Timberlea and on the Truro Road near Waverley. It was pointed out by your Committee that the prosecution of these works would not relieve the unemployed resident and taxpayer of the City who was equally entitled to consideration.

The Minister also stated that he was personally opposed to granting relief money for sewerage purposes as asked for by the Committee, but that he was inclined to favour making a contribution towards the construction of an addition to the Court House, which he understood was to be asked for, and also towards the widening and repair of Kempt Road and possibly the southern part of the Dutch Village Road, from Mumford Road to the Arm Bridge.

It may be pointed out that the Province would in any event pay one-third of the cost of the Court House addition, the remaining two-thirds being borne in different proportions by the Municipality and the City. If this work is proceeded with as an unemployment relief measure, those in charge of it should remember this fact and should endeavour to obtain from the Province an amount equivalent to fifty percent, one-half of which will be paid by the Federal Government, of the amount to be spent by the City and Municipality on it.

October 31st 1930

The result of the interview was more or less disappointing. It is thought that the representatives of the citizens are in a better position than the Provincial Government to know the requirements of its citizens, and the best means of providing relief for its unemployed. It is not thought that it was the intention of the Federal Government when it allotted money for the relief of unemployment and placed it in the hands of the Province to administer, that only such work as might be a direct benefit to the Province should be done, but that the Municipalities concerned should have some voice in its disposal, providing always that the work was in the nature of a "public work or undertaking"

As stated in the report of the 22nd instant, the City has no money available to pay its proportion of the street work mentioned, but has authority to borrow money to pay its share of the amount required for sewer construction. The preparation of plans and specifications and the calling for tenders for the Court House and road work will of necessity require a considerable time, while sewer work may be started almost immediately.

Since writing the above a dispatch to the morning papers states that "Sydney will proceed with the immediate construction of public works mostly sewers and water lines, Mayor O'Connell stated tonight following word from Hon. P.C. Black that Federal grant of \$12,500. is assured to supplement the \$12,500. already put up by the Province and the City's \$25,000". If this is correct it is hard to understand the grounds for refusing to grant similar treatment to Halifax City.

If the Council decides to proceed with the construction of the addition to the Court House it will supply a certain amount of work for the skilled trades but little for the ordinary labourer and other work must be found for him.

It is recommended that the whole matter be referred to the Council for its information with a view to obtaining an expression of its views by a formal resolution, when a further effort should be made to obtain a fair share of the monies apportioned to this Province by the Federal Government for the relief of unemployment, together with an equal amount from the Province, for such works as the Council may decide upon as being in the best interests of our own City's unemployed.

Respectfully submitted,

H.W. Johnston,
CITY ENGINEER

October 31st 1930

City Works Office,
Halifax, N.S.,
October 31st 1930

UNEMPLOYMENT RELIEF

The City Council.

Gentlemen:

At a meeting of the Committee on Works on the 28th instant, it was resolved to forward to the City Council for their information the attached report of the City Engineer (Dated Oct. 22nd, 1930) on unemployment relief; also the accompanying report (dated Oct. 27th, 1930) of a sub-committee appointed by the Committee on Works to interview the Government regarding funds for work to relieve the unemployment situation.

At the said meeting the following resolution was recommended to Council for adoption:

RESOLVED that the Government be asked to contribute their portion under the Relief Act for the construction of sewers to a total expenditure of \$60,000. on which the City will expend a sum of not less than \$30,000.

FURTHER RESOLVED that the Government be asked for one-half of the cost of improvements to Kempt Road the expenditure for which is estimated at \$40,000.

Respectfully submitted,
M. A. Hunter
CLERK OF WORKS.

Moved by Alderman Mitchell seconded by Alderman Smeltzer that the following resolution passed at a meeting of the Committee on Works be now adopted.

RESOLVED that the Government be asked to contribute their portion under the Relief Act for the construction of sewers to a total expenditure of \$60,000, on which the City will expend a sum of not less than \$30,000.

FURTHER RESOLVED that the Government be asked for one-half of the cost of improvements to Kempt Road the expenditure for which is estimated at \$40,000.

Moved in amendment by Alderman McCarthy seconded by Alderman Cragg that the last clause of the resolution submitted by Alderman

October 31st 1930

Mitchell and seconded by Alderman Smeltzer be amended to read as follows:

FURTHER RESOLVED that the Government be asked to contribute one-half of the cost of improvements to Kempt Road and Dutch Village Road the expenditure for which is estimated at \$60,000.00 i.e. \$40,000.00 on Kempt Road and approximately \$20,000.00 on Dutch Village Road and that the resolution as so amended be adopted.

Amendment put and passed thirteen voting for the same and two against it as follows:

FOR THE AMENDMENT

Alderman Mitchell
Stech
Donovan
Cragg
McInnes
McCarthy
McDonald
Shields
Drysdale
O'Malley
Probert
Smeltzer
Adams -13

AGAINST IT

Alderman Dickie
Redmond

-2-

The following named were duly nominated and appointed a special committee of Council to wait upon the Government in reference to this matter. ✓

His Worship the Mayor, Aldermen

✓
McCarthy and Shields.

*Mayor
and McCarthy
.. Shields*

REPORT RE PROPOSED ADDITION TO
COURT HOUSE

His Worship the Mayor

submits a report from the Court House Commission in reference to the proposed addition to the Court House at an estimated cost of \$120,000.00, \$60,000.00 of which will be contributed by the Provincial Government:

Oct. 31st 1930

Halifax, N.S. Oct. 30th, 1930

His Worship the Mayor,
City Hall,
Halifax, N.S.

Dear Sir:

At a meeting of the Commissioners of Court House held on October 25th, 1930, His Lordship Chief Justice Harris and Mr. Justice Chisholm were heard as to the necessity of building a new wing to the Court House and His Worship, Mayor Gastonguay, Aldermen Daley and McInnes, R.H. Murray, K.C., and the Secretary were appointed a committee to interview the Provincial Government and ascertain what assistance they would give.

On October 28th, the Committee reported that a conference was held with the Government and they agreed to contribute Sixty Thousand Dollars (\$60,000) with the distinct understanding that the work be proceeded with at once, and they further intimated that the grant was given for the purpose of relieving the unemployment situation, and named Hon. P.C. Black as the Government's representative.

The following resolution was adopted.

