

MINUTES OF MEETING
Of
Municipal Council
MAY, 1881

MEETING OF COUNTY COUNCIL
IN MAY TERM

The Council met on May 3rd, pursuant to adjournment, and was called to order by the Warden.

The meeting was opened with prayer by the Warden, after which the roll was called.

The Clerk read the act further to amend the Incorporation Act, passed at last meeting of the Legislature.

Resolved that the matter of the amendments to the Co. Incorporation Act passed at 1881 meeting of the Legislature be referred to the Committee on I. – Amendments to report on tomorrow.

A letter from the Prov. Secretary's Office was read, showing that \$7154.00 was granted for the road and bridge service out of which \$739.58 was paid the Bank of Nova Scotia for balance of the old debt and \$250 for expenditures, leaving a balance of \$6164.42 to be appropriated by the Council.

An account of over-expenditures for repairing and rebuilding bridges in road district No.3, amounting to \$217.42 was read.

The petition of Christopher Brown for relief of himself and his brother from support of their mother was referred of the com. on poor.

After dinner hour, it was resolved that the matter of Eastern Extension R.R. Damages and the report of the committee thereon, be considered next forenoon.

Council then adjourned until 10 a.m. Wednesday, to give the various committees an opportunity to proceed to investigating the various matters entrusted to them.

WEDNESDAY

The Council met at regular hour. The minutes of last meeting were read and adopted.

The Clerk introduced the subject of the cattle disease now existing in this county by reading letters from Mr. C.H. Bryne, Veterinary Surgeon, and other papers in connection therewith.

A large discussion followed the reading of Mr. Bryne's letters, some of the councilors not considering the matter as grave as others deemed it. A good deal of interesting information was given; one speaker showing that one farmer in Merigomish had lost cattle to the value of \$750.00. Another farmer had lost 17 head. Councilor Stevenson thought the disease was principally due to farmers and others making their stables too warm, compelling the cattle to stand heated among fermenting manure.

It was resolved that Coun. Fraser and McDougall, and Wm. Smith be a committee to whom shall make as full inquiry as may be possible, and report to the council before close of term.

Councilor Donald McLeod was appointed a member of committee on roads and bridges in place of Coun. Willis, absent from this county.

Coun. J. McDougall reported on behalf of the com. appointed to confer with the Local Govt. in reference to the interest on certificates and costs incurred by the county in contesting its liability for the damages appraised for the right of way of the E. Ex. R. Road through the county of Pictou, as follows:

That they had a conference with the Executive Council to which they submitted the resolutions passed at last meeting of County Council, and presented the claims of the county in conformity therewith.

The Committees were informed that the Govt. does not feel that they have the power to pay the interest on the amounts allowed for such damages, but would recommend the payment of the costs, incurred by the county in contesting its liability, all of which is respectfully submitted.

Donald Fraser,
Committee< S. Archibald,
John McDougald

Coun. J.R. McDonald thought that the Gov't action left matters exactly as they were. He moved seconded by Coun. Collie that Mr. Rigby be telegraphed for than an opinion might be given on the matter ere the council rose.

Councilor D. Fraser asked that Mr. Rigby's last letter to the council be read as if he expressed a decided opinion in it on the matter, his presence might be unnecessary. Coun. McRae also desired the letter read.

Coun. McDougald thought that no letter from Mr. Rigby gave the county any real hope of winning the suit. He gave no authoritative opinion in any way.

Mr. Rigby's letter was as follows:

Halifax, 10th Nov., 1881

R. McNeil Esq., Warden of Pictou

Dear Sir: - Having returned from Ottawa, I can now report to you the result of the appeal in the matter of the Railway Damages. I regret to say that after argument the appeal was dismissed by the Court with costs. This result would be less distasteful if I had succeeded in obtaining from the Court an explicit decision on the merits of the question really included and in which the only the County of Pictou is interested. The Court however, dismissed the appeal solely on the ground that the judgment of your court could not be appealed from the former court because – so the Court held – it was not a final judgment. The Act constituting the Court of appeal provides the appeals shall like to it 'from judgments only' and that Court held that the decision of our court refusing to set aside the order of Sir William Young which directed the Prothonotary of Pictou to draw and strike a Jury to assess the railway damages in that county was not a *final* disposition of the matter, as the proceedings of the Prothonotary and Sheriff's jury would remain unaffected whether the order in question was set aside, and that therefore their proceedings were not *finally* disposed of by the judgments from which we sought to appeal.

This was certainly a very nice distinction and I urged upon the Court that whatever effect the judgment of the Court had upon their proceedings it, at all events, by sustaining the order in question finally disposed of it, but they nevertheless dismissed our appeal on the ground stated, intimating however, that the county was not in any way precluded from contesting the liability to pay the land damages by refusing to pay the outstanding debentures or resisting any proceedings that should be taken for amercing the Municipality as provided for in the act, in these cases where counties refuse to make the necessary assessment.

Your Obedt. Serv't
(Sgd.) S.G. Rigby

Coun. J.R. McDonald said that Mr. Rigby had given no opinion; why should we pay the damages now.

The Warden said we were, it seemed to him, where we begun years ago, but were \$1500 out of pocket already.

Coun. Collie allowed his name to go to the request for Mr. Rigby's presence, because he feared the town of Pictou might refuse to pay their share in time to come, and that it would be better satisfied if it saw everything possible done.

Mr. J. McDougald said he never gave the Council any hope of receiving interest from the Prov. Gov't., though Councilor Collie seemed to imagine so.

In amendment to Coun. McDonald's motion, Coun. McDougald moved, seconded by Coun. John McDonald, that the report of committee on Eastern Ex. Damages submitted at January term 1880, be referred back to the committee for reconsideration and report before sending for Mr. Rigby. Amendment carried.

