

GOVERNOR KENNEDY OF VANCOUVER ISLAND
AND THE POLITICS OF UNION, 1864-1866

by

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This essay attempts to define the political issues that dominated Governor Arthur Edward Kennedy's governorship of Vancouver Island, 1864-1866, during the period when Vancouver Island and British Columbia existed as separate colonies. British Columbia's intense dislike of the administrative and economic hegemony of Victoria, the subject of several memorials, persuaded the home government to abolish the executive union of the two colonies in 1864. Vancouver Island, whose economy was almost entirely based on the demand for goods created by the extraction of gold in British Columbia, continually agitated for reunion with the larger and richer mainland colony. The objective of union dominated all other issues in the island colony, after which the oft-cited Crown lands-civil list dispute between Governor Kennedy and the House of Assembly assumed secondary importance; indeed, the civil list controversy can be understood only as an adjunct of the larger question concerning the relationship of Vancouver Island to British Columbia. Governor Kennedy was specially despatched by Secretary of State Newcastle from London to Vancouver Island to promote union and to offer the colonial legislature ownership of the land of Vancouver Island in return for a permanent pledge to pay the salaries of the Crown's principal officers serving in the colony. The legislature refused to vote a civil list because separation from British Columbia, it was claimed, had thrown the island

colony upon its own meagre resources and because the Crown might thereby be induced to make an early and favorable decision on union. Kennedy showed himself to be receptive to reformist ideas but was unable to effect political alliances to counter the local obsession with union and the accompanying refusal to pay for costs of imperial government and programs. Politicians were interested in abolishing their own political unit, not in reforming it. Despite lack of support in the House, Kennedy introduced a certain improvement in the integrity and efficiency of the bureaucracy and managed to keep it functioning. With the passage of resolutions in 1865 asking for union on any terms the Crown might be pleased to grant, Vancouver Island gave up its right to affect its ultimate fate and Kennedy was left with no policy but to suffer the abuse and invective of petty politicians. In the end, in November 1866, Amor De Cosmos and his party got their union but at a cost (loss of the free port, the capital, and representative government) which some, including Sir James Douglas and numerous members of the mercantile class of Victoria, thought outrageously high.

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So long as the Officials of B. C. resided at Victoria & spent their salaries there & the miners passed the winter & wasted their hard gained earnings the Victorians were content. But when the B. C. officials were obliged to live in the Colony, & a Governor was appointed who made it his business to develop B. C. & not smother it, as Sir J. Douglas had done then the Victorians began to be dissatisfied. They had to raise money for their civil establishments--the Merchants who had overspeculated--the public officers were defaulters--the Assembly employed their time in uttering scurrilous & personal invective--their Sessions lasted 9 months but produced no measures, and seeing no other way of escape H. M. Govt. was finally solicited to grant them unconditional union with B. C. as an escape for their difficulties.

Arthur Blackwood, 1866

I The Man and the Challenge

In an effort to redress the grievances that had been streaming into the Colonial Office from reformist elements in British Columbia and Vancouver Island and their representatives in London, the Duke of Newcastle, the man directly in charge of most of Britain's great and growing empire, resolved in the spring of 1863 to terminate the services of the governor of both colonies, James Douglas. The executive union of the sister colonies was to be scrapped; the colonies were to have separate governors and political institutions. A legislative union of the colonies was the personal choice of the Duke, but the jealousy, animosity, difference in institutions, and the opposition of interests between them, rendered such a union a doubtful short-range prospect. Newcastle hoped the resident population of British Columbia would grow and new towns would arise with sufficient populations to merit a representative body. Then the resultant identity of legislative institutions with Vancouver Island (the island colony had had an elected house since 1856) would make union constitutionally feasible.¹

Arthur Edward Kennedy was the man chosen by Newcastle to replace Douglas as the chief executive of Vancouver Island.

¹ Newcastle memorandum, 27 March 1863, uncatalogued manuscript, Provincial Archives of British Columbia (PABC).

Kennedy was born on 9 April 1809 at the family manor in County Down Ireland, the sixth of eleven children of Hugh and Dorothea Kennedy. Young Kennedy, like scores of his kinsmen, received his higher education at Trinity College, Dublin. At the age of 18 he joined the army and subsequently purchased, in 1832 and 1840 respectively, a lieutenancy and a captaincy. After nineteen uneventful years in the army, Kennedy retired and in the same year, 1846, was appointed a county inspector under the Board of Works in Ireland. A year later when attempting to deal with the overwhelming problems of hunger and the need for public relief caused by the Great Famine, he was promoted to a position equivalent to an Assistant Poor Law Commissioner in the relief mission commanded by General John F. Burgoyne. Serving in Kilrush Union, County Clare, Kennedy advocated and got an industrial training school for orphans. Disapproving of the workhouse, Kennedy argued for increased outdoor work relief. Though Kennedy exhibited the qualities of imagination and humanity, he also became known as a disciplinarian, one who would not tolerate malingering among the charges of the state.

In 1851 Kennedy's office was abolished. He applied for a position in the Colonial Service and in May 1852 was

² Henry Cecil Gilliland, "The Early Life and Early Governorships of Sir Arthur Edward Kennedy" (unpublished M. A. thesis, University of British Columbia, 1951), pp. 52, 91, 156, 181, 212, 219, 245-46.

appointed governor of Gambia. Before he assumed this office, he was offered—and accepted—the more important governorship of Sierra Leone. Contrary to custom Kennedy permitted his wife Georgina to accompany him to what was commonly known as the West African "white man's grave." In 1854 Kennedy was given the additional responsibility of British Consul General for the adjacent Sherbo district.³ Having "earned his credit in the Colonial Service by his courage in grappling with abuses,"⁴ Kennedy was promoted in November 1854 to the governorship of Western Australia.⁵

In the years 1855-1862 Kennedy served as a successful, though highly unpopular, governor. In Western Australia he was able to effect a major economic revival by a combination of administrative feats, including balancing the budget, increasing revenue and immigration, sponsoring a joint public-private program of exploration for arable land and mineral resources, introducing efficient public accounting procedures, and successfully promoting land sales for the colony's

³ Gilliland, "Early Life and Early Governorships," pp. 251, 253, 283.

⁴ Minute on Kennedy to Cardwell, 3 Dec. 1864, Great Britain, Public Record Office, Colonial Office 305/23, p. 477, microfilm PABC, hereafter cited as PRO mf.

⁵ Gilliland, "Early Life and Early Governorships," p. 326.

6
 agricultural development. He displayed the same qualities which were apparent during his tenure as poor law commissioner except that by the late 1850's strictness had given way to authoritarianism; on occasion Kennedy placed his will above the law in order to correct what he felt to be unwise practices, such as the unregulated sale of spirits.⁷ Kennedy was assisted in his mission by the strong executive character of the government; he did not have to contend with a representative assembly. By the end of his six-year tour in Western Australia, Kennedy had become an experienced governor and an able administrator. He was, according to Chicester Fortescue, parliamentary undersecretary in the Colonial Office, "one of our best Governors."⁸

Kennedy's appointment as governor of Vancouver Island was publically announced on 4 December 1863.⁹ His Instructions and Commission were issued one week later.¹⁰

6 Henry Cecil Gilliland, "Arthur Kennedy's Administration of the Colony of Western Australia Examined as a Background to the Initiation of the Vancouver Island Exploration Expedition of 1864," BCHQ, XVIII, (Jan.-April 1954), pp. 103-115.

7 Gilliland, "Early Life and Early Governorships," pp. 369-372.

8 Minute on Douglas to Newcastle, 12 Feb. 1864, PRO mf., CO 305/22, p. 21.

9 Knowledge of Kennedy being gazetted (official announcement in the government newspaper of an appointment) reached Victoria via the London Times number of the 5th of Dec. 1863, p. 7 and was published in the Victoria British Colonist, 6 Feb. 1864.

10 Minutes of Executive Council of Vancouver Island, 26 March 1864, PABC.

Kennedy had been unofficially appointed as early as August 1863; his correspondence with men in the Colonial Office as Governor-designate originated at that time.¹¹ The subjects of these communications were patronage, passage allowances, plans for the Governor's residence, provision for a private secretary, and the like. The instruction of Kennedy by the Colonial Office officials in the more important questions relating to imperial policy with respect to Vancouver Island was undoubtedly administered in private conference.¹² Although Kennedy was by his very appointment as governor of Vancouver Island signalling the total separation of the sister colonies, he was charged with the mission (in common with Frederick Seymour, Douglas's replacement for British Columbia) of trying to bring about the union of those same colonies.¹³

The appointment of a new governor and the creation of

11 Kennedy to Newcastle et al., PRO mf., CO 305/21, pp. 285-319.

12 Arthur J. Blackwood, senior clerk in the Colonial Office and the man who invariably handled correspondence relating to the affairs of British Columbia and Vancouver Island in the initial stage of its official consideration, wrote that Kennedy had been to the office for "conversation." Minute on Kennedy to Newcastle, 27 Aug. 1863, PRO mf., CO 305/21, p. 297.

13 Minute on Seymour to Cardwell, 20 Dec. 1864, PRO mf., CO 60/19, p. 474. "Mr. Seymour was instructed by the Duke of Newcastle, in common with Govr. Kennedy, to endeavour to bring about a Union of the two Colonies."

a separate staff of principal officers for Vancouver Island entailed further changes. Pursuant to imperial policy of making the colonies, rather than the Crown, responsible for their own support and the Colonial Office's notion of "fixed establishments," the Duke of Newcastle proceeded to make arrangements for the permanent endowment of the principal offices of both Vancouver Island and British Columbia. In June 1863 the Duke despatched instructions to Governor Douglas:

With regard to Vancouver Island I think that a permanent Act of the Legislature should be passed, securing to the principal officers of the Government salaries at the following rates, which the importance of the Colony and the prospects of its revenue appear to render no more than fitting:--

Governor	£ 3,000
Chief Justice	800—(to be
1,200l. when a lawyer is appointed)	
Colonial Secretary	600
Attorney General	300, with practice
Treasurer	600
Surveyor General	500

The initiation of all money votes should also be secured to the Government.

When this is done I am prepared to hold the Crown revenue of Vancouver Island at the disposal of the Legislature of that Colony, retaining only such temporary power over the land as will enable Her Majesty's Government to close its transactions with the Hudson's Bay Company. When this is effected I shall be ready to transfer the management of the revenue to the Colonial Legislature.¹⁴

¹⁴ Newcastle to Douglas, 15 June 1863, Great Britain, Parliament, Papers Relative to the Proposed Union of British Columbia and Vancouver Island, Cmd. 3667, 1st series (London, 1866), p. 2.

It should be noted that this proposal by Newcastle involved the sum of £5,800, £2,500 more than the amount the Assembly of Vancouver Island had to that time been annually voting for the same offices. In sum then, the Duke's scheme was to make the colony assume permanent liability for the salaries of the aforementioned officers, the civil list, in return for control of the Crown revenue, which was principally derived from the sale of public lands. In this manner the colony would also be given a larger measure of self-government, that is, the control of all colonial expenditures. Newcastle's responsibility to provide good government for the colony would thus be facilitated by the guarantee that his appointees, after travelling to one of the remotest points on the globe from England, would receive a salary upon their arrival.

Newcastle's proposal conformed to Colonial Office practice and was consonant with Governor Douglas's and the House of Assembly's three year old request for such a trade.¹⁵ However, in February 1864, while Kennedy was already en route to Victoria, the Assembly informed Douglas that acceptance of the Crown revenue would not justify the permanent payment of the salaries of the principal officers for the reasons that the annual revenue of the colony, including those funds derived from the sale of public lands, was insufficient to pay the

¹⁵ Blackwood memorandum on the Crown lands in Vancouver Island, 9 May 1863, PRO mf., CO 60/17, p. 194.

ordinary expenses of government, the suggested civil list, and internal improvements; that the proceeds from the sale of lands—the Crown revenue—had been declining; and that the colony would still have to expend a "considerable sum" to extinguish the Indian title to the Crown lands.¹⁶

With respect to the separation of the colonies the Assembly was adamant. It debated the question of the union of the colonies in October 1863 and expressed vigorous opposition to the total separation of the colonies.¹⁷ In February 1864 the Assembly advocated the continued "intimate and advantageous connection" of Vancouver Island with British Columbia in order that one civil establishment, in so far as was practical, might serve both colonies; to this end the Assembly offered to pay one-third of the cost of the salaries¹⁸ of officers serving in posts common to both colonies. In short, the House of Assembly refused to accept a constitutional arrangement that forced Vancouver Island to pay for its own government, a view with which Governor Douglas concurred.

It is fairly clear from the editorials of the Victoria British Colonist and from that newspaper's accounts of the

16 Enclosure in Douglas to Newcastle, 12 Feb. 1864, PRO mf., CO 305/22, pp. 24-27.

17 Colonist, 14 and 20 Oct. 1863.

18 Enclosure in Douglas to Newcastle, 12 Feb. 1864, PRO mf., CO 305/22, pp. 24-27.

Assembly's proceedings, that the refusal to pay the salaries of the government's principal officers, either as a matter of permanent guarantee by the colonial legislature, as Newcastle had suggested, or annually like any other item submitted by the governor to the House in the form of an "estimate,"¹⁹ was intended to coerce Newcastle into reconsidering his plan for the separation of the colonies.²⁰ This refusal was natural enough: the members of the Legislative Assembly, Governor Douglas, like most Victorians enjoyed considerable advantage from the federated or executive union that was coming to an end. Victoria was the point from which the Hudson's Bay Company's mainland fur interests and coasting trade were controlled as well as being the capital of Vancouver Island. In 1858 the Fraser River gold rush made possible the support of a separate colony in British Columbia and augmented Victoria's commercial and administrative domination of the mainland. Victoria became the supply center of the goldfields and the

19 The executive branch of the government of the colony of V. I. initiated all measures, including the estimates, involving the expenditure of money. The Assembly either voted the sums requested, reduced them, or rejected them in toto. The Assembly could not constitutionally vote sums for financial measures not specifically authorized by the executive. The Assembly was specially empowered to initiate ways and means legislation. Otherwise, the Assembly, like the Legislative Council, could initiate any legislation.

20 Colonist, 2, 3, 8, and 9 Feb. 1864. Immediately before the House debates on these questions, the Colonist (26 Jan. 1864) reported that Kennedy would not leave England until his salary had been guaranteed.

haven for travelling and wintering miners. The combination of a customs tariff in British Columbia, a free port in Victoria, and an excellent all-weather, deep-water harbor but three miles distant at Esquimalt enhanced the island city's position as British Columbia's chief emporium. While Victoria derived much profit from handling the commerce of British Columbia, it paid little for the support of its government's officers. Governor James Douglas, Attorney General George Hunter Cary, and Colonial Secretary William A. G. Young, among other officials who served both colonies, resided and invested in Victoria and drew full pay from British Columbia but received reduced pay or no pay at all from Vancouver Island.²¹

British Columbians clearly resented the principals and terms of this relationship. At two conventions held in 1861 disgruntled mainlanders memorialized the Crown, protesting, among other things, the tariff and the absentee governor and government. Other petitions followed, and, in the fall of 1862, Malcolm Cameron, an ambitious politician from Canada, was despatched to London to represent personally British Columbia's anti-unionist views to the Colonial Office and to press for redress of the accumulated grievances.²² New

21 New Westminster British Columbian, 20 May 1863.

22 Ibid., 14 May 1864.

Westminsterites especially resented the fact that Victoria, rather than their city, was the chief supply depot for the goldfields. As editor of the New Westminster British Columbian, John Robson constantly advocated that, in the event of the separation of the colonies, British Columbia should retaliate against Victoria by legislating incentives for royal city merchants to import directly from overseas, by-passing Victoria.

By the time of Douglas's enforced retirement, Vancouver Island had become a minor imperial power. Now, its essentially parasitic relationship to its sister colony was threatened by the total separation of the colonies. Vancouver Island not only had to pay for its own government, but it found itself without a veto in British Columbia, a veto it sorely needed if the anti-Victorian sentiments of New Westminster were to be held in check. Vancouver Island thus rejected the reorganization in principle; it refused to come to terms with the fiscal conditions attending that reorganization and, in the years 1864-1866, devoted much effort to reinstating its former dominance over British Columbia by seeking some closer relationship to it.

The February 1864 resolutions reached London too late to alter Newcastle's directives. Governors Kennedy and Seymour had already been appointed and despatched to their posts. The Colonial Office was committed, at least in the short run, to the policy of separation; ultimately, it was

desirous of bringing about a union of the colonies. Edward Cardwell, Newcastle's replacement as Her Majesty's Secretary of State for the Colonies, in response to the House's resolutions, merely instructed Kennedy to report on the question of union as soon as he had gained first-hand knowledge.²³

As these events were transpiring Governor Kennedy, his wife, and two daughters were travelling to Vancouver Island, having left Southhampton, England, aboard the Shannon on 18 January 1864.²⁴ After two successful administrations, Kennedy might have expected a better position than the comparatively insignificant governorship of Vancouver Island. The fact that Vancouver Island was about to be ruled by a competent and experienced governor mattered little to that colony's political representatives. To them Kennedy came as the agent of Newcastle's reforms, which in their opinion portended ill for Vancouver Island. In opposing the reorganization of the colonies, the Assembly virtually expressed non-confidence in its new governor. It made arrangements neither for his salary nor residence. By contrast, the citizenry of Victoria and Esquimalt looked forward with great expectation and excitement to the reception of the new governor. The Assembly was more or less obliged to take some part in the

²³ Cardwell to Kennedy, 30 April 1864, Papers Relative to the Proposed Union, pp. 5-6.

²⁴ Diary of Arthur Stanhope Farwell, 18 January 1864, PABC.

preparations for the arrival of the vice-regal family.

Clearly the Assembly had already judged Kennedy before his term of trial had begun.