Moved by Ald. McInnes seconded by J.L. Barnhill--

WHEREAS the Court House building in Halifax is too small for the present requirements and the accomodation which it provides is grossly inadequate and great doubt exists as to whether the vaults are fireproof and it is expedient that provision be made for providing suitable accomodation for the County Council, Judges, Barristers, Juries and Officials.

BE IT THEREFORE RESOLVED by the " Commissioners of the Court House, Halifax " that a sum not to exceed One Hundred and Twenty Thousand Dollars shall be provided by the Commissioners of the Court House at Halifax for the purpose of building an additional building or wing on the eastern side of the present County Court House building and re-modelling the present building and for making new vaults for the storage of records and for fittings and furniture therefor, in accordance with plans and specifications to be approved by the Commissioners, the sum of Sixty thousand dollars to be provided by the Province of Nova Scotia, and the balance not exceeding the sum of Sixty thousand dollars to be charged to the City of Halifax, the Town of Dartmouth and the County of Halifax in the ratio in which the joint expenditure is now rated and assessed, and that legislation be secured authorizing the Municipality of the County

October 31st 1930

of Halifax to raise said sum, not to exceed Sixty thousand dollars, by borrowing the same and empowering the Warden and Municipal Clerk of said Municipality to borrow said sum and to issue debentures therefor, in accordance with the said legislation and to pay the monies over to the said Court House Commission for the purpose aforesaid.

BE IT FURTHER RESOLVED that as the Government of the Province of Nova Scotia has agreed to pay the sum of Sixty thousand dollars on account of the said expenditure so to be incurred, the said work be undertaken and proceeded with forthwith.

FURTHER RESOLVED that Aldermen Russell McInnes and Gordon Daley, and R. H. Murray, K.C., be a committee to confer with the Hon. P.C. Black regarding the architect and the preparation of the plans and specifications and report to the Commission at an adjourned meeting to be held on Wednesday, Oct. 29th, at 4.30 p.m.

Passed unanimously"

On October 29th a meeting of the Commission was held and Alderman McInnes, on behalf of the special or sub-committee appointed to confer with Hon. P.C. Black, reported and that he recommended that Charles A. Flower be appointed as architect.

Mr. Fowler was appointed architect and the following as the Building Committee-- Ald. McInnes, Chairman; Mr. Justice Chisholm, Ald. Dickie, R. H. Murray, K.C., and Parker Archibald.

Yours faithfully,

Parker Archibald
SECRETARY
COMMISSIONERS OF COURT HOUSE

5.15 o'clock, Alderman Daley arrives and takes his seat.

Moved by Alderman Dickie that the action of the Court House Commission be approved.

5.20 o'clock. Moved by Alderman Stech seconded by Alderman Smeltzer that this meeting do now adjourn.

Motion put and passed thirteen voting for the same and two against it as follows:

October 31st 1930

FOR THE MOTION

ALDERMEN Mitchell
Steeh
Redmond
Cragg
McInnes
McCarthy
McDonald
Shields
Drysdale
O'Malley
Probert
Smeltzer
Adams- 13

AGAINST IT

ALDERMEN Dickie
Donovan.

-2-

Alderman Daley who had just arrived and taken his seat in Council being excused from voting.

LIST OF HEADLINES

Bill Posters License-Ideal Dairy	323
Unemployment Relief	326
Report re proposed addition to Court House	331

Meeting adjourned

J. R. Rhind

L. A. Gastonguay
L. A. Gastonguay
MAYOR

H. S. RHIND
CITY CLERK

EVENING SESSION

8.10 o'clock,
Council Chamber,
City Hall,
November 13th, 1930

A meeting of the City Council was held this evening. At the above named hour there were present His Worship the Mayor and Aldermen Dickie, Stech, Mitchell, Donovan, Redmond, Daley, McInnes, Cragg, McCarthy, Rains, McDonald, Shields, O'Toole, Drysdale, O'Malley, Adams, Probert and Smeltzer:

✓
HALIFAX HARBOUR CHAMPIONSHIP
PRESENTATION OF PRIZES

His Worship the Mayor announced that before taking up the regular business of the meeting he had a pleasant duty to perform, that of presenting the prizes won at the annual race for the Single Scull Amateur Championship of Halifax Harbour.

His Worship called upon Mr. Daniel Wallace, winner of the first prize representing the Jubilee Rowing Club, and presented him with the Cogswell silver medal and a gold watch, and to Reginald Patterson of the Mic Mac Rowing Club, Dartmouth the second prize, a pair of military brushes.

His Worship then in a few well chosen words congratulated the contestants on their achievement and wished them much success.

The following named papers were submitted:

November 13th, 1930

✓
KEMPT ROAD AND DUTCH VILLAGE ROAD
IMPROVEMENTS

Letter Board of Trade covering
resolutions in re Kempt Road and Dutch Village
Road improvements.

FILED ✓

HALIFAX DISTRICT TRADES AND LABOR COUNCIL
IN RE CONSTRUCTION OF CABLE SHIP
AT HALIFAX

Letter of the Halifax District
Trades and Labor Council in re the construction
of a cable ship at Halifax.

FILED

✓
INVITATION REV. DR. SAVARY, RE TOR ST PAUL'S
CHURCH TO ATTEND PUBLIC THANKSGIVING
SERVICE

Invitation from the Rev. Dr.
Savary, Rector of St. Paul's church to the Mayor
and Aldermen to attend a public Thanksgiving
Service at St. Paul's Church on Monday, November
10th, Thanksgiving Day.

FILED

✓
WORKS DEPARTMENT ACCOUNTS

Read report of the Committee on
Works recommending for payment accounts amounting
to \$8,623.23:

City Works Office,
Halifax, N.S.,
November 13th, 1930

WORKS AND WATER
DEPT. ACCOUNTS
OCTOBER 1930

The City Council,

Gentlemen:

At a meeting of the Committee on Works
held the 12th instant, accounts chargeable as follows,
were approved and recommended to Council for payment:

Works Dept--	Construction	\$230.08	
	Maintenance	706.78	\$936.86
Works Dept.--	Capital	\$657.48	
	Appropriations	7028.89	7686.37
			<u>\$8623.23</u>

Respectfully submitted,
M. A. Hunter-Clerk of Works

November 13th, 1930

Moved by Alderman Mitchell seconded by Alderman Adams that the report be adopted and accounts paid. Motion passed.