Resolved that the resolution of Council passed at January term last requiring petitioners for private statute labor to state the number of days statute labor from which they are liable, be dispensed with during the present year.

Council then adjourned until four o'clock after again meeting, it was resolved that hereafter petitions for private statute labor be not entertained by this council at semi-annual meeting, but at the annual meeting only.

The Warden read the bill of Messrs. McDonald, Rigby, and Tupper for services in the matter, amounting \$823.47. The total expenses incurred are now about \$2000.

The Report of Com. on Roads and Bridges

Your Committee would beg leave to report that on examining the papers submitted to them, they have enumerated them as follows;

Petitions for Private Statute Labor.

Malcolm McKenzie Fishers Grant. Sec. 1, granted

Murdoch Munro, Loganville, Sec 5, granted

James Fraser, Chance Harbor, Sec. 14, granted

Edward McGregor Little Harbor, Sec 14, granted

Robert McIntosh McLellan's Mt. Sec 15. granted

Daniel Cameron McLellan's Mt. Sec 15, granted

Duncan McLellan Blanchard Sec 16, granted

Angus McLeod & Son White Hill Sec 18 for self granted

Argus J. Cameron St. Mary's Sec 22, granted

John Mitchell French River Sec 24, granted

PETITIONS FOR COM. TO LAY OF NEW ROADS

1. Road at Lismore granted, Jas. S. Fraser Committee

2. Pent Road for Lynch French River granted, J.W. McKenzie committee

3. Pent road for Wm. Campbell Westville granted, Jas. S. Fraser committee

4. Pent road for Jas. & Matthew Patriquin River John granted.

Petition to remove gates from Gunn's Mill road, George Conolly Alma Middle River. Ordered gates to be removed.

1. Alteration of road from Gunn's Mill road to post road Black Brook, confirmed.

2. Road from George Bruce's E.B.B. river to main road at Upper Bailey's Brook, not confirmed.

Petition of George Horne for closing old road north end of Westville to Mid. River, recommended by the Com. of council that the road be closed and the land apportioned from its centre line to the proprietors of the lands on either side of the road.

The petition of John McPherson and others to close road at Fishers Grant leading to Pictou Landing, was read: The committee of council recommend that the road referred to be narrowed to the width of six feet, half on each side of the dividing line of properties bordering on said road and that gates be permitted on each end.

Reports confirming location of road at Mt. Thom by Jas. S. Fraser adopted.

Petition for aid to build a fort bridge on East River at Island. Referred to Road Board No. 3

Petition for opening pent road for John, Anne and Joseph Vaux, received too late for consideration, deferred to January Term 1882.

Petition from Wm. Cameron and John L. Benvie Saltsprings praying for being reinstated in old Statute Labor limits, reinstatement deferred to January Term 1882.

All of which is respectfully submitted.

S. Archibald

John McDonald

Alex J. McKay Com

R. McDougald

D. MacLeod

Thursday

Council met at usual hour and passed the minutes of last meeting.

A letter from Councilor Bannerman, stating that he was absent through illness was read.

The Warden read a letter from G.W.A. Lowden, respecting re-survey of road laid out by him in 1867, at Merigomish Road, called Ryan's road, which re-survey turned out to be at variance with the original survey made by him; whereupon it was resolved that James W. McKenzie be appointed to re-locate the line of road leading from the Lynch Road, so called, to Pleasant Valley Road known as Ryan's road, according to plan in Mun. Clerk's office.

The Council resolved that J. Gollan, Esq., be granted further time or until the next annual meeting of Council for returning the precepts with his reports in each case in his possession from laying out certain roads.

Resolved that the requirements of the law be complied with in the matter of appointment of County assessors, and that an additional assessor be appointed for each polling section.

The report of the Committee on Poor was received and adopted. It was as follows:

Report of Committee on Poor

We, your committee on poor, beg leave to report as follows:

Owing to an order of council passed in January 1880 and published in the list of county officers for 1881, but not in accordance with Sec. 3 Art. 5th, of Bye-Laws, some poor sections have sent in returns and some partial returns up to April 1st 1881.

The following sections, being thus misled have sent in reports or statements. Sections 6, 7, 10, 15, 21, and 24.

Your committee would recommend that those returns be sent back to the proper parties and the matter explained to them by several councilors. In section 15 the vouchers asked for at the annual meeting in January have been furnished. No returns have yet been forwarded from Sec. 17. At the annual meeting your committee found no vouchers for bills from sec. 22. At the present meeting vouchers for sums amounting to \$43.75 have been forwarded still leaving a balance of \$19.44 for which there are no vouchers. We would recommend that the overseers of said section be requested to furnish the same.

With reference to the petition of Christopher Brown of River John your committee would recommend that the prayer of the petitioner be granted after the lapse of six months. Your committee would recommend that the petition of the overseers of poor for sec 21, asking for power to rent or build a poor house in said section be granted.

All which is submitted.

