HASZARD'S GAZETTE.

Wednesday, December 12, 1855.

WHEN we alluded to the opinion of the Recorder, upon the Question of the Common, it was in conformity with the usual duty of a public Journalist, in giving to our readers an outline of what was passing in the City Council. We did not profess to give either the opinion of the Recorder, or the observations of Mr. Councillor Davies at full length, but just so much as would enable the public to ascertain what had been done in the matter; and, certainly, with no view of provoking any angry discussion. Mr. Davies has, however, chosen to publish his sentiments in the form of a report of his own speech, made after the Recorder had read his opinion; and truly, we cannot think he has thrown any greater light upon the question, much less proved, that the opinion is an unsound one. In speaking of it, Mr. Davies thus expresses himself:—

"I allow that considerable research and ability are displayed in getting it up, but I disagree with the honorable gentleman in his conclusions on one important, and indeed the only doubtful point on which the Council felt any indecision, and on which it was expected our legal adviser would have offered a decided opinion, this he shrinks from; that is, your Worship,—What right does possession give the holders of the Common? On this he is silent; but you are aware, and it is well known, that a party holding possession of public property for any length of time, in no way lessens the right of the public thereto."

The question of time might have been the only one in Mr. Davies's opinion, but, Mr. Davies is no Lawyer, as his speech very clearly shows. He does not even know the legal import of the word "Common," or he would not have talked of the right of the *public* thereto, and of its immunity from prescription. The public have nothing to do with it—it is the commoners, and they are private persons. The fact is, that the question of the Common is beset with difficulties. The first is,—Has there ever been a Common for Charlottetown? Mr. Davies says:—

"When, your Worship, at what time, for what price, have the citizens of Charlottetown parted with the noble gift bestowed by Royalty itself? His Majesty King George the III, in the Royal Instructions to the Lieutenant Governors, having set apart and reserved upwards of five hundred acres of land for the purpose of a Common, and *for enlarging the Town when required.*"

(The italics are Mr. Davies's own.) Now, here is a difficulty which he would do well to explain. How much of the 500 acres is reserved for the Common, and how much for the enlargement of the Town? Was a fifth, or a half, or what proportion appropriated to the latter purpose? It is clear, that whatever it was, it was that part which was contiguous to the Town, and it is equally clear, that the Crown reserved to itself the right of granting it to individuals as the Town Lots were granted. Now, we ask Mr. Davies, where does the Common begin, and where end? what are its metes and bounds? Before any attempt is made to oust the parties in possession of the Common, it must be first ascertained where it precisely is, for otherwise, it will be impossible to determine whether they are trespassers or not. The question that the Recorder had to answer, as he thought, was—What action can the City take, in order to have the right of Common restored to it? Is it inhabitants? And this question he has answered in the negative. The City Council can do nothing. They are, as a body, debarred from even asserting, that there is a Common, for the Act by which they are created, and by which their existence is continued, has incorporated that which is claimed as Common into the Fifth Ward of the City. The City is in possession of the Common through the occupation of its Citizens. Mr. Davies puts this question to the Recorder:—

"But, I ask him, had they a right to vote? Are they *bona fide* owners of the Common, or any part thereof? Unless the Recorder can prove them to be *bona fide* owners of the Common property, the Report drawn up in their favor with so much labour and artifice, falls to the ground."

The answer to this is very plain and very short. There is no necessity of proving them *bona fide* owners, *possession* is quite sufficient, there need be no question of title any more than in any other part of the City. "Occupation" of a house, shop, or piece of ground of the value of £5 by the year, constitutes a Citiven, and gives him a vote. It would be a strange anomaly indeed, if an action of ejectment could be brought by the Citizens against themselves.—A House divided against itself. If Mr. Davies and a majority of the Council really think that the Recorder's opinion is an incorrect one, why do they not move, that the legal opinion of some professional man or men be requested? If they have no confidence in the Bar of Charlottetown, send a case in which the facts are fully agreed upon, to some eminent Counsel in either of the adjoining Provinces, or, if they like better, to England, and if his or their opinion is in their favor, they can then do, as Mr. Davies says will soon be done: "Make it a Common indeed."