✓ CITY HOME AND T.B. HOSPITAL ACCOUNTS

Read report of the Charities Committee recommending for payment accounts chargeable to the City Home \$10,009.86 and to the T.B. Hospital \$3,763.13:

Halifax, N.S. Nov. 11th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

The Charities Committee met this day and beg to submit the following report:

MEMBERS PRESENT: The Chairman,
Aldermen Redmond, O'Toole and McCarthy.

CITY HOME ACCOUNTS OCTOBER 1930 AMOUNT \$10,009.86

City Home accounts for the month of October 1930 amounting to \$10,009.86 are recommended for payment.

TUBERCULOSIS HOSPITAL ACCOUNTS OCTOBER 1930
AMOUNT \$3,763.13

Tuberculosis Hospital accounts for the month of October 1930 amounting to \$3,763.13 are recommended for payment.

Respectfully submitted,
F.W. Dickie
CHAIRMAN

Moved by Alderman Dickie seconded by Alderman Redmond that the report be adopted and accounts paid. ✓ Motion passed.

✓ GENERAL ACCOUNTS

Read report of the Finance Committee recommending for payment accounts amounting to \$2,045.45:

November 13th, 1930

Committee Room,
City Hall,
November 12th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the Finance Committee held this day the attached list of accounts amounting to \$2,045.45, was passed as correct and recommended to the City Council for payment.

Respectfully submitted,
E. J. Cragg
CHAIRMAN

Moved by Alderman Cragg seconded by Alderman McCarthy that the report be adopted and accounts paid. Motion passed

✓
FIRE DEPARTMENT ACCOUNTS

Read report of the Committee of Firewards recommending for payment accounts chargeable to the Fire Department \$12,572.74 and to the Fire Alarm Maintenance \$419.54:

Committee Room, City Hall,
November 11th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the Committee of Firewards held this day the attached lists of accounts chargeable to Fire Department \$12,572.74; and to Fire Alarm Maintenance \$419.54, were passed as correct and recommended to the City Council for payment.

Respectfully submitted,

W. J. O'Toole
CHAIRMAN

Moved by Alderman O'Toole seconded by Alderman Donovan that the report be adopted and accounts paid. Motion passed

November 13th, 1930

✓
CITY HEALTH BOARD ACCOUNTS

Read report of the City Health Board recommending for payment accounts amounting to \$2,569.53:

Office of City Health Board,
Halifax, N.S. Nov. 12th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the City Health Board held on Tuesday evening, November 11th, the following named accounts amounting to \$2,569.53 were passed and recommended to the City Council for payment.

Respectfully submitted,
Arthur C. Pettipas,
SECRETARY C.H.B.

Moved by Alderman Stech seconded by Alderman Smeltzer that the report be adopted and accounts paid. Motion passed.

✓
GARDENS, PARKS AND COMMON ACCOUNTS

Read report of the Committee on Gardens, Parks and Common recommending for payment accounts chargeable to Public Gardens \$1777.26 and chargeable to Fleming Park \$238.98:

Committee Room, City Hall,
November 11th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the Committee on Gardens, Parks and Common held this day the attached lists of accounts were passed as correct and recommended to the City Council for payment.

Public Gardens-	Capital	\$396.03	
	Current	<u>1,381.23</u>	\$1,777.26
Fleming Park,	Current	238.98	<u>238.98</u>
			<u>\$2,016.24</u>

Respectfully submitted,
W. E. Donovan
CHAIRMAN

November 13th, 1930

Moved by Alderman Donovan seconded by Alderman McCarthy that the report be adopted and accounts paid. Motion passed.

POLICE DEPARTMENT ACCOUNTS

Read report of the Police Committee recommending for payment accounts amounting to \$8,969.25:

Halifax, N.S. Nov. 11th, 1930

His Worship the Mayor,
and City Council.

Gentlemen:

At a meeting of the Police Committee held this date the following accounts amounting to \$8,969.25, were examined found correct and recommended for payment.

Respectfully submitted,
L. A. Gastonguay
MAYOR AND CHAIRMAN

Moved by Alderman Adams seconded by Alderman Mitchell that the report be adopted and accounts paid. Motion passed

CITY PRISON ACCOUNTS

Read report of the City Prison Committee recommending for payment accounts amounting to \$1,539.19 and covering report of the Governor for the month of October showing there to be sixty-nine prisoners in custody on that date:

Committee Room, City Hall,
November 7th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the City Prison Committee held this day the attached list of accounts amounting to \$1,539.19 was passed as correct and recommended to the City Council for payment.

Report of Governor Grant for the month of October is also attached hereto.

Respectfully submitted,
W. E. Donovan
CHAIRMAN

November 13th, 1930

Moved by Alderman Donovan seconded by Alderman McDonald that the report be adopted and accounts paid. Motion passed.

CITIZEN'S FREE LIBRARY ACCOUNTS

Read report of the Citizen's Free Library Committee recommending for payment accounts amounting to \$347.95:

Halifax, N.S. November 5th, 1930

His Worship the Mayor,
and Members of the City Council.

Gentlemen:

The Library Committee begs to submit the following accounts for payment:

City of Halifax	Salaries	\$263.32
T.O.Allen & Co.	Books	52.63
International		
Magazine Co.	Subscriptions	9.50
Phillips & Marshall	-Binding	5.00
		<u>\$330.45</u>

19291930 Acct.

Phillips & Marshall -Binding \$17.50

Respectfully submitted,
H.J. Stech
CHAIRMAN

Moved by Alderman Stech seconded by Alderman Daley that the report be adopted and accounts paid. Motion passed.

POINT PLEASANT PARK ACCOUNTS

Read report of the Directors of Point Pleasant Park recommending for payment accounts amounting to \$2,322.79:

Committee Room, City Hall,
October 30th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the Directors of Point Pleasant Park held on the 30th inst., the attached list of accounts amounting to \$2,322.79 were passed as correct and recommended to the City Council for payment.