J.R. Collie

Committee James McDonald

John R. McDonald

The report of the Committee on Bye Laws was received and adopted. It was as follows:
LAW AMMENDMENTS

The Council Law amendments recommend that the following be passed as a bye law of the Municipality. –

Bye Law VII Road and Bridge Service

1. The treasurer shall keep a special account of all the money by him received and expended for the Road and Bridge Service.
2. The Municipality shall be divided into four road districts; and a Supervisor of highways shall be annually appointed for each such district.
3. The name limits and boundaries of the several road districts shall be as follows – *first*, Pictou district shall embrace polling districts 1 2 3 4 5 6. *Second*, West River district shall embrace polling districts 7 8 9 10 11, including the roads and bridges on the boundary line separating road districts Nos. 1 & 2. *Third*. Egerton district shall embrace all the Polling Districts within the Township of Egerton including the roads and bridges on the boundary line separating road districts Nos. 2 and 3. *Fourth*, Maxwellton shall embrace all the polling districts within the Township of Maxwellton, including the roads and bridges on the boundary line separating Road districts Nos. 3 and 4.
4. The Councilors, for the Polling Sections within the several Road Districts shall form and constitute a Road Board for the respective Road Districts.
5. The amounts appropriated by the Council for the Road and Bridge Service shall be expended by each supervisor in his district, under the order of the Road Board, in the manner prescribed by law.
6. No over-expenditure will be allowed, except for necessary repairs on bridges, made by order of the Chairman of the Road and consent of the Warden in writing, and payable out of the next year's road appropriation for the Road District.
7. The accounts of the Supervisors shall be sworn to and certified as required by law and thereupon, by the written order of the Road board, or of a majority of such board, the Clerk may certify the same for payment out of the Provincial Road Grant, or out of the funds of the Road and Bridge Service in the Treasurers hands, as the case may be. The supervisors shall also file a duplicate account of their expenditure with the County Clerk.

8. The Supervisors shall hold office until their successors are appointed, and shall receive for their services the following remuneration to be paid out of Road moneys, viz;- Five per cent commission on expenditure and salaries, not exceeding \$100 for each per annum.
9. Notices of tender and public auctions and blank forms of contract (printed) for the Road and Bridge Service shall be supplied by the Municipality under the instructions of the Clerk to the Supervisors or Highway.
10. Moneys for the Road and Bridge Service, payable out of the County funds, may be expended by the Supervisors of Highways by tender and contract, or otherwise, as the Road Board may direct.
11. Bye Law VII of Road and Bridge Service, passed at may term 1880 is hereby repealed.

Respectfully submitted

Wm. Stewart

Com. D. MacLeod

John McDougald

Resolved that the matter of assessment of John Parks, S. River, be referred to next January meeting of Council for further consideration, and that the assessors of the section be summoned to appear to give evidence on behalf of the County. With this exception, the report was received and adopted.

The report of the Committee on appeals and assessments was read, as follows:

Report of the Committee on Assessment

We your Committee on assessment after having carefully examined the several rates rolls and appeals referred to us, beg to report as follows:

With regard to the appeal of Mr. John Park of Sutherland's River sec 14 against excessive valuation we recommend that his valuation be reduced from \$1420 to \$1000 (Referred to January Council and assessors be cited to appear before Committee of council).

Also in the appeal of Mr. James D. Reid of French River, against excessive valuation we recommend that his valuation be reduced from \$240.00 to \$160.00.

Also in the appeal of Mr. John McCabe Sec No. 3, we recommend that his valuation be reduced from \$750.00 to \$650.00.

In the appeal of Mrs. Jane Austin (widow) Sec 21, against money paid through illegal assessment we recommend the amount in said appeal be refunded namely \$3.25

Also appeal of Mrs. Donald McIntosh Sec 21, against money paid through illegal assessment, we recommend the amount in said appeal be refunded viz \$1.95.

With respect to the appeal of Charles Sutherland Sec. No. 6 for exemption from County taxes (owing to the irregularity of the document) we can recommend no action further than to refer his application to the favorable consideration of the Council.

The report of the Committee on Public Property was received and adopted. It was as follows:

Report of Committee on Public Property

Committee on Public Property beg leave to report as follows:

First. The report of commissioners of public property in the town of New Glasgow, was before us setting forth that the repairs on the prison cells of the jail was attended to, and that the

expenditure amounted to \$77.66, and that the necessary vouchers will be produced at the annual meeting with interest added to the same.

Also that the new street opened through the public property of the town of New Glasgow was authorized and sanctioned by the Town Council and furnished us with a minute of council to that effect, setting forth that they had obtained the consent of the County Council.

Your committee would recommend that John McKay Esq., Stipendiary Magistrate of New Glasgow will be allowed to occupy the office that he now occupies in the Court House until otherwise ordered by the County Council.

Also your committee would recommend that the commissioners of public property in New Glasgow be authorized to expend a sum not to exceed \$50.00 in fencing the market grounds, it in their opinion necessary for the benefit of Town and County.

Lastly, your committee would recommend that the platform around the market house in the Town of Pictou be repaired, and that the clerk of the council be entrusted with carrying out of the same.

That the matter of the water closet and ash pit be left with the commissioners of public property in the Town of Pictou; and that the windows and wood work & c. be painted in the New County Building.

Respectfully Submitted.

Donald Fraser

Robert Maxwell

Report Com. Pub. Property, New Glasgow

The commissioners of public property in the Town of New Glasgow beg to report with respect to the matter of the new street opened up through the public property of the county on this town on which you request information.

That a street was opened last summer through the said public grounds, being an extension of Dalhousie street, easterly till it strikes Temperance street immediately on the north of the lands of Jerry Connelly at no junction with Temperance street and that the same has been partly graded. Upon enquiry at the town office we find that it was opened by authority of the Town Council of New Glasgow, they having obtained the consent of the County Council to that effect, as will appear by reference to the annexed extract of minutes of proceedings of said council.

Your commissioners beg also to report that they have made the necessary repairs of the prison cells of the jail; and the cost of said repairs amounts to \$77.66, for which the necessary vouchers will be produced at the annual meeting, the commissioners have paid the bills in the mean time and will debit the county with same with interest added.