II Early Struggles with the Assembly

On the afternoon of Good Friday, 25 March 1864, Arthur Edward Kennedy and his family first met the inhabitants of Vancouver Island. By the colony's standard of social occasions the reception was a triumph. The event, which was the product of weeks of planning and considerable expense, was marked by a tremendous expression of loyalty and attachment to Her Majesty the Queen. The vice-regal party reached the Victoria wharf at precisely 4:40 amid hearty cheers and thundering guns. After a welcome by the Mayor and the playing of "God Save the Queen," the new governor replied humbly that he was gratified by such a cordial reception. He was unworthy, he said, of such acclaim but would endeavor to earn the people's regard. He also declared he had come with a stronger desire to serve than to rule and pledged his best efforts to promote loyalty to the sovereign and to develop the resources of the colony. He concluded by reiterating his thanks for the reception accorded him. Nine cheers were shouted for Kennedy, who was then ushered to a carriage that was placed in the van of the procession that proceeded to tour downtown Victoria. The procession consisted of many banners and bands, and numerous delegations, including the city councillors, the Hebrew and French benevolent societies, and the uniformed

firemen of three separate fire companies. "The scene along the line of march was a complete ovation, crowds of people lined the side-walks and streets, and cheer after cheer burst forth as the carriage containing His Excellency passed," reported the Victoria Daily Chronicle, which went on to state that "the balconies of the buildings on Government street were occupied by ladies who testified their gratification by waving their handkerchiefs as the procession passed. The scene as the line passed under the grand arch at the corner of Yates and Government streets was grand and imposing, and drew forth the warm plaudits of the spectators." After the procession reached the St. George Hotel, Kennedy again addressed the throng. The fire brigades, which had figured so prominently in the planning and execution of the reception, drank to the governor's health and marched off to the tune of "He's a jolly good fellow." That evening, probably after the Kennedys had retired, sixty members of the Germania Sing Verein, carrying colored lanterns and an illuminated banner, paraded through Victoria to the St. George Hotel to serenade the official party. Kennedy came forward on the balcony to express his thanks and to outline a liberal course of action he intended to follow with respect to Victoria's numerous foreign
¹
residents.

1 Victoria Daily Chronicle, 27 March 1864.

In addition to his role as the representative of Her Majesty, Governor Kennedy was greeted by the press as a refreshing change from the previous administration. For as long as Sir James Douglas had been governor of Vancouver Island, his rule had been questioned and opposed by a growing number of residents in both colonies. Sir James, during these and subsequent days, was accorded a popularity he had not previously known.² Nevertheless he was associated, at least by the newer elements in the society that had come to the colonies since the gold rush, with the colony's early fur-trading era, the Hudson's Bay Company's monopoly, and favoritism and nepotism in his appointments to government office. Kennedy was hailed as an alternative to all that, as a "prudent administrator" who could be expected to be reticent in matters concerning the public interest.³ Kennedy's arrival, trumpeted the Colonist, terminated the regime of "intermeddling Executives" and initiated Vancouver Island's⁴ summer of political maturity.

The morning after his arrival, Kennedy took the oath of office at an elaborate public ceremony at the "Birdcages,"

² Margaret A. Ormsby, British Columbia: A History (Macmillan, Toronto, 1958), pp. 197-98.

³ Chronicle, 27 March 1864.

⁴ Colonist, 21 March 1864.

the new government buildings erected by Douglas.⁵ His first task was to receive the numerous delegations of fraternal orders, churches, benevolent societies, and the like that had come to extend the respects and well-wishes of their constituents. In response to an address by the Reverend Edward Cridge, head of the deputation of the Church of England, Kennedy criticized church-controlled education and advocated the cause of non-sectarian, government-supported school system,⁶ thereby lending additional momentum to the local movement that would reach fruition in the passage of the Common School Act of 1865. Kennedy did not fear to receive the address of the all-black Victoria Rifle Corps, which had been excluded from participation in the governor's reception. He alluded to his favorable experiences with "coloreds" in his capacity as governor of Sierra Leone and encouraged the corps to work for the uplifting of their brothers and the betterment of race relations in Victoria.⁷ On another occasion Kennedy disapproved of the former, secret proceedings of the Legislative Council⁸—the proceedings of which had been made public earlier in the month, at the time

⁵ Chronicle, 27 March 1864; Kennedy to Newcastle, 29 March 1864, Vancouver Island, Governor, Despatches to London, 1864-1866, original official letterbook, PABC, hereafter cited as Despatches to London.

⁶ Colonist, 4 April 1864.

⁷ Chronicle, 31 March 1864.

⁸ Colonist, 4 April 1864.

of James Douglas's departure from the colony. This vigorous and forthright public manner of the new executive was certainly reformist but hardly "reticent."

It was clear to Kennedy from the outset that although he was personally the object of much popular attention and praise, his office was under serious attack by the House of Assembly. Following its repudiation in February of separate executives, the Assembly subverted the very functioning of Kennedy's office by denying him salary, supplies, and clerical assistance. His office consisted of "a Table, a Carpet and a few common Chairs," but was devoid of "Library, Maps, or Books of reference of any kind."⁹ In the absence of a public residence or provision for temporary accomodation, Kennedy and his family were forced to remain in their hotel at an expense of \$200 per week. After three weeks, Kennedy managed to lease the home of Joseph W. Trutch, who was at that time proceeding to England.¹⁰

Kennedy resolved to strengthen his position. In a confidential despatch he informed the Colonial Office that he would attempt to have the resolutions of 9 February reversed

⁹ Minutes of Executive Council of Vancouver Island, 11 April 1864, PABC.

¹⁰ Kennedy to Newcastle, 14 April 1864, No. 13, Despatches to London.

or modified.¹¹ Kennedy then convened the Executive Council¹² in order to discuss the appropriate action to secure the funds for the governor's residence and private secretary. he produced several letters from the Colonial Office that generally supported his view that the Assembly should make provisions for both a temporary and a permanent government house. The Council concurred. It also agreed to request the Assembly to pay a yearly salary of £250 for Kennedy's private secretary as well as his passage fare to the colony from England.¹³ All of the governor's requests, along with the supporting documents, were sent to the Assembly.

The Assembly received Kennedy's message on 4 April and three days later considered it in committee. Speaker John

11 Kennedy to Newcastle, 30 March 1864, PRO mf., CO 305/22, p. 99.

12 The Executive Council of Vancouver Island, authorized by Douglas's supplementary commission of 8 Oct. 1862, was first convened by Douglas in Oct. 1863. It was composed of the governor, the colonial secretary, the attorney general, the treasurer, and the surveyor general. By the terms of his instructions, Kennedy was obliged to rule with the advice of this body.

13 Minutes of the Executive Council of Vancouver Island, 31 March 1864. While still in England, Kennedy discovered that there was no provision for a private secretary to the governor. Douglas's private secretary, his son-in-law Charles Good, was actually paid by B. C. and upon the imminent separation of the colonies had to move to New Westminster. It appears that Kennedy engaged the services of D. C. Maunsell as his secretary prior to coming to Victoria. Maunsell served Kennedy for a time, but after the arrival of Henry P. Wakeford from Western Australia in the early summer of 1864, Maunsell went to B. C. to become Governor Seymour's private secretary.

Sebastian Helmcken¹⁴ spoke for the majority of his colleagues when he stated that the question of any provision for a governor's residence was dependent upon the Crown's reaction to the Assembly's February resolutions. Helmcken criticized the Crown's policy of throwing the colony into the world upon its own resources and welcome a collision with the Crown over the question of the civil list. The Assembly advised the governor to provide for a temporary residence out of the Crown funds and postponed action on the governor's request concerning a private secretary.¹⁵ William A. G. Young, colonial secretary and House member for Victoria City, voted against Helmcken's position, complaining "Either the numerous addresses which had been presented to his Excellency were bunkum, or the members of the Assembly did not represent the

¹⁴ John Sebastian Helmcken (1824-1920) entered the service of the H. B. C. as surgeon and clerk in 1850. He was appointed Vancouver Island's first magistrate, by Governor Richard Blanshard. In 1852 Helmcken married Cecilia, daughter of Gov. Douglas. Elected to each of the three Houses of Assembly (1856-1859, 1860-1863, 1863-1866), Helmcken was in turn elected speaker each time. He was a member of the Legislative Council of B. C. (1867-1871) and played a prominent part in the return of the capital to Victoria, 1867-1868. Helmcken was one of three members of the B. C. delegation appointed by Governor Anthony Musgrave that went to Canada to consider the conditions of British Columbia's proposed entrance into Confederation. Helmcken shared with R. W. W. Carrall the distinction of being the only unofficial member to sit on the Executive Council of B. C. Although he could have easily won a seat in the new provincial parliament, Helmcken retired from politics in 1871.

¹⁵ Chronicle, 8 April 1864.

people."¹⁶

It was immediately obvious that the House's position was indeed contrary to the wishes of the people. Amor De Cosmos,¹⁷ who had voted with the House majority, found it expedient to have the editorial line of his newspaper echo the sentiments of his opponent Young:

The House does not have the confidence of the people Governor Kennedy has come to us under the most favorable auspices. He has made himself so far the most popular of Governors. He has shown himself a man of liberal opinions and exalted sentiment. We inundate him with addresses expressive of our loyalty and kind wishes; and before the last echo of congratulation and welcome has died away, we tell his Excellency he must find some place to lay his head for we are determined he shall have no home from us.¹⁸

The Colonist accurately mirrored the public temperament. Citizens called for a "monster meeting" for the evening of 11 April.

16 Colonist, 8 April 1864.

17 Amor De Cosmos (1825-1897) was a successful photographer and mining speculator in California before coming to Victoria in 1858. In December of that year he established the Victoria British Colonist. As an anti-Douglas candidate, he was twice defeated for a seat in V. I.'s Second House. In 1863 De Cosmos was elected to the Third House and quickly became that body's most active and powerful member. During the 1860's he was the most consistent advocate of union, confederation, and responsible government. In 1870 De Cosmos founded the Victoria Daily Standard. While serving as a member of the Canadian House of Commons, De Cosmos was the short-lived premier of B. C.'s second ministry. In 1880 he lobbied in London, England to have Esquimalt designated as the western terminus of the Canadian Pacific Railway. De Cosmos was defeated for re-election to the Commons in 1882.

18 Colonist, 8 April 1864.

The public meeting was the largest held in the colony's history. The Chronicle put the number of those present at over 1000. De Cosmos, Helmcken, and William Fraser Tolmie attempted to defend their actions but were received rather harshly. The people overwhelmingly endorsed a motion expressing non-confidence in the Assembly, deplored its treatment of the governor's requests as "incourteous, uncalled for, and quite unbecoming the representatives of a loyal people,"¹⁹ and asked the governor to dissolve the Assembly. A deputation was selected to convey the resolutions of the meeting to the governor.

The incident offered Kennedy the opportunity to present his case directly to the people. He stated that the matter of an official residence was in fact an emolument of the office of governor; a residence was provided by every colony. The governor defended the proposed figure of £3,000²⁰ as his salary by alluding to Vancouver Island's recent experience

19 Colonist and Chronicle, 12 April 1864.

20 Kennedy's apparently high salary should be considered within the following context: "The office [the governorship] was not an attractive one, even if one disagrees with Sir Edmund Head, who called it the worst job in the world. The pay was shamefully low. The term of office was six years and the governor had to purchase an outfit costing between £1000 and £4000, while the Treasury gave him an allowance of only £400, with which to buy all the necessities of life. If he were a poor man he would have to borrow the money; if he was well-to-do he would lose much of his fortune. As a consequence most of them were poor; an opulent governor being rarer than a black swan. Salaries ranged from £10,000 at Victoria down

with "cheap officials," a reference to previous defalcations and embezzlements by underpaid colonial officials.²¹ He criticized the House's action with respect to the Crown lands as tardy—by the time the February resolutions reached England, Parliament would have adjourned for the year and thus there would be no decision made until 1865 concerning the ownership of land—and productive of irregularities in the proper tenure of land. Kennedy further rebuked the House for sending the resolutions to England without the concurrence of the Legislative Council.²² He concluded by stating that he would not dissolve the Assembly but that he would not hesitate to do so in the future if it failed to be repre-

to £500 at Heligoland, Nevis, and Montserrat. The average was about £2700 and on this salary he had to live as befitted a governor. At the conclusion of his term of sublime exile, during which he held a high position in the colony, he returned home to obscurity, neglect, and poverty." Arvel B. Erickson, "Edward T. Cardwell: Peelite," Transactions of the American Philosophical Society, New Series, XLVIII, (Part 2, April 1959), 32-33. Moreover Kennedy, unlike his counterparts in numerous other colonies, received no expense allowance, and his official entertainment of visiting dignitaries, naval officers, local notables, etc. as well as to host the Queen's birthday ball and other semi-official occasions entailed an additional tax upon his salary.

21 In 1859 Alexander Caulfield Anderson, collector of customs, was dismissed from office for negligence. In 1861 Messrs. John D'ewes, the postmaster, George Tomline Gordon, the treasurer, and Jeremiah Nagle, the harbormaster, defaulted.

22 Like the Executive Council the Legislative Council was a derivative of the advisory-legislative Council of Vancouver Island (1851-1863), and was first convened in September 1863. It was composed of eight councillors, five of whom were the principal officers of the colony and three private citizens appointed by the governor. The governor was not a member.

23
 sentative of the people.

Backed by this groundswell of public opinion, Kennedy felt confident that Newcastle's proposals would be accepted and the salaries of the principal officers voted.²⁴ Kennedy apparently thought that if the resolutions were submitted to the Legislative Council, and rejected, they would in the opinion of the Colonial Office lose all force and the Assembly might thereby be induced to reconsider or reverse them. With the approval of the Executive Council, Kennedy sent the resolutions to the Legislative Council, which began debate on them on 14 April. On the 27th, Alexander Watson, colonial treasurer and ex-officio councillor, proposed that the Legislative Council disagree with the Assembly in the opinion that the Crown and general revenues will not justify the acceptance of Newcastle's civil list, that the Council concur with the House that the total separation of colonies would be injurious to both and would make union, at a future date, impracticable, and that an administrative and legislative union, which permitted the co-existence of the free port and

23 Newspaper accounts of Kennedy's response to the address of the delegation vary depending upon the editorial points of view. The account above is based on statements with which the three newspapers substantially agree. Colonist, 13 April 1864, Chronicle, 13 April 1864, and the Victoria Evening Express, 13 April 1864. In a separate despatch (Kennedy to Newcastle, 14 April 1864, Despatches to London) Kennedy writes: "I must however add in conclusion that my own Replies and remarks to Deputations are very incorrectly reported."

24 Kennedy to Newcastle, 27 April 1864, Despatches to London.

tariff systems, be secured for the colonies.²⁵ This schema would have met with a very favorable reception from the governor and the Crown. On 29 April, however, Councillor Donald Fraser, London Times correspondent, local landowner, and business promoter, unexpectedly introduced an alternate series of resolutions concurring with the action taken by the Assembly. Over the opposition of Watson and Cary, by votes of 3-2, this latter group of resolutions passed the Legislative Council on 2 May; if Surveyor General Joseph Despard Pemberton had voted with his government colleagues, as it was his duty to do, Fraser's resolutions would never have passed.²⁶

Kennedy's manoeuver had failed. On it he had pinned his hopes of having the Crown's point of view accepted in the current legislative session. The Legislative Council's action actually compounded the constitutional crisis that had existed prior to Kennedy's arrival in the colony. Admitting defeat, Kennedy informed the Colonial Office during the first week in May that he did not expect any favorable turn of events from the legislature and that he would prorogue it shortly. He also offered the personal observation that, contrary to the contention of the legislature, the colony's resources were sufficient to meet the financial requirements of

²⁵ Minutes of the Legislative Council of Vancouver Island, 27 April 1864.

²⁶ Ibid., 29 April, 2 May 1864.

Newcastle's proposals of June 1863 (£5800). He agreed, however, that the separation of Vancouver Island and British Columbia would prove injurious to both colonies, but that the legislature's solution to this problem—a return to the executive union that had existed from 1858-1864—was "impracticable" because any type of reunion with British Columbia "must be in accordance with the wishes and interests of the people of both Colonies";²⁷ and British Columbia's Legislative Council, in its sitting on 3 May had resolved²⁸ against such a union. That being the case, Vancouver Island's resolutions constituted "a simple waste of time."²⁹

Kennedy erred, however, in his opinion that nothing favorable to the Crown could be expected during the current session. In May, Edward Cardwell replied to the February resolutions, as indicated previously, instructing Kennedy to pay his and the Colonial Secretary's salaries, £3000 and £600 respectively, from Crown revenue and to place the salaries of the other principal officers at the mercy of the legislature. He concluded by requesting Kennedy to send his views on union to the Colonial Office and to discuss them

27 Kennedy to Newcastle, 5 May 1864, Despatches to London.

28 Enclosure in Kennedy to Newcastle, 5 May 1864, PRO mf., CO 304/22, p. 194.

29 Kennedy to Newcastle, 5 May 1864, Despatches to London.

freely with his counterpart in British Columbia.³⁰ Cardwell simply called the island's bluff; as his subordinate Arthur Blackwood phrased it, if the Assembly would not vote salaries then it must suffer the degradation of its (not simply the Crown's) civil service.³¹

Kennedy received the despatch in June and forwarded it to the Assembly,³² where Speaker Helmcken obstinately moved that the salaries of the attorney general, surveyor general, chief justice, and treasurer be paid from the Crown revenue. The motion carried the House.³³

Kennedy, following the firm line of the Crown, rejected this.³⁴ Helmcken then decided to accept Newcastle's proposal to avoid plunging the affairs of the colony into "inexplicable confusion." "If these salaries were not paid [by the Assembly]," Helmcken warned, "the Government could not collect the taxes, the colony could not pay the interest on its loans, and the country would fall into indelible disgrace."³⁵ De

³⁰ Cardwell to Kennedy, 30 April 1864, Papers Relative to the Proposed Union, p. 5.

³¹ Minute on Douglas to Newcastle, 12 Feb. 1864, PRO mf., CO 305/22, p. 22.

³² Evening Express, 28 June 1864.

³³ Colonist, 30 June 1864.

³⁴ Ibid., 1 July 1864.

³⁵ Ibid., 2 July 1864.

Cosmos objected to this course of action and countered with a motion that was, in a few day's time, accepted by the Assembly and governor alike: the Assembly would indemnify the governor for any loss he might incur if he agreed to pay the salaries from Crown revenue.³⁶ De Cosmos's compromise permitted the Assembly to persist in its refusal to accept permanently Newcastle's financial requests, thus keeping alive its objections to the total separation of the colonies, and by enabling the governor to pay his officers and get on with the business of running a government. Kennedy, apparently satisfied for the moment with the strengthened position of the Crown within the colony, prorogued the Assembly on 8 July 1864.