Respectfully submitted,
F.W.Dickie
CHAIRMAN

November 13th, 1930

Moved by Alderman Dickie seconded by Alderman Redmond that the report be adopted and accounts paid. Motion passed

✓
TENDERS FOR BOILER HOUSE
PUBLIC GARDENS

Read report of the City Engineer and the Committee on Gardens, Parks and Common covering tenders for the construction of a new boiler house at the Public Gardens:

City Engineer's Office,
Halifax, N.S. October 31st, 1930

TENDERS FOR BOILER
HOUSE PUBLIC GARDENS

His Worship the Mayor.

Sir:

I beg to report on the tenders for a new boiler house and chimney in connection with the Green Houses at the Public Gardens which were opened by the Chairman of the Committee on Gardens, Parks and Commons and referred to me for report, that owing to the dilapidated condition of the old building, at present housing two boilers that it was decided to design the new building large enough to accommodate all the boilers required.

Tenders were called for a building constructed of interlocking tile with reinforced concrete lintels and sills on concrete foundation, which latter was built by day labour. It is also necessary to build a new brick chimney. Tenders were as follows:

John T. Inkpen	\$1,695.00
A. McDonald	1,810.00
Steeves & Bianco Construction Co. Limited	1,870.00
Samuel A. Marshall & Sons	2,411.00

I would recommend that the tender of John T. Inkpen being the lowest be accepted.

Respectfully submitted,
H. W. Johnston
CITY ENGINEER.

Moved by Alderman Donovan seconded by Alderman O'Toole that the report be adopted. Motion passed.

*Engineer
Harry Hall*

November 13th, 1930

✓
LOANS - ADVERTISING FOR TENDERS

Read report of the Finance Committee recommending that authority be given to the City Treasurer to advertise for loans amounting to \$1,354,050.00 for various expenditures authorized by legislation:

Office of City Treasurer,
Halifax, N.S. Nov. 11th, 1930

The Chairman,
The Finance Committee,
City Hall.

Dear Sir:

I beg to hand you herewith Borrowing Schedule aggregating \$1,354,050.00 which it is necessary that the City should borrow forthwith. As will be seen by the Schedule \$919,550.00 of the amount is for refunding purposes, \$878,300.00 of which matures on 1st January next and \$37,250. on 1st April next. The April maturity has been included in the present borrowing rather than go to the market again in April for this small amount especially as we will have to do so in July to take care of \$362,100.00 refunding loan maturing at that time. The rest of the borrowing is for various expenditures authorized.

Recommending the above for your favourable consideration.

Yours faithfully,
R.V. Dimock
CITY TREASURER

Committee Room, City Hall,
November 12th, 1930

His Worship the Mayor,
and Members of City Council.

Gentlemen:

At a meeting of the Finance Committee held this day a letter from the City Treasurer was read asking for authority to advertise for tenders for a loan of \$1,354,050.00 for various expenditures authorized by legislation as per schedule attached to the accompanying resolution.

Your Committee recommend that the request of the City Treasurer be granted and that the resolution embodying the schedule of the amounts required to be borrowed be adopted.

Respectfully submitted,
E. J. Cragg
CHAIRMAN

Moved by Alderman Cragg seconded by
Alderman McCarthy that the report be adopted.
Motion passed.

November 13th, 1930

The following resolution was submitted:

WHEREAS by the several Acts of the Province of Nova Scotia as set out in the schedule hereunder the City of Halifax is authorized to issue Stock or Debentures in the amount of \$1,354,050.00 for the purposes as shown.

NOW THEREFORE RESOLVED that the Treasurer do advertise for tenders for the purchase of such an amount of Stock or Debentures of the City for a term of years from the first day of January next as set out in the schedule hereunder and bearing interest at a rate not exceeding four and one-half per cent per annum as will at the price offered produce the sum of \$1,354,050.00 and do report to the Committee on Finance the said tenders when the same have been received.

SCHEDULE
FOR A TERM OF 21 YEARS FROM 1 JANUARY
1931

REFUNDING LOAN As authorized by Cap.57
Acts of 1930 being 20 Geo.V \$915,550.00

FOR A TERM OF 30 YEARS FROM 1 JANUARY
1931

STREET WIDENING (Authorized by Acts of the
Local Legislature Cap.77
4 Geo. V and Cap. 57 20
Geo. V) 5,000.00

SEWER CONSTRUCTION (Authorized by Acts of Local
Legislature year 1912 being
2 Geo.V.Cap.81-Cap.63 of
Acts of 1918, being 8-9
Geo. V) 42,500.00

SIDEWALKS (Authorized by Acts of the
Local Legislature 5 Geo.V
Cap. 47, and 9-10 Geo. V
Cap.82) 30,000.00

WATER EXTENSION (Authorized by Acts of the
Local Legislature 12 Geo.V
Cap.52) 20,000.00

AIR PORT (Authorized by Acts of the
Local Legislature 19 Geo.V
Cap.67 and 20 Geo.V
Cap.62) 190,000.00

SCHOOLS (Authorized by Act of Local
Legislature 20 Geo.V.Cap.61
117,000.00

PAVEMENTS (Aithorized by Act of Local
Legislature 20 Geo.V.
Cap. 6) 10,000.00

November 13th, 1930

SHORT TERM LOAN REPAYABLE IN 4 EQUAL ANNUAL PAYMENTS
FIRST PAYMENT DUE 1st AUGUST 1931

REVISION CITY CHARTER

(Authorized by Acts of 1928
Cap. 63 as amended by Cap.
64, Sec. 3 of the Acts of
1929.....\$4,000.00

SHORT TERM LOAN REPAYABLE IN 10 EQUAL ANNUAL PAYMENTS
FIRST PAYMENT DUE 1st AUGUST 1931

CONSTRUCTION OF GREEN HOUSE
INSTALLING LIGHTING SYSTEM
RENEWAL OF BOILER

Authorized by Act of Local
Legislature 20 Geo. V.
Cap. 57 20,000.00
\$1354,050.00

Treasurer

Moved by Alderman Cragg seconded
by Alderman McCarthy and passed unanimously:

UNEMPLOYMENT RELIEF

Read report of the Committee on Works,
and His Worship the Mayor and a letter from the
Honorable Percy A. Black, Minister of Highways of
Nova Scotia in re federal and Provincial Governments
expenditures for municipal works:

Mayor's Office,
Halifax, N.S.,
November 13th, 1930

Members of City Council

Sirs:

I beg to report that the Sub-
Committee appointed by you at the last meeting to
interview the Government regarding the granting of
moneys for relieving the unemployment situation, had
an interview with the Hon. Percy C. Black, Minister of
Highways, who represented the Government, and the
result is embodied in a letter from the Minister
dated November 7th and attached hereto.