Respectfully Submitted

G.W. Underwood

J.E. Fraser

The report of the Committee to appropriate the Provincial and County moneys to roads and bridges, was received and adopted as follows:

Apportioning of Public Money for Roads and Bridges

The Committee on roads and bridges recommend that monies for the road and bridge service in the County Treasurer's hands be appropriated as follows: -

To street Commissioners Westville for over expenditure on bridges & c. \$30.00

For expenditure in road District No. 1 (under order of Road Board) \$118.00

For expenditure in road District No. 2 (under order of Road Board) \$72.00

For expenditure in road District No. 3 (under order of Road Board) \$103.00

For expenditure in road District No. 4 (under order of Road Board) \$77.00

Also that the Government grant for road and bridge service for the present year be appropriated as follows to be expended under the directions of the respective Road Boards as directed by Bye-Laws:-

In Road District No. 1. (Pictou) \$1893

In Road District No. 2. (West River) \$942

In Road District No. 3. (Egerton) \$1967

In Road District No. 4 (Maxwelton) \$10.92

Alex J. McKay

John McDonald

R. McDougald

D. MacLeod

The report at the committee on nomination of Town officers, was received and adopted. It was as follows:

Report of Com. on Nominations of Town Officers.

The Committee on Nominations beg to submit the following persons be appointed to the respective offices as under mentioned:

(Additional) Assessors.

Section No. 1 (Fisher's Grant) David McDonald (Pictou Island) Alexander Currie

Section No. 2 Peter Grant, Scotch Hill

Section No. 3 William Henry

“ “ 4

“ “ 5 Roderick R. McKenzie

Section No. 6 J. Watson McKean

“ “ 7 James McConnel, Senior, Meadows

Section No. 8 Robert Grant

“ “ 9 William Maxwell

“ “ 10 Jas. Fraser D'son

“ “ 11 Robert McLeod, J'son

Section No. 12 Alex'r Sylvester

“ “ 13 William McDonald, Lake

Section No. 14 George Olding

“ ‘ 15 John Forbes

“ “ 16 Albert McN Grant

“ “ 17 A.W. McBean

“ “ 18 Robert Sutherland

“ “ 19 Capt. Charles Arbuckles

Section No. 20 Alex'r Ross, F.R.

“ “ 22 Donald McDougall, Garden

Section No. 23 Donald D. MacLeod

“ “ 24 William Ross, A'son

Supervisors of Highways

District No. 1 Allan McQuarrie, Toney River

District No. 2 William McKay, Town Gut

District No. 3 John Fraser, Stellarton

District No. 4 James W. McKenzie

Agents for the sale of Intoxicating Liquors

Township of Pictou – John D. Gauld, River John

Section No. 2 – *Surveyors of Highways*

James A. McConnell, (in place of James McBain) from Roderick McKenzie's to Allan McLeod's

Section No. 2 – *Surveyors of Highways*

Alexander Talbot, (in place of Neil Curry,) from Reid's East line to Fraser's Barn.

Section No. 3 – *Surveyors of Highways*

George Elliott, (in place of Evan McLeod,) from West line Church to Toney River

Section No. 5 – *Constables*

Alexander Baillie

Section No. 7 – *Fence Viewers*

William Smart, Scotsburn, (in place of Roderick McKenzie)

Section No. 10 – (2) *Collector of County Rates*

William McKenzie, Kenneth's son (in place of Alexander D. Ross)

Section No. 11 – (1) *Surveyors of Highways*

Alexander Graham, (in place of Robert Anderson,) from Hugh Sutherland's to Donald Baillie's

(2) Angus McKay, (in place of Donald Sutherland,) from D. Sutherland's to Stewiacke Road.

Section No. 13 – *Overseer of Poor for Churchville Poor District*

Roderick Robertson, (in place of John Murray)

Section No. 15 – (1) *Surveyors of Highways*

Alexander McDonald, Finlay, (in place of Alexander McBain) from Post road to Main road West Side Sutherland's River.

(2) John Forbes, (in place of Alexander McLean) from Grist Mill, to end of Mountain Road

Constables

John Campbell, Hugh McKay

Committee on Eastern Extension Railway Damages

The Warden, Donald Fraser, John McDougald

Committee on County Poor House and Hospital

J.R. Collie, Robert Maxwell, Colin R. Fraser, William Smith, John McDougald

We also recommend that Road Limit No. 28, in Polling District No. 2, include the Road from A. McKinnon's North line to Patterson's Road, under the Supervision of Roderick

McKinnon, Surveyor of Highways

Respectfully Submitted.

John McDougald

David J. Meikle Committee

John McRae

The matter of providing the county with a better system of care for its poor being brought up, Coun. Collie moved, seconded by Coun. McDougald that in accordance with a resolution of the com. on poor, passed at the annual meeting, that a com. of five be appointed to enquire into

the propriety of starting a county poor house and hospital, submit a scheme and make an estimate of the probable cost and have rough plans and specifications at next annual meeting, that the necessary expenses of the com. be paid by the county, and that the com. confer with the towns of Pictou and New Glasgow.

RAILWAY DAMAGES

The matter of the Eastern Extension damages was then taken up. The report of the Committee was read as follows:

“The report of your committee on E. Ex. Railway Damages in the County of Pictou submitted in January term 1881 having been referred back to them for further consideration, and the committee having given the question a careful reconsideration, and having had before them the proceedings hitherto taken and the decisions of the courts in this matter recommend that the County of Pictou make arrangements without further delay for the payment of the certificates issued on the 10th day of August 1877 under the supervision of chapter 70 Revised Statutes third series for land damages for the right of way of the Eastern Extension Railway in the county of Pictou.

Your committee are of opinion that further delay in making provision for the payment of the said certificates will incur unnecessary expense and loss to the county and a consideration of the following among other grounds have influenced them in arriving at these conclusions.