THE Committee of arrangements for the Tea Party, held Nov. 30th, for the purpose of realizing a fund to meet the expense in plaistering Providence Chapel, Charlottetown, respectfully tender their thanks to the friends of the different denominations, for the deep interest manifested by them on this occasion, and it is with pleasure they inform them, that the proceeds of the evening amounted to the sum of £10. They regret, that in consequence of the large number assembled, the building, though extensive, was not sufficient to carry out the arrangements of the evening, and that the many were deprived of addresses from our esteemed friends, the Rev. Mr. Snodgrass, (Church of Scotland), and the Rev. Mr. Brewster, (Wesleyan), who were present on the occasion. They also tender their acknowledgments to David Wilson, Esq., for the use of his noble mansion.

MARGARET HUGHES, Secretary.

THE CHARLOTTETOWN MECHANICS' INSTITUTE Commenced its sixteenth Session last night under the most brilliant auspices. The Soiree was a most successful affair. The Hall was beautifully decorated, and well filled; the Tables were amply supplied, and the Ladies presided over them, with courteous grace. After the more substantial things had been discussed, His Honor the President took the Chair, and opened the intellectual part of the proceedings by delivering an extemporaneous inaugural address upon the objects of the Institute. The Misses Preedy then sang with great power, one of their beautiful songs. The Band discoursed sweet Music. The Hon. Edward Whelan then read an excellent Lecture upon the benefits of Mechanics' Institute, and Mrs. Warren then sang one of her brilliant Swedish pastoral songs John Kenny, Esq., then addressed the meeting upon the sciences, and made a very interesting and instructive speech; another ode was then sang, and the Band again played. Mr. Heard was then called upon to speak, and made some observations upon the management of the Institute, and upon the capabilities of our Institute as compared with those of other cities. The Hon. the Colonial Secretary then offered some remarks in reply to Mr. Heard; and subsequently paid a well merited compliment to the Ladies, and moved the following resolution:

Resolved—That the thanks of this meeting be given to the Ladies, for their successful efforts in promoting the objects for which this Soiree has been held.

Mr. Heard seconded, and John Lawson, Esq., in quite a gallant style, supported the resolution. It was carried with 3 cheers.

Mrs. Warren then sang another song, and was heartily encored.

The Hon. Lt. Col. Swabey, in a neat speech, moved the following resolution:

Resolved—That the thanks of this meeting be given to the Ladies of the Choir, and Gentlemen of the Band for the Harmony produced, and for the trouble they have taken in preparing such appropriate Music for this Soiree.

And which was seconded by James D. Haszard, Esq., Vice Patron, and carried unanimously.

The Band then played the National Anthem, and the meeting dispersed at ten o'clock in perfect harmony, after giving three cheers for the Queen, and 3 cheers for His Excellency the Patron of the Institute, whose absence from indisposition, we very much regretted.

IT was announced, that on Tuesday evening next, the President would give an Address on—"The past, present, and future prospects of the Institute," and, that immediately after, the Office-Bearers for the ensuing year would be elected.

The Door will be thrown open to the public in the lower Hall, and the Chair taken at 8 o'clock.

THE Storm of Friday has, as we anticipated, been attended with disastrous effects. The Ferry Wharf on the other side of the Hillsborough has been almost entirely destroyed. Several of the new blocks are swept away, and the materials of which they were composed scattered along the shores. The Schooner *Gad*, Bagg, Master, from Halifax, lying alongside, taking in a cargo of Oats, was driven by the fury of the gale upon the wharf, and sunk,—fortunately, very little of the Cargo was on board. On the opposite coast, we understand, the storm raged with greater violence than here; several vessels are reported to have been lost; so much is certain, but of the names we are left in doubt. One vessel which had gone to pieces between Country Harbour and Merigomish, is supposed have been the Bay Stella, belonging to James Pope, Esq.; at least, the contents of the Cargo: Pork, Oats, &c., which have been washed on shore along the coast, give every probability to the supposition. We much fear, that a long list of casualties will have to be made out, when time has been afforded for more correct information. The Barque *Ann Reddin* is said to be among the lost, but on what foundation the rumor is based, we have not been able to learn, it is said to be but too probable. Everything is as yet but matter of conjecture, as the telegraph line of posts in Nova Scotia have been prostrated, and communication cut off.

WE learn from the *Examiner*, that the Bill for Taxing the Rent Rolls of Proprietors, and the Tenants Compensation Bill have been refused the Royal Allowance. We shall, in our next, give a short review of their purpose, and of the reasons why they have not been sent out agreed to, as was confidently expected. we hear also, from the same source, that the Enrolled Pensioners have been disbanded.

