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Supervisor: Prof. KEEPING THE PEACE ON VANCOUVER ISLAND:

THE COLONIAL POLICE AND THE

ROYAL NAVY, 1850-1866

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by

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William Swanton Thackray

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B.S.A., University of British Columbia, 1950

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Supervisor: Professor Reginald H. Roy

ABSTRACT

During most of the first decade of the existence of the Colony of Vancouver Island responsibility for keeping the peace rested primarily upon the Governor. Richard Blanshard was the first to hold that office and thus was the first representative of British common law; both he and his successor, James Douglas, were sometimes the only law offices in the colony. Blanshard appointed the first Justice of the Peace and began the practice of appointing special constables for specific, short-term duties.

When Douglas assumed the office of Governor he was determined that Vancouver Island would remain British despite the threats of American expansion and a large, and possibly hostile, native population; everyone should be made to respect and obey British law. Douglas tended to be autocratic. He was a firm believer that civilization, as the British knew and practiced it, was immensely superior to the way of life of the indigenous Indian tribes. Therefore the safety of life as well as the economy of the colony depended upon British justice firmly and energetically dispensed by himself or the courts he established. With the help of the Royal Navy supporting the civil power, he was remarkably successful in controlling the native population.

The power of the navy--seamen, marines and ships--whether in major expeditions or in later years in semi-regular coastal patrols, was applied first to impress the Indians with the necessity of obedience to British law through force provided by technical superiority and second,

Governor A. E. Kennedy, although an experienced colonial

administrator, and despite the appointment of the reliable Philip J. to instil a sense of safety and confidence in the minds of the white settlers. This power was physically applied almost exclusively against the Indians, occasionally with more vigour and enthusiasm than the various cautious Secretaries of State for the Colonies felt was strictly necessary. Nevertheless the use of the Royal Navy was always to be in accordance with the principle of the application of overwhelming superior force. The British Government, the navy, and Governors recognized that anything less was to court disaster.

As Victoria grew in size, it became apparent that a police force was necessary for the maintenance of good order. A full-time constable was appointed in 1854. Four years later a regular police force was established under the experienced direction of Augustus F. Pemberton, who also assumed responsibility for the Victoria Gaol. The police were to function for years under the twin disabilities of insufficient pay and a transient establishment. Dedicated and hard-working senior police officers, supported by the courts, provided the real basis for law and order until long hours and low pay eventually caused these officers to succumb all too frequently to graft or bribery. The gaol, which was often overcrowded and badly run, was frequently under attack by the newspapers while the government of the day occasionally admitted to a sense of embarrassment over the matter.

A regular policeman was stationed at Nanaimo during much of the 1860s while special constables were employed in other rural and remote areas. Unfortunately all of these police were dismissed, from time to time, due to a lack of sufficient funds to support them.

Governor A. E. Kennedy, although an experienced colonial

administrator, and despite the appointment of the reliable Philip J.

Hankin as Superintendent of Police, soon found out that without an

adequate budget policing the town was at best a haphazard undertaking.

Under Hankin, the force was reduced at one time to a single constable

with deleterious results to the principles of the protection of life

and property.

In due course the merger of Vancouver Island and British

Columbia brought the police in Victoria technically into the ranks of

the British Columbia Colonial Police. After Confederation they were,

for a short time, Provincial Police. In 1873 the City of Victoria

formally acquired control of the police within the city, leaving the

Superintendent of Police as the only police representative of the senior

government in Victoria. The Vancouver Island Colonial Police existed,

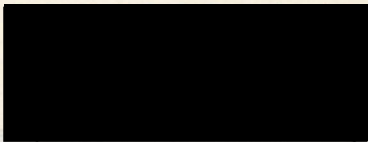
through the British Columbia Provincial Police, by then the oldest such

force in Canada, until 1953 when it was amalgamated with the Royal

Canadian Mounted Police.

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August 8th 1859

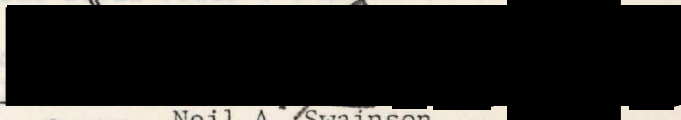

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J. D. Ayers

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LIST OF ABBREVIATIONS

B.C.H.Q.	GOVERNMENT British Columbia Historical Quarterly CIVIL POWER
C.H.A.	Canadian Historical Association
C.O.	Colonial Office The Oregon Treaty of 1846, between Great Britain and the United States of America, defined the boundary of British possessions on the Pacific coast of North America as the forty-ninth parallel of North latitude from the Rocky Mountains to the centre of the Gulf of Georgia.
H.B.C.	Hudson's Bay Company
H.B.C.A.	Hudson's Bay Company Archives
J.P.	Justice of the Peace From that point the boundary was stated to be, in geographically imprecise terms, the centre of the main channel southward and westward around Vancouver Island. The Island was to remain British thus ensuring that the Hudson's Bay Company would retain what it hoped would become its most important coastal trading post at Port Victoria. The Company was then the only effective British presence in this considerable territory--supported from time to time by visits of ships of the Royal Navy. The recognition of this fact and for the need of a treaty had been forced upon the British Government by the influx of American settlers into the Oregon Territory; the Company and British settlers provided the only method of preserving the British domain. Therefore the British government caused Vancouver Island to be granted, under the Royal Seal, to the Hudson's Bay Company, effective 13 January 1849. The Grant, deemed conducive "to the maintenance of peace, justice, and good order and the advancement of colonization . . ." saving "allegiance and sovereign dominion due to Us . . ." made the Company ". . . in free and common soccage . . . absolute lords and proprietors" of the Island for an annual rent of seven shillings. Conditions of the grant included the promotion by the Company of colonization by British subjects
P.A.B.C.	Public Archives of British Columbia
R.N.	Royal Navy
S.M.	Stipendiary Magistrate
S.N.O.	Senior Naval Officer
V.C.	Vancouver (Island)
V.I.	Vancouver Island
W.T.	Washington Territory

CHAPTER I

GOVERNOR BLANSHARD AND THE BEGINNING OF THE CIVIL POWER

The Oregon Treaty of 1846, between Great Britain and the United States of America, defined the boundary of British possessions on the Pacific coast of North America as the forty-ninth parallel of North latitude from the Rocky Mountains to the centre of the Gulf of Georgia. From that point the boundary was stated to be, in geographically imprecise terms, the centre of the main channel southward and westward around Vancouver Island.¹ The Island was to remain British thus ensuring that the Hudson's Bay Company would retain what it hoped would become its most important coastal trading post at Fort Victoria.² The Company was then the only effective British presence in this considerable territory--supported from time to time by visits of ships of the Royal Navy.³ The recognition of this fact and for the need of a treaty had been forced upon the British Government by the influx of American settlers into the Oregon Territory; the Company and British settlers provided the only method of preserving the British domain.⁴ Therefore the British government caused Vancouver Island to be granted, under the Royal Seal, to the Hudson's Bay Company, effective 13 January 1849.⁵ The Grant, deemed conducive "to the maintenance of peace, justice, and good order and the advancement of colonization . . ." saving "allegiance and sovereign dominion due to Us . . ." made the Company ". . . in free and common soccage . . . absolute lords and proprietors" of the Island for an annual rent of seven shillings.⁶ Conditions of the grant included the promotion by the Company of colonization by British subjects

and financial responsibility for the civil government and any military establishment that might be necessary in the colony.⁷ From the point of view of the Company the Grant ensured the continuation of the exclusive right to trade with the Indians west of the Rocky Mountains which had been given by a Royal Charter in 1838 for a period of twenty-one years.⁸ Specific reference to the aboriginal inhabitants of the Island was noticeably lacking except that the Company was to be generally concerned with their welfare and protection.⁹ In a confidential appreciation of the Indian situation in 1848, the Foreign Office suggested that a lack of knowledge of the native population precluded the embodiment of more specific conditions.¹⁰ Its argument was supported by the belief that the Company had treated the Indians in the Oregon Territory in a just manner:

all associated in some way with the Company, as candidates for appointments as . . . no distinct charges of cruelty or misconduct toward the Indian tribes under its control have been made out by reasonable evidence while every year brings painful accounts of mutual wrongs and mutual revenge between Indians and whites from the neighbouring regions not under their control.¹¹

North America The Vancouver Island Grant was for an initial term of five years, renewable subject to satisfactory evidence of colonization. It was also withdrawable at the expiration of the exclusive trading rights in 1859. The British government made it absolutely clear that the new colony, established under "the Grant," was not to be a charge on the public purse. It was to be self-supporting through monies received from the sale of lands to settlers and from mineral royalties, less ten per cent as fee to the Company for capital at risk and the costs of administration.¹² The Crown also reserved to itself the right of appointing the Governor of the colony and with that appointment the

implicit right of representative government as currently in vogue in other British colonies.¹³

While negotiations for colonial status were still underway the Colonial Office appreciated the need to consult the Hudson's Bay Company upon the details of future government. Of considerable importance was the selection of a governor and provision for the maintenance of law and order. Sir John Pelly, Governor of the Hudson's Bay Company wrote to Earl Grey, the Secretary of State for the Colonies, that in his opinion Chief Factor James Douglas of Fort Victoria would be a suitable choice. Pelly put forth the suggestion as a temporary measure until the colonial revenues were sufficient to pay the salary of a governor not connected with the Company.¹⁴ At the same time Pelly recommended fourteen men, all associated in some way with the Company, as candidates for appointments as justices of the Peace on Vancouver Island¹⁵ under authority of existing legislation, An Act for regulating the fur trade and establishing a criminal and civil jurisdiction within certain parts of North America (1 + 2 Geo. 4 c.66).¹⁶ While the Colonial Office took the problem of a governor under advisement they appeared willing to accede to Pelly's wishes regarding Justices of the Peace.¹⁷ Although Scholefield and Howay claim that the fourteen were in fact appointed¹⁸ no evidence suggests that they actually served in that capacity. Indeed, it appears that the plan for the magistrates was overtaken by concurrent and subsequent events.

Since provision for the administration of justice had not been made under the Royal Grant of Vancouver's Island it was recognized that additional law was required.¹⁹ On 4 September 1848, the Committee of

Her Majesty's Privy Council for Trade and Plantations was given the draft grant for consideration and possible suggestions.²⁰ The Committee reported to the Privy Council on 31 October 1848, among other things, that the existing provisions for the administration of justice under 1 + 2 Geo.4 c.66 were inadequate due to the limited judicial powers less conferred for dealing with offences otherwise involving capital ward the punishment and transportation, and in civil actions in amounts in excess of £200. Such cases were required to be referred to the Courts of Upper Canada.²¹ At the Colonial Office, Herman Merrivale, Permanent Under-hip Secretary of State for the Colonies, comments in a minute that the most important part of the Privy Council report is the recommendation for "a further legislative measure for the administration of justice" and in a note on the following day, Lord Grey agreed that "a bill must be beshard forthwith prepared."²² As a result 1 + 2 Geo. 4 c.66 and a second law under which the western part of British North America was governed, An Act for extending the Jurisdiction of the Courts of Justice in the Provinces of Lower and Upper Canada to the trial and punishment of persons guilty of crimes and offences within certain parts of North America adjoining the said Provinces (43 Geo. 3 c.138) were deemed in unacceptable "in that part of the Indian Territories called Vancouver's Island"²³ and on 28 May 1849 Parliament passed An Act to Provide for the Administration of Justice in Vancouver's Island (12 + 13 Vict. c.29).²⁴ Thus sections of the earlier acts ceased to be in force on Vancouver Island and, in effect, the common law of England was been applicable to the new colony through authorization for the general pt the administration of justice and the appointment of judges, while local

statutes passed by a future colonial legislature and appeals to the Privy Council in civil cases were permitted.

In the meantime efforts to find a suitable governor of Vancouver Island were continuing. Pelly's suggestion of Douglas as a temporary governor had been successful initially²⁵ but was now much less so due to an adverse feeling in Parliament and by the public toward the Hudson's Bay Company for its supposed despotic administration and lack of enthusiasm for colonization in North America.²⁶ However, according to Willard E. Ireland²⁷ before the matter of the grant and governorship had been raised at length in Parliament (especially by the Earl of Lincoln, 16 June 1849) the proposal to make Douglas the governor had been dropped by the Hudson's Bay Company. A resolution of the Governor and Committee on the thirteenth of June stated that "Richard Blanshard be recommended to Earl Grey . . . to be appointed Gov^r of Vancouver Island."²⁸ The Company could appreciate the value, at least for appearance sake, of having a governor not connected with the Company.²⁹

Little is known of Blanshard before he came to Vancouver Island as Governor, nor specifically of the reason that he was chosen for the post. Born in 1817, admitted to the bar in 1844, travelled in the West Indies, Central America, and India³⁰ he was a barrister and "a gentleman of great intelligence and respectability"³¹ who may well have obtained his appointment by one or more of the Governor and Committee of the Hudson's Bay Company being acquainted with his father, Thomas Henry Blanshard, "a well-to-do London merchant."³² Although he had been offered a commission in the Indian Army, Blanshard decided to accept the appointment to Vancouver Island, which became effective 13 July 1849³³

and prepared to leave England in September of that year.³⁴ The same month Earl Grey wrote to him enclosing a copy of An Act to provide for the Administration of Justice in Vancouver's Island as well as the two former acts under which the area had been judicially administered (43 Geo. 3 c.138 and 1 + 2 Geo. 4 c.66).³⁵ He instructed Blanshard

to make such provisions as you may consider most advisable both for the apprehension of offenders and the trial of prisoners and the conduct of court cases subject to future laws made by the Legislature of the Island.³⁶

After a time-consuming journey Blanshard arrived at Victoria in March, 1850, having passage from Panama in H.M.S. Driver and on the morning of 11 March 1850 publicly read his commission as Governor.³⁷

In hindsight, the appointment of a governor without means to govern--no staff, military, police, gaol, public purse,³⁸ or the personnel or tax-paying colonists to provide for any of them is hard to justify. As Blanshard soon learned, the source of authority in the colony rested in practical terms with James Douglas, the Chief Factor for the Hudson's Bay Company, in charge of Fort Victoria. Apart from the authority vested in his position, in the final analysis Blanshard could only call upon the Royal Navy for such help as it could give in serious situations; Douglas had the means, capability and experience necessary to govern.³⁹ The Governor in reality was little more than a figurehead and to some degree the author of his own future misfortune. He had accepted a colonial position without salary or financial support from the home government and without local resources, although he confidently expected to gain title to one thousand acres of Vancouver Island land, to receive a salary as soon as the proceeds of land sales

warranted it, and lastly, he considered the appointment a first step to a better colonial appointment.⁴⁰

Despite the lack of normal government offices, Blanshard, as the only law officer in the Colony, felt that it was incumbent upon himself to hear cases and to give a semblance of legality to punitive measures otherwise occasionally dispensed by officers of the Hudson's Bay Company.⁴¹

If and when necessary he swore in a special constable to help him and had miscreants committed to the North bastion of Fort Victoria which served as the Company lock-up.⁴²

Dr. J. S. Helmcken, in his Reminiscences, states that the first prisoner he saw in gaol was "a half Kanaka, half Canadian or perhaps a coloured man" who ate and slept in prison but who was daily turned out to work on the street and who returned of his own volition at night.⁴³

This was the beginning of the public works of the chain gang in Victoria, but without guards or chains.⁴⁴

It was an unsatisfactory arrangement for the Governor to thus rely upon the good will of the Company, but Blanshard had funds to neither build, rent, nor staff a prison.

In 1849 the Hudson's Bay Company had constructed Fort Rupert at Beaver Harbour on the north-east coast of the Island. The purpose of this establishment was two-fold: to trade with the Northern Indians and to mine coal which had been discovered in surface out-croppings. The Company brought out Scottish miners, in charge of one John Muir, under what had seemed in Scotland to have been generous terms--£50 to £60 per annum and all found.⁴⁵

However, the food, housing, and working conditions in a rough new country were not up to the standard expected by the miners. These factors together with the financial lure of the California

goldfields⁴⁶ and the proximity of large numbers of war-like Indians caused serious disharmony among the white men.⁴⁷ Aware of this, ~~leaders,~~ Governor Blanshard, who was living in H.M.S. Driver, since his quarters ashore were not ready for occupancy, took the opportunity to sail to Fort Rupert where the Driver coaled.⁴⁸ He reported to the Colonial Office that the miners were discontented and "can scarcely be induced to work."⁴⁹ Douglas was not pleased with a meeting of Blanshard and the miners which took place at Muir's house, considering it an interference in the Company's business,⁵⁰ but the meeting undoubtedly gave Blanshard information about the state of unrest at Fort Rupert which he would not otherwise have obtained. After Blanshard left relations between whites and Indians, miners and Company deteriorated further. In the latter instance the miners went on strike and six men were imprisoned by George Blenkinsop, the officer in temporary charge of the Fort, two of them in irons, and on bread and water for six days.⁵¹ The important consequence of Blanshard's meeting with the miners and the subsequent disorder was his decision to appoint a magistrate at Fort Rupert in order that some lawful control might be exercised over both whites and Indians.

Blanshard's choice for the first magistrate and justice of the peace on Vancouver Island was Dr. John Sebastian Helmcken,⁵² the Hudson's Bay Company surgeon recently arrived in the Colony, and Blanshard felt, the man with the least involvement in Company affairs.⁵³ The Governor made it plain to Helmcken that the appointment was necessary because of the unruly miners and an awareness of a lack of solidarity and discipline might cause "the Indian population being numerous, savage and treacherous"⁵⁴ to do irreparable harm to the

community. He further requested more information in regard to the miner's dissatisfaction and the reason that the two supposed ringleaders, Andrew Muir and John McGregor, had been placed in irons. Blanshard acknowledged that there may have been extenuating circumstances for their imprisonment--as outward proof of firmness and control within the Fort and to impress the Indians.⁵⁵

Helmcken accepted the magistracy, albeit reluctantly since he felt that it placed him in an invidious position, recognizing the difficulty of serving two masters.⁵⁶ The Company had branded the men who wished to leave their employ, and some who physically left the Fort, as deserters. Helmcken was asked to search for the men, and did so, although he was unable to find anyone willing to assist him as special constable.⁵⁷ Only one deserter was found and he was captured or gave himself up to the local Indian interpreter.⁵⁸

Blanshard meanwhile addressed himself to the problem of "desertions" in the ranks of the miners and concluded the act was an infraction of their civil contract with the Hudson's Bay Company and there was no way the law officers could stop the miners save through efforts

to continue to bring the offence of absconding under the criminal law, for instance if a man is found running away in a canoe, break the canoe to pieces as contraband, some owner is sure to appear for compensation and declare that it was taken without his knowledge, thus a case of theft is made out for which a man may be whipped legally...⁵⁹

This was a highly improper suggestion for the chief law enforcement officer of the colony to make. Had Helmcken agreed with the suggestion

(and there is no evidence that he did) then they would have been guilty of conspiracy⁶⁰ but, at the least, Blanshard was probably guilty of one or more of the offences of incitement to crime, counselling a criminal act, both of which were misdemeanours whether or not a crime was committed,⁶¹ counselling malicious damage to property,⁶² specifically of maliciously or unlawfully destroying a boat, which in itself was subject to a jail sentence.⁶³ Whether or not Helmcken realized the true import of Blanshard's suggestion there can be no doubt that the treatment of the letter as private correspondence saved the Governor considerable further embarrassment, particularly had the matter become known in London. Colony

By the time Blanshard's private letter had reached Helmcken in August, events had diminished the importance of the apprehension of Company deserters to a marked degree.⁷² Serious trouble had come to light on 8 July 1850 with the news of the murders by Indians of three British seamen, deserters from the Hudson's Bay Company vessel Norman Morison, who had gone ashore from the sailing vessel England anchored in Beaver Harbour.⁷⁴ Helmcken was inclined, on the basis of early Indian reports, to believe that the murders had been committed by Northern Indians.⁷⁵ Later investigation resulted in the naming of names, and he reluctantly came to believe that members of the local Newwitty tribe were the perpetrators,⁶⁶ but he complained of the inability of the whites "to go to war" in order to capture and punish the murderers; thirty to forty whites against three thousand Indians.⁶⁷ In his report to Blanshard he makes it plain that assistance is needed⁶⁸ which, in due course, passing through Blanshard's hands to the Royal Navy, may have been the first call by a magistrate for military aid to the civil power on Vancouver Island.⁶⁹

hostile. In a despatch sent to London Blanshard reported the murders and pointed out that he had no means of apprehending the criminals since his only source of force was the occasional visit of ships of the Royal Navy.⁷⁰ Helmcken, meantime unable to swear in special constables from amongst the men at Fort Rupert due to the distrust evinced by reason of his position as an officer of the Hudson's Bay Company, had as a result tendered his resignation.⁷¹ The Governor added that when the next ship of the Royal Navy reached the Island he would go north in her in an effort to restore order. In his next despatch the Governor had no further news of Fort Rupert but urged the home government to garrison the Colony by means of two companies of troops, preferably marines, for the defence of Forts Victoria and Rupert.⁷²

By mid-October however, Blanshard was able to report that action had been taken respecting the Fort Rupert troubles.⁷³ On 22 September 1850, a Royal Navy corvette, H.M.S. Daedalus, Captain G. G. Wellesley, arrived at Fort Victoria.⁷⁴ Blanshard forthwith persuaded Captain Wellesley to sail north in a show of force, and the Governor proposed accompanying him. This suggestion was accepted. Upon arrival at Fort Rupert Blanshard found the disturbances within the ranks of the Company employees greatly reduced as fear of the Indians had forced the men to realize that for safety they must present a united front.⁷⁵

Helmcken was sent to the Newwitty encampment to offer a reward of twenty blankets for the deliverance of each of the murderers.⁷⁶ According to Helmcken⁷⁷ he travelled by canoe accompanied by six Indians, an Indian interpreter "and Bottineau as constable,"⁷⁸ possibly the first special constable to be identified by name. Although the Indians were very

hostile, refusing to let Helmcken land, he demanded from the canoe, in King George's name⁷⁹ that the murderers be given up. The Indians refused but offered, according to their custom, to pay in blankets or furs to the value of the murdered men. To this offer Helmcken in turn refused and warning that force would now have to be used to bring the criminals to justice, returned to Fort Rupert.⁸⁰

On 12 September 1850, Captain Wellesley despatched three armed boats under command of a Lieutenant Burton, Senior Lieutenant of the Daedalus, against the Indians. Burton had orders to arrest the murderers or take the chiefs as hostages. Failing this he was to attack and burn the camp. The expedition found the camp deserted and destroyed it before returning to the ship.⁸¹ The Daedalus, by then running short of supplies, was forced to leave Fort Rupert. A few days later Blanshard followed by canoe for Victoria,⁸² after an unsuccessful attempt to persuade Helmcken to stay as justice of the peace.⁸³

Blanshard by now was apparently thoroughly disillusioned with his position for on 19 November 1850 he wrote two letters to Grey; one requesting a leave of absence to return to England and one tendering his resignation as Governor of Vancouver Island⁸⁴ --citing urgent business in England, financial inability to maintain himself in the Colony, and poor health.⁸⁵

During the winter of 1850-51 relative quiet prevailed in the Colony but Blanshard, despite his pending resignation had still not lost his determination to bring the Newwitty murderers to justice. In this he was probably supported by Douglas who had kept the Governor of the Hudson's Bay Company informed of developments⁸⁶ and Archibald Barclay

had written approvingly of the action by the seamen of H.M.S. Daedalus:

"... these savages must be roughly dealt with in such cases."⁸⁷

Blanshard kept in touch with Rear Admiral Phipps Hornby and his successor, Rear Admiral Fairfax Moresby,⁸⁸ the latter in due course sailing for Victoria to hear for himself the details of the affair.

Moresby was determined that the matter should be brought to a successful conclusion and detached H.M.S. Daphne, Captain E. G. Fanshawe, to carry the Governor to Fort Rupert in another effort to impress upon the Newitts Indians that they could not act with impunity in disregarding the white man's law.⁸⁹ Before Blanshard left, and in response to a letter from Douglas expressing alarm that Fort Victoria would be left without a law officer, he appointed Douglas to be local magistrate in his absence.⁹⁰

While these efforts were being brought to fruition, Grey in a despatch to Blanshard⁹¹ informed him that the government would not provide a garrison for the colony and condemned him for using naval forces to attempt to capture the Indians and punish their tribe.

I should state for your guidance on future occasions that Her Majesty's Government cannot undertake to protect or attempt to punish injuries committed upon British subjects, who voluntarily [author's italics] expose themselves to the violence or treachery of the Native Tribes at a distance from the settlements. I have no reason to suppose from accounts which have reached me both from yourself and other quarters that the settlements themselves are in actual danger.⁹²

Grey's use of the word voluntarily may have been accidental but the implication is clear: the government would not be adverse to the use of naval forces against the Indians under different circumstances.

Evidence of the Government's displeasure with Blanshard's management of the affair is reinforced by the demand that Blanshard pay the Admiralty bill (£47-15-0) for the cost of his passage to Fort Rupert in the Daedalus in the fall of 1850.⁹³ Blanshard not to be put upon, forwarded the demand to the Hudson's Bay Company⁹⁴ who were, after all, responsible for the costs of the civil and military expenses of the colony.

Fortunately these despatches were not received by Blanshard until after the successful conclusion of the second Fort Rupert expedition during which, on 19 July 1851, the Daphne's boats were sent against the Newwitty encampment. The commander of the expedition Lieutenant Edward Lacey, reported that upon approaching the camp the boats were fired upon. Fire was returned by the gun of the pinnace, the seamen landed, and the Indians fled to the woods. The naval force while under occasional attack from the forest, slightly wounding two seamen, burned houses, property, and canoes. The Indians reportedly suffered casualties of four dead and two wounded.⁹⁵ Despite the failure to apprehend the murderers Blanshard expressed satisfaction:

A most beneficial has been produced on the tribes . . . who had caused much alarm . . . endangering the safety of Fort Rupert.⁹⁶

The comments on Blanshard's despatch of 4 August 1851 made by officials in the Colonial Office are illuminating, both as to an indication of some confusion existing there in regard to Vancouver Island and since the second expedition to Newwitty may have had the effect of establishing a precedent.

Both [?] murders have in some measure been avenged by H.M. Ships Daedalus and Daphne. But if further crimes be committed, of the same nature, it might be extremely awkward to let them pass unnoticed.⁹⁷

Earl Grey then expressed dissatisfaction with the whole affair. H.M. Ships could not be expected to be at Vancouver Island continuously to deal with each case, especially as the Government lacked full information on the causes of the murders, suggesting again that the victims may be partially to blame for their own deaths.⁹⁸ Despite Grey's disapproval, in the future the navy was to continue to be involved in peace-keeping activities.

Grey accepted Blanshard's resignation on 3 April 1851 although the Governor was not made aware of it until he received his despatches in August of the same year.⁹⁹ Blanshard prepared to leave the colony which he did on 1 September 1851, after providing for the provisional rule of the colony by appointing a Council of Vancouver Island with James Douglas, John Tod, and James Cooper as members.¹⁰⁰

The efforts of Blanshard to maintain the peace, especially where the white/Indian relationship was concerned is important. It marked the beginning of government involvement in the protection of the few white inhabitants set amongst vastly larger numbers of uncivilized natives. The skirmishes on Vancouver Island could be called barely significant yet officials at the Colonial Office carefully applied themselves to the problem of Vancouver Island and the maintenance of peace and good order on the basis of information which was available. Blanshard attended to the task as best he could and if he failed it was perhaps as much his neglect in convincing the Colonial Office of the

seriousness of the situation with which he felt himself faced, through detailed despatches¹⁰¹ as it was his actions in response to given situations. Failure to advise his superiors upon white/Indian relations and the maintenance of law and order was not to be a fault of Blanshard's successor.

¹John S. Galbraith, The Hudson's Bay Company as an Imperial Factor 1821-1869 (Toronto: University of Toronto Press, 1957), p. 283.

²Rear Admiral P. Hornby to J. Parker, Secretary of the Admiralty, 20 August 1849. Report of the Provincial Archives Department of the Province of British Columbia for the Year Ending December 31, 1913 (Victoria: King's Printer, 1914), p. 74. R/Adm. Phipps Hornby, C.B.: Commander-in-Chief, Pacific Station, appointed 25 August 1847. Flag: H.M.S. Asis, 84 guns. Later Admiral, G.C.B., d. 1867. Barry M. Gough, The Royal Navy and the Northwest Coast of North America 1810-1914: A Study of British Maritime Ascendancy (Vancouver: University of British Columbia Press, 1971), p. 249. Gough acknowledges assistance of N/S 1440-102/2, E. C. Russell and the Directorate of History, Department of National Defence, Ottawa. Major F. V. Longstaff, Esquimalt Naval Base, A History of its Work and its Defences (Victoria: 1941), p. 114.

⁴Galbraith, loc. cit.

⁵Papers Relative to the Grant of Vancouver's Island, op. cit., p. 16.

⁶Ibid., p. 15.

⁷Loc. cit., but not military responsibility for external threats in time of war.

⁸Scholefield and Howay, op. cit., Appendix XI, pp. 672-675.

⁹Royal Grant, "Papers Relative to Vancouver's Island," op. cit., p. 13.

¹⁰Great Britain, Colonial Office, Original Correspondence, Secretary of State--Vancouver Island, Series 305, Vol. I, n.d. (Hereafter C.O. 305).

¹¹Ibid., cf. Walter N. Sage, Sir James Douglas and British Columbia (Toronto: University of Toronto Press, 1930), p. 145. Contrary hearsay in a speech by the Earl of Lincoln. See footnote 26 below.

¹²Papers Relative to the Grant of Vancouver's Island, op. cit., p. 15, and Benjamin Hawes, M.P. (Parliamentary Undersecretary for the Colonial Office) to Sir John Pelly, Bt. (Governor, Hudson's Bay Company)

Footnotes

- ¹ Great Britain, Parliament, House of Commons, Papers Relative to the Grant of Vancouver's Island to the Hudson's Bay Company (1849, 103). Also, E.O.S. Scholefield and F. W. Howay, British Columbia from the Earliest Times to the Present, Vol. I, Appendix XIII (Vancouver: S. J. Clarke, 1914), pp. 676-80.
- ² John S. Galbraith, The Hudson's Bay Company as an Imperial Factor 1821-1869 (Toronto: University of Toronto Press, 1957), p. 283.
- ³ Rear Admiral P. Hornby to J. Parker, Secretary of the Admiralty, 20 August 1849. Report of the Provincial Archives Department of the Province of British Columbia for the Year Ending December 31, 1913 (Victoria: King's Printer, 1914), p. 74. R/Adm. Phipps Hornby, C.B.: Commander-in-Chief, Pacific Station, appointed 25 August 1847. Flag: H.M.S. Asia, 84 guns. Later Admiral, G.C.B., d. 1867. Barry M. Gough, The Royal Navy and the Northwest Coast of North America 1810-1914: A Study of British Maritime Ascendancy (Vancouver: University of British Columbia Press, 1971), p. 249. Gough acknowledges assistance of N/S 1440-102/2, E. C. Russell and the Directorate of History, Department of National Defence, Ottawa. Major F. V. Longstaff, Esquimalt Naval Base, A History of its Work and its Defences (Victoria: 1941), p. 114.
- ⁴ Galbraith, loc. cit.
- ⁵ Papers Relative to the Grant of Vancouver's Island, op. cit., p. 16.
- ⁶ Ibid., p. 15.
- ⁷ Loc. cit., but not military responsibility for external threats in time of war.
- ⁸ Scholefield and Howay, op. cit., Appendix XI, pp. 672-675.
- ⁹ Royal Grant, "Papers Relative to Vancouver's Island," op. cit., p. 13.
- ¹⁰ Great Britain, Colonial Office, Original Correspondence, Secretary of State--Vancouver Island, Series 305, Vol. I, n.d. (Hereafter C.O. 305).
- ¹¹ Ibid., cf. Walter N. Sage, Sir James Douglas and British Columbia (Toronto: University of Toronto Press, 1930), p. 145. Contrary hearsay in a speech by the Earl of Lincoln. See footnote 26 below.
- ¹² Papers Relative to the Grant of Vancouver's Island, op. cit., p. 15, and Benjamin Hawes, M.P. (Parliamentary Undersecretary for the Colonial Office) to Sir John Pelly, Bt. (Governor, Hudson's Bay Company)

4 September, 1848, ibid., p. 16, and the acceptance of the conditions, Pelly to Hawes, 9 September 1848, ibid., p. 17.

¹³ James E. Hendrickson, "Precursor to British Columbia: The Constitutional Development of the Colony of Vancouver Island" (Unpublished paper given before the Western Historical Association: Portland, Ore., 1977), pp. 3-4. Provision for representative government was not embodied in law but appeared in future instructions to the Governor from the Colonial Office. See Grey to Blanshard, 15 September, 1849, C.O. 305/2, footnote 39 below.

¹⁴ Papers Relative to the Grant of Vancouver's Island, op. cit., p. 18. Pelly to Earl Grey, 13 September 1848, in answer to Grey's enquiry of 31 July 1848 cited in Parliamentary Papers, "Vancouver Island," No. 619, 1848, p. 16.

¹⁵ Loc. cit. For the occupations as well as the names of the men see David M. L. Farr, "The Organization of the Judicial System of the Colonies of Vancouver Island and British Columbia, 1849-1871" (Vancouver: unpublished undergraduate essay, The University of British Columbia, 1944), p. 2; Howay and Scholefield, op. cit., pp. 503-504.

¹⁶ Pelly to Grey, 13 September 1848, op. cit., Farr and Scholefield and Howay, op. cit.

¹⁷ Hawes to Pelly, 27 September 1848, op. cit.

¹⁸ Scholefield and Howay, op. cit., pp. 503-504.

¹⁹ As early as 4 March 1848 Pelly had written to Grey that since the Hudson's Bay Company was not to govern Vancouver Island under 1 + 2 Geo. 4, c.66, as in the past, new provision for the administration of justice must be made. Papers Relative to the Colonization of Vancouver's Island, 10 August 1848, pp. 11-13.

²⁰ Papers Relative to the Grant of Vancouver's Island, op. cit., p. 19.

²¹ Ibid., pp. 19-20.

²² C.O. 305/1. Minutes dated 27-28 December 1848.

²³ British Columbia. Appendix to the Revised Statutes of British Columbia (Victoria: R. Wolfenden, Government Printing Office, 1871), pp. 98-101.

²⁴ Loc. cit., also Scholefield and Howay, pp. 680-681; C.O. 305/1.

²⁵ See footnote 14, above.

²⁶ Sage, op. cit., pp. 144-146. The Earl of Lincoln spoke against the Hudson's Bay Company for four and one half hours in Parliament. Galbraith, op. cit., p. 288, suggests that W. E. Gladstone was an even greater parliamentary opponent to the grant of Vancouver Island to the Hudson's Bay Company.

²⁷ Willard E. Ireland, "The Appointment of Governor Blanshard," British Columbia Historical Quarterly, Vol. VIII (Victoria, 1944), No. 3, p. 218.

²⁸ Hudson's Bay Company Archives (hereafter H.B.C.A.) A1/66 cited in Ireland, loc. cit.

²⁹ Pelly to Sir George Simpson, 7 September 1849 (private) H.B.C.A. D5/26 cited in ibid., p. 219.

³⁰ Ireland, op. cit., pp. 220-221. These travels may have given rise to the supposition that Blanshard had previous colonial government experience. Cf. Sage op. cit., p. 148; Farr, op. cit., pp. 203. E. E. Rich, The History of the Hudson's Bay Company, Vol. II (London: The Hudson's Bay Record Society, 1959), p. 756, states that Blanshard had administrative experience in the British Honduras.

³¹ Ireland, op. cit., and Archibald Barclay to James Douglas, 3 August 1849. Fort Victoria, Correspondence Inward, Public Archives of British Columbia (hereafter P.A.B.C.).

³² Lymington and South Hants Chronicle, 14 January 1894, cited in Ireland, op. cit., p. 220. Circumstantial evidence to support this possibility may be found in a letter from Blanshard to Grey in 1852 in support of his request for another colonial position.^{32a} He wrote that while travelling in India in 1848 he served in the Sikh Wars (1848-49) as a volunteer gentleman^{32b} and at the conclusion of the campaign in 1849

received a letter from a relative in England informing me that Vancouver Island was to be colonized on a large scale and that it had been intimated to him that he could promise the appointment of Governor for me. . . .^{32c}

^{32a} Blanshard to Grey, n.d. January 1852, C.O. 305/3.

^{32b} Following his letter Blanshard includes testimonials (C.O. 305/3, p. 46 ff.) of his army service from officers of the 8th and 10th Regiments of Bengal Native Infantry, from Brigadier Andrew Hervey, 1st Inf. Bde., Army of Punjab who stated that Blanshard was mentioned in despatches for energetic and diligent behaviour and while acting as his A.D.C. had a horse shot from under him. He recommended Blanshard for "any honourable distinctive badge" that might be awarded to volunteers engaged in the battles of Mooltan and Goojerat. Approved by Maj. Gen. Sir W. S. Whisk, G.O.C., 1st Inf. Div., and also by the C.-in-C., Lt. Gen. Lord Viscount Gough.

Blanshard states that he was awarded an honorary medal, but whether it was the campaign medal for the Punjab, 1848-1849, is not clear.

^{32c} Blanshard to Grey, op. cit.

³³ Richard Blanshard: Commission, MS., P.A.B.C. Daily Colonist, 1 January 1890; Lamb, op. cit., p. 10. This action was illegal under

³⁴ Ireland, op. cit., p. 223., 17 August 1850, C.O. 305/2.

³⁵ Grey to Blanshard, 15 September 1849, C.O. 305/2. and water until they returned to duty."

³⁶ Ibid.

³⁷ F. V. Longstaff and W. K. Lamb, "The Royal Navy on the Northwest Coast, 1813-1850" Pt. II, British Columbia Historical Quarterly, Vol. IX, 1945, p. 127. H.M.S. Driver, Commander C. R. Johnson, paddle sloop, 1,056 tons, 6 guns.

³⁸ Margaret A. Ormsby, British Columbia: A History (Vancouver: Macmillan, 1958), p. 99.

³⁹ Ireland, op. cit., p. 224. Douglas was by then 46 years of age and had been in the fur trade for 30 years, a man of considerable influence and prestige.

⁴⁰ Ibid., pp. 221-222. Blanshard did not obtain 1,000 acres of land. Douglas understood it to be only for the use of the Governor for the time being. op. cit., appendix, p. 311.

⁴¹ Ormsby, loc. cit. and Smith, ed., appendix, loc. cit.

⁴² Report from the Select Committee on the Hudson's Bay Company, 1857, p. 290, and Reminiscences of Dr. J. S. Helmcken, Vol. III, p. 75, P.A.B.C. cited in W. K. Lamb, "The Governorship of Richard Blanshard," British Columbia Historical Quarterly, Vol. XIV, 1950, pp. 6-7.

⁴³ Dorothy Blakey Smith, ed., The Reminiscences of Doctor John Sebastian Helmcken (Vancouver: University of British Columbia Press, 1975), p. 136.

⁴⁴ Loc. cit. In a footnote Smith quotes a report made by Helmcken in 1895 identifying the man as "William Kingston, coloured."

⁴⁵ Galbraith, op. cit., p. 293.

⁴⁶ Loc. cit. Love Bancroft, History of British Columbia 1792-1887,

Vol. XXII (San Francisco: The History Company, 1887), p. 273, and Lamb, op. cit.

⁴⁷ Lamb, op. cit., p. 8.

⁴⁸ Lamb, ibid., p. 9 and Longstaff and Lamb, op. cit., p. 128. 1850, P.A.B.C.

⁴⁹Blanshard to Grey, 8 April, 1850, C.O. 305/1 and in Scholefield and Howay, op. cit., p. 514; Lamb, loc. cit.

⁵⁰Lamb, loc. cit.

⁵¹Smith, ed., op. cit., appendix, Helmcken in Daily Colonist, 1 January 1890; Lamb, op. cit., p. 10. This action was illegal under Colonial law. Douglas to Barclay, 17 August 1850, C.O. 305/2. Blenkinsop was acting under orders from Chief Factor Douglas to treat the men as "prisoners at large and to feed them on bread and water until they returned to duty."

⁵²Blanshard to Helmcken, 22 June 1850, letter of appointment, Vancouver Island, Correspondence Outwards, P.A.B.C., and received by Helmcken 27 June 1850. Smith, op. cit., appendix, p. 308 and Lamb, op. cit., p. 11.

⁵³Blanshard to Grey, 10 July 1850, C.O. 305/2, also Scholefield and Howay, op. cit., pp. 517-518.

⁵⁴Blanshard to Helmcken, 22 June 1850 (private letter), Vancouver Island, Correspondence Outward, P.A.B.C.

⁵⁵Loc. cit. There appears to be no satisfactory explanation of this action except over-zealous discharge of his duty by the Hudson's Bay Company officer.

⁵⁶Smith, ed., op. cit., appendix, p. 311.

⁵⁷Lamb, loc. cit., and Smith, ed., appendix, loc. cit.

⁵⁸Smith, ed., op. cit., appendix, p. 312.

⁵⁹Blanshard to Helmcken, 6 August 1850 (private), Vancouver Island, Correspondence Outward, P.A.B.C.

⁶⁰Rt. Hon. Earl of Halsbury, The Laws of England, Vol. 10 (London: Butterworth, 1955), pp. 310 and 631.

⁶¹Ibid., p. 309.

⁶²Ibid., p. 874 ff. (7 + 8 Geo. 4 c.30).

⁶³Ibid., p. 893.

⁶⁴Herbert Howe Bancroft, History of British Columbia 1792-1887, Vol. XXXII (San Francisco: The History Company, 1887), p. 273, and Lamb, op. cit., p. 12.

⁶⁵J. S. Helmcken, Magistrate's Court Diary, Fort Rupert, 15 July 1850, P.A.B.C.