The government officials of Vancouver Island were appointed by the Crown and held office during the "pleasure" of the sovereign; the Assembly's vote of indemnity was an annual rather than permanent supply vote, which meant the salaries of the Crown officers were subject to the "pleasure" of the House, a principle appertaining only to those colonial governments which were "responsible." It is apparent that the Crown and governor could not have been expected long to endure

³⁶ Chronicle, 3 July 1864. The Assembly was making itself liable in two ways: first, the Crown revenue might not be sufficient to support all the salaries, which was a distinct probability, and second, the Colonial Office might not endorse Kennedy's acceptance of this arrangement and instead hold the colony accountable for all sums improperly disbursed.

such an encroachment of their rights. Kennedy accepted the indemnity arrangement as an expedient only and submitted the matter to London for a final decision, but he had not given up the battle to have Newcastle's original proposal accepted. Kennedy remained optimistic; he told Cardwell on 13 July that the forthcoming session of the legislature would occasion a more favorable response to the civil list question.³⁷

Another consideration involved in the Assembly's decision to reject Helmcken's proposed acceptance of Newcastle's offer was the report in June of a committee of the Assembly investigating the status of the Crown lands. This report warned that exchanging the civil list for control of Crown land revenue would be disadvantageous to the colony unless the land that had been given to the Hudson's Bay Company by virtue of settlement prior to 1849 were included in the bargain.³⁸ This land, the Hudson's Bay Company's "anterior claims," which had been recognized by some Secretaries of State for the Colonies and not by others during the 1850's, consisted of 3084 acres of very valuable land in downtown Victoria, on the waterfront, and in the outlying areas. These claims were finally upheld by the Crown in the Indenture of 1862, the financial arrangement that had begun the reconveyance of the island from the

³⁷ Kennedy to Cardwell, 13 July 1864, No. 45, Despatches to London.

³⁸ Peter Fourie Palmer, "A Fiscal History of British Columbia in the Colonial Period," (unpublished Ph. D. thesis, Stanford University, 1932), p. 247.

Company to the Crown. The majority of members in the Assembly were highly interested in gaining control of this choice real estate and thus denounced the Crown's giving it to the Company and Newcastle's deal which omitted any reference to it.³⁹ This clique, led by De Cosmos and opposed by Hudson's Bay Company employees Helmcken and Tolmie, was more desirous of obtaining these three thousand acres than Vancouver Island's other twelve million, along with the timber and mineral rights thereto, which Newcastle had offered in exchange for the civil list.

At this juncture, during the last week in July, gold was discovered at Sooke River, just twenty miles from Victoria, a consequence of the Vancouver Island Exploration Expedition. This expedition was created in the spring of 1864 by a group of private citizens in Victoria. While returning from an inspection of the Goldstream quartz mines in April, Kennedy remarked to members of his party that he would do anything in his power to encourage the development of the colony's resources. He further stated that he had a fund at his disposal from which he would contribute two dollars for every one raised by private subscription for the purpose of subsidizing a resource reconnaissance mission.⁴⁰ The fund to which Kennedy referred had recently been voted by the House of Assembly after years of exhortation by former Governor Douglas. By June the group of

39 Colonist, 17, 18, and 24 June 1864.

40 Ibid., 21 April 1864.

local businessmen, legislators, explorers, and naval officers had organized and despatched Dr. Robert Brown and his party to explore the southern half of Vancouver Island. Kennedy's efforts in this regard were warmly applauded by the Colonist.⁴¹

At Sooke there appeared to be "payable diggings" for thousands of miners, the Colonist reported, and men immediately left.⁴² "Every one here has gone cracked about the Sooke mines & the place is becoming depopulated," one Victorian declared. "The wise men who remain are asking \$6 per day for their valuable labor."⁴³ Kennedy himself observed that the value of gold would, in effect, be four times as much as Cariboo gold "owing to its proximity to this City, the cheapness of provisions as compared with the prices at other diggings and the easy access by land and by water."⁴⁴

Suddenly the value of the Crown lands appreciated dramatically. With the concurrence of his Executive Council⁴⁵ Kennedy decided to convene the Assembly to reconsider

⁴¹ Ibid., 25 April 1864. See also Andrea Judith Walker, "Robert Brown and the Vancouver Island Exploration Expedition of 1864," (unpublished B. A. essay, University of Victoria, 1967).

⁴² Colonist, 29 July 1864.

⁴³ Edward Graham Alston to Henry Pering Pellew Crease, 3 August 1864, Crease Collection, PABC.

⁴⁴ Kennedy to Cardwell, 30 July 1864, Despatches to London.

⁴⁵ Minutes of Executive Council of Vancouver Island, 11 August 1864.

Newcastle's proposal.⁴⁶ For the Assembly to refuse to accept the Crown lands in exchange for a permanent civil list, it would clearly risk losing all the prospective revenues that could fairly be extracted from mining licenses, gold export duties, and the like. Giving only four day's notice, Kennedy summoned the legislature to convene on 20 August 1864. On the same day, the Colonist for the first time lashed out at Kennedy, characterizing his hasty and ill-advised failure to give proper notice as establishing a dangerous constitutional precedent.⁴⁷

The customary practice was to give fourteen days notice so that all members might have sufficient time to assemble on the specified date. In a country with far-flung electoral districts the need for such a law is manifest; in Vancouver Island the practice was hardly necessary. Almost all its legislators lived in or about Victoria; to them four days' notice was as good as four months'.⁴⁸ This being so, there could not have been any plot by the government to give advanced notice to its supporters, pack the rump House, and railroad through its program. For Governor Kennedy, who had no experience with the technicalities of representative

46 Kennedy to Cardwell, 16 Aug. 1864, No. 54, Despatches to London.

47 Colonist, 20 Aug. 1864.

48 British Columbian, 27 Aug. 1864.

government, it was an explicable error.

Kennedy's opening speech to the Assembly emphasized the altered circumstances of the Crown lands-civil list question, pointed to the need for the enactment of adequate mining regulations, and alluded to union with British Columbia.⁴⁹ After two subsequent sittings, one of which was dominated by De Cosmos's discourse on the illegality of the present session of the House, complete with statutory citations from the era of George III, the Assembly informed Kennedy on 26 August of its opinion that the failure to give the usual notice of two weeks raised doubts as to its legal constitution, an opinion with which the Legislative Council concurred. Kennedy, as nearly as one might expect a governor to apologize for an error, submitted to legislative wishes.⁵⁰ He issued a new summons for the legislature to convene on 12 September.⁵¹ Kennedy, no doubt earlier confident that the gold rush had given him the upper hand, was guilty of a transgression, and the Assembly, refusing to take the proffered bait, was eager to embarrass him for it.

The two principal political issues in the autumn of 1864 were union with British Columbia and the debate over the control of Crown lands in the Assembly. On 14 October, by

49 Chronicle, 21 Aug. 1864.

50 Colonist, 27 Aug. 1864.

51 Chronicle, 28 Aug. 1864.

the vote of 6-5, the Assembly passed a series of resolutions recommending that there be a federal union of the two colonies under a single governor and a council in which each colony would have equal representation; that federal jurisdiction would apply in matters of common interest, but separate legislatures would retain all powers relating to taxation; "that the Crown revenues be the property of the Federal Government"; that Governor Kennedy enter negotiations with Governor Seymour to effect such a union; and that all questions of difference, except the free port, be decided by the Secretary of State for the Colonies.⁵²

The debate on the Crown lands arose out of an exchange of correspondence between Kennedy and the Colonial Office. On 4 June 1864 Kennedy reported that the accounts of the colony had never been sent to England for audit.⁵³ He reported as early as 5 May 1864 that the Assembly dealt "with various items of 'Crown Revenue' as assets for general colonial purposes."⁵⁴ Cardwell replied that the Crown revenues must be accounted for.⁵⁵ On 31 October, Kennedy informed the Assembly that if it did not accept the Crown's proposal with

52 Ibid., 15 Oct. 1864.

53 Kennedy to Cardwell, 4 June 1864, No. 32, Despatches to London.

54 Kennedy to Newcastle, 5 May 1864, separate, Despatches to London.

55 Chronicle, 2 Nov. 1864.

respect to a permanent civil list, he would audit the Crown revenues and order the repayment of all sums extracted from it for colonial purposes.⁵⁶ Despite Kennedy's clear determination to have enough money to run his government, the Assembly refused to accede to the Crown's proposition. On 22 November the Assembly resolved not to vote a civil list in exchange for the Crown lands until the "extent and nature of said Crown Lands" be determined and submitted to the House. The Assembly further rejected the validity of the Hudson's Bay Company's claims to land rights that had been recognized by the Crown in 1862.⁵⁷

By the end of 1864 the politics of Vancouver Island had changed very little. The legislature still refused to come to realistic terms with the consequences of separation from British Columbia. The Legislative Council, and, especially, the House were not sufficiently confident of the colony's economic future to pay £5,800 per year (out of an annual colonial revenue of £30,000-£40,000) for the Crown's major officers and at the same time provide for the other expenses of supporting a colony without a continuing subsidy from the mainland. Twice in the year the Assembly advocated the re-establishment of a confederation that would insure the island's political influence in British Columbia, with all

56 Ibid., 2 Nov. 1864.

57 Ibid., 23 Nov. 1864.

the financial advantages that that influence had secured in the past. A close reading of the union debates reveals that island politicians constantly stressed the types of advantages British Columbia entailed for Vancouver Island without considering whether or not British Columbians held a reciprocal view of Vancouver Island. Kennedy observed after only a few weeks in the colony that "re-union must be in accordance with the wishes and interests of the people of both Colonies" and that British Columbia was on record as being opposed to union. Mainland colonists could hardly be expected to exchange their newly-won independence for a system of government against which they had protested for more than three years. This being the case, the legislature's only real chance of re-establishing a link with British Columbia was to modify its terms instead of making its free port non-negotiable and to enlist the aid of the Crown rather than humiliating its representative and refusing to co-operate with its short-range policies. It is a matter of record that the Crown was in favor of union for its own interests. Moreover, the Crown had in British Columbia, unlike Vancouver Island, the requisite executive power to promote its interests.

III Union Proposed and Kennedy's First Budget

The economic prospects of the year 1865 did not bid fair. In 1864 government revenue began to lag behind expenditure. In 1862 Governor Douglas had contracted a \$194,000 loan, principally to finance the improvement of Victoria's poor harbor. In 1864 no less than three supplementary measures, necessary for the continued undertaking of the dredging project, had to be approved by the House.¹ The demand for goods and services by merchants and miners in the Cariboo goldfields, the main source of Victoria's livelihood, appears to have fallen off. According to a contemporary observer, the period from 1863 to 1865 was marked by overtrading, speculation, and overstocking in the Cariboo market by Victoria's commission merchants,²—in short, an overextension of the resources of Victoria which could have been made good only in the event of a major increase in the discovery and extraction of gold. Other bad omens appeared such as the collapse of the finances of the city of Victoria,³ the

1 Palmer, "Fiscal History of B. C.," pp. 253-254.

2 E. Graham Alston, Historical and Political Summary for Ten Years, 1858-1868, typescript, PABC.

3 Palmer, "Fiscal History of B. C.," pp. 254-255.

accumulating arrears in the collection of real estate taxes,⁴
 and the fact that imports to Victoria were increasing and
 exports were declining.⁵ The only favorable news was the
 discovery of gold in the Kootenay district.⁶

This gloomy economic horizon was made considerably darker by the expectation of Victorians that British Columbia would shortly institute some measure encouraging the direct importation of goods to New Westminster from overseas and, accordingly, penalizing those shipped via Victoria. Such a measure would cripple Victoria by rendering her goods less competitive in the already sagging market. De Cosmos, anticipating the vindictive trade policy, reintroduced the question of union with British Columbia. Exploiting the public's apprehension over the unfavorable trade picture and the rather large deficit budget that had been the subjects of recent public meetings, the Colonist proposed union with British Columbia as the only alternative to the high cost of supporting a government with so many officials.⁷ In reply, the Chronicle argued that the "first condition of a union will be the entire abrogation of free trade and the adoption of a uniform tariff with the neighboring colony. Any

4 Kennedy to Cardwell, 1 Aug. 1864, No. 50, Despatches to London.

5 Colonist, 9 Jan. 1865.

6 Ibid., 4 Feb. 1865.

7 Ibid., 18 Feb. 1865.

proposition short of this, British Columbians would not entertain for an instant."⁸

This "abrogation of free trade" De Cosmos was prepared to accept in order to attain union. On 24 January he introduced a resolution in the Assembly:

That this House, after having taken into consideration the present state of the Colony, is firmly convinced that it is expedient at the present time to observe the strictest economy in the public expenditure compatible with the efficiency of the public service.

And that the immediate Union of the Colony with British Columbia under such constitution as Her Majesty's Government may be pleased to grant, is the means best adapted to prevent permanent causes of depression, as well as to stimulate trade, foster industry, develop our resources, augment our population, and ensure our permanent prosperity.

And this House pledges itself, in case Her Majesty's Government shall grant such Union, to ratify the same by legislative enactment, if required.⁹

With amazing despatch, by a vote of 8-4 the following day,¹⁰ the Assembly reversed the position it had consistently advocated through 1863 and 1864 and accepted the resolution endorsing union without attaching any conditions.

The resolution was opposed by those federationists, usually connected with the mercantile class of Victoria, who refused, despite the settling commercial depression and the

8 Chronicle, 20 Jan. 1865.

9 Ibid., 25 Jan. 1865.

10 Ibid., 26 Jan. 1865.

anti-Victoria orientation of British Columbia's tariff policy, to be stamped into memorializing the Crown for a constitutional arrangement with the mainland that might endanger the existence of the free port. This class of conditional unionists, heretofore representative of the majority opinion on the island, held that the free port policy had made Victoria the principal commercial depot in the North Pacific and the center from which British Columbia's entire business was conducted. The free port of Victoria was thus expressive of the material progress of British Columbia and Vancouver Island, important components in furtherance of imperial interests in the Pacific and Asia. Twice during 1865 merchant groups such as the Victoria Chamber of Commerce petitioned the Crown to retain the all-important free port status of Victoria in any prospective union between Vancouver Island and British Columbia.

The unconditional unionist position was made even more decisive when De Cosmos challenged Charles Bedford Young, who had voted against the union resolution, to each resign his seat to test the will of the voters of Victoria. With two seats now vacant, additional candidates stepped forward to enter the contest. Leonard McClure, ¹² editor of the Colonist,

11 Papers Relative to the Proposed Union, pp. 32-33.

12 Leonard McClure (1836-1867) came to Victoria in 1859 as an experienced printer and journalist. He was the partner of Capt. Edward Hammond King in the Victoria Gazette, 1859-1860. In 1860-1861 McClure served as mayor of New

joined De Cosmos, while Gilbert Malcolm Sproat,¹³ business-
man, teamed up with Young. On 13 February, after some of
the largest political rallies and public debates held in the
colony, De Cosmos and McClure topped the polls in the four
man race by a substantial margin.¹⁴

Governor Kennedy transmitted the resolution to the
Colonial Office on 21 March.¹⁵ He had for some time been an
advocate of union, even if that policy entailed the abolition
of his office.¹⁶ In another despatch written on the 21st,

Westminster and published a pro-Douglas newspaper, the New
Westminster Times. In 1861 McClure started up the anti-Douglas
Victoria Press. In 1863 he represented to the Colonial
Office the grievances of Vancouver Islanders against the
Douglas regime. From 1864 to 1866 McClure was the editor
of the British Colonist. In 1866 he began publishing the
Victoria Evening Telegraph and agitated for the annexation
of the colony to the United States. McClure left Victoria
in Dec. 1866 and, for a brief period before his death in 1867,
edited the San Francisco Times.

13 Gilbert Malcolm Sproat (1834-1913) came to Victoria
as the agent of the London shipowners and shipbrokers, Ander-
son and Company. In 1862 he became a commission merchant and
underwriter. From 1866 until 1868 Sproat, along with Donald
Fraser and Alexander Grant Dalles, lobbied in London to
relocate the capital to Victoria. In 1869, after the death
of Gov. Seymour, Sproat actively sought the governorship of
B. C. He had scholarly interests in the Indian peoples of
the northwest coast and in the early his-tory of B. C.

14 Colonist, 14 Feb. 1865. The election results were:
De Cosmos 232; McClure 219; Sproat 163; and Young 149.

15 Kennedy to Cardwell, 21 March 1865, No. 14, Des-
patches to London.

16 Kennedy to Newcastle, 5 May 1864, Despatches to
London.

Kennedy reported on the necessity of uniting the colonies "under one Governor, one Legislature, and equal laws." As it was, the colonies individually were too small for "healthy political action." Common Indian, commercial, and postal policies were needed. For example, separate commercial policies could entail a large expenditure of the protectionist colony to suppress smuggling from its free-trading neighbor. Kennedy regarded the colony's decision to abandon the free port as removing "the only serious difficulty which has hitherto beset this question."¹⁷

The Colonial Office received the Assembly's resolution in May. It sympathized with Vancouver Island's position but at the same time recognized that British Columbia's Legislative Council was on record, and Governor Seymour concurred, as vigorously opposed to union. "Potential Imperial reasons might suffice to override the wishes of the B. C. Colonist," Arthur Blackwood wrote, "but it would be at the risk of a great deal of dissatisfaction and clamor: and much as V. V. Isld. may wish for the Union I doubt if the time has arrived for the accomplishment of any such measure." In any case, the office was just too busily engaged in other matters—the Canadian ministers' conference and the West African re-organization—to spare time to consider "so large a Question

¹⁷ Kennedy to Cardwell, 21 March 1865, No. 16, Despatches to London.

as that of Union of Vancouver [Island] with British Columbia,
or a remodelling of the Constitution."¹⁸

Kennedy delayed transmitting the union resolutions to London until he could learn Seymour's views on the subject. In February 1865 Kennedy wrote to Seymour informing him that the House resolution, coupled with the defeat of the free port candidates, removed "the only serious obstacles to union." Kennedy revealed that he was prepared to dissolve the House and submit the question of union to the people so that the Crown could without any doubt proceed with union.¹⁹ Apparently, Kennedy was not aware that Seymour was privately, as well as publically, in agreement with the hostile anti-union views of his Legislative Council and that Seymour had defended them in despatches to London in 1864. In one Seymour wrote:

The strong opinion I have to express is that it is simply impossible, in my opinion, to govern satisfactorily the district of Cariboo from Van Couver Island. Victoria cannot, in my opinion, ever again be the seat of Govt. for the vast Territory of British Columbia.²⁰

¹⁸ Minute on Kennedy to Cardwell, 21 March 1865, PRO mf., CO 305/25, pp. 206-208.

¹⁹ Kennedy to Seymour, 27 Feb. 1865, enclosed in Kennedy to Cardwell, 21 March 1865, PRO mf., CO 305/25, pp. 209-213. Kennedy remarked in this communication that by placing the negotiation of union in imperial hands, the Assembly was probably agreeing in advance to the abolition of representative government.

²⁰ Minute on Kennedy to Cardwell, 21 March 1865, PRO mf., CO 305/25, pp. 205-206.

Seymour, after nearly a month's time, sent back a hurried note affirming the wisdom of his people's antipathy to union.²¹ Kennedy had incorrectly assumed that Seymour was in agreement with the Crown's policy of ultimately uniting the colonies.