1st. Upon the application of certain landowners in Antigonish the Judge in Equity decided that notwithstanding the omission of that clause still remaining in force to show the will of the legislature that the lands were to be given free to the company and at the expense of the county.

2nd. The proceedings taken to incorporate the Halifax and Cape Breton C. & R. Company (the validity of which had been questioned) have been confirmed by an Act. of the legislature of Nova Scotia, passed A.D. 1879.

3rd. The application made on behalf of the County to set aside the appraisalment for lands taken for the right of way for the E. Ex. Railway in Pictou County has been dismissed by Sir. Wm. Young and his associate judges of the Supreme Court of Nova Scotia, they having thereon decided, “that the county was estopped by the action of the Custos and the Legislature and could no longer dispute the validity of the appraisements which in some instances had been lowered by arrangements made with the owners in the interest of the County.” Respectfully submitted: S. Archibald, Alex J. McKay; John McRae, John McDougald, committee.

On motion, the report was received. On its being moved that it be adopted, councilor J. Rod McDonald moved in amendment, seconded by coun. H.S. Fraser.

Whereas, the Government have not acceded to the proposals made by our committee to pay the interests and cost of suit in the matter of Railway Damages, thus throwing the county into the same position that it was before we offered to compromise

And whereas, our counsel, Mr. Rigby, has in the case made for the consideration of the Supreme Court of Canada given the grounds on which we base our claim to be free from payment for right of way for the Halifax and Cape Breton coal and Railway Company.

And whereas, our counsel, Mr. Rigby, has not in any way, so far as papers have been before us, given us any reason to think that we should not go on with the case, but rather the reverse, as he in the letter given to the council shows one or two other courses by which the case may be brought before the courts.

And whereas, a difference of opinion exists as to how we are to get the amount of damages off the Towns of Pictou and New Glasgow, as the former town has protested against our paying

the damages until the courts have decided. That we are liable and the opinion of our counsel, Mr. Rigby, has not been had on that point so far as has been shown to us.

And whereas, the Chief Justice in his judgment given on the 27th March 1880, states distinctly that sections 8 and 9 of chapter 70 of the Acts of 1879, were expressly added to make the Company liable for all costs of suit in reference to Land Damages and there will be no costs to the county whatever the result.

And whereas, from the commencement of these proceedings to the election of the present members of this Council, it was always understood that the county would resist the payment of those damages until the courts would decide that the county was liable.

Therefore this council is hardly in a position to abandon a suit commenced and carried on by the sessions and former council in good faith without first consulting the people on the question, or getting from the attorney of the county a written opinion that the county could not succeed.

Therefore resolved, that the report of the committee be not adopted, and that Mr. Rigby be sent for to appear before the council on Friday, 6th inst. And state the position of the case at present, and what further steps should be taken to carry it to an issue or whether it would be advisable to abandon it and if so on what grounds.

Councilor J.R. McDonald said that he moved the amendment, being convinced that the people were desirous of having the matter fully tested in the courts. Last years council and the Court of Sessions had desired to fully-contest the County's liability to pay those damages, and this council would not act in a manner respectful to them, nor in the interests of the county in abandoning any claim that might be successful. There is no doubt that the case county's lawyer considered we had a case.

Councilor J. McDougald said this question at Railway Damages is a legacy bequeathed to us from our illustrious predecessors, the discussion of which we would gladly have avoided if it were possible in the interests of the county. I deeply regret that it has fallen to our lot to deal with this question involving the payment of over \$43,000 by this county, but I think it is now high time that we should take some decided action in this matter. It is now nearly four years since the appraisal of damages has been made and the interest is accumulating at the rate of \$2300 per year, and we know not how soon the holders of the appraisal certificates may take action to amerce this county for the full sum due, if the county is liable.

The proceedings taken on behalf of the county have been dismissed by the Supreme Court of Nova Scotia, and the appeal from the decision of the Supreme Court of Nova Scotia to the Supreme Court of Canada has also been dismissed, so that to-day this county has no suit pending in this matter, - "it is out of court", and the costs of any further suits will have to be borne by the County it unsuccessful.

For the purpose of obtaining a connected history of this question, I will refer back to the early days of railway construction in Nova Scotia. It was then that the Government of Nova Scotia, with a view to railway extension in the Province, passed certain acts now widely known as Chapter 70 revised Statutes, 3rd series, and which have been often referred to in the discussion of the matter now before us. The Government by that chapter was empowered to take possession of any lands required for the track of railways and stations and the damages for such lands, and also the fencing, quarry rights, & c. were made a county charge. It is not necessary to discuss the wisdom or the justice of the policy then adopted and since continued in the construction of government railways. The counties through which government railways have passed have

pressed urgently for them and for the most part have willingly paid the damages imposed on them under this law.

The local Legislature passed an act (chap.3 A.D.1876) authorizing the commissioner of public works and mines to enter into a contract for the construction of a railway eastward from New Glasgow to the Strait of Canso with a subsidy of \$8000 in cash and 2,000 acres of crown land per mile, and by this act, the provisions of chapter 70 revised statutes, third series, so far as the same may be applicable (with the exception of certain sections) are made applicable to the line of railway to be built under the act. A part of this act is as follows: “And the term” commissioner” or “contractor” in such chapter 70 shall be held and taken to include any person or persons or incorporated company that may enter into contract under the terms of this act, as herein provided, and the words “railway department” shall be held to and include such person or persons or incorporated company constructing such railway.”