- ⁶⁶ Ibid., and Smith, ed., op. cit., appendix, p. 318.
- ⁶⁷ Helmcken, op. cit.
- ⁶⁸ Helmcken to Blanshard, 2 and 17 July 1850, MS., P.A.B.C.
- ⁶⁹ Stanley H. Palmer, "Calling out the Troops. The Military, the Law, and Public Order in England 1650-1850," Journal of the Society for Army Historical Research, Vol. LVI (London, 1978), No. 228, pp. 198-214. Military aid to the civil power may only be authorized by one or more local magistrates in modern practice, established in the 17th century.
- ⁷⁰ Blanshard to Grey, 18 August 1850, C.O. 305/2 and Scholefield and Howay, op. cit., pp. 518-519.
- ⁷¹ Loc. cit. ". . . without proper support the office merely exposes him to contempt and insult."
- ⁷² Blanshard to Grey, 18 September 1850, C.O. 305/2; Scholefield and Howay, op. cit., p. 520, and Lamb, op. cit., p. 15.
- ⁷³ Blanshard to Grey, 19 October 1850, C.O. 305/2 and Scholefield and Howay, op. cit., pp. 521-522.
- ⁷⁴ Lamb, op. cit., p. 15, and Gough, op. cit., appendix G, p. 261. H.M.S. Daedalus, 1,082 tons, a razée (cut down to one deck) frigate of 20 guns.
- ⁷⁵ Smith, ed., op. cit., appendix, p. 317.
- ⁷⁶ Blanshard to Helmcken, 9 October 1850, Vancouver Island, Correspondence Outward, P.A.B.C. and cited in Lamb, op. cit., p. 15. Hudson's Bay Company, Records on the Affairs of Victoria, 1852-1859, P.A.B.C. (Account book entry dated October 1855, re: August 27, 1851). Paid to Indians as part payment of the reward offered by Blanshard for the "Newitte" murderers--17 plain 3 pt. blankets at 5/11 ea.--£4-19-2.
- ⁷⁷ Smith, ed., op. cit., appendix, p. 320.
- ⁷⁸ Loc. cit. Bottineau was undoubtedly the former métis voyageur, Baptiste (Basil) Bottineau and subsequent member of the Voltigeurs Corps raised by James Douglas in Victoria. See B. A. McKelvie and W. E. Ireland, "The Victoria Voltigeurs," B.C.H.Q., Vol. XX, 1956, footnote, pp. 229-230, and Hudson's Bay Company, Records on the Affairs of Victoria, 1852-1859, P.A.B.C. (Account book under date of 14 January 1852).
- ⁷⁹ To the Indians all British were "King George men" as all Americans were "Boston men."
- ⁸⁰ Smith, ed., loc. cit. Helmcken further states that Bancroft's version of the event "is a damned malicious lie" (cf. Bancroft, op. cit.,

p. 274) since he (Helmcken) is accused therein of collusion in originally inciting the Indians to murder. Moresby, 7 August 1851, C.O. 305/3.

⁸¹ Capt. G. G. Wellesly, R.N. to Blanshard, 13 October 1850, C.O. 305/3.

⁸² Smith, ed., op. cit., appendix, p. 322. 305/3 and Lamb, loc. cit.

⁸³ Blanshard to Grey, 19 October 1850, op. cit.

⁸⁴ Blanshard to Grey, 19 November 1850, C.O. 305/2. In a minute dated April, 1851, written on the letter of resignation, Herman Merivale, Permanent Under Secretary of State for Colonial Affairs states that Blanshard seems to be giving them a choice of action. Grey opted for resignation. Minute by Grey, 12 November 1851. By this time Grey

⁸⁵ Op. cit. In these letters Blanshard refers to the ague in support of his poor health. Helmcken (Smith, ed., Reminiscences) suggests that he suffered from recurring malarial attacks and Ormsby, op. cit., p. 99, states that he suffered from tic douloureux, which is an extremely painful facial neuralgia.

⁸⁶ Douglas to Pelly, Fort Victoria, Correspondence Outward, 1850-1858. MS., P.A.B.C.

⁸⁷ Barclay to Douglas, 27 December 1850, Correspondence Inward, Hudson's Bay Company to James Douglas, P.A.B.C.

⁸⁸ Correspondence cited in Lamb, op. cit., p. 30. Rear Admiral Fairfax Moresby appointed to Pacific Station 21 August 1850, Vice-Admiral, November 1856, d. circa 1877. Longstaff, op. cit., pp. 114-115.

⁸⁹ Moresby to Blanshard, 29 June 1851, MS., P.A.B.C., cited in Lamb, loc. cit. H.M.S. Daphne, corvette (sloop), 18 guns, Gough, loc. cit., pp. 92 and 261. Gough (p. 92) also makes the point that the Hudson's Bay Company would have, if possible, come to a peaceful accommodation with the Newitt's but the matter was taken out of their hands by Moresby and Blanshard.

⁹⁰ Blanshard to Douglas, 3 July 1851, C.O. 305/3.

⁹¹ Grey to Blanshard, 20 March 1851, MS., P.A.B.C. Quoted also in Scholefield and Howay, op. cit., pp. 523-524; Lamb, op. cit., p. 31 and C.O. 305/2.

⁹² Op. cit.

⁹³ Grey to Blanshard, 20 April 1851, MS., P.A.B.C., as cited in Lamb, op. cit., p. 32.

⁹⁴ Op. cit., despatch No. 20 of the same date.

95 Lt. Lacey to Capt. E. G. Fanshawe, 21 July 1851, C.O. 305/3. Captain E. G. Fanshawe to R/Adm. Moresby, 7 August 1851, C.O. 305/3. Reports the Fort Rupert Indians more courteous, obviously impressed with the naval attack which they thought would fail as they considered the Newitty position a strong one.

96 Blanshard to Grey, 4 August 1851, C.O. 305/3 and Lamb, loc. cit.

97 Op. cit., Minute by Mr. P. Smith, 11 November 1851. Complains that the Governor should have been more explicit on subjects of such importance. Smith was under the impression that murders had taken place on two occasions due to conflicting reports of the distance from the Fort at which the killings occurred.

98 Loc. cit. Minute by Grey, 12 November 1851. By this time Grey also states, it is too late and writes off Blanshard: "there is no advantage now in continuing this correspondence."

99 Scholefield and Howay, op. cit., p. 528.

100 Sage, op. cit., p. 167. Blanshard to Grey, 30 August 1851, MS., P.A.B.C.

101 There are a number of questioning statements in minutes by Colonial Office officials appended to the Governor's despatches to Lord Grey (C.O. 305/2 and 3). Clearly Blanshard was remiss in failing to provide sufficient information particularly in view of the slow method of communication available to him.

necessity of maintaining the settlement through the application of British law carefully, but forcefully applied.

In an early despatch to the Colonial Office, Douglas reported the sequel to the Fort Rupert murders. The result of the operation undertaken by seamen from H.M.S. Daphne, at the request of the civil power, against the Newittys

had been attended with the happiest effects . . . so filled their minds with terror that they . . . took refuge among the Tribes living on the West Coast of Vancouver Island.

There, in response to offers of peace upon the surrender of the culprits, the accused fled, and were pursued and killed by their own tribesmen.

They were brought to Fort Rupert where they were identified and buried.
CHAPTER II
The problem of accurate identification of Indians was recognized as one

of some difficulty. THE ESTABLISHMENT OF THE RULE OF LAW, THE COURTS, AND THE POLICE

not the fate they so justly merited . . . a satisfactory
As senior member of the Council Douglas became de facto ^{aware, what's wrong with 'unbeknownst'?}
Governor when Blanshard departed, although, unbeknownst to himself, he
had been appointed Governor within a few weeks of the acceptance of
Blanshard's resignation. In April the Colonial Office had sought the
recommendation of Sir John Pelly who again put forward the name of James
Douglas.¹ This time the Government accepted the Chief Factor despite
the danger that the appointment might be regarded in Parliament as a
complete surrender of Vancouver Island to the Hudson's Bay Company.²
The new Governor, who received notice of his appointment in November,³
was a man of considerable administrative experience, respected, and
well-used to dealing with the natives. He was convinced of the
necessity of maintaining the settlement through the application of
British law carefully, but forcefully applied.

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There, in response to offers of peace upon the surrender of the culprits,
the accused fled, and were pursued and killed by their own tribesmen.

They were brought to Fort Rupert where they were identified and buried. The problem of accurate identification of Indians was recognized as one of some difficulty but justice was seen to have been done, the men having met the fate they so justly merited . . . a satisfactory and honourable close.⁵

Early Grey still felt uncomfortable about the use of military force and was by no means sure of "the propriety of the proceedings."⁶ He voiced his misgivings to Sir John Pelly who assured him that it had always been the policy of the Hudson's Bay Company never to allow an Indian to injure a white man without exacting retribution and that such was common knowledge to the tribes in the territories under the Company's administration.⁷ In reply to Grey, Douglas expounded a theme which was to be repeated many times. He assured the Colonial Office of the beneficial effect upon the Indians as a result of the energy and determination of the former Governor, the Hudson's Bay Company, and the Royal Navy in

impressing upon them a proper degree of respect for persons and property of Her Majesty's subjects who may through accident fall into their power.⁸

At the same time Douglas recognized the necessity of remaining on friendly terms with the Indians--a task made easier by the knowledge that language differences and inter-tribal warfare were divisive factors among the estimated twenty thousand Indians on the Island.⁹ In the same despatch he made the first of many requests for one of H.M. ships to be stationed at Fort Victoria, both for internal security and as a token of

the faith that the Government had in the future of the Colony.¹⁰

Bold action was necessary to impose a respect by the Indians for the colonists and their laws. When the Hudson's Bay Company trading vessel Una was wrecked near Cape Flattery on 24 December 1851, Douglas did not hesitate to take steps in this regard. The Neah Bay Indians robbed the wreck and manhandled the crew who were rescued by the timely arrival of the American schooner, Susan Sturges.¹¹ Douglas decided to demand an accounting from the tribe despite the offence having occurred in Washington Territory. As he reported, an example had to be made in order to prevent "other savage nations from committing wanton outrages."¹² The Hudson's Bay Company schooner Cadboro was despatched to Neah Bay with a well-armed and augmented crew, and with considerable hope of success since the Neah Bay chiefs had already sent apologies to Victoria and offered restitution.¹³

Two weeks later Douglas sent his next despatch in which he reported the safe return of the Cadboro with all the articles which the Indians had stolen.¹⁴ Assurances had been given by the Neah Bay chiefs that the principal culprits had been executed as a mark of good will toward the British.¹⁵ Whether or not the executions occurred, the report was diplomatically accepted by Douglas although, as Blackwood of the Colonial Office stated, the obvious flaw in the report was the lack of means to corroborate the incident.¹⁶ Douglas pointed out that the expedition had been accomplished without any actual hostile action and the result had not failed to be noticed among the Vancouver Island Indians.¹⁷ Aware of the value of recognition for services rendered, the Governor issued a Certificate of Good Conduct to an Indian named

the village and with guns run out.²³ This display was sufficient to Yellican or "Cape Flattery Jack" for aid in recovering the goods and force the Indians to send a messenger to state that the boat and muskets equipment of the Una and acknowledged his offer to aid any vessel in distress in the future.¹⁸ Despite the international implications of the incursion of American territory Grey officially approved the action.¹⁹

Hardly had this matter been successfully concluded when a potentially dangerous situation arose at Fort Victoria during an attempt to arrest one of a pair of Indians accused of killing cattle and sheep belonging to a white settler. One man was arrested by an unnamed special constable, bearing a warrant issued by Douglas, but the other fled to the Songhees village across the harbour where the constable and his "posse" were repulsed by the excited Indians with the loss of two muskets and a boat.²⁰

Dr. J. S. Helmcken who was placed in charge of one boat during a second attempt to extract the culprit from his tribe recalled in a comic incident how he stood in the bow with his shot-gun as they approached the armed Indians on shore. He suddenly found himself having to turn to keep facing the Indians and on looking round for the cause of the rotary motion--I found two of my men in the bottom of the boat and the third were to pulling frantically with one oar.²¹

Douglas was not pleased with the subsequent retreat of his officers and concluded that detailed advice would be "rather unlikely to be of much service" to Douglas excepting that expeditions to remote areas were to be discouraged.²⁶ He could not allow Her Majesty's authority to be thus treated with contempt, and the law set at open defiance, without a neglect of duty, and incurring greater evils than those which it was sought to avert.²²

He therefore ordered the Company steamer Beaver to be anchored before

the village and with guns run out.²³ This display was sufficient to

In May 1852 Douglas had to send a constable and ten men to force the Indians to send a messenger to state that the boat and muskets would be returned the next morning with compensation for the cattle. rescue a Roman Catholic missionary, Father Lamprét, living among the Cowichan Indians. As Douglas reported, there was "a great lack of cordiality between the pastor and his flock," and for his own safety Thus the matter was settled although the fate of the accused cattle thieves is not recorded.

Lamprét was brought to Victoria where he was firmly discouraged from any further missionary work in remote areas. He was of the opinion that Douglas ended his April despatch on an optimistic note, expecting no further Indian trouble were it not for loose cattle straying the priests could best serve the community within the environs of the into the woods offering

Fort, directing their attention to the Indian and French Canadian members

of their Cl an irresistible [sic] temptation to the . . . Indian . . . whose ideas are moreover somewhat indistinct as to the obedience real value of domestic cattle . . .²⁴

Several months of relative peace followed during which the likening them to deer and similarly available for the taking. Governor was able to direct his attention to the prevention of crime.

During the study of this long despatch the Colonial Office considered the possibility that any of H.M. ships sent to the Queen Charlottes to enforce British claims to sovereignty could call at Victoria and offer aid from time to time.²⁵ Opinions on the Cape

Flattery and Songhees matters were summarized by Herman Merivale through

Douglas requested in August 1852 that a small steam powered war vessel be sent to Vancouver Island as much more effective control could be exercised by the civil authorities if an available vessel was capable of views which were emphasized during the following years. If the colony were to maintain itself the local authority must be able to use its discretion as to the best method of protection against Indians. He navigating the many small bays and inlets of the coast. Unbeknown to Douglas, aid in this proposal had already come from the Foreign Office service" to Douglas excepting that expeditions to remote areas were to be discouraged.²⁶ Grey agreed and in his despatch of 2 August 1852, he

As a result orders had been given by Rear Admiral Fairfax Moresby to approved the action and good judgement displayed by Douglas, adding that Captain A. L. Kuper of H.M.S. *Thetis*, to prepare to proceed to Vancouver Island and the Queen Charlotte Islands

Indians close by.²⁷

In May 1852 Douglas had to send a constable and ten men to rescue a Roman Catholic missionary, Father Lamprêt, living among the Cowichan Indians. As Douglas reported, there was "a great lack of cordiality between the pastor and his flock,"²⁸ and for his own safety Lamprêt was brought to Victoria where he was firmly discouraged from any further missionary work in remote areas.²⁹ He was of the opinion that the priests could best serve the community within the environs of the Fort, directing their attention to the Indian and French Canadian members of their Church "and to the encouragement of industry, sobriety, and obedience to the law."³⁰

Several months of relative peace followed during which the Governor was able to direct his attention to the prevention of crime. The laws of England had so far served well in the Colony reinforced by one Colonial law to regulate the sale of liquor. The latter was made necessary by the fact that drunkenness was the most prevalent offence committed within the colony.³¹ As an adjunct to crime prevention Douglas requested in August 1852 that a small steam powered war vessel be sent to Vancouver Island as much more effective control could be exercised by the civil authorities if an available vessel was capable of navigating the many small bays and inlets of the coast.³² Unbeknown to Douglas, aid in this proposal had already come from the Foreign Office which was concerned with American encroachment on British territory.³³ As a result orders had been given by Rear Admiral Fairfax Moresby to Captain A. L. Kuper of H.M.S. Thetis, to prepare to proceed to Vancouver Island and the Queen Charlotte Islands

circumstances.³⁸ Douglas wrote to Kuper that he was "determined to

bring them to protect the property of British and Colonial subjects as well as for the protection of National rights and private interests.³⁴

In fact Sailing Orders were not issued to Kuper until April when Moresby directed the first duty of the Thetis was to protect British interests in the Queen Charlottes against American adventurers seeking gold.³⁵ Initially, the problem of Vancouver Island was not thought to be large but Moresby warned Kuper about that place as well as the Queen Charlotte Islands.⁴⁰

In your intercourse with the natives you must be very cautious. Some of the tribes being represented as treacherous, you should endeavour to impress them with the favor and protection of our Sovereign if they conduct themselves in a friendly and hospitable manner and the certainty of retribution should it be otherwise.³⁶

Such orders augured well for the future relationship between Kuper and Douglas for they were of a like mind on the subject of law and order. Subsequently, the Admiralty informed the Colonial Office of its plans (see footnote 27) including the information that the steam vessel Virago would be sent as soon as possible after refit.³⁷

Kuper made Esquimalt his base of operations on the North-west Coast and while in port in November, 1852, he became aware that he would be called upon for aid to the civil power. An event took place on the 5 November 1852 which James Douglas considered to be of a most serious nature. A young Orkneyman, Peter Brown, a shepherd at one of the Hudson's Bay Company sheep stations about five miles from Fort Victoria, was murdered by Indians with little apparent motivation or mitigating circumstances.³⁸ Douglas wrote to Kuper that he was "determined to

bring them to justice, a measure absolutely necessary for the prevention of crime,"³⁹ and treading carefully, explained himself

Governor by the decision to await the return of the Hudson's Bay Company

steamship We have therefore, and for reasons of public justice and policy, as not wishing to implicate the whole tribe in the guilt of a few, nor to furnish a motive powerful enough to induce the several branches of the Tribe, through a sense of common danger to unite in a league, offensive or defensive force until against the Whites, thought it proper, in the first place, to despatch a message to the Chief of the Comegin Tribe demanding the surrender of the Criminals and should the measure fail in its object, I shall be under the painful necessity of sending a force to seize upon the murderers wherever they may be found.⁴⁰

Lieutenant of the *Thetis*, was added the Governor and eleven "half-Whites"

Kuper replied assuring Douglas of his "hearty co-operation" at any time "it be necessary for the security and benefit of the Colony."⁴¹

In his despatch to Sir John Pakington on 11 November 1852, the Governor reported that the messenger he sent to Cowichan had returned accompanied by the Chief with whom a conference was held that day.⁴²

The Chief expressed great regret--they had no quarrel with the Whites-- and promised to give up the murderers; all of the tribe being agreed on the matter, with the exception of the sub-tribe to which one of the murderers belonged.⁴³ Douglas expressed his satisfaction at this,

informing the Chief that he wished to spare the whole tribe as far as possible, hoping that they would see reason, since he did not wish "to take action, disagreeable to him and calamitous to them."⁴⁴ Despite

this, Douglas felt that he could not rely entirely upon the Cowichan Chief and went ahead with his plan to send a force to arrest the murderers. The distance to the Cowichan River was not long, yet recognizing the adverse effect of poor weather upon personnel and stores carried in open boats, that proposed method of transport was abandoned,

while the Thetis, being a sailing vessel was at a disadvantage in navigating inland waters. A delay was therefore forced upon the Governor by the decision to await the return of the Hudson's Bay Company steamship to Victoria before embarking the naval party.⁴⁵

Kuper was not officially requested to provide the necessary force until 23 December 1852, but due to poor weather conditions they were not able to sail until 3 January 1853.⁴⁶ To the naval force of 130 seamen and marines under command of Lieutenant Arthur Sansum, First Lieutenant of the Thetis, was added the Governor and eleven "half-whites" of the Hudson's Bay Company service, all accommodated in the Company steamer, Beaver, and the brig, Recovery, with the latter and the ship's boats of the Thetis in tow.⁴⁷

The flotilla anchored the first evening off the village of the Saanich Indians where Douglas took the opportunity to explain his purpose and to impress upon them that disobedience of the law led to difficulty and punishment, but that he could always be appealed to for justice.⁴⁸

Anchoring off the Cowichan River on 6 January, a message was sent to the Cowichan chiefs to surrender the murderers and at the same time a meeting on shore was arranged. The following day the naval force landed--soon to be faced with a large number of hostile Indians. Bloodshed was avoided largely due to the high state of discipline of the seamen and marines and, after a

considerable conference, one of the accused Indians was handed over to Douglas and taken aboard the Beaver.⁴⁹

Douglas spoke to the assembled Indians informing them that they were to remain peaceful and obey the law for the "whole country was a possession of the British Crown" and "that resistance to the civil power would expose them to be considered

as enemies."⁵⁰

Having learned that the other suspect had fled to Nanaimo, to which tribe he belonged, the expedition left Cowichan, anchoring off Nanaimo on 9 January. The Nanaimo Indians offered furs in lieu of the accused, which were refused. Douglas took the father of the accused as well as a second man as hostage, landed a naval force which, moving rapidly, captured two villages without a shot being fired. Since the navy now possessed the shelter and food supply of a considerable portion of the tribe, and under threat by Douglas to treat them as enemies, the chiefs agreed to give up the wanted man.⁵¹ The suspect had meantime fled to a location about three miles distant. Douglas despatched a pinnace with a crew of sixteen seamen and nine "half-Whites" in chase of the Indian who in due course was captured in the woods.⁵² The naval force was thereupon withdrawn, both criminals tried before Douglas, found guilty by a jury of officers and hanged at Gallows Point on Protection Island, at the mouth of Nanaimo Harbour.⁵³

General satisfaction on the success of the expedition was expressed by those concerned.⁵⁴ Douglas wrote that the surrender of the culprit at Cowichan

by the demand of the Civil power . . . augurs well for the future peace and prosperity of the colony⁵⁵

which he emphasized could not have been accomplished without the threat of force.⁵⁶ He went on to explain to the Colonial Office that in the case of both tribes the idea that the law should be applied only to the murderer and not others unless the Queen's authority was resisted

garrison was a matter so distant from their own customs in such cases, and so foreign to their ideas of propriety that it was exceedingly difficult to make them comprehend our views⁵⁷

but that he had every reason to be confident of the beneficial results of the expedition impressed upon the minds of all Indians. To the Hudson's Bay Company Douglas reported some remaining nervousness among a few of the settlers about the possibility of an Indian war, but was confident that no more than individual crimes by Indians would occur from time to time:

little seems to have come of the plan.

War was carried to their own door last winter and they are sensible that at any moment we can repeat the experiment . . . Cowegin and Nanaimo Indians are quiet and submissive . . . since the execution of the murderers last winter. . . .⁵⁸

several years by Douglas. For Cowichan he formed a small party under the command of J. W. McKay, an officer of the Company. The names of ten actions on an earlier occasion, officials of the Colonial Office were men are listed by McKelvie and Ireland with one later substitution by an unstinting in their praise of Douglas and the very satisfactory aid given interpreter. As they stated Douglas refers to eleven half-whites, but him by the Navy. A draft despatch of 4 April 1853 spoke of a "highly it seems at least possible that since ten only are shown in the financial creditable performance" and "deserving of their highest approbation" accounts of the expedition as having been outfitted and paid, while the Duke of Newcastle, the new Colonial Secretary assured Douglas eleventh man may have been McKay, simply included as one of the eleven that he had his "full approbation."⁵⁹

for the sake of brevity and convenience. The Voltigeurs' uniform included blue caps and coats, red belt, buckskin trousers, socks, and Cowichan and Nanaimo were members of the "Victoria Voltigeurs," a moccasins, and were issued muskets, powder, and shot at a total cost of Hudson's Bay Company irregular militia/rural police, the origins of 160-0-9 in which amount was included \$1.00 cash per man (outfitting which appeared two years earlier. Governor Blanshard had recommended cost, not included in pay account) and a ration of tobacco. The that a garrison of troops be stationed on the Island but this was uniform was apparently that of the Company servants at the voyageur opposed at that time by Chief Factor Douglas upon whose employer the level and carried in stock at the Fort.

garrison would be a charge.⁶⁰ Douglas agreed that sooner or later armed protection might be needed but suggested that a chain of several small satellite settlements be established on the edge of the Fur Trade Reserve⁶¹ as protection and early warning against the Indians. Retired company servants could be a good source of manpower--about ten men to each settlement--to be given twenty acres per settler, a small price when compared to "an endless train of expenses" involved in a regular garrison.⁶² The suggestion was repeated the following year⁶³ but beyond a few men being settled in a "Canadian village" on the Colquitz River and thus was a good method of avoiding armed conflict. Payment for little seems to have come of the plan.⁶⁴

The French Canadian "half-White" was however a source of part-time manpower for defence and police duty and was used as such for "profit" to the Company: on this occasion blankets, a gun, clay pipes, several years by Douglas. For Cowichan he formed a small party under command of J. W. McKay, an officer of the Company.⁶⁵ The names of ten men are listed by McKelvie and Ireland with one later substitution by an over two weeks⁶⁶ during which time the local administration of justice interpreter.⁶⁶ As they stated Douglas refers to eleven half-whites⁶⁷ but it seems at least possible that since ten only are shown in the financial accounts of the expedition as having been outfitted and paid,⁶⁸ the eleventh man may have been McKay, simply included as one of the eleven classes at Victoria" was common and that "there was not even a secure for the sake of brevity and convenience. The Voltigeurs' uniform included blue caps and coats, red belt, buckskin trousers, socks, and moccasins, and were issued muskets, powder, and shot at a total cost of £60-0-9⁶⁹ in which amount was included \$3.00 cash per man (outfitting cost, not included in pay account) and a ration of tobacco.⁷⁰ The uniform was apparently that of the Company servants at the voyageur level⁷¹ and carried in stock at the Fort.

The total cost of the Cowichan expedition, payable by the Hudson's Bay Company, amounted to £382-4-2⁷² including £6-17-6 for a Mr. Rowland, as hangman at Nanaimo, and a total of £15-10-8 paid to four Indians "for Secret Service at Cowichan." The latter item is noteworthy for as early as December 1850, Douglas had written at the Indians and the

"overbearing class of man employed as labourers" against whom there was often "no interest of the Colony had to be made to know the designs of the Indians. . . . If this is done, meetings with the Indians may diffuse their aims against the Whites. . . ."⁷³

instances of injustice that we are compelled to submit to"⁸⁰ and is and thus was a good method of avoiding armed conflict. Payment for worthwhile quoting in full. It depicted the first time that services such as that at Cowichan were not made in cash, but rather in "conscriptio" was brought to the attention of the authorities--a sworn Hudson's Bay trade goods, at full trade prices, thus effecting a statement by two "half-White" settlers:

"profit" to the Company: on this occasion blankets, a gun, clay pipes, tobacco and green baize.⁷⁴

The expedition had taken Douglas away from Victoria for just over two weeks⁷⁵ during which time the local administration of justice suffered to some extent. Douglas had not appointed a magistrate in his absence, and as a result some disturbances occurred. Captain Kuper reported that "drunkenness and irregularity amongst the labouring classes at Victoria" was common and that "there was not even a secure prison."⁷⁶ John Tod, as senior member of the Executive Council applied

There is the suspicion that the matter was brought up by Cooper due to the inconvenience caused by the loss of two labourers employed by him to Vancouver, aboard the Thetis but Kuper refused.⁷⁷ In the same despatch Kuper enclosed two letters sent to him by James Cooper, another member of the Council, complaining that when Douglas was away there was no civil power for the protection of the settlers:

whereupon the "crisis" disappeared. There is little doubt that some

persuasion a want of laws and justice duly administered and a proper force to carry such laws into effect⁷⁸

---no magistrate and but one unnamed constable for between three and four hundred inhabitants. As the Thetis was known to be leaving soon, Cooper emphasized that there would be no protection against the Indians and the "overbearing class of man employed as labourers" against whom there was often "no legal means of redress"⁷⁹ (for misdemeanors unspecified). A second letter by Cooper referred to an enclosure as "one of the many instances of injustice that we are compelled to submit to"⁸⁰ and is worthwhile quoting in full. It depicted the first time that "all "conscription" was brought to the attention of the authorities--a sworn statement by two "half-White" settlers:

I hereby solemnly swear that Mr. Douglas bound me to join in the Expedition about to take place against the Indians on the Coast of this Island under penalty of being banished from the Island. The threat was held out in these words "If any man is afraid to go, he may stop, but must leave the Island."⁸¹

Douglas reiterated the principle that (Signed) Basilre X Bottineau
his
mark

Witness: in person, retribution not to be taken against the whole his
James Cooper Charboneau X
Chief Thomas Cooper might be taken hostage against the return of st mark

goods or the deliverance of criminals.⁸² Prevost was not successful in

There is the suspicion that the matter was brought up by Cooper due to the inconvenience caused by the loss of two labourers employed by him to load a chartered ship with lumber.⁸² No doubt Cooper hoped that the letters would be forwarded to London through naval channels. In due course they were, exciting the only official comment "Pass to H.B.C."⁸³ whereupon the "crisis" disappeared. There is little doubt that some

persuasion might have been required to fill the volunteer ranks, certainly the Colonial Office was prepared to believe it, but was not

prepared to take recognizance of letters circumventing proper channels

of communication.⁸⁴

In 1852 Douglas had been appointed Lieutenant Governor of the Queen Charlotte Islands, an empty title, but one reflecting the Foreign Office's concern for British rights. While thanking Sir John Pakington for the appointment, which he acknowledged was given to him solely for the sake of appearances, Douglas pointed out that he was already the sole government, "military, judicial, executive, and clerical," all functions performed by him alone and doubted that he could properly handle more.⁸⁵

The only means by which the civil administration could be effected was through the Royal Navy, and in June 1853 H.M.S. Virago,

Commander J. C. Prevost, newly arrived at Esquimalt, was sent to the

Queen Charlottes to investigate the plundering by Indians of the

American vessel, Susan Sturges. In his instructions to the Captain,

Douglas reiterated the principle that Indian offenders were to be

punished in person, retribution not to be taken against the whole tribe.

In September 1853 it was resolved that a court of common

Chiefs, however, might be taken hostage against the return of stolen goods or the deliverance of criminals.⁸⁶

Prevost was not successful in identifying those responsible for the thefts, but he did recover a small

quantity of the stolen goods.⁸⁷

In explaining his use of the Royal Navy

and the Indian problem Douglas emphasized the great care required for

the protection of merchantmen against Indian attack. This Indian

propensity he characterized as

thievish determination . . . an instinctive thirst of gain which is the ruling passion, more powerful than the fear of death in their unprincipled and badly regulated minds.⁸⁸

In the early part of the same year Douglas had been giving some thought to the problem of civil administration of justice. In the spring he wrote to the Colonial Office requesting that law books be sent to him. These were somewhat reluctantly approved, Merivale commenting that he had made a list of nine which he hoped "would not cost much and might be procured as contingencies of this office."⁸⁹ Douglas also had in mind the appointment of justices of the peace and at the end of March presented a list of four names to the Council of Vancouver Island for approval.⁹⁰ The justices were to have jurisdiction in four districts about Victoria, paid by way of costs at the rate of one pound sterling per day in civil cases and in other matters by a schedule of fees to be drawn up.⁹¹ A few days later Douglas advised the Colonial Office of his action in appointing temporary justices of the peace and requested approval.⁹² Due to a lack of suitable persons and inexperience in the lower courts it soon became obvious that a superior court was a necessity. In September 1853 it was resolved that a court of common pleas be instituted, and as a temporary measure David Cameron, newly-arrived brother-in-law of Douglas, was appointed a justice of the peace and magistrate for the district of Victoria at a salary of £100 per annum.⁹³ In December the Council established the Supreme Court of Civil Justice of Vancouver Island with Cameron as judge at the same salary.⁹⁴ Although charges of nepotism were raised and complaints that Cameron was not trained in law, he was a man of ability, and was finally confirmed as

Chief Justice of the Supreme Court by Order-in-Council in 1856.⁹⁵

The police continued in their temporary and occasional role, sworn in as officers of the courts and paid in relation to the duties to be performed.⁹⁶ The scale of pay when acting for the justices was set out by the Council at four shillings to the constable for serving a summons and a like amount for warrants of execution.⁹⁷ Simple arrests, made without difficulty, were paid at the rate of \$1.00 each while those of more complexity, perhaps involving escort duties were paid according to the constable's time and trouble--and, it seemed, in whichever currency was most convenient at the time. For example, in September 1853, the constable was paid £3-2-6 for arresting Thomas Munroe in Sooke while a summons in the case of Bailey vs. Todd resulted in a \$9.00 payment.⁹⁸ Arrests and convictions were not common, for in the eleven months prior to the end of September 1853, the courts levied fines upon a handful of persons in the total amount of just under twenty-four pounds sterling. On the debit side, two white shirts and two pounds of tobacco were paid to Indians for ferrying magistrates across the harbour at various times.⁹⁹

For approximately the same period (to 19 October 1853) the account for gaol supplies indicates a spartan, largely bread-and-water regime:

258 loaves of bread
 41 lbs. fine biscuit
 40 lbs. oatmeal
 1 lb. tea
 2 lbs. sugar
 12 blankets
 6 spoons

6 buckets
4 lbs. bar soap

in total, a cost of £16-14-8.¹⁰⁰ During the same period a boat owned by W. A. Ingalls was ordered confiscated and sold (for \$30) to defray the cost of his imprisonment for a month.¹⁰¹ Specific payment for a turnkey for the gaol in the Fort does not appear; probably the constable saw to the meals of the prisoners.

Later in November, James Yates was fined five pounds for an infraction of the liquor law for which an unnamed informer was paid one-half the fine,¹⁰² a common practice but one subject to abuse unless carefully scrutinized. In December the magistrates travelled more than usual, for goods to the value of 15s 2d was paid for canoe hire: one common shirt, four yards of cotton and six yards of blue baize. The comfort of the prisoners was not forgotten, during the same month a Canada stove was purchased for the gaol at a cost of £6-6-0.¹⁰³

Besides those that ran afoul of the law, the Hudson's Bay Company continued in its practice of disciplining wayward employees by means of the prison. Douglas, in his role of Chief Factor at Victoria, advised E. E. Langford, the bailiff at the Company farm at Colquitz, that one John Burden having spent two days in gaol

for ill behaviour and refusing to perform his work, [and] having been restored to better feelings and expressed regret for past misconduct . . .

had been released and sent back to the farm.¹⁰⁴ Similar punishment for George Geal was ordered the following year.¹⁰⁵

In June 1853 the "High Constable of Victoria"¹⁰⁶ was instructed

to summon a jury of twelve, the first civilian jury in the colony, for the quarter session of the justices of the peace to be held 27 June 1853. There was not yet a sheriff appointed for the use of the court,¹⁰⁷ although Constable Hall was to serve in an acting capacity at a later date, carrying out sentences, and levying damages awarded by juries.¹⁰⁸

That year Douglas again took care to explain to the Colonial Secretary his views on the Indian problems of the small colony--whom he said had been generally peaceful for the past few months.¹⁰⁹ Minor charges had been brought against Indians for theft, and one had been committed to gaol for assaulting a white man with a reaping hook. He recorded his satisfaction that punishment was meted out "without exacting any ill feeling in the minds of the natives at large."¹⁰⁰ He credited this as

proof of their increasing intelligence, which I have much satisfaction in reporting . . . [since the] worst calamity that can befall this Colony, in its infant state is the hostility of the Native Tribes . . . the most important duty of the Executive, for many years to come, must be by firm and judicious measures to restrain them from evil and to conciliate their goodwill . . . a duty often rendered difficult by the recklessness and imprudence of the Colonists themselves.¹¹¹

The Governor expressed regret that he was unable to moderate inter-tribal warfare as a method of settling internal Indian disputes, which he did not consider consistent with the Indian position as inhabitants of a

British colony. Efforts at conciliation of disputes had of necessity to be undertaken within the settlement or its immediate environs. He recognized that with "no power to protect, it would be unjust to punish."¹¹² He went on to say that he offered

authoritative advice, which has great weight and has produced a good effect . . . so much so that only one native has been murdered within the settlement within the past twelve months¹¹³

and in that case he had let it be known that in the future such acts would be subject to capital punishment, under English law. The governor was confident that the natives would see the advantages of his protection while acknowledging that he could not yet

The fears of the Governor turned out to be groundless, at least for the limits of the settlements . . . [which they should be taught] are sacred ground and must not be polluted with innocent blood.¹¹⁴

The Duke of Newcastle approved this point of view toward the Indian population, agreeing that the local government must be very cautious in interfering in domestic feuds adding the further reason of the near impossibility of understanding the real merits of any case.¹¹⁵

Late in the summer of 1853 Douglas went on an inspection trip of the East coast of the Island, as far as Cape Mudge, taking the mariners, W. H. McNeil and Charles Dodd, as members. Swanston was summoned through the Governor's Private Secretary (Richard Colledge) but He estimated that he spoke to about two thousand Indians whom he found to be still in possession

of their natural ferocity of disposition and dishonest habits . . . [but that] the time was at hand when every act of rapine or violence would be restrained or punished.¹¹⁶

In the same despatch he related the concern felt in the Victoria district at the arrival of three thousand Northern Indians, including about one thousand armed men.¹¹⁷ Douglas put the settlers on guard

against a surprise attack and on 18 October,¹¹⁸ requested Captain Wallace Houston of H.M.S. Trincomalee to delay his ordered departure from Esquimalt for a few days, or until the Indians left.¹¹⁹ While it is not certain that the Indians would have made trouble before they left shortly thereafter, Douglas felt the request to have been prudent. He again expressed his concern that the Colony be left without sufficient internal protection.¹²⁰

The fears of the Governor turned out to be groundless, at least for the winter, which was a quiet one. The wreck of the brig, William,¹²¹ on 1 January 1854 provided an event of some legal interest as an example of the attitude of Douglas toward the proper enforcement of the law and his position in the colony. The captain of the William who was shown to have been drunk was lost in the wreck. An allegation of foul play connected with this death was made by a Mr. Robert Swanston.¹²² As soon as the allegation was made Douglas convened a Vice Admiralty Court, appointed David Cameron acting judge, with two master professional lawyer ^{McNeill?} judge and that Admiralty Courts must be mariners, W. H. McNeil and Charles Dodd, as members.¹²³ Swanston was summoned through the Governor's Private Secretary (Richard Colledge) but declined to appear unless addressed personally by the Governor. The court opened on 26 January 1854 and upon Swanston failing to attend, Douglas ordered the court to issue a writ of attachment for his arrest. On the 28th Swanston was arrested and held in jail, brought to court on the 30th, fined £50 for contempt, and upon payment

the young man was discharged from custody on easier terms than I should think it proper to grant on any similar occasion hereafter when parties, either through folly or disaffection, attempt to oppose the Executive authorities in the lawful discharge of their duties.¹²⁴

Douglas apologized to the Duke of Newcastle for bringing the matter to his attention and would not have done so but for the "extraordinary behaviour" of Swanston:

This I am happy to say is the only instance wherein the authority of Her Majesty's Government has been openly resisted since the Colony was founded . . . having no military force . . . and there being only a single constable at this place, such persons suppose that they may insult the Government with impunity.¹²⁵

At the Colonial Office, Blackwood dryly wrote that "Governor Douglas does not exhibit any want of determination when he has made up his mind to a course of proceeding."¹²⁶ Newcastle approved, telling Douglas that he conducted the investigation of the wreck of the William "with a readiness and vigilance very advantageous to the Public Service,"¹²⁷ but that despite his appointment as a Vice Admiral of the High Court of Admiralty, together with that of Governor, there was some doubt of the legality of the proceedings since there was not a professional lawyer to act as judge and that Admiralty Courts must be approved by the Admiralty before convening. He recommended the use of civil courts in any future case.¹²⁸

In the early summer of 1854 the Northern Indians again journeyed south to trade, visit, and seek summer employment; the sheer numbers of them caused Douglas some concern for the safety of the settlers. After thus expressing himself to Archibald Barclay he recounted an incident of an attack on the manager of the Company's Uplands Farm by Tongass Indians.¹²⁹ Consequently Douglas rode out with six men, who may have been Voltigeurs, but found the Indians gone. He

felt the danger sufficiently serious to despatch messengers to other coastal posts and settlements to be on their guard against Indians and placed the whole community on alert against possible attack. However, the incident passed with no damage but some petty theft and the manager suffering a cut head.¹³⁰

The outbreak of the Crimean War, the advice of which was acknowledged by Douglas in July¹³¹ brought the promise of extra visits by ships of the Royal Navy.¹³² Although Douglas may have been somewhat relieved of any concern he felt regarding the lack of defences of the colony against Russian attack, the promise conferred a mixed benefit upon the police and magistracy. On the one hand naval forces would be at hand more often in their supportive role to law and order, while on the other hand more members of the service would require the attention of the authorities. Shortly after H.M. Ships President, Pique, and Virago made Esquimalt Harbour on 30 October 1854,¹³³ Douglas wrote to the Captain of the Pique stating that his small police force could not cope with the influx of obstreperous sailors in the town. He requested that a guard of marines be provided for police duty, offering to billet them in the Fort.¹³⁴ Steps may have been taken by the naval authorities in answer to this request but there is not a record of the Hudson's Bay Company being put to any expense in billeting.

In August of the same year the Council passed "An Act Prohibiting the Gift or Sale of Spiritous Liquors to Indians"¹³⁵ which was forwarded to the Duke of Newcastle for approval. The law was, however, placed in force without delay and the effect, as expressed by Douglas two weeks later, immediately noticeable. The new law, strictly

enforced, had a favourable effect upon the number of cases of drunkenness and "removed a source of annoyance to the peaceful inhabitants"¹³⁶ of Victoria.²

The cost for the preceding twelve months of the administration of justice, including that of the Supreme Court, had been modest--£321-15-3, and for the gaol, £52-12-5,¹³⁷ while only £5-8-4 was charged to the militia account.¹³⁸ Nearly half the gaol account consisted of the annual rent, £5-14-0 paid at the rate of one shilling a day for 114 days to John Twine as part-time gaoler,¹³⁹ and the balance on four items of foodstuffs--144 loaves of bread, 44 pounds of biscuit, 106 dry salmon, and 62 pounds of potatoes. Since Irving appears to have earned his pay in July, or earlier, he may have been employed during the time of the greatest influx of Indians to Victoria, thus also explaining the provision of such Indian staples as dry salmon and potatoes to the gaol diet.¹⁴⁰ In 1854 the first full-time colonial policeman was appointed.

Constable Thomas Hall received an annual salary of £30 to which was added £18-5-0 for board and lodging.¹⁴¹ By December Douglas reported only two arrests had been made in civil cases, peace and prosperity was general and "crime is almost unknown."¹⁴² To Douglas the situation must have seemed to have been encouraging. After three years as Governor the costs for the administration of justice appeared reasonable, his efforts at lawful control of the population seemed to be bearing fruit, while from his point of view, a favourable impression had been made upon the Indians in respect of the determination of the Governor, magistrates, and police to enforce the law and punish those responsible for crimes.