Your Committee stressed the
importance of providing funds for work that could
be easily and economically undertaken during the
winter season. In brief, the Government agreed to
advance \$27,500.00 as its share of a total expenditure
to be undertaken by the City of \$70,000.00, and
also \$60,000. half the estimated cost of the Court
House Building.

November 13th, 1930

The Committee thought that the Government should contribute at least 50% of any expenditure that may be made by the City, and it was so urged by your Committee, but the Government thought with the expenditure it made on the Court House, roads and sewers it had done well by the City.

Your Committee recommend that the offer of the Government contained in the letter of the 7th instant from the Minister of Highways, be accepted, insofar as it deals with Kempt Road, Dutch Village Road and sewers.

Yours truly,

L.A. Gastonguay
MAYOR.

Department of Highways,
Halifax, N.S. Nov. 7th, 1930

Mayor L.A. Gastonguay,
Halifax, Nova Scotia.

Dear Mayor Gastonguay:

The first delegation that waited upon the Government concerning Provincial and Federal expenditures upon the Municipal public works in the City of Halifax proposed a contribution for an extension of the Court House. In good faith the Government accepted this suggestion feeling that all interested parties were represented and made a generous grant of \$60,000 from Federal and Provincial Funds. It is estimated that this is one half of the total cost of the building in question.

Now that further assistance has been requested the Government is prepared to undertake a project contemplating the expenditure of \$25,000 on Kempt Road of which sum the combined Governments will contribute \$12,500 and the City \$12,500, also an expenditure of \$15,000 on the Dutch Village Road towards which the City will contribute \$5,000 and the Governments \$10,000. In addition that the City undertake the expenditure of at least \$30,000 on sewers within the City towards which the combined Governments will contribute \$10,000. In view of these total contributions towards public works within the City the Government feels that such work should be commenced immediately and that they be carried on concurrently.

It is only fair to point out that in addition to the above expenditures the Government is undertaking extensive work in different parts of the country of Halifax upon the highways, bridges and Highway Railway diversions which are bound in turn to relieve unemployment not merely in the districts but improve condition of employment in the City itself. Amongst this country work it is expected that improvement on the Halifax-Waverley Road will be made which will employ some labour from the City.

Yours faithfully,

Percy C. Black
MINISTER OF HIGHWAYS
NOVA SCOTIA

November 13th, 1930

City Works Office,
Halifax, N.S., Nov. 13th, 1930

PROVINCIAL AND
FEDERAL EXPENDITURES
FOR UNEMPLOYMENT RELIEF

The City Council.

Gentlemen:

The attached letter from the Hon. Percy Black, Minister of Highways, with reference to federal and provincial expenditures for municipal works, was read at a meeting of the Committee on Works on the 12th instant, and ordered forwarded to Council.

Respectfully submitted,
M.A. Hunter
CLERK OF WORKS

The following Resolution was

submitted:

WHEREAS the Government of the Province have agreed to advance certain moneys for the purpose of the performance of work on Kempt Road and Dutch Village Road, thereby relieving the unemployment situation, on condition of the City contributing to the cost of the said work.

AND WHEREAS no legislative authority at present exists whereby the City can obtain money for that purpose.

RESOLVED That His Worship the Mayor be instructed to apply to the Premier and Members of the Government of the Province for an assurance that the Government will give its best offices at the next ensuing session of the Legislature to aid in the passage of legislation submitted by the City authorizing a loan not exceeding \$18,000.00 for purposes aforesaid, such loan to be repaid in three equal annual instalments.

FURTHER RESOLVED that the City proceed immediately with the performance of the work aforesaid and that the City Treasurer be authorized to borrow from the Royal Bank of Canada or from any civic fund available the moneys required under this resolution.

Moved by Alderman McCarthy seconded
by Alderman Shields that the resolution and report
of the Board of Works be adopted. Motion passed.

*Loc. the Hon
Gordon & Huntington
Mayor
Engineer
Treasurer
Solicitor*

November 13th, 1930

AIRPORT-EXPROPRIATION
ST PATRICK'S HOME PROPERTY

Read report of the Committee on Works on the award of Judge O'Hearn, special referee in the expropriation proceedings of the land belonging to St. Patrick's Home, also a report of the City Solicitor thereon:

City Works Office,
Halifax, N.S., November 13th, /30

ST. PATRICK'S HOME
EXPROPRIATION

The City Council.

Gentlemen:

The attached award of Judge O'Hearn, Special Referee in the expropriation (for the purpose of an airport) of land belonging to St. Patrick's Home, also a report of the City Solicitor thereon, were considered at a meeting of the Committee on Works on the 12th instant and ordered forwarded to the City Council.

The following resolution was passed, Aldermen Mitchell voting against:

RESOLVED that the same procedure be followed in the case of the St. Patrick's Home property as in the other properties expropriated for the airport and that this Committee recommend to Council that the City accept the award.

Respectfully submitted,
M. A. Hunter
CLERK OF WORKS.

IN THE MATTER OF THE
HALIFAX CITY CHARTER

AND
IN THE MATTER OF THE EXPROPRIATION OF
CERTAIN LANDS IN THE CITY OF HALIFAX
FOR THE ESTABLISHMENT OF AN AIRPORT

O'HEARN C.O.J., District No. 1 sitting as a Referee.

This is a proceeding to determine the value of certain lands expropriated for the purpose of an airport by the city of Halifax the property of the Roman Catholic Episcopal Corporation and referred to throughout as the "St. Patrick's Home Property", pursuant to an order of the Hon. the Chief Justice of the Supreme Court of Nova Scotia in and by the provisions of the Halifax City Charter, as amended by Section 21 of Chapter 69 of the Acts of 1923.

November 13th, 1930

The locus of the St. Patrick's Home property and the particular lands expropriated appear fully on Exhibits E /1 and E/1 (St Patrick's Home case). The portion appropriated consists of farm lands of approximately three acres.