Seymour was not only opposed to union, he was at this time encouraging (again contrary to imperial policy) fresh obstacles to union by assenting to the Legislative Council's offensive to make New Westminster, vice Victoria, the commercial center of the entire area: first, by passing the Gold Export Duty, which would reduce the efflux of gold to Victoria and divert ready cash to government coffers at New Westminster to be used to finance improved communications between that city and the goldfields;²² secondly, by passing the already mentioned British Columbia Customs Amendment Ordinance which gave goods coming to New Westminster directly from overseas a distinct competitive advantage over goods shipped via Victoria to the mainland;²³ and finally, by decreeing that all vessels bound for the northwest coast of British Columbia had to make the hazardous journey up the Fraser river to

²¹ Seymour to Kennedy, 23 March 1865, enclosed in Kennedy to Cardwell, 25 March 1865, PRO mf., CO 305/25, pp. 218-219.

²² Colonist, 4 Feb. 1865.

²³ Ibid., 18 Feb. 1865; Papers Relative to the Proposed Union, p. 17.

New Westminster in order to obtain official clearance.

Thus, with its neighboring colony and governor being hostile to union and with the Colonial Office occupied with other pressing matters, Vancouver Island's prospects of an immediate union with British Columbia were exceedingly poor.

Once the Legislative Assembly had resolved for union at any cost, it attended to the consideration of Kennedy's budget. The estimates for 1865 totalled \$390,000, the largest in Vancouver Island's history. In order to understand the motivations that prompted Kennedy to submit such a large budget, particularly in view of the depressed state of the economy, it is necessary to avert to Kennedy's views of the civil service, whose needs formed such a prominent part of those estimates.

A more unfavorable state of political affairs could hardly have attended Kennedy's arrival. Equally deplorable in his view was the condition in which he found the colonial bureaucracy. While the political confrontation with the legislature was taking place during 1864, Kennedy conducted numerous examinations into the procedures and personnel of the executive branch. As a result of his findings, which he reported to London (and which, incidentally, constitute a strong indictment of the policies pursued by his predecessor),

24 Colonist, 10 March 1865.

he contemplated considerable reforms of the colonial administration.

Kennedy first turned his attention to the administration of justice. He quickly came to the conclusion that both Chief Justice David Cameron and Attorney General George Hunter Cary were incompetent, and that it would be useless to try to institute reforms in the judicial system as long as the incumbents remained in positions of authority. "These Gentlemen differ toto celo on points of Law, and the construction of Local Acts;" wrote Kennedy a few weeks after his arrival in Victoria, "and various proceedings which have come under my notice render it too obvious that there is a want of moral weight or Legal Knowledge on one or both sides, which is detrimental to the Public Interests. . . ." In the same despatch Kennedy advised the Colonial Office that an early decision be made with respect to Cameron's retention or retirement from office.²⁵

Cameron, for ten years the target of anti-government agitation, clearly owed his position to his brother-in-law James Douglas. In February 1864, with the retirement of Cameron's political cover at hand, the Assembly resolved for the Chief Justice's retirement and replacement by a qualified lawyer from England. Cameron agreed to retire if the terms of his pension would be guaranteed by the Legislature.

²⁵ Kennedy to Newcastle, 12 May 1864, Despatches to London.

Cameron was duly voted an annual pension of £500 to be payable at the time of his successor's arrival from
 26
 England.

The Colonial Office was reluctant to send out a replacement without a guarantee of salary and demanded a permanent
 27
 act to endow the office. So eager was the Assembly to replace Cameron that it made an exception to its stated policy of refusing to vote a civil list and passed "The Chief Justice's Salary Act," in October 1864. But until a new man could be selected and despatched from England, sometime in 1865, Kennedy had to endure the services of a chief justice who had never been to law school. He held Cameron responsible for fallacious judgments that disallowed the enforcement of some of the provisions of the real estate tax law, which in turn had resulted in a large loss of revenue to the colonial
 28
 government.

Pressing the investigation of Cameron's professional conduct Kennedy uncovered gross irregularities in the administration of estates in the Probate Court. In Kennedy's

26 William R. Sampson, "Cameron," Dictionary of Canadian Biography, ed. Marc La Terreur (Toronto, University of Toronto Press, 1972) X, 117; "An Act to provide for the retirement of David Cameron, Chief Justice of the Colony of Vancouver Island," A Collection of the General Statutes of Vancouver Island, Passed in the Years 1859, 1860, 1861, 1862, and 1863 [1864-1866] (Victoria, British Colonist Office, 1866), II, 318.

27 Minutes on Douglas to Newcastle, 3 March 1864, PRO mf., CO 305/22, pp. 34-37.

28 Kennedy to Cardwell, 1 Aug. 1864, Despatches to London.

view Cameron's negligence and, upon occasion, overt action facilitated the fraud and embezzlement of public monies by two court officers, the Registrar, Thomas G. Williams, and the assignee of the Court of Bankruptcy, William Culverwell, both of whom absconded from the colony without either handing over official accounts or settling debts. In addition Cameron obstructed the due course of the official inquiry. To officials in the Colonial Office the charges against Cameron were serious enough for them to consider dismissing him and withdrawing his pension, but the matter was dropped because prosecution of formal charges would entail considerable delay and complication to the appointment of a replacement.²⁹

Kennedy also disapproved of Attorney General Cary. Cary, colorful, extravagant, and erratic, was a well-trained and experienced lawyer who had been recommended to office by Sir Hugh McCalmont Cairns, Solicitor General of England.³⁰ Cary was also an able and loyal government supporter, having acted as "finance minister" for Governor Douglas while being a member of the Assembly (1860-1863). Kennedy objected to Cary's official conduct; he found that Cary made draws from the treasury, according to no rule or scale other than that

²⁹ Minutes on Kennedy to Cardwell, 15 June 1865, No. 38, PRO mf., CO 305/25, pp. 501-608.

³⁰ Minute on Kennedy to Newcastle, 12 May 1864, PRO mf., CO 305/22, p. 221.

custom, for legal services rendered the government.³¹

Kennedy disagreed with the practice, occasionally approved by the Colonial Office as a necessary evil, of compensating the attorney general for a low salary by granting him the right to practice privately and permitting him to charge the government for out-of-court services. As Kennedy pointed out, ". . . this system holds out a direct inducement to the Attorney General, and the Solicitors he may please to employ, to involve the Government in litigation with a view to their own gain and frequently to the detriment of the Public Service."³²

In August 1864 Kennedy asked Cary to resign on the grounds that he (the attorney general) had defaulted on private debts and, at the same time, improperly and belatedly accounted for over a thousand dollars belonging to the colony.

Cary resigned.³³ Kennedy was not satisfied with the amount of money Cary returned to the treasury and ordered suit to be brought against him in order to recover an additional 526 dollars. In January 1865 a Supreme Court jury upheld the government's claim.³⁴

³¹ Kennedy to Newcastle, 12 May 1864, Despatches to London.

³² Kennedy to Cardwell, 31 Aug. 1864, No. 64, Despatches to London.

³³ Alston to Crease, 26 Aug. 1864, Crease Collection; Kennedy to Cardwell, 22 Aug. 1864, 31 Aug. 1864, No. 61, and 31 Aug. 1864, No. 63, Despatches to London.

³⁴ Colonist and Chronicle, 27 Jan. 1865.

Kennedy found the state of the police, especially for a colony which had no armed military force, deplorable. The island's entire constabulary consisted of eleven men stationed in Victoria and one in Nanaimo. The policemen, he reported, were "a most undesirable class" and, because of a high turnover rate, ineffectual at their posts. Although the plan was dropped, presumably for lack of funds, Kennedy proposed to remedy the situation by importing trained police from Ireland, a practice he had pursued with success during his governorship of Western Australia.³⁵

Kennedy continued his investigations and his initial suspicions were confirmed in December 1864 when Horace Smith, Superintendent of Police, was charged "for having received numerous bribes to permit gambling in various public houses and for other immoral purposes." Although Smith was acquitted after two trials, testimony revealed that the policemen had "been compensating themselves for insufficient salaries, by receiving bribes on a large and systematic scale." Kennedy accused Police Commissioner Augustus F. Pemberton, who was also a stipendiary magistrate and governor of the gaol, of failing to report this corruption when he had sufficient evidence and of trying to prevent Smith from being brought to trial. Kennedy also sought to correct Pemberton's practice of appointing and dismissing subordinates according to

³⁵ Kennedy to Cardwell, 7 July 1864, No. 40, Despatches to London.

personal whim.³⁶ In an effort to bolster public confidence and introduce some efficiency in the force, Kennedy appointed a clerk in the Colonial Secretary's office, ex-naval lieutenant Philip J. Hankin³⁷ to Smith's former post.³⁸ Hampered by a staff shortage and poor funding, Hankin nevertheless performed his duties with vigor, honesty, and reliability. Hankin later served as colonial secretary and acting governor of the united colony of British Columbia.

One example in particular may be worth noting in some detail as indicative of Kennedy's view of administrative affairs. In June 1864 Surveyor General Joseph Despard

³⁶ Kennedy to Cardwell, 3 Dec. 1864, Despatches to London.

³⁷ Philip James Hankin (1836-c. 1923). After union Hankin's post was abolished by Gov. Seymour. Hankin returned to England where Kennedy introduced and recommended him to the Secretary of State the Duke of Buckingham and Chandos who promptly gave Hankin the Colonial Secretaryship of British Honduras. In 1868 Hankin was about to become col. sec. in Kennedy's administration in Sierra Leone when Buckingham, acting upon Seymour's criticism of the acting col. sec. of B. C., W. A. G. Young, replaced Young with Hankin. The press and officials in Victoria gave Hankin a cool reception; in fact, Seymour, who had denounced Hankin in two despatches to London, did not permit him to assume his position until April 1869, some three months after his arrival in the colony. Hankin served as col. sec. until Confederation and as administrator (acting governor) in 1869 and 1871. Hankin was presiding member of the Legislative Council in 1870 and following the introduction of representative government in 1871, was elected speaker. Hankin was also member of the Executive Council. Later in 1871 Hankin accepted a pension and returned to England where he became Buckingham's private secretary.

³⁸ Kennedy to Cardwell, 24 Dec. 1864, No. 111, Despatches to London.

Pemberton proposed, as was his habit, to draw \$10,000 from the treasury, subject only to the governor's approval.

Kennedy objected to making such large advances to an official who was not bonded,

and on making further inquiries ascertained that the Surveyor General (or his office) was virtually a Colonial Accountant, that he was the Officer who judges whether accounts coming into his office were correct, and then paid himself, thus destroying the usual, and proper check, had they been paid by the Treasurer.

Kennedy decided to have the surveyor general's accounts audited and transferred to the treasury, only to discover that the colony had at that time no auditor. He therefore informed his superiors in London that he proposed to hire the former auditor, Robert Ker, even though the Assembly had not made sufficient provision for the position.³⁹

Kennedy's refusal to tolerate improper behavior is also illustrated by his action in the case of Richard Golledge. Golledge, a former Hudson's Bay Company employee and private secretary to Governor Douglas, was given a temporary appointment by Kennedy as gold commissioner at Sooke in August 1864. Rumors soon began to reach Kennedy that Golledge "was leading an intemperate and disreputable life, addicted to drink and prostitutes." After confirming the veracity of these rumors, Kennedy summoned Golledge to answer these charges. Golledge's

³⁹ Kennedy to Cardwell, 4 June 1864, No. 31, Despatches to London.

tardy arrival in a drunken state virtually closed the case. The testimony of several witnesses was overwhelmingly unfavorable to Golledge. Kennedy suspended him and in due course dropped him from the public service.

Kennedy's approach to improving the public service was to standardize procedures and instill public confidence by eliminating corruption. On no less than five occasions during his first nine months of his governorship, Kennedy sent to London for reference works in order to make available to his staff the established principles of legal, penal, parliamentary, and commercial practice.⁴¹ Operating according to proper procedure, a competent, well paid, and respectable civil service could provide the necessary leadership for the colony's progress and at a cheaper cost than the sub-standard, inefficient, and, at times, dishonest type that Kennedy felt characterized Douglas's administration. The conviction that a sound civil service was essential to the colony's material progress, represented the core of Kennedy's political

40 Kennedy to Cardwell, 18 Aug. and 30 Nov. 1864, Despatches to London. Kennedy initiated in the Executive Council proceedings against Postmaster and Harbormaster Henry Wootten for being seen in public in a drunken condition; Kennedy's officers, however, refused to take action against Wootten. Minutes of the Executive Council of Vancouver Island, 14 Aug. 1865.

41 Enclosure in Kennedy to Cardwell, 7 July 1864, No. 42, PRO mf., CO 305/22, p. 333; Kennedy to Newcastle, 15 April 1864 and Kennedy to Cardwell, 7 July 1864, No. 42, 8 Oct. 1864, 6 Dec. 1864, and 8 Dec. 1864, Despatches to London.

philosophy.

It was with this desire to improve the civil service that Governor Kennedy considered the estimates for 1865. He submitted them to the House for approval in January. They amounted to \$390,000 or an increase over the actual expenditure for 1864 of \$106,000. The budget was, by conservative estimate, a deficit one to the extent of \$150,000.⁴² A full third of the \$390,000 budget was earmarked by Kennedy for the support and expansion of the public service. Kennedy asked the Assembly to vote all salaries except his own and that of his colonial secretary. Liberal allowances were made for office supplies, clerks, messengers, and contingency funds. He proposed to double the size of the police force and provide the outlying areas of Sooke, Comox, and Cowichan (in addition to Nanaimo) with paid magistrates and clerks. Kennedy requested funds (£300) to create a new office, that of crown solicitor, in order to assist the attorney general with the government's out-of-court legal business. In addition he doubled the attorney general's salary but made no reference to his usual privilege of collecting additional fees. Other examples of increased estimates for new offices and higher salaries abound under each of the administrative departments. Kennedy's figure of \$135,000 for "establishments" represented

42 Palmer, "Fiscal History of B. C.," pp. 257-259.

more than two-fold increase over the corresponding figure⁴³ for 1863.

Not only did the estimates make additional demands upon the colonial treasury, but in order to support the increased burdens on Crown revenues that had been made throughout 1864, Kennedy deducted Crown revenue from colonial revenue. He asked that the colony pay back the Crown \$49,000 advanced to it to pay salaries (per the indemnity arrangement) and to construct lighthouses. Kennedy also requested \$33,000 to improve the system of steamship communication with the mother country. The prevailing policy involved an annual subsidy of \$9,000 for a fortnightly service from San Francisco. Kennedy thought that a combination of subsidies from Vancouver Island, British Columbia, and the Crown might suffice to encourage a British line to carry mail, cargo, and immigrants directly from England and Panama. Among the other principal estimates were \$73,000 for internal improvements, \$10,000 for education, \$10,000 for immigration, and \$19,000 for⁴⁴ interest charges.

Reversing its position of 1864, the Assembly voted the salaries of the governor's private secretary and messenger⁴⁵ and agreed to pay the rent of his temporary residence. It

⁴³ Chronicle, 14 Jan. 1865; Colonist, 4 Feb. 1865.

⁴⁴ Minutes of Legislative Council of Vancouver Island, 21 Sept. 1864; Chronicle, 14 Jan. 1865.

⁴⁵ Colonist, 27 Jan. 1865.

also did the unexpected: it voted \$50,000 for a permanent governor's residence even though Kennedy had not asked for such a provision. The Assembly not only rejected Speaker Helmcken's motion that no funds be voted for a government house, it also turned down a proposal to build an "economical house." De Cosmos's motion to make available \$50,000 for a "commodious and ornamental house" was accepted virtually without debate.⁴⁶ De Cosmos refused to accept the charge of the free-traders that union automatically entailed the removal of the capital of the proposed united colonies from Victoria to New Westminster. No colonial politician, not even Sir James Douglas, defended Victoria's interests with more fervor than Amor De Cosmos. Contrary to Douglas and other "little islanders" such as Donald Fraser and G. M. Sproat, De Cosmos simply envisaged Victoria as a part, and an important part at that, of a larger and richer political and economic community. De Cosmos wanted to see Victoria the capital of that community and realized that a government house was necessary to that end.⁴⁷ Dr. Helmcken remarked in his memoirs that, with respect to this question, it was fortunate that he was defeated.⁴⁸ In the supplementary

⁴⁶ Colonist, 22 Feb. 1865.

⁴⁷ Ibid., 21 Feb. 1865, 22 Feb. 1865, and the Victoria Colonist and Chronicle, 23 Aug. 1866.

⁴⁸ John Sebastian Helmcken, Reminiscences (1892), typescript, PABC, p. 238.

estimates he submitted at the end of March, Kennedy suggested that this \$50,000 figure might be reduced by \$15,000 in order to better employ the money elsewhere. Despite the offer of free building sites by prominent landowners, Kennedy purchased "Cary Castle" and grounds from Mrs. Elizabeth Miles for \$19,000.⁴⁹

The majority of Kennedy's estimates were voted. Numerous items received little or no debate. One estimate, however, the reimbursements" (\$49,215.15), was not voted one cent. The Assembly, by refusing to reimburse the Crown for monies advanced to the colony (\$34,066.20), failed to make good its word given under the indemnity compromise of 1864. A more flagrant case of repudiation occurred when the House refused to vote any part of the \$15,148.95 the Crown had lent the colony for the construction of lighthouses. The Assembly had cancelled a debt owed directly to British taxpayers. In all, the Assembly voted \$298,618.25 for the support of the government for the year 1865, a sum about \$60,000 in excess of anticipated revenue.⁵⁰

On 7 March 1865 the House went into committee to provide additional ways and means to defray the \$60,000.⁵¹ After

49 Chronicle, 31 March 1865; Colonist, 26 April 1865.

50 Colonist, 8 March 1865.

51 Ibid.

entertaining numerous proposals to raise new revenues, the House eventually passed four measures. The first, the Harbor Dues Amendment Act, significantly increased the charges upon the value of imported goods. For example, according to the old rates specified by the Victoria and Esquimalt Dues Act of 1862, a shipment of goods valued at \$500 was taxed \$1.00; the same shipment was under the new legislation assessed \$7.50. In addition, the new law introduced a duty on imported vegetables.⁵² The second, the Stock and Carcass Act, imposed landing permit dues ranging from \$.50 on a yearling or a calf to \$5.00 for a horse or carcass of beef.⁵³ As well as being productive of revenue these first two measures were protective in effect,⁵⁴ a principle consistent with the colony's new "union and tariff" policy. The third, the Trade License Amendment Act, raised the tax on gross sales of auctioneers from $\frac{1}{4}\%$ to $2\frac{1}{2}\%$, increased the fee on a banking license from \$250 to \$1,000, imposed an annual tax of \$100 on opium dealers, reduced the annual license of pedlars from \$50 to \$10 but levied a $\frac{1}{2}\%$ tax on their gross receipts, and imposed a $\frac{1}{2}\%$ tax on wholesales of liquor

52 Vancouver Island Statutes, I, 191, II, 430.

53 Ibid., II, 432.

54 Palmer, "Fiscal History of B. C.," p. 266.

(liquor license fees remaining unchanged).⁵⁵ The last measure, the Salaries Tax Act, imposed a 1% tax on the earnings of any permanent employee of government, company, or individual. Annual remunerations less than \$727.50 were exempted.⁵⁶

Governor Kennedy gave his assent to the Appropriation Act (\$298,618.25) on 30 March 1865.⁵⁷ At the same time he sent a message to the Assembly asking for a supplementary vote of \$82,441.15 or approximately the amount the Assembly had refused to vote the first time round. Upon hearing the extent of the additional requests, De Cosmos stated in the House that they "had better take up a subscription to pay it."⁵⁸ A Colonist editorial warned that these new demands would be productive of discord among legislative-executive relations and result in a decline in the governor's popularity.⁵⁹ The Assembly did agree to a few of the governor's suggestions such as salaries for the treasurer and a gold commissioner for Sooke.⁶⁰ The Assembly, however, absolutely refused to

55 Vancouver Island Statutes, I, 257-259, II, 433-435.

56 Ibid., II, 446.

57 Ibid., p. 395.

58 Chronicle, 31 March 1865.

59 Colonist, 4 April 1865.

60 In the original debates on the estimates, the Assembly refused to vote the proposed salaries for outlying magistrates, clerks, land recorders, commissioners, etc. The refusal to vote a salary for a gold commissioner at Sooke, where there

reconsider voting anything towards the "reimbursements."

The grant of supplementary supplies and salaries totalled only \$14,940,⁶¹ thus bringing the colony's fiscal responsibilities for the year 1865 to \$313,458.25. To this figure must be added an extra supply vote of \$37,608.39 for the settlement of arrears from 1864.⁶² The colony was, as Arthur Blackwood remarked, "drifting into financial troubles."⁶³

Having committed the colony to unconditional union, the House during the spring of 1865 grew increasingly anxious to have the Crown achieve that policy. It was perhaps not coincidental that this anxiety manifested itself shortly after British Columbia launched its economic war against Victoria for the control of the declining profits of the Cariboo trade. The Assembly, sensitive to the increased costs of maintaining a government without the assistance of the Crown revenue it had enjoyed during the Douglas era, was also anxious to acquire title to the Crown lands. On 4 April Leonard McClure attempted to move a resolution to have a

was a real need for one, caused a petition to be circulated demanding that the governor appoint one. Kennedy told the delegation that he would forward the petition to the Assembly. The Assembly bowed to public opinion and voted the salary (\$1700).

61 Vancouver Island Statutes, II, 442.

62 Ibid., pp. 439-440.

63 Minute on Kennedy to Cardwell, 18 July 1865, PRO mf., CO 305/26, p. 94.

committee appointed to suggest to Governor Kennedy that \$5,000 be placed on the supplementary estimates to pay for a delegate to go to England in order to facilitate the settlement of the union and Crown lands questions. The Colonist editorial stated: "We must go to work and endeavor to have our difficulties settled before English Parliament is dissolved the present summer."⁶⁴ A conference with the Governor having taken place, McClure reported to the House that while Governor Kennedy stated he would co-operate with the House, he (Kennedy) felt that such a mission would not expedite action by the Colonial Office.⁶⁵

On 7 April, Speaker Helmcken advised the provisional acceptance of the Crown lands in return for voting a civil list in order to facilitate the union of the colonies. If the colonies remained separate, Helmcken urged, no civil list should be voted. De Cosmos opposed Helmcken's motion on the grounds that a civil list was by custom voted permanently, not provisionally.⁶⁶ There was also opposition for the oft-cited reason that by accepting the Crown lands as they were the colony was abandoning its claims against the Hudson's Bay Company.⁶⁷ McClure, in opposition to his usual alter ego

64 Colonist, 5 April 1865.

65 Ibid.

66 Ibid., 8 April 1865.

67 Ibid., 22 April 1865.

De Cosmos, repeatedly urged approval of Helmcken's motion not because it would force Cardwell to effect union but because the Crown lands were worth the cost of a civil list. As McClure stated in the House, "if we paid the Civil List we would receive the Crown Lands; if not, we must pay portions of the Civil List and get no benefit at all in return." Equally important, McClure stressed, acceptance would conciliate the Colonial Office.

68

On 3 May, by a vote of 5-3, the Assembly resolved that while it considered the civil list too high, it would vote it until 31 December 1866 in order to acquire the Crown lands and increase the prospects of union with British Columbia. The House, however, did not give up its claims against the Hudson's Bay Company to the title of Victoria waterfront and downtown property given to the Company by the Crown in 1862. In conclusion, the House stated that should the Crown fail to consummate union, the Crown's principal officers in the colony should be made responsible to the people or the people's representatives should vote a civil list as they think the colony's revenue so justifies.

69

Governor Kennedy transmitted a copy of the House resolution to the Colonial Office on 4 May 1865. With respect to

68 Colonist, 12 and 26 April 1865.

69 Chronicle, 29 April 1865.

the House's contention that the scale of salaries in the civil list proposed by Newcastle were "too high," Kennedy wrote:

I wholly dissent from this opinion and I think that much of the official scandal and defalcations which have occurred among the public officers in this Colony has resulted from the low salaries which failed to secure the services of men of capacity and character.

After explaining in detail the various high costs of performing his official responsibilities, Kennedy added, "that a Governor who exercises common hospitality and maintains his position in decency will leave this colony after his term of government poorer than when he commenced it." Kennedy also took exception to the Assembly's allusion to responsible government by stating that the colony's low population (6,000), low number of registered voters (1,051), and weak British element made "the introduction of such a measure . . . fraught with danger and mischief and opposed to the wishes of every sound thinking and loyal subject in the Colony."⁷⁰

Upon receipt of Kennedy's despatch in July, the Colonial Office instantly perceived that the Assembly's proposition to pay a provisional civil list was a simple ploy to force union. For the moment, the Colonial Office, content

⁷⁰ Kennedy to Cardwell, 4 May 1865, Despatches to London.

as it was that its officers in Victoria could be adequately supported by the Crown revenue, was not about to be driven "into incorporating V. C. I. with B. C. unless there was weighty and independent reasons" for doing so. At all events, union had to wait until Governor Seymour returned to London later in the year to discuss the question with Cardwell. Finally, on the subject of the Assembly's reference to responsible government Thomas Frederick Elliot, Assistant Undersecretary of State for the Colonies, remarked:

This Petty body at Vancouver is exceptionally obstinate and unmanageable, and is among the worst specimens of a Colonial Assembly. The idea of Responsible Government at such a place would be preposterous.⁷¹

Governor Kennedy prorogued the second session of the third Parliament on 7 July 1865. The Assembly, obsessed with obtaining from the Crown an alternative to Vancouver Island's enforced separation from British Columbia, met day in and day out for ten months. With respect to the most important political issues—union and the estimates—Kennedy and the Assembly were in substantial agreement. Yet executive-legislative relations were fast deteriorating in the early summer of 1865. The conflict was over legislation and, ultimately, over which of these two branches of government should take the lead in directing the affairs of the colony. In Kennedy's

⁷¹ Minute on Kennedy to Cardwell, 4 May 1865, PRO mf., CO 305/25, p. 378.

view the Assembly was not competent to consider constructive or imaginative measures and it should confine its activities to voting appropriations and raising taxes in order to enable the professional administrator to direct, in a workmanlike and independent fashion, the important business of the government. An examination of the statute book of Vancouver Island shows that Kennedy had his way. Of the sixteen legislative measures enacted in the 1864-1865 session, ten related either to appropriations or taxation. Of the remaining six only one merits attention. The Common School Act established non-sectarian, state-supported, and virtually free and universal education under the centralized control of a board and superintendent directly responsible to the governor.

The Assembly, if not incompetent, was certainly inexperienced in the legislative metier. Only one member, Helmcken, had sat in the first House upon its inception in 1856. In fact, most of the members of the third House were newcomers. This lack of legislative experience was evident in their framing of laws. The Legislative Council spent much of its time correcting errors in bills sent up by the lower house. The Assembly was aggressive and unwilling to conform to the docile role that Kennedy had seen fit to accord to it. It enacted legislation, including measures to reform the imprisonment for debt law and the franchise law, which were thrown out or pocket vetoed by the executive-dominated upper

house. For the Council's action the Colonist blamed the governor on several occasions. The Assembly also resented the fact that its power to investigate was curtailed by Kennedy's refusal to accede to its entire demands for government documents. Kennedy and his advisors were charged with suppressing the will of the people and illegally exercising legislative powers. In the words of the Colonist "the day of reckoning is coming."⁷²

72 Colonist, 7 July 1865.

IV Depression and Retrenchment

In 1865 the fiscal affairs of Vancouver Island seriously deteriorated. In June, Governor Kennedy, with the concurrence of the House, suspended the dredging of Victoria harbor. Almost a year earlier Kennedy had predicted to London that the project had been ill-advised and would likely "result in the useless expenditure of a large sum of money."¹ He was obliged, however, throughout 1864 and into 1865 to continue the project that Sir James Douglas and the legislature had so avidly promoted to enhance the commercial prestige of Victoria. The scheme was an utter failure; it consumed \$109,000 of the \$194,000 loan of 1862, which the colony was bound to repay at the rate of \$1660 per month.² The gold diggings at Sooke, while affording some miners a reasonable living and creating an additional market for Victoria trade, remained a small strike and did not significantly compensate Vancouver Island's large import-export economy for the decreased demand for goods in the neighboring colony. Based upon the figures of three of the large gold agents--Wells Fargo, Bank of British North America, and the Bank of British Columbia--British

1 Kennedy to Cardwell, 7 July 1864, Despatches to London.

2 Kennedy to Cardwell, 23 Jan. 1866, Despatches to London; Vancouver Island Statutes, II, 394.

Columbia exported 25% less gold in 1864 than in the previous year.³ British Columbia's imports, a majority of which had come from Victoria,⁴ were down a full third from the 1864 level.⁵ Even in the absence of any reliable evidence on the effect of the anti-Victoria tariff, these figures help to explain the depressed state of commerce and declining population of Victoria during 1865.⁶ Victoria's commission merchants, according to Kennedy, contributed to the depression by their reckless dumping of goods into the contracting Cariboo market, often for less return than the cost of the cartage.⁷

The government revenues of Vancouver Island fluctuated in sympathy with the economy of British Columbia. In the absence of incoming revenue Kennedy was forced in January 1865, in order to meet government expenditures, to make an arrangement with the Bank of British North America whereby the public account might be overdrawn by \$10,000 at the rate of one per cent per month. Later in the month this overdraft

3 Chronicle, 3 Jan. 1866.

4 British Columbian, 7 Feb. 1863.

5 Reply of the Victoria, V. I. Chamber of Commerce to His Excellency Frederick Seymour, Governor of British Columbia, Forwarded to the Secretary of State for the Colonies (Victoria, Colonist and Chronicle Office, 1 Oct. 1866), PABC, p. 27.

6 Kennedy to Cardwell, 3 Aug. 1866, Despatches to London.

7 Kennedy to Cardwell, 1 Dec. 1865, Despatches to London.

was extended by another \$10,000 in order to meet the debts of the Corporation of the City of Victoria, a measure agreed to in advance by the House. Current liabilities, such as the repayment of the Road and Harbor Loan of 1862 and the purchase, repair, and expansion of the governor's residence, necessitated an additional \$30,000 overdraft.⁸ In May 1865 Kennedy informed the Assembly of this arrangement when it became clear that revenues would not meet normal liabilities, let alone pay off the accumulating overdraft. The House chose to ignore the bad news; no new taxes were voted, although the governor's message may have had some bearing on the House decision to stop throwing money into Victoria harbor.⁹

The problem in Kennedy's view was not that government expenditures were so high—it was the duty of the colony to provide a governor's residence and defray the ordinary costs of government whether the times were prosperous or no—but that taxes were so low. In contradistinction to the view popularized by Colonist editorials that Vancouver Islanders were oppressively taxed, Kennedy complained that the colony's wealth was virtually untaxed. For example, in 1864 the

⁸ Colonist, 26 April 1865; Chronicle, 23 Dec. 1865; Kennedy to House of Assembly, 16 May 1865, enclosed in Kennedy to Cardwell, 23 Jan. 1866, PRO mf., CO 305/28, pp. 32-33.

⁹ Colonist, 13 May 1865.

assessed value of trade transactions in the colony was \$6,148,561. This figure yielded only \$56,013 in government revenue, or less than one per cent.¹⁰ Similarly, the real estate tax was only one per cent--when the government could collect it.¹¹ The additional ways and means for 1865, the Trade License Amendment Act and the Harbor Dues Amendment Act, supplied \$20,000 more than their predecessors had in 1864, but failed to close the widening gap between expenditure and revenue. The new one per cent income tax produced exactly \$999.69!¹²

Kennedy grew sufficiently apprehensive of the state of the government's revenues that in July 1865 he invited the colonial secretary, W. A. G. Young, treasurer, Alexander

10 Kennedy to Cardwell, 24 Aug. 1864, Despatches to London.

11 Kennedy was deterred from collecting taxes from delinquent property holders by Chief Justice Cameron's constructions of sections 42 and 43 of the Real Estate Tax Amendment Act of 1862. Cameron had ruled that property could not be alienated from its owner for the payment of delinquent taxes. Kennedy asked the Colonial Office for a legal opinion from the Crown's lawyers. Kennedy was duly informed that Cameron's interpretation was erroneous, and that the law was valid. Kennedy and his Executive Council then immediately decided "that the Treasurer should be directed to make out a list of defaulters in respect of real estate tax and hand the same to the sheriff for recovery." Throughout 1865 forced sales of land were conducted by Sheriff William Brook Naylor. The mere threat of forced sale was usually sufficient to persuade property holders to pay back taxes, particularly when land in or about Victoria was involved. Kennedy to Cardwell, 1 Aug. 1864, Despatches to London; Cardwell to Kennedy, 27 Oct. 1864, confidential, CO 410/1, PRO, pp. 504-505; Minutes of Executive Council of Vancouver Island, 26 Sept. and 28 Dec. 1864.

12 Chronicle, 23 Dec. 1865. The \$20,000 figure is evident

Watson, auditor, Henry P. Wakeford, and the assessor, Charles G. Wylly to constitute a board of inquiry into the probable condition of the colony's finances at year's end and "more particularly upon the deficiency of ways and means to meet the expenditure voted."¹³ The report of the board warned that a deficit of \$116,308 might be anticipated. Kennedy was advised to forego the expenditure of \$85,000, most of which had been earmarked for the construction of roads, bridges, and streets. The report stated that no great saving could be effected from the costs of running the government without either a total reorganization of the public service or an impairment of the efficiency of the government. In conclusion, the board recommended the continuation of the overdraft arrangement.¹⁴

Generally accepting the need for retrenchment, Kennedy spent only \$270,526 of the \$313,558 he was authorized to spend in 1865. He cut \$16,000 and \$30,000 from the operating costs of government and construction of roads, respectively. Revenue, however, amounted only to \$192,444. Kennedy's policy of borrowing funds, which by the end of the year stood at \$63,515, made up the difference between expenditure and

from a comparison of the actual revenue for the year 1865 as opposed to 1864.

13 Kennedy to Cardwell, 23 Jan. 1866, Despatches to London.

14 Enclosure in Kennedy to Cardwell, 23 Jan. 1866, PRO mf., CO 305/28, pp. 43-48.

15
revenue.

Kennedy convened the final session of the third Parliament on 28 November 1865. He announced the unfavorable news that the Crown's legal advisors had turned down the Assembly's claim against the agreement of 1862 between the Crown and the Hudson's Bay Company, giving the Company title to those lands it had settled in and around Victoria prior to 1849.¹⁶ On the question of union Kennedy had no news at all. Perhaps sensitive to the charge that he and the Legislative Council were obstructing the will of the people's representatives and willing to approach the Assembly with a conciliatory spirit, Kennedy proposed a full legislative docket that included some of the measures thrown out by the upper house in the last session.¹⁷ With regard to some of these bills, which include the improvement of the debtor law, the exemption of homesteads from liability, and the extension of jurisdiction of stipendiary magistrates, the Colonist stated:

Governor Kennedy and the Upper House have already received a good deal of abuse for their obstructive attitude last session, and we have no desire to recur to that disagreeable subject, especially when we see practical reformation as is evinced in bringing forward the very bills they had previously ignored. We hope therefore,

15 Colonist, 31 May 1866.

16 Chronicle, 30 Nov. 1865.

17 Ibid., 29 Nov. 1865.

we have seen the last of unwise interference on the part of the Executive with the bills of the Lower House.¹⁸

In addition, Kennedy referred to the want of means to equalize the government's costs and income.

Needless to say, Kennedy's speech was not well received by the Assembly, which was committed to union and opposed to the alienation of lands potentially within the grasp of the Assembly. The governor and his superiors in London were accused of remissness in their handling of these vitally important matters.¹⁹ The Colonist warned that little business would be transacted until the union question was settled.²⁰ The decision on the Hudson's Bay Company's lands, so long coveted by the Assembly, virtually doomed any agreement that might have been reached with the Crown along the lines Newcastle had proposed. In response to Kennedy's plea for more ways and means, retrenchment was the reply.²¹ From the rather blunt language in which the criticism of Kennedy was expressed it was obvious that the governor's popularity had all but disappeared.

The prospects of tolerable, let alone cordial, relations

18 Colonist, 29 Nov. 1865.

19 Ibid., 29 Nov. and 5 Dec. 1865.

20 Ibid., 29 Nov. 1865.

21 Ibid.

between the governor and the Assembly were all but non-existent. During the first working sitting of the new session, Dr. James Dickson, member for Victoria County and the colony's acting coroner, moved that expenditures should be made "compatible with the circumstances and wants of the people," and that the House should originate money legislation, a right reserved by the Crown for its exclusive use.²² De Cosmos charged Kennedy with the delay of the transmission of the House resolutions of June 1864 on Crown lands.²³ The House also during the first week of the new session "requested" from the governor all despatches, not extracts, relating to the June 1864 resolutions and the union resolutions of 1865.²⁴ Kennedy's representation to the Crown of the Assembly's positions was being called into question. Kennedy replied to the House by stating that without the approval of the

²² Chronicle, 30 Nov. 1865. Dickson's anti-government actions pose the interesting question of a member's right to dissent from government policy or custom while at the same time holding a government commission which binds that person to uphold such policy. Kennedy asserted that an officer of the Crown could not deviate from Crown policy even if he was a member of a representative institution. Similarly, the Colonial Office highly disapproved of the action of James Cooper who as harbor master of B. C. assumed an anti-Douglas line in the second House of Assembly of Vancouver Island. Cooper was ordered to New Westminster.

²³ Colonist, 5 Dec. 1865.