Footnotes

¹ Draft letter (unsigned), Colonial Office to Pelly, 7 April 1851, C.O. 305/2. (See footnote 16, above.)

² Merivale to Grey, Minute, 17 April 1851, C.O. 305/2. In a later Minute, signed "A.B." (Arthur Blackwood, Senior Clerk for North America) 1 September 1852, C.O. 305/3:

The excuse for the appointment of a gentleman belonging to the Hudson's Bay Company as Governor where the interests of the Company are so predominant is to be found in the simple fact that as no funds are voted by Parlt^t for the payment of a salary for an independent person as Gov^r H. M. Gov^t had no option but to employ one of the Hudson's Bay Company officers, by which he is paid.

³ Sage, op. cit., p. 171. The Commission was sent from London 19 May 1851. Grey to Douglas, 19 May 1851, C.O. 305/3.

⁴ Douglas to Grey, 31 October 1851, C.O. 305/3.

⁵ Ibid.

⁶ Grey to Douglas, 5 November 1851, C.O. 305/3.

⁷ Pelly to Grey, 14 January 1852, C.O. 305/3.

⁸ Douglas to Grey, 15 April 1852, C.O. 305/3.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Douglas to Grey, 29 January 1852, C.O. 305/3.

¹² Ibid.

¹³ Ibid. Ten extra men were taken aboard the Cadboro.

¹⁴ Douglas to Grey, 11 February 1852, C.O. 305/3.

¹⁵ Ibid.

¹⁶ A. Blackwood, Minute, 4 May 1852, C.O. 305/3.

¹⁷ Douglas to Grey, op. cit.

¹⁸ Douglas to W. F. Tolmie, 12 February 1852. Vancouver Island, Correspondence Outward, P.A.B.C.

¹⁹ Grey to Douglas, 27 September 1852, C.O. 305/3. Grey also confirmed that a Royal Navy ship was being sent to Vancouver Island and the Queen Charlotte Islands to aid in control of the Indians and the American miners who had landed on the Queen Charlottes that summer to seek gold. (See footnote 16, above.)

²⁰ Douglas to Grey, 15 April 1852, C.O. 305/3. Part of this despatch is cited in McKelvie and Ireland, op. cit., pp. 224-225, who suggest that the constable and his men may have been the local militia, the Victoria Voltigeurs, but Helmcken in his Reminiscences states that "the boats were manned with the newly arrived--and . . . armed with clumsy American army regulation muskets" which they did not appear to know how to use. Smith, ed., op. cit., p. 141.

²¹ Smith, ed., ibid., p. 142.

²² Douglas to Grey, op. cit.

²³ John Walbran, British Columbia Coast Names 1592-1906 (Ottawa: Government Printing Bureau, 1909. Reprinted, Vancouver: J. J. Douglas Ltd., 1971), p. 40. Beaver, paddle steamer, 109 tons, built 1835, first steam vessel on the Pacific Coast. Walbran cites Dr. J. S. Helmcken: armament of "four brass cannon, muskets and cutlasses in racks around the mainmast and hand grenades . . . along her sides were boarding nettings."

²⁴ Douglas to Grey, op. cit.

²⁵ Blackwood, Minute, 16 July 1852, C.O. 305/3.

²⁶ Merivale, Minute, 19 July 1852, C.O. 305/3.

²⁷ Grey to Douglas, 2 August 1852, C.O. 305/3.

²⁸ Douglas to Grey, 28 May 1852, C.O. 305/3.

²⁹ Ibid. The discouragement of all missionaries was approved. Grey to Douglas, 20 August 1852, C.O. 305/3.

³⁰ Douglas to Sir John Pakington, 4 March 1853, C.O. 305/4.

³¹ Douglas to Pakington, 11 November 1852, C.O. 305/3.

³² Douglas to Pakington, 2 August 1852, C.O. 305/3.

³³ Grey to Douglas, op. cit. H.M.S. Thetis was ordered to remain until January 1853. The Thetis was a frigate of 38 guns. Gough, op. cit., p. 133.

³⁴ Moresby to Kuper, 22 February 1852, C.O. 305/3. Thetis was ordered north in place of Virago which was to follow after completion of

refit. Gough, loc. cit. H.M.S. Virago, Captain J. C. Prevost, paddle sloop, 6 guns. Gough, op. cit., p. 261.

³⁵ Moresby to Kuper, Sailing Orders, 8 April 1852, C.O. 305/3.

³⁶ Ibid.

³⁷ Captain W. B. Hamilton, Admiralty, to Colonial Office 12 July 1853, C.O. 305/3. Moresby to Admiralty, 30 August 1852, A8/7 fol. 22, H.B.C.A. as cited in Gough, loc. cit. Despite poor communications, all government departments appeared to be working toward the same end: a greater naval presence at Vancouver Island. To bring the matter full circle, Blackwood in a Minute, 20 October 1852, C.O. 305/3, attached to Douglas' despatch of 2 August, recommended that the Admiralty be requested to station a steam vessel at Vancouver Island. Annotation: the request was duly passed to the Foreign Office 30 October 1852--more than six months after the despatch of a steam vessel had been put in train by the Admiralty.

³⁸ Douglas to Kuper, 4 February 1853, Douglas to Pakington, 21 November 1852, C.O. 305/3.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Kuper to Douglas, copy, 10 October (November) 1852, C.O. 305/3.

⁴² Douglas to Pakington, op. cit.

⁴³ Loc. cit.

⁴⁴ Loc. cit. Douglas stopped the sale of ammunition to Indians at Victoria. He also requested J. M. Yale, at Fort Langley, on the mainland to do the same. Douglas to Yale, 2 December 1852, Fort Victoria, Outward Correspondence, P.A.B.C.

⁴⁵ Op. cit. Kuper to Moresby, 9 December 1852, C.O. 305/3. W. Kaye Lamb, ed., "Four Letters Relating to the Cruise of the 'Thetis,' 1852-53," B.C.H.Q., Vol. VI (Victoria, 1942), p. 199.

⁴⁶ Kuper to Moresby, 4 February 1853, C.O. 305/4 and W. K. Lambe, ed., "Four Letters," op. cit., pp. 200-201. Douglas to Tolmie, 2 December 1852. Douglas, Correspondence Outward, P.A.B.C. Advised Tolmie that he proposed to move on the Monday following Christmas day.

⁴⁷ Ibid. Douglas to Barclay, 20 January 1853 cited in Lambe, ed., "Four Letters," op. cit., p. 203. McKelvie and Ireland, "Victoria Voltigeurs," op. cit., p. 226, and Sage, op. cit., p. 178.

⁴⁸ Douglas to Barclay, 21 March 1851, Fort Victoria, Correspondence Outward to H.B.C., P.A.B.C. cited in McKelvie and Ireland, loc. cit.

- ⁴⁸ Sage, loc. cit., who states the expedition left on 4 January, as does Bancroft, op. cit., pp. 331-332. Kuper's report should be taken as correct (3 January). See footnote 46 above.
- ⁴⁹ Sir James Douglas, Private Papers, Second Series (C.13), Bancroft Collection cited in Sage, op. cit., pp. 178-180. Lambe, ed., "Four Letters," Douglas to Barclay, op. cit., p. 204.
- ⁵⁰ Sage, "Douglas Papers," op. cit., p. 180.
- ⁵¹ Lambe, ed., Douglas to Barclay, op. cit., p. 205.
- ⁵² Loc. cit.
- ⁵³ Loc. cit. McKelvie and Ireland, op. cit., p. 227. Walbran, op. cit., p. 197. Walbran credits Basil Bottineau with the discovery of the wanted man.
- ⁵⁴ Kuper to Moresby, 4 February 1853, Douglas to Pakington, 21 January 1853, C.O. 305/4. Lambe, ed., Douglas to Barclay, loc. cit.
- ⁵⁵ Douglas to Pakington, op. cit.; Lambe, ed., loc. cit.
- ⁵⁶ Douglas to Pakington, op. cit. Douglas praised the efficiency and prompt execution of his orders by the R.N. As he wrote somewhat dramatically to Wm. F. Tolmie, at Nesqually, W.T., ". . . we had to carry their villages sword in hand but the Almighty disposer of events favoured the just cause and the land is now cleansed from the pollution of innocent blood." Douglas to W. F. Tolmie, Outward Correspondence, 26 February 1853, MS., P.A.B.C.
- ⁵⁷ Douglas to Pakington, op. cit.
- ⁵⁸ Douglas to Archibald Barclay, 21 March 1853. Fort Victoria, Correspondence Outward to the Hudson's Bay Company, P.A.B.C.
- ⁵⁹ Unsigned draft, 4 April 1853. Duke of Newcastle to Douglas, 12 April 1853, C.O. 305/4.
- ⁶⁰ Douglas to Sir George Simpson, 21 May 1851, D5/30, H.B.C.A. cited in W. E. Ireland, "Pre-Confederation Defence Problems," C.H.A. Report, 1941, p. 44, footnote 13, quoted in McKelvie and Ireland, op. cit., p. 223.
- ⁶¹ Barclay to Douglas, 16 July 1851, C.O. 305/3. An area of six square miles about Fort Victoria.
- ⁶² Douglas to Barclay, 22 December 1850, C.O. 305/3.
- ⁶³ Douglas to Barclay, 21 March 1851. Fort Victoria, Correspondence Outward to H.B.C., P.A.B.C. cited in McKelvie and Ireland, loc. cit.

⁶⁴ Douglas to J. D. Pemberton, Colonial Surveyor, 2 March 1859, Correspondence Inward, 1852-1866., P.A.B.C. cited ibid., p. 224.

⁶⁵ Bancroft, op. cit., pp. 178-80, 33ff. McKay became a Chief Factor of the H.B.C. in due course. McKelvie and Ireland, op. cit., p. 227, footnote 14, cite Diary of James Douglas, Bancroft Library.

⁶⁶ McKelvie and Ireland, op. cit., p. 230 citing H.B.C. Accounts, pp. 6-17.

⁶⁷ Douglas to Barclay, 20 January 1853, cited in McKelvie and Ireland, ibid., p. 229, and Lambe, ed., "Four Letters," op. cit., p. 203.

⁶⁸ H.B.C. Accounts, pp. 10, 17, cited in McKelvie and Ireland, loc. cit. One sergeant, one interpreter, \$1.50 per day and eight privates, \$1.00 per day and rations. Paid for 18 days. H.B.C. Records on the Affairs of Victoria, 14, 16 January 1853, P.A.B.C.

⁶⁹ McKelvie and Ireland, op. cit., pp. 228, 231.

⁷⁰ H.B.C. Records, 1852-1859, d. 28 December 1852, P.A.B.C.

⁷¹ Madge Wolfenden, ed., "John Tod: Career of a Scotch Boy," G. M. Sproat, ed., B.C.H.Q., Vol. XVIII (Victoria, 1954), p. 165.

⁷² McKelvie and Ireland, op. cit., p. 229. Complete list compiled from the H.B.C. Accounts.

⁷³ Douglas to Barclay, 22 December 1850, C.O. 305/3.

⁷⁴ H.B.C. Records, op. cit., d. 22 October 1853. It is not clear if the posting or payment (or both) were delayed some months. However, secrecy was not as likely to be maintained if immediate delivery was made of the goods in question.

⁷⁵ Kuper to Moresby, 4 February 1853, C.O. 305/4. Lambe, ed., "Four Letters," op. cit., p. 201. Boats recovered by Thetis, 19 January 1853.

⁷⁶ Ibid. (Lambe, ed., p. 202).

⁷⁷ Loc. cit. Farr, op. cit., pp. 3-4. E. B. Langford, T. J. Skinner,

⁷⁸ James Cooper to Captain A. L. Kuper, 3 January 1853, C.O. 305/4.

⁷⁹ Ibid.

⁸⁰ Ibid. Second letter.

⁸¹ Copy of letter dated 29 December 1852, C.O. 305/4. Both Bottineau (as Sergeant) and Joseph Charbonneau later served in the Voltigeurs more than once. McKelvie and Ireland, op. cit., and H.B.C. Records, op. cit.

⁸² Cooper to Kuper, op. cit. Second letter. December 1853, op. cit., p. 21.

⁸³ Unsigned Minute on letter received 20 May 1853, C.O. 305/4.

⁸⁴ There was some confusion at the Colonial Office:

Mr. Blackwood: "The Gov^t have so little hold over the Governor that it is idle to give him instructions which he is without the means of enforcing" but that it might be possible to insist to the Hudson's Bay Company that "a more effective establishment be kept up for the administration of Justice." (Minute, 31 May 1853). Merivale, the permanent civil servant, took the stand that while Cooper's efforts to bring attention to his problems, while understandable, were without the proper channel which was through the Governor, and to take notice of the letters would set an unfortunate precedent. (Minute, 3 June 1853). The Duke of Newcastle felt that it would be wrong to ignore the matter. They should answer Cooper, if only to tell him to submit his complaints through the Governor. (Minute, 7 June 1853). Merivale, still determined to protect the bureaucratic form, returned with his opinion that under no circumstances should they directly acknowledge Cooper and they might still be making improper use of Cooper's letters if they acknowledge them through the Governor. Suggested "putting by" (filing), (Minute, 15 June 1853). Newcastle agreed, but with copy for information to the H.B.C. (Minute, 16 June 1853. All Minutes, C.O. 305/4).

⁸⁵ Douglas to Pakington, 7 March 1853, C.O. 305/4.

⁸⁶ Douglas to Cmdr. J. C. Prevost, 8 June 1853. Vancouver's Island Governor's Correspondence Outward, 22 June 1850-5 March 1859, P.A.B.C. Also C.O. 305/4.

⁸⁷ Douglas to Duke of Newcastle, 26 July 1853, C.O. 305/4.

⁸⁸ Ibid., Council of Vancouver Island, 2 December 1853, op. cit., p. 21.

⁸⁹ Douglas to Pakington, 7 March 1853, C.O. 305/4. Merivale, Minute, 9 June 1853; forwarded 27 August 1853.

⁹⁰ British Columbia, Minutes of the Council of Vancouver Island, 30 August 1851-6 February 1861, Memoir No. II, P.A.B.C. (Victoria, 1918), p. 18. Cited in Farr, op. cit., pp. 3-4. E. E. Langford, T. J. Skinner, K. McKenzie, Thos. Blenkhorn.

⁹¹ Minutes, loc. cit.

⁹² Douglas to Duke of Newcastle, 11 April 1853, C.O. 305/4. Farr, op. cit. cites Douglas, Despatches, MS., P.A.B.C. Nominees approved 15 October 1853. Vancouver Island, Newcastle to Douglas, Despatches Inward, P.A.B.C.

Ibid., d. November 1853.

⁹³ Minutes, Council of Vancouver Island, 2 December 1853, op. cit., p. 21. Cameron officially advised 3 October 1853. Vancouver's Island Governor's Correspondence Outward, op. cit.; Farr, op. cit., p. 5.

⁹⁴ Ibid., p. 23.

⁹⁵ Farr, op. cit., p. 6. Draft letter, Colonial Secretary to Douglas, 26 April 1856, C.O. 305/4. In 1851 Blanshard had recommended to the Colonial Office that an appointment of a Chief Justice from England be made explaining that under his commission he was empowered "to make magistrates and temporary judicial appointments but [it did] not provide for the event of there being no person qualified to hold them," pointing out that the holder of the office would be paid by the Hudson's Bay Company. (Blanshard to Grey, 10 June 1851, C.O. 305/3). Blackwood, in a Minute, dated 24 September 1851, tended to agree that an appointment might be beneficial--not for the settlers on Vancouver Island as much as for political motives. It might defuse parliamentary criticism of the colonizing efforts of the Company and place the Colonial Office in a more favourable light. "I apprehend that this office may someday be put upon its defence in regard V.C. Island affairs . . . so that as I have the means of preventing it, this office may not be embarrassed hereafter for want of sufficient consideration on the subject." Benjamin Hawes commented that so few settlers hardly required such a senior appointment. Grey was noncommittal, except that the Hudson's Bay Company should be consulted and the matter seems to have been quietly dropped.

Cameron was eventually approved for the position, according to Merivale, always mindful of the position of the home government, since if he were not, then a judge would have to be sent from England, preferably at the expense of the Hudson's Bay Company which might prove awkward to arrange--but otherwise at the expense of the Government, which would be worse. (Minute, 22 March 1854, C.O. 305/5).

⁹⁶ Minutes, Council of Vancouver Island, 2 December 1853, op. cit., p. 23.

⁹⁷ Ibid., p. 22.

⁹⁸ H.B.C. Records, under Administration of Justice, d. October 1853. The account was kept in sterling but decimal currency payments were noted when made. The usual exchange rate was 4/2 to the dollar although four shillings was used occasionally.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid., d. November 1853.

- 103 Ibid., d. December 1853.
- 104 Douglas to E. E. Langford, 6 May 1852. Vancouver Island, Correspondence Outward, MS., P.A.B.C.
- 105 Douglas to Langford, 8 March 1853, op. cit.
- 106 Douglas to High Constable of Victoria, 21 June 1853, op. cit. The "High Constable" was probably the allocade awarded to Thomas Hall, the special constable most generally used by the Victoria magistrates, in recognition of the court function he was required to perform.
- 107 Douglas to Langford, 12 September 1853, op. cit.
- 108 Douglas to Lanfford, 11 January 1853, op. cit. Hall is here referred to as "acting Sheriff Hall" when undertaking such duties.
- 109 Douglas to Duke of Newcastle, 28 July 1853, C.O. 305/4.
- 110 Ibid.
- 111 Ibid.
- 112 Ibid. This comment was well received at the Colonial Office by Blackwood and Merivale, Minutes, 26 September 1853: "Approve the Governor's discreet view?"--A.B. "Certainly."--H.M.
- 113 Ibid.
- 114 Ibid.
- 115 Newcastle to Douglas, 15 October 1853, C.O. 305/4.
- 116 Douglas to Newcastle, 24 October 1853, C.O. 305/4.
- 117 Ibid. They had arrived by invitation of the local Indians.
- 118 Douglas to Capt. W. Houston, R.N., 18 October 1853. Vancouver Island, Correspondence Outward, op. cit., P.A.B.C.
- 119 Douglas to Newcastle, op. cit. H.M.S. Trincomalee, razée frigate, 26 guns. Gough, op. cit., p. 261. Ordered to Vancouver Island 13 April 1853 and to leave for San Francisco 20 October 1853. Moresby to Houston, 13 April 1853, C.O. 305/4.
- 120 Ibid. Also Douglas to Houston, 24 October 1853, releasing Trincomalee, with thanks. Vancouver Island, Correspondence Outward, op. cit.
- 137 H.B.C. Records, op. cit., d. 31 October 1854, P.A.B.C.

121 Brig. William, 204 tons, Capt. John McIntosh, British registry, engaged in the San Francisco-Victoria trade. James K. Nesbitt, "The Diary of Martha Cheney Ella, 1853-1856," Part I, B.C.H.Q., Vol. XIII (Victoria, 1849), footnote 10, p. 103.

122 Douglas to Newcastle, 13 March 1854, C.O. 305/4. Swanston was the local agent to whom the cargo of the William was consigned.

123 Ibid.

124 Ibid. Swanston was also assessed £20-1-10 in a "Bill of Costs" sent to him in March. R. Golledge to Swanston, 9 March 1854. Vancouver Island, Correspondence Outward, op. cit.

125 Ibid. The behaviour of Swanston was foolish, apparently allowing himself to be influenced in the matter by the Rev. Robert Staines, a political opponent of Douglas.

126 Blackwood, Minute, 9 June 1854.

127 Newcastle to Douglas, 19 June 1854, C.O. 305/4.

128 Ibid., and Minute, signed P. Smith (?), 12 June 1854. Cited civil law authority as 12 & 13 Vict. c. 96.

129 Douglas to Barclay, 15 June 1854. Fort Victoria, Correspondence Outward, MS., P.A.B.C. Also cited in McKelvie and Ireland, op. cit., p. 231.

130 Ibid. A. M. Baillie was manager. McKelvie and Ireland, op. cit., pp. 231-232.

131 Douglas to Newcastle, 23 July 1854, acknowledged, Newcastle to Douglas, 31 March 1854, C.O. 305/4.

132 Sir George Grey to Douglas, 5 August 1854, C.O. 401/1 cited in Ireland, "Pre-Confederation Defence Problems," op. cit., p. 46.

133 Gough, op. cit., p. 122. President, razée frigate, 50 guns; Pique, frigate, 36 guns; Virago, steam sloop, 6 guns. Ibid., pp. 260-261.

134 Douglas to Captain Sir Frederick Nicholson, Bt., 10 October 1854. Vancouver Island, Correspondence Outward, op. cit.

135 Minutes, Council of Vancouver Island, 3 August 1854, op. cit., p. 25.

136 Douglas to Newcastle, 17 August 1854, C.O. 305/5.

137 H.B.C. Records, op. cit., d. 31 October 1854, P.A.B.C.

138 Ibid. McKelvie and Ireland, op. cit., p. 232: "16 men called out by Governor Douglas on the 25th May for the protection of the settlement against an apprehended attack from the Indians."

139 H.B.C. Records, op. cit., d. July 1854, P.A.B.C.

140 Ibid.

141 Ibid., d. October 1854. The effective date of Hall's full-time employment is not specifically given. From an examination of entries respecting pay and allowances, it may be concluded that he was employed in June 1854.

142 Douglas to Sir Geo. Grey, 11 December 1854, C.O. 305/5.

In major cases of conflict or potential conflict with the law it was necessary for the governor to call upon the naval authorities for assistance. Instances of wrong-doing by individuals or very small groups of Indians were effectively handled by the civil power. One of the most persistent of minor problems was the casual regard shown by the Indian for the property of others. Temptation was continually placed before them by the sometimes careless habits of the white population. Goods were often left in an insecure location while the practice of allowing domestic cattle to graze unattended constituted an open invitation to Indians to avail themselves of a convenient source of food. Among steps taken to relieve the crime of "cattle lifting" was the issuance of muskets and ammunition to John Tod, farming near Gonzales Point and the payment of four men posted as guards around the settlement.¹ An Indian guard hired by Tod in the spring of 1855 received rations and blankets for services rendered.² Seven blankets were thus provided by the Hudson's Bay Company during a three-month period.³ Indians convicted of such thefts were quickly punished:

Cash paid Constable of Victoria--his fees for Flogging
Indians per voucher \$9.00--21-17-6.⁴

This punishment was considered CHAPTER III since, besides being painful, the Indians were said to consider it a humiliating experience.⁵

EXTENSION OF THE RULE OF LAW:

In mid-1855 VOLTIGEURS, POLICE AND ROYAL NAVY fighting near Nansimo

of thirty large canoes of Queen Charlotte Indians and their expected

Quite considerable strides were made in the administration and arrival at Fort Victoria. Douglas took immediate steps to investigate application of justice and the law, however much remained to be done the sighting since

before the native population learned to respect and obey the new forms of behaviour now expected of them in their dealings with the white man.

In major cases of conflict or potential conflict with the law it was

necessary for the governor to call upon the naval authorities for

Although the settlement was quiet he felt it necessary to establish a assistance. Instances of wrong-doing by individuals or very small "night police" for protection and to prevent any assembly of Indians in groups of Indians were effectively handled by the civil power. One of the streets after dark.⁶ The first contingent of Queen Charlotte

the most persistent of minor problems was the casual regard shown by the Indians arrived, to be followed by more. The Colony was in fact inundated Indian for the property of others. Temptation was continually placed by Northern Indians from all parts of the coast south of 59° N. latitude before them by the sometimes careless habits of the white population.

including another Goods were often left in an insecure location while the practice of

allowing domestic cattle to graze unattended constituted an open invitation to Indians to avail themselves of a convenient source of

food. Among steps taken to relieve the crime of "cattle lifting" was

In response to this alarming situation Douglas had requested the Council the issuance of muskets and ammunition to John Tod, farming near to authorize the formation of

Gonzales Point and the payment of four men posted as guards around the

settlement.¹ An Indian guard hired by Tod in the spring of 1855, and

1 Sergeant, besides a competent officer to act as received rations and blankets for services rendered.² Seven blankets

were thus provided by the Hudson's Bay Company during a three-month

at \$30, \$31, and \$33 per month respectively plus rations, arms, and period.³ Indians convicted of such thefts were quickly punished:

uniforms. As in the past the commander would presumably be a Hudson's

Bay Company Cash paid Constable of Victoria--his fees for Flogging Indians per voucher \$9.00--£1-17-6.⁴

This punishment was considered effective since, besides being painful, the Indians were said to consider it a humiliating experience.⁵

In mid-summer the Governor reported the sighting near Nanaimo of thirty large canoes of Queen Charlotte Indians and their expected arrival at Fort Victoria.⁶ Douglas took immediate steps to investigate the sighting since

from the well-known duplicity and treacherous disposition of the natives one cannot be too vigilantly watchful of their movements.⁷

Although the settlement was quiet he felt it necessary to establish a "night police" for protection and to prevent any assembly of Indians in the streets after dark.⁸ The first contingent of Queen Charlotte Indians arrived, to be followed by more. The Colony was in fact inundated by Northern Indians from all parts of the coast south of 59° N. latitude including another

large body of Queen Charlotte Islanders, the most warlike, ignorant, and barbarous people on the coast . . . [in total] something over 2,000 souls.⁹

In response to this alarming situation Douglas had requested the Council to authorize the formation of

a Company of ten, to consist of 8 privates, 1 corporal, and 1 Sergeant, besides a competent officer to act as Commander. . . .¹⁰

at \$30, \$31, and \$33 per month respectively plus rations, arms, and uniforms. As in the past the commander would presumably be a Hudson's Bay Company officer and directly paid by them. In the event Douglas

only recruited a portion of those authorized. To Lord John Russell, he reported:

Besides a general order warning settlers to be on their guard, against violence and treachery, I raised a small police force of four active men¹¹ to detach in emergencies to the aid of any settlers who might apply for assistance. . . .¹²

The despatch by Douglas to Lord John Russell was in reality a report of the state of the colony to a new Colonial Secretary and in it he explained how the year before, in 1854, he had issued a general order which had persuaded many of

the most dangerous of the savages to leave the settlements and we thereby succeeded in banishing them for a time, but the numbers were so formidable this year, that without a sufficient force at my disposal to compel obedience in case of resistance, I thought it more prudent to tolerate the evil than to expose the weakness of the Executive in a vain attempt to drive them from the settlement.¹³

Instead the Governor had met the Chiefs and spoke to them about their attitude toward the white people and explained their duty to the public, as he saw it. In return he received a pledge of good behaviour.

Permission was then granted to the Indians to take jobs with settlers or on public works. This policy proved successful, while any minor infraction of the law was dealt with by the magistrates without trouble. He was pleased to report that the Indians

began in fact to have a clearer idea of the nature and utility of Laws, having for the object the punishment of crimes and the protection of life and property which may be considered the first step in the progress of civilization.¹⁴

Douglas confided his continuing concern for the defenceless

state of the colony at times when one of H.M. Ships was not in port, pointing out as well that a group of settlers, hastily gathered together and poorly armed were no substitute for twenty or thirty men raised and armed for the defence of the Colony, "to undertake the really dangerous service" particularly when Northern Indians were present.¹⁵ This may have been a tentative feeler of the attitude of the Colonial Office toward the heavier financial burden which would be incurred through increased enrolment in the militia/police. If this was the case, Douglas was to be disappointed. For although Blackwood approved the efforts made to placate the Indians, calling them "prudent and determined,"¹⁶ Sir George Grey, while agreeing that such a police force would be most useful in preserving order, and had no objection to its formation, made it clear that such a force was to be at the expense of the Colony or the Hudson's Bay Company.¹⁷ In any event the Council authorized the formation of a larger force (of thirty) on 27 February 1856,¹⁸ quite possibly on the strength of the approval of the original ten men contained in Grey's 12 November despatch to Douglas, the receipt of which he acknowledged 1 March 1856.¹⁹ In the same despatch Douglas advised the Colonial Office of the increase in authorized strength of his small force, pay as earlier, but reduced by Douglas to £2 per month for privates "as long as men can be procured at a lower rate."²⁰ London approved the increase in strength without comment 15 May 1856.²¹

To return to the "State of the Colony" despatch to Lord John Russell, Governor Douglas provided the Colonial Office with a detailed census of the white population. In mid-1855 the population totalled only 774 men, women, and children, and of men between the ages of 15 and

59 years, 338 only.²²

TABLE I
POPULATION

	Men, Women and Children	Men 15-59 Years
Victoria Town	232	111
Victoria District*	350	137
Nanaimo	151	61
Fort Rupert	12	12
San Juan Island	<u>29</u>	<u>17</u>
	744	338

*Victoria District was the rural area extending from Sooke in the West to Cordova Bay in the East.

The concern Douglas felt for the safety of the colony, so often expressed in his request for a naval vessel to be permanently stationed at Esquimalt can be more readily understood from the above table. Men of all ages, occupation, and varying martial skills were widely dispersed in Victoria and environs with those in Victoria town providing the only real concentration. It was a potential force hardly likely to inspire confidence in the man charged with the duty of protecting the lives and property of the settlers, placed among thousands of natives whose actions were, at best, considered unpredictable. Despite lack of numbers, the astute and forceful handling of white/Indian relations by Douglas went far toward the maintenance of survival and peace but there seems little doubt that the presence, or

potential presence, of the Royal Navy was having a cumulative and modifying effect upon the behaviour of the Indian population.

This situation was at least partially understood in the Colonial Office although in a comment upon the news reaching them that because of the presence of H.M. Ships,²³ Douglas had reduced his authorized establishment of ten men to four privates,²⁴ Blackwood wrote "this does not imply much apprehension of danger from the Natives" while acknowledging that it was a good idea to have a naval vessel available at Vancouver Island, possibly as much for the sake of the Government as for the Colony. He went on to write

it is impossible to say on how slight a foundation a rising might occur among the Indians on V.C. Island especially if flushed by success in the neighbourhood of the British territory and it would have been a very poor apology [for the] B. Gov^t after having been warned of the state of affairs in Oregon, if our people were to be massacred and no measures of defence or protection had been ordered.²⁵

The stationing of a naval vessel in the Colony was not without local problems. As mentioned above, seamen enjoyed a good time and during the visit of the Monarch a naval guard had to be placed ashore. The Hudson's Bay Company accounts show 15/6 for supplies to the guard "when crew on leave,"²⁶ cash in the amount of £3-6-8 plus two blankets paid to an Indian, by order of the Governor, for having his house burned to the ground by sailors, and \$15.00 to a Mr. Stratford for unspecified damage to his property by a watering party from the Monarch.²⁷ In the first of many official recognitions of another, more serious problem, Douglas assured the Captain of H.M.S. President that he would assist him in all possible ways in apprehending deserters.²⁸ The American shore

was an attractive possibility to dissatisfied men and Douglas promised severe punishment to any person convicted in soliciting or aiding or the deserters. He suggested that trusted men be placed as coast-watchers, thus acting as a deterrent to desertion.²⁹ The Hudson's Bay Company gaol account shows that the Navy was not the only maritime service regarding experiencing difficulty holding seamen. The Company vessel, Princess Royal, required the services of the gaol to ensure a full crew:

other unnamed sources.³⁰ Maintaining in prison 6 seamen of the Princess Royal for 11½ days. \$70 @ 4/2--£14-11-8.³⁰ While in April, the receipt of £2-5-10 was entered for the cost of 13 September for 48 days at 1s 4d per day as a gaoler but drop rations, imprisonment of deserters from the U.S.S. Decatur.³¹

As for the constabulary, in October Constable Hall received his salary and ration allowance, partly in advance, to 1 June 1856³² and in January 1856, as further evidence that a constable had many roles, Hall received a payment of £7-5-10 for fourteen cords of wood and assistance as gaoler. The following month he was joined by Constable L. Peltier who was paid for services when required: arresting three seamen, twelve shillings and sixpence, and a like amount for "watching a suspicious American boat" for two days and a night.³³ In March Peltier was paid £3-10-7, more than the full-time constable, and in April, £2-10-0.³⁴ In May the force was again increased, Joseph Charboneau, quite possibly still a member of the Voltigeurs, received £1-0-7 for services as an assistant constable, Peltier received fourteen days pay (£1-5-0) and Andrew Muir was employed as the second full-time constable at £30 per annum. Muir also was to get £2 per month for rations although

he had to wait until August for his first quarterly payment.³⁵ The posting of items of expense to the Hudson's Bay Company accounts for the administration of justice, gaols, and militia was not as consistent as it should perhaps have been. Vouchers and expenses appear to have been posted long after the occurrence and the continuity of entries regarding pay and allowances to the police is such that the suspicion arises that at times pay, for example, may have been obtained from, or charged to, other unnamed sources.³⁶ The allowance for rations for Constable Peltier from 8 February to 10 May (91 days at 1s 11d per day, £6-1-4) was not posted until October while Basil Bottineau (Voltigeurs) acted from 13 September for 48 days at 1s 4d per day as a gaoler but drew rations, including beef and venison, to the value of £21-1-10 to 28 November.³⁷

The gaol account for the year reflected somewhat more nourishing food than the basic bread diet served to prisoners, although the criminal may not have actually received much extra. Probably because of seamen being held pending the sailing of their ship, for whom a charge was made for keep, purchases included small quantities of salt beef and pork, butter,³⁸ clams, herrings, oatmeal, brown sugar, and tea. For the year, gaol expenses over and above fees received for prisoners, amounted to £34-8-8.³⁹ As well as an increase in the number and cost of the police, an increment in the Militia account to more than £625 for the year ending October 1856⁴⁰ was due to the constant attention that had to be given by the greater numbers of Voltigeurs⁴¹ to the problems of maintaining the peace and protecting the colony from offences and incursions by Indians.

The year began peacefully enough with local Indians quiet

despite, as Douglas reported, the successes of American Indians in skirmishes with U.S. troops. He again requested the presence of a Royal Navy vessel for the summer.⁴² In February he reported the sighting by a local Indian of a group of Northern Indians on one of the San Juan Islands and his action in driving them off with a force of "ten Whites and twenty-five Victoria Indians under command of Mr. McKay, of the Company's service," capturing two who were brought to Victoria, charged with cattle stealing.⁴³ The same despatch noted the arrival of three hundred Northern Indians at Victoria. This was a cause of some concern for two days later he again forwarded to London a request for naval protection,⁴⁴ and in a prudent move, the same day made a request to the Commander-in-Chief, Pacific Station, for a naval vessel to be sent to Victoria due to Indian unrest, the cause of which were reports of Indian wars in Washington Territory.⁴⁵ Later in March he found it necessary for the peace and protection of the western areas of the colony to institute a more outward manifestation of control. In a proclamation Douglas announced that Mr. McNeill⁴⁶ with a guard of eight Voltigeurs had orders to visit settlements in the Esquimalt district on a regular basis and were to be billeted by the nearest local magistrate.⁴⁷ Although McKelvie and Ireland state that the patrols were "apparently . . . on horseback"⁴⁸ to what degree, if at all, that this was true remains unsubstantiated.⁴⁹ Patrols at that time by Voltigeurs/police, and generally in the future, were made on foot, unless under special circumstances a horse was hired for a senior officer. An incident of tribal warfare broke out near Victoria, "Stekim" against "Hyda" with one man killed and several wounded.⁵⁰

Douglas lectured the Chiefs on the proper mode of behaviour when near the settlement, finally suggesting that both tribes leave the area. He praised the Voltigeurs for having "been of great service in maintaining the peace."⁵¹ It was at this time that Constable Peltier joined the police (see above). While it was not often that the local government had the means to protect Indians either from themselves or others, Douglas had some success in the late spring when a party of "British" Indians had been chased and captured by an American war vessel.⁵² The U.S. authorities claimed that the Indians had failed to heave-to when challenged and had been taken into custody as American (and therefore hostile) Indians. The Indians were later released by the Americans but their arms were confiscated. Douglas obtained the release of their weapons which were returned to their owners, "much to their delight."⁵³ In a subsequent move that provided both for the safety of the Indians and the enhancement of his position of authority he issued a warning to all British Indians not to visit the United States without written permission from himself, which he said the U.S. authorities would honour.⁵⁴

It had become not uncommon for Douglas to report to his two superiors in the Colonial Office and the Hudson's Bay Company by means of similar despatches of the same or near date. In June 1856, a good example of the "school-master" approach used by Douglas was sent to London via two despatches.⁵⁵ A Queen Charlotte Indian Chief visited Victoria, accompanied by his son who, about two years previously had been gaoled for theft and afterward whipped, returned to the settlement vowing "to avenge the indignity to his family."⁵⁶ Douglas, hearing of

this, had the Chief brought before him and "taxed him roundly for entertaining evil designs against the Whites, which he strenuously denied."⁵⁷ Later the son was again arrested, this time on a charge of drunken assault upon a woman, and gaoled. He was fined and committed to gaol for the time that his family remained in Victoria.⁵⁸ Douglas again had to speak to the Chief: he would deal severely with any of his people who indulged in

stealing, quarrelling, drunkenness and riotous behaviour, warning him that for any of those offences they will be punished by whipping or imprisonment.⁵⁹

As he wrote Douglas heard that

they are about to leave the colony in disgust, and I have in consequence placed them under the surveillance of the police.⁶⁰

The Governor had reason to be satisfied for in his opinion they were "a very ignorant and brutal set of Indians"⁶¹ while he had with firmness and judicious use and threat of force defused a potentially harmful incident. On 12 July Douglas sent Captain W. J. Macdonald and twelve Voltigeurs to San Juan Island to aid in solving recent "cattle lifting" occurrences;⁶² however, there is no evidence of arrests being made in this instance.

The Northern Indians were a continuing problem and providing for the peace and security of the settlement was a major preoccupation of the authorities. The numbers, appearance, and behaviour produced

a well-grounded apprehension of danger, in the minds of the Colonists . . . a smouldering volcano which at any moment may burst into fatal activity,⁶³

and Douglas reminded the Colonial Office that a naval vessel had not yet arrived at Esquimalt.⁶⁴ Two weeks later Douglas reported much the same to W. G. Smith, Secretary of the Hudson's Bay Company, but with the added information that most of the Indians had now left Victoria but on the way north had "decimated a party of Cowegin Indians."⁶⁵ He expected that the Cowichans would take revenge, but did not propose taking any action provided that they make their attack at a location remote from the settlements.⁶⁶ The Cowichan Indians were fully aroused and, as it turned out, somewhat apprehensive. Douglas authorized the use of the Hudson's Bay Company steamer, Otter, to escort 150 remaining Northern Indians from Victoria to a point about 150 miles north.⁶⁷ They were actually towed about twenty miles beyond Nanaimo, released, and shortly thereafter attacked a small group of Nanaimo Indians.⁶⁸ Presumably the advantages outweighed the disadvantages of the operation since the Governor reported the Cowichans were grateful that as a result of the proceedings to the Admiralty he agreed with the Governor that the escort provided none of their remote camps were attacked "while the expedition "was necessary for the safety and repose of the community" Northern Indians deservedly consider it a great favour to them."⁶⁹

In August, the near fatal wounding of one Thomas Williams, a British "squatter" in the Cowichan country, was an event which Douglas felt placed the system of the rule of law, so conscientiously nurtured by himself, at a decided risk.⁷⁰ Williams was brought to Victoria by a Otter, leaving Esquimalt on 30 August.⁷¹ Included in the members of the expedition were Douglas and his personal staff, J. W. McKay and Richard Collidge, with eighteen members of the Voltigeurs under W. J. McDonald.⁷² He reported that the Indian suspected of the assault was named Tathlasut and was of the Saumina sub-tribe.⁷² Douglas advised that he would demand the surrender of this man and failing that would take an expedition to Cowichan--the members of which he expected no difficulty

in raising since two ships of the Royal Navy were in port. He assured Henry Labouchère in London that he would be cautious and not act in a hasty manner.⁷³ Nevertheless it appears that Douglas, after having a difficult summer, may well have been waiting for an opportunity to mount an impressive show of force and may have already sounded out Rear

Admiral H. W. Bruce. In a letter to W. G. Smith of the same date as the despatch to Labouchère he stated that he would not "push the matter further than necessary to secure peace in the country" but that Chief Factor Work would be in charge during his absence.⁷⁴ Three days later

in his official request to the Admiral for aid, he pointed out that

the civil power will require the support of a larger military force than the Colony can provide . . . a force sufficient to answer the ends of justice, and to teach the savages to respect the lives and property of Her Majesty's subjects.⁷⁵

Rear Admiral Bruce was happy to oblige. In reporting the proceedings to the Admiralty he agreed with the Governor that the expedition "was necessary for the safety and repose of the community" and order four hundred seamen and marines from H.M. Ships, Monarch and Trincomalee, aboard the latter, with two field guns, to be placed at the disposal of Douglas.⁷⁶ Because of the confined nature of the waters

between Victoria and Cowichan the Trincomalee was taken in tow by the Otter, leaving Esquimalt on 30 August.⁷⁷ Included in the members of the expedition were Douglas and his personal staff, J. W. McKay and Richard Colledge, with eighteen members of the Voltigeurs under W. J. McDonald.⁷⁸

The expedition landed at Cowichan and

marched a considerable distance into the Cowegin valley, through an almost impenetrable thicket . . .

with the Voltigeurs acting as scouts in advance of the naval force who were in single file, to guard against a repetition of the "calculated to make a deep impression."⁸⁸

repeated disasters, which last winter befell the American Army in their marches through the jungle, against an enemy much inferior in point of numbers to the tribes we had to encounter.⁷⁹

Full credit was given by Rear Admiral Bruce to the "skilful guidance and superior technical knowledge of Governor Douglas . . ." through five miles of heavy bush.⁸⁰ The expedition was met by a

formidable force of armed Indians . . . [but] succeeded in taking the culprit from them without striking a blow.⁸¹

According to Douglas there were only about four hundred Indian warriors at Cowichan, about one thousand being away at the Fraser River.⁸² It is therefore not surprising that the Indians acted with some discretion. Douglas offered his friendship and protection to all the tribe except the wanted man and prudently occupied two Cowichan villages in the event that his offer of friendship should be ignored.⁸³ The suspect was given up⁸⁴ and before a jury composed of six officers and six petty officers of the naval force, after "full and patient investigation"⁸⁵ was tried under 1 Vict. c. 85, s.2, found guilty of felonious maiming with intent to murder, a crime punishable by death.⁸⁶ The verdict was returned to the Governor and, according to Rear Admiral Bruce

he had the prisoner was forthwith ordered by his Excellency to be hanged and was executed accordingly. . . .⁸⁷

The hanging was carried out on an oak tree⁸⁸ near the place that the shooting occurred, in the presence of the tribe, an event "calculated to make a deep impression."⁸⁹

The naval and marine force was commanded by Commander Matthew Connolly, Commander (Executive Officer) of Monarch, with whom Douglas was entirely satisfied, commending his "extraordinary merit" and recommending his promotion to Captain at the earliest opportunity.⁹⁰

The expedition did not suffer any casualties, neither did the Indians-- nor was damage done to Indian property.⁹¹ Douglas remained in contact with the Indians for two days after the execution in order to establish friendly relations, which he concluded was successfully accomplished.⁹²

The cost of the expedition to Cowichan is not clearly given in the H.B.C. Records. Part of the cost appear to have been included in some general entries in that account book. McKelvie and Ireland quote £77-7-3 and £17-15-0⁹³ to which at least must be added £179-16-4 in an entry named "Contingency Account-Cowichan"⁹⁴ and £84-0-0 for rental of the Otter for seven days.⁹⁵

The Colonial Office, possibly because of the uncharacteristic brevity of the despatch by Douglas of 22 August in respect to the alarm in the settlement and the restless state of the Indians, did not react particularly favourably to the news that a major naval effort had to be mounted in aid of the civil power in order to punish one Indian responsible for wounding a white man. Although Labouchère wrote that he had

no hesitation in approving your proceedings which the . . . aggravated circumstances of the case appear to have justified.⁹⁶

such military expeditions must only be undertaken with great caution, and in special circumstances. The approval was in fact lukewarm, as expressed by Merivale to the Hudson's Bay Company:

. . . under the peculiar circumstances of the case, Mr. Labouchère does not disprove of the conduct of the Governor . . . but has instructed Governor Douglas that such a course should be resorted to with the utmost caution, and only in cases of an urgent nature.⁹⁷

The Company, however, expressed their unqualified approval of the methods used by Douglas, for which he duly thanked them.⁹⁸ In the same letter he quoted a letter to himself from Rear Admiral Bruce telling of the "high approval" expressed by the Admiralty toward the expedition and "the judgement with which it was planned and the ability with which it was executed."⁹⁹ Douglas accused Labouchère of being "far less complimentary,"¹⁰⁰ which may have rankled the more since his superiors in the Colonial Office appeared out of step with others. He now took some trouble to explain the situation of the previous August/September. To Smith he emphasized that this was a very important case to maintain white prestige, since the Indians were

always conceited [and] had become restive and insolent in consequence of the Native successes over the United States troops in Oregon. . . .¹⁰¹

and of the unrest in July between the Cowichan and Northern Indians when he had to escort the northerners part way home. Douglas claimed that the attacker of Williams boasted that because punitive action was not taken in the case of tribal wars, none would be taken for such a small matter as the wounding of one man. In this the Indian could not have

been more mistaken for the wounded man was white and his attitude was one which the Governor was determined to quash if it could be done without bringing the whole tribe into open warfare against the colony.