The City of Halifax paid into court the sum of \$1,500.00 which the R.C. Episcopal Corporation declined to accept: hence these proceedings. Mr. Murphy, K.C., on behalf of the R.C. Episcopal Corporation contends that \$1,500.00 is totally inadequate compensation for the land expropriated, and also claims damages for injurious affection to the remaining lands not taken by the City.

In respect to the first contention, the evidence of Mr. Melvin S. Clarke, a very competent witness, is that this land is worth at least \$2,000.00 as a farming proposition. Personally, I think Mr. Clarke is rather too low in his estimate, as the evidence is that these three acres produced about 500 bushels of potatoes a year, and other crops. Accepting the statement of Brother Hinssen as I do, I think that these three acres considered as a farming proposition, and having regard to the average price of potatoes per bushel, that there would be exceptionally good nett return on an investment of \$2,000.00 and in fact a very decent return on \$3,000.00. However, I fix the actual value of these three acres of farm land at \$2,500.00, including 10% added for compulsory taking.

In respect to the second contention: it was decided by the Privy Council in the Sisters of Charity of Mount St. Vincent vs The King, 1922 A.C. 315- reversing the decision of the Supreme Court of Canada, that where lands are taken compulsory, if anything is done on the land so taken which is calculated to depreciate the value of the remaining lands not expropriated, the owner of the lands so expropriated, can recover damages for any depreciation to the remaining lands. In the Mount St. Vincent case the Crown in the right of the Dominion at Rockingham took two small promontories or knolls east of the Railway track, upon which had been erected a bathing house and a wharf property. In that case Sir Walter Cassells awarded the Sisters of Charity \$7,628.00 for the value of these promontories and rejected the claim for damages to the remaining lands upon which the Mount St. Vincent College and Academy stood, it being alleged that the value of the same depreciated as an institutional site by the continuous shunting and discordant noises which are attendant on the operations of a freight yard. Sir Walter Cassells' view was concurred in by the Supreme Court of Canada, but that decision was reversed by the Privy Council which decided that if such damage could be proved to flow from the operation of something, as for instance a train, on the lands so expropriated, damages could be awarded for the depreciation caused to the remaining portion of the property. The case was remitted to the Exchequer Court with directions to assess the damages on this principle and Mr. Justice Audette awarded the Sisters of Charity an additional \$10,000.00

November 13th, 1930

In this case Mr. Murphy, K.C., who very thoroughly covered every point of his case, contended that depreciation to the St. Patrick's Home property so remaining would be caused for different reasons.

(1) The maintenance of the institution will be increased by the necessary purchase of 500 bushels of potatoes per annum which heretofore were raised on the land expropriated by the use of the institutional labour:

(2) that the institution is exposed to the hazard of being injured by collision of a plane with the buildings of the home by taking off or by an emergency descent:

(3) It will be necessary to erect a suitable plain board fence, of a sufficient height, in order to prevent distraction on the part of the boys by the operation of the airport and also of ensuring some privacy in respect to the conduct of the institution:

(4) access to the eastern portion of the property from the Bayers Road is taken away by the expropriation of the land in question as appears more fully on reference to the plans: and

(5) the institution will require three additional prefects of discipline in view of the disturbing presence of the airplanes.

(1) In respect to this contention, I accept the evidence of Brother Hinssen who states there is no available land in which to plant potatoes to make up for the three acres expropriated and that after inquiry none can be discovered in the neighbourhood, but I do not think that this can be considered as damages on any theory of injurious affection. It is only evidence to show that the three acres in question is very valuable farm land. I have already fixed the amount on that view.

(2) I would conclude from the evidence of Mr. Saunders, who was a very satisfactory and clear witness, that the danger to the home by the machine taking off is rather remote. However, according to the evidence of this witness, in the case of an emergency of forced landing, for instance in fog, there may be some danger; and in my opinion that is equally true in respect to all the properties in the immediate vicinity of the airport. It is true that Mr. Saunders stated that if fog or other atmospheric conditions surrounding the Halifax airport were encountered the plane could probably return to Moncton. But I suggest this: supposing the plane cannot return to Moncton and is forced down, what then?

In reply to my question, Brother Hinssen admitted that the institution intends to carry on in the present location, airport or no airport, as it has only recently been built by private subscription and with the proposed wing will cost in the vicinity of \$250,000; that the site was selected after grave consideration and investigation of other sites, and having regard to all the circumstances St. Patrick's Home must carry on where it is.

November 13th, 1930

I have pointed out the possible hazard referred to and I think that the property as a whole will deteriorate as a result of the operation of the airport at the locus in question.

(3) I accept the evidence of the Brother Superior in respect to the necessity for a fence. I do not think it will be necessary to build a stone fence, but I am quite convinced that a board fence of sufficient height would give all the privacy the institution requires, and I do say that it will be necessary to fence the whole of the home property on its eastern line. Evidence has been given that will require fencing to the extent of 810 feet, which at \$2.00 per foot would amount to \$1,620.

(4). It will be necessary to erect in the rear and to the east of the present institution certain farm buildings such as a cow shed, barns, etc., which will be removed from the old site not owned by the R.C. Episcopal Corporation. Undoubtedly from the Bayers Road over the three acres expropriated the home authorities would have easier access to these buildings than from the Mumford Road; this being so the deprivation of this access must be considered an element of damage by way of depreciation caused by the taking of these lands.

(5) In respect to the additional prefects of discipline, the evidence is that they were asked for a year ago and my own view is that while the airport at first would prove a novelty, not only to the boys of the home but to the citizens in general, I think, after a short while the novelty will disappear and the boys will not be so keenly interested in the arrival and departure of the planes and I reject the theory that it will require an additional prefects of discipline in consequence of the presence of the airport.

Generally speaking the rule adopted by the Exchequer Court is, that the value of a property to be considered in expropriation cases is the market value and not the particular value to the individual. But as Mr. Justice Audette said, in the proceedings to assess damages in *Sisters of Charity v the King*, on the question of injurious affection, in the case of an educational institution such as Mount St. Vincent- and therefore I would say, as the present institution, a reformatory- the true test is, what is the value of the lands not expropriated to the institution and the persons conducting or operating the same, and how much have they deteriorated? I quote the language used by Mr. Justice Audette in that case:

"The market value of this property
"must be deduced from its intrinsic value,
"that is, its value to the owners for
"their special purpose.