A great deal of stress has been laid on the exception of certain sections of chapter 70 from this act (chap. 3 of 1876) for the extension of railway to the Strait of Canso. And it has been contended that the Legislature, by excepting these sections did not intend that the right of way for this railway should be a county charge. There are however, other clauses of chapter 70 which have not been excepted, from which I think it does appear that the Legislature at all events intended that the right of way should be paid by the county. I refer particularly to section 52, the latter part of which (referring to the certificates of damages appraised) reads as follows:

“And such certificate shall be signed by the Custos and countersigned by the Clerk of the Peace, and shall be payable to order, and be transferable by endorsement, and shall authorized the party entitled to receive the amount of such appraisalment together with interest for any delay of payment after the installment becomes due when the same becomes payable, and which *shall be a charge upon the county* for all the moneys payable thereunder until fully discharged.”

I do not ask you however, to be influenced by any view I may present on this point as the Judge in equity has given a decision on this point in a case in which the question was raised and argued by able counsel on both sides, and before sitting down I will read a report of that decision which will speak for itself.

The Local Legislature also in 1876 passed an act (chap.74) incorporating certain persons as the Halifax and Cape Breton Railway and Coal Company for the purpose of constructing the Eastern Extension Railway, and the Legislature also in the same year (1876) passed another act (chap.4) with the view of making the act incorporating the Halifax and Cape Breton Railway and Coal Company, available (under certain conditions) to any persons or body corporate and would construct the railway.

It was well know that a contract was entered into, on behalf of the Government with Harry Abbott, for the construction of this railway, and that this contract was transferred to the “Halifax and C. Breton railway and coal Company with the approval of the Government in 1876, and that, since that time, the government have recognized this Company and paid over to them nearly the whole amount of the large subsidy granted by the Legislature for the building of the railway. It has been contended that the organization of this Company, to which the Government had been paying a large subsidy was illegal, and that consequently, no legal dedication of lands for this railway could be made – hitherto, as appears by resolution passed by the Sessions of the Peace on 15th March, 1879, is briefly this, “that the County is not liable for the damages claimed in respect to lands recently taken for Eastern Railway Extension, because the law, as it stands, and under which the damages sought were appraised, does not make such a claim a County charge;

and even if the County be legally liable, the proceedings in appraising and taking lands are in this case invalid for want of legal right and authority in any Company or persons, who so proceeded.”

Whether the organization of the Company and the proceedings in appraising lands, were or were not illegal *has now* no bearing on the question of our liability for the payment of the damages as the Legislature in 1879 (Chapter 70) passed an act confirming the organization and proceeding of the company, but confirming in the Company (as I understand it) no further rights that they would originally have if they had proceeded legally – but in this act of the Legislature in 1879, - (as at the time the legality of the appraisalment was contested in the court) – A provision was inserted with the view that the costs arising from or taxable under any proceedings *then pending* would not be affected this “confirming” Act.

The County, we are now aware, will not have to bear the costs of litigation so far, but this will not apply to any further litigation in the event of failure. What is our position now and what would the County gain by setting aside the appraisalment *solely* on the ground that the organization of the Company was illegal? No government having the slightest regard for the public interest could refuse to place a legal standing the Halifax and Cape Breton Railway and Coal Company to whom had been paid out of the Provincial funds, such a large subsidy for the purpose of affording the Island of Cape Breton and the Eastern parts of Nova Scotia the benefits of railway accommodation. The organization of the Company being now valid, if the law, as it stands, makes the damages a County charge, what will hinder the Company from taking steps for a new appraisalment of damages, if the present appraisalment be set aside on the ground of irregularities in the proceedings? The present appraisalment cost the County over \$500, and another appraisalment would cost no less.

It is freely asserted that there is no *decision* of a court of law declaring the damages for the right of way for this railway to be a County charge, and consequently, that the Council should not make arrangement for the payment of the amount appraised. This assertion will not bear investigation and in proof of this I will read an extract from the report of a judgment delivered by the Judge In Equity, on the 7th January 1878, in the case of “the Nova Scotia Salt Co’y. Vs. the Halifax and Cape Breton Railway and Coal Company – (Weatherbe and Graham being Counsel on one side and Thompson on the other :)

[We have not space in this issue to quote the extract referred to. The most important and conclusive paragraph in it is where Judge Ritchie says: - “But it is clear to me that the payment is made a county charge quite independently of this section,” and “if land be required for the line of railway or for stations they (the R.R. Company) are to act as they have done in this instance, under the sections of chap. 70 of the Revised Statutes, which have been incorporated in this act.”]

The Supreme Court of Nova Scotia in dismissing the application made on behalf of the County to set aside the appraisalment of damages, gave a decision on this question which is referred to in the report of the Committee in these words: - “But it moreover appeared to us and we so decided that the County was estopped by the action of the Custos and the Legislature and could no longer dispute the validity of the appraisalments which in some instances, had been lowered by arrangements made with their owners in the interest of the County.” This the judgment of the Supreme Court of Nova Scotia duly recorded and most largely influence us in deciding what course we will now take in this matter. There is a wide difference between the decision of a Court of Law and the” opinions” of a lawyer in its practical bearing on this question; the decision of the Courts can be enforced, the “opinions” of lawyers cannot be enforced without the concurrence of the Courts, and the opinion given that these railway

damages are not a county charge does not appear to be shared in or sustained by our Supreme Court. We are sometimes told that the decisions of our Supreme Court are inequitable, I have however, always understood that the decisions of the present Judge in Equity have commanded public respect for their justice, and his observations as they appear in the report of his decision just read are worthy of our earnest consideration in coming to a conclusion as to what course we should now pursue. One reason now given for further delay is that Mr. Rigby in the case appealed to the Supreme Court of Canada gave an opinion that the County was not liable for the land damage in question – this happens however not to be even an opinion – only one of the pleas and as to the weight to be attached to pleas in the present case or in fact to any case. You all know Mr. Rigby on the question of the last appeal from the Supreme Court of Nova Scotia did not hold out to us any strong hope of success and from consultation with him then on the business I am aware that he will give you no advice as to whether this County should further contest the matter or no, or whether in the event of a further contest, the county would succeed in getting free from the payment of the damages – I have no doubt but that he would on being retained give us legal opinion. We have already had several of these – McDonald and Rigby’s first opinion was that the County was liable for the right of way, we have had other opinions since then, but the judges have not, so far agreed with them, and I think it is useless to spend any more money on opinions and law suits.