²⁴ Resolution of the Legislative Assembly, 7 Dec. 1865, enclosed in Kennedy to Cardwell, 16 Dec. 1865, Papers Relative to the Proposed Union, p. 33.

Secretary of State he could not comply, but that he would upon his own responsibility disclose extracts of relevant despatches.²⁵ Lest it be thought that he was conspiring with London against the unionist cause Kennedy reassured the House that he was firmly convinced of the necessity of union, which was about the only position he held in common with the dominant De Cosmos-McClure clique.

At the urging of McClure the House on 13 December endorsed the union resolutions of January 1865. The House also, perhaps animated by the self-assertive attitude it had displayed in recent sittings, agreed to a second resolution which asked the Crown for representative as well as responsible government for the united colony with the power to initiate the type and extent of money bills. It was also proposed that duplicates of the resolutions be sent to London direct in order to avoid delay or alteration by the governor.²⁶ The House thus reintroduced conditions to the form of constitution it wished to have for the united colony.

On 23 December, Kennedy's estimates for 1866 were published. They reflected the declining fortunes of Vancouver

²⁵ Kennedy to Speaker and Members of the Legislative Assembly, 12 Dec. 1865, enclosed in Kennedy to Cardwell, 16 Dec. 1865, Papers Relative to the Proposed Union, pp. 33-34.

²⁶ Colonist, 15 Dec. 1865. It was the Colonial Office's practice to receive written communication from the House of Assembly only after it had been forwarded by the Governor. Nevertheless, the Colonial Office did grant interviews to delegates who were sent to London.

Island. Whereas in January he asked the legislature for \$390,000, Kennedy now requested \$193,895. He estimated revenue at \$206,376 or approximately the amount actually received during 1865. The proposed expenditures did not include the colony's indebtedness to the Bank of British North America. Kennedy budgeted \$93,375.17, as opposed to \$135,000 for the previous year, for salaries and other costs of running the government. For everything else—interest on loans, conveyance of mails, education, hospitals, public works—only \$100,519.99 was requested. Thus, while the proportion of estimated government costs to the entire budget of 1865 was one in three, the corresponding ratio for 1866 was one in two. This \$93,375.17 figure for establishments was only about \$5,000 less than the amount actually spent for the same department in 1865. The budget clearly indicated that while Kennedy was prepared to cut road construction and the like to the bone, he would make no substantial cuts of funds for the public service. To Kennedy an amply-financed bureaucracy was a necessity, especially in depressed times.²⁷

The press's reaction was predictably unfavorable. The Chronicle criticized Kennedy for overdrafting in order to build his residence while the colony's real wants remained

27 Chronicle, 23 Dec. 1865.

28
 unsatisfied. The Colonist refrained from comment for a few days, until it was sure of the public's disposition. On 27 December the Colonist editorial summarized the estimates as beyond the colony's capacity. It questioned the propriety of spending \$56,453 for police, gaols, and the administration of justice in a colony, it claimed, devoid of major crimes and with only small numbers of minor crimes. The absence of any substantial commitment to public works was deplored. The editorial focused on Kennedy's estimated government costs, which it contended, amounted to \$113,000 or 60% of the entire budget. The Colonist likened Kennedy to

a merchant under a reverse of fortune commencing a reduction in his expenses by laying up his vessels, but retaining the captain and the crews; by closing up his stores, but continuing to pay his clerks and employees generally. Would we not think him deranged?²⁹

Thus, while Kennedy saw the need to maintain essential government services during hard times with an ample staff, the Colonist envisaged government as something akin to a joint-stock company which had to obey the economic imperative that depression invoked—let most public employees go. In the next day's editorial the Colonist not only reiterated the need for retrenchment, it ominously proposed a way to impose it: by repealing taxes.³⁰

28 Ibid.;

29 Colonist, 27 Dec. 1865.

30 Ibid., 28 Dec. 1865.

In January 1866 the Assembly went to work on the estimates. It struck the salaries of the governor's private secretary,³¹ one of the colonial secretary's two clerks, the clerks of the attorney general and chief justice, and the stipendiary magistrates of Nanaimo and Sooke. The police force was reduced to seven men. In the name of cutting costs the Assembly attempted a de facto reorganization and reduction of the executive department. It amalgamated the following offices: the treasurer with the harbormaster and postmaster, the assessor with the assistant surveyor general, the auditor with the clerk of the House, the governor of the gaol with the sheriff, the registrar of deeds with the registrar of the supreme court, and the superintendent of police with the stipendiary magistrate of Victoria. The estimates for office contingencies, stationary, government printing, fuel, allowances for witnesses and unpaid magistrates, and other miscellaneous costs were drastically reduced.³²

31 Enclosure in Kennedy to Cardwell, 24 Jan. 1866, Confidential, PRO mf., CO 305/28, pp. 76-80. In an informal communication with the Speaker of the House, dated 16 Jan. 1866, Kennedy made a special appeal to prevent his private secretary's salary from being stricken from the estimates. In a sympathetic and perceptive letter of 17 Jan., Speaker Helmcken stated that the political fever in the House virtually precluded any chance of an appropriation of Wakeford's salary. Taking a wider view of executive-legislative relations, Helmcken humbly advised Kennedy to "carry on the Government with the tools the Legislature provides, in the best way possible, and leave the responsibility of failure to them."

32 Kennedy to Cardwell, 23 Jan. 1866, Despatches to London.

The Assembly was not content merely to rearrange the governor's offices; it had other surprises in store for the incumbent. It voted an additional \$3,000 for the hospital and \$6,000 for education.³³ Pursuant to its resolution of 16 January to assume the power to originate money votes,³⁴ the Assembly proceeded to vote monies for items not proposed to it by the executive. "By a process in which can only be described as a general scramble among the Members of the Assembly," the monies saved by the curtailment of salaries and the like—about \$40,000—were voted for the construction of roads, streets, and bridges.³⁵ In all the House made unconstitutional allocations involving \$77,000.³⁶ Speaker Helmcken lectured the House for its treatment of the estimates, declaring that "The whole scheme from beginning to end looked too dictatorial, and was likely to bring the House into collision with the Executive and the Council"; he also stated that "the pruning knife had been used too rashly, in fact without discretion." McClure replied stolidly:

³³ Kennedy to Cardwell, 23 and 30 Jan. 1866, Despatches to London.

³⁴ Chronicle, 17 Jan. 1866.

³⁵ Kennedy to Cardwell, 30 Jan. 1866, Despatches to London.

³⁶ Kennedy to Legislative Assembly, 2 Feb. 1866, enclosed in Kennedy to Cardwell, 8 Feb. 1866, PRO mf., CO 305/28, p. 109.

If the Executive or the Council come into collision with the House, that was not the fault of the Assembly. What the members had to do was to carry out the public interest no matter what might be the consequence—and the House having asserted its right to originate money votes would maintain its position. The history of England showed numerous instances where both the Crown and Lords had to be coerced by the Commons for the public good.³⁷

In the end, the "retrenchment" House voted a budget of \$202,063 or about \$9,000 more than Kennedy had asked for.³⁸ The House appropriation measure, because of the reductions, augmentations, amalgamations, and innovations, bore little resemblance to Kennedy's original proposal.

Kennedy was antagonized by these actions. In a confidential despatch he complained that the absence of a civil list produced the present situation in which "no public officer has any reasonable assurance of the permanence of his office. A majority of one in the Assembly may at any time deprive him of his means of subsistence and thus corrupt and destroy all independence in those who remain." Kennedy accused the House of attempting to remove certain officers without compensation and in their places create new ones independent of executive control. More importantly, Kennedy denied the applicability of representative government to Vancouver Island, where there had been no organic development of constitutional principles, no control over lands, or

³⁷ Colonist, 27 Jan. 1866.

³⁸ Ibid., 8 Feb. 1866.

responsibility for a civil list. In addition, the Assembly was not proportionately representative of the colony. In tones reminiscent of his predecessor, he characterized its members as "notoriously insolvent" or as "reckless adventurers with small stake in the Colony," who wished to abolish or reduce property qualifications for candidates and electors to a point approaching universal manhood suffrage. Kennedy feared that this development would increase American and republican influences in the colony to the detriment of British interests; in December 1865 Helmcken and Tolmie had favored the extension of the franchise to Americans. Kennedy stated that dissolution of the current House would not remedy the situation because an election would not improve its composition; also he wrote that it would be unwise to dissolve a body committed to accept the union that the Crown may be pleased to grant. Kennedy cited the stable political conditions in British Columbia as indicative of the desirability of a nominative, over a representative, legislative body.³⁹

On 2 February 1866 Kennedy retaliated in a message to the House by reminding it of its duty to provide supplies requisite for the proper functioning of government. He lectured the House for allowing "party spirit" to justify false economy and to make the public service no longer the

³⁹ Kennedy to Cardwell, 24 Jan. 1866, Confidential, PRO mf., CO 305/28, pp. 63-75.

object of respectable and competent men. He announced that he had terminated the services of fourteen public officials and asked the House to compensate two of whom—the assessor and registrar general—had accepted office on the understanding that it would be permanent. Kennedy made it all too clear that he dissented from the House's usurpation of his right to originate money bills and stated that he could not recognize the House's attempt to administer the government. He refused to accede to the House's amalgamation of the auditor's office with the clerk of the House, stating that he could hardly hand over to an irresponsible Assembly an office for which he was responsible. Similarly, he stated that he would ask Superintendent of Police Hankin to stay in his position despite the attempted amalgamation of his office with that of the stipendiary magistrate of Victoria.⁴⁰ In a separate message to the House of the same date Kennedy added fuel to an already raging fire by announcing an amalgamation of his own: he had revoked the warrant of Dr. Dickson to act as coroner for Victoria and Esquimalt and that the office of this anti-government assemblyman was to be combined with that of Stipendiary Magistrate Augustus Pemberton.⁴¹

In contrast to the highly favorable public sentiment

40 Chronicle, 8 Feb. 1866.

41 Ibid., 3 Feb. 1866.

which Kennedy enjoyed during his bout with the House in 1864 over the matter of the official residence, public opinion had by this time shifted to the Assembly's point of view. On 27 January 1866 a large group of Victoria townspeople met to consider the proceedings of the House with regard to the estimates and the question of the union of the colonies. The gathering resolved to support the House in its scheme of retrenchment and its assumption of the power to originate and increase money bills. A resolution supporting union of the colonies was also passed.⁴² Two weeks later a meeting of Nanaimo residents resolved by a vote of 130-21 to support the House,⁴³ although a somewhat smaller group from that town petitioned the House against its refusal to vote the salary of their magistrate, William Hales Franklyn.⁴⁴

A deadlock had now been completely effected between a beleaguered governor and a dominant, aggressive faction in the Assembly. This faction was not content with a stalemate; it launched a series of political offensives calculated to force Kennedy to assume a subordinate position to the House in the direction of the colony. Early in February, De Cosmos began a drawn-out fight to re-establish his colleague James

42 Colonist, 29 Jan. 1866.

43 Ibid., 15 Feb. 1866.

44 Chronicle, 8 Feb. 1866.

Dickson as coroner by calling for a full investigation into the matter.⁴⁵ In direct retaliation to Kennedy, McClure moved a series of resolutions, passed on 9 February, to the effect that there would be no compensation for those whose offices were abolished, that executive fears that the House economies were injurious to the public interest were groundless, that the House was justified in raising and originating measures involving money, that the governor had no complaint against the House in the matter of the termination of Henry Wakeford's salary because the House in 1865 had voted \$1200 for "auditing" not for an "auditor," and that the House opposed on constitutional grounds the amalgamation of the coroner's office with that of the stipendiary magistrate of Victoria.⁴⁶

The ever-resourceful De Cosmos now assumed the mantle of finance minister. On the same day that McClure introduced his resolutions, De Cosmos outlined his plan for the reorganization of the colony's tax structure. He proposed the repeal of the real estate and income taxes, the reduction in assessment of liquor and trade licenses, a loan of \$100,000 at 12 per cent per annum, to be expended on government house, streets, roads, and bridges, and an additional loan of \$243,500 at 6 per cent with a 4 per cent sinking fund, payable in twenty

45 Ibid., 3 Feb. 1866.

46 Chronicle, 8 Feb. 1866.

years, which would finance the first loan and extra internal improvements.⁴⁷ In order to compensate for the greatly reduced revenues, the House decided to supplement the loans with relatively inconsequential duties on imported hay (\$5.00/ton), lumber (\$5.00/1000 board feet), and milking cows (\$1.00/head). These measures, embodied in eight bills, were introduced by De Cosmos to the House on 12 March, passed later that month, and received by the Legislative Council on the 27th.⁴⁸

The motivations behind this radical departure from the colony's customary financial procedures remain a matter of debate. However, it is fair to state that De Cosmos did not relish paying direct taxes to support a government he thought superfluous as well as politically oppressive and that until it was abolished by union that government was to be supported by loans which would in the not-so-distant future (in early March 1866 rumors had reached Vancouver Island from London that a union bill had been introduced into the House of Commons) be repaid from the common, and much larger, resources of the united colony. Why should the

⁴⁷ Colonist, 8 Feb. 1866. A sinking fund was formed by periodically setting aside revenue to accumulate at interest, usually for the purpose of reducing the principle of a national loan. The Road and Harbor Loan of 1862 was contracted on such terms.

⁴⁸ Minutes of Legislative Council of Vancouver Island, 27 March 1866; Colonist, 13 March 1866.

Island, as part of British Columbia, assist in the repayment of only those loans which had financed the development of the mainland? De Cosmos did not simply advocate a large debt because British Columbia would ultimately pay for the lion's share of it; he sensed the connection between deficit spending and prosperity. In any event, De Cosmos's schema was blatantly intended to curtail the executive's, and to increase the legislature's participation in the assessment and disbursement of public funds.

Kennedy immediately perceived that if he wanted an appropriation bill for 1866 he would have to accept one based upon highly undesirable, suspect, and unconstitutional terms. He advised Cardwell that the colony had already pledged its revenue as security for the loan of 1862, which entailed an annual cost of £4,000; that the House proposed to reduce revenue by approximately \$50,000 per year; and that upon this diminished security the House resolved to borrow £50,000, involving, all told, an annual expense of 9,000 or about 25 per cent of the colony's total income. There still remained the payments on the interest of the overdraft—\$73,793 as of 24 February—and the interest on the proposed \$100,000 loan. In Kennedy's view the plan had to be resisted, and he was certain that it would be in the Legislative Council, but rejection would further antagonize the House against the Crown and leave Kennedy "without any legal authority to incur

expenditure."⁴⁹

"A lunatic House of Assembly" was the Colonial Office's response to Kennedy's despatch. The officials there who had expressed increasing doubt as to the propriety of representative government on Vancouver Island, could hardly have been dissuaded from their opinion by Kennedy's account of the House's latest declarations. Kennedy was praised in London for being able to make do in an even temper. However, the Colonial Office could not assist Kennedy except to advise him to use the Crown funds that were at his disposal to best advantage.⁵⁰

⁴⁹ Kennedy to Cardwell, 1 March 1866, Despatches to London.

⁵⁰ Minutes on Kennedy to Cardwell, 1 March 1866, PRO mf., CO 305/28, p. 175.

V Union Achieved

Because of pressing matters regarding some of Her Majesty's more important colonies, the Colonial Office did not act on Vancouver Island's unconditional union resolutions of January 1865. Moreover, any decision relating to union was postponed until Governor Seymour's scheduled return to England in the fall of 1865. The resultant uncertainty, lasting well over a year, caused mounting anxiety in the unionist Assembly, which in turn contributed to the further deterioration of its relations with Governor Kennedy. The gripping depression increased the determination of those that sought relief in the union panacea. In December 1865 the House again passed union resolutions. The union cause was endorsed by the townspeople of Victoria in a January 1866 meeting and by a petition containing about 1,000 names,¹ which was submitted to the House in February. Unionists despatched agents from Victoria into the interior of British Columbia in order to solicit signatures from miners, traders, and packers in a vain attempt to discredit the idea that British Columbia was essentially anti-union and to indicate that what anti-union sentiment did exist in British Columbia² was peculiar to official circles in New Westminster.

1 Colonist, 29 Jan., 8 Feb. 1866.

2 Arthur N. Birch to Cardwell, 3 March 1866, Papers Relative to the Proposed Union, pp. 42-43.

The Colonial Office had favored union and had only opted for separation in 1864 under the pressure of public opinion from the mainland. According to Arthur Blackwood the Duke of Newcastle was alive to the arguments that it would be more convenient for the Colonial Office to deal with one—particularly in view of the proximity of the colonies to the United States—rather than two governments, that it would be desirable to have a common legal and commercial system, as well as one Indian policy, and that union would do much to eradicate intercolonial animosities.³

In 1863 there were three major obstacles to union:

First, it was opposed to the prevalent feeling on the spot;

Secondly, the formal grant of representative institutions was impossible in British Columbia, while they already existed in and could not be withdrawn from Vancouver Island except by a strong exercise of Parliamentary power, or by an intimation on the part of that Colony that it was willing to place itself in the hands of Her Majesty's Government;

Thirdly, the commercial policy of Vancouver Island was opposed to the imposition of Import Duties, on which the Government of British Columbia was obliged to rely for its revenue.⁴

The January resolutions removed the second and third obstacles to union. Although the Assembly subsequently qualified this

³ Blackwood memorandum to Carnarvon, 23 July 1866, PRO mf., CO 60/25, p. 510.

⁴ Carnarvon to Kennedy, 31 Oct. 1866, Great Britain, Parliament, Further Papers Relative to the Union of British Columbia and Vancouver Island, Cmd. 3852, 1st series (London, 1867), pp. 46-47.

position by requesting representative and responsible government and although a considerable number of colonists expressed, in a memorial to the Crown, great displeasure at the proposed abandonment of free trade, the original unconditional union resolutions were not revoked in favor of conditional ones like those of February 1864 until after the Crown had already decided the issue.

There remained, however, "the prevalent feeling on the spot," the opposition to union among British Columbians. The Colonial Office viewed with some sympathy their grievances against former Governor Douglas's system of placing British Columbia in service to Victoria's interests. Despite this, imperial interests were felt sufficient to override any objections the mainland colonists might have to union. Besides, union would ultimately benefit British Columbia, though perhaps not as much as Vancouver Island.⁵ To make union a not altogether disagreeable turn of events for British Columbia, the Colonial Office was prepared to make New Westminster the capital and Frederick Seymour the governor of the united colony.⁶

In September 1865 Seymour left for England. At the

⁵ Blackwood memorandum, 23 July 1866, PRO mf., CO 60/25, p. 510.

⁶ Seymour had apparently been chosen as governor of the united colony as early as Aug. 1865. Minute on Kennedy to Cardwell, 4 May 1865, PRO mf., CO 305/25, pp. 380-381.