"The property has been held and
"improved in such a manner as would serve
"its destination, its useful purposes to
"the owners, and if they were desiring to
"sell they would be unable to obtain a
"price like its real value. It is
"impossible, in a case like the present
"one, to ascertain the actual market
"value of such a property by the usual
"tests which presuppose a willing buyer;
"the conditions upon which such values
"are based are not present. In case

November 13th, 1930

"of this character, the market value
"is not the measure of compensation.
"Therefore some other measure must be
"sought. In the absence of market
"value, the intrinsic value or value to the
"owner is the real value to ascertain
"for measuring the compensation"

Undoubtedly with the presence of this airport the institutions will not enjoy that isolation repose, calm and quiet which has existed in the past. It has been said during the argument that the airplane as a carrier or commercial venture is in its infancy and one may reasonably expect that the business of this airport will increase as the years go by. It has also been truly said that the damages I now give must take care of the future as there can not be two bites to the cherry, and what is awarded now must cover the future.

I think a good test has been suggested by Mr. Murphy, K.C., namely, would St. Patrick's Home authorities if looking for a site today build the present building alongside an airport? I think common sense will suggest the answer in the negative. I myself put it to the counsel in another way: If the St. Patrick's Home authorities were in a position to abandon the present site and wished to sell, would not their only likely purchaser be a similar reformatory organization? Would they, or could they reasonably expect to get as much for their buildings and land from such a purchaser with the presence of the airport as they would and could reasonably expect in the absence of such an undertaking? I think the answer is No. I find that the St. Patrick's Home property as a whole will suffer depreciation by the operation of this airport on the locus in question, and in the portion expropriated.

It is true that in the Sisters of Charity vs the King, which I accept as my juridical guide in this matter, the law is stated that the damage which claimants are entitled to recover for "injurious affection" must flow from the lands actually taken. In the present case only a small portion of the lands is taken for the purpose of the airport, and while the "run-ways" are not situated on that portion, nevertheless the landing strip attached to the run-way C.D. is part of it, and this being so, with the probable increase of the business of the airport in the future it cannot be reasonably said that this institutional site is not or will not depreciate in value. In a case of this kind where in my opinion there is an obvious "injurious affection" I have, as Audette, J, said in the Sisters of Charity case, to arrive at a conclusion as to the amount, unaided by any accurate mathematical calculation on any direct evidence of depreciation. In the Sisters of Charity case where the depreciation was attributed to the discordant noises of a shunting yard, the amount awarded for injurious affection was \$10,000. In this case we have not the noisy engines and the crashing of freight cars, but we have a reformatory institution, instead of a purely educational one, with a number of boys who, as the evidence shows, are somewhat difficult to deal with, and a hazard to which the institution is exposed- which to my mind is not a fantastic idea at all.

November 13th, 1930

I think the claimant's contention that it is entitled to recover \$50,000 damages is out of all question, and I therefore find that the claimant is entitled to recover the following sums:

- (a) The sum of \$2,500 for the land actually taken, including the usual ten percent for compulsory taking;
- (b) The sum of \$1,620 for the cost of fencing that portion of the line between the part expropriated and the Home's eastern line, 825 feet according to the plans;
- (c) The sum of \$10,000 as damages for injurious affection to the remaining lands.

In my opinion the City of Halifax should pay the costs of these proceedings.

Halifax, October 14th, 1930
(sgd) W.J.O'Hearn
C.C.J.No. 1

Sitting as a special Referee.

Office of the City Solicitor,
Halifax, N.S. Oct. 27th, 1930

His Worship the Mayor,
Chairman,
Committee on Works,
CITY.

✓ RE: ST. PATRICK'S HOME

Sir:

The City Engineer has requested me to give the Committee my opinion as to whether the City should acquiesce in the finding of the learned County Court Judge sitting as referee by which the City's offer of \$1,500 for the land expropriated from St. Patrick's Home has been increased to \$14,120. or take it to the Supreme Court for a review on appeal.

The sum awarded is made up of three items-

1. - \$2,500. for the land itself, including the customary 10% for compulsory taking;
2. \$1,620. for fencing between the lands expropriated and the eastern line of the Home property;
3. \$10,000 as damages for injurious affection to the remaining lands of the Home.

As to Nos. (1) and (2) I would not recommend any appeal, although the value set on the three acres taken is \$500. higher than that fixed by Mr. Clark on behalf of the claimant. The liability for fencing is given by our Charter. The third item however, is in my opinion open to very

November 13th, 1930

serious criticism.

The law as to compensation for injurious affection is well settled, especially by the decision of the Privy Council in the Mount St. Vincent case. Unless some part of the land in respect to which a claim for compensation is made has been taken no such claim can arise, no matter how greatly the property has been affected. The taking of any part of a property gives rise to a claim for injurious affection to the remainder of the property. That claim, however, is limited to the extent to which the injury can be shown to arise from the land taken and must not be extended to cover injury caused by any use of land not expropriated. To apply this to the present case, if the City could have established the airport without having taken any part of the property of the Home, no claim for injurious affection could have been made. Such a claim arises only because three acres have been taken but it must be limited strictly to such injury as can be shown to result from the loss of that three acres and the use of them as part of an airport. As the total area covered by the airport is 75.14 acres, it must follow that any injurious affection to the Home from the proximity of the airport not specifically attributable to the loss of the three acres or their use as part of the airport, can be chargeable to the City only to the extent of about one twenty-fifth of the whole even assuming that the three acres were used as much as the rest of the field which the evidence is that they would not. It is difficult to see on what grounds an award of \$10,000. for injurious affection so limited can be supported.

The learned Judge gives five grounds as being the cause of the depreciation of the Home property resulting from the City's expropriation, namely--

1. The loss of the agricultural produce of the three acres expropriated;
2. The hazard to the Institution from collision with planes taking off or landing;
3. The necessity for erecting a fence;
4. The loss of access to the Eastern part of the property from Bayers Road;
5. The necessity of employing three additional prefects for the Institution.

Of these five Nos. (1) and (3) are covered by specific awards. As to No (2) the learned Judge finds that any possible danger is remote and that it is also a danger to which any building in the vicinity of the Airport would be equally exposed, and which therefore, under the authorities is not recoverable as injurious affection to any one property. No(5) is dismissed as a ground of damage. This leaves only No. (4) and while the loss of access from the Bayers Road is a reasonable ground for some award, it certainly cannot support an award for \$10,000.