I have obtained a report of the speech delivered by the Hon. Attorney General of Nova Scotia in 1879 on the act confirming the proceedings of the Halifax and Cape Breton Railway and coal Company, which bears on the matter now before us for consideration and which I will read for information –

[Mr. McD. here read the speech referred to.]

If we now decide not to pay the damages appraised, there is but one course open to us which is pointed out by Mr. Rigby, to resist any proceedings taken to amerce the County: It will allow matters to go so far, the damages now amounting to \$43,000 may possibly be amerced in one sum with costs – but by making arrangements now the payment may be extended over a period of ten years at a lower rate of interest than the certificates now bear.

And besides all this another question arises, are we now doing right in resisting payment?

As one of the Committee on Eastern Extension Railway Damages, I have given this question the best consideration I could possibly give, and have endeavored to obtain all the information available with regard to it and in the interest of the rate payers of the County I feel it my duty to support the recommendations of the Committee for the damages, and I therefore move that the Report of the Committee be adopted.

Councilor J.R. McDonald said he did not know of any decision that was against the county. The Chief Justice’s decision that the County was estopped was not fatal by any means to our claims. The Antigonish County case was no criterion for Pictou, the cases being dissimilar.

Councilor Jno. McRae considered Chap. 70, R. Statutes, was intended to apply. He did not want the case prolonged and the County put in for greater expense. We had sent Mr. Rigby to Ottawa at a great expense – he went after great preparation – and when at Ottawa found we had no case. His mission was our forlorn hope and signally failed. He had no doubt but we could get lawyers ready to advise us to anything especially when there was as fat a goose to be plucked as this County of Pictou. After all, the county was not in so bad a position. If they had to pay interest now, they had use of the money heretofore. The Govt. were doing very well with us in paying expenses – if they consented to pay the interest they would have to pay the debentures in all. After all we have neither moral nor legal right to escape paying the damages.

Coun. Archibald said he had given the subject all the thought he could. His very decided opinion was that the only safe and just way was to pay the damages. He thought we had not a ghost of a chance to escape. We find all through the speeches of the Atty. Gen'l and Prov. Sec'y that they considered the County liable. He thought we had the best judgment in Canada on the matter. The course adopted was the only one and one for the public good.

Mr. McRae thought the Supreme Court might amerce the County at once and would possibly do so, but if we floated the debentures now we could pay the money afterwards without feeling it. An effort to gain a little cheap popularity must not have any influence now.

On a vote being taken on the question, there appeared for the amendment, Couns. J.R. McDonald, H.S. Fraser, and D.J. Meikle. (3).

Against, Councilors John McDougald, Donald Fraser, Jas. McDonald, McRae, Smith, J.D. Fraser, R. MacDougald, Archibald, McLeod, John McDonald, A.J. McKay, R. Maxwell, Colin R. Fraser, McMillan, J.R. McDougald (11), Ferguson, Stephenson, and Collie (18).

The report was adopted by a vote of 18 to 2.

The report of the com. on cattle disease was read and adopted. It was as follows:

Report of Committee on Cattle Disease

Your Committee on cattle disease beg leave to report as follows:

1st. Your Committee had a letter from Chas. Byrne, Veterinary Surgeon, dated 6 Dover St. Boston, Mass., before them stating that he would take in hand to stamp out and eradicate the disease in two or three years, out of the County, for the sum of \$400 for the first year, and \$300 for the second year, and should a third year be required, \$250, as in his opinion only doubtful. Suspicious cases would be treated, making it all \$950.

Your committee cannot recommend the Council to accept of Mr. Byrne's offer for the following reasons, namely 1st. Your committee think that the amount asked for is far too much without further security and guarantee of success; 2nd. That we could not find from any information that we could gather that the said Chas. Byrne, Veterinary Surgeon, had been successful in treating the disease to any extent.

Further, your Committee are of opinion that the cattle disease is a matter that affects the whole Dominion, and if the cattle disease is allowed to spread, that it will become a serious matter to the whole Dominion, as well as the County of Pictou and the Province of Nova Scotia, and might affect the cattle trade of the Dominion, which is of late years forming so large an item in our trade.

Also, your committee had a letter before them from Donald McEachern Esq. Dominion inspector of stock, who was down in Pictou last summer, and examined one or more cases of the disease, who on his return to Canada prepared a very exhausting report and submitted measures for dealing with it, saying that he has urged on the Minister of Agriculture the necessity of dealing with the matter at once. Further your committee is of opinion that the Minister of Agriculture should be requested to send a Veterinary Surgeon to the locality where the disease is confined to and treat animals affected and thoroughly investigate this dreadful disease.

We beg leave to recommend that the Councilors in the different sections of the County would report to the Clerk of the Council of all the cattle affected and dying from the said disease during the year and of the spreading and ravages of the disease from time to time, and that the clerk of the Council will notify the Dominion Inspector and the Central Board of Agriculture in

the Province of Nova Scotia, also that any expense that may occur in writing or corresponding be paid by the County.