Colonial Office he was undoubtedly informed that his previous acquiescence to the dominant anti-union sentiment of British Columbia should bow to Imperial interests and he would be the Crown's tool in effecting union. Seymour was thus on hand to make recommendations and monitor the progress of the union bill through Parliament.⁷ Seymour was even able to arrange for a settlement of the vexed Crown lands-civil list question⁸ and to draw up a tentative list of the united colony's civil servants.⁹

The news that the Crown was bent on resolving the union question reached Victoria on 1 March 1866. The Assembly went into secret session. The Colonist called for a convention to begin discussion on the constitution of the united colony and its capital's location before all the decisions were made in England.¹⁰ On 2 March the Assembly decided, with the concurrence of the Legislative Council, to petition the Crown "to postpone the fixing of the permanent seat of government until the wishes of the people of the two colonies be ascertained." Governor Kennedy, who had once envisaged a settlement of the union issue by Governor Seymour and himself, was

7 Seymour to Crease, 1 Feb. 1866, Crease Collection.

8 Seymour to Blackwood, 7 Sept. 1866, and Blackwood to Seymour, 8 Sept. 1866, PRO mf., CO 60/25, pp. 481-483.

9 Seymour to the Duke of Buckingham and Chandos, 16 Nov. 1868, PRO mf., CO 60/33, p. 454.

10 Colonist, 3 March 1866.

completely in the dark with respect to the proceedings in London. Kennedy, making no comment on the resolution or the momentous issue involved, complied with the wishes of the legislature and forwarded the resolutions to London by telegraph.

11

The Assembly waited over three months before making any more recommendations to the Crown. In June, after several secret sittings, the Assembly passed the following resolutions on the depressed state of the colony and on the future constitution of the united colonies:

1st. That the country suffers intensely from causes in a great measure attributable to the continued separation of Vancouver Island and British Columbia, and to the very expensive and irresponsible character of the government of both colonies.

2nd. That the population of Vancouver Island and British Columbia, which, exclusive of Indians does not exceed 10,000 persons, and cannot, with its other weighty liabilities, afford more than a salary of 2,000^l. for a Governor, with proportionate salaries for necessary heads of departments.

3rd. In view of the above facts, the house is of opinion that nothing short of immediate union of Vancouver Island and British Columbia, under a constitution apportioning representation according to population, and giving to the people's representatives control over the mode and amount of taxation expenditure, can stay the rapid decline of both countries, and restore the confidence of the public.

4th. The House, in transmitting the above to Her Majesty's Principal Secretary of State for the Colonies, feeling deeply the injury which both Vancouver Island

11 Kennedy to Cardwell, 3 March 1866, and enclosure, Further Papers Relative to the Union, p. 1.

and British Columbia are sustaining from the present state of uncertainty and suspense on the question of union, would respectfully ask for a reply by telegraph as to the intentions of Her Majesty's Government with regard to the matter during the present session of the Imperial Parliament.

Ordered, That the above resolutions be transmitted to his Excellency the Governor, praying that he will cause the same to be telegraphed forthwith to Her Majesty's Principal Secretary of State for the Colonies. ¹²

These resolutions, intended to form the core of a subsequent and more detailed memorial to be sent by mail to London, Kennedy refused to transmit without any accompanying opinion of the Legislative Council and a report by himself. ¹³ The Assembly, then, contrary to the usual practice of corresponding to Downing Street via the governor only, ordered the speaker to forward the resolutions directly to London, because "the Governor declines telegraphing them unless approved *italics mine* by the Legislative Council, five eighths (⁵/₈) of whom are officials." ¹⁴ The Assembly felt it was necessary to take this "unusual course" in order to have its views known in England before the prorogation of the Imperial Parliament. ¹⁵

12 Enclosure in Kennedy to Cardwell, 22 June 1866, Further Papers Relative to the Union, p. 4.

13 Kennedy to Cardwell, 22 June 1866, Despatches to London.

14 House of Assembly to Cardwell, 20 June 1866, Further Papers Relative to the Union, p. 2.

15 Enclosure in Kennedy to Cardwell, 22 June 1866,

The Legislative Council, in accordance with Kennedy's view (but whose official members were left to vote as they would),¹⁶ expressed itself on the Assembly's resolutions. The Council urged a speedy decision on the union question. It disagreed, however, with the Assembly that the government was irresponsible and failed "to see the connexion between the depression . . . and the constitution of the Government." The Council attributed the depression

to the decrease of the mining population of the neighbouring colony diminishing the trade of Victoria--to overtrading--to differential duties imposed by the sister colony since the entire separation of the two governments in 1864; to excessive commercial credits; to speculation in mining adventures; to a course of political agitation, which has had the effect of paralyzing credit and repelling capital.¹⁷

Kennedy, in the accompanying comments in his despatch forwarding these resolutions, concurred in the views expressed by the Council, and, perhaps responding to the need to defend that body against the thinly-veiled charges by the Assembly that it (the Legislative Council) was simply the rubber stamp of the governor and not representative of colonial

Further Papers Relative to the Union, p. 5. The cost of telegraphing the resolutions was \$187. Colonist and Chronicle, 21 Sept. 1866.

16 Minutes of Executive Council of Vancouver Island, 19 June 1866.

17 Enclosure in Kennedy to Cardwell, 22 June 1866, Further Papers Relative to the Union, p. 5.

interests, remarked "that several of the 'officials' composing the Council possess considerable real estate in the Colony, and the three non-official members own more real property and have a larger stake in the Colony than the 15 members of the Assembly in the aggregate."¹⁸

The Assembly followed up its short list of resolutions with a memorial to London on 22 June. This petition called for immediate legislative union, in part, to avoid the "unparalleled and ruinous character" of the taxation (£200,000 per year) required to support two governments; it attacked the illiberal constitutional aspects of both governments, that is, the predominant government elements in the legislative councils; it called for representative government for the united colony with the power to control taxation and expenditures; it appealed for the appointment of a governor not connected with the "disregard of popular rights" but rather "possessed of large experience in the affairs of colonies enjoying representative institutions"; and it solicited the financial support of the Imperial government for the promotion of transcontinental and trans-Pacific communications.¹⁹

The rather ineffectual nature of the Assembly's politics

¹⁸ Kennedy to Cardwell, 22 June 1866, Further Papers Relative to the Union, p. 3.

¹⁹ Enclosure in Kennedy to Cardwell, 26 June 1866, Further Papers Relative to the Union, pp. 11-12.

was by this time manifest. Clearly, London was not interested in hearing about its constitutional schemes. The Assembly's resolutions of January 1865 placed the entire union question in Imperial hands. The Colonial Office had proceeded on that basis in 1866. Like its resolutions of February 1864, the Assembly's most recent opinions reached London too late to have any possible effect. The Colonial Office received the Assembly's "short list" just two weeks before the act unifying the colonies was passed by Parliament, in July 1866.²⁰ The Assembly's more detailed memorial, sent on 26 June 1866, by mail, did not reach England until after the act had been passed. Moreover, this communication was, during the pressure of business, mislaid in the Colonial Office. About it Arthur Blackwood commented: "This despatch is an abundant proof, had any more proof been necessary, of the urgent need of suppressing this mockery of representative institutions."²¹

In point of fact there were two union bills in 1866. The first, drawn up by Cardwell and his advisors, was introduced into the House of Commons on 11 June. It contained provisions for Seymour to become governor, for the extension of the authority of British Columbia's legislative and executive councils over Vancouver Island and the corresponding

20 Minute on House of Assembly to Cardwell, 20 June 1866, PRO mf., CO 305/28, p. 474.

21 Minutes on Kennedy to Cardwell, 26 June 1866, PRO mf., CO 305/28, p. 510.

abolition of the island's form of government, for the creation of a 23 member council, for the extension of British Columbia's tariff to the island,²² and for giving the legislature of Vancouver Island "the opportunity of not concurring in an Address to the Crown for Union."²³ Carnarvon, Cardwell's successor, adopted the same bill with the exception of the last provision.²⁴ The act unifying the colonies of Vancouver Island and British Columbia passed Parliament without opposition and received royal assent on 6 August 1866.²⁵

As is evident, Governor Kennedy played but a small part in this highly important decision affecting Vancouver Island. His main mission in the colony had been to try to effect union and to discourage the institution of fresh obstacles to union which might arise during the period of separation. Once the Assembly placed the question of union in Imperial hands, once Kennedy learned that Seymour was not anxious to collaborate with him on a local implementation of union, or at least some steps preparatory to union, and once the Colonial Office decided that Seymour was, under the circum-

22 Colonist and Chronicle, 3 Aug. 1866.

23 Minute on House of Assembly to Cardwell, 20 June 1866, PRO mf., CO 305/28, pp. 474-475.

24 Carnarvon to Kennedy, 13 Aug. 1866, Further Papers Relative to the Union, p. 44; minute on House of Assembly to Cardwell, 20 June 1866, PRO mf., CO 305/28, pp. 474-475.

25 Colonist and Chronicle, 25 Sept. 1866.

abolition of the island's form of government, for the creation of a 23 member council, for the extension of British Columbia's tariff to the island,²² and for giving the legislature of Vancouver Island "the opportunity of not concurring in an Address to the Crown for Union."²³ Carnarvon, Cardwell's successor, adopted the same bill with the exception of the last provision.²⁴ The act unifying the colonies of Vancouver Island and British Columbia passed Parliament without opposition and received royal assent on 6 August 1866.²⁵

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22 Colonist and Chronicle, 3 Aug. 1866.

23 Minute on House of Assembly to Cardwell, 20 June 1866, PRO mf., CO 305/28, pp. 474-475.

24 Carnarvon to Kennedy, 13 Aug. 1866, Further Papers Relative to the Union, p. 44; minute on House of Assembly to Cardwell, 20 June 1866, PRO mf., CO 305/28, pp. 474-475.

25 Colonist and Chronicle, 25 Sept. 1866.

stances, the best man to govern the united colony, Kennedy was left with no policy. The Crown lands-civil list embroglio, the issue second in importance only to union, was after the fall of 1865 no longer in Kennedy's hands; it had been taken over by Seymour and the Colonial Office. The prospective union meant that Kennedy's time on Vancouver Island was limited. All that remained for Kennedy to do was to try to keep the government functioning with the meager means available until the arrival of Seymour.

The spirit which existed between the governor and the Assembly virtually precluded the probability that Kennedy would be granted the wherewithal to keep the government operating efficiently. The clash over the estimates had set the tone for the entire session. In March 1866 the receipt of rumors about union afforded hardly a respite from this intra-governmental test of strength. On 2 March, with less than half of its full membership present, the Assembly decided to petition the Queen to disallow Kennedy's revocation of Dr. Dickson's warrant to act as coroner.²⁶ Kennedy transmitted the petition and a letter to Secretary of State Cardwell from Dickson on 4 March, accompanied by his own rebuttle. Kennedy wrote that Dickson's original appointment by Governor Douglas was not legal, that Dickson was making a

²⁶ Colonist, 3 March 1866.

virtual sale of his office by designating others to act for him, that Dickson was fraudulently incurring expenses, and that public opinion was decidedly against Dickson's continuance as coroner. Kennedy even attempted to discredit Dickson by asserting that Leonard McClure, known to the Colonial Office as somewhat of a political adventurer, assisted Dickson in the compilation of his case against Kennedy.²⁷

By the late spring of 1866 the fate of the annual estimates was still undecided. Kennedy was not willing to accept the Assembly's wild eight-point financial scheme, which included the repeal of taxes and the contraction of huge loans, as part of a compromise for the vote of a supply bill. His recalcitrance was made plainly evident when the Legislative Council, a majority of members of which was responsible to him, on 7 May threw out the lower house's bill to repeal the real estate tax. Councillor W. A. G. Young, the colonial secretary, declared that it was insane to reduce one quarter of the colony's income and, with reduced credit in hand, go into London's bond market for £50,000. Young claimed that the governor's instructions from Downing Street, which formed the core of the colony's constitution, forbade the passage of a bill containing two or more subjects unrelated to each other; he also opposed the real estate tax repeal bill because

²⁷ Kennedy to Cardwell, 4 March 1866, Despatches to London.

it purported to abolish the office of the assessor. Another councillor, Treasurer Alexander Watson, referred to De Cosmos's proposed loans by stating that the government was at that time "borrowing money at 1%/mo. to pay interest on £40,000, which in mercantile circles would be regarded as an act of bankruptcy, and to talk of now going into the money market to borrow was simply folly."²⁸ The Legislative Council's action completed the deadlock between the governor and the Assembly. Kennedy chose to run the risk of incurring expenditure illegally rather than submit to measures, which among other things, would reduce the colony's ability to meet pressing obligations.²⁹

Kennedy's ability to pay the government's bills was greatly reduced by circumstances set in train by the passage of a House resolution on 21 May asking him to lay before the House the following returns:

1. A Return of the sums of money borrowed from the respective Banks of this Colony, and due at the expiration of the year 1865; also the amount borrowed during the year 1866, and now owing on account of the General Revenue.

2. A Return showing the authority under which the Governor negotiated such loans respectively.³⁰

28 Colonist, 8 May 1866.

29 Young advised Kennedy that expenditures without a supply bill was constitutional so long as they conformed to the votes of the House of Assembly's Committee of Supply and so long as a formal bill of supply was eventually passed. Minutes of Executive Council of Vancouver Island, 1 Feb. 1866.

30 Enclosure in Kennedy to Cardwell, 26 June 1866, Further Papers Relative to the Union, p. 6.

In his reply, dated 26 May, Kennedy explained the need for the sums borrowed throughout 1865 under the overdraft arrangement with the Bank of British North America and the fact that the House had declined to assist the governor in meeting lawful obligations. He also reported that the amount due stood at \$80,561. Kennedy took the opportunity to remind the Assembly that although the estimates had been before it for over five months neither a supply bill nor sufficient ways and means had been passed. As might have been expected, Dickson stated that Kennedy's reply was unsatisfactory. Speaker Helmcken, however, defended the governor, stating that Kennedy interpreted the Assembly's silence, the response to Kennedy's previous communications on the subject, as consent.³¹

The Bank of British North America, presumably taking alarm at the doubts thrown upon the legality of Kennedy's proceedings,³² terminated all further credit to the colony.³³ The Assembly finally agreed, over the vehement objections of Dickson, to accept responsibility for the debt, by passing on 6 July 1866 a bill authorizing a loan of \$90,000.³⁴ The

³¹ Colonist, 31 May 1866.

³² Minutes of Executive Council of Vancouver Island, 1 June 1866; Kennedy to Cardwell, 26 June 1866, Further Papers Relative to the Union, p. 6.

³³ J. B. Shepard to Young, 31 May 1866, enclosed in Kennedy to Cardwell, 26 June 1866, Further Papers Relative to the Union, p. 8.

³⁴ Vancouver Island Statutes, III, 462.

Assembly's bill provided for the local subscription of the amount at the rate of 12%, to be repaid, inexplicably, by the end of 1868. In reference to the measure, Kennedy stated:

The expedient of borrowing money at twelve per cent interest for the purpose of paying current liabilities (among which is the interest on the £40,000, six per cent loan) cannot in itself be regarded as otherwise than ruinous, and except under the very peculiar and difficult circumstances in which I found myself placed, a resort to it would not have met my concurrence.³⁵

The state of the colony's credit in the opinion of the colonists themselves was such that not one cent of the proposed loan was subscribed by the public, the attractive rate of interest notwithstanding.³⁶ Two months later the Bank of British North America was still trying to collect its money.³⁷ Thus, the Assembly, by persisting in its policy of refusing to meet the colony's liabilities by taxation, it was passing them on to the proposed united colony. Of the \$80,000 owed to the bank, at least \$70,000 was still owing at the time of union in November 1866.³⁸

The termination of the colony's credit caused a question

³⁵ Kennedy to Cardwell, 12 July 1866, Despatches to London.

³⁶ Kennedy to Cardwell, 8 Aug. 1866, Despatches to London.

³⁷ Minutes of Executive Council of Vancouver Island, 24 Sept. 1866.

³⁸ E. O. S. Scholefield and F. W. Howay, British Columbia: From the Earliest Times to the Present (S. J. Clarke Publishing Co., Vancouver, 1914), II, 225.

of whether the government could continue to pay salaries to its officials. Such payments were, in direct consequence, suspended unless "specially authorized."³⁹ Two weeks later Chief Justice Joseph Needham wrote to Kennedy saying that the failure to pay salaries would close down the courts for lack of staff.⁴⁰ In addition, the colony was in arrears to many public creditors, such as Hutchinson & Co., which supplied the lighthouses. Kennedy, with insufficient means and no credit, decided to appeal once more to the Assembly to find "a practical solution" to these financial ills that beset the government.⁴¹

The Assembly answered by passing an appropriation measure, as part of a prospective bill of supply, for government operations, of just over \$60,000 or a full third less than Kennedy had proposed,⁴² and by passing a series of resolutions, by a vote of 7-5, justifying its past actions and criticizing Kennedy in the strongest possible language.

³⁹ Minutes of Executive Council of Vancouver Island, 1 June 1866.

⁴⁰ Joseph Needham to the Colonial Secretary, 15 June 1866, enclosed in Kennedy to Cardwell, 12 July 1866, Further Papers Relative to the Union, p. 14.

⁴¹ Kennedy to the Speaker of the Legislative Assembly and Kennedy to the Speaker and Members of the Legislative Assembly, 2 and 6 July 1866, respectively, enclosed in Kennedy to Cardwell, 12 July 1866, Further Papers Relative to the Union, pp. 14-15.

⁴² Colonist and Chronicle, 10 July 1866.

No financial assistance was offered. The executive was indicted as obstructing, through its agent the Legislative Council, the will of the people's representatives. The Assembly stood behind its unconstitutional initiation of money votes and amalgamation of offices. Finally, the Assembly took the unprecedented and constitutionally irrelevant step of expressing non-confidence in Governor Kennedy and his administration as harmful to the colony's interests and the necessity for his removal.⁴³ An amendment to this series of resolutions was even proposed, but not passed, calling⁴⁴ for the reappointment of former governor Sir James Douglas.

In early August 1866 Cardwell's union bill was published in the Victoria press. Vancouver Islanders learned, in detail, of the high price that union entailed. The distinct annexationist character of union, that is, the alteration of Vancouver Island's institutions and laws to conform to their counterparts on the mainland, was denounced by the leading Victorian newspaper, the Colonist and Chronicle.⁴⁵ The abolition of representative government and the free port system

⁴³ Ibid., 24 July 1866.

⁴⁴ Ibid., 26 July 1866.