November 13th, 1930

serious criticism.

The law as to compensation for injurious affection is well settled, especially by the decision of the Privy Council in the Mount St. Vincent case. Unless some part of the land in respect to which a claim for compensation is made has been taken no such claim can arise, no matter how greatly the property has been affected. The taking of any part of a property gives rise to a claim for injurious affection to the remainder of the property. That claim, however, is limited to the extent to which the injury can be shown to arise from the land taken and must not be extended to cover injury caused by any use of land not expropriated. To apply this to the present case, if the City could have established the airport without having taken any part of the property of the Home, no claim for injurious affection could have been made. Such a claim arises only because three acres have been taken but it must be limited strictly to such injury as can be shown to result from the loss of that three acres and the use of them as part of an airport. As the total area covered by the airport is 75.14 acres, it must follow that any injurious affection to the Home from the proximity of the airport not specifically attributable to the loss of the three acres or their use as part of the airport, can be chargeable to the City only to the extent of about one twenty-fifth of the whole even assuming that the three acres were used as much as the rest of the field which the evidence is that they would not. It is difficult to see on what grounds an award of \$10,000. for injurious affection so limited can be supported.

The learned Judge gives five grounds as being the cause of the depreciation of the Home property resulting from the City's expropriation, namely-

1. The loss of the agricultural produce of the three acres expropriated;
2. The hazard to the Institution from collision with planes taking off or landing;
3. The necessity for erecting a fence;
4. The loss of access to the Eastern part of the property from Bayers Road;
5. The necessity of employing three additional prefects for the Institution.

Of these five Nos. (1) and (3) are covered by specific awards. As to No (2) the learned Judge finds that any possible danger is remote and that it is also a danger to which any building in the vicinity of the Airport would be equally exposed, and which therefore, under the authorities is not recoverable as injurious affection to any one property. No(5) is dismissed as a ground of damage. This leaves only No. (4) and while the loss of access from the Bayers Road is a reasonable ground for some award, it certainly cannot support an award for \$10,000.

November 13th, 1930

It is, therefore, necessary to find some other ground on which the award can be supported. The injury to the Home was placed by the two principal witnesses—Brothers Brady and Hinson—in the injurious affection which they anticipate to the Home from the noise and crowd incident to an airport, and in the loss of privacy and isolation. The learned Judge makes no reference to the evidence of Mr. Johnston, who had much greater experience with airports than either of these gentlemen, that there would be, except on rare occasions, no crowd on the Airport, and that on these rare occasions the crowd would not be permitted to assemble in the neighbourhood of the Home property, but would be confined to the opposite end of the airport, and that it would be inevitable that after the first novelty very little interest would be taken either in the arrival or departure of planes. That such would be the case would I should think, be accepted by the Court as most likely. In any event I should be very doubtful if evidence, which at the best is only vague speculation, would be accepted as the basis of a large award.

But even assuming that some compensation could be awarded on these grounds the award appears to me to omit to take into account the very limited extent to which such an injury is attributable to the small portion of the field taken from the property of the Home. Apparently it throws on the City the whole burden of making good any injury to the Home from the establishment of the Airport. The full extent of that injury as claimed by the claimants own witnesses is \$50,000. an amount which the learned Judge says is entirely out of the question. Even at that figure the City's proportion would be only (apart from what might reasonable be assessed for the loss of access from Bayers Road) in the neighbourhood of \$2,000.00. On the other hand if the \$10,000. is taken as attributable to the three acres taken it would make the extent of the injury done the ridiculous figure of \$250,000.00

In addition to the foregoing criticism of the amount of the award, there exists grounds which appear to me substantial for urging that no claim for any injurious affection is maintainable in the present case. These are—

First That any such compensation can be made only for possible financial losses, and that no probability of any such loss was shown in the case of such an institution as the Home. In the case, for instance of the Sisters of Charity it could be, and undoubtedly was, urged that the desirability and amenity of the School would be affected by the operation of the Railway with the consequent possible loss of pupils. No such consideration could be urged in the case of a reformatory institution to which the great majority of the inmates were committed by the courts. Even assuming, as the witness for the Home suggested, that the morale of the boys would be affected by the neighborhood of an Airport, that, it appears to me, could not be a ground for awarding money damages to the Institution.

November 13th, 1930

Secondly No consideration was given to the argument that in all probability the establishment of the airport, thereby ensuring that the neighbouring property would not be built up for either residential or business purposes, and thus securing for the future the privacy and isolation required, would rather benefit the Institution than injure it.

I have thought best to set out at considerable length my reasons for suggesting that the award is open to serious criticism. What view of my suggestions would be taken by a Court on Appeal, I am of course unable to predict. I can only say that in my opinion the City has a very fair chance of materially reducing the award for injurious affection or possibly setting it aside entirely, except whatever small damages might be estimated for the loss of access from Bayers Road.

The costs of an appeal in the event of the City failing would not probably exceed \$500. including the cost of printing the case. It is for the Committee and of course ultimately the Council to decide whether or not it is worth risking this sum by an Appeal. I should add that in order to prevent the time running out, I have given a Notice of Appeal which of course can be withdrawn if the City decides not to appeal.

I should also add that I am given to understand that the Home is not satisfied with the award and that, although it would not probably appeal of its own accord, a cross appeal to increase the amount will be given in the event of the City appealing.

Respectfully submitted

F.H. Bell,

CITY SOLICITOR.

Moved by Alderman McCarthy seconded by Alderman Adams that the report of the Committee on Works be adopted.

Moved in amendment by Alderman McInnes seconded by Alderman Mitchell that the City retain L.A. Lovett, Esq., K.C., and obtain from him an opinion as to the advisability of asserting an appeal from the award of the special referee Judge O'Heard.

Amendment put and passed fourteen voting for the same and four against it as follows:

FOR THE AMENDMENT

Aldermen Mitchell, Shields,
Dickie, O'Toole,
Redmond, Drysdale,
Daley, O'Malley,
Cragg, Probert,
McInnes, Smeltzer,
Rains,
McDonald, 14

AGAINST IT

Aldermen Stech
Donovan
McCarthy

-3-

*Engineer
Solicitor
L.A. Lovett K.C.*