Never was an example more urgently needed than in that particular instance and unless prompt and decisive measures of retaliation are resorted to in all cases of Indian aggression, there will be no security of life and property in this Colony.¹⁰²

Shortly thereafter Douglas wrote in a similar vein to Labouchère explaining that the use of the military was a last resort and

to vindicate the authority of the law . . . never was a signal example more urgently demanded . . . to impress on the natives that the terrors of the law would be let loose on the guilty only. . . .¹⁰³

He pointed out that this was not a case of the "disastrous" warfare in New Zealand or Africa "where the apprehension of a criminal led to much expense and the loss of many valuable lives."¹⁰⁴ He denied that he "was influenced by a love of military display" claiming to be solely motivated

by a sense of public duty and a conviction founded on experience that it is only by resorting to prompt and decisive measures of punishment in all cases of aggression that life and property can be protected and the Native Tribes of the Colony kept in a proper state of subordination.¹⁰⁵

The Colonial Office found this explanation quite acceptable.¹⁰⁶

In a letter to Rear Admiral Bruce the Governor expressed himself as "delighted" that the Admiralty had approved the naval operation at Cowichan and had acknowledged their satisfaction with

Commander Connolly. He went on to say that he received

the approval of the authorities at the Colonial Office expressed however in measured terms intended to show that H.M. Ministers do not like the hazard of military expeditions into the Indian country. I dare say that few persons who know their character have any partiality for such expeditions, but however inglorious these episodes may be they are nevertheless essential parts of the system by which our Empire over the Indian mind is to be supported.¹⁰⁷

Shortly after the Cowichan expedition Douglas offered his description of the current state of Indian affairs and included a census by tribe, giving for Vancouver Island, an Indian population of 25,873.¹⁰⁸

To this Merivale commented that the numerical strength of the Indians was much greater than he expected. The number should be recognized when considering future protection and military needs of the Colony.¹⁰⁹

Douglas went on to report that despite the recent Cowichan affair, and numerous visits by the Northern Indians, no other serious affrays had occurred during the year except the murder of an European, Peter Cornelius, living alone on the West Coast of Vancouver Island. Reports reached him indicating that a local chief was the murderer but he in turn had been killed by a member of a neighbouring tribe and, as a result, no further action needed to be taken.¹¹⁰

Douglas was conscious of the rule of law in the broader sense as well. When the United States Navy, through Commander T. Swarthout, U.S.S. Massachusetts, requested assistance in capturing an Indian suspected of murdering a U.S. citizen near Seattle, Douglas declined-- unless the suspect sought to hide in British settlements.¹¹¹ He further required that a properly executed U.S. warrant be produced, and in any

case, the offence must be an extraditable one.¹¹² In a final correspondence with the U.S. authorities that year Douglas received a request from the United States Army in Bellingham to arrest and return any deserters who might reach the colony. This Douglas also declined to do. Such action on his part would be illegal, since the offence did not come within the terms of the extradition treaty.¹¹³ This reply was, in due course, approved by the Colonial Office and in an undated Minute, Herman Merivale considered such a request "a bold one to say the least" since no help was ever received from the American authorities "in dealing with our deserters."¹¹⁴

At the beginning of the new year, Douglas appointed Constable Andrew Muir to be Sheriff of the Colony¹¹⁵ at the same salary he obtained in his former office, that is, £30 per annum and a ration allowance.¹¹⁶ A constable was not appointed in his place, Muir apparently continuing in that capacity from time to time. Lieutenant McNeill, of the now much reduced Voltigeurs made the occasional mounted patrol.¹¹⁷ Private Ebony, of the Voltigeurs, in August flogged an Indian for theft at the going rate of 8/4.¹¹⁸ Within the limits of the settlement crime was at a low level. Court fines for the year ending 31 October 1857 were less than £30 while gaol expenses only amounted to £22-14-5, plus rent.¹¹⁹ On 21 October a reward of £50 was posted for the apprehension of one Richard Jones or Johns suspected of killing an Indian named "Poke" at Victoria.¹²⁰ Unfortunately Jones made his escape, believed to Washington Territory, despite the efforts of three special constables, one of whom may have been Indian, hired at a cost of four dollars each,¹²¹ and sent in pursuit. In November half of a £5 fine levied against a man named

Schmidt for contravention of the liquor laws was paid to an informer while a total of \$26.00, including livery charges was expended on a four-man mounted patrol to Saanich to investigate a cattle killing.¹²² The subject of native police and magistrates had been in Douglas' mind for some time as an aid to peace and orderly control over the Indians.¹²³ While admitting such a plan would entail some additional cost, the plan might be government supported (meaning the Home government)

an imperishable monument to justice and philanthropy to the Government which lends its support.¹²⁴

In this Douglas was putting forth a feeler and fighting against heavy odds, at least financially. Despite bringing the matter forward on two other occasions nothing officially was to occur.¹²⁵

In April 1857 the Northern Indians were at Victoria in force when some sixty canoes arrived, but for the time-being remained peaceful and "submissive to all the police regulations."¹²⁶ By June the situation was not so peaceful. The Northern Indians had suffered several killings at the hands of the Victoria Indians and in retaliation had attacked a small Indian encampment near Pedder Bay, murdering all who were there.¹²⁷ Nineteen canoes of Northern Indians quickly left the colony, the matter causing Douglas to complain that his resources were barely sufficient to maintain order.¹²⁸ With a constabulary force of only two men the Governor reported that he had to rely to a large extent upon moral suasion to protect the white settler.¹²⁹ He again reported that he sought to impress upon

the savages that the settlements are sacred ground, governed by wise and useful laws and must not be stained by innocent blood, nor made the arena for their fine revenge.¹³⁰

In a sequel to the depredations of the Northern Indians upon the tribes living in the south (date unknown) it is recorded in the accounts of the Hudson's Bay Company, under "Administration of Justice" that the amount of £14-11-8¹³⁴ was paid for passage of seven Cowegin [sic] Indians from Fort Simpson to Fort Victoria¹³¹ followed by £100-14-3 paid for the release of eight Cowetchen [sic] Indians from captivity.¹³² This reflects the only occasion that the colonial government paid a ransom to Indians, for Indians, which was chargeable to the Hudson's Bay Company, Vancouver Island Trust Account. The events leading to this rather extraordinary transaction or those ensuing from a presumably satisfied Cowichan tribe do not appear to be recorded.

In a lull before a more serious event shook the colony in August, Douglas wrote to Rear Admiral Bruce, in what must appear as an apparent volte-face in respect of the peaceful conditions in the colony, yet perhaps including a somewhat flowery indication of his personal feelings:

Indian outrages should in all cases be promptly and severely punished otherwise neither life nor property will be secure and the country will become intolerable as a residence for White settlers.¹³⁷

The effect of the expedition [to Cowichan] has been most salutary on all of the native Indian Tribes, both of Vancouver's Island and the northern coast. The colony has this year enjoyed . . . profound tranquility . . . the more surprising as the Colony was full of strange Indians, savage men, unaccustomed to control, yet who on entering the settlements bowed the head . . . [to] an ideal something . . . let me call it the power and genius of civilization. It is well for us that the Almighty has put the fear of intelligence upon all the beasts of the field or ignorant races of men, or we should be swept away by the flood of barbarism.¹³³

Douglas might not have couched these thoughts in exactly the same terms in a despatch to his superiors, but it is indicative of his certainty of

the superiority and inevitability of the establishment of British law and civilization on Vancouver Island.

On 11 August, the murder of J. M. Ebey, the U.S. Collector of Customs on San Juan Island¹³⁴ stirred the colonists, as well as American settlers, to a considerable degree, possibly more since he had been a person in authority than if he had been an ordinary inhabitant. The murderers were originally thought to be British Indians although they were later discovered to be Indians from Russian-America.¹³⁵ Upon learning the true home of the suspects, Douglas declined an invitation to join the Americans in an effort to capture the Indians, but reported that he suggested that they mount an expedition to force the surrender of the murderers, and if unsuccessful they "should make reprisals on the property and persons of the Tribe at large" as he himself would do.¹³⁶ He restated his guiding principle that

The winter of 1857-1858 was quiet. An officer (McNeill) and Indian outrages should in all cases be promptly and severely punished otherwise neither life nor property will be secure and the country will become intolerable as a residence for White settlers.¹³⁷

To his regret, the American authorities did not take his advice because of the difficulties involved and lack of resources to carry out properly such an undertaking. Instead they let it be known that any Northern Indian who set foot in Washington Territory would be liable to be shot on sight.¹³⁸ Douglas responded by taking steps to inform all British Northern Indians of the dangers of approaching the United States.¹³⁹

In the meantime at Esquimalt, an Indian allowed a Royal Navy seaman named Thomas Smith to examine his musket. The weapon accidentally

discharged, seriously wounding the Indian.¹⁴⁰ Douglas, after a full investigation settled the incident according to Indian custom and satisfaction by presenting to the friends of the shot Indian eight blankets as compensation, at a cost of £3-7-4¹⁴¹ which he advised be charged against the seaman's pay.¹⁴²

The year ended with Douglas expressing concern as he had done earlier in July, that the discovery of gold on the mainland, and the subsequent influx of foreign gold-seekers could seriously threaten the peace of the Colony, to say nothing of the rights of the Crown in the Fraser/Thompson River country.¹⁴³ There was also some evidence that the difficulties with the Indians were gradually becoming better understood in London and that the British authorities appreciated the lack of a permanent military force and the scant resources of the small colony which were available to oppose attacks and arrest wrongdoers.¹⁴⁴

The winter of 1857-1858 was quiet. An officer (McNeill) and as many as ten Voltigeurs were mustered for the period December to March, with barracks being rented from a private individual for the four months at a cost of £4-3-4.¹⁴⁵ An acting or assistant sheriff was hired on a part-time basis as Andrew Muir was occupied as Sergeant-at-Arms for the House of Assembly.¹⁴⁶ Labouchère advised Douglas that a detachment of thirty troops under Captain J. S. Hawkins, Royal Engineers, would leave England as soon as possible to undertake the survey of the U.S./British boundary from the sea to the Rocky Mountains.¹⁴⁷ Douglas could not have been other than satisfied at the prospect of having even a small body of regular troops stationed in the colony, or employed close by.

During the preceding eight years, the cumulative effect of the small group of colonists at Fort Victoria, insisting that British law be observed, slowly progressed in application from punishment for infractions by Indians against whites to that meted out to whites against Indians, and by Indians against Indians, as long as the latter occurred close to the settlement. Two levels of courts had been established, Magistrates and Supreme, a two-man permanent constabulary had been instituted and a rude jail was in regular use.

The Colonial Office, from a position of some disapproval about the use of naval forces in maintaining law and order, had moved to a more ready acceptance of the very occasional necessity of using the armed forces as police. There can be little doubt that the use of such forces had a critical effect upon the viability of the settlement. Prompt and judicious use of properly constituted and technically superior forces were enough to secure the Island for the colonists. However, the naval expeditions were not actions in defense of the colony but rather aid to the civil power. They were mounted in direct response to infractions of the criminal law and a means to an end, *viz.*, instilling a respect and fear of the law in the minds of the native population. This process was not yet complete, but by 1858 the colony could be said to be secure and would become more so as Victoria became the focal point of colonial expansion.

¹⁵ *Ibid.* Quoted more fully in McKelvie and Ireland, *op. cit.*, p. 234.

¹⁶ *Ibid.* Blackwood, undated *Minute*.

¹⁷ Grey to Douglas, 12 November 1855, C.O. 305/5. McKelvie and Ireland, *loc. cit.*, footnote 36, citing *Despatches to Vancouver Island, P.A.B.C.* Note: Douglas referred both before and after this time to the

Footnotes

- 1 McKelvie and Ireland, op. cit., p. 235. Possibly the same Voltigeurs mentioned ibid., p. 234 and in the H.B.C. Records, op. cit., d. June 1855. Total cost: pay, uniforms and equipment £23-0-8.
- 2 H.B.C. Records, op. cit.
- 3 Ibid.
- 4 Ibid., d. January 1855. In November 1855 another entry: "Cash pd. to Constable for executing sentence on Indian by flogging--£0-8-4." As early as 1847, Roderick Finlayson reported a Cape Flattery Indian whipped for attempted theft. "Extracts of Despatches from Board of Management . . . at Fort Victoria," 6 November 1847, C.O. 305/1.
- 5 Bancroft, op. cit., p. 335, footnote 5.
- 6 Douglas to Barclay, 19 July 1855, Fort Victoria, Correspondence Outward, op. cit.
- 7 Ibid.
- 8 Ibid. Police not identified.
- 9 Douglas to Lord John Russell, 21 August 1855, C.O. 305/6.
- 10 Minutes, Council of Vancouver Island, 21 June 1855, op. cit., p. 27. McKelvie and Ireland, op. cit., p. 233. The latter point out that it is difficult to decide whether Douglas considered this group Voltigeurs or police although the members did include former Voltigeurs. Ibid., p. 234.
- 11 McKelvie and Ireland, loc. cit., named Joseph Charbonneau, James Newbird, Celeste Auger and Louis Maurice citing H.B.C. Accounts, p. 10.
- 12 Douglas to Lord John Russell, op. cit., McKelvie and Ireland, loc. cit.
- 13 Douglas to Lord John Russell, ibid.
- 14 Ibid.
- 15 Ibid. Quoted more fully in McKelvie and Ireland, op. cit., p. 234.
- 16 Ibid. Blackwood, undated Minute.
- 17 Grey to Douglas, 12 November 1855, C.O. 305/5. McKelvie and Ireland, loc. cit., footnote 36, citing Despatches to Vancouver Island, P.A.B.C. Note: Douglas referred both before and after this time to the

men as "Voltigeurs," "militia," and occasionally as "rural police," but the Colonial Office nearly always thought of them as police, possibly as the use of militia as police was political anathema.

¹⁸ Minute, Council of Vancouver Island, 27 February 1856, op. cit., p. 28. A lieutenant, one sergeant, two corporals, and twenty-six privates, pay as before. McKelvie and Ireland, op. cit., p. 235.

¹⁹ Douglas to Grey, 1 March 1856, C.O. 305/7.

²⁰ Ibid. Records, op. cit., October 1856.

²¹ Grey to Douglas, 15 May 1856, C.O. 305/7.

²² Douglas to Russell, op. cit. The table was compiled from a chart provided by Douglas, broken down into eight age groups, and in some cases detailing the population of individual farms. Demographers note that in 1855, in a population of 744, there were none older than 60 years of age and only 10 males and 5 females over 50 years (i.e. less than two per cent).

²³ Warships were at Esquimalt at more frequent intervals after mid-1855, chiefly in response to requests to allay the colonists' fears of what the War Office considered to be the unlikely event of a Russian attack. War Office to Merivale, 12 June 1855, C.O. 305/6. H.M.S. Monarch, ship of the line, 84 guns, flagship of R./Adm. H. W. Bruce (K.C.B., 1861) and H.M.S. Brisk, screw corvette, 16 guns, visited Esquimalt at the end of August. Gough, op. cit., pp. 124, 127, 259, 263. Longstaff, op. cit., pp. 17, 116. These two ships were followed later in the fall by H.M.S. President, razée frigate, 50 guns. Gough, op. cit., p. 260.

²⁴ Douglas to Sir Wm. Molesworth, 12 December 1855, C.O. 305/6.

²⁵ Ibid. Blackwood, Minute, no date.

²⁶ H.B.C. Records, op. cit., August 1855, P.A.B.C.

²⁷ Ibid. Admiralty on 14 May 1856, "a war vessel as added protection against Indians." Henry Labouchère, Secretary of State for the Colonies

²⁸ Douglas to Capt. Chas. Frederick, 14 October 1855. Vancouver Island, Correspondence Outward, op. cit.

²⁹ Ibid. Vancouver, House of Assembly, Minutes, August 1856 to September 25th 1858, Archives of British Columbia, Memoirs

³⁰ H.B.C. Records, op. cit., February 1856.

³¹ Ibid., April 1856. Bruce, Valparaiso, 7 March 1856. Vancouver Island, Correspondence Outward, op. cit. Enclosed was a petition from

³² Ibid., October 1855. Rations at the rate of 1s 11d per day.

- ³³ Ibid., February 1856. of Capt. W. H. McNeill of the Hudson's Bay Company. McKelvie and Ireland, op. cit., p. 237, footnote 48 citing Dr. J. Ibid., March and April 1856. 1892, Vol. III, p. 16.
- ³⁴ Ibid., March and April 1856.
- ³⁵ Ibid., May to August 1856. "the Inhabitants of Esquimalt District," 29 March 1856. Fort Victoria, Correspondence Outward, op. cit. Referred to in McKelvie and Ireland, op. cit., p. 236 also indicate a similar difficulty in attempting to account for the number of Voltigeurs on strength and the number of days for which they were paid. visits by the Voltigeurs on three occasions (1 and 15 April, 4 July, 1856) and that they
- ³⁶ McKelvie and Ireland, op. cit., p. 236 also indicate a similar difficulty in attempting to account for the number of Voltigeurs on strength and the number of days for which they were paid.
- ³⁷ H.B.C. Records, op. cit., October 1856.
- ³⁸ Ibid., October 1856. The butter (2 lbs.) is an unusual item. Such was not generally given to the "lower orders" as future lists of gaol provisions confirm. op. cit. The accounts do not show any entries for the purchase, maintenance or rental of horses for the Voltigeurs or police before 1857, when there were two: July 1857 "\$4.00 pd. to H. McNeill--horse hire for catching Indian thieves," and September 1857, \$3.00
- ³⁹ Loc. cit.
- ⁴⁰ Loc. cit. and McKelvie and Ireland, op. cit., p. 231. es, July 25, 1857
- ⁴¹ Pay records are incomplete, however the number varied from four men at the beginning of the year, probably a dozen in the spring, increasing to 16-18 for the period May to September and possibly October, at the end of which month strength may have been reduced again to four. See McKelvie and Ireland, loc. cit., citing H.B.C. Accounts, pp. 183-185, 187-189, 195, 199-200, 205. e, 19 May 1856, C.O. 305/6.
- ⁴² Douglas to Sir George Grey, 1 March 1856, C.O. 305/7.
- ⁴³ Douglas to Wm. G. Smith, Hudson's Bay Company. Fort Victoria, Correspondence Outward, 5 March 1856, op. cit. This incident is also recounted in McKelvie and Ireland, op. cit., pp. 235-236. H.B.C. to Records, op. cit., d. February 1856 may refer to the same incident--as cit. "expenses of 12 men and Indians on an expedition under Mr. McKay against Naas Indians who were killing the colonists' cattle. Sundry equipment £18-18-5. Salary: 2 days pay to 12 men \$50--£10-8-4.
- ⁴⁴ Ibid.
Douglas to Grey, 7 March 1856, C.O. 305/7. Noted as subsequently passed to the Admiralty on 14 May 1856, "a war vessel as added protection against Indians." Henry Labouchère, Secretary of State for the Colonies to Douglas, 14 May 1856, op. cit., advised Douglas that the Admiralty would send the President to Vancouver Island. This news was included in a speech by Douglas at the opening of the first House of Assembly of Vancouver Island, 12 August 1856. Vancouver, House of Assembly, Minutes, August 12th, 1856 to September 25th 1858, Archives of British Columbia, Memoir No. III (Victoria, 1918), pp. 14-15.
- ⁴⁵ Douglas to R./Adm. Bruce, Valparaiso, 7 March 1856. Vancouver Island, Correspondence Outward, op. cit. Enclosed was a petition from the colonists requesting protection. 47 Identify Macdonald as a Hudson's

⁴⁶ Lt. Henry McNeill, son of Capt. W. H. McNeill of the Hudson's Bay Company. McKelvie and Ireland, op. cit., p. 237, footnote 48 citing Dr. J. S. Helmcken, Reminiscences, 1892, Vol. III, p. 16.

⁴⁷ Douglas, "Proclamation to the Inhabitants of Esquimalt District," 29 March 1856. Fort Victoria, Correspondence Outward, op. cit. Referred to in McKelvie and Ireland, loc. cit., footnote 49, citing Douglas to W. G. Smith, 1 April 1855 [sic]. James K. Nesbitt, "Ella Diary," op. cit., pp. 262-263, footnote 22. Mrs. Ella mentions visits by the Voltigeurs on three occasions (1 and 15 April, 4 July, 1856) and that they occurred on a fortnightly basis (p. 263).

⁴⁸ McKelvie and Ireland, loc. cit.

⁴⁹ H.B.C. Records, op. cit. The accounts do not show any entries for the purchase, maintenance or rental of horses for the Voltigeurs or police patrols before 1857, when there were two: July 1857 "\$4.00 pd. to H. McNeill--horse hire for catching Indian thieves," and September 1857, "\$3.00 for loan of a horse for H. McNeill, constabulary purposes, July 25, 1857."

⁵⁰ Douglas to W. G. Smith, 1 April 1856, op. cit.

⁵¹ Ibid., also McKelvie and Ireland, loc. cit.

⁵² Douglas to Labouchère, 19 May 1856, C.O. 305/6.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Douglas to Labouchère, 7 June 1856, C.O. 305/7 and Douglas to W. G. Smith, 7 June 1856. Fort Victoria, Correspondence Outward, op. cit.

⁵⁶ Douglas to Smith, ibid.

⁵⁷ Ibid.

⁵⁸ Douglas to Labouchère, op. cit.

⁵⁹ Ibid.

⁶⁰ Douglas to Smith, op. cit.

⁶¹ Ibid., to Labouchère, op. cit., the Indians were "very ignorant and untractable" [sic].

⁶² Douglas to Chas. I. Griffin, J.P. for San Juan Island, 12 July 1856. Vancouver Island, Correspondence Outward, op. cit. McKelvie and Ireland, op. cit., p. 236, footnote 47 identify Macdonald as a Hudson's

Bay Company employee, later to become one of three Senators appointed to the Parliament of Canada after B.C. Confederation in 1871.

⁶³ Douglas to Labouchère, 22 July 1856, C.O. 305/7. Correspondence Outward, op. cit.

⁶⁴ Ibid. An unsigned Colonial Office Minute noted that the Admiralty had advised that one of H.M. Ships would be in the Colony at the end of July. In fact it was not until 11 August that the Monarch arrived (flag of R./Adm. Bruce) and the Trincomalee on 12 August. Nesbitt, "Ella Diary," op. cit., entry of 17 August 1856 and footnote 36, p. 267. Douglas to Labouchère, 20 August 1856, C.O. 305/7. Pleased to note that the two vessels had arrived, one hopefully to remain for some time.

⁶⁵ Douglas to Smith, 4 August 1856. Fort Victoria, Correspondence Outward, op. cit.

⁶⁶ Ibid.

⁶⁷ Douglas to Labouchère, 20 August 1856, op. cit., Douglas to Smith, 13 August 1856. Fort Victoria, Correspondence Outward, op. cit. The Indians were in 13 large canoes.

⁶⁸ Douglas to Smith, ibid.

⁶⁹ Ibid.

⁷⁰ Douglas to Labouchère, 22 August 1856, C.O. 305/7. Williams was shot through the arm and chest.

⁷¹ H.B.C. Records, d. August 1856, op. cit. Seven blankets, biscuit, tobacco, kettle, and 8 yds. of blue baize to the value of £4-13-2, while an interpreter was paid 5s 2d value in biscuits and molasses.

⁷² Douglas to Labouchère, 22 August 1856, op. cit.

⁷³ Ibid.

⁷⁴ Douglas to Smith, 22 August 1856. Fort Victoria, Correspondence Outward, op. cit.

⁷⁵ Douglas to R./Adm. Bruce, 25 August 1856. Vancouver Island, Correspondence Outward, op. cit.

⁷⁶ R./Adm. H. W. Bruce to R. Osborn, Sec'y at the Admiralty, 6 September 1856, C.O. 305/7.

⁷⁷ Cmdr. Matthew Connolly, R.N. to R./Adm. Bruce, 6 September 1856, C.O. 305/7. The expedition returned to Esquimalt 5 September 1856.

Correspondence Outward, op. cit. Douglas expressed his high regard for all the naval and marine officers and thanks for "indispensable [sic] aid."

78 Douglas to Labouchère, 6 September 1856, C.O. 305/7. Also cited in McKelvie and Ireland, op. cit., p. 238.

79 Douglas to W. G. Smith, 6 September 1856. Douglas, Correspondence Outward, op. cit. Douglas did not have a high opinion of the fighting capability of regular forces in the bush. Speaking of American Indians who had withdrawn into the hinterland of Washington and Oregon, before superior forces of U.S. troops, Douglas wrote to Wm. G. Smith in December 1855 that the Indians "will have to be rooted out, by such men as formerly composed our trapping parties; who would plunge into the mountains or forest, without tents or food, or cumbersome commissariat, carrying only their rifles, a good supply of powder and lead, and a blanket to cover them at night. With such a force the Indians would soon be compelled to submit or be entirely destroyed." Correspondence Outward to Hudson's Bay Company, 11 December 1855-8 July 1859, P.A.B.C.

80 Bruce to Osborn, 6 September 1856, op. cit.

81 Ibid. Williams and punish the intending murderer."

82 Douglas to Labouchère, 6 September 1856, op. cit. The salmon run had started.

83 Douglas to Smith, 6 September 1856, op. cit.

84 H.B.C. Records, d. September 1856, op. cit. "Expedition to Cowigan, re Williams: 13 best 2½ pt. blankets paid to native constabulary for seizing murderer. £6-8-11. The "native constabulary" were presumably friendly Indians, possibly Cowichan, as there is no record of Indian members of the expedition.

85 Bruce to Osborn, 6 September 1856, op. cit.

86 Douglas to Labouchère, 6 September 1856, op. cit. The copy of this despatch in C.O. 305/7 incorrectly cites 1 Vict. c. 83, s. 2. See Statutes of the United Kingdom of Great Britain and Ireland, 7 William and 1 Victoria, c. 85 (London: H. M. Printers, 1837).

87 Bruce to Osborn, 6 September 1856, op. cit. H.B.C. Records d. September 1856 show entries: "Cash pd. executioner, £9-13-4." "Shroud for criminal, 2½ and 3½ pt. blankets 9s 11d and 14s 11d." Note increased cost of hanging. Two were hanged at Nanaimo for £6-17-6 in 1853!

88 Walbran, B.C. Coast Names, op. cit., p. 310.

89 Douglas to Labouchère, 6 September 1856, op. cit.

90 Douglas to Labouchère and to Smith, 6 September 1856, op. cit. Douglas to R./Adm. Bruce, 5 September 1856. Vancouver Island, Correspondence Outward, op. cit. Douglas expressed his high regard for all the naval and marine officers and thanks for "indispensable [sic] aid."

The report of Connolly to R./Adm. Bruce, 6 September 1856, C.O. 305/7, showed the strength of the force, all ranks, as

159	Marines
254	Royal Navy
24	Ambulance Party
<u>437</u>	

Connolly became Captain in 1858, later commanding H.M.S. Sutlej, flag of R./Adm. John Kingcome, screw frigate, 35 guns, which visited Esquimalt, 1863-1864. Walbran, B.C. Coast Names, op. cit., p. 106. Gough, op. cit., pp. 208, 262.

91 Douglas to Labouchère, ibid.

92 Ibid.

93 McKelvie and Ireland, op. cit., pp. 238-239.

94 H.B.C. Records, d. October 1856, op. cit., "expenses incurred in rescuing [?] Williams and punish the intending Murderer."

95 Ibid.

96 Labouchère to Douglas, 13 November 1856, C.O. 305/7.

97 Merivale to John Shepherd, Hudson's Bay Company, 19 November 1856, C.O. 305/7.

98 Douglas to W. G. Smith, 18 February 1857. Douglas, Correspondence Outward, op. cit.

99 Ibid. Bruce also assured Douglas that his comments about Connolly would lead to his promotion.

100 Ibid.

101 Ibid.

102 Ibid.

103 Douglas to Labouchère, 24 February 1857, C.O. 305/8.

104 Ibid. Douglas was possibly referring to the First Maori War in New Zealand and the badly executed expeditions mounted by the British in South and West Africa. The Cambridge History of the British Empire, The Growth of the New Empire, 1873-1870, Vol. II (Cambridge: Cambridge University Press, 1968), passim.

105 Ibid.

106 Minutes (in full) 29 April 1857, C.O. 305/8. Mr. Blackwood: "Acknowledge, I presume?" Mr. Merivale: "I think with satisfaction."

Labouchère concurred--"received and perused with satisfaction" the account of the expedition. Labouchère to Douglas, 6 May 1857, C.O. 305/8.

- 107 Douglas to R./Adm. H. W. Bruce, 27 July 1857. Douglas, Miscellaneous Correspondence Outward, 1854-1857, P.A.B.C.
- 108 Douglas to Labouchère, 20 October 1856, C.O. 305/7.
- 109 Merivale, undated Minute, ibid.
- 110 Douglas to Labouchère, 20 October 1856, op. cit.
- 111 Douglas to Labouchère, 20 October 1856, C.O. 305/7. This is a second despatch of this date. Hereafter "No. 2."
- 112 Ibid. Extradition was only possible for murder, attempted murder, piracy, arson, robbery, forgery, and uttering a forged paper: Ashburton Treaty between Great Britain and the United States signed 9 August 1842, Article X. H. C. Biron and K. E. Chalmers, The Law and Practice of Extradition (London: Steven and Sons Limited, 1903), pp. 157-158.
- 113 Douglas to Labouchère, 5 December 1856, C.O. 305/7. Governor Blanshard had earlier refused a similar request for the same reason. Blanshard to Grey, 8 April 1850, C.O. 305/2.
- 114 Merivale, Minute, ibid. Approval: Labouchère to Douglas, 9 April 1857. Vancouver Island, Despatches Inward, MS., P.A.B.C.
- 115 Douglas to Robert Barr, Clerk of the Peace, Victoria, 5 January 1857. Vancouver Island, Correspondence Outward, op. cit.
- 116 H.B.C. Records, op. cit., d. January 1857 ff.
- 117 See footnote 49 above.
- 118 H.B.C. Records, d. August 1857, op. cit.
- 119 Ibid., d. October 1857.
- 120 Vancouver Island, Correspondence Outward, 21 October 1857, op. cit.
- 121 H.B.C. Records.
- 122 Ibid.
- 123 Douglas to Labouchère, 20 October 1856, ibid. Douglas to W. G. Smith, 30 October 1857. Douglas, Correspondence Outward, op. cit.

- 124 Ibid. Also quoted in Robin Fisher, Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890 (Vancouver: University of British Columbia Press, 1977), p. 69.
- 125 Fisher, loc. cit. citing Douglas to Newcastle, 7 July 1860, C.O. 305/14; Douglas to Lytton, 14 March 1859, C.O. 60/4. Douglas later instituted a few native constables at Victoria but they were not a success, being prone to commit the same offences that they were bound to suppress in others.
- 126 Douglas to Labouchère, 20 April 1857, C.O. 305/8.
- 127 Douglas to Secretary, Hudson's Bay Company, Excerpt, 4 June 1857, C.O. 305/8.
- 128 Ibid.
- 129 Douglas to Labouchère, 13 June 1857, C.O. 305/8.
- 130 Ibid.
- 131 H.B.C. Records, d. September 1857, op. cit. Passage of ten days at \$1.00 per day each.
- 132 Ibid., d. October 1857. Items in the principal amount included 20 best 3 pt. blankets in blue, green, and scarlet, 176 best 2½ pt. and 18 inferior 2½ pt. blankets, seven common Indian guns, powder, flint, shot, molasses, one gal. of rum and other smaller articles.
- 133 Douglas to Bruce, 27 July 1857, Douglas, Miscellaneous Correspondence Outward, op. cit.
- 134 Douglas to Secretary, Hudson's Bay Company, Excerpt, 13 August 1857, C.O. 305/8. Ebey's head was taken by the Indians as a trophy.
- 135 Douglas to W. F. Tolmie, 13 August 1857. Fort Victoria, Correspondence Outward, 21 December 1856-25 January 1858, MS., P.A.B.C. Douglas opined, "The blood-thirsty villains should be chased to their homes and capitally punished. . . ."
- 136 Douglas to Labouchère, 13 October 1857; C.O. 305/8.
- 137 Ibid.
- 138 C. H. Mason, Acting Governor, W. T. to Douglas, 26 August 1857, C.O. 305/8.
- 139 Douglas to Wm. McNeill, Fort Simpson, 21 September 1857. Fort Victoria, Correspondence Outward, op. cit. Douglas to Gov. McMillan, W.T., 9 October 1857, C.O. 305/8.

140 Douglas to Cmdr. J. C. Prevost, R.N., H.M.S. Satellite, 19 October 1857. The Satellite, corvette, 21 guns, was on the coast under command of Prevost to survey the U.S./British water boundary. Gough, op. cit., pp. 154-155, 262.

141 H.B.C. Records, d. November 1857, op. cit.

142 Douglas to Prevost, op. cit. cf. Fisher, p. 57, op. cit. who ignoring motive, makes the suggestion that the matter should have been treated in the same manner as the deliberate shooting of Thos. Williams by a Cowichan the year before. The accidental discharge of a firearm and subsequent wounding is not necessarily the subject of a court case, much less a severe penalty.

143 Douglas to Labouchère, 15 July 1857 and 29 December 1857, C.O. 305/8.

144 Herman Merivale, Minute, 30 October 1857, C.O. 305/8.

145 H.B.C. Accounts, pp. 272-281, cited in McKelvie and Ireland, op. cit., p. 239.

146 H.B.C. Records, d. December 1857 and January 1858, op. cit. William Harrison paid for rations and part-time wages, plus extras such as occasional flogging of an Indian at \$2.00 per head. Andrew Muir's Sgt.-at-Arms stipend was paid by the Council of Vanc. Island for the House of Assembly for 1856-57. See Minutes, Council of Vancouver Island, op. cit., p. 31. For 1858, the stipend paid by the Hudson's Bay Company under "Administration of Justice"-- 7-10-0. H.B.C. Records, d. March 1858, op. cit. Muir also received full pay as Sheriff: 6 mos. salary 15-0-0, entered May 1858 for period 19 November 1857 to 19 May 1858. Ibid.

147 Labouchère to Douglas, 23 January 1858. Great Britain, Colonial Office, Despatches to Vancouver Island, P.A.B.C. Captain J. S. Hawkins, originally in command of about thirty officers and men had, within a few months been promoted to Lt. Col. with a command of some 65 men. Arrived Victoria 12 July 1858, U.S.-British Boundary Commission and survey party. Gough, op. cit., p. 139, footnote 42. Herman J. Deutsch, "A Contemporary Report on the 49° Boundary Survey," Pacific Northwest Quarterly, Vol. 53, No. 1, January, 1962, p. 18.

the peace through enforcement of the law.⁵ Although Baynes regretted in letters to both Douglas and the Admiralty that, for the time being he could not spare another vessel to join Satellite and Plumper⁶ in the colony, he was informed, in orders that "crossed" the previous the civil communication, to proceed to Vancouver Island and determine if the naval forces there were sufficient to adequately support the civil power and to protect British interests.⁷ By the time Baynes' despatch of 26 June had reached the Admiralty the British Government felt the matter to be of even greater gravity, and he was directed to consider the naval presence in the North Pacific, and through it the support of Governor Douglas, to be the most important duty of the Station.⁸

Those that were the cause of this growing concern included not only miners but store and saloon-keepers, speculators and merchants, as well as gamblers, thieves and other disreputable persons⁹ who passed through or temporarily settled at Victoria. By July, Douglas reported that since 19 May forty-two vessels of all types made Victoria, carrying 6,133 immigrants.¹⁰ This number was to swell, in the months to come, to a number estimated to be in excess of twenty thousand.