THE Rev. Mr. FitzGerald thankfully acknowledges the sum of 2s. 6d. from John Calbeck, being the amount of a fine received by him against a neighbor, which he hands over for charitable purposes.

The Governor of New Brunswick has appointed Thursday the thirteenth day of December next, to be observed throughout the Province, as a Day of General Thanksgiving to Almighty God for his abundant mercies vouchsafed to it and to the Nation.

POLICE COURT.

Dec. 11.—Thomas Foley, for having one unstamped Pint measure, convicted, fined 10s., with costs.

John Collins, for having one unstamped Gill measure, convicted; fined 10s., with costs.

Michael Noonan, for having one unstamped Gill measure, convicted; fined 10s., with costs.

Martin Hayden, charged with abstracting two Gold Rings from the chest of Mary Ann Doynin —charge not substantiated.

Thomas Bowdin, drunk and disorderly, convicted; fined 5s., with costs, or be imprisoned 48 hours.—committed.

## Published by Authority of the City Council

LAW RELATING TO LAMPS:

[*Passed*, Nov. 28, 1855.

BE it enacted by the CityCouncil of the City of Charlottetwn:

That whoever shall willfully, maliciously, carelessly or wantonly break, throw down, extinguish or otherwise injure any of the City Lamps, or the posts, irons or other furniture of the same belonging, shall upon conviction thereof forfeit and pay a sum not less than five shillings nor more than five pounds for each lamp so broken or damnified, and the like sum for each post or iron or furniture so broken or damaged; and costs of prosecution, which fines and forfeitures, shall go, the one moiety thereof, to the use of the City funds, and the other moiety to the person who shall prosecute for the same; and the foregoing penalties shall apply to any person or persons committing the same depredations on lamps and posts being the property of private persons, or posts and lamps put up and kept at their expense and it shall be lawful to punish the offender or offenders, in case of non-ability or refusal to comply with the foregoing fines by commitment to jail for a space of time not exceeding ten days for each and every pound so fined.

ROBT. HUTCHINSON,
Mayor.

WILLIAM B. WELLNER,
City Clerk.

LAW TO ESTABLISH THE CITY SEAL.

[*Passed*, Nov. 28, 1855.

BE it enacted by the City Council of the City of Charlottetown:

Sec. 1. That the Common Seal of the City made of Silver having engraved on it the device of a ship, a Plough and a Sheaf of Grain and the words "City of Charlottetown Prince Edward Island Incorporated A. D. 1855" shall be the City Seal.

Sec. 2. The City Seal shall be kept by the City Clerk.

Sec. 3. All deeds or documents where the City is a party and whereto a seal is requisite shall be authenticated by the City Seal, and the Mayor and City Clerk shall sign the same, when authorised by any law or by any city ordinance, or by direction or resolution of the City Council.

Sec. 4. The Mayor may affix the Seal to any certificate at the request of any person desiring it.

Sec. 5. Any person requiring the City Seal to authenticate documents shall pay to the City the following fees:

| | |
|---|---|
| For any document to be used abroad or out of the City, for the Seal | 7s 6d |
| If to be used only within the City, | 5 0 |
| For the Seal to any Certificate. | 3 9 |

ROBT. HUTCHINSON, Mayor.

WILLIAM B. WELLNER,
City Clerk.

## Married,

On Thursday, the 22d of November, at St. Paul's Church, Antigonish, by the Rector of the Parish, The Rev. W. Stewart, of Cherry Valley, P. E. Island, to Charlotte Sephia, youngest daughter of John Dexter, Esq. Antigonish.

## Died,

On Saturday evening, the 8th December, Elizabeth, the beloved wife of Mr. William Smarden, aged 46 years. She was a native of Devon, England.

## Port of Charlottetown.

ARRIVED.

Dec. 3, Julia, St. John, N. B.; goods. John Hastings, St. John's, Newfld.; fish, &c. H. Ingram, Pictou; flour, &c. Alice, Rogers, Halifax; goods. Mary Ann, Anderson; do. Favorite, St. John, N. B.; goods.

4th, Mary, LeBlanc, Boston; goods. Foam, Halifax; do. Aurora, do.; do. Gad, do.; do. Lark, O'Brien, do.; do. Amandale, Bearisto, do.; do.

6th, Jemima, Green, Boston; do.

SAILED.

Nov. 30th, Barque Perthshire, Liverpool, by Wm. Welsh. Ann Reddin, McRae, do., by D. Reddin. Brig Stella, St. John's Newfld., by J. C. Pope.