Donald Fraser,

Wm. Smith

R. McDougald

The remainder of the afternoon was occupied in discussions on various subjects, the cattle disease receiving its due need of attention. Some of the councilors were disposed to make light of it, while others very justly ascribed to it very importance. The theory, that the plant "Stinking Willie" was the cause, found some supporters. Others ascribed it to bad care of stock.

Arguments cited disproved this however, several speakers showing that it was generally the cattle best cared for that suffered most. Very few of the councilors showed any confidence in Dr. Byrne.

Coun. Ferguson brought to notice of council a nuisance under which the people of Fishers Grant laboured. It seems that a number of Indians have terms in that section, and own a great number of semi-wild dogs, three or four to a family. These dogs render sheep raising an impossibility, and are very dangerous to children. Very great harm has been done by them.

In answer to a question by Coun. A.J. McKay as to what became of the petitions from the council last sessions, praying for the abolition of the Legislative Council, lessening number of members, reductions of sessional pay, etc., it was stated that the petitions had been forwarded to the govt. and had been referred by the House to the proper committee.

The council then adjourned.

Friday

The Council met at 10 a.m. pursuant to adjournment: The minutes of last meeting were adopted.

The report of Finance Com. was read received, and adopted. It was as follows:

Finance Report

The Committee on Finance beg to submit the following report:

We recommend that Mrs. Grey be removed from the Insane Asylum at the expense of the County. Arrangements for her removal to be effected under the direction of the Clerk.

We beg to bring to the notice of the Treasurer and the Council that the assessment ordered to be levied at January term 1881, is for the service of the year 1881, and that the accounts passed by the council at said term being for services of 1880 are provided for and payable out of the assessment levied in 1880.

We recommend that the salary of the Stipendiary Magistrate at Westville be fixed at forty dollars per annum; and also that the salary of the policeman in Westville Police Division be fixed at \$360 per annum.

We also recommend that the salaries of the Road Supervisors, payable out of the Government road grant for the respective road districts be as follows: -

For district No 1 \$70 per annum

" " " 2 \$50 " "

" " " 3 \$90 " "

" " " 4 \$65 " "

Respectfully Submitted,

John McDougald, Chairman

Resolved that the formation of Stellarton into a Police District be deferred until Jany. term 1882. as there is no return to show that the notices sent by the Clerk of the Council have been posted up.

Resolved that liquor agents for townships of Pictou and Maxwellton be appointed.

The Council met again at two o'clock pursuant to adjournment.

The report of the Finance Com. on Eastern Ex. R.R. damages was read, and was as follows:

Report of Finance Committee on Eastern Extension Railway Damages.

In view of the resolution adopted by this Council on the 6th inst. respecting the payment of the certificates of land damages for right of way for the Eastern Extension Railway in the County of Pictou, dated on the 10th day of August A.D., 1877; your committee on finance recommend that money for the payment of the said certificates be provided by the issue of debentures bearing interest at a rate not exceeding 6 per cent per annum, and payable in ten equal installments after the 31st October 1881, with interest – the said debentures to be issued under the supervision of a committee of the Council, and to be sold by public tender, and to be signed by the Warden and Clerk on behalf of the County.

We also recommend that immediately after the sale of the debentures, the Warden shall cause the holders of the certificates aforesaid to be notified to present the said certificate for payment, on receipt of which notice the interest on the certificates shall cease.

We also recommend that the said committee (on the Eastern Extension Railway damages) make arrangements about the costs payable for contesting the liability of the County for the payment of the said damages.

Respectfully submitted,

John McDougald, Chairman

D.J. Meikle

J.R. McDonald

H.S. Fraser

A. McMillan

The report was adopted unanimously.

It was resolved that the device for the corporation seal ordered by the Warden in conformity with such advice shall be the seal of the municipality until otherwise ordered.

The device is a Scotch Thistle surround – with an inscription of the date of the Co. Incorporation, etc.

The minutes of the afternoon session were then passed, after which the council then adjourned, *sine die*.

ERRATUM

A part of the appeals Com. report was omitted in the proper place. It is as follows:

With respect to collectors rolls we beg to recommend (for reasons which will more fully appear by reference to explanatory notes attached to each) as follows:

1. That the sum of \$1.55 be struck off assessment roll No. 7, 1879.

Also the sum of \$20.92 be struck off Collectors Roll Sec. No. 16. 1880. And here we beg leave to direct attention to an error in this bill amounting to \$18.77 owing to the names and valuation of the non resident ratepayers having been inadvertently duplicated in the roll.

Therefore we recommend that the over-plus be adjusted in the next assessment for the section.

2. That the sum of \$48.83 recommended in January Term to be struck off Andrew Ross' roll (Collector for Sec No. 20 1880 be precluded and the sum of \$33.03 be struck off instead, and that the sum of \$15.80 be struck off from Peter Campbell's roll, Collector of Sec. No. 20 for 1879.

Your committee before closing feel compelled to express their surprise and deep regret at the very remiss manner, in which assessors in general discharge the very responsible duties of their office. We cannot comprehend how it is that men sworn to perform their duties faithfully in accordance with the law of the province can so far ignore this solemn obligation, by valuing property at a rate they must know to be far below its actual value, while at the same time they are duly instructed and clearly required by law to estimate all taxable property set out in the same has been so valued. Your committee therefore think it is a duty imperative upon all the assessors to abide strictly by this fundamental principle of our assessment law as the only basis upon which the assessment of the different polling sections can be approximately equalized.

John McRae, Chairman

Colin R. Fraser

John D. Fraser

The petition of Chas. Sutherland, E. B.R. John for exemption from assessment for Co. Rates was read. Exemptions for two years granted

Adjourned

Robert McNeil, Warden

D.W. Matheson, MC

Pictou Co. May 1881

Pages 135 & 136 are missing in the Pictou Minutes Book