In late May or early June the Governor appointed a number of police constables from a group of Negro immigrants from California. The reason for the appointments is unknown, as is their number, but they were apparently Jamaicans¹¹ and thus British subjects, a fact that the Governor would have considered important. Many were undoubtedly looking for work and while the police wages were not high they were better than those paid to casual labourers.¹² Uniforms were provided, blue coats with red sashes,¹³ possibly those of the disbanded Voltigeurs. These

constables were withdrawn as ineffective after about two months, largely due to the resistance of American miners who were not about to put up with attempts at control by black police.¹⁴

Probably as a result of this Douglas determined that the civil forces of law and order required expansion and control. He appointed Augustus F. Pemberton, J.P., as Commissioner of Police for Vancouver Island on 7 July 1858.¹⁵ In the issue of 17 July the Victoria Gazette carried a notice of the appointment together with that of John Bayley, to be Superintendent of Police.¹⁶ Pemberton was to receive £300 per annum plus fees as Stipendiary Magistrate.¹⁷ The salary paid to Bayley is not known with certainty but was probably in the range of £200-£225 plus quarters.¹⁸ Constables were paid \$2.00 or \$2.50 per day while special constables drew fifty to eighty-four cents a day, depending upon the number of hours worked.¹⁹ Weapons in the form of long staves were available²⁰ if needed, and uniform items such as moleskin pants, blue serge shirts, cloth caps, and boots were purchased locally. Rations consisted only of bread, meat, vegetables, and coffee.²¹

In mid-July Douglas addressed a large group of miners who were about to depart for the gold fields, exhorting them to turn to the law in the case of grievances and assuring them that the same law would be applied without favouritism.²² Sheriff Muir inserted a notice in the newspaper banning the carrying of firearms in the streets, under penalty of arrest.²³ Two days later, in the evening, Muir arrested a drunken man on Yates Street, who was subsequently rescued by his friends. While on the way to the gaol Muir was knocked to the ground, the whole affair being treated as a joke by many of the miners. In reporting the incident

as somewhat unfortunate, the Gazette suggested that the police should be sufficiently strong to compel obedience.²⁴

Pemberton This flouting of the law and rumours that cries were heard in the streets that the miners should occupy the Fort and raise the American flag, reached the Governor the same night. He immediately determined on a show of force, calling upon the Navy for assistance. H.M.S. Plumper left Esquimalt, arriving in Victoria Harbour about 11:30 p.m. According to the Gazette upwards of one hundred sailors and marines were landed and marched to the Fort where they spent the rest of the night. The paper inferred that naval forces were used to search for the escaped prisoner, a misconception corrected by Pemberton the next day in a letter to the editor.²⁵ The escaped man, one John Robinson, was thought to have fled to the waterfront and, acting upon a tip from an informer, a search was made by Pemberton, the Sheriff, and three constables in a hired boat. Robinson was found and re-arrested about 2:00 a.m. A few of the naval party were sent off in one of Plumper's boats to give aid should resistance to the arrest be offered.²⁶ The "marines" as it turned out were Royal Engineers of the Boundary Survey Party under Captain (soon to be Lieutenant-Colonel) J. S. Hawkins.²⁷

Americans. When the accused was brought before Pemberton, charged with disorderly conduct and resisting arrest, he was found guilty, sentenced to pay a moderate fine of \$10.00 or a not-so-moderate two months in gaol. The case and the light fine gave Pemberton the opportunity to act in defusing an explosive situation and to impress upon the foreign population that stern measures could be taken promptly against those who failed to obey the law. He pointed out that martial law would, if

necessary, be declared in order to maintain the peace.²⁸

Immediately after the occupation of the Fort by the military, Pemberton advertised for "A few strong young men, not under 5 ft. 9 inches in height, with good character, to serve in the Police Force,"²⁹ but it is not surprising that there is not any documentary record of police of long standing employment, given the rate of pay, long hours (twenty-four hour call) and skimpy rations. Sheriff Andrew Muir seemed to offer the only record of continuity, in his role of court officer, policeman, and inflicter of physical punishment. In the latter instance Pemberton sentenced an Indian in mid-August to twenty-four lashes for attempted armed robbery of a certain Mr. Forbes and his family, who were tent dwellers on the outskirts of town. Muir carried out the sentence in the yard of the Fort.³⁰ The Gazette applauded the practice of whipping criminals as the most effective way to prevent crime, believing the whipping post to be an especially desirable punishment for Indians, although piously protesting that it was not a sight for children since it tended to accustom them to "witness suffering without feeling sympathy."³¹ The paper was definitely in favour of law and order, subsequently admonishing the inhabitants of the town, particularly Americans, not to disturb the peace, abstain from unlawful acts, and support the police.³²

On 3 August 1858, in answer to complaints by the public as to the condition of the gaol, a committee of the House of Assembly was set up to investigate the matter. They reported two days later that the cells were too small (6 feet x 13 feet) and often occupied by six to seven prisoners. The place was also filthy and smelly; wooden buckets

were provided for the use of those who would not or could not make use of the privy--which was overflowing. The diet was inadequate, the standard fare being bread and water. One prisoner reported having meat once in five weeks, and that just recently. Not surprisingly, "all the prisoners looked more or less sickly."³³ Douglas agreed that the conditions were "painful" and that the Assembly should immediately consider ways of finding money to build both a new prison and a hospital, at a cost for both not exceeding £400, with the prison taking priority. This was duly reported to London.³⁴

When the Colonial Secretary eventually replied he expressed "great regret at the painful disclosures as to the state of the prison" and earnestly hoped that steps would be taken "to remedy so great an evil."³⁵ This was misconstrued by Douglas for in his reply he expressed pleasure that he had not felt justified in spending the funds, and referring to "the assistance of Her Majesty's Government."³⁶ Lytton replied that he was at a loss to understand what Douglas meant and to assure him that financial aid would not be forthcoming for this project.³⁷

Despite the fact that the Assembly was without funds Douglas decided that government buildings were a necessity, and in the long run the Hudson's Bay Company could be forced to pay for them. In August 1858 a contractor was engaged to build a Constabulary and Post Office on Government Street, eventually costing £468.³⁸ This police facility was but a stopgap remedy for an ongoing housing problem, for the same month, tenders were called by the Commissioner of Police for construction of new Police Barracks.³⁹ In October 1858 Thomas Trounce began construction of a new two-storey barracks in front of, and enclosing, the old gaol,

which with the addition of a water closet built in August 1858,⁴⁰ remained in full use until both buildings were torn down in 1886.⁴¹

Douglas acknowledged that he had received a warning from the Hudson's Bay Company, London to restrict expenses⁴² but by March 1859 he felt that explanations were required for the "unavoidably large increases in the expenditures of the Colony."⁴³ He explained that the raising of a Police Force, so necessary for the protection of life and property, would cost a generous £3,500 per annum plus further expenditures for public buildings. The Governor had a flair for writing despatches and this was no exception as he tried to soften the monetary blow:

Those outlays I dared not consistently, with a due regard for the honor and interest of the Company, refuse to sanction; they were necessary for protection, and indispensable for the respectable administration of Government. With thousands of ruffianly men about the place, save for efficient protection, it would inevitably have been sacked and plundered.⁴⁴

He went on mistakenly to advise that H.M. Government was prepared to aid the Colony in the construction of a new prison, due to the press of population. In fact this was not to be and as a result parts of the new police barracks had to be used to keep prisoners as the old gaol overflowed from time to time--until such became a continuous practice.

In the settling of accounts when the Hudson's Bay Company gave up its proprietary interests in Vancouver Island, the cost of the police barracks and gaol (£2,950 and £250, respectively) was credited to the Hudson's Bay Company, who had paid for them and, in effect, they cost the Colonial Treasury not a penny.⁴⁵

In October of 1858 the police were given new uniforms. Blue pants and coat with large plain brass buttons and a standing collar with the constable's number and watch number on it. The Gazette called it "neat and servicable."⁴⁶ At the same time there were several resignations from the Force since several officers, being foreigners, refused to take the required oath of allegiance to the Queen.⁴⁷ To round out an eventful month a major affray took place at the Indian village, starting between two groups of drunken Indians and rapidly expanding to include fifty or more on each side. Many Victorians crowded to high points to view the fracas and the crowd included the now highly visible police who were seen among the populace enjoying the entertainment. The Gazette reported two killed and five or six wounded and sarcastically remarked that for the police to have done their duty would have "spoiled all the fun" but that "steps must be taken to regulate . . . aboriginal amusements" through more strict enforcement of the liquor laws.⁴⁸ In fairness, the white population did not often interfere with Indian activities as long as the former were not involved and there was probably little that a few policemen could have done at the time. To interpose themselves between two factions shooting at each other would have been a highly dangerous action.

The first public notice of a financial problem that was to plague the Police Force for years appeared in The British Colonist when the paper complained that the police had not been paid their wages for November, being seventeen days overdue. The Commissioner of Police offered the explanation "that the Governor was not in a good humour this week,"⁴⁹ a comment possibly ascribable to the escape from gaol of Henry

Post, confined on a charge of murder, because of the alleged negligence of a gaoler while Post visited the outhouse!⁵⁰ In a public criticism the Grand Jury of the January Quarter Sessions complained of the insecure state of the gaol and, expressing doubts that the inadequate building could be made secure, urged that a more substantial gaol be built. Neither was the quality of the staff as they considered it should be.⁵¹

Amor De Cosmos the publisher and editor of The British Colonist in an early attack--and one of many--on the Government, accused various officials of incompetency but at the same time took umbrage at correspondence in the Times of London derogatory to the government and inhabitants of Victoria.⁵² The town had not been a repetition of San Francisco of 1849, inhabited by "vermin of the masculine gender . . . six or seven thousand brigands" but quiet and orderly. He called upon the Commissioner of Police to confirm that Victoria was the most orderly of towns during the previous summer.⁵³ Pemberton rose to the bait, to defend the character of Victoria and the government. In a letter Pemberton reminded the editor that the majority of the miners were indeed well behaved, but that on occasion several hundred could be counted on to form a mob and march through the town, at which times they were only restrained with great difficulty. He pointed out that on 18 July two riotous assemblies had taken place and recommended that a request for assistance be made to the naval authorities. This matter became pressing when a mob attacked the police on 30 July (the Robinson affair, page 96) and in response H.M.S. Plumper anchored in the harbour. Pemberton claimed credit for maintaining law and order since the Governor had made him responsible for forming a police force, which he

based on the "London Metropolitan Model." He claimed that the military and naval forces which were landed were under his command and "that their respective officers were good enough to say that I handled the affair well."⁵⁴ He went on to suggest that if the paper wanted to write about

Kensal Green appeared in the London Illustrated News, detailing a record a real grievance, a page out of the history of my life will show that the man upon whom fell the brunt of preserving peace here, in the name of Her Majesty, during the late eventful time, is one who has been driven an exile to the furthest end of the globe by the Home Government.⁵⁵

Pemberton concluded with the hope that his letter might "promote the general hilarity of the season" and with the following verse:

May the Hand which preserved us last season appear,
To guide and protect us the ensuing year!
With a trusty, a faithful, a watchful police, asper it seemed
May nothing prevail in our city but peace!
Adieu! Au Revoir!⁵⁶

The source of Pemberton's grievance with the British Government can only be the subject of conjecture. Pemberton was one of eighteen sons in the family of twenty-three children of Joseph Pemberton, onetime Lord Mayor of Dublin (1807) and was the uncle of Joseph Despard Pemberton to an open letter of some two months previous date written by John the Colonial Surveyor. He had been persuaded by his nephew to come to Vancouver Island in 1855 to join in a farming venture. This he did, successfully operating "Greyhill Farm" in Fairfield before accepting the post of Commissioner of Police two and one half years later.⁵⁷ Prior to

coming to Vancouver Island Pemberton lived with his brother, Arthur G. Pemberton, Vicar of St. John's, Kensal Green, London. Before that

Pemberton had resided in Ireland, owning a property named "Clonsilla" near Dublin, where he bred horses, possibly among other agricultural pursuits and "lost a lot of money" in some project there.⁵⁸ In 1852 an engraving of a six-year old Irish hunter owned and ridden by Pemberton at Kensal Green appeared in the London Illustrated News, detailing a record jump.⁵⁹ The possibility therefore exists that Pemberton lived in Ireland until the mid-1840's; by his own admission he served as a special constable in London in 1848 during the Chartist disorders.⁶⁰ As a younger man Pemberton had read law⁶¹ and became chief clerk in the office of the Dublin Metropolitan Police.⁶² It is further possible that he may have resigned or lost his position, which was one of patronage, as a result of a reorganization in the Irish Executive and Police in the decade following 1835.⁶³

As a result of Pemberton's letter to the newspaper it seemed to Lieutenant Colonel J. S. Hawkins that the honour of the military was at stake and the seeming magnitude of the dispute apparently warranted public discussion. The Police Commissioner published three letters in the Gazette defending his action in calling for military aid to the civil power, his authority over the military⁶⁴ and, for good measure, replied to an open letter of some two months previous date written by John Nugent, Special Agent of the United States in Victoria, who had complained bitterly about the unfair and discriminatory treatment afforded U.S. citizens by the courts of Victoria.⁶⁵

Hawkins claimed that the forces landed had been under his orders, the magistrate only being responsible for requisitioning the troops. The Royal Engineers in fact did nothing but spend an

uncomfortable night in the Fort, which Hawkins makes clear he considered a great waste of time and effort.⁶⁶ In rebuttal Pemberton claimed that he gave the orders to the officers to march the men into the Fort ordering the gates shut behind them, defended his position by claiming that without the troops being there, serious disorders might have broken out, and quoted voluminously the various authorities concerned with the legalities of the right of magistrates to call and direct the military. Lastly he defended the Governor and officials against the slurs of Nugent; disorderly persons were indeed treated with fairness, and disclaimed any connection with the Hudson's Bay Company.⁶⁷

This tempest in a teapot did not sit well with Douglas who did not approve of public discussion by and of the administration. William A. G. Young, the Acting Colonial Secretary, wrote Pemberton a "scorcher" signifying that Douglas could not believe that Pemberton

can be wholly ignorant of the impropriety of such letters . . . much surprise . . . no small amount of regret. Such attempts to justify by an appeal to the Editor of a Newspaper, and through him to the public, a decision given by you in your capacity as Magistrate . . . was not only undignified in the extreme to yourself . . . but also derogatory to the high position you filled as an Administrator of the Law.

. . . His Excellency, the Governor, desires me to acquaint you in plain terms that no public officer in active employment under Government can be permitted to use the medium of public journals for the discussion . . . of official subjects. His Excellency trusts that after this direct warning you will refrain from any subsequent acts of this nature.⁶⁸

Pemberton must still have been smarting from this pointed rebuke when shortly after he received a curt letter demanding an acknowledgment of the foregoing direct order.⁶⁹

The press of regular business no doubt soon pushed this affair to the back of the Magistrate's mind. A deputation of Indians came before him claiming that one of their tribe had been killed by an unknown white man. They demanded that the person be delivered to them for punishment, he be immediately hung by the authorities, or that they be compensated for the death by the award of a sum of money. Pemberton calmed the deputation, explained the law, and offered a reward of £50 for the apprehension of the suspected murderer⁷⁰ who apparently was never found.

The Police Department was also the source of concern, giving some validity to a recent report of the Grand Jury as to staffing problems.⁷⁷ Two officers, Sergeant Edwards and Constable Pierce were charged with being under the influence of drink, entering the home of one Xavier Bassard without a warrant and beating the owner and his wife.⁷¹ In court evidence was heard that Bassard was a suspected whisky seller and that during the altercation Madame Bassard had spat in the face of Richard Hall, the informer in the case, thereby provoking the police to strike out with their batons. Pemberton fined Sergeant Edwards ten dollars and dismissed him from the Police. Madame Bassard was fined ten dollars for spitting at Hall. Constable Pierce was adjudged blameless.⁷² On 19 February another Indian was murdered on the Songhees reserve which prompted an attack on the Police by the Gazette which pointed out that neither recent incident reflected credit on the Force and thoroughly disproving of the police of not interfering or only doing so in a casual manner when Indians alone were involved in crime.⁷³

The same month Douglas requested that one of H.M. Ships be

despatched to Nittenat [sic] Bay following reports that the American vessel Swiss Boy had been plundered by Indians.⁷⁴ It subsequently became clear that Captain D. K. Weldon of the Swiss Boy harboured suspicious motives for requesting aid--as it turned out money as a compensation seemed preferred to recovery of the vessel or cargo. The Navy was simply asked to ascertain the facts of the case.⁷⁵ Since Douglas suspected fraud no more was done except to report that the Swiss Boy was old, leaky, and overloaded while a frustrated Captain Weldon departed for the United States.⁷⁶ On a happier note the Governor greeted with satisfaction the arrival from China of 150 supernumerary ^{from} ^{supernumerary} (OED) Marines aboard H.M.S. Tribune to be followed one day later by H.M.S. Pylades.⁷⁷ This increase in naval strength had been sent as an aid in enforcing sovereignty in British Columbia but undoubtedly had an important psychological effect locally. Most of the Marines were sent for a short time to New Westminster, then based in Victoria, and finally were used during the joint occupation with U.S. troops of San Juan Island. In Victoria itself complaints had been received about the "unsatisfactory and unsettled habits of life" of the itinerant boatmen who frequented the harbour.⁷⁸ Through the Colonial Secretary, Pemberton was requested to report on the cost and suggested number of men that might be required for a Water Police as well as for a Rural Police. In two weeks the Commissioner had presented a plan for a fourteen-man Water Police and a Rural Police of similar size, at an initial cost of \$18,220 and \$26,855 respectively.⁷⁹ They were both to be divisions of the present "Metropolitan Police," the Water Police to be organized similarly

to that on the Thames while the Rural (Mounted) Police was to be "in in exact conformity with the Suburbs of London model."⁸⁰ Pemberton recommended that an Assistant Commissioner of Police and Assistant Magistrate be appointed at £400 per year--preferably a retired cavalry officer so that the mounted police might be properly drilled. Initially all the men were not to be mounted, a combination of horse and foot patrols were to be instigated. In both cases patrols were to be made by armed constables in pairs and stations were to be changed daily so that the police would become thoroughly conversant with the entire area, from Sooke to Cordova Bay.

A man named Williams, "an experienced seaman and steady church-goer" was recommended by Pemberton as Superintendent of Water Police.⁸¹ Williams also owned a small sailing vessel which he offered to rent to the government at \$75.00 per month and two rowboats were to be rented at \$25.00 per month each. Communication was to be by means of flags. One boat to be stationed in Victoria harbour in sight of both the flagstaff at Beacon Hill and the staff on the Police Barracks. The boats would make daily patrols toward Esquimalt and Cadboro Bay.

The Commissioner of Police also took the opportunity to bring before the Executive his fears, in view of the expected flood of immigrants, that even with the addition of twenty-eight men to Water and Rural Police the authorized strength of the town police, at twenty-one and a Superintendent might not be sufficient to protect life and property when organized into four watches of five men each. He felt that a naval or military garrison in the town was a necessity. Pemberton admitted that the cost of the plan was high but pointed out that the

police in London and Dublin were supported by a tax not exceeding 8d in the pound of assessed value of real estate. Dublin as well applied the proceeds from trades licences and that from fees and fines levied in Police court.⁸²

The reaction of the Governor to these expensive plans is not recorded. Suffice it to say that a government which seemed barely able to afford to pay the under-strength town police was presumably not interested in an additional \$45,000 expenditure. Later that year Pemberton had conceived a much better appreciation of the financial status of the government, acknowledging that "circumstances of the colony require the greatest economy in the public expenditure."⁸³ He had just been awarded (with some reluctance on the part of Douglas) an increase in salary of £50 after complaining that he had not received all the fees to which he felt himself entitled as Stipendiary Magistrate.⁸⁴

R. J. McDonnell, the Police Clerk, was dismissed in July for pilfering \$3.00 and "general inefficiency" and his place taken by a police constable.⁸⁵ The practice of submitting weekly lists of prisoners in gaol to the Governor was begun (Appendix I) and reports were sent on a regular basis showing the cost of maintaining military and naval prisoners in gaol as well those sent from British Columbia.⁸⁶ Fees and fines were paid into Court in American currency despite being quoted in regulations and statutes in sterling. The rate of exchange was one cent equal to one half-penny, five dollars to £1-0-10 or one dollar equal to 4s 2 d. Pemberton explained to the Colonial Treasurer that it was the only practical method of doing business giving as an example the five shilling fine for drunkenness which was converted to \$1.25 as a measure

of expediency. Court costs ranged from fifty cents for laying an information, seventy-five cents for issuing a warrant, to \$1.00 for a recognizance to keep the peace and for "conveying a drunken man to jail, unable to walk."⁸⁷

During the spring and summer of 1859 it turned out not to be the immigrants or miners that caused concern in the town, but large numbers of Indians who again visited Victoria. As early as March Douglas requested a naval vessel be made available to escort Indian canoes to the north, to prevent "apprehended disturbances" and other "outrages."⁸⁸ He and were to be accompanied by Sheriff G. W. Heaton who was "thoroughly acquainted with the Indian character."⁸⁹

Twenty-seven canoes of Haida Indians were sent to Esquimalt harbour to be towed north by H.M.S. Tribune during which time Douglas suggested that for safety the women and children might be taken aboard the war vessel.⁹⁰ It is not clear how many canoes were finally towed north, since the Gazette reported that some Indians had turned and fled after reaching Esquimalt harbour. They were gathered together only to scatter again in fright when the Satellite beat to quarters, as a training exercise, about midnight.⁹¹

During the ensuing month serious crimes included the killing by an Indian of his sister (he meant to shoot his wife!), a seriously wounded Indian girl, whose assailant was jailed, and a white man who was standing on the Hudson's Bay Company wharf was wounded in the leg by a stray shot from the Indian village. Enquiries were undertaken by the police in the latter instance

threatened peaceful citizens and insulted women in the streets. The

in order that our Indian neighbours who lived just in good musket range, may be taught a lesson in the careless use of firearms.⁹²

A few days later a furious fight occurred between Northern Indians encamped at Rock Bay. Pemberton reported among the Haidas, four men and two women killed with three seriously wounded, while the Fort Simpson tribe suffered two men and one woman seriously wounded. As well one white spectator was wounded in the arm.⁹³ The fight began on 14 May, about 10 p.m., and Pemberton rushed to the scene with as many of the

police as he could gather. He visited both camps and was able to persuade the Indians to cease firing. He

did not deem it prudent to make any arrests with a small police force . . . armed only with batons, where there were some 2,000 excited Indians equipped with every kind of offensive weapon--blunderbuses, long and short muskets, single and double barrelled rifles, fowling pieces, revolvers and pistols, from every nation; pikes, swords, bayonets, dirks, daggars [sic], and knives of every form size and shape. They are also said to have in their possession a 4-pdr. brass cannon.⁹⁴

The Magistrate recommended that the Indians be disarmed by the military, their arms to be returned when they left Victoria. He pointed out that had the police not intervened further bloodshed would have occurred since they found the Stikine Indians and another tribe about to join the fight.

In an editorial, the Gazette complained of the lack of steps being taken regarding the liquor laws, armed Indians being at large, and general police inactivity. Indians committed thefts with impunity, they threatened peaceful citizens and insulted women in the streets. The

editor went on to say that the town should consider itself lucky that the recent killings were confined to the Indian village, although through no effort of the police. Two remedies were offered: remove the Indians and make a daily search of the Indian camp for arms and alcohol. It was felt that the second action might bring about the first, as the Indians would soon leave if "the luxuries of drunkenness and brawling are denied them."⁹⁵

The authorities recognized that the situation required some action and an attempt was made to enforce an Indian curfew in the town after dark.⁹⁶

Douglas went on in his despatch to describe the feelings of alarm felt by settlers in Saanich as a result of several cattle killings. However Sheriff Heaton was able "with a highly commendable degree of firmness, temper, and good judgement" to arrest a number of Indians who were subsequently sentenced to thirty days at hard labour.⁹⁷ Heaton was

supported by a Lieutenant Cooper of the Royal Marines and several volunteers⁹⁸ who presumably did so for the chance of a bit of excitement.

An official request was also made to Captain Hornby, H.M.S. Tribune, to sail to Saanich Inlet for two or three days to offer moral support to Sheriff Heaton. The appearance of the naval vessel in support again "had a most salutary effect on the minds of the Natives." Small wonder, it was a "bloodless affray."⁹⁹

There was again some criticism at the Colonial Office about the use of military forces to capture Indian suspects in the normal course of events, and some also of the volunteer Marines as the Indians were unlikely to appreciate the unofficial nature of the troops opposing them. The fear was expressed that if the civil power failed to provide

a sufficient police force it would always rely on the military--yet the government (British) might be reproached if white settlers were killed because undue restrictions were placed upon the use of those forces.¹⁰⁰

Herman Merivale felt that while the criticism was valid it seemed to him that they could not condemn the use of such forces as were at hand in the Colony to suppress Indian troubles.

Sarcastically, the paper assumed that since the able police force had

not made before, ere the step was taken of establishing a British colony on an island inhabited by 15 or 20,000 of the most energetic of savages. An infant colony may perhaps make headway against such neighbours, but how? Only as the New Englanders did in the early days, by selling their lives dearly, returning massacre for massacre and, of requisite, treachery for treachery. If we want to avoid all this, occasional use of the Queen's naval and military force, which commonly effects more by show than ever by execution, peaceful is the only course I know of.¹⁰¹

The Duke of Newcastle, successor to Lytton, cautiously agreed to the use of the military but only where real need existed and then always in such force "as to ensure immediate success."¹⁰²

On 1 June 1859 a dead white man was reported to be lying on the road to Esquimalt. Sheriff Heaton investigated, finding the body to be that of Constable Joseph Cochrane. The constable had been on his way to Craigflower to arrest a Negro accused of shooting a pig.¹⁰³ The man, Joseph Lewis (alias "Portuguese Joe"), became the prime suspect, was arrested by Constables Smith and Bacon on 2 June but discharged on 11

June for lack of evidence.¹⁰⁴ That same day François Pressci, a French Canadian, was arrested but discharged by Pemberton on the twentieth, again for lack of evidence. The Indians were naturally suspected by the public, but the murder was never solved despite the posting of a reward

of one hundred pounds.¹⁰⁵ Several persons were convicted of aiding or Once more the police came under newspaper criticism. Under the heading of "Sunday Aboriginal Amusements" the Gazette recorded a long-range shooting match between the Songhees and the Haidas, with their allies, the Stickeens. The score was given as three Northern Indians hit, one Songhees and one Stickeen "klootchman" captured. Sarcastically, the paper assumed that since the able police force had not made any arrests, given a glass of "grog." Handcuffs and a cart were sent for but a passing naval officer ordered the liquor supplied in such Sunday occurrences are at least tolerated with a view to the utter extermination of the savages.

Police salaries continued to be an issue. In mid-July the Colonist reported that the Police had been paid in script issued by the Government in April and were attempting to sell it in the town. In September there were reports of the Police unpaid for three months. How unfairly, the newspaper was "confident in saying that there was no interruption of the amusement by the police."¹⁰⁶ Two days later another burst of firing resulted in a musket ball entering a saloon on Johnson Street, but perhaps could the government expect the Police to be honest and trustworthy in view of what must be the disgraceful state of the colonial finances? The Colonist joined in, urging economy in the police, since they were so ineffective in any case. The economy however seemed to be levied against A. F. Pemberton who was erroneously reported as receiving £375 per annum as Magistrate, £200 as Commissioner of Police, and £100 "lodging money."¹⁰⁷ It was suggested that unpaid magistrates be appointed and the money thus saved of the chain gang to property owners who wished to fix the street in front of their houses or places of business provided the owners defrayed the cost of the cartage of stone. In a publicity stunt, a free sample of illicit whisky ("the poisonous compound") was offered to any interested party who cared to apply at the Police Office. A Deputy-Sheriff was hired by the Sheriff but dismissed after one month for

In local court sessions Indians were quite regularly ordered to have their hair cut short upon conviction of minor offences--a punishment they were said to have considered "a great outrage upon their feelings," but the Gazette felt it to be both an economic (rather than

gaol) and sanitary sentence.¹⁰⁹ Several persons were convicted of aiding or enticing naval personnel to desert, and were sentenced to as much as a 20 shilling fine or six months in gaol.¹¹⁰ Six seamen deserters, having been apprehended by the police and returned to the naval authorities, first lay down in the street upon orders to march to Esquimalt, and then attacked their Marine escort. Being subdued, they refused to pass beyond the door of the Royal Hotel on Wharf Street, unless they first be given a glass of "grog." Handcuffs and a cart were sent for but a passing naval officer ordered the liquor supplied in order to prevent further embarrassment to the Queen's forces!¹¹¹

Police salaries continued to be an issue. In mid-July the Colonist reported that the Police had been paid in script issued by the Government in April and were attempting to sell it in the town.¹¹² In September there were reports of the Police unpaid for three months. How could the government expect the Police to be honest and trustworthy in view of what must be the disgraceful state of the colonial finances?¹¹³ In October a scene was created by an unnamed constable refused in his attempt to buy a shirt on credit. A scandalous situation existed where the Police were unable to provide themselves with the necessities.¹¹⁴ Magistrate Pemberton was reported willing to supply the labour of the chain gang to property owners who wished to fix the street in front of their houses or places of business provided the owners defrayed the cost of the cartage of stone.¹¹⁵ In a publicity stunt, a free sample of illicit whisky ("the poisonous compound") was offered to any interested party who cared to apply at the Police Office.¹¹⁶ A Deputy-Sheriff was hired by the Sheriff but dismissed after one month for

reasons of economy, on direct orders of Douglas.¹¹⁷ The Sheriff next requested permission to buy a horse, due to the pressure of his duties, but this was refused with the reminder that horse hire was only permitted as a public expense in criminal cases. Any such expense was to be added to court costs in civil actions.¹¹⁸ In the first reported instance of photographic identification being used by the Police in Victoria, a daguerrotype was received from San Francisco portraying a man accused of stealing \$1,000 and believed to have fled to Victoria. An unnamed man was arrested but Pemberton felt the likeness was not sufficiently clear to cause the man to be returned to the United States.¹¹⁹

In July of 1859, Douglas appointed John F. de Courcy as Justice of the Peace and Stipendiary Magistrate for San Juan Island at a salary of £250 per annum. de Courcy had very little to do "to preserve peace and good order in that district" but rather was sent to symbolize British sovereignty on the island.¹²⁰ That same month the Colonial Office released the 150 ^{supernumerary} Marines from service in British Columbia,¹²¹ which had he known would have disturbed Douglas to a considerable degree. A new Guard House and Marine Barracks was under construction at James Bay and eighty Marines were soon to be quartered there.¹²² Douglas at last had his Victoria garrison and jealously guarded it. He was disturbed at the drafts of Marines constantly posted to and from the barracks and wrote to Rear Admiral Baynes that he felt it unwise to leave Victoria without a military guard at any time and that the number of "excitable" foreigners in the town required a minimum garrison of fifty men for the protection of life and property.¹²³ Before the year ended Baynes had been ordered to send the Marines to England¹²⁴

but international events overtook this order.

Baynes and Douglas did not always see eye to eye, particularly as the Admiral exerted a restraining influence on the Governor's fixation that San Juan Island belonged to the Colony and that the Americans should be thrown off, bodily if necessary.¹²⁵ Although Baynes had not yet received direct instructions that his command was not subject to the orders of the Governor,¹²⁶ he was prepared to be a restraining influence on naval "co-operation" with the Civil Authority when he felt justified in so doing. When Douglas wrote to him requesting that a naval vessel make a patrol of the southwest coast of Vancouver Island, contacting and picking up the local Indian Agent W. E. Banfield, in order to "preserve tranquility" in that part of the Island¹²⁷ Baynes refused, due to what he considered more pressing demands upon his command.¹²⁸ In reply Douglas regretted that he was the cause of any inconvenience and while there was no urgent need for

so powerful a check upon the Savage propensities of the Indian tribes, as the exhibition of a vessel of war¹²⁹ he would not have asked if he had not considered the matter important. In a calculated insult he suggested that if in the Admiral's opinion the service which he requested would be too difficult and dangerous for the Navy to undertake in relation to the benefit to the Colony, he would understand. Perhaps in retaliation, when later Baynes complained to Douglas of thefts from and harrassment of seamen by Indians when they were travelling from Esquimalt to Victoria, the Governor gave a rather unsatisfactory answer. He advised Baynes that he had insufficient

police to control the Indians but could offer assistance to the Navy if they wished to remove the Indians and escort them northward to their homes.¹³⁰

In a rendering of accounts for the first full year, ending 10 November 1859, of the "Metropolitan Police" and Gaol the Hudson's Bay Company was presented with a bill totalling £2,126-9-4 for magistrate, police, rations, and equipment and £1,090-14-6 for the Gaol--as compared to £1,243-0-1 and £231-15-3 respectively for the previous year ending 31 October 1858. The new Police Barracks, completed in February, cost £2,950.¹³¹

An eventful year and a half passed since Douglas began his police establishment in the spring of 1858. He found that this organization required considerable time and effort, thus A. F. Pemberton was appointed Commissioner of Police. The police were the subject of grandiose plans, which for want of finances, were never implemented. A new Police Court and Barracks had been built, the most expensive government building in the Colony, but the old wooden prison had to be retained in use, incorporated in the police "complex" on Bastion Street. The difficulty of obtaining and retaining suitable personnel for the Police and Gaol was becoming one of the continuing burdens of the Police Commissioner. However there was no doubt in the minds of the citizenry that there was a police force in the town and while they had their faults, they were probably as vigorous as circumstances permitted, given their general lack of training for their duties and the large number of potential troublemakers who, from time to time, inhabited the area. The naval and military forces continued to support British sovereignty and

the Civil Power, if not always precisely as desired, or without controversy, at least with effect.

¹ Douglas to W. G. Smith, 27 April 1858. Douglas, Correspondence Outward, op. cit.

² Ibid.

³ Augustus F. Pemberton, Diary, 28 April 1858. Copy, P.A.B.C.

⁴ Douglas to Labouchère, 8 May 1858. Great Britain Parliament, Correspondence Relative to the Discovery of Gold in the Fraser River District (London: Queen's Printer, 1858). Herman Merivale to Secretary of the Admiralty, 26 June 1858. Requested that a steam frigate be sent to Vancouver Island. Copy, Vancouver Island and British Columbia, Admiralty Correspondence, Vol. 2, P.A.B.C.

⁵ Douglas to R./Adm. R. L. Baynes, 12 May 1858, C.O. 305/8. Baynes appointed 8 July 1857. Flag in H.M.S. Ganges, 84 guns. Longstaff, Esquimalt Naval Base, op. cit., p. 116.

⁶ H.M.S. Plumper, survey vessel, 12 guns. Gough, op. cit., p. 135.

⁷ Baynes to Admiralty and to Douglas, 26 June 1858. Admiralty to Baynes, 28 June 1858, Admiralty Correspondence, op. cit.

⁸ Admiralty to Baynes, 16 August 1858. Ibid. See also Gough, op. cit., p. 134ff. for an account of naval operations during the gold rush period.

⁹ Alfred Waddington, The Fraser Mines Vindicated (Victoria, P. de Carro, 1858), pp. 16-18.

¹⁰ Douglas to Lord Stanley, Colonial Secretary, 1 July 1858, C.O. 60/1. Gough, op. cit., p. 139, footnote 37. Lord Stanley resigned as Colonial Secretary about this time, to be succeeded by Sir Edward Bulwer Lytton. Ormsby, British Columbia, op. cit., p. 149.

¹¹ "The Diary of an Old Timer," Victoria Daily Times, 1 September 1934. Believed to be excerpts from the Journal of Frank Sylvester. Copy of a letter by Thos. Deasy, Victoria, confirming authenticity of the "Old Timer's" report of police of Jamaican nationality. Vertical Files, P.A.B.C.

¹² D. W. Higgins, The Passing of a Race (Toronto, 1905), pp. 165-166. A fictionalized account of real events. Higgins states that Negro police were paid \$70 per month. This must have seemed like good wages. A. F. Pemberton paid Black farm labourers forty cents per day. Diary, 25 May 1858.

¹³ Victoria Times and Deasy, Letter, op. cit.

Footnotes

- ¹ Douglas to W. G. Smith, 27 April 1858. Douglas, Correspondence Outward, op. cit.
- ² Ibid.
- ³ Augustus F. Pemberton, Diary, 28 April 1858. Copy, P.A.B.C.
- ⁴ Douglas to Labouchère, 8 May 1858. Great Britain Parliament, Correspondence Relative to the Discovery of Gold in the Fraser River District (London: Queen's Printer, 1858). Herman Merivale to Secretary of the Admiralty, 26 June 1858. Requested that a steam frigate be sent to Vancouver Island. Copy, Vancouver Island and British Columbia, Admiralty Correspondence, Vol. 2, P.A.B.C.
- ⁵ Douglas to R./Adm. R. L. Baynes, 12 May 1858, C.O. 305/8. Baynes appointed 8 July 1857. Flag in H.M.S. Ganges, 84 guns. Longstaff, Esquimalt Naval Base, op. cit., p. 116.
- ⁶ H.M.S. Plumper, survey vessel, 12 guns. Gough, op. cit., p. 135.
- ⁷ Baynes to Admiralty and to Douglas, 26 June 1858. Admiralty to Baynes, 28 June 1858, Admiralty Correspondence, op. cit.
- ⁸ Admiralty to Baynes, 16 August 1858. Ibid. See also Gough, op. cit., p. 134ff. for an account of naval operations during the gold rush period.
- ⁹ Alfred Waddington, The Fraser Mines Vindicated (Victoria, P. de Garro, 1858), pp. 16-18.
- ¹⁰ Douglas to Lord Stanley, Colonial Secretary, 1 July 1858, C.O. 60/1. Gough, op. cit., p. 139, footnote 37. Lord Stanley resigned as Colonial Secretary about this time, to be succeeded by Sir Edward Bulwer Lytton. Ormsby, British Columbia, op. cit., p. 149.
- ¹¹ "The Diary of an Old Timer," Victoria Daily Times, 1 September 1934. Believed to be excerpts from the Journal of Frank Sylvester. Copy of a letter by Thos. Deasy, Victoria, confirming authenticity of the "Old Timer's" report of police of Jamaican nationality. Vertical Files, P.A.B.C.
- ¹² D. W. Higgins, The Passing of a Race (Toronto, 1905), pp. 165-166. A fictionalized account of real events. Higgins states that Negro police were paid \$70 per month. This must have seemed like good wages. A. F. Pemberton paid Black farm labourers forty cents per day. Diary, 25 May 1858.
- ¹³ Victoria Times and Deasy, Letter, op. cit.

¹⁴ James W. Pilton, "Negro Settlement in British Columbia, 1858-1871," unpublished M.A. thesis, University of British Columbia, 1951, pp. 49-50 and footnote 26, p. 50. Scholefield and Howay, British Columbia, Vol. IV, Biographical, A. F. Pemberton, p. 97. Pemberton is said to have personally rescued one of the Negro police as the policeman was about to be thrown in the harbour by the miners.

¹⁵ Notice of Appointment, 7 July 1858, signed by Richard Colledge, secretary to James Douglas. Vancouver Island, Correspondence Outward, P.A.B.C. Ibid., 12 August 1858.

¹⁶ Victoria Gazette, 17 July 1858.

¹⁷ Douglas to Lytton, 11 December 1858. A somewhat tardy advice of the appointment. Douglas had already advised W. G. Smith of the Hudson's Bay Company together with an explanation of the need to expand the Police Force and to build a Police Station and other government buildings. Douglas, Correspondence Outward to Hudson's Bay Company, 12 August 1858, P.A.B.C. The appointments were approved by the Colonial Office as long as they did not clash with appointments to government positions in British Columbia, made by the Colonial Office, and were at the expense of Vancouver Island revenues. Lytton to Douglas, 7 February 1859, C.O. 305/9.

¹⁸ Since quarters for the Superintendent were not available Bayley received \$20 per month towards hotel accommodation. Hudson's Bay Company, Records, September 1858, op. cit.

¹⁹ Ibid., July 1858.

²⁰ Loc. cit. Forty-eight were purchased locally for £11-9-2 (about \$1.00 each).

²¹ Ibid., September-November 1858. Individual prices not given. Reference also made in the same period in Hudson's Bay Company, Correspondence Outward, 1859-1861, P.A.B.C.

²² Gazette, 24 July 1858. Douglas spoke on 19 July.

²³ Ibid., 29 July 1858. It is difficult to judge the effectiveness of this regulation. Not until September is there a report of Pemberton fining one man £5 and \$8.50 costs, or one month in jail, for discharging his revolver within the town limits. Gazette, 24 September 1858.

²⁴ Ibid., 31 July 1858.

²⁵ Gazette, 3 and 4 August 1858.

²⁶ Ibid., 4 August 1858.

- 27 Richard C. Mayne, Journal: H.M.S. Plumper Feb. 17, 1857-Dec. 31, 1860, P.A.B.C. See also sequel to this affair in a letter from J. S. Hawkins to A. F. Pemberton, d. 8 January 1859 in Victoria Gazette, 22 January 1859. W. G. Smith, 12 August 1858, Correspondence Outward to Hudson's Bay Company, P.A.B.C.
- 28 Gazette, loc. cit.
- 29 Douglas to Thomas Fraser, 3 March 1859, ibid.
 29 Ibid., 5 August 1858.
- 30 Ibid., 12 August 1858.
- 31 Douglas to Duke of Newcastle, 7 April 1860 enclosing Hudson's Bay Company Ibid., editorial. Colony to November 1859, C.O. 305/14.
- 32 Ibid., 27 August 1858.
- 33 Ibid., 4-6 August 1858. Douglas to Lytton, 10 August 1858, C.O. 305/9, in which he transmitted the report by the Speaker of the House (J. S. Helmcken), d. 5 August 1858. Helmcken was irate that a dead prisoner had not been removed from gaol before the Committee arrived--complaining that the man should have been earlier sent to hospital, if only there was such a place! The poor condition of the Victoria Gaol was by no means exclusive and was probably better in subsequent years than those in the nearby United States. See Philip D. Jordan, "The Close and Stinking Jail," Pacific Northwest Quarterly, Vol. 60, No. 1 (Seattle: University of Washington, January 1969), p. 5 ff. Jury report dated 6 January 1859.
- 34 Douglas to Lytton, ibid., enclosures.
- 35 The British Colonist, 18 December 1858 quoted the Times of 28 August 1858. Lytton to Douglas, 5 October 1858, C.O. 305/10. dated 15 July 1858.
- 36 Douglas to Lytton, 9 January 1859, C.O. 305/10. This caused Merivale in an alarmed, but undated Minute, to ask "not pecuniary assistance surely?" There is some question as to whether Douglas' misconception was deliberate or not since he had already begun to ment build a new Police Barracks. See p. Bryant and other respectable miners.
- 37 Lytton to Douglas, 5 April 1859, C.O. 305/10.
- 38 Hudson's Bay Company, Records, August-September 1858, P.A.B.C., and Gazette, 18 September 1858. The contractor was R. Anderson. The building was in fact charged to the Fur Trade account. This first C. Constabulary Office became the Office of the Collector of Customs in due course. ber 1858. While the date is not disputed, Miss Evaline Mary Pemberton (daughter of A.F.P.) states that family lore confirms that Pemberton
- 39 Gazette, 14 August 1858. Call for tenders dated the previous day. landing at Ross Bay--in accordance with Scholefield and Noway, (op. cit., Vol. 1)
- 40 Ibid., 5 October 1858. Complaint that the new building would effectively cut off View Street "for all time to come." Hudson's Bay Company, Records, October 1858-April 1859, op. cit. The old gaol was "purchased" from the Hudson's Bay Company in February 1859 for £250. The "purchase" consisted of charging the amount against the Fur Trade Account.

- 41 Daily Colonist, 3 April 1886. H.B.C. Records, August 1858, ibid.
Photo: Maynard Collection, c. 1886, P.A.B.C.
- 42 Douglas to W. G. Smith, 12 August 1858, Correspondence Outward to Hudson's Bay Company, P.A.B.C.
- 43 Douglas to Thomas Fraser, 3 March 1859, ibid.
- 44 Ibid.
- 45 Douglas to Duke of Newcastle, 7 April 1860 enclosing Hudson's Bay Company Accounts with the Colony to November 1859, C.O. 305/14.
- 46 Gazette, 16 October 1858. p. 71, 74-75. Administrative positions in the Dublin Metropolitan Police formed part of the Irish bureaucracy
- 47 Ibid., 5 October and 22 October 1858. Among those resigning were Constables Sheehan, Culnan, Durham, and Carmichael.
- 48 Gazette, op. cit. of reorganizations, and thus caused considerable dissatisfaction among those holding such positions.
- 49 The British Colonist, 18 December 1858.
- 50 Gazette, 9 December 1858.
- 51 Ibid., 15 January 1859, also British Colonist, same date. Jury report dated 6 January 1859.
- 52 The British Colonist, 18 December 1858 quoted the Times of 28 August 1858 carrying correspondence from San Francisco dated 15 July 1858.
- 53 Ibid., 27 December 1858.
- 54 Ibid., 1 January 1858. Pemberton also promised one day to comment upon the assistance rendered by "Mr. Bryant and other respectable miners."
- 55 Loc. cit.
- 56 Loc. cit., signed "A.P.-Com. of P."
- 57 A. F. Pemberton, Diary 1856-1859. Copy by E. Lazarus, P.A.B.C. Lazarus noted that Pemberton arrived by ship at Victoria Harbour on 23 December 1855. While the date is not disputed, Miss Evaline Mary Pemberton (daughter of A.F.P.) states that family lore confirms that Pemberton arrived in Victoria from San Francisco, via Port Townsend, landing at Ross Bay--in accordance with Scholefield and Howay, (op. cit., Vol. IV, p. 94). A. F. Pemberton, Miscellaneous Papers, P.A.B.C. See also Dorothy Blakey Smith, "The Journal of Arthur Thomas Bushby, 1858-1859," B.C. Hist. Quarterly, Vol. XXI, 1957-58. Biographical Appendix, pp. 188-190.