⁴⁵ In June 1866 Victoria's leading newspapers, the Colonist and the Chronicle, feeling the adverse effect of the depression on advertizing revenue and the high cost of subscribing to the news services available from the newly installed telegraph, amalgamated into the Colonist and Chronicle under the management of the former Chronicle,

as well as the transfer of the capital to New Westminster, eventualities always implicit, if not explicit, in the unconditional resolutions of 1865, shocked many Victorians and undercut support for De Cosmos's unionist position. C. B. Young, who had campaigned unsuccessfully for conditional union, that is union with a free port, against De Cosmos and McClure and who had been returned to the Assembly in a by-election, argued persuasively against the proposed inequitable, unconditional union. He stated that confederation with Canada or annexation with the United States were preferable to such a "union" with British Columbia.⁴⁶ The Assembly, responding to this changed state of opinion or perhaps feeling the selfish need to defend the principle on which it rested, resolved on 28 August

to rescind those portions of the resolutions [of January 1865] as might lead Her Majesty's Government to believe that this House, though still desirous of a union with British Columbia, is willing to relinquish representative Government for any advantage that might accrue from such union.⁴⁷

Higgins, Long & Co. David Williams Higgins as editor of the Chronicle had been highly critical of the Hudson's Bay Company, the unconditional aspect of the union resolutions of Jan. 1865, and of his competitor Amor De Cosmos and his clique in the Assembly. De Cosmos severed all connection with the local press, of which he had been so prominent a member since 1858. McClure's editorial services were not retained by Higgins. The unionist cause lost a powerful platform.

46 Colonist and Chronicle, 23 Aug. 1866.

47 Enclosure in Kennedy to Cardwell, 31 Aug. 1866, Further Papers Relative to the Union, pp. 26-27.

Had this retraction been transmitted to England earlier a considerable complication of the union proceedings might have been effected. The Colonial Office could hardly have assuaged Vancouver Island's desire to retain representative government in a union with its sister colony and, at the same time, defended its stated position that British Columbia, populated mainly by Indians and itinerant miners, was not ready to be granted representative government. The Colonial Office even had grave doubts about the propriety of representative government on Vancouver Island. In any case, this resolution was passed after union had been legislated in England and did not reach England until Governor Seymour had been despatched to Victoria.

Just a few days before the legal termination of the third Parliament (1863-1866) of Vancouver Island, the House of Assembly, on 27 August, passed a bill of supply amounting to \$248,963.32 and sent it to the Legislative Council. The bill contained, wrote Kennedy

no less than twenty five distinct Resolutions, indicating in all but name the officers who are to perform certain duties, amalgamating and abolishing offices, increasing salaries, initiating votes, and involving a pledge to repeal the Real Estate Tax a bill for which purpose had been previously and in the same Session passed by the Assembly and rejected by the Council.⁴⁸

⁴⁸ Kennedy to Cardwell, 8 Sept. 1866, Despatches to London.

No doubt for these reasons Kennedy impressed upon the official members of the Legislative Council in a sitting of Executive Council that the appropriation bill should not be passed by the upper house.⁴⁹ Accordingly, the Legislative Council, stating as its reason that the supply bill contained a "tack" or "rider" proposing to repeal the real estate tax, a measure already rejected by the Council, blocked the bill's passage on three occasions during the last six days of the legislature.⁵⁰ Thus, the Assembly failed to coerce Kennedy into accepting its unconstitutional powers, but it did oblige him to incur expenditures illegally for the year 1866. Kennedy concluded his despatch on this matter by stating:

I cannot but regard the Assembly as being solely responsible for the state of discredit and difficulty into which the Colony is thus thrown for want of a law on which public credit should be based--and I can only lament that a representative Body should have thus further exemplified its unfitness for the performance of its important functions.⁵¹

On September 1, Kennedy signed the proclamations proroguing the legislature and dissolving the House of Assembly.⁵²

⁴⁹ Minutes of Executive Council of Vancouver Island, 27 Aug. 1866.

⁵⁰ Minutes of Legislative Council of Vancouver Island, 27 and 30 Aug., 1 Sept. 1866.

⁵¹ Kennedy to Cardwell, 8 Sept. 1866, Despatches to London.

⁵² Minutes of Executive Council of Vancouver Island, 1 Sept. 1866.

Perhaps because the normal proceedings of the legislative bodies lasted through the final day of the session, Kennedy refused to summon them in order to present the customary closing address after their right to sit had expired. On the same day Kennedy terminated, without notice, the services of the harbormaster, the postmaster's clerk, the clerk of the Assembly, the superintendent of education, and all the public school teachers.⁵³

Two days later Kennedy appointed, as in 1865, a board "to report upon our actual & probable liabilities and upon the ways and means of meeting the same."⁵⁴

The subsequent report showed that the colony owed the Bank of British North America \$77,824 and all outlays from the general treasury would exceed receipts by another \$15,878.⁵⁵

In the absence of a supply bill, Kennedy ordered that government officers be paid according to the 1865 rates.⁵⁶

Late in September news reached Victoria that a union bill giving Vancouver Island no option but to accept its terms had received royal assent on 6 August and that Seymour was sailing to Victoria to give effect to the legislation.⁵⁷

⁵³ Minutes of Executive Council of Vancouver Island, 1 Sept. 1866.

⁵⁴ Ibid., 3 Sept. 1866.

⁵⁵ Kennedy to Cardwell, 11 Sept. 1866, Despatches to London.

⁵⁶ Minutes of Executive Council of Vancouver Island, 2 Oct. 1866.

⁵⁷ Colonist and Chronicle, 25, 28 Sept. 1866.

Also at this time Kennedy received formal notice that union would unavoidably abolish his office; in the despatch the Secretary of State the Earl of Carnarvon stated:

I regret much the unfavorable effect which this measure will have upon your interests. And I regret it the more because I am aware that your conduct in the administration of a government which has been by no means free from difficulty has been distinguished by good judgment, and has uniformly obtained the approbation of my predecessor.⁵⁸

Having no desire to stay on Vancouver Island any longer than necessary, Kennedy soon announced that he would take his leave of Victoria, in advance of Seymour's arrival, on 23 October.⁵⁹

This announcement caused no great anguish among Vancouver Island's depressed and dissatisfied colonists. No petition was forwarded to England, as in the time of James Douglas's approaching retirement, asking the Crown to retain the services of the incumbent. A small group of local notables, including former Assemblyman William Fraser Tolmie, Acting Attorney General Thomas Lett Wood, and Registrar Edward Graham Alston, did meet to consider how the colonists' respects might be paid to Kennedy and his family. It was decided

⁵⁸ Carnarvon to Kennedy, 13 Aug. 1866, Further Papers Relative to the Union, p. 44. Kennedy received the despatch on or shortly before 1 Oct. 1866. Kennedy to Carnarvon, 1 Oct. 1866, Nos. 77 and 78, Despatches to London.

⁵⁹ Colonist and Chronicle, 6 Oct. 1866; Kennedy to Carnarvon, 20 Oct. 1866, Despatches to London.

that a ball and supper would be appropriate. The event was to be held on 19 October in the very chamber from which the governor had been repeatedly denounced, the hall of the Legislative Assembly in the "birdcages."⁶⁰

The last important political event prior to union was something which Kennedy had long suspected and feared--the appearance of a pro-American annexationist faction. That unionist and political opportunist Leonard McClure, repelled by the carthaginian terms of union, argued before a large, but generally unsympathetic audience that unless the Crown restored the colony's political rights, granted it responsible government and extended to it the commercial advantages of the Reciprocity Treaty with the United States, negotiations should commence for the colony's transfer to the United States.⁶¹ Although these pro-American sentiments were held by a small number of colonists and would not assume any great political importance for another three years, their first appearance shocked the loyalist majority. It appeared that the ball to honor Kennedy became a means for a counter-demonstration of loyalist views.⁶²

The gala was well attended by Victoria's "establishment."

60 Colonist and Chronicle, 12 and 13 Oct. 1866.

61 Ibid., 1 Oct. 1866.

62 Ibid., 15 Oct. 1866.

Over 230 people were present, including former Governor James Douglas, most of the colony's officialdom and representatives of the mainland government, officers from the British fleet, and other prominent citizens. The band of the fleet's flagship H. M. S. Suttlej was lent for the occasion by Rear-Admiral Denman and the first of twenty two dances commenced at 8 p.m. Dinner was served at the customary time for such events, at midnight, after which the vice-regal family expressed their thanks and retired. The dancing continued until 4 a.m.⁶³

In stark contrast to Kennedy's welcome, his farewell on the afternoon of 23 October was subdued. Press coverage of the event was minimal. There was an absence of any extensive planning for the farewell. The usual rituals were performed--the presentation of arms by the militia, the national anthem, and the gun salute--by a populace no longer animated by the promise of a prosperous future or charismatic leadership which bade so fair in the spring of 1864. The humiliating terms of union, the languid state of trade, indeed, Victoria's fall from the hegemony it had enjoyed over the mainland in the Douglas era to its present ignominious fate, so much the products of the time in which Kennedy ruled, were all too apparent on that day.

63 Colonist and Chronicle, 15, 19, and 22 Oct. 1866.

VI Conclusion

A few weeks after Kennedy left Victoria Governor Seymour arrived and proclaimed union. Seymour was received rather coolly. Vancouver Island was annexed to British Columbia. The union of 19 November 1866 has been characterized by the oft-cited words of Sir James Douglas: "The ships of war fired a salute on the occasion--A funeral procession, with minute guns would have been more appropriate to the sad melancholy event." To Douglas and many of his contemporaries union represented the nadir of the island's fortunes; to others such as De Cosmos and Kennedy union was seen as the only step that Vancouver Island could possibly take towards a viable and more prosperous political community.

Except for his part in promoting the cause of union, Kennedy's sojourn on Vancouver Island had not gone well. Several factors over which he had little or no control militated against him achieving any great measure of success. The recalcitrance of the House of Assembly, though not of the populace, that greeted Kennedy would have occasioned the arrival of any other man that might have been appointed governor of Vancouver Island. Because the February 1864 resolutions rejected the constitutional arrangements under which Kennedy had come to Victoria, the House of Assembly had virtually repudiated his very presence. The refusal to

vote him a salary or make provisions for a private secretary and a temporary residence were but two more examples of the Assembly throwing down the gauntlet before Kennedy could get his administration under way.

Kennedy's instructions to effect a transfer of the Crown lands to the colony in exchange for colonial acceptance of a civil list, a scheme which had been rejected by the House in February 1864, was further doomed by the release just two months after Kennedy had come of the report of the House committee investigating the status of Crown lands. The report advised that such an exchange would prove a poor bargain to the colony unless the lands given by the Crown in 1862 to the Hudson's Bay Company were included. The effect of this refusal to accept a civil list forced Kennedy into a constant battle with the Assembly in order to get the funds he needed to pay his officers.

By far the most unfortunate occurrence coincident with Kennedy's regime was the depression. Economic growth in Victoria over and above the level spawned by the fur trade was the result of gold mining in the interior of the mainland. The demand for goods and services was supplied from Victoria, which occupied the strategic trans-shipment point between the goldfields and Europe and San Francisco. However, the British Columbia rush was not the repeat performance of the one in California that so many had envisaged. Gold exports began to slump about the time of Kennedy's arrival and the

wealth in gold and trade that passed through Victoria declined accordingly. Government revenues also dropped in near proportion. The effect of the depression might have been worsened still by British Columbia's restrictive tariff law which was designed to give New Westminster merchants a larger share in a decreasing volume of trade. As might be expected, confidence in Kennedy appeared to wane about the same time and rate as the flagging economy. The failure of the Sooke gold diggings to develop into an alternative market for Victoria's goods must have been a great disappointment to Kennedy. A bigger strike would have altered the value of the Crown lands, increased Crown income, placed the executive branch on a more independent financial basis, acted as an inducement for the Assembly to vote a civil list, and insured Kennedy's continued popularity.

Another factor which undoubtedly worked against Kennedy was Vancouver Island's form of government. In his previous administrations Kennedy did not have to deal with an assembly; he was accustomed to rule and legislate with the advice and consent of only the executive and legislative councils. On Vancouver Island he faced an almost rebellious Assembly and, at times, a troublesome Legislative Council. Conflict often occurred between the Assembly and the governor simply because no "minister" of the executive branch sat in the Assembly so that he might explain the purport of the governor's bills or take to the governor first-hand knowledge of the Assembly's measures. As a result, legislation or inquiries relating

thereto tended to travel back and forth between the branches of the government without the requisite decisions being made. James Douglas spared himself this problem by relying upon the services of George Hunter Cary, Attorney General, member for Victoria City in the Second House. Kennedy had no representative (one probably could not have been elected), and consequently he had a weak voice in the lower house.

Kennedy's administration was saddled with the problem of paying the interest on Douglas's \$194,000 road and harbor improvement loan at a time when dollars were dear. Had it not been for this extremely ill-advised venture to build a deep-water harbor where one did not exist Vancouver Island would have had at the time of union a debt of less than \$100,000. Part of this latter figure was expended on a government house, perhaps the best investment Vancouver Island ever made. The remainder of the \$100,000 Kennedy spent meeting colonial responsibilities.

Kennedy did not receive any blame from his superiors for the numerous problems that beset him. On the contrary, the Colonial Office was extremely critical of the colony and, particularly, the House of Assembly for failing to co-operate with Kennedy. Kennedy was knighted after his return to England and was given the governorship of the recently reorganized West African settlements, the scene of his first colonial experience. In 1872 and 1877 respectively, Kennedy received two of the best appointments in the empire, the governorships

of Hong Kong and Queensland. Kennedy died at sea in 1883 while returning to England.

It is difficult to discern Kennedy in more intimate terms than his official correspondence will permit. Unlike Governors Douglas, Seymour, and Musgrave, Kennedy left no private papers. Based upon the official correspondence and public record, however, Kennedy appears very much like his predecessor--a man of strong will, imposing bearing, and considerable formality. Like Douglas, Kennedy believed in temperance, material progress, and the societal role of established institutions. Kennedy was energetic and decisive, not one to decline a conflict when a principle was at stake. He was, however, careful to rule, according to his instructions, on a collegial basis; he submitted almost all his decisions for approval of the Executive Council and usually deferred to its advice. In addition, Kennedy took great care to account for virtually every act to his superiors in London. No member of the Assembly was so constricted. Kennedy's principal political failing from the Assembly's point of view, his penchant for a sufficient and well-founded bureaucracy, was in reality his chief political virtue. Finally, unlike his counterpart on the mainland, Kennedy refused to purchase the political favor of his opponents. As the Colonist and Chronicle observed, he accepted the challenge and lost his popularity.

Bibliographic Notes

The historical records upon which this thesis rests are almost exclusively drawn from the rich collections of the colonial period that are contained in the Provincial Archives of British Columbia. The most important primary source germane to this study is Governor Kennedy's despatches to the Colonial Office. In the thirty months that he governed Vancouver Island, Kennedy, with the assistance of his private secretary Henry P. Wakeford, wrote over 300 despatches, many of which depict in great detail the colony's political, economic, and social life. One series of despatches, the original official letterbook, contains the only index available for any of the colonial despatches. The dates of replies from London are also noted in the margins of the appropriate despatch copy. Another series of despatches is contained in the correspondence inward of the Secretary of State for the Colonies (Public Record Office microfilm, Colonial Office 305 series). This series, though difficult to master because of its size and organization, contains a wealth of information such as enclosures (letters, reports, accounts, maps, etc.) to despatches and minutes, memoranda, and drafts of replies made in the Colonial Office. These minutes and memoranda are extremely informative because they lay bare the motivations of the men who administered much of the British empire and form the only standard apart from any derived from local

sources by which one can judge Kennedy's performance. This microfilm also includes some confidential despatches not available from any other source in the PABC. Because the affairs of Vancouver Island and British Columbia are so intimately related, reference to the PRO microfilm CO 60 series (Correspondence, British Columbia) is unavoidable. A convenient source of selected despatches and enclosures is the series Papers Relative to the Proposed Union of British Columbia and Vancouver Island, (London, Cmd. 3667, 1st series, 1866) and Further Papers Relative to the Proposed Union of British Columbia and Vancouver Island (London, Cmd. 3852, 1st series, 1867).

After the despatches, the most illuminating sources for Vancouver Island's political life are the newspapers. From 1863 until 1866, the Colonist and the Chronicle are the major dailies in Victoria. Reliance on both is necessary because until their merger in June 1866 they advocated opposing viewpoints; the former was unionist and protectionist, the latter federationist and anti-protectionist. Both papers had competent parliamentary reporters; in fact, their accounts of the proceedings of the Legislative Assembly and the Legislative Council are much more complete versions than the minutes kept by government clerks. These newspapers are also convenient sources for many official documents such as government announcements, tax lists, annual estimates, correspondence between the governor and the Colonial Office and the House of Assembly. The viewpoint of the mainland colony, the

Cariboo excepted, is best expressed by John Robson's British Columbian.

The best inside view of Governor Kennedy's administrative routine is afforded by the secret minutes of the Executive Council of Vancouver Island. These minutes are candid and indicate, among other things, Kennedy's relationship with his officers. There is a dearth of private political commentary by officials, or others who were in a position to observe Kennedy. Edward Graham Alston's letters to Henry Pering Pellew Crease are of some value in this respect, but unfortunately Alston was away from Victoria for one of the two and one-half years that Kennedy was here. Henry C. Gilliland's work "The Early Life and Early Governorships of Sir Arthur Edward Kennedy" (unpublished M. A. thesis, University of British Columbia, 1951) casts some light on Kennedy's personality and early career. John Sebastian Helmcken's *Reminiscences* (1892) provide some notion of the issues and personalities of the period, but do not reconstruct in any great detail the the political situations in which he played so prominent a part.

The account of the Kennedy years in British Columbia: A History by Margaret Ormsby (Toronto, Macmillan, 1858) is necessarily brief and largely based on the same sources employed in the present study. F. W. Howay's and E. O. S. Scholefield's second volume of British Columbia from the Earliest Times to the Present (4 vols., Vancouver, S. J. Clarke, 1914) contains a good chapter on Kennedy's clash

with the Assembly. Older historians such as H. H. Bancroft, R. E. Gosnell, and G. M. Sproat, because of the limited nature of primary material they used, have inadequately portrayed the Kennedy era. The pioneer work in the economic field is Peter Pourie Palmer's "A Fiscal History of British Columbia in the Colonial Period," completed in 1932, remains the only work in its area. To Palmer this writer is indebted for the basic schema of Vancouver Island's financial collapse. Palmer also ventures frequent and interesting political insights.

Finally, two primary sources deserve mention for the light they shed on Vancouver Island's constitution: the commission and instructions of Governor Kennedy, indeed, of Governors Blanshard and Douglas as well, and A Collection of the General Statutes of Vancouver Island, Passed in the Years 1859, 1860, 1861, 1862, and 1863 [1864-1866] (3 vols., Victoria, British Colonist Office, 1866).

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Title of Thesis

Governor Kennedy of Vancouver Island and the Politics of Union, 1864-1866

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