Dec. 3, Industry, O'Brien, Halifax. Lark, Pictou. Belgrade, Grand River.

5th, Barque Hillsborough, Hobbs, London, by ——Reuters. John Hastings, Pictou; bal. Bay State Boston; produce. Brig Katy Darling, Sidney. Lucy, O'Brien, Halifax.

## Ship News.

Schr. *Saxe Gotha*, hence for Boston, with a cargo of Produce, struck on a rock in St. Andrew's Passage, and sunk.

Schr. Tradesman, at Halifax from P. E. Island, got ashore on Saturday evening, at the entrance of the Eastern Passage. Was got off, on Sunday, with loss of chains and anchors, and towed up to the city by one of the steamers.

☞ The Bark INCENDIELE, Captain James Malcolm, owned by the master and the late firm of Messrs. A. & J. Duncan & Co., P. E. I., from Calcutta, homeward bound, struck on a sucken rock off the Island of Preparis, in the Bay of Bengal, on the 3d September. The crew stuck to the ship until she heeled over, when they were obliged to take to the boats. The Captain and eight of the crew took the long boat, and the remainder of the crew took the other two boats. The latter two boats were picked up, and taken into Calcutta, but we regret to hear the Captain with the long boat has not since been heard off.

THE Subscriber has received instructions to sell by AUCTION, at the Shipyard of Mr. FRANCIS AULD, Rustico.

**On Thursday next, 13th December,**

At twelve o,clock, a. m., the Schooner Perseverance, Burthen per Register, 17 71-100 N. M. with her SPARS, RIGGING, Chain, ANCHORS, &c., as she now lays equipped in the Harbour of Rustico. Also, the SAILS, RUNNING GEAR, BLOCKS, BOAT, &c, of the said vessel, delivered at the place of sale.

Dec. 6. WILLIAM DODD, Auctioneer.

## A STRAY COW.

A BROWN COW, 4 years old, has been on the Subscriber's premises for the last month. The owner can get her by paying expenses.

JOHN McPHEE, *North River*.

Dec. 12, 1855.

A LARGE STOCK of New and Popular pieces of MUSIC just received from the UNITED STATES and for sale by HASZARD & OWEN, among which are:—

| | | |
|---|---|---|
| Battle of Alma, with descriptive Frontispiece | 3 | 0 |
| Alma March, | 1 | 6 |
| Sebastopol is ours, Song, | 1 | 6 |
| " March with a beautiful Lithograph view of the City, | 2 | 6 |
| Fall of Sebastopol, a descriptive Fantasie, | 3 | 4 |
| The Queen's Letter, | | |
| Cajetana Waltzes, | 2 | 6 |
| Military Parade March, | 1 | 6 |
| Minnie Myrtle, Song & Chorus, | 1 | 4 |
| The Yankee Song Robbin Almad, | 1 | 4 |
| Le Mardi Gras, Shrove Tuesday, viz. Pandemonium, | 1 | 6 |
| The Children of Haiman by the National Guard Band 7th Regiment, | 1 | 6 |
| Zephyrs from Newport, | 1 | 6 |
| Rival Polka, | 1 | 4 |
| Malakoff, | | |
| The Trench Quaddrille, | 1 | 6 |
| Flag that braved a thousand years, | 1 | 6 |
| Canadian Sleigh Song, | 1 | 6 |
| My Cot beside the Sea, | 1 | 4 |

## Auction at York River.

BY H. W. LOBBAN.

ON TUESDAY, the 18th inst., commencing at 10 o'clock, on the premises of Mr. HECTOR M'KINNON, at the junction of the York River and Bedeque Road,

**The Stock and Farming Utensils, Household Furniture, &c.,**

comprising 5 COWS, in calf; 2 Heifers, 2 two year old Oxen, 10 Sheep, 2 Pigs, 1 Cart, 1 pair Harrows, 1 Plough, 1 Winnowing Machine, 1 Truck, Feather and other Beds, Bedsteads, Parlour and Kitchen Furniture.

The *Household Furniture* is of good quality, and in the very best condition, the Auctioneer having viewed them personally.

*Terms*—Cash up to £2; from £2 to £5, three months; from £5 upwards, five months.

Dec. 7th.

## WANTED.

A MILLER, for a Grist Mill, who thoroughly understands his business, to whom liberal wages will be given.—Apply to

JESSE WRIGHT.

Bedeque Mills, Sept. 26.

N.B.—A single Man preferred.