- 58 A. F. Pemberton, Miscellaneous Papers, op. cit., Note by his son, C. C. Pemberton.
- 59 London Illustrated News, Vol. XX, 10 January 1852, p. 36.
- 60 A. F. Pemberton, op. cit.
- 61 Scholefield and Howay, op. cit., Vol. IV, p. 94.
- 62 Pemberton to Colonial Secretary, 19 May 1871, Miscellaneous Police Correspondence Outward 1864-1873, P.A.B.C.
- 63 R. B. McDowell, The Irish Administration 1801-1914 (London: Routledge & Kegan Paul, 1964), pp. 71, 74-75. Administrative positions in the Dublin Metropolitan Police formed part of the Irish bureaucracy controlled by the Chief Secretary of the Irish Executive. Senior clerks (at £500/annum) and Chief Clerks (at £800/annum) were theoretically positions of promotion but in practice political appointments were made, particularly at the time of reorganizations, and thus caused considerable dissatisfaction among those holding such positions.
- 64 Gazette, 22 January 1859.
- 65 Ibid., 16 November 1858. ". . . courts organized out of such gross and unfit materials . . . these courts have fallen short of even the limited expectations justified by the peculiar circumstances of their long absence from civilized society and their habitual intercourse with Indians." op. cit.
- 66 Op. cit., Hawkins to Pemberton, d. 8 January 1859.
- 67 Ibid., Pemberton to Hawkins, d. 17 January 1859.
- 68 W.A.G. Young to Pemberton, 24 January 1859, Vancouver Island, Sir James Douglas, Miscellaneous Letterbook, Correspondence Outward, 7 January 1859-13 September 1859, P.A.B.C.
- 69 Young to Pemberton, 5 February 1859, ibid.
- 70 Gazette, 1 February 1859. A coroner's jury was unable to point to any individual as having committed the crime.
- 71 Ibid., 12 February 1859.
- 72 Ibid., 15 February 1859.
- 73 Ibid., 19 February 1859.
- 74 Douglas to Capt. Michael de Courcy, S.N.O., 19 February 1859, Douglas, Miscellaneous Letterbook, Outward, op. cit. The Satellite was sent. W.A.G. Young to Capt. D. K. Weldon, master of the Swiss Boy, 21 February 1859, ibid.

- 75 Douglas to de Courcy, 22 February 1859, ibid.
- 76 Douglas to Lytton, 23 March 1859, C.O. 305/10. The Gazette of 10 and 15 March thoroughly approved the forced removal of the Indians. See also
- 77 Douglas to Lytton, 19 February 1859, C.O. 305/10. Blackwood, Minute, 26 April 1859, commented that the Marines together with the main body of Royal Engineers, due to arrive for surveying and road construction in British Columbia, "will put the Governor completely at ease with respect to Military assistance should he require it." Tribune actually brought 164 Marines, all ranks. Gough, op. cit., p. 145. Tribune, screw frigate, 31 guns; Pylades, corvette, 21 guns. Gough, op. cit., pp. 262-263.
- 78 W.A.G. Young to Pemberton, 17 February 1859, Douglas, Miscellaneous Letterbook, Outward, op. cit.
- 79 Pemberton to Young, 2 March 1859, Colonial Correspondence, Police, F. 1382, P.A.B.C. See Appendix II for details.
- 80 Ibid.
- 81 Ibid., 17 May 1859.
- 82 Ibid., 21 May 1859. Four policemen were later assigned to the Indian camp to attempt to keep Indians out of town after nightfall.
- 83 Pemberton to Douglas, 22 July 1859, F. 1382, ibid. See also Young to Pemberton 16 July 1859, Douglas, Miscellaneous Correspondence, Outward, op. cit.
- 84 Pemberton to Douglas, 8 June 1859, Douglas, Miscellaneous Correspondence, Outward, ibid.
- 85 Pemberton to Young, 22 July 1859, F. 1382, op. cit. In an undated Minute Douglas approved the dismissal, giving instructions that all such irregularities were to be brought to his attention. Young to Pemberton, 29 July 1859. Official approval of dismissal; police constable not to receive any additional salary. Douglas, Miscellaneous Correspondence, Outward, op. cit.
- 86 Pemberton to Young, 24 October 1859, F. 1382, ibid. For the quarter ending 30 September 1859, £13-8-9 and £123-2-6 respectively.
- 87 Pemberton to W. D. Gossett, 16 August 1859, Colonial Correspondence, Colonial Secretary, F. 317, Micro. P.A.B.C. U.S. funds officially approved by Douglas, but to be converted to Sterling for accounting purposes. Young to Gossett, 20 August 1859, ibid. Instructions were issued to treat all monies in Sterling at the rate of \$5.00 to the pound and 4s to the U.S. dollar. Young to Pemberton, 20 August 1859, Douglas, Miscellaneous Correspondence, Outward, op. cit.
- 88 Douglas to de Courcy, S.N.O., 8 March 1859, Douglas, Miscellaneous Correspondence, Outward, op. cit.

- ⁸⁹ Douglas to de Courcy, 9 March 1859, ibid. buried on 2 June, attended by the entire police force.
- ⁹⁰ Douglas to de Courcy, 15 March 1859, ibid. The Gazette of 10 and 15 March thoroughly approved the forced removal of the Indians. See also Akrigg and Akrigg, B.C. Chronicle, op. cit., pp. 162-163. They quote Capt. G. H. Richards, H.M.S. Plumper, more Indians arrive as others were towed away.
- ⁹¹ Gazette, 22 March 1859. Reported that as many as 3,000 Indians were on their way down the coast while on 17 March the newspaper had confidently reported that the last 200 Queen Charlotte Indians had left Victoria for Esquimalt harbour. Earlier, on 15 June, the Colonist reported that an Indian, sentenced to a term of hard labour, had his hair cut.
- ⁹² Ibid., 10 and 12 May 1859. him more sanitary.
- ⁹³ Pemberton to Young, 15 May 1859. He apologized for writing on Sunday, but explained that the seriousness of the occasion demanded an immediate report. 19 April 1859.
- ⁹⁴ Ibid. British Colonist, 15 July 1859.
- ⁹⁵ Gazette, 17 May 1859. The paper also claimed that the Police were only paid \$30 per month.
- ⁹⁶ Ibid., 21 May 1859. Four policemen were later assigned to the Indian camp to attempt to keep Indians out of town after nightfall. Ibid., 16 June 1859.
- ⁹⁷ Douglas to Lytton, op. cit.
- ⁹⁸ Ibid.
- ⁹⁹ Ibid., and Young to Capt. G.T.P. Hornby, 14 May 1859, Douglas, Miscellaneous Correspondence Outward, op. cit.
- ¹⁰⁰ Various Minutes appended to Douglas to Lytton, op. cit. See also Lytton to Douglas, Minute on draft despatch, 16 October 1858, C.O. 60/1. Although in reference to the establishment of police in British Columbia, it is indicative of the feelings of the Colonial Secretary: "...nothing is so important to the peace and progress of the colony as a well-organized and effective police--and I find that a police is always feeble in Colonies that have been accustomed, in every disturbance, to rely upon soldiers."
- ¹⁰¹ Herman Merivale, Minute, 11 July 1859 on Douglas to Lytton, op. cit.
- ¹⁰² Duke of Newcastle, Minute, 13 July 1859, op. cit. Also Newcastle to Douglas, 22 July 1859, ibid.
- ¹⁰³ Gazette, 2 June 1859.

- 104 Ibid., 4 and 19 June 1859. Cochrane was buried on 2 June, attended by the entire police force.
- 105 Ibid., 2, 19, and 21 June 1859.
- 106 Ibid., 21 June 1859.
- 107 Ibid., 23 June 1859.
- 108 Daily British Colonist, 27 June 1859.
- 109 Gazette, 13 August 1859. Earlier, on 15 June, the Colonist reported that an Indian, sentenced to a term of hard labour, had his hair cut off in an effort to make him more sanitary.
- 110 Ibid., 17 March 1859, Daily British Colonist, 25 April 1859.
- 111 Gazette, 19 April 1859.
- 112 Daily British Colonist, 15 July 1859.
- 113 Ibid., 16 and 19 September 1859. The paper also claimed that the Police were only paid \$30 per month.
- 114 Ibid., 24 October 1859.
- 115 Gazette, 1 September 1859.
- 116 Ibid., 6 September 1859.
- 117 Ibid., 5 July 1859. Young to Sheriff Heaton, 15 July 1859, Douglas, Miscellaneous Correspondence, Outward, op. cit.
- 118 Young to Sheriff Heaton, 30 July 1859, ibid.
- 119 Gazette, 11 October 1859.
- 120 Douglas to de Courcy, 23 July 1859, Miscellaneous Correspondence, Outward, op. cit.
- 121 Merivale to Under Secretary of State, War Office, 9 July 1859, Great Britain, Admiralty Correspondence, P.A.B.C.
- 122 Gazette, 20 September 1859. The overall size of the main building was 30 feet x 72 feet, of one storey, and built in the same style as, and to the East of, the Legislature, Court, and Treasury buildings.
- 123 Douglas to Baynes, 11 November 1859, Vancouver Island, Colonial Secretary, Correspondence Outward, 14 September 1859-21 September 1860, P.A.B.C.

124 Admiralty to Baynes, 29 November 1859, Admiralty Correspondence, op. cit. Baynes did not do this, retaining the Marines because of the San Juan dispute, sending some of them to the island in March 1860. See below, p. 129 and Gough, op. cit., p. 165, footnote 77.

125 Baynes to Douglas, 13 August 1859 in answer to Douglas to Capt. Hornby, 29 July 1859, requesting a naval show of force at San Juan. Colonial Secretary, Correspondence Outward, op. cit. Also Gough, op. cit., pp. 160 ff.

126 Admiralty to Baynes, 29 November 1859, emphasized that H.M. Naval Forces were not subject to orders from the Governor of British Columbia. Great Britain, Admiralty Correspondence, op. cit.

127 Douglas to Baynes, 28 October 1859, Colonial Secretary, Correspondence Outward, op. cit.

128 Baynes to Douglas, 31 October 1859, Great Britain, Admiralty Correspondence, Vol. 2, op. cit.

129 Douglas to Baynes, 1 November 1859, Colonial Secretary, Correspondence Outward, op. cit.

130 Douglas to Baynes, 28 December 1859, ibid.

131 Douglas to Speaker of the Legislative Assembly, 27 March 1860, C.O. 305/14. Statements in Account with the Hudson's Bay Company.

monthly salaries.⁵ Despite this, CHAPTER V
 (out of eight) had decided to quit the Force for financial reasons and
 try their luck in the gold. THE STRUGGLE FOR THE EFFECTIVE ADMINISTRATION
 OF JUSTICE AND THE LAW

The feeling of a lack of internal security for the Colony was
 Inadequacies of the police establishment were a continuing and
 an unpleasant one for the Governor so that when a rumour reached him
 obvious problem to the Commissioner of Police. In February, 1860,
 that the Marines were about to be withdrawn from Victoria he immediately
 Pemberton returned to his attempts to augment the Force, increasing his
 wrote to Rear Admiral Baynes to protest and to ask that a minimum of
 financial estimate for the year to £6,258 (from £2,360), pointing out
 twenty-five men be left in the barracks. Baynes replied that he could
 that a stronger Police force for the town was required, as well as Water
 not comply with the Governor's wishes, requiring all the Marines for the
 and Rural Police.¹ The authorized strength was to be increased by one
 garrison at San Juan Island. Douglas answered the same day with an
 sergeant and fourteen constables, all at increased salaries (about 30%)
 unusual and agitated letter. He claimed that although the town was in
 in order to retain men for the Force. In a Minute² the Colonial
 Secretary questioned whether this was the least force with which
 was full of foreigners and Indians who, but for the Marines, might riot,
 Pemberton could manage. He suggested however that one sergeant and four
 the town be burned to the ground and the treasury robbed--all before aid
 men of the town police might be formed into a mounted detail. Douglas
 could arrive from H.M. Ships in Esquimalt. Not unreasonably annoyed,
 would not approve the proposals for additional men and money despite
 the Admiral wrote to Douglas in no uncertain terms, where he considered
 Pemberton's alternative request for authority to expand only in case of
 his duty lay unless in extremely urgent circumstances, pointing out that
 extreme necessity. The Gazette complimented the police on their success
 in suppressing serious crime in the town and supported the idea of a
 organized . . . and . . . in August last . . . when you
 small number of mounted police which would be especially effective in
 defence]. . . I must say I cannot entertain the fears
 suppressing the illegal whisky trade.³ The Colonist, however, attacked
 the government for failure to pay the Police and hinted that the Police
 and concluded with the stricture.⁴ A few days later the accusation was
 were considering going on strike.⁴ A few days later the accusation was
 made that tradesmen's accounts with the Police Department had not been
 correspondence on this subject.⁵
 paid. A denial of these charges was issued by the Department and the
 newspaper was finally able to report that the Police had received their

monthly salaries.⁵ Despite this the editor regretted that six constables (out of eight) had decided to quit the Force for financial reasons and try their luck in the gold fields.⁶

The feeling of a lack of internal security for the Colony was an unpleasant one for the Governor so that when a rumour reached him that the Marines were about to be withdrawn from Victoria he immediately wrote to Rear Admiral Baynes to protest and to ask that a minimum of twenty-five men be left in the barracks.⁷ Baynes replied that he could not comply with the Governor's wishes, requiring all the Marines for the garrison at San Juan Island. Douglas answered the same day with an unusual and agitated letter.⁸ He claimed that although the town was in no immediate danger he had been put in a embarrassing position, the town was full of foreigners and Indians who, but for the Marines, might riot, the town be burned to the ground and the treasury robbed--all before aid could arrive from H.M. Ships in Esquimalt. Not unreasonably annoyed, the Admiral wrote to Douglas in no uncertain terms, where he considered his duty lay unless in extremely urgent circumstances, pointing out that

with the efficient Police Force Your Excellency has had organized . . . and . . . in August last . . . when you assured me you could enrol two or three thousand men [for defence] . . . I must say I cannot entertain the fears Your Excellency does. . . . Passionately fond of ardent spirits, they indulge in their use to excess, whenever the means of intoxication are within their reach, and on those occasions exhibit scenes of riot, disorder and outrage, disgraceful to a civilized country.¹⁶

and concluded with the stricture, I do not wish to draw Your Excellency into any further correspondence on this subject.⁹ that when sober the Indians were "quiet and well-conducted," performing many of the agricultural and shipping labours in the Colony. They were also an important body of which was deemed by the Colonial Office "a very proper conclusion."¹⁰

Pemberton was then ordered to place a policeman on twenty-four hour guard at the Colonial Treasury, to which he objected due to short staff, offering instead to assign a man from 8:00 p.m. to 6:00 a.m., but to no avail.¹¹

SINCE THE COLONIAL TREASURER, GORDON, WAS A THIEF--A GUARD WAS RATHER A WASTED EFFORT!

Colonial revenue continued to decrease to the point of vital concern. Pemberton was ordered to make every possible reduction in the expenses of the Police and Gaol, to the extent that vacancies in the establishment were not to be filled.¹² Sheriff Heaton was dismissed his £200 per annum position, although the order was later rescinded when it became obvious that a sheriff was an indispensable officer of the Court--but he was only to be retained on a fee-for-service basis.¹³ Heaton left the government service, presumably in disgust and was succeeded by W. B. Naylor under the same financial terms.¹⁴ Possibly as a result of newly instituted economies Superintendent Bailey was authorized, in a kind of ad hoc arrangement, to admit arrested persons to bail of £10 on their own recognizance to appear in Police Court the following day.¹⁵

Douglas reported that visiting Indians had again become a serious problem.

From their formidable numbers and social habits they have become a positive nuisance and a cause of alarm to the inhabitants of the Colony. . . . Passionately fond of ardent spirits, they indulge in their use to excess, whenever the means of intoxication are within their reach, and on those occasions their quarters exhibit scenes of riot, disorder and outrage, disgraceful to a civilized country.¹⁶

Douglas did however acknowledge that when sober the Indians were "quiet and well-conducted," performing many of the agricultural and shipping labours in the Colony. They were also an important body of

customers for food, clothing, and other goods, and went on to say that "they would on the whole form a not undesirable population" were it not their constant indulgence.¹⁷ The colony was fortunate in its security that the more powerful tribes "entertain for each other the most cordial feelings of hatred and contempt."¹⁸ Only strict enforcement of the law near the settlement prevented them from continuously attacking each other.

It was during this time of general uproar that the Haida chief, "Captain John" shot the Chief of the Tongass tribe. An argument had ensued at the end of a meeting to which the Tongass had been invited and a Haida was later killed in retaliation. A "Quakualk" chief was killed by a member of the "Songass" tribe, a Stikeen was found in the harbour with his throat cut and shots were exchanged between whites and Indians during the chase of an Indian thief. The Esquimalt road was reported dangerous to white travellers.¹⁹

Douglas called the chiefs together at James Bay to instruct them as to their behaviour. They were to look to and follow the law or punishment would follow. Murder was punishable by hanging, theft by whipping, complaints were to be made to the Police Magistrate. They were also to form separate camps, abide by instructions laid down by Douglas, or leave the colony.²⁰ For a time the Governor considered forming a native police but lacked the necessary funds. A small poll tax levied against all Indians was rejected because of the difficulty in collecting it--some were probably unwilling, and some unable, to pay the tax.²¹

The day after separate camps were established Pemberton

received a letter from the master and several passengers of the schooner, Royal Charlie, stating that they had been fired upon by Indians as they were attempting to leave harbour.²² Since the Commissioner expected serious trouble in apprehending the culprits, he made an official request for military aid to the Civil Power.²³ Douglas concurred and passed the request to Rear Admiral Baynes who responded by sending one hundred Marines, ordered "to place themselves at the disposal of the Magistrate," and two boats from Ganges were sent to the harbour mouth to prevent escape in that direction.²⁴ The Haidas, "the most ignorant, barbarous, and ungovernable of all the Northern races" made a show of opposition and as a result the whole tribe was ordered disarmed.²⁵ As it turned out only one man fired the shots although he used several muskets. The prisoner was taken immediately to court, tried and "in accordance with the Governor's order" sentenced to be flogged with two months imprisonment with hard labour. An escapee from the chain gang was also captured and he, too, was ordered flogged before returning to prison to serve the remainder of his sentence.²⁶

"Captain John" and his brother were taken into custody on a charge of murder. When about to be searched at the entrance of the Gaol they suddenly drew their knives and attacked the gaolers. After a scuffle in which a gaoler was wounded, both Indians were shot and killed.²⁷ A clear case of self-defence was corroborated as such by two other Haida prisoners who witnessed the entire affair.²⁸ The Haida camp was in an uproar after the withdrawal of the Marines and was visited by Pemberton and William Duncan, the missionary, to assure the Indians that they were in no danger so long as they behaved.²⁹ One might have thought

for Pemberton and Duncan, that the shoe was on the other foot. That night, 2 July, to assist in guarding the town, twenty-two members of the Union Hook and Ladder Company were sworn in as Special Constables.³⁰

The relatives of "Captain John" applied to the Governor for compensation for the injury they had suffered by the death of so important a man.

Douglas refused.³¹ As an added precaution Rear Admiral Baynes stationed a boat at the harbour mouth to stop and remove all firearms belonging to Northern Indians before allowing them to proceed to the harbour.³²

Douglas was again quick to respond and put the law in motion to make an example of transgressors. He offered his "cordial thanks" to Baynes for his valuable assistance

which enabled us to teach these Savages a lesson that will not readily be forgotten . . . putting an end to outrages . . . and acts of bloodshed which unhappily of late have been too common.³³

The "lesson" had not been learned by all tribes. Shortly thereafter Douglas requested Baynes to send a war vessel to patrol the Saanich-Salt Spring Island-Cowichan area for several days since Cowichan Indians had been recently fighting with Fort Rupert Indians. "Wholesome moral restraint" would no doubt be the result.³⁴

Douglas and Baynes carried on considerable discussion of the Indian problem during the following month. It was brought upon by an enquiry by Douglas as to the circumstances of several canoes of armed Indians entering the harbour without being disarmed by the Naval patrol boat.³⁵ While not providing a specific answer in this instance Baynes felt that the system was not working since Indians could purchase arms

and ammunition as soon as they reached the town. Baynes suggested restricting the access of the Indians to Victoria since as far as he could ascertain the principal reason for Indian visitations is the fearfully demoralizing one of trading with the unchastity of their Squaws.⁴²⁻³⁶

Not an unnatural concern of a Commander-in-Chief since without doubt a proportion of his command participated in this trade, to the detriment of their health. Douglas was not adverse to Baynes' suggestion of turning back the Indians but felt that it would have to be done far to the North, at Johnstone Strait, and at considerable expense. He went on to explain that to do so nearer Victoria would loose the Indians upon other tribes and unsuspecting settlers in a search for food. It might further give the Indians the idea that they were feared in Victoria--an idea to be avoided at all costs. The answer seemed to be in attempting to improve facilities in Victoria while keeping up the appearance of the superiority of the white man. Douglas felt that this might be best achieved by stationing a Marine guard at Victoria, a steam gunboat at the harbour mouth and another stationed between Cowichan and Nanaimo.³⁷

Baynes was not happy with the suggestions as to the disposition of some of his force but offered to land a Marine guard if Douglas was strongly apprehensive. He made the point that a Marine guard might implant the idea of fear of the Indians, which Douglas wished to avoid. The Admiral assured Douglas that his forces were ready at any hour of the day to move on the town and that Her Majesty's Navy was not known for a lack of promptness. He then advised Douglas of the important authority he had

delegated to all Naval officers: of the administration of justice, a

Grand Jury had in July expressed themselves satisfied with the state of

A naval officer may stop any violence he sees likely to arise between the settlers and Indians, and seize and send the latter away--or if collecting in unusual numbers with the probability of the peace being disturbed order them off, but he is not borne out in interfering with settlers who may refuse to attend to him, and over whom he has no control. . . .³⁸

Douglas had to be satisfied with this, writing to the Colonial Office that he felt that he could not press the Admiral further for a Marine guard.³⁹ Baynes had meanwhile written to the Admiralty that Douglas erred in allowing so many Indians close to town so that now great care had to be taken that settlers in outlying parts were not harmed by marauders. There was a lack of magistrates on the coast--to effectively control the liquor traffic--and of severity of sentence to those white men who were caught supplying liquor to Indians. He proposed to send a gunboat at reasonable frequency to patrol the coast, but if magistrates were appointed up-Island then the law would be better respected, with a war vessel "showing herself for the purpose of upholding the Civil Power."⁴⁰

Newcastle acknowledged the problem and encouraged Douglas to redouble his efforts to control the liquor traffic, urged the use of missionaries to assist in promoting Indians to useful members of society, and pointed out that a gun control law would be helpful. The probability of evasion of such a law would be no reason for not having one. Finally, the colonists must look to themselves to a greater degree, for their own protection.⁴¹ However, Douglas was not sufficiently encouraged by this despatch to introduce a gun control law.

On the "civilian" side of the administration of justice, a Grand Jury had in July expressed themselves satisfied with the state of the Gaol but recommended a larger police force, that an Indian curfew be enforced, Indians be prohibited from carrying arms in the town, and that Indian brothels be closed since they were used "for the still worse purpose of selling liquor to the Indians."⁴² At the Assizes later that summer Police Sergeant Joseph W. Carey was acquitted by Mr. Justice Cameron of a charge of attempted rape of an Indian prostitute. The evidence was confused but sufficient to indicate that the charge was false and was brought due to the zeal with which Carey prosecuted whisky sellers.⁴³ In a matter of internal discipline, Superintendent Colquhoun of the chain gang was brought before Police Commissioner Pemberton charged with being absent from his post and Guard ^{Bevis} Beavis for neglect of duty in that he was leaning against a shaded fence to escape the heat of the sun. Both were fined ten shillings and received a warning.⁴⁴

It was during the summer of 1860 that the custom of using a convict as hangman was instituted. A volunteer from the gaol was offered a pardon and \$50 for performing this unpleasant duty.⁴⁵ In the first instance an Indian was hanged for the murder of a settler, in front of the Police Barracks, "with great decorum."⁴⁶ The execution took place before a crowd of an estimated three hundred persons, under the control of members of the fire department, recruited as special police. A convict-hangman was similarly employed in 1862 although it was reported that the crowd was not pleased when the executioner put his foot to the noose in order to tighten it after the trap had been sprung.⁴⁷ The British Colonist suggested that while the means was

"revolting" the thought "was no doubt a humane one."⁴⁸

In the meantime, serious personnel problems faced the Police Department with charges being brought against both the senior sergeant, Otto Weike and Superintendent of Police Bayley. Sergeant Weike was accused by one Brassfield of being implicated in the sale of whisky to Indians. Weike was suspended from duty pending an investigation.

Before it was completed Weike was arrested at his house "on the complaint of his squaw" that he beat her, her brother and sister, and smashed the furniture. Pemberton convicted the policeman, fining him £2 or ten days in gaol. The charge of whisky selling was later dismissed

for want of evidence, and Weike was allowed to resign because of his conviction for assault.⁴⁹ The Superintendent of Police was charged by the police who lived in the Barracks that the food provided under his authority was not the quantity nor quality paid for by the government.⁵⁰

Before long the British Colonist carried a report of the results of public bidding on the gaol provisions--rather than as formerly being purchased by Superintendent Bayley.⁵¹ Price comparisons were given in an editorial on 6 October: Flour \$8.00/bbl. as against \$12.00, candles 32¢/lb. as against 50¢, bread 3-3/4¢/lb. compared to 8-1/4¢, and rice with a 1¢/lb. spread.⁵² Whether the funds apparently fraudulently

obtained was due to the dishonesty or negligence of the Superintendent or the dishonesty of the grocer and baker was never proved. Bayley was permitted to resign and Horace Smith, Clerk of the Police Court was placed in temporary command of the Police.⁵³

In an editorial the British Colonist deplored the fact that the Police Department was not above reproach and that "a certain amount

labour and those not, as well as between willing workers and those who were lazy.⁵⁸ For comparison see Table II, Scale of Rations before Reduction Ordered.

Pemberton was warned that he must closely supervise the force and be "cognizant of the most minute details." The Senior Sergeant must be of superior energy and intelligence.

... he is to be constantly on the alert to obtain accurate information as to the Residents of the Town, and to the details of everything transpiring there likely to prove serviceable in preventing and detecting crime.⁵⁹

The remainder of the Force was to be employed in the preservation of peace, life, and property as Pemberton might direct. A new and slightly augmented nominal roll was forwarded to the Governor, which was approved together with Pemberton's recommendation that the Senior Sergeant and Superintendent of Convicts be paid £7-15-0 per month and the ration allowance be increased to £3-5-0.⁶⁰ See Table III. If divided into two

twelve-hour shifts the preservation of peace was dependent upon one sergeant, two police constables, one door guard, a maximum of two chain gang guards, and one gaoler plus two senior officers, a force surely below the bare minimum requirements for the protection of life and property. One additional small expense was authorized before the year-end. Pemberton was instructed to set aside two rooms in the Gaol or Police Barracks for the imprisonment of debtors so that they need no longer be incarcerated with ordinary criminals.⁶¹

Whisky sellers were plentiful and more or less carried on their trade with impunity because of the dirth of police.⁶² The

dearth (OED)

newspaper reported a number of TABLE II
again paid and

DAILY SCALE OF RATIONS BEFORE REDUCTION ORDERED, 1860

	Police	Prisoners
Beef	1 lb. 12 oz.	6 oz.
Vegetables	1 " 8 "	-
Bread	1 11-3/4 "	1 lb. 8 oz.
Flour	4 "	-
Sugar	4 "	2 oz.
Rice	2 "	2 "
Coffee	2 "	1 pint
Tea	1/2 "	1 pint
		Soup and vegetable as ordered.

Colonial Correspondence, Police, F. 1383, P.A.B.C.

influx of Indians to the town. TABLE III

NOMINAL ROLL OF POLICE AND GAOL DEPARTMENTS, 1 DECEMBER 1860

Senior Sergeant	Horace Smith
Sergeants	Geo. Blake John G. Taylor
Constables	Geo. Welch Edward Truran Henry Lyne Thos. R. Despard
Constable/Guards	Chas. Allen William Bevis <i>Beavis? Butt head?</i>
Storekeeper/Clerk	John Booth
Cook	Thomas Mitchell
Superintendent of Convicts	J. C. Colquhoun
Gaolers	Edw. W. Wright David McKenzie

Colonial Correspondence, Police, F. 1383, P.A.B.C.

The "Indian season" once again arrived at Victoria and Douglas

newspaper reported a number of resignations from the Police Force and again pointed out that the low rate of pay was to blame. Worse paid and clothed police force the editor had ^{never} ever seen; pay nearly "three months" in arrears, prophesied that the town would soon be left unguarded.⁶³

One month's pay finally received by the Force but not long before time.

Two of the police arrested four R.N. sailors as deserters and claimed the reward offered--£3 each. The paper called it a God-send in relation to the pay of the Police.⁶⁴ A call for regular police patrols was made on the slender police resources of the town by the Reverend A. C. the Garrett of the Indian Mission. Pemberton regretted that he was unable to provide a patrol for the Indian village, pointing out that he had already been forced to hire three or four special constables due to the influx of Indians to the town.⁶⁵

Douglas aired his views of the larger problem of dominance of the Civil Power over the Indian population in a long despatch to the Colonial Office. One way to spread the rule of law was certainly to have justices of the peace in outlying areas. There were difficulties inherent in this idea since there were few settlers of such a class or intelligence that he could appoint. However he saw no reason to suppose that any civil magistrate could offer protection or engender respect for his authority without the visible presence of military forces.⁶⁶

Douglas had appointed Edward Stamp a J.P. at Barkley Sound⁶⁷ who was supported by intermittent patrols by ships of the R.N.⁶⁸ but apart from Stamp (and W. H. Franklyn in Nanaimo) no other justices were appointed for a time.

The "Indian season" once again arrived at Victoria and Douglas

found it necessary to request that a patrol be made by the Navy, as far north as Nanaimo, to offer protection to coastal settlers, being particularly careful to call at Salt Spring Island where "evil disposed" Indians were reported.⁶⁹ Upon the arrival of the gunboat Forward at

Nanaimo, W. H. Franklyn, the magistrate, requested assistance in the chase of a group of Haidas who had committed several robberies on Salt Spring Island and plundered the schooner Laurel.⁷⁰ The Indians were apprehended near Cape Mudge after a short fight during which the Forward fired on the Indian canoes causing four casualties, with none to the Navy, although musket fire was returned.⁷¹ John Work, senior member of the Executive Council, next wrote to Maitland requesting further assistance, pointing out that the Haidas with whom the Navy had recently brushed were part of a much larger group

perhaps the most treacherous and revengeful as well as daring and cunning on the whole coast⁷²

and requesting a gunboat be stationed at Nanaimo for a short time. The Admiral concurred, temporarily stationing the Grappler there.⁷³ In a despatch the Admiral requested that an additional steam vessel be sent to him as with his present command spread over the entire west coast of North and South America he was experiencing some difficulty in protecting life and property on Vancouver Island. He went on to say

that Savages are never to be trusted unless there is sufficient force at hand to keep them in check. The Indian Tribes that come down here from the North are all armed with muskets, and are expert in the use of them. They are a lazy and indolent people addicted to pilfering & stealing & appear to support themselves entirely by the prostitution of their women.⁷⁴

Douglas never failed to indicate his appreciation for the help tendered by the Navy. He complimented Lieutenant Robson on his effort against the Haidas

later the newspaper reported that "Canary," "Sir Robert Peel," and two others set a trap for the "notorious blackguard who fired upon, and insulted Her Majesty's Flag, and set the Civil Authorities of the Colony at defiance . . . Wemyss' punishment merited and necessary and [was] the unavoidable consequence of their own rashness.⁷⁵ each. Wemyss resisted

Maitland was next concerned at the facilities available to the ground. Despite some ridicule of the Indian Police by certain naval personnel serving their sentences in the local gaol for infractions of naval discipline. In a letter to Douglas he stated that Admiralty the improvement in the behaviour of the Indian population. Unfortunately an Indian policeman attempted to arrest a white man in the town felons convicted of serious crimes. The Admiral regretted that despite the limitations of space in the building it was necessary that the Navy make use of the Victoria gaol. He requested that additional cells be built with a capacity of ten persons and a portion of the gaol yard be fenced off so that the naval prisoners might exercise and be kept at labour separate from the other inmates.⁷⁶ This was eventually undertaken at the Governor's orders, at a cost of £203-17-6.⁷⁷

In an effort to provide additional protection for the community, Pemberton was instructed to initiate a scheme whereby the Indians could police themselves to some extent, a native police funded by a poll tax upon the Indians, or some other "equally just" plan.⁷⁸ The funding was not a success. However, a number of chiefs and important members of the tribes were sworn in as Special Constables, being largely restricted in their duties to their own people.⁷⁹ In the beginning the Indian constables were reasonably diligent. The Colonist congratulated

three constables, "Edinsaw," "Canary," and "Sir Robert Peel" for the apprehension of the "drunken Indian ruffian 'Suich'" and another drunken Haida.⁸⁰ A few days later the newspaper reported that "Canary," "Sir Robert Peel," and two others set a trap for the "notorious blackguard and whisky-seller John Wemyss" by sending two Indian women to Wemyss' house to purchase two bottles of whisky at 50¢ each. Wemyss resisted arrest but "a blow or two from Sir Robert Peel's baton felled him to the ground."⁸¹ Despite some ridicule of the Indian Police by certain white elements in the town the new constables deserved much credit for the improvement in the behaviour of the Indian population.⁸² Unfortunately an Indian policeman attempted to arrest a white man in the town but without success. He did, in fact, receive "a sound thrashing for his pains."⁸³ The novelty of the situation began to wear off. One constable (drunk) tried to arrest another drunken Haida and both had to be arrested and placed in the gaol. Within about one month all the original Indian police but one had been themselves arrested and lost their appointments. "A played-out institution" printed the Colonist, "all . . . have become as great rowdies as the common folk of the tribes."⁸⁴

Fighting at the Indian camp broke out again. The police attended, arresting two for fighting and one for drunkenness, the latter being rescued by his friends after a considerable struggle. The Police Sergeant, McMillan, was then attacked. Order was restored only after McMillan had fired and wounded a Stickeen chief in the head. Pemberton considered it necessary to call for naval assistance to remove the Queen Charlotte and Stickeen Indians from Victoria.⁸⁵ It is not clear just

what form the naval assistance took but it is clear that it was of a passive nature for Acting Superintendent, Smith, and five policemen performed the actual job of clearing the camp without difficulty.⁸⁶ A small storm broke about the heads of the police--brought about by a somewhat hysterical letter from the Indian missionary, the Reverend Mr. Garrett:

The Cool and Police Departments came under considerable criticism men, women and children, like unresisting sheep, turned adrift in the pitiless rain--their houses smashed to atoms about their ears . . . burning shanties . . . a fitting emblem of their fiery passions which would rise and swell within the bosoms of the injured savages . . . may burst forth in a terrible conflagration . . . directed against settlers.⁸⁷

The real reason for the complaint turned out to be an alleged lack of winter provisions for the Indians to carry North, a reduction in his mission "flock," and a general feeling that the government should do more to defend the Indians from "white vices . . . and extend to them the blessings of our civilization and Christianity."⁸⁸

Pemberton defended his action, but not publicly. In a letter to the Colonial Secretary he refuted and ridiculed the exaggerated comments in the Daily Press, pointing out that

the Police have a sufficiently arduous and unpleasant duty to perform without being held up to scorn as inhuman and barbarous.⁸⁹

It was not a new policy to require Indians to leave Victoria when they became disorderly--and they had been warned of that possibility. The recent altercation with the police had been the last straw. Pemberton noted that the Stickeens were not British subjects, but lived in Russian

America and "were noted whisky sellers." Further, the Indians had been given notice before the eviction by Pemberton personally going from house to house, warning that if they did not leave by noon two days hence their houses would be dismantled. He commented that a marked degree of peace and quiet had resulted in the town since the Indians departed.⁹⁰

The Gaol and Police Departments came under considerable criticism during 1861.⁹⁶ The House of Assembly formed a committee to investigate the gaol management.⁹¹ The House felt that Pemberton had too much to do to effectively control both departments, but found themselves forced to accept and approve present conditions since they could not bring themselves to provide any additional funds that would be necessary to effect any change. The government in turn was criticized for "palpable negligence and dereliction of duty"⁹² in failing to provide decent wages and clothing to the Police. The Superintendent and Sergeant were often forced to do the duty of constables in patrolling the streets.⁹³ Better and more diligent use of the chain gang on public works was urged, so that the prisoners would not be simply charges on the public purse.⁹⁷ At the same time the government was castigated for issuing orders (unsubstantiated) to allow "9 out of 10" Indians brought to court to go free of gaol sentences--due to the prohibitive cost of keeping them.⁹⁴ Newspaper criticism was not sufficient to overcome the somewhat careful attitude of the citizens of Victoria when it came to allocating tax revenue. During the discussion of the merits of an incorporation act for the town it was advocated that the "City" should control the police but cooler heads prevailed, the appropriate clause in

the Act was struck out by the House of Assembly and the government was left with the cost, and the control, of the police in Victoria.⁹⁵ An Act to Incorporate the City of Victoria was passed by the Legislative Assembly in April 1862, amended, and finally received the Governor's assent 2 August 1862. Section XXVII specifically prohibited the City from appointing Magistrates or Police Officers. Section XX empowered the City Council to make by-laws and to impose fines and imprisonment for infractions⁹⁶ but did not provide any authority for a magistrate to remit fines to the City treasury. This was later to be a contentious issue.¹⁰² Although Pemberton had been criticized as having a hand in the low wages paid the Police, such was not the case for he did not have any authority in the matter. In April 1862 he recommended that Horace Smith be confirmed in his rank of Superintendent of Police, which was done, and that the Police receive substantial increases in pay, which was refused. Pemberton bolstered his argument for more pay by citing a fifty per cent increase in the price of meat and enclosing a "memorial" from members of the Force.⁹⁷ Salaries were still in arrears (three months) although pay for one month was received in February.⁹⁸ Officer George Blake, recently reduced to the ranks for fighting, was reinstated as Police Sergeant⁹⁹ and although Pemberton had received authority to increase the force by six men he was reported unable to do so--none would accept the wages offered.¹⁰⁰

In the early summer of 1862 smallpox broke out among the Indians. The Police ordered all natives out of town¹⁰¹ and later burned the campsites of the Songhees and Chimseans, as well as several huts on

Humboldt Street--after the occupants had left for one of the neighbouring islands. Douglas later requested that a gunboat be sent to Cadboro Bay to act as moral suasion in the removal by the Police of the Indians camped there, later to escort the Indians above Cowichan. As the Northern Indians were moved past Ganges they were attacked by Cowichans, who refused to desist until the guns of the Forward were loaded with grape-shot. Two ringleaders were finally captured by a boat's crew of the Forward and received "three dozen [lashes] each at the hands of the boatswain's mate."¹⁰² Further burning of Indian huts was required at Victoria together with the burial of some Indian victims which had been left above ground.¹⁰³ Pemberton reported that one of the Constables engaged in this disagreeable task had contracted the disease and had been removed to the smallpox hospital. The remainder of the Police were reported as vaccinated and nervous!¹⁰⁴ Although most of the afflicted cases were Indian, the Commissioner pointed out the danger to the white population of the continuous influx of strangers, the lack of sewers and the existence of certain filthy premises in the town which, for effective control, required an authority such as a board of health.¹⁰⁵

A certain amount of damage and unpleasantness had resulted to roads and premises through the habit of the owners of pigs and goats allowing them to forage at large in the streets of Victoria. As a result the Legislative Assembly passed the "Swine and Goat Act, 1862" to prohibit such nuisances. Under this Act the Police were empowered to shoot the animals on sight. The Daily Press reported a large sow "suffered the extreme penalty of the law" in May 1862.¹⁰⁶ The Colonist, ever ready to ridicule the establishment, called Langley Street the best

sporting place in the country, close to the Barracks where the "official butcher clad in blue coat and shining buttons" can shoot "a vagrant hog wandering from its lonely pen in search of food or company."¹⁰⁷ The newspaper also implied that the Police were thus able to augment their rations, although this charge remains unsubstantiated.

Besides being vigilant in the removal of Indians from the town--both sick and healthy--the police found traffic control in the summer of 1862 to be a more pressing concern than normal. A considerable number of persons were arrested for "furious driving" of their horses, including one for "furious driving over a squaw on Store Street" and another for "drunken furious driving." While the usual fine was twenty shillings or five dollars, the former case was discharged upon argument that the horse bolted, while the latter accused was fined 20s. or fourteen days in gaol.¹⁰⁸ A third, and much more profitable occupation, saw the Police active in apprehending a larger than usual number of Royal Navy deserters. The Colonist reported several caught by Superintendent Smith, Sergeant Blake, and Constable Jones near Langford. Shortly thereafter the Superintendent and Marine Sergeant Wade in an Indian canoe caught eight more after a vigorous boat chase.¹⁰⁹ All these deserters were sentenced to ninety days at hard labour in Victoria Gaol.¹¹⁰ However, soon after these successes, three Police Constables were attacked in two separate incidents when they tried to arrest suspected deserters in the town. To preserve discipline and aid the Police, six Marines and an Officer were temporarily stationed at the Police Barracks.¹¹¹ As far as the Police were concerned, the unfortunate result was the withdrawal by Rear Admiral Maitland of the £3 per head

bounty for deserters.¹¹² It had become too expensive. The Daily Press deplored the principle of allowing police officers to have bounties or share in certain fines for making "special" arrests, but acknowledged that where the pay is low, such may be a necessity. The newspaper complained that because of the extra pay ordinary police duty suffered. The police were noted as being conspicuously absent two days when fights drew crowds to see two seamen beat each other senseless and "two dozen squaws . . . fighting on Government Street."¹¹³

One of the most important facets of Naval aid to the Civil Power came about in 1862 when two officers of the Royal Navy were appointed Justices of the Peace. Captain G. H. Richards was made a Justice of the Peace for Vancouver Island and British Columbia while Lieutenant E. H. Verney was commissioned a Justice of the Peace for the Island only. Early in the new year Commander J. W. Pike was appointed a Justice of the Peace, vice Richards.¹¹⁴ These were necessary appointments for the propagation of British law among the natives in particular although it now enabled the Naval J.P. to enforce his wishes upon colonists as well. Summary punishments could be carried out with complete legality on board ship or at any place designated by the new floating justices.¹¹⁵

The British Columbia and Victoria Guide and Directory for 1863 listed the following magistrates on Vancouver Island:

A. F. Pemberton, Victoria
 W. H. Franklyn, Nanaimo
 Edward Stamp, Alberni and Barkley Sd.
 Cmdr. J. W. Pike, R.N.
 Lt. E. H. Verney, R.N.¹¹⁵

Edward Stamp, on the West Coast, acted more as representative of the law than presiding magistrate. He was often arbiter of disputes involving the crews of ships loading timber and occasionally with their relations with the Indians. Franklyn, on the other hand, in Nanaimo had constantly to face the Indian menace, whisky traders, miners, seamen, and all the crime associated with a frontier mining and shipping town. Sometimes he had a police constable to aid him, and sometimes not. Thus it was

better occasionally to ignore the rowdies in town than attempt to suppress them.¹¹⁶ They arrested whom they could but where, for example, two or three whisky traders joined in opposition they were discreetly left alone.¹¹⁷

In Victoria the police were again under attack, both physically and in print. For the former Pemberton promised to deal maximum sentences to those who opposed the police in the performance of their duty.¹¹⁸ In the Colonist a letter accused the Police of inefficiency,

the streets full of "degraded Indian women . . . and gamblers." Respectable people were "shouldered at street corners and disgusted with hideous and senseless blasphemies" and warned that where the Police in other places were as inefficient Vigilante Committees and Lynch Law were the result.¹¹⁹ The editor of the Colonist agreed that crime in the streets was increasing but wondered how much more could be expected from a small body of underpaid and inexperienced men. The police did not earn as much as most labourers--long hours and "the abuse of every ruffian . . . are sufficient to make them abandon the force the moment they can do so."¹²⁰ He asserted that low wages were only an invitation to bribery and thus false economy on the part of the government. In the

same issue the newspaper cheered the entire Police and Gaol Departments for their charitable donations to a Relief Fund for distressed British cotton workers. Those who contributed provide a nominal roll of both

TABLE IV VICTORIA POLICE, 1862		
Commissioner of Police		\$ 1,698
Superintendent		1,000
Sergeants (2)		600
Constables		500
Clerk/Storekeeper		600
Head Cook		700
Assistant		600
Superintendent of Convicts		700
Constable/Guards (2)		300
Cook		540
Superintendent	Horace Smith	
Sergeant	George Blake	
Constables	G. F. Hall	John Crowley
	J. McMillan	John Michuele
	Francis Page	Sam Baker
	John Carrington	Stephen Redgrave
Superintendent of Convicts	E. Struran	
Gaolers	G. Newcombe	D. B. Reid
Constables (Guards)	James Hooper	J. Woolacott
Special Constables	John G. Taylor	L. J. Shephard ¹²¹
	Emmanuel Levy	Michael Magee.
Food and clothing for Superintendent and 16 men		\$ 1,078

The Legislative Assembly again discussed the effectiveness of the police. Dr. J. S. Helmcken complained that although the police were paid from the general revenue of the Colony they were never seen in rural areas unless in pursuit of a criminal. Horse patrols were discussed but the Honourable Members could not quite bring themselves to foot the bill for so desirable an institution.¹²² They did manage to include \$140 as an allowance for forage for the Police Superintendent's horse when it was used on public business. Clothing was to be issued with the greatest economy and small increases in pay were granted¹²³

(Table V/VI). One of the two sergeants authorized was to be stationed at Esquimalt. A policeman was required there and of sufficient rank to

TABLE V

engender respect, yet the appointment was a junior one; no rations were
to be provided. 124 SALARIES EFFECTIVE 1 JANUARY 1863

Commissioner of Police	\$ 1,698
Superintendent	1,000
Sergeants (2)	600
Constables (8)	500
Clerk/Storekeeper	600
Head Gaoler	700
Assistant Gaoler	600
Superintendent of Convicts	700
Constable/Guards (2)	500
Cook	540

Douglas to Pemberton, 12 February 1863. Colonial Secretary, Correspon-
dence Outward, Vol. 3, P.A.B.C.

TABLE VI

AMOUNTS VOTED BY THE LEGISLATIVE ASSEMBLY FOR THE
POLICE AND GAOL DEPARTMENTS, 1863

<u>Police</u>	
Food and clothing for Superintendent and 16 men	\$ 1,078
Fuel, water, and light	475
Bedding	97
Transport, incl. forage for Supt.'s horse	470
Ammunition and repairs to firearms	50
Buildings and repairs	242
	<u>\$ 2,412</u>
<u>Gaol</u>	
Keep of 50 prisoners	\$ 3,540
" " guards	364
" " (extra) prisoners	291
Clothing, fuel, water, and light	460
Medical (incl. doctor)	300
Tools and implements	388
Bedding and other necessities	243
	<u>\$ 5,586</u>

Daily British Colonist, 31 January 1863.

engender respect, yet the appointment was a junior one; no rations were to be provided.¹²⁴

The Colonist returned to its theme of the shortcomings in the administration of justice with a plan to have unpaid Justices of the Peace in rural areas. Special constables could be sworn in as needed this eliminating expensive permanent police.¹²⁵ The idea was not a new one to Douglas who would have been happy to comply. It was a dearth of suitable candidates for the position that prevented appointments.¹²⁶

The need for rural law officers gained prominence in the spring of 1863 when two white men, William Brady and John Henly, were attacked on Salt Spring Island by members of the Cowichan tribe. Brady died of wounds but Henly survived to inform the authorities in Victoria.

At the request of Douglas the Royal Navy provided Superintendent Smith with transportation and support through H.M.S. Forward¹²⁷ which allowed

Smith to successfully arrest three male and one female member of the Cowichan tribe.¹²⁸ In order to impress the natives a quick trial was

ordered in Victoria,¹²⁹ all were convicted of murder, the three men sentenced to be hanged and the woman to life imprisonment.¹³⁰ A large

crowd (300-400) gathered to see the hanging--mostly Indian--so that a guard of armed seamen from H.M.S. Topaz was sent to preserve order.¹³¹

A second case became known, involving the murder by Lamalchi Indians of Frederick Marks and his daughter, Caroline Harvey, on Saturna Island, which had actually occurred in the fall of 1862. Douglas at

first attempted to raise a small force of voltigeurs, "half-breeds and Indians," who would join the Police in an effort to apprehend the murderers.¹³² Efforts toward this end were not entirely successful and

as a result Commissioner Pemberton called for Naval aid, which request was duly forwarded to Commodore the Honourable J.W.S. Spencer, Senior Naval Officer.¹³³ Douglas wrote that he had instructed Superintendent Smith to recruit Indians hostile to the Lamalchis to aid in their capture and could not refrain from cautioning Spencer that great care must be taken not to send small bodies of seamen away on offensive operations.¹³⁴

The suspected Indians were traced to a village on Kuper Island and upon their refusal to give themselves up, or their friends to deliver them, a shot was fired at the village by the anchored gunboat Forward. Musket fire was returned from the shore, killing a Boy Seaman, Chas. F. Glidden. The Forward destroyed the village by gunfire and dispersed the Indians but it proved impossible to capture the murderers.¹³⁵

Vigorous action was now required, three additional naval vessels became involved¹³⁶ and a thorough search of the shoreline was made by parties led by Superintendent Smith and naval officers. Indian guides were employed, armed by the Navy, and actually effected the capture of two suspects at Montague Harbour on Galiano Island.¹³⁷ Others were captured at Cowichan, the Colonist in due course reporting fourteen Indians including witnesses and hostages marched ashore to the Gaol under a Marine guard.¹³⁸

→ Of four Indians tried at the Assizes on 1 June 1863, one was hanged for the murder of Marks and his daughter, while three were hanged for the murder of Glidden. The execution took place at the Gaol at 7:00 a.m., the usual time, on 4 July 1863.¹³⁹ Douglas stated that

peace in areas remote from Victoria. Thomas Harris was appointed J.P. in Saanich, these prompt and vigorous measures were necessary to repress an apparently increasing mania amongst certain Tribes of Indians.¹⁴⁰

The Colonist agreed in a parallel editorial that "the natural savageness of their dispositions" need be quelled and congratulated Superintendent Smith for a job well done and the Navy for upholding the civil authority.¹⁴¹

However capable Superintendent Smith may have been in tracking criminals he was not as careful as he might have been in accounting for monies received in the performance of his duties. In October the Commissioner of Police launched an investigation into Smith's failure to account for \$182 given him to pay extra police in the spring and \$1,000 for "incidentals" in connection with the later expeditions conducted jointly with the Navy.¹⁴² Pemberton was able to report that when Smith's accounts were finally presented he was unable to find any evidence of criminal intent. Smith's accounting included the cost of seven unknown men as Voltigeurs for varying periods up to 104 days, interpreters, hire of Indians, some \$400 in rewards to Indians in the murder cases of Brady and Marks, board, gratuities to Royal Marines, in all an amount exceeding \$1,200.¹⁴³ Pemberton recommended that Smith be reprimanded for laxity, to which Douglas concurred; public servants must be seen to be above reproach in all things.¹⁴⁴

In the early fall of 1863 the Navy was requested to make a number of patrols of the north and west coasts of the Island due to the reported threatening attitude of the natives.¹⁴⁵ These patrols were indicative of the spread of law and order in the Colony as were the appointments, as fit men became available, of justices of the peace in areas remote from Victoria. Thomas Harris was appointed J.P. in Saanich, J.P.M. Biggs on Salt Spring Island, Gilbert Sproat at Alberni, and as a

relief for Pemberton who was ill, Peter O'Reilly was appointed J.P. and Stipendiary Magistrate for Vancouver Island.¹⁴⁶

The Colonial Blue Book of Statistics for the year 1863 presents a number of interesting facts as they pertained to the Police and Gaol Departments. In addition to his £350 salary, Pemberton was paid £51-11-0 as Governor of the Gaol. Police Superintendent Smith was paid £206-3-8 plus free quarters in the Police Barracks. Franklyn, the Stipendiary Magistrate at Nanaimo, received £247-8-5.^{\$1,100} All other J.P.'s were paid on a fee-for-service basis. The Gaol Department provided sixteen cells and one large room for debtors, with a maximum authorized capacity of forty-five criminals and eight debtors. The Gaol in December of 1863 held twenty-four white and coloured male prisoners plus ten male and one female Indian prisoners for a total of thirty-five persons. The largest number incarcerated during the year at one time was forty-nine white and coloured and eight Indians, total fifty-seven inmates.¹⁴⁷

TABLE VII

GAOL POPULATION FOR 1863

	Male	Female
White and coloured	831	8
Indian	<u>116</u>	<u>25</u>
	947	33
	<u>947</u>	<u>33</u>

Prisoners sentenced to hard labour were expected to work nine hours/day for six days per week. Other prisoners were provided with two

hours a day of open air exercise. Minimum rations consisted of 1-1/2 lbs. bread, 4 oz. meat, one pint each of tea and coffee, with those at hard labour receiving an additional 4 oz. of meat. In practice this diet was augmented by the addition of soup and vegetables. Visitors were permitted daily from 2:00 to 4:00 p.m., except Sunday when divine service was held at that time in the police barracks; letters, in and out, were censored, and extra food was forbidden to be brought to the Gaol, except in the case of debtors. The reading of novels was not permitted.¹⁴⁹ Discipline in the Gaol was maintained without whipping; insubordination on the part of convicts was punished by solitary confinement. Leg irons were worn by those sentenced to hard labour [and occasionally others] in an effort to prevent attempts to escape. The heads of white prisoners were shaved for identification.¹⁵⁰ Medical attention was provided as required. Prisoners who were ill were segregated, with the worst cases being sent to the hospital. Venereal disease was the most prevalent illness. Two insane persons were confined to separate cells.¹⁵¹ It is therefore not surprising, if Constable Butt and the arrest of one of the candidates for office as a separate cells were required for isolating those that were sufficiently common loiterer. Pemberton requested the candidate, Mr. A. J. Welch, to accept an apology from Butt or he would be forced to dismiss the charges from time to time that overcrowding occurred in the twelve cells remaining.

The location of the Gaol was not generally popular in the town. The City Council opposed its continued use and a petition to remove it, claiming that the building was a fire hazard and a noisy nuisance, had 159 signatories.¹⁵² A letter to the editor of the Colonist castigated the City Council for a dilatory approach toward the

report on the problem. The writer ("C.J.H.") considered "the lengthened period of its gestation in the teeming brains of the authors . . ." to be a disgrace, who took Curry for a burglar whom he was attempting to apprehend.¹⁵⁵ Curry was not in uniform at the time which caused the

PARTURIENT MONTES, NASCITUR

Colonist to suggest that police wear their uniforms by day and

RIDICULUS MUS.¹⁵³

night. Superintendent Smith gave evidence at the inquest that Curry was The letter went on to say that the two governments should cooperate in not armed--nor were any police in the centre of town, only those on the the removal of the Gaol to a more suitable location, particularly urgent outskirts carried firearms since they were closer to the "rougher as James Douglas, who was aware of all the facts of the case, was about elements" of the population.

to be succeeded. Nothing was to be done for more than twenty years

A. E. Kennedy took the oath of office as Governor of Vancouver although the problem was conceded to be a perennial one, being publicly Island on 26 March 1864 leaving Douglas a private citizen on raised a number of times.

Vancouver Island, with a well-deserved knighthood bestowed by a grateful

As the governorship of Douglas drew to a close the frailty of British Government. The preservation of peace and the spread of

the police organization in the town once again came to the fore.

British law in the Colony had both made great strides, from the somewhat

Pemberton was forced to investigate the allegations that certain members

rough justice of the Hudson's Bay Company through the appointment of

of the Police had exceeded their authority during the recent legislative

Pemberton, "An excellent Magistrate and gentleman of the highest

elections. The most glaring example concerned the over zealous

character. . . . the financial restrictions placed upon the Police

Constable Butt and the arrest of one of the candidates for office as a

Department, the more or less serious problems that faced the young

common loiterer. Pemberton requested the candidate, Mr. A. J. Welch, to

colony in relation to the Indians, and the successful efforts to

accept an apology from Butt or he would be forced to dismiss the

persuade the British Government of the frequent necessity and the now

constable. Welch was good enough to comply thus saving the constable's

willing cooperation of the Royal Navy in aiding and maintaining the

position. Pemberton concluded his investigation with the remark, in

civil authorities.

case the wrong interpretation should be placed on the affair, that the

Police were entitled to arrest and to use their batons if necessary in

order to keep the peace. He had seen it done elsewhere and even done it

himself but he was sure that people in Victoria "were too intelligent to

require such stern measures."¹⁵⁴ In a much more serious incident,

Constable John Curry was accidentally shot and killed by Thomas Barrett, a night watchman, who took Curry for a burglar whom he was attempting to

apprehend.¹⁵⁵ Curry was not in uniform at the time which caused the

Colonist to suggest that police should wear their uniforms by day and

night. Superintendent Smith gave evidence at the inquest that Curry was

not armed--nor were any police in the centre of town, only those on the

outskirts carried firearms since they were closer to the "rougher

elements" of the population.¹⁵⁶

A. E. Kennedy took the oath of office as Governor of Vancouver Island on 26 March 1864¹⁵⁷ leaving Douglas a private citizen on

Vancouver Island, with a well-deserved knighthood bestowed by a grateful

British Government.¹⁵⁸ The preservation of peace and the spread of

British law in the Colony had both made great strides, from the somewhat

rough justice of the Hudson's Bay Company through the appointment of

Pemberton, "An excellent Magistrate and gentleman of the highest

character. . . ."¹⁵⁹ the financial restrictions placed upon the Police

Department, the more or less serious problems that faced the young

colony in relation to the Indians,¹⁶⁰ and the successful efforts to

persuade the British Government of the frequent necessity and the now

willing cooperation of the Royal Navy in aiding and maintaining the

civil authorities.

¹³ Young to G. W. Heaton, 1 June 1860 and 30 June 1860, *ibid.*

¹⁴ Young to W. B. Bayler, 9 July 1860, *ibid.*

¹⁵ *British Colonist*, 21 June 1860.

16 Douglas to Duke of Newcastle Footnotes by 1860, C.O. 305/14.

17 Ibid.

1 Pemberton to Capt. W. D. Gosset, Acting Treasurer of Vancouver Island, 28 February 1860, Colonial Correspondence, Police, F. 1383, P.A.B.C.

2 Ibid., and Gazette, 28 May 1860. The Gazette, 30 May 1860, report that the Haida offered the Tongass Indians 12 slaves and many blankets in reparations.

3 Gazette, 6 February 1860 and 16 March 1860.

4 Ibid., 23 June 1860, Douglas to Duke of Newcastle, op. cit.

4 British Colonist, 16 February 1860.

5 Douglas to Duke of Newcastle, ibid.

5 Ibid., 21 and 25 February 1860. Gazette, 22 February 1860.

6 Pemberton to Young, 29 June 1860, V.I. Colonial Correspondence, Police, op. cit., 28 February 1860. Government records are not sufficiently complete to confirm this.

7 Douglas to Baynes, 20 March 1860, C.O. 305/15 and Vancouver Island, Colonial Secretary, Correspondence Outward, Vol. 1, op. cit.

8 Douglas to Baynes, 29 June 1860. Baynes to Admiralty, 3 July 1860. Baynes to Douglas, 21 March 1860, Great Britain, Admiralty Correspondence, Vol. 2, op. cit. Douglas to Baynes, 21 March 1860, C.O. 305/15 and Colonial Secretary, Correspondence Outward, Vol. 1, op. cit.

9 with an interpreter went first to the Haida camp but were rebuffed. Gazette, 23 March 1860, C.O. 305/15. 1860, reported 97 muskets and 20 pistols confiscated.

10 Minute, unsigned, ibid. Elliot, Minute, 29 May 1860, criticized Douglas for being "rather too fond of entering into debate with the Admiral." Agreed with the Admiralty that the Marines should be withdrawn since they were not "brought from China as a substitute for a Police but to protect the Colony against foreign aggression." Duke of Newcastle approved, could not be better used than as ordered by the Admiral in "the general interests of the Empire." Newcastle to Douglas, draft, 9 June 1860, ibid. Newcastle, op. cit. Daily British Colonist, 3 July 1860.

11 Pemberton to Young, 2 April 1860, Colonial Correspondence, Police, F. 1383, op. cit. Lack of police made the requirement a short-lived one.

12 Young to Pemberton, 31 May 1860, V.I. Colonial Secretary, Correspondence Outward, Vol. 1, op. cit. As the members of the police were constantly changing and therefore deemed somewhat unreliable, the Treasurer had been ordered to have one of his men sleep in the Treasury. Young to Gossett, 21 March 1860, Colonial Correspondence, Colonial Secretary, F. 317, P.A.B.C. SINCE GORDON THE PRISONSURGEON & A TREASURY CLERK WERE SHORTLY AFTERWARDS CONVICTED OF EMBEZZLEMENT THIS WAS NOT MUCH USE.

13 Gazette, op. cit. A white man wounded by a stray shot. Young to G. W. Heaton, 1 June 1860 and 30 June 1860, ibid.

14 "Captain John" and who sought revenge for the death of his father. The son is Young to W. B. Naylor, 9 July 1860, ibid. dwelling in which the wounding occurred. Lieutenant D. A. A. Denny, H.M.S. Forward to R./Adm.

15 the British Colonist, 21 June 1860., C.O. 60/26.

- ¹⁶ Douglas to Duke of Newcastle, 7 July 1860, C.O. 305/14.
- ¹⁷ Ibid. September 1860, C.O. 305/14.
- ¹⁸ Ibid. Douglas to Baynes, 30 June 1860, C.O. 305/15.
- ¹⁹ Ibid., and Gazette, 28 May 1860. The Gazette, 30 May 1860, reported that the Haidas offered the Tongass Indians 12 slaves and many blankets in reparations.
- ²⁰ Ibid., 23 June 1860, Douglas to Duke of Newcastle, op. cit.
- ²¹ Douglas to Duke of Newcastle, ibid.
- ²² Pemberton to Young, 29 June 1860, V.I. Colonial Correspondence, Police, F. 1383, op. cit. Captain John Jenkins, Letter, 28 June 1860, C.O. 305/15.
- ²³ Pemberton to Young, 29 June 1860. See Appendix III.
- ²⁴ Douglas to Baynes, 29 June 1860. Baynes to Admiralty, 3 July 1860, C.O. 305/15.
- ²⁵ Douglas to Duke of Newcastle, op. cit. Pemberton and the Police, with an interpreter went first to the Haida camp but were rebuffed. Gazette, 2 July 1860. The British Colonist, 30 June 1860, reported 97 muskets and 20 pistols confiscated.
- ²⁶ British Colonist, 30 June 1860; Gazette, 2 July 1860. The prisoners were returned to the Haida camp where in a hollow square of Marines the shooter was given 36 lashes and the chang gang fugitive, 24. The Gazette hoped that the "wholesome effect" of the display would impress the natives.
- ²⁷ Douglas to Newcastle, op. cit. Daily British Colonist, 3 July 1860.
- ²⁸ Gazette, 4 July 1860. The British Colonist, 4 July 1860, reported one policeman wounded by a stray shot.
- ²⁹ British Colonist, ibid.
- ³⁰ Ibid., British Colonist, 5 July 1860. The Deluge Engine Company patrolled the streets as special constables on 3 July.
- ³¹ Gazette, op. cit. A (whisky) trader, John Malowanski, was badly wounded near Fort Simpson in 1866 by an Indian claiming to be the son of "Captain John" and who sought revenge for the death of his father. The son in turn was killed by the Indian owner of the dwelling in which the wounding occurred. Lieutenant D'A. A. Denny, H.M.S. Forward to R./Adm. the Hon. Joseph Denman, 24 October 1866, C.O. 60/26.
- he traded lots more than just whiskey to the Indians!*

³² Douglas to Newcastle, op. cit. The Colonial Office approved, especially the disarming "of so dangerous a race." Newcastle to Douglas, 5 September 1860, C.O. 305/14.

³³ Douglas to Baynes, 30 June 1860, C.O. 305/15.

³⁴ Douglas to Baynes, 11 July 1860, V.I. Colonial Secretary, Correspondence Outward, Vol. 1, op. cit.

³⁵ Douglas to Baynes, 31 July 1860, ibid.

³⁶ Baynes to Douglas, 1 August 1860, C.O. 305/14.

³⁷ Douglas to Baynes, 3 August 1860, C.O. 305/14. He further argued that restricting arms sales would be about as effective as their attempts to restrict the liquor trade.

³⁸ Baynes to Douglas, 5 August 1860, C.O. 305/14. On 25 August 1860 the British Colonist reported that the captain of H.M.S. Forward had at the complaint of a boatload of Chinese that they had been robbed by Indians, caught the leader of the thieves, ordered 36 lashes be administered as punishment and released the man. Colonial Secretary, Correspondence Outward, Vol. 2, 28 September 1860-13 August 1861.

³⁹ Douglas to Newcastle, 25 August 1860, C.O. 305/14.

⁴⁰ Baynes to Secretary of the Admiralty, 10 September 1860, C.O. 305/15. Also Baynes to Admiralty, 9 August and 3 September 1860, ibid.

⁴¹ Newcastle to Douglas, 17 October 1860, C.O. 305/14. Blackwood in a Minute, 30 September 1860, pointed out that with six naval vessels at Esquimalt (Ganges, Satellite, Termagent, Topaze, Alert and Plumper) as well as the gunboats Grappler and Forward, there should be plenty of protection for the colony. In a Minute by Fortescue, 3 October 1860, continuing surprise is expressed that the British settler, wherever he may be, does not consider the possession and knowledge of the use of firearms a vital necessity. Suggests they form Volunteer Corps, to which the Duke of Newcastle humorously noted, "a formidable prospect," ibid. 5 October 1860.

⁴² British Colonist, 7 July 1860.

⁴³ Victoria Weekly Gazette, 11 August 1860. Daily British Colonist, 31 July 1860 reported Carey bound over to the Assizes by Pemberton acquitted 10 August 1860, Daily British Colonist, 11 August 1860. This newspaper began daily publishing 31 July 1860.

⁴⁴ Daily British Colonist, 10 August 1860.

⁴⁵ Pemberton to Young, 16 April 1861, Colonial Correspondence, Daily British Colonist, 28 August 1860.

⁴⁶ Douglas to Newcastle, 25 August 1860, C.O. 305/14.

- 47 Daily British Colonist, 10 February 1862. Also Daily Press, 9 February 1862.
- 48 Ibid.
- 49 Ibid., 12, 22, 26, and 27 September 1860.
- 50 Ibid., 19 September 1860.
- 51 Ibid., 4 October 1860.
- 52 Ibid., 6 October 1860.
- 53 Ibid., 19 October and 1 November 1860. Douglas accepted Bayley's resignation on 31 October.
- 54 Ibid., 22 September 1860.
- 55 Young to Pemberton, 20 September 1860, V.I. Colonial Secretary, Correspondence Outward, Vol. 1, op. cit.
- 56 Young to Pemberton, 11 October 1860, V.I. Colonial Secretary, Correspondence Outward, Vol. 2, 28 September 1860-13 August 1861.
- 57 Young to Pemberton, 19 October 1860, ibid.
- 58 Ibid. See below for authorized changes. The Daily British Colonist, 1 November 1860, wondered in print "If the police are to fare so well . . . what are the prisoners to get . . . air and water the principal courses."
- 59 Ibid.
- 60 Young to Pemberton, 30 November 1860 re Pemberton to Young, 24 November 1860, ibid.
- 61 Young to Pemberton, 11 December 1860, ibid. The Daily British Colonist had advocated such a move months before, 7 September 1860. A room on the first floor of the police barracks was fitted out for debtors, ibid., 13 December 1860.
- 62 Daily British Colonist, 25 January 1861.
- 63 Ibid., 21 March and 12 April 1861.
- 64 Ibid., 17 and 22 April 1861.
- 65 Pemberton to Young, 16 April 1861, Colonial Correspondence, Police, F. 1385, op. cit. Douglas, undated, Minute. Pemberton to be instructed to attempt to organize an Indian Police Force in the Camp, to be paid for by some sort of tax on the Indians. See Young to Pemberton,

June 1861, footnote 78, below. Eventually three or four "Specials" really night watchmen, were hired by a number of business concerns to protect against Indian thieves, Daily British Colonist, 25 May 1861.

⁶⁶ Douglas to Newcastle, 8 January 1861, C.O. 305/17. "pine six months in 'chokey' with chain and ball attached to his princely ankles,"

⁶⁷ Edward Stamp, Commission as J.P., 20 November 1860, V.I. Colonial Secretary, Correspondence Outward, op. cit.

⁶⁸ Douglas to Newcastle, 11 September 1861, C.O. 305/17. "sentenced to three months in the chain gang," ibid., 31 July 1861.

⁶⁹ Douglas to R./Adm. Sir Thomas Maitland, 10 May 1861, V.I. Colonial Secretary, Correspondence Outward, op. cit. Maitland took up his appointment 5 May 1860. Flag in H.M.S. Bacchante, steam frigate, 51 guns. Longstaffe, Esquimalt Naval Base, op. cit., p. 117.

⁷⁰ W. Hales Franklyn to Lt. Charles Robson, 16 May 1861, C.O. 305/18. Request for aid to the Civil Power.

⁷¹ Maitland to Secretary of the Admiralty, 24 May 1861, C.O. 305/18. John Work, as senior member of the Council, wrote to Maitland to express his thanks to Lieut. Charles Robson of the Grappler (an error, Robson commanded Forward) for the "much needed lesson" taught the Haidas, V.I. Colonial Secretary, Correspondence Outward, op. cit.

⁷² Work to Maitland, 6 June 1861, C.O. 305/18. Also V.I. Colonial Secretary, Correspondence Outward, op. cit.

⁷³ Maitland to Secretary of the Admiralty, 10 June 1861, C.O. 305/18. The Hudson's Bay Company offered their steamer Labouchère (507 tons) to the Colonial Office for use as a patrol vessel. Thomas Fraser, Secretary of Hudson's Bay Company to Duke of Newcastle, 13 December 1861, C.O. 305/18. Although the offer was passed to the Admiralty nothing apparently ever came of it.

⁷⁴ Ibid.

⁷⁵ Douglas to Maitland, 24 June 1861, V.I. Colonial Secretary, Correspondence Outward, op. cit.

⁷⁶ Maitland to Douglas, 24 September 1861, C.O. 305/19.

⁷⁷ Douglas to Duke of Newcastle, 30 May 1862, C.O. 305/19. Douglas recommended that the cost be claimed from the Admiralty and remitted to the Colony. Approval was expressed by the Victoria Daily Press. "Poor sailors should not be kept in the common prison with the very worst characters," 31 May 1861.

⁷⁸ Young to Pemberton, June 1861, V.I. Colonial Secretary, Correspondence Outward, op. cit.

- ⁷⁹ Daily British Colonist, 23 July 1861.
- ⁸⁰ Ibid., 26 July 1861. Three months earlier Chief Edinsaw had attempted to shoot Sgt. Blake for the alleged killing of his nephew some time previously. Disarmed, sentenced to post £40 bond or "pine six months in 'chokey' with chain and ball attached to his princely ankles," Daily British Colonist, 6 April 1861.
- ⁸¹ Ibid., 30 July 1861. The following day the Colonist advised its readers that "Wemyss the coloured rogue and vagabond, has been sentenced to three months in the chain gang," ibid., 31 July 1861.
- ⁸² Ibid., 1 August 1861.
- ⁸³ Daily Press, 11 August 1861.
- ⁸⁴ Ibid., 7 and 26 August 1861.
- ⁸⁵ Pemberton to Young, 1 September 1861, Colonial Correspondence, Police, F. 1358, op. cit.
- ⁸⁶ Daily Press, 5 September 1861.
- ⁸⁷ Ibid. The Press on 7 September compared the removal to the eviction of the Irish tenants and prophesied the end of coastal trade for the time being--too dangerous for whites.
- ⁸⁸ Ibid.
- ⁸⁹ Pemberton to Young, 12 September 1861, Colonial Correspondence, Police, F. 1385, op. cit.
- ⁹⁰ Ibid. The exact number of Indians removed is not known. In June, Pemberton had reported that there were 880 Haidas and 240 Stickeen at Victoria. Pemberton to Young, 11 June 1861, ibid.
- ⁹¹ Daily British Colonist, 20 July 1861. The Committee consisted of Messrs. Wadington, Tolmie, and Franklin.
- ⁹² Daily Press, 4 May 1861.
- ⁹³ Ibid., 9 April 1861.
- ⁹⁴ Ibid., 28 May 1861.
- ⁹⁵ Daily British Colonist, 17 August and 14 September 1861.
- ⁹⁶ Ibid., 4 August 1862. "Victoria Incorporation Act, 1862," Vancouver Island, A Collection of Public General Statutes (Victoria: Government Printing Office, 1866), p. 207 ff.

- ⁹⁷ Pemberton to Young, 16 April 1862, Colonial Correspondence, Police, F. 1387, op. cit. Daily Press, 14 January 1862.
- ⁹⁸ Daily British Colonist, 1 February 1862.
- ⁹⁹ Ibid., 7 February 1862. Also 12 and 13 August 1861.
- ¹⁰⁰ Daily Press, 16 May 1862. The ration allowance, given as \$15/mo., also insufficient.
- ¹⁰¹ Daily Press, 28 April 1862, and again the next month. Daily British Colonist, 29 May 1862. Ibid., 27 May 1862. The police order in forbidding Indians in the town was modified so far as Indian women were concerned provided they declared themselves at the Police Office to be the mistresses [wives] of white men--and thus received a permit to remain. The Colonist was critical of this arrangement: "Honest and well-disposed Indians . . . have been driven North . . . while prostitutes allowed to remain." Colonist, 2 June 1862. The puritanical Colonist seemed a bit hard on many "country wives." The Daily Press, 28 May 1862, reported that exemptions could also be obtained for Indian servants.
- ¹⁰² Daily Press, 27 June 1862.
- ¹⁰³ Daily British Colonist, 6 June 1862.
- ¹⁰⁴ Ibid., 25 June 1862.
- ¹⁰⁵ Pemberton to Young, 24 June 1862, Colonial Correspondence, Police, F. 1387, op. cit.
- ¹⁰⁶ Daily Press, 28 May 1862. See The Laws of British Columbia (Victoria: Government Printing Office, 1871), hereafter referred to as Revised Statutes of British Columbia, 1871.
- ¹⁰⁷ Daily British Colonist, 30 May 1862.
- ¹⁰⁸ Daily Press, 29 April, 26 May 1862.
- ¹⁰⁹ Daily British Colonist, 15 August 1862.
- ¹¹⁰ Ibid., 16 August 1862.
- ¹¹¹ Ibid., 19 and 20 August 1862.
- ¹¹² Ibid., 26 August 1862.
- ¹¹³ Daily Press, 11 and 18 August 1862.
- ¹¹⁴ Commissions, Richard, 4 August 1862 and Verney, 25 August 1862, Colonial Secretary, Correspondence Outward, Vol. 3, op. cit. With the

departure of Maitland for Valparaiso, Capt. Richards became S.N.O., ibid., 8 September 1862. Richards also left the Station toward the end of the year. He was therefore a J.P. for only a few months. Lt. Verney was later made a J.P. for British Columbia for the better control of the liquor traffic. Young to Cmdr. E. Hardinge, S.N.O. 25 September 1863, ibid.

115 The British Columbia and Victoria Guide and Directory for 1863 (Victoria: Howard and Barnett, 1863), p. 86.

116 Daily British Colonist, 8 September 1862. Nanaimo Press, 21 August 1862, P.A.B.C. Magistrate and Constable accused of being lax in their duty.

117 Ibid., 22 September 1862.

118 Ibid., 7 and 9 January 1863.

119 Ibid., 14 January 1863. ~~X~~

120 Ibid., 27 January 1863.

121 Ibid.

122 Ibid., 31 January 1863. op. cit.

123 Douglas to Pemberton, 12 February 1863, Colonial Secretary, Correspondence Outward, Vol. 3, op. cit.

124 Young to Pemberton, February 1863, V.I. Colonial Secretary, Correspondence Outward, op. cit.

125 Daily British Colonist, 2 February 1863.

126 Douglas to Messrs. Anderson & Co., 23 April 1863. The Governor had mentioned the problem more than once to the Colonial Office. This was the system already at work in British Columbia. See Frederick Hatch, "The British Columbia Provincial Police," unpublished M.A. thesis, University of British Columbia, 1955.

127 Douglas to Capt. the Hon. J.W.S. Spencer, S.N.O., 13 April 1863, V.I. Colonial Secretary, Correspondence Outward, 24 March 1863-20 September 1864, Vol. 4, P.A.B.C.

128 Horace Smith to Pemberton, 22 April 1863, Colonial Correspondence, Police, F. 1388, op. cit.

129 Young to G. H. Carey, Attorney General of V.I., 8 May 1863, V.I. Colonial Secretary, Correspondence Outward, op. cit. A special commission was given to Chief Justice Cameron to hold the trial, ibid.

- 130 Douglas to Newcastle, 30 May 1863, C.O. 305/20. The men were hanged at the Gaol, 23 May 1863.
- 131 Daily British Colonist, 25 May 1863. The bodies of the criminals were later placed in coffins and given to their friends. volving females were
- 132 Douglas to Commodore J.W.S. Spencer, 9 May 1863, V.I. Colonial Secretary, Correspondence Outward, op. cit.
- 133 Pemberton to Young, 12 May 1863, Colonial Correspondence, Police, F. 1388, op. cit., and Douglas to Spencer, 12 May 1863, op. cit.
- 134 Ibid.
- 135 Douglas to Duke of Newcastle, 21 May 1863, C.O. 305/29.
- 136 Daily British Colonist, 27 May 1863, H.M.S. Topaz, Devastation and Grappler.
- 137 Cmdr. E. Hardinge to Cmdre. Spencer, 8 June 1863, C.O. 305/20. In addition to Glidden the R.N. suffered two other casualties. Robt. Newson, A.B., was killed and Richard Whitehouse, A.B., wounded through the accidental discharge of a musket in one of the Ship's boats.
- 138 Daily British Colonist, op. cit.
- 139 Douglas to Newcastle, 4 July 1863, C.O. 305/20.22. Kennedy was
- 140 Ibid. Fortescue, Minute, 18 August 1863, expressed the opinion that "Hanging is doubtless the best disposal of a murderer, white or black" [?] C.S. awarded in August 1863, the news reaching Victoria in October of the same year. Daily British Colonist, 23 October 1863.
- 141 Daily British Colonist, 28 May 1863.
- 142 Douglas to Newcastle, 30 May 1863, C.O. 305/20. Confidential report
- 143 Pemberton to Young, 8 October 1863, Colonial Correspondence, Police, F. 1388, op. cit.
- 144 Ibid.
- 145 Young to Pemberton, 26 October 1863, ibid.
- 146 Douglas to R./Adm. John Kingcome, 10 September 1863, Vancouver Island and British Columbia, Admiralty Correspondence, Vol. 3, op. cit. Horace Smith to Pemberton, 19 September 1863, Colonial Correspondence, Police, F. 1388, op. cit. Kingcome appointed C-in-C, 31 October 1862, flag in H.M.S. Sutlej, screw frigate, 35 guns. Longstaff, Esquimalt Naval Base, op. cit.
- 146 Commission of Thos. Harris, 27 May 1863, Biggs d. 12 May 1863, Sproat, d. 24 July 1863, Young to Peter O'Reilly, 30 November 1863, V.I. Colonial Secretary, Correspondence Outward, op. cit.

147 Great Britain, Colonial Office, Vancouver Island, Blue Book of Statistics, 1863, C.O. 478/1.

148 Ibid. There were no female gaol officers employed. Most female prisoners were kept only for a few days. The charges involving females were largely to do with assault and being drunk and disorderly, W.S.T.

149 The City of Victoria enjoyed a period of relative quiet during
Gazette, 28 March 1860.

150 Ibid., 18 May 1860.

151 Blue Book, op. cit. ¹⁴⁷

152 Daily British Colonist, 19, 21, 25 November 1863.

153 Ibid., 12 December 1863. Freely translated courtesy of Dr. S. E. Scully, Department of Classics, University of Victoria: "The mountain will conceive--there is born a ridiculous mouse." Horace, Art of Poetry, verse 139.

154 Ibid., 3 and 4 February 1864.

155 Ibid., 1 March 1864.

156 Ibid., 4 March 1864.

157 Kennedy to Newcastle, 29 March 1864, C.O. 305/22. Kennedy was an experienced colonial administrator, having previously been Governor of Western Australia.

158 K.C.B. awarded in August 1863, the news reaching Victoria in October of the same year. Daily British Colonist, 23 October 1863.

159 Douglas to Newcastle, 30 May 1863, C.O. 305/20. Confidential report on colonial officials.

160 Among the less serious was the shortlived sojourn of "Nisqually Jack," a half-breed who claimed to be the son of Sir George Simpson and who attempted to stir up the local Indians as to their "rights" before Pemberton had him bundled back aboard ship for Washington Territory. Daily British Colonist, 29 May 1863.

should be held in the

case of Indian deaths but that there were certain difficulties inherent due to the shortage of qualified persons to perform this task.

Inquests, as a result, were rarely held outside Victoria.

CHAPTER VI

THE KENNEDY YEARS

The City of Victoria enjoyed a period of relative quiet during the winter of 1864 which allowed Superintendent Smith to give some attention to the East Coast. In mid-February he proceeded to Comox aboard H.M.S. Forward in answer to numerous complaints to the Government that Indians had been committing many thefts and had adopted a threatening attitude toward the white settlers. When he arrived he found that the source of trouble lay with two traders who offered a continuous supply of whisky to the Eucatlaw Indians. Since to take legal action it was necessary for whisky traders to be caught in the act of supplying liquor to Indians therefore the simplest solution, albeit temporary, was to order the Eucatlaws away--to return to their homes at Cape Mudge. This was successfully accomplished, and although Smith was a forceful and energetic man, the influence of the Forward provided a real source of power.¹ Later the Gulf Islands attracted the attention of the Superintendent. In April he reported a total of nine Indian murders, a considerable number of cattle thefts on Salt Spring Island and many Fort Rupert Indians in Haro Strait. In respect to the murders, Governor Kennedy agreed with Smith that wherever possible inquests should be held in the case of Indian deaths but that there were certain difficulties inherent due to the shortage of qualified persons to perform this task.² Inquests, as a result, were rarely held outside Victoria.

Augustus Pemberton had been suffering from recurring attacks of jaundice--consequently he was temporarily replaced in his duties by Thomas Lett Wood, a local solicitor (and later Attorney-General) who was provisionally appointed Justice of the Peace and Stipendiary Magistrate 2 May 1864,³ while Superintendent Smith was to be Acting Governor of the Gaol during Pemberton's illness.⁴

Wood was soon in the thick of it. Pemberton wrote to him regarding the arrest of five Northern Indians for the killing of cows and horses belonging to the Reverend Mr. Garrett at Cowichan.⁹ He believed it not to be the work of Northern Indians but of Songas, Saanich, or Cowichan Indians and attributing the killings to Catholic converts among them as

. . . unhappily there is, to say the least, a want of harmony in the working of the Roman Catholic and Protestant Missions.⁵

In response to complaints of this kind, Superintendent Smith was sent to visit Maple Bay and the Cowichan country in May and June, the first of which was by gunboat at the request of the Government. The second visit, in a reversal of the usual circumstance, was to assist Justice of the Peace, now Lieutenant Commander Verney, R.N., to investigate "restless and disorderly Indians."⁶ Smith reported relative quiet by the time he arrived but complained of a general inability to keep informed of the Indian situation and of the liquor traffic provided by "the lowest class of society from Victoria which infests the coast."⁷ He went on to suggest that conditions could only be improved by the appointment of more magistrates and constables. Kennedy did what he could. The

Justice of the Peace for Salt Spring, Major J.P.M. Biggs, was instructed to attend to the Cowichan area and three additional rural Justices were appointed but, as far as is known, dealt quietly with their duties for their names rarely, if ever, appear.⁸

Pemberton returned to duty and was shortly thereafter presented with a petition signed by prominent citizens against the use of females as waitresses in saloons. "Grave temptations" were placed before young women perhaps causing the "ruin of their characters . . . [and] detrimental to the social well-being of the community."⁹ Kennedy agreed with the petitioners that the situation was deplorable and although he gave instructions that young women were to be officially discouraged in this occupation, only the saloons, not the women, could be prosecuted as "disorderly" if cases of prostitution were found.¹⁰ This was probably the first clear-cut instruction to the Victoria police of a purely social nature, as distinct from their usual duty of preserving the peace and prevention of crime. *Not expelling Indians during epidemics?*

A perusal of a report by Pemberton to Henry Wakeford, the Acting Colonial Secretary, in July 1864 provides some idea of the considerable turnover in staff of the Police and Gaol Departments during the first six months of 1864. Eleven members of the gaol staff were transferred to the Police Department while four police joined the gaol establishment.¹¹ In the Police, seven men resigned and two were dismissed while two resigned from the Gaol Department, with one being dismissed.¹² Governor Kennedy was well aware of the problems of the Police, reporting to Edward Cardwell, Secretary of State for the Colonies, that eight constables and two sergeants were insufficient to

keep the peace. The men recruited were of "a most undesirable class" resulting in constant change. He charged that they were untrained and often not a credit to the force.¹³ Kennedy requested that enquiries be made of the Irish Constabulary, or perhaps pensioners of that body, in an effort to attract experienced men to the Colony. However he was not able to offer attractive terms of employment: \$1.25 per day for constables, uniform consisting of only coat, trousers, and hat, modest rations, fuel and soap. Sergeants to receive \$1.75 per day. Passage would be paid for any volunteers but not their families except that the men could repay the cost of their family's fare within two years. If six steady men of good character could be sent, preferably with mounted police experience, that would be sufficient.¹⁴ The Colonial Office in London approved the request although expressing some doubts as to the authority of the Governor to offer employment and the Colony to undertake the extra financial obligation.¹⁵ The plan unfortunately came to nought--the terms offered were simply insufficient to attract experienced police. The Police Department continued to suffer losses in personnel, in which the discovery of gold at Sooke was a major factor.¹⁶ Pemberton attempted to make the police salaries more attractive by recommending that, temporarily, sergeants be paid \$2.50 and constables \$2.00 per day. Although Kennedy approved,¹⁶ members of the police and gaol departments continued to leave the service.¹⁷ Pemberton again requested an increase, this time including the senior officers in both departments but Kennedy had to refuse. There had been no increase in the cost of living, nor were their duties more onerous. In actual fact, there was no money

available with which to pay the extra wages.¹⁸ It was now necessary to appoint a stipendiary magistrate at Sooke since Americans were arriving in considerable numbers; moreover, mining licenses were required to be issued and some control of the liquor traffic was desirable. The first appointee,¹⁸ Charles F. Hughes, mysteriously committed suicide shortly after his arrival at Sooke and was replaced by Major George Foster, a member of the Legislative Assembly who resigned to take the position. He was paid a salary of \$1,750 per annum.¹⁹ Pemberton appointed replacements for those of his staff who left but by now Kennedy obviously felt that the situation demanded better control. He issued an order that no appointments to Police or Gaol were to be made without the prior approval of himself.²⁰ The same rule came to be applied respecting dismissals, two of which occurred shortly thereafter due to negligence in the escape of two prisoners on separate occasions.²¹

Despite Kennedy's efforts to improve the efficiency of his administration and the public service, lack of funds continued to hamper him. He was far from pleased to learn that Pemberton had been somewhat lax in collecting fees for liquor licences and that the record of licences issued and monies received was incomplete.²² Public criticism of the state of the debtors room in the Gaol--part of which was used by the prison cobblers to repair the boots of the convicts and was replete "with the stomach-emptying effluvia familiar to old leather after contacting unclean feet" and part to store Indian blankets and old clothes "deposited for security . . . all with their usual accompaniments, both animate and inanimate,"²³ was a further cause for displeasure.

Numerous complaints were received by the authorities in the

summer of 1864 from Victoria and other parts of the Coast as to the general filth and unsavoury habits of the Indians, although in Victoria it was recognized that much of the problem came from visitors rather than the locals who were considered to be "more civilized" and better behaved.²⁴ The Reverend Mr. A. C. Garrett, now returned to Victoria, reported that extra police were needed and that two Sanitary Officers should be appointed yet he felt that the white man was not without blame as,

Governor Kennedy wrote to Rear Admiral Denman that every effort should be made to bring the Ahousats to justice. He offered to return with the natives copy with extreme facility the vices of their civilized neighbour.²⁵ Denman might have a beneficial effect upon the "misguided savages."²⁸

It is clear that Kennedy was unable to influence this situation to any effective degree, largely owing to lack of funds. Finally he wrote to Cardwell that such was the incidence of drunkenness and prostitution that the Indians were "a disgrace to humanity" and only an insufficient number of magistrates and police prevented him from ordering their removal from Victoria.²⁶

In the summer of 1864 information came to light that murder may have been committed in the supposed death by drowning in 1862 of W. E. Banfield, the government or Indian agent on the west coast of Vancouver Island. H.M.S. Devastation, Commander J. W. Pike, together with the Superintendent of Police, was sent to Barkley Sound in order to arrest the suspected murderers. After considerable negotiation by Superintendent Smith, backed by the threat of the guns of the Royal Navy, three suspects were brought on board. At the same time, Commander Pike was ordered to investigate the killing of the crew and plundering

of the small trading vessel Kingfisher by the Ahousat Indians in Clayoquot Sound. After two days of negotiations, the Ahousats refused to return any goods stolen from the Kingfisher or to give up those involved in the murders. The Indians then made obvious preparations to fight and attempted to entice the ship's boats within musket range. Pike returned to Victoria for further orders, delivering the three captives involved in Banfield's death to the gaol.²⁷

Governor Kennedy wrote to Rear Admiral Denman that every effort should be made to bring the Ahousats to justice. He offered to return with Devastation to Clayoquot Sound as he felt that his presence might have a beneficial effect upon the "misguided savages."²⁸ Denman declined the offer, believing on the basis of the report of Commander Pike, that fighting was inevitable. The admiral was determined that what he called piracy and the defiance of British authority should not go unanswered.²⁹ Devastation was ordered to return to Clayoquot but not to take action until Denman arrived in his flagship, H.M.S. Sutlej. Accompanying Denman as interpreter was P. J. Hankin, a former Lieutenant in the Royal Navy, who was a junior clerk in the office of the Colonial Secretary in Victoria.³⁰ Pike, in Devastation, was fired upon as he approached one village and on 3 October 1864 was ordered to burn and destroy the three villages and all canoes in nearby Shelter Arm, while Denman negotiated with the Ahousats at the village of Mos-yah-hah. When the Indians refused to give up the murderers, Denman ordered fire to be opened upon the beach in order to clear it so that a landing party could land and burn the village and canoes. Scattered Indian fire was experienced but this was answered from the ship's pinnace and launch

which were stationed on the flanks, causing several Ahousat casualties. Despite this, the Ahousats showed no inclination to deliver the suspects into the hands of the Navy. The following day Devastation was sent off to burn three more villages and bring away all canoes. On 5 October two Ahousat Indians were captured with the aid of several Clayoquot Indians. Learning that the main Ahousat camp was temporarily established on the banks of a small river, Denman decided to attempt to capture it by means of an attack from the landward. On 7 October a party of 40 seaman, 30 marines, 1 Ahousat and 6 Clayoquots, under command of Lieutenant H. R. Stewart, senior lieutenant of Sutlej and accompanied by Hankin as interpreter and Superintendent Smith of the Police, landed at White Pine Cove on Herbert Arm, marched approximately three miles through dense bush to within twenty yards of the Indian encampment, where their presence was detected. The Indians fled into the bush from whence they opened a heavy fire. This was returned by the landing party causing the Ahousats to retreat leaving ten of them dead.³¹ The party re-embarked aboard Sutlej, having not suffered any casualties. Thus concluded the most devastating attack to be mounted by the Royal Navy against the Indians of Vancouver Island. Eight villages were burned, more than sixty dugout canoes of all sizes were destroyed, and an estimated fifteen Ahousats were killed.³² Two suspected murderers of the crew of the Kingfisher were brought to Victoria for trial (and later acquitted) but several others, including the chief, Cap-chah, were never brought to justice. It was conceded by all concerned that a valuable lesson had been taught to the Indians, the necessity of which, as Kennedy later expressed it, was dictated by realization that

Smith was the cupidity and treachery of the Indian character can only be held in check by the certainty of prompt and certain punishment.³³

The following year, Hankin, then Superintendent of Police, visited Clayoquot Sound in H.M.S. Forward. He reported the Ahousats to be "very civil" and all gathered in one newly built village. The remains of the destroyed villages were still evident as well as that of several dead bodies--all of which Hankin considered to be satisfactory continued evidence of British dominance. He was finally able to speak to the apprehensive chief, Cap-chah, who had been twice wounded in the fighting and assured him of British friendship and protection as long as he behaved properly towards the white man.³⁴

Upon the conclusion of the Ahousat expedition, a scandal occurred with far-reaching results for the Police. The Superintendent, Horace Smith, reported Sergeant Harry Wilmer for "neglect of duty." Wilmer was suspended pending an investigation, which seems to have been inconclusive, and was allowed to resign from the force.³⁵ Ex-Sergeant Frank Hill next came forward with the charge that owners of gambling houses in town were informed, on orders from above, if any action against them was pending. Pemberton thereupon recruited Hill as an informer respecting gambling in Victoria, holding out the possible prize of reinstatement in the Police, which Hill desired. (Hill had resigned in order to try his luck at the Sooke goldfield.) Hill reported that he believed that gambling was generally ignored by the Superintendent of Police, a belief supported by ex-Sergeant Wilmer who claimed that Smith had told him that gambling was "winked at by the Government" but that

Smith was to be kept informed of all developments. Furthermore he stated that police constables who insisted upon swearing out warrants against the proprietors of gambling houses were forced out of the Police. Pemberton completed his report noting that he was unable to unearth any evidence of bribery, at least in terms of money.³⁶ In early November, affidavits alleging bribery and corruption were sworn to by Wilmer in Supreme Court and an information filed with Magistrate Pemberton.³⁷ Superintendent Smith was immediately suspended from duty and later arrested on a warrant charging him with accepting bribes for the purpose of permitting gambling on the premises of various saloons.³⁸ Pemberton, sitting with Major Foster, J.P., sent the case for trial at the Assizes which were just under way.³⁹

As the investigation proceeded, Sergeant Blake at Esquimalt was accused of accepting bribes from John C. Keenan, proprietor of the Fashion Hotel, Victoria, and an information to that effect was sworn out. Blake was suspended and also bound over after admitting that he had received money for Superintendent Smith, in which he himself shared.⁴⁰ To escape indictment by the Grand Jury, he volunteered to become a major Crown witness in return for immunity.⁴¹ Mr. Roger (Robert?) Bishop, a local lawyer who had originally filed the information against Blake, was so upset that he threatened to bring charges sufficiently often until he was able to obtain an indictment. Before Bishop was quietened, it was necessary for the Attorney General to write informing him that should he proceed and obtain a conviction, he could not guarantee that the government would not pardon Blake.⁴² A few weeks later Kennedy was to reluctantly approve the reinstatement of Blake in

the Police Force.⁴³

The case of Regina vs. Smith began on 21 November 1864.

Smith, defended by J. F. McCreight, later first Premier of British Columbia, pleaded not guilty to the charge of receiving bribes from Mr. L. J. Sheppard of the Confederate Saloon. On the stand Sheppard alleged that when he rented social rooms to gamblers, they told him to see Superintendent Smith who told him that he received five dollars per night from both the Occidental and Fashion saloons but accepted \$20 per week from Sheppard. In return, Smith undertook to notify Sheppard in advance if the authorities were considering any action against him.

Ex-Sergeant Hill testified that he had supplied Smith with evidence of gambling at four saloons but had been ordered to ignore the matter. He further stated that Smith had taken him into his confidence upon his departure the previous winter on a gunboat patrol and that he was to warn the keepers of gambling rooms of any impending raid by the Police. Sergeant Blake testified in a similar vein, also alleging that Smith had told him that both Douglas and Pemberton had been aware of and turned a blind eye towards gambling, and that Pemberton also was receiving bribes. To laughter in the court, Blake somewhat ingenuously testified that although he knew what he was doing was wrong, he had to accept the money since he could not disobey the orders of his superior officers.⁴⁴

Magistrate Pemberton was called to the witness stand where he gave Smith a good character reference and denied all knowledge of bribery, either respecting himself or members of the Police Department.

McCreight in his defence of the prisoner stated that most Crown witnesses were allegedly accomplices to the crime, their evidence

was sometimes conflicting, some were anxious to clear themselves of any hint of irregularity, and the prosecutor had not even proved that gambling had occurred. Chief Justice Cameron in his summation agreed with the defense that the testimony of alleged accomplices might be suspect.⁴⁵ The result was a hung jury (10 to 2 for conviction) which was then discharged. A new trial was set for the following week.

The Government by now was moving toward the position that the whole matter should be dropped as quietly as possible. The Attorney General announced at the beginning of the second trial that they had confidence in Superintendent Smith and did not consider the charge of bribery against Pemberton to have any foundation.⁴⁶ Police Commissioner

Pemberton was again called as a witness and made a long statement to the effect that charge and counter-charge made by his subordinates were the result of a sense of injustice on their part against their superior officers as a result of grievances both real and imaginary. By this time the evidence had become so conflicting and in appearance so lacking in substance that the jury again found themselves unable to reach a verdict. Two days later, Superintendent Smith was permitted to resign from the Police, with a promise from the Government that no further action would be taken against him.⁴⁷

The Daily British Colonist had a field day, castigating the jury system as a mockery and entirely useless in serving the ends of justice,⁴⁸ while the Police were a disgrace to the community:

With a venal police, what protection is there. . . . With their low pay the police were a kind of refuge for the destitute . . . and . . . had the peculiar characteristic to keep every officer destitute as long as he adhered to the strict paths of honesty.⁴⁹

training." Governor Kennedy was considerably distressed at the state into which the Police Force had fallen. He wrote a long report to the Colonial Office making it quite clear that he had for some time harboured suspicions of the unsatisfactory condition of the Police and Gaol in the Colony.⁵⁰ While the indictment of Superintendent Smith resulted in no conviction, Daily British Colonist reported the event in a rather offhand

fashion.⁵⁵ Kennedy reported the execution in a somewhat more serious manner to the Colonial Office, stating that the proceedings in this case have made it very clear that the Police Force has been corrupt and inefficient from a period anterior to Mr. Smith's entering it [1859] and that Mr. Smith, the Sergeants, and privates of the Force have been compensating themselves for insufficient salaries by receiving bribes on a large and systematic scale. The organization and system pursued in the Department facilitated this proceeding to the utmost.⁵¹

and a former policeman, was appointed Inspector of Police. Pemberton The three appointments of A. F. Pemberton, Stipendiary Magistrate, was relieved of his duties as Commissioner of Police and Governor of the Commissioner of Police, and Governor of the Gaol ought not to have Gaol so that he might be better able to concentrate on his magisterial existed and would not be continued. duties.⁵⁶ Hankin had been employed as a temporary clerk in the office of

the Colonial Office. Without attributing any criminality to Mr. Pemberton, I cannot acquit him of very great neglect and want of capacity as Commissioner of Police, there having been in my opinion ample grounds to raise his suspicions long before the complaint of bribery and corruption reached me.⁵²

Hankin was Kennedy went on to assure the Secretary of State that rigorous steps thoroughly versed in the habits, customs and language of the would be taken to prevent similar scandals in the Public Service. Even with all the blackguards, law-breakers and lobse fish in Sir James Douglas did not escape from criticism in the unfortunate affair. The Assistant Under-Secretary of State for the Colonies, T. F. Elliot, in a Minute suggested that Douglas was guilty of "gross neglect choice could not have been made. . . . of the administration" and expressed satisfaction that Vancouver Within a few days of his appointment, Hankin had requested and Island now had a governor "of different origin and more regular

training."⁵³ While Kennedy prepared to place his plans for the Police into action,⁵⁴ the normal business of law and order proceeded apace. Two Indians were hanged for murder at the gaol before the usual large crowd but since it appeared that the murder victims were only five other Indians the Daily British Colonist reported the event in a rather offhand fashion.⁵⁵ Kennedy reported the execution in a somewhat more serious manner to London.⁵⁶ The first public move by Kennedy to strengthen the Police Department was the appointment of Philip J. Hankin as Superintendent of Police.⁵⁷ Mr. George Welch, recently of the Bank of British Columbia, and a former policeman, was appointed Inspector of Police. Pemberton was relieved of his duties as Commissioner of Police and Governor of the Gaol so that he might be better able to concentrate on his magisterial duties.⁵⁸ Hankin had been employed as a temporary clerk in the office of the Colonial Secretary, and was a former naval officer who had acquitted himself well in the punitive action against the Ahousat Indians a few months previously.⁵⁹ The Daily British Colonist lauded the appointments. Hankin was particularly upset, so much so that Kennedy had to authorize the construction of more secure facilities for the use of the Court.⁶³ thoroughly versed in the habits, customs and language of the aborigines [and would soon form] an intimate acquaintance with all the blackguards, law-breakers and loose fish in the community.⁶⁰ the gaolers, was suspended from duty for unwarranted removal of leg-irons from a prisoner and for subsequent and would deal with them confidently. In George Welch, too, a better choice could not have been made.

Within a few days of his appointment, Hankin had requested and Thomas Brown was allowed to resign as being "no loss to the Public"

obtained permission to dismiss Constable Metcalfe for being drunk and threatening to fight the proprietor of a saloon, and had replaced him as constable with Arthur Theakston who was also a good clerk-storekeeper. The Governor inspected the Police Barracks and Gaol within a week of Hankin's appointment, no doubt with changes or modifications in mind. In a step to improve efficiency at Esquimalt, Inspector Welch obtained rented quarters for a police office and lock-up in that community.⁶¹ A "spring cleaning" of the Police Barracks brought to light a considerable quantity of confiscated and unclaimed articles including liquor, Chinese gambling "tools" and a brass knuckle duster, all of which were ordered by the Governor to be destroyed. The balance of Indian blankets, old pistols, forty sheath knives, and many other items including surplus and worn out police and gaol equipment were sold by auction in front of the Barracks.⁶²

The following week Hankin increased general security by closing the gaol yard to unauthorized personnel. This prevented Magistrate Pemberton, his clerk, the doctor, lawyers and visitors from walking in at any time to use the water closet located there. Pemberton was particularly upset, so much so that Kennedy had to authorize the construction of more secure facilities for the use of the Court!⁶³ The new Superintendent imposed greater discipline on the gaol staff. James Ingram, one of the gaolers, was suspended from duty for unwarranted removal of leg-irons from a prisoner and for subsequent insolence. He was paraded before the Governor who agreed with Hankin's recommendation that Ingram be dismissed. At the same time, Gaoler Thomas Brown was allowed to resign as being "no loss to the Public

Service." Police Sergeant Arthur McBride was then appointed Acting Gaoler.⁶⁴ Hankin next requested specific instructions as to punishments that might be meted out to prisoners for laziness, impertinence, refusal to work, and similar offences against prison discipline.⁶⁵ This request was forwarded by Kennedy to the Attorney General who in reply suggested that prisoners at hard labour might be punished by deprivation of light, food, good quarters, companionship, and made to do the most unpleasant labour within the limits of possible injury to health. Prisoners not at hard labour could be punished by the withdrawal of the "usual comforts" of food and quarters, or closer restraint (i.e. presumably, leg-irons and solitary confinement). Violent offences in gaol were to be dealt with by the magistrate in the usual way. However, the Attorney General cautioned that gaolers were responsible at law for painful punishment or exhaustive labour when inflicted upon their prisoners.⁶⁶

Hankin reported to the Governor that the police uniforms were almost entirely worn out and exceedingly shabby--in fact three men were without uniforms. He requested that thirty-seven uniforms be ordered from England, two for each of the Police and Gaol staff and one for the Inspector, and, in the meantime, clothing purchased locally at an estimated cost of \$262.00 would be used as a stop-gap. Prison clothing was also virtually non-existent and what there was, fit only for rags. Twenty extra blankets were also urgently required.⁶⁷

Although Kennedy had already presented his Estimates for the year for the Police and Gaol Departments to the Legislative Assembly, he authorized tenders to be called for items of local supply.⁶⁸ In his Estimates, Kennedy attempted to obtain authorization for an increased

establishment included in which were two sergeants, eleven constables, two mounted officers, police officers at Nanaimo, Sooke and Esquimalt. The services of an armourer were also requested since, besides police weapons, the entire stock of colonial arms was in charge of the Police Department.⁶⁹ Increases in regular pay were proposed in an attempt to make the Service more attractive. In due course the Legislative Assembly balked at Kennedy's proposals, as they were to do throughout his tenure as Governor.⁷⁰ The Honourable members struck down the salary of the Superintendent of Police on the basis of a "careful" enquiry by a member who discovered that the Superintendent did not do anything at all! It was moved and carried that the offices of Superintendent and Inspector be combined at a salary of \$1,500 per annum. Mounted constables were struck out; the two-tier pay scale for constables, put forward by Kennedy in an effort to offer some promotion within the rank (\$1.50-\$1.75 per day) did in fact pass. Gaol estimates were approved, clothing allowance for the police was cut, funds for arms and ammunition were cut--the police were to use that which they confiscated from the public.⁷¹ The Police estimates were brought forward again and \$2,000 was voted for Superintendent and Inspector (\$500 and \$1,200 respectively).⁷² At the time of consideration of the Supplementary Estimates (30 March 1865) Kennedy addressed the Legislature by letter in an attempt to have sufficient funds voted for his senior police officers. He made it clear that the \$2,000 already voted would be used as salary for the Superintendent (\$1,940) and that he desired a vote of \$1,140 so that he could pay the Inspector of Police, "an officer of obvious utility," his proposed salary of \$1,200 per annum.⁷³ On 7 April 1865 the House struck

out the requested funds.⁷⁴ Both Hankin and Inspector Welch did, however, retain their positions, presumably with the aid of disbursements from monies received from the sale of Crown land--which were at the disposal of the Governor, not the Legislature.

The gaol again came under scrutiny by the officials at the Colonial Office. Kennedy had recently obtained plans and regulations governing gaol facilities in England and exceedingly regretted that he could not fully implement them at Victoria where the "condition of the Gaol . . . until recently . . . was simply disgraceful"⁷⁵ and cited a lack of funds as the prime cause for making alterations to the present unsuitable premises. He deplored his inability to segregate prisoners on both social and criminal grounds but assured Cardwell that he was concerned with the welfare of the prisoners and seemed to regret that there was simply no facilities to promote the rehabilitation of the criminal element.⁷⁶ While not advocating the coddling of prisoners, this attitude reflected a change in viewpoint of Vancouver Island officials. The impression given during the tenure of Governor Douglas was that the gaol ought to be uncomfortable and the regime rigorous--it was part of the punishment.

Nevertheless the Prison Report for 1865 provided a glimpse of uncomfortable and restricting conditions by today's standards. Cells had to be scrubbed daily, there was no artificial light, no smoking allowed, silence was enforced, no beds were provided, prisoners slept on the floor with their three blankets, of which one clean one was issued monthly, the average cell was 8' x 12' x 9' high and was provided with a window 16 inches square, the inner wooden gaol had a central stove which

was capable of providing sufficient winter heat to the cells to average 58° F., no heat was provided for the cells in the Police Barracks which thus attained a chilly average winter temperature of 40° F. Clean clothes were issued once a week, eight ounces of boiled meat was issued daily to prisoners at hard labour, one pint of soup in which the meat had been boiled (with a few vegetables), 1-1/2 pounds of bread, and a pint each of tea and coffee. The diet for prisoners not at hard labour was similar but for a ration of only four ounces of boiled meat. Prisoners laboured ten hours a day in summer and eight in winter. The debtors' room was 20' x 20' but, as mentioned above, had often to be used as a storeroom and boot repair facility.

Insane persons were as far as possible kept together in a cell, but were allowed to walk in the gaol yard as they desired, and always under the supervision of one man. Tickets of leave or paroles were not granted. No attempts at reform could be undertaken. Religious instruction was not given but church services were held every Sunday afternoon. Someone at the Colonial Office penned a Minute to the report

from Pemberton since it had operated for years under his authority and Formerly a v. bad prison recently improved in administration.⁷⁷ Kennedy and Hankin withdrew their plans for change. It seems reasonable that their fears that the police might not do their entire duty because of the chance of a reward of a combination of a lack of funds and a failure to appreciate, or even was more than offset by damage to the morale of the force if the care, that by the mid-1860s English thought on gaols and penal reform opportunity for reward was removed. There was also the disagreeable had advanced considerably. This was no doubt difficult to appreciate in thought that demands for increased salaries might have to be faced under a remote colony, but under Kennedy the matter was brought to the fore.

The policy of paying rewards for the capture of deserters from At about this time (early 1865), Hankin was forced to turn his

the Royal Navy and Marines had been reinstated but was causing Hankin some concern that the reward offered was sufficient to cause the police to neglect their other duties. He was particularly concerned about Sergeant Blake at Esquimalt who, on one occasion, received £24 for capturing eight seamen at one time.⁷⁸ This was the equivalent of approximately two month's regular pay for a police sergeant and, as such, probably gave reasonable grounds for Hankin's fears. The Governor was inclined to agree and a proposal to reduce the award by means of a police regulation prohibiting members of the police force from accepting rewards beyond a certain level, with any excess going to a form of police benevolent fund, was discussed at some length. Kennedy put forward the idea that the practice of awarding a moiety of the fines levied by the magistrate under the liquor and gambling laws should also be placed in the new fund. This, however, was opposed by Hankin on the grounds that such convictions were difficult to obtain and that all members of the police shared equally in the opportunity to receive their award.⁷⁹ Strong support that the system should remain unchanged came from Pemberton since it had operated for years under his authority and "with the sanction of the late Governor."⁸⁰ Kennedy and Hankin withdrew their plans for change. It seems reasonable that their fears that the police might not do their entire duty because of the chance of a reward was more than offset by damage to the morale of the force if the opportunity for reward was removed. There was also the disagreeable thought that demands for increased salaries might have to be faced under a different system of remuneration. sergeants (including Cough, in Nanaimo) At about this time (early 1865), Hankin was forced to turn his

attention to the lax discipline and low standard of training exhibited by some members of the gaol staff. For example, a convict guard allowed a prisoner to escape from the chain-gang--for which he was fined a week's pay, rather than dismissal, for the prisoner was recaptured.⁸¹ A week later a debtor simply walked out the front door of the gaol while it was undergoing its weekly wash, which so stunned the door guard, a Constable Moss, that he could not even draw his gun. "Gross stupidity, neglect, and inattention" caused the dismissal of Moss for, as Kennedy wrote, it was "a very discreditable occurrence."⁸² This was followed in a few days by the escape to the United States of a prisoner who took with him \$85 from the Superintendent's cash box, three watches, and a pistol.⁸³ Consideration was given to increasing the security of the prison by raising the height of the prison fence, but this was deemed to be beyond the current financial resources of the treasury.⁸⁴ The only remedy was increased watchfulness, of the prisoners by the guards and of the guards by their superiors. The tightening of discipline became general and reached its final expression that summer in the daily military drill inflicted upon the "other ranks" by former Police Sergeant Arthur McBride--now confirmed in his rank (1 April 1865) as Gaoler of the Victoria Gaol.⁸⁵ The higher standards to be expected of the Police, embracing good character, health, and discipline, promulgated by Hankin and approved by Kennedy⁸⁶ were now the cause of a considerable change in personnel. Of a nominal roll in April 1865 of fifteen men, before the end of that year, three out of four sergeants (including Gough, in Nanaimo) had been reduced in rank for being drunk and/or committing

assault while on duty and subsequently dismissed or allowed to resign.

Of eleven constables, one died, five were dismissed, and one transferred to the Gaol Department and was later dismissed. Some idea of the difficulty experienced by the authorities in attracting good recruits

for the Police may be obtained from the information that of the newly appointed, seven were dismissed, some within a month, and almost invariably for appearing drunk while on duty.⁸⁷ Statistically, the Police experienced a one hundred per cent turnover during the year although in actual fact half a dozen "old hands" remained on strength. Fortunately for Superintendent Hankin he had two efficient lieutenants in Inspector Welch and Gaoler McBride. The available records provide the inescapable conclusion that these two officers worked very long hours under difficult conditions in order to maintain the law and the gaol.

With an undermanned and under-trained force at his disposal Hankin had considerable trouble with disorderly persons, largely as a result of drunkenness and prostitution. He reported the filthy conditions and prevalence of prostitution in Cormorant, Fiskard and Indian camp. The clergy suggested that a single constable be appointed to the Reserve who would be responsible for the sobriety and good order occupying shanties owned by the Chinese which they rented to the Indians at four to five dollars per month. New and additional shanties were erected on a fairly regular basis. There were no proper drains in the area and he expressed concern that the filth and stench would be the cause of some contagious disease.⁸⁸ Interestingly, Hankin was not so much concerned with controlling prostitution as he was in banning the Indian women to the Indian reserve where they could carry on their trade

in a manner less offensive to the good citizens of Victoria.

A dozen police could not keep order or decency in these streets. It is not proper for any respectable person to walk in Cormorant St. by day; and by night is absolutely unsafe.⁸⁹

He went on to reinforce his plea to have the Indians cleared from the town by citing nightly rioting, fighting, naked Indian women in the street--whom if possible were arrested and taken to gaol--drunks, thieves and other "lawless characters" abounding. Although Kennedy was sympathetic to the Superintendent's problem, he could not see that transferring this blight upon the city across the harbour would solve the problem to any great degree. Nevertheless, the Executive Council ordered Hankin to "abate this nuisance" of Indian prostitutes as best he could and "summon the owners of disorderly or disreputable houses."⁹⁰ Kennedy eventually laid the matter before the Colonial Office but only after receiving letters from the Reverend A. C. Garrett and the Bishop of Columbia protesting in the strongest possible terms the prostitution, drunkenness, unburied dead Indian bodies and the general filth at the Indian camp. The clergy suggested that a single constable be appointed to the Reserve who would be responsible for the sobriety and good order of the Indians and to enforce future sanitary laws!⁹¹ Superintendent Hankin, repeating much of his letter of the previous year, reiterated his inability to maintain other than the minimum peace during daylight hours.⁹² There was not a constable available to undertake the quite impossible position described by the clergy. Kennedy, in pointing out the impracticality of altering the "disgraceful" conditions in Victoria,

was however flattering in his praise of Hankin:

. . . a v. intelligent active officer and it would be impossible for me to replace him by any trustworthy person at the very inadequate salary. . . .⁹³

Governor Kennedy continued to feud with the Legislative Assembly who showed their displeasure with what they considered his autocratic methods by refusing to vote funds for the Annual Estimates sent by the Governor. The Daily British Colonist persisted in its habit of indecision of viewpoint about the Police. In November the Police, it claimed, were paid so little as to be a public disgrace but by the end of the year the editor felt that far too much was being spent on police and gaols. Public safety could be ensured by half the number of law officers,⁹⁴ and in January 1866 the newspaper was in full cry in support of Amor De Cosmos in the Legislature who successfully amended Kennedy's Estimates by reducing them by approximately sixty per cent.⁹⁵ The position of Superintendent of Police was removed; the Stipendiary Magistrate was to take on the duties at no increase in stipend. The Sheriff was to be Governor of the Gaol also at no extra salary (thus unwittingly bringing the Gaol under the control of the Supreme Court?). Magistrate, clerk, and police at Nanaimo were eliminated. The authorized Police Force of the Colony was reduced to an Inspector, one sergeant, and five constables but at slightly better pay for the lower ranks.⁹⁶ The Legislative pique did not extend to members of the Gaol Department, for the entire estimate for salaries was passed. However clothing for the Police and for prisoners, food, water, fuel and light were all reduced to entirely inadequate levels.⁹⁷

Kennedy was extremely upset by the action of the Legislative Assembly. As he wrote, the Assembly had reduced the vote for the Police to such an extent as to make them virtually powerless, a great danger to the fabric of British legal, moral, and social tenets.⁹⁸ The disallowance of the salary of Superintendent of Police Hankin and the proposal to reappoint A. F. Pemberton as head of the Police was viewed with alarm by Kennedy since he

was obliged to remove him from that position in consequence of the scandals and disorganization existing in the force. . . .⁹⁹

approximately two years previously. Shortly thereafter Kennedy dismissed Hankin and Inspector Welch for lack of funds but immediately offered Hankin the position of Inspector at a salary of \$1,200 and George Welch that of Sergeant at \$900 per annum.¹⁰⁰ Fortunately for the Police Force, both decided to remain. Those who previously held the rank of sergeant were not as fortunate--they were dismissed, effective at the end of the month.¹⁰¹

Not to be outdone, the Governor returned to the fray. He addressed the Legislative Assembly, pointing out that in his opinion the police had been virtually abandoned, none provided in Nanaimo where the need was great. The senior positions were so reduced that they no longer were attractive to able and respectable men. The Assembly was not moved and in reply stated that the police vote was ample since it was their intention to promote the establishment of municipal governments which would be authorized to raise their own police.¹⁰²

Public discussion of the reduction in law enforcement reached

a high pitch. In Nanaimo a public meeting proclaimed approval of the removal of magistrate and police calling "their maintenance a useless waste of the public funds."¹⁰³ Somewhat more responsible citizens, as members of the Grand Jury of the Assizes, declared their doubts of the wisdom of a reduced police--expressing fears that increased crime would be the result of reduced police manpower.¹⁰⁴ The Colonist weighed in with scathing editorial comment in regard to new police uniforms that had arrived in Victoria. It pointed out, correctly in its opinion, that the Legislative Assembly had earlier balked at paying for the uniforms which had been ordered from England the previous year. The new "livery of the officials attached to the Hotel de Pemberton" was an unnecessary extravagance but went on to

ever.¹⁰⁹ The Assembly, however, suffered a change of heart, no doubt in hope that the blue coated custodians of our morality reaction . . . [would] awe us into a due recognition of Nansimo and constituted authority.¹⁰⁵

Victoria at the prospect of having to raise additional tax monies to support ma The Police continued to be buffeted in print. While rejecting the concern of the recent Grand Jury about members of police, the authorities were taken to task for inefficient use of members of the Force. on and continued to state the case for control as fundamental to effective municipal government.¹¹⁰

Not since 1858 has rascality walked our streets with greater impunity . . . daring robberies in our midst . . . wearing the men out . . . their energies are altogether misdirected. . . .¹⁰⁶

and expressed thorough approval of a recent sentence by Chief Justice Begbie in British Columbia ordering a criminal to be "privately whipped." This was considered an excellent means of¹¹¹

later removed by Cr. Seymour used to beat up Indians

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discouraging local scamps . . . especially Indian, from frequenting the jail where [they are] provided with wholesome food at public expense in return for an indifferent day's work.¹⁰⁷

In a seeming contradiction as to numbers and the cost thereof, the editor then argued for the establishment of a detective force, with adequate pay, and the whole placed under control of the City Council.¹⁰⁸

The control of the Police, and in fact of the one Magistrate (Pemberton) left on the bench, was still under review by the Legislative Assembly. Kennedy again wrote to Cardwell complaining of the parsimony of his legislature and deploring the move then afoot to remove the police and magistrate from the control of the Executive and placing them under control of the City Council in whom Kennedy had no faith whatever.¹⁰⁹ The Assembly, however, suffered a change of heart, no doubt in reaction to strident cries of protest from the citizens of Nanaimo and Victoria at the prospect of having to raise additional tax monies to support magistrates and police. In any event a clause in the Nanaimo Incorporation Act, then under consideration, which gave the municipality the responsibility for the police was withdrawn. De Cosmos opposed the deletion and continued to state the case for control as fundamental to effective municipal government.¹¹⁰

In mid-April 1866 the Colonial Office began to take note of the problems at Victoria.

. . . a sad state of things at Vancouver Island. A lunatic House of Assembly and a bankrupt government. . . . They have reduced the Police expenses far below what is prudent or even safe and voted half the actual cost for the maintenance of prisoners. . . .¹¹¹

One of the few areas in which Kennedy and the Assembly saw eye-to-eye, was in the use of the chain gang. The Governor was not in favour of marching prisoners through the streets in chains and in this he was supported in the Assembly by Dr. J. S. Helmcken both feeling that it was a degrading sight and interfered with the prisoner's reformation-- although in fact who was considered to be more degraded, police or prisoners, is not clear. The requirements of public works and the low cost pool of labour provided by the chain-gang precluded them from working entirely in the gaol-yard but Kennedy was not in favour of allowing the convicts to work on the city streets and refused a number of requests by the City Council.¹¹² He did, however, consent to one urgent request by Council for aid in cleaning the drains and gutters in the streets for they worked so poorly as to present a hazard to health. The Governor stated that he believed the use of the chain-gang in such work was morally wrong and "beyond the contemplation of the law when determining the penalty of crime."¹¹³ Council was to pay for extra guards to be hired and for the necessary cartage, and he went on to point out that had Council done its duty by passing a by-law to prevent and enforce removal of nuisances upon the streets, the present deplorable situation would not exist.¹¹⁴ Once the chain-gang began their work the fire chief requested that they be put to use in repairing the streets since his men had difficulty in moving their fire engines through the streets without damaging them in the numerous potholes. After some acrimonious argument over costs the Council agreed to pay for the street repairs, with the pious hope that if rock were obtained outside the town, the fresh country air would do the chain-gang good--after two or

or three days of cleaning drains!¹¹⁵

During this period the Police Force was unable to respond to any but the most pressing and obvious calls. Requests for aid to other parts of the Island were turned down in nearly all cases and those that were responded to suffered from a lack of sufficient funds to press the investigation. Special constables were sworn in from time to time, usually paid, but sometimes, especially if up-Island, were not. They were discharged as soon as possible after their specific duty was completed.¹¹⁶

By mid-year the Victoria Police were reduced to three men, all of whom had submitted their resignations. Hankin wrote to the Colonial Secretary pointing out that unless urgent steps were taken, apart from himself and Sergeant Welch, there would not be any police in Victoria on the first of July. He went on to say that he was quite satisfied that it was impossible to obtain satisfactory and trustworthy men for the small wages offered (\$1.75/day); a constable's wages should be \$2.50 per day.¹¹⁷

Kennedy advised the Legislative Assembly of this parlous state of affairs and that Hutchinson and Co., one of the suppliers of provisions to the gaol had not been paid for two months and was refusing further credit.¹¹⁸

According to the Daily British Colonist the Assembly, recognizing that there was some urgency raised the police constable's stipend to \$2.00 per day, but left all other salaries, including those of the gaol staff unchanged.¹¹⁹ Sergeant Welch, whose salary had been reduced to the now authorized \$75 per month as far back as February, 1866, requested some allowance for fuel and lodging since he was experiencing hardship. Kennedy finally allowed him \$15,

presumably from his Land Sale funds but not until three months later.¹²⁰

The Governor did, however, provide sufficient funds in the summer of 1866 for a special constable to be hired in Nanaimo on a month-to-month basis.¹²¹ The magistrate at Nanaimo, W. H. Franklyn, was persuaded to stay on, probably under a fee for service arrangement since the Assembly had refused to reinstate his salary at the same time that they had voted The Committee, however, had¹²² be satisfied with questioning several to raise that of the police.

Six weeks after the modest increase in police salary had been passed Hankin reported to the Governor that he had only one constable on strength. Complaints of thefts, cattle killing, and whisky sales to Indians were common and he was unable to respond, particularly to outlying areas. He reported himself as doing ordinary police duty as well as having to use the gaol wardens for the same purpose. Morale in the Gaol Department was suffering accordingly, due to long hours at no extra pay and he feared resignations might occur. Again he requested an increase in salary to \$2.25 per day both for his men and the gaol staff.¹²³ including automatic gaol sentences for those convicted of

The resignations of the Police earlier in the summer, and rumours of inefficiency and mismanagement prompted the Legislative Assembly to strike a committee to investigate the Vancouver Island Police Department.¹²⁴ The Committee summoned Inspector Hankin, Arthur McBride

and Constable Truran to present themselves but Kennedy refused to let them appear on the grounds that no formal request had been made to

him.¹²⁵ This had the effect of widening the gulf between Governor and Assembly, the latter feeling particularly snubbed. De Cosmos insisted that another committee be formed to investigate the powers of the

Assembly to require persons to attend when summoned despite the Speaker's opinion that the Assembly had no such authority.¹²⁶ The Colonist hinted that most people would now believe that

where there is such an evident attempt to prevent investigation there must be something worth concealing.¹²⁷

The Committee, however, had to be satisfied with questioning several former members of the Police, the more dissatisfied of whom made a number of unsubstantiated charges against Hankin and his management of the Police and Gaol. Members of the Committee were allowed to inspect the Gaol which they "found to be scrupulously clean and neat."¹²⁸ Thereupon the Committee drifted into obscurity, possibly in the face of more demanding tasks.

One such task was consideration of an amending Act covering the sale of liquor to Indians. Kennedy submitted a bill entitled "An Act to Amend the Indian Liquor Act, 1860" which provided stiff penalties, including automatic gaol sentences for those convicted of second offences.¹²⁹ Members of the Legislative Assembly countered with their own Bill to empower any licenced liquor dealer to sell "to Indians or others irrespective of race or color" [sic] and providing small fines and short prison terms for infractions.¹³⁰ The Assembly felt that the present liquor law was unenforceable as to the Indians:

prevention is practically impossible even if the whole of the Revenue of the Colony were applied to the purpose.¹³¹

Petitions were raised for (191 signatures) liberalizing the liquor law and against (123). Those in favour included ex-chief justice

Cameron who considered the existing law as "invading the common rights of Her Majesty's subjects and is in fact repugnant to natural justice," A. F. Pemberton who regretted that the Indian liquor traffic was not open to all licenced dealers, Alfred Waddington and the Hudson's Bay Company (per John M. Work) who submