COLONIAL.

JAMAICA, October 24.—*The Meeting of the House.*—The day, so anxiously looked forward to, at last arrived, and the Session was opened by a Speech from His Excellency the Governor. This Speech is candid and firm, and we think Sir Charles Metcalfe has taken that course, which, it is most likely, will put a stop to further disputes betwixt the Mother Country and this Island.

HONORABLE HOUSE OF ASSEMBLY,
TUESDAY, OCTOBER 22.

The House was summoned to attend the Governor in Council, when His Excellency was pleased to make the following Speech:—

Gentlemen of the Council;
Mr. Speaker and Gentlemen of the Assembly:

I hail our coming together with great pleasure in the hope and belief that we shall proceed to discharge our respective duties with hearty good will, and by our united endeavours, be enabled in some degree, to perform those services which the state of the Island demands.

It was my wish, on my arrival, to meet you at the earliest possible period, but I postponed the gratification of that desire, being informed that the present time would be generally the most convenient for the commencement of the session.

Mr. Speaker and Gentlemen of the House of Assembly:

You will, I have no doubt, grant the supplies required for the exigencies of the public service, with due regard to efficiency and economy.

I am so satisfied of your readiness to do every thing necessary and practical for the general welfare, that it is only in compliance with established custom that I trouble you with any application on this part of your functions, wisely reserved by the Constitution exclusively to the representatives of the people.

Gentlemen of the Council;
Mr. Speaker and Gentlemen of the House of Assembly:

My anxiety that all past differences should be consigned to oblivion, causes me to advert to them with exceeding reluctance, but I am, on the whole, of opinion, that a frank and unreserved reference to our actual position will be the best mode of discharging my duty towards you on this occasion, and the most likely method of meeting your wishes and expectations.

I shall have to lay before you an Act of the Imperial Legislature of our Mother Country, which was decreed unavoidable in consequence of Resolutions passed by the House of Assembly in the three last sessions of the Legislature of this Island. I do not think it requisite to call your attention to the particular provisions of that enactment, because I confidently that trust there will be no necessity for carrying them into effect.

You are naturally anxious that your Constitution should be maintained unimpaired, and that your internal legislation should not be subject to constant subversions or interference. I sympathize with you in that feeling, and shall always be desirous of co-operating with you to that effect. Nor do I see any doubt of success, as far as it is possible consistently with the connection of a Colony with a Mother Country, which has a paramount Legislature responsible for the welfare of the whole Empire.

I am here, by command of our Most Gracious Queen, for the purpose of executing my share in the administration of this Government, according to the Laws and Constitution of Jamaica. There is no desire on the part of Her Majesty's Ministers, or the Imperial Parliament, to interfere with your legislation, and it is, I conceive, in your own power to preserve it inviolate. But for this, there is, in our relative position, one unavoidable condition. We cannot legislate against the general policy established by our Sovereign and the Imperial Parliament for the government of the whole Empire, of which this Island forms a part. Our own Island Constitution indeed precludes the enactment of Laws of that character, for it is a part of this Constitution that no Law can be passed without the concurrence of the Governor, or become permanent without the confirmation of the Crown, and neither the Crown nor the Governor can be expected to concurrence in the enactment of Laws inconsistent with the principles by which the whole Empire is regulated.

The Acts of the Imperial Legislature of late years, affecting this in common with the other Colonies, have arisen almost wholly from the conviction that the great measure of Emancipation and Freedom, granted to hundreds of thousands, and eventually to countless millions of our fellow creatures, was a work that could only be effectually, speedily, and uniformly accomplished by the interposition of the Imperial Legislature. Hence there has been a greater degree of direct legislation for the Colonies, and of urgency on the local Legislatures by their respective Governors, than could probably, under any other circumstances, have taken place; but that great measure having been accomplished, there is no reason to expect further interference, unless our local legislation should tend to counteract or retard the full accomplishment of the benefits of emancipation and freedom.

You must be sensible, from the conduct of the Imperial Legislature on that great question for a long series of years, that our proceedings in legislating for this Island, with reference to the change that has been produced in the relations between the landed proprietors and the agricultural labourers, will be watched with attention and anxiety and will bring down on us that interference to which we object, if our measures be not in manifest conformity with the principles which have worked out that change in our internal Constitution. I see no reason to suppose that you will give cause for such interference, and move therefore to anticipate its occurrence. I cannot promise that the Imperal Parliament will not exercise its paramount authority, whenever it sees fit to do so; but I can assure you, that it has no desire without necessity, and is anxious to avoid interference, and to limit its exercise, when unavoidable, within the narrowest bounds compatible with the due protection of all classes of the community in this Island. It is in your power, I trust, to prevent any emergency that would require or justify such interposition. We have only to legislate for the Island according to the spirit of the age, and on the principle of the perfect and equal freedom of every class of its inhabitants.

Not only the eyes of our own country, but those of all the world are upon us; and the interests of humanity, as well as the reputation of Jamaica are involved in our proceedings. The entire abolition of slavery—the perfect establishment of freedom, which was regarded by our country as an indispensable duty to be performed at any cost, is watched by its operations, as an interesting experiment, and by its result in this the most wealthy and most populous country in which it has been effected by the voluntary act of the state, their future conduct with regard to the same question will probably be regarded. If we make the emancipated population comfortable, contented, industrious, and thriving and prosperous, as we can hardly in this case fail to do, the prosperity of Jamaica you will not only gain for this Island an enviable reputation, but will also, it is probable, lead to the eventual freedom and happiness of the incalculable multitudes, who now are, or hereafter may be, doomed to bondage.

In the Session before us, there will be much to occupy your attention, and require your utmost exertions. There are expired laws to be re-enacted with such modifications as the change of circumstances may require; there are old laws inapplicable to our present state to be rescinded and revised, and new laws to be made adapted to our changed condition. I need not enter into any details on these points; your own knowledge will indicate better than I could, all that is necessary for the welfare of our Island. It will be my duty to bring to your notice, such measures as have appeared to Her Majesty's Government to be essential for the public good. It will be most satisfactory to me to find that similar measures, or such as, conceived in the same just and benevolent spirit, may be more suitable to the state of the Island, originate spontaneously with you; but as you will necessarily have to deliberate on at least some of the same questions, it may be expedient that you should be put in possession of the documents relating to them, at an early period of the Session.

I was about to enter on a review of the actual state of the Island, and of the interesting questions which agitate our community; but I find that I should be led into a discourse too lengthy for the present occasion, and at the same time tedious to those who are so much larger informed as to the subjects on which I could only offer some uncertain impressions of a stranger. These questions nevertheless occupy my anxious attention.

I deplore the losses which property in many instances, and chiefly in the sugar plantations, is sustaining from the want of continuance of adequate labour; and I should be heartily glad if any measure could be devised to remedy this evil, consistently with the perfect freedom of the labourers and the principles of political economy; but this I apprehend must be regarded as one of those difficulties and distresses which are every where beyond the reach of legislation, and which time and the operation of a sense of self interest can alone subdue or repair. I trust that more cheering days are in prospect for those who now suffer. With moderate rents and fair wages, with such alterations in the system of agriculture as the want of superintendant animal labour may suggest, with an increasing population, with the extinction of distracting and ferocious feeling, and the substitution of cordiality and attachment, we may surely hope that this beautiful country, so highly favoured by nature, will be prosperous and happy.

Let us then strive, gentlemen, with one accord for the prosperity and happiness of Jamaica, as the great objects of our endeavours—let us promote them by all means in our power—let us encourage industry—let us cherish the population committed to our care, and do all that we can to make them virtuous and happy in their freedom—let us foster their education, for which I am happy to learn numerous schools already exist—let us give security to property, and do equal justice to all classes—let us improve our Judicial and Magisterial Tribunals, on which the happiness of the people so much depends—let us furnish the means of obtaining justice for the poor as well as the rich—let us mitigate our criminal Laws—let us ameliorate the state of prisons—let us support all useful institutions for the public good—let us endeavour to increase the number of our valuable productions, enlarge our commerce, and draw forth new sources of wealth—let us put away from us all recollection of past differences with the Mother Country—let us cordially co-operate in the general views of the Imperial Government—let us allay our own internal dissensions, and cultivate universal harmony, the want of which must greatly impede our prosperity.

I am not so sanguine as to suppose that our best exertions will be sufficient to accomplish all that is desirable, but our united labours as a Legislature, and individually by precept and example, as well as by good laws, may do much; and you, Gentlemen, will be able to do more by your influence in your respective Counties and Parishes. For the rest we must rely on the good sense and good feeling of all classes of the inhabitants.

In undertaking the trust confided to me by our Most Gracious Sovereign, I have been actuated by an anxious desire to render service to my country, by contributing as far as my humble ability will allow, to the welfare and happiness of this island. I cannot pretend to be secure against error in the cause of my administration; but of this you may be firmly assured, that my zealous endeavours will be unceasingly exerted for the prosperity of Jamaica, and that my own happiness will be involved in the result. My heartfelt wishes and devoted efforts, will, however, be of no avail without your aid. It is on your wisdom, knowledge, and experience, that I chiefly depend. On these I implicitly rely, as well as on your patriotism, and on that loyalty for which Jamaica has ever been celebrated, and in our united and honest endeavours in this work of brotherly love, we may humbly hope that the blessing of the Almighty will be upon us, without which all attempts of human frailty must be in vain.

From the New-York Dispatch.

CANADA.—From the Canada papers we learn that the union of the provinces is a measure which may be counted on as determined upon. To the English party this will be a very unpleasant step; but is the only one which can preserve the provinces to the mother country. The Montreal Courier indulges in one of its singular articles upon the subject, of which we subjoin extracts:

"When a man has resolved to commit suicide, it is useless to attempt to prevent him; it is as well to let him die decently, as Cæsar did, folding his toga around him, because interruption may cause him to make a sad spectacle of himself, and gashed corpses are offensive to the eye. So as the government has resolved to dismember the empire, the wise method of proceeding, for good and loyal subjects, is to permit the Government to do it as decently as it can; to offer no interruption to the proceeding, lest the imperial toga be displaced, and make the all of the suicide ridiculous.

We all love the "old country" dearly, and respect it, and what we love and respect we do not like to see become a very ridiculous object. Therefore we hope the Britons of this province will throw no obstacle in the way of a union.

The British people paid twenty millions sterling to the planters for the emancipation of the negroes. The British people of Canada will shortly make a proposal to the "home people," to sell their property and interest in it, so that they may remove "elsewhere." As the government has resolved to re-establish the French, and as the British Provincialists cannot submit to be ruled by avowed enemies, by tested rebels, even though they should be the favorite children of the "home people," it is but fair that John Bull should be asked to pay them for their property, that they and their wives and children may remove "elsewhere." We will bie to "our brethren of the Anglo Saxon race."

Better far, and more agreeable to our feelings is it, to become a citizen of the great Western English nation, than to be confined, cabined, cribbed-in, in a narrow, contracted, *cens et renies*, feudal, French province. For ourselves, we intend to take it coolly and philosophically. We will bear it as we do the toothache—and when we cannot bear it any longer, will "extract" ourselves from this land of icy chains, and "middle-age" habitudes. If the Britons of Lower Canada wish to reside here in peace, they should *instanter*, assume French names, and marry French girls;—put on the "tuque bleu," buy "etoffe du pays" coats, and "souliers de bœuf:" then, *allumer la pipe*, and resign themselves to their fate.

We believe this country is doomed not to be British long; the option is left to us of becoming Yankees or French, and what Englishman will hesitate? *Notre parti est pris.* We are perfectly serious when we say, "we believe Canada will not long be British."

It is a long story to give all our reasons, and it is a story to make a Briton weep, and dash his clenched head against a stone wall; we therefore don't like to commence it; at all events not now. We are not in the vein! One of these days we shall attempt it, or, perhaps MUTIUS will try his hand at it. Heigh ho! it is time for all to begin to think which party we shall, each of us, join; Loco Foco, or Whig."

In the course of last spring, it will be remembered, that a conspiracy was detected at Toronto, which had for its object the assassination of Sir George Arthur, and some of the government officers, as well as setting fire to the public buildings. In this conspiracy, a sergeant of Major M'Grath's troop of lancers, was deeply implicated, and upon being tried a few days ago at the Home District assizes, he was convicted.—[Montreal Gazette.

Battledoor & Shuttlecock.—Georgia threatens Maine for not giving up two fugitives from justice, named Philbrook and Kelleran, and Maine dont care, and maintains her position. She says that she can do without Georgia.—With the Brunswickers on one side, and the Georgians on the other, Maine will have her hands full. It will be a game of battledoor & shuttlecock. Maine will be the shuttlecock and New-Brunswick and Georgia the battledoors. One will hit her a whack, and then the other, and so the game will be played.—*New-York Herald.*

SUPERIOR
PIANOFORTES.

Just received, per ship Mozambique, *from* LONDON—

5 VERY *superior* PATENT PICCOLO PIANOFORTES, from the celebrated manufactory of R. WORNUM, the *sole inventor and patentee.*

☞ The great superiority of the Piccolo Pianoforte, *in adaptation to this climate*, (being constructed on the most scientific principles, *expressly to sustain severity of temperatures*) as well as its unrivalled *double action*, which gives it a *facility of touch* impossible to be attained in any other kind of Pianoforte, and its peculiarly convenient size render it by far the most desirable species of instrument for this country; as may be proved by reference to the many heretofore imported by the advertiser.

The above assortment are in various styles of *Rosewood* and *Mahogany*, and form the most beautiful selection ever offered for sale in this Province.

Also on hand. (*Jately received per ship* Hebe.) 3 superior and elegant HORIZONTAL Pianofortes; Piano *Rosewood* COTTAGE, Patto. 6½ octaves.

A very extensive assortment of NEW MUSIC, for various Instruments; a new GUITARS, and many other articles connected with the science of Music.—For sale on very advantageous terms by

GEORGE BLATCH.
MUSICAL REPOSITORY, *Prince William st.*
Saint John, November 9th. 1839.

NOTICE.

WHEREAS of late serious injury to the Property of the subscriber has been sustained, in consequence of Cattmen and others carrying away SAND and other Materials from the Sands at *Courtney Bay*, in the vicinity of this City: This is to forbid all persons whatever from hauling Sand or other Building Materials therefrom, from and after this date. GEORGE G. GILBERT.

Nov 19, 1839.

City Affairs.

The following documents are published by direction of the common Council.

TO THE QUEEN'S MOST EXCELLENT MAJESTY

The humble Petition of the Mayor Aldermen and Commonalty of the city of Saint John, in the City and County of Saint John, Province of New Brunswick, British North America.

HUMBLY SHEWETH,

That His late Most Excellent Majesty King George the Third did in the year 1785, by his Charter of Incorporation give and grant to the Mayor, Aldermen and Commonalty of the city of Saint John and their successors, amongst other things, that they the said Mayor Aldermen and Commonalty and their successors should from time to time and at all times thereafter, have full power, licence and authority not only to establish, appoint, order and direct the making and laying out all streets, lanes, alleys highways, water courses, bridges and slips, theretofore made, laid out and used, but also theretofore amending and repairing all such streets, lanes, alleys, highways, water courses, bridges and slips, theretofore made, laid out or used, or thereafter to be made, laid out or used, in and throughout the said City of Saint John, and the vicinity thereof, throughout the County of Saint John, thereinafter mentioned and erected, and also beyond the limits of the said City on either side thereof, so always as such streets so to be laid out, do not extend to the taking away of any persons right or property without his, her or their consent, or by some known laws of the said province of New-Brunswick or by the law of the land.

That it is further provided by the said Charter, that the rights and liberties thereby given and granted, should for ever thereafter be held used and enjoyed by the said Mayor, Aldermen and Commonalty and their successors, without the hindrance or impediment of his said late Majesty, his heirs or successors, and notwithstanding any Act of Assembly or other cause or thing whatsoever, which said Charter was recognized and confirmed by Act of the Legislature of New-Brunswick and passed in the following year.

That two several Acts of Assembly of the said Province of New-Brunswick have been recently passed intituled "An Act for the more effectual "prevention of Fires in the City of Saint John," and "An Act to authorise the widening and enlarging certain streets in the City of Saint John and "laying out other streets therein."

That by the last mentioned of the said Acts, the widening, laying out and enlarging certain streets are entrusted to certain persons other than the said Mayor, Aldermen and Commonalty, contrary to the provisions of the aforesaid Charter in that behalf.

That the said Act renders the acts of others binding and conclusive upon the said Mayor, Aldermen and Commonalty, as to the said widening, enlarging and laying out certain streets in the said City, thereby impeding and defeating their power, right and liberty in respect to those matters and things appertaining to them by virtue of the said Charter.

That the said Act renders the said Mayor Aldermen and Commonalty liable to suits for compensations under that Act, for the acts of persons not having authority from them, and without their being parties to the several awards for such compensations.

That the first mentioned act is unjust and oppressive in its operation, being of a retrospective nature and violating the rights of Your Majesty's subjects; and the last mentioned act, not only directly violate the rights and liberties granted to the said Mayor, Aldermen and Commonalty by the said charter, but has a direct tendency to destroy their rights and privileges as granted by charter.

Your Petitioners therefore humbly pray Your Most Gracious Majesty, that the copies of the charter above referred to and the Act of Assembly confirming the said charter hereunto annexed, may be seen and inspected as to the matters alleged in the above petition. And they further humbly pray, that the said two several Acts of Assembly may be disallowed, as contrary to the rights, liberties and privileges granted them by the said Royal Charter, and a direct infringement and violation thereof, and also as being unjust, unequal and oppressive in their operation.

And your Petitioners as in duty bound will ever pray.

THE RECORDER'S OPINION ON THE PETITION.

St. John, 26th Oct., 1839.

SIR,—In compliance with your request, conveyed in the official letter inclosing the Petition of the Corporation to Her Majesty, respecting the late Acts of Assembly, for widening certain streets and erecting brick & stone buildings in the Burnt District, I have taken the Petition into consideration, and here give the result of my deliberations on this important matter.

By the 2d clause of the Petition, where certain portions of the Charter are stated, there appears to me to be a meaning conveyed which is not authorised by its terms, nor sanctioned by the Law. The clause asserts that certain privileges are granted to the Corporation which no Act of Assembly can contravene, meaning as I conceive no Act passed subsequent to the period of granting the Charter. But the Charter merely refers to any Act which might then be in existence, and contains the Sovereign's assurance, that with respect to any Act of Assembly which might possibly interfere with these privileges, as also with regard to all other defects, imperfections, or other legal obstacles to the exercise of the rights given by the Charter, the Corporation should not sustain any injury by them. Again, supposing it did mean any future Act of Assembly, it would not, and could not, bind any future Assembly. The Parliament of Great Britain has by a bold figure been declared to be omnipotent; and so is the Legislature of New Brunswick *within* the Province, until the Act passed by it be disallowed. Supposing therefore that the Acts lately passed were a violation of the Charter (which I cannot see) still the Acts could not be resisted *until* disallowed. The meaning of a very general principle of British Constitution, that Chartered Rights are inviolate, is this, that the Legislature *will not* without hearing the parties, and good cause shewn, together with full compensation, where necessary, disturb vested incorporate rights. But that the Legislature have the *right* of acting without any such prerequisites cannot be denied. With these principles, of course, Your Worship is fully acquainted; I merely adduce them for the information of the Common Council, should you deem it advisable to lay this communication before the Board.

By the 4th clause it is assumed, without stating in what manner, that the Acts specified are contrary to the Charter. But, first, it is to be observed the Commissioners are merely empowered to *define* whether the streets shall be widened by taking the Land required wholly off one side, or partly from one and partly from the other, leaving the actual *laying* out of the streets, their form and appearance, as fully with the Corporation as any of the others. Secondly, the Corporation had no power before this act passed, to take the Land now to be assumed for the public; that could only have been done by them, by consent of the owners. They have not therefore been deprived of a privilege, but on the contrary, the Legislature has bestowed on them the land belonging to private individuals, and has authorised the exercise thereon of the very privilege claimed by them that of laying it out into a street. Thirdly, the Charter does not say, as in some other cases, the Corporation shall have the *sole* ordering, laying out &c., to the exclusion of all other authorities whatever.

The 5th clause does not define the matter of complaint, but I apprehend it is intended to state that the Corporation should not be bound to pay money without being a party as to the mode by which the amount is estimated. But it is to be remembered that the amount to be paid by them is to be reimbursed together with all expenses by the parties in the burnt district receiving benefit and by a general assessment on the City; then the Corporate funds are not touched, why need they be a party. And this remark is also applicable to the 6th clause, which surely ought to have stated the fact I have just noticed; and then shewn in what respect they were injured in spite of their full reimbursement.

The last clauses assert to the Acts to be unjust because they are retrospective. But I am at a loss to perceive what is retrospective in them with the single exception of the sections authorising the removal or reducing of wooden buildings erected at the very time it was known by every body that the measure complained of was to be brought before the Legislature. But even here that body was tender towards those parties in the exercise of its powers; for by paying for the buildings, the owners suffered no loss, and were most equitably placed on a footing with their fellow sufferers in the burnt district; a footing which a very few years will induce them to regard with thankfulness from the superior value of their property, altho' there may be a present inconvenience.

As to the last question, whether you would be justifiable in placing the Corporation Seal to the Petition, it appears to me you would as the act of a majority of the body is the act of the whole, and without the Seal, the Corporation cannot in general express its wishes. This would be your official act. But if you differ from the views expressed in this Petition, it seems to me that your protection will be to forward alone with the official act of the Body Corporate, your reasons for dissenting to the statements and prayer of the Petition. I take my view of this position from Cowp. R. 377, Rex 4, Doctor Windham, Warden of Wadham College.

I have the honor to be, &c.
W. B. KINNEAR.

His Worship the Mayor.

The Committee appointed to proceed to Fredericton to deliver to His Excellency the LIEUTENANT GOVERNOR an Address from the Common Council, and also a Petition to Her Most Gracious Majesty the QUEEN, having attended to that duty, submit the following

REPORT:

That on Saturday the 9th inst., they received from the Common Clerk the Address and Petition, the Common Seal being put to both documents, agreeably to the orders of the Common Council, and Committee proceeded for Fredericton the same evening. On Monday following (the 11th inst.) in the forenoon, your Committee went to Government House and were immediately introduced to his Excellency the Lieut. Governor, to whom they delivered the Address and Petition: his Excellency stated to your committee that he had just previously received by express, important despatches from Washington, which engaged his immediate attention, but nevertheless he should give his attention to the documents, and give the committee a written answer the same afternoon. In the afternoon of the same day, your committee received the accompanying communication, of which the following is a true copy:

"*Government House. Fredericton, N. B. November* 11, 1839.

"GENTLEMEN,

"With reference to the Petition from the Common Council of the City of Saint John, which you have been deputed to present, and to a communication which the Lieut. Governor has received from the Mayor, with a copy of a law opinion by the Recorder of that city, I am directed to express to you the great regret which the Lieut. Governor feels that the Common Council had not been induced to adopt the advice tendered to them by the recognized head of the Corporation, to reconsider their Petition, supported as that recommendation was by the deliberate opinion of their Law Officer, that some of the allegations of that Petition rest upon views and assumptions not warranted either in law or in fact. As, however, they have thought fit formally to place this Petition in the hands of Her Majesty's Representative, I have received his Excellency's commands to acquaint you, that while in the recognition of the undoubted right of British subjects to represent to the Sovereign any grievance, real or imaginary under which they may believe themselves to labour, the Lieutenant Governor will not fail in transmitting the Petition to Her Majesty's Government, to be laid at Her Majesty's feet. It will not be in his Excellency's power to give his support to the prayer of it, impressed as he is with the firmest conviction that the provisions of the acts complained of, if properly carried into effect, are calculated to confer upon the improvements of the enterprising City of Saint John a character of permanance and security heretofore unknown to them, and thereby not only greatly to raise the value of property of every description in that city, but also to relieve its Inhabitants from all well founded apprehension of that awful calamity by which they have so frequently been visited, and against which no adequate precautions had ever before been adopted; and with reference to those which have recently been enacted, the Lieut. Governor commands me to add that it will ever constitute one of the most consolatory "recollections of his public life that he has had the good fortune of being in any respect instrumental in promoting the permanent prosperity of the city of Saint John, by co-operating in arrangements dictated in his Excellency's judgment by a sound, humane and enlightended policy. I have the honor to be, Gentlemen,

Your most obedient humble servant,
H. J. HARVEY. *Private Secretary.*"

"To the deputation from the Common Council of the City of St. John."

Your Committee upon the receipt of this answer, were prepared to explain to his Excellency fully the grounds upon which the allegations of the Petition were founded, but as their authority went no farther than to proceed to Fredericton and deliver the Address and Petition to his Excellency, they retrained.

Your committee cannot terminate this report without noticing the letter of the Honorable W. B. KINNEAR, on the subject of the Petition, to his Worship the MAYOR, and remark that they cannot look upon this letter as constituting an opinion furnished by the desire or at the request of the Corporate body, or as the uninfluenced and unbiased legal Official opinion of the Recorder. They can only regard it in the light of a letter from one individual to another, written to sustain particular party views—with this peculiarity, that coming from a professional Gentleman, it bears the characteristic marks of the reasoning of an advocate, raising all points of objection, "real or imaginary" which ingenuity could devise to favor preconceived views and opinions, with the additional one-sided consideration of a matter upon which the Recorder had already decided and acted as a Legislative Councillor.—Your committee do not dispute that it is perfectly natural that a man whether of the legal profession or otherwise, should incline to support and justify his own actions in a political capacity, or complain that the Recorder in the statement of his views should display an excusable partiality to support the correctness of his own judgment—but your committee protest against this letter being received as other than what it is, and cannot therefore attach to it the same importance and respect to which an opinion of the Recorder would, under other than the present peculiar circumstances, be entitled.

Having premised thus much, the committee proceed to offer a few observations as to the opinions in the above letter professed to be entertained by the Recorder; and for this purpose will proceed to examine it in detail as it refers to the various clauses of the Petition. The first part of the Petition attacked is the second clause.

The point of objection to this clause, seems to be, that the Common Council have endeavoured to put a meaning upon the part of the charter referred to in this clause not authorized by its terms, nor sanctioned by law. Your committee request a reference to the charter itself, and they think it will be seen that the clause in question gives us in abstract form the material part of the charter alluded to, divested of a great mass of verbiage and particularity with which it is clothed.

The committee in preparing this part of the Petition, abstained (not having the benefit of the unprejudiced legal judgment of their Recorder) from giving any opinion as to the construction of the part of the charter referred to, and they disclaim all intention of putting any meaning upon that part of the charter; they deemed it best that the terms of the charter should speak for themselves, and if they have succeeded in their purpose, it would appear by the opinion of the Recorder that he construes the terms to be such as to convey a meaning different from what was intended, and contrary to law—so far they have the Recorder's testimony to the anxious solicitude of the Crown to secure to the corporation the privileges which in its wisdom it reposed with them, evidenced by the fact of such very strong language being used as to lead to the construction of more having been given than could have been intended, and your committee when they review the attacks already made upon their corporate privileges, the singular and anomalous circumstance of a high and distinguished Law Officer of the corporation having enrolled himself as a zealous partizan in the attack of their rights as a Corporate Body, and the evident wish of a select few to diminish and curtail the powers and authorities vested in them—they cannot conceal their feelings of gratitude to the Royal Authority from which the charter emanated, for having displayed such strong evidence of its earnestness to render firm and solid the powers and privileges it bestowed, and your committee have been and still are so firmly impressed with the fact that it is by the Royal Authority their privileges will be maintained, and as is expressed in the language of the charter "*most favourably expounded for the benefit of the Corporation,*" that they were content to give as they have the terms of the charter without note or comment and leave the interpretation to the Sovereign.

The charge therefore that the committee have not attempted a solution of an apparent ambiguity, they submit to be entitled to no consideration whatever, for the reasons and views before explained.

Your committee observe that the opinion of the Recorder is based chiefly upon the objections to the second clause of the Petition, and as the very lengthy argument as to the construction of the charter does not seem to them to be called for, they do not deem it necessary to enter fully into the nature of the arguments adopted; this however they must remark, that though they would most certainly not attempt to deny the Omnipotence of Parliament, they wish to supply what the Recorder has omitted to notice, that so far as the power of Parliament to abridge corporate rights extends, it has been justly remarked that "it is to the honor of the British Nation that this power rests mainly in theory."

Your committee will now direct their attention to the remaining parts of the opinion; the whole they consider rather as a statement of what the Recorder would wish to be, than his deliberate opinion of what really is the extent and meaning of their powers in this particular—a reference to the opinion in the 4th clause, will, your committee submit, make this manifest.

The Recorder does not venture to assert directly that the corporation have still the whole power given by the charter, but only as the committee understand the opinion, that they have the power as fully as any of the commissioners—and even admitting this for argument sake, what does it prove but that the corporation have not the full power—it is impaired and lessened by a part, and that the chief and most important part of the power being given to others—unless therefore, having a full and entire power, be the same as having a partial and abridged power, the corporate privileges are most seriously affected.

To maintain their position, the enemies of the corporate rights must assert that a part is equal to the whole, and if they persist in this, the committee only have to say, that however much the opinion of the Recorder may seem to give such a doctrine the countenance of being law, in the eyes of all unprejudiced men it cannot be received as consonant to common sense.

The second objection to the 4th clause is that the corporation have not been deprived of a privilege—this is proved or rather attempted to be proved, thus—that because the corporation could not exercise the privilege where it would affect private property, without the consent of the owners, or the law of New Brunswick, therefore the exercise of it by any other persons, by authority of the law, will not trench upon the privileges of the corporation. Your committee cannot see that this consequence follows; for it to a certain extent deprives them of their power of making alterations *with* the consent of owners of private lands, so far as the exercise of the privilege would clash with the powers vested in the commissioners—for should those commissioners define an alteration in such a mode as dissatisfied the owners of private lands, and yet such owners would agree to an alteration, but different from that pointed out by the commissioners, and the corporation approved of the alteration preferred by the owners, now are the corporation by force of the late Acts deprived of a privilege of altering a street with the consent of the owners of private lands, and as the corporation would unquestionably have acted in this case before the passing of the late acts, they have consequently by the operation been deprived of a privilege—the opinion of the Recorder to the contrary notwithstanding.

The second objection further states that the Legislature have bestowed on the corporation the land belonging to private individuals, and the Recorder says has authorized the exercise thereon of the very privilege claimed by them, that of laying it out into a street.

Your committee do not dispute this—it is because the Legislature have authorized the exercise of the privileges by the *Commissioners*, and not by the corporation, that the Petition grounds a part of its complaint.

The Corporation claim a privilege to be exercised by them and them only—the privileges authorized to be exercised is by the commissioners chiefly, with a very subordinate task allotted to the corporation. How therefore the Recorder can adduce this second objection in support of his assertion, that the acts are not opposed to the full exercise by the corporation of their former privileges, your committee are at a loss to conceive, and admit to be beyond their plain common sense apprehensions.

The third objection contains an assertion that the Charter does not say, as in some other cases, the Corporation should not have the sole ordering, &c. There needed no opinion as to the Charter's not saying expressly that they should have the sole ordering, &c.: and as the Recorder does not hazard an opinion directly that it was not so implied, the Committee conceive that he had no doubts upon that point, and merely threw in the observation that some other Charters contained an express intention that they should have the sole ordering, &c. And your Committee will assume it to be the case, that some Charters have contained express mention of the word "sole", for no doubt it may so have happened that out of abundant caution in some Charters, the term "sole" has been inserted, and yet your Committee cannot perceive that the absence of the word in their Charter is to be absolutely conclusive upon the Corporation, for they conceive that when any thing is given to an individual, not making mention of any others, the person named takes the whole,—and the same of a power or privilege to be exercised by one for his own benefit, although not expressed to be to that one solely,—it is surely not to be taken to mean to one *and more*. And your Committee cannot in this instance perceive any difference between the reasoning of common sense in the case of an Individual and a Corporation.—The several objections to the 4th clause having been adverted to in detail,—your Committee submit as to the clause in question, that as reference is made to the Acts which speak for themselves, and the provisions so clearly trench upon the Privileges of the Corporation, it was unnecessary for the committee to specify what upon looking into the Acts and the Charter, must be evident and convincing to all but the unprejudiced or determined opponents of the corporate rights.

To meet the objections to the other clauses of the Petition, your committee recommend the five dissentients thereto, to a calm and steady perusal and consideration of the Acts and deliberate reflection upon their consequences, operation and tendency; there needs nothing more than this to be convinced, unless to those who are determined not to be convinced, that the allegations of the Petition are justly and truly founded.

The conclusion of the opinion seems intended to support the policy of the Acts, and what may be deemed avoiding the main point of the Petition, viz. that without cause shewn or alleged, the Corporation will be deprived of a privilege solemnly assured to them, and the Public of the experienced protection of the Body to whom are entrusted the guardianship of their rights.

Your committee have thought it proper to notice the opinion thus forced upon them, at the same time protesting against the very and as they conceive imprudent course taken by His Worship the Mayor, in making the private opinion of the Recorder a part of the acts of the Council, and the fact that the Recorder's letter has been permitted to carry with it the weight and influence of a deliberate opinion of a civic Law authority, and party views assume the semblance of the disinterested opinion of the corporation's own adviser, proves beyond a doubt, that the course taken is as dangerous and prejudicial to the fair proceedings of the council, as it is unprecedented.—The answer of His Excellency to the Address will shew further the evil of this proceeding.—The single voice of the Recorder is sufficient to render unavailing the views and feelings of the council. Had His Worship simply transmitted his own opinions, there would have been no delusive appearance—it never would have founded any thing from which His Excellency could have treated it as an opinion coming from a civic Law Officer, and could therefore have had weight only as the sense of the thirteenth part of the Council.

Respectfully submitted by
THOMAS HARDING, THOMAS CORAM. } *Committee.*

Nov. 11, 1839.

[TO THE EDITOR OF THE CHRONICLE.]

Sir,—I will thank you to insert the following with the papers published by direction of the Common Council.

I am, sir, your obedient serv't.
ROBERT F. HAZEN.

St. John, November 23, 1839

The Mayor begs leave to Report, that immediately after the last meeting of the Common Council, (as he then stated he should do) the Petition to the Queen was submitted to His Honor the Recorder, and his opinion thereupon is now submitted. The Mayor would therefore respectfully suggest to the Common Council the propriety of reconsidering the said Petition, as it evidently contains statements which are not supported by the Charter, and in its present state cannot under the Resolution of the Board be forwarded except under his formal protest.

Respectfully submitted.
ROBERT F. HAZEN, *Mayor.*

Mayor's Office, November 7, 1839.
[Read in Common Council, 7th November, 1839.]

To the Mayor, Aldermen and Commonalty of the City of Saint John, in common Council convened.

The mayor begs to report, that he made the following communication to His Excellency the Lieutenant Governor, respecting the Petition from the Common Council to Her Majesty, and also addressed the accompanying note to the committee appointed to convey the Petition to His Excellency.

Copy of communication to His Excellency.

Mayor's Office, St. John, November 8, 1839.

May it please your Excellency—

I feel it my duty, as well out of respect to your Excellency, as in justice to myself, to lay before your Excellency the accompanying papers in explanation of my declining to put my signature, (as is always done to documents issued under the City Seal) to the Petition lately passed by the Common Council of this City to Her Most Gracious Majesty, praying Her Majesty will be pleased to disallow two Acts passed at the last Session of the Legislature, namely, The Act for the more effectual prevention of Fires in the city of Saint John, and the Act to authorize the widening and enlarging certain streets in the city of Saint John and laying out other streets therein; and should your Excellency require any further information respecting the same, I will endeavour to afford it.

I have the honor to be
your Excellency's most
obedient humble servant,
ROBERT F. HAZEN, *Mayor.*

To His Excellency
Major General Sir John Harvey,
K. C. B. and K. C. H., Lieutenant
Governor, &c. &c. Fredericton.

Papers referred to in the foregoing letter, as transmitted:
1. The Mayor's Letter to the Recorder.
2. Recorder's reply to the same.
3. Extracts from the Minutes of the Common Council relating to the Petition to the Queen.

Copy of Note to the Committee.

Mayor's Office, St. John, 8th November, 1839.

The Mayor begs to inform the committee appointed at the last meeting of the Common Council, to proceed to Fredericton with the Petition to Her Majesty, and the Address to His Excellency the Lieutenant Governor, that he feels himself in duty bound out of respect to His Excellency and in justice to himself, to submit to His Excellency a copy of the whole proceedings relating to the Petition, and also of his letter to the Recorder, and the Recorder's reply thereto.

Respectfully submitted,
ROBERT F. HAZEN, *Mayor.*
[Read in Common Council, 21st Nov. 1839.]

FOR THE OBSERVER.

MR. EDITOR,—You will have seen in the last number of the *Chronicle*, a petition from the Common Council of this City to Her Majesty the Queen, praying Her Majesty to disallow two Acts passed at the late special session of the General Assembly of this Province. It is unnecessary to mention their titles—suffice it to say they relate to the laying out and widening of Streets, and the erection of Buildings in the late Burnt District. The Petition is published in connexion with the Report of the Deputation of Common Council to His Excellency the Lieutenant Governor, and also his Honor the Recorder's opinion or letter to his Worship the Mayor, and the Mayor's correspondence with His Excellency and the said Deputation on the above subject.

I do not trouble you upon the present occasion as the apologist or advocate of the views taken by his Worship the Mayor or his Honor the Recorder. If the Letters of those Gentlemen, as published, do not satisfy a candid public, I leave them to vindicate their own conduct and views.

It will be seen by a reference to the Report, in the last paragraph but two, that "the five dissentients thereto" are recommended to "a calm and steady perusal of the Acts," &c. &c. Now I, as one of the dissentients, beg leave to give my views and the reasons that have actuated me in this important matter. The public will perceive by the Report that the Common Council have divided throughout upon this question, 5 and 7.—When the Petition was first brought in, Mr. Alderman Humbert moved that it should be read section by section, or paragraph by paragraph; but this was overruled by the majority, and the minority had to swallow it whole, the danger of choking to the contrary notwithstanding. The minority thought, and still think, that the Petition contained allegations not borne out by the words of the Charter or the two Acts referred to, and they wished to have it so amended that it might not go to the foot of the Throne, containing false reasoning, based on unfounded premises. But they were overruled in this—the majority still being 7 to 5—and the Petition was ordered to be sent as the worthy mover thought proper to send it, (although altered by him at the Board in a material point, five minutes before the order for engrossing it passed.)

The plain question, Mr. Editor, is—Is it not absolutely necessary to widen the Streets in the late Burnt District, for protection against Fire, and the accommodation of Commerce? Every unprejudiced person will answer, YES.—Is this the proper time? Here again the answer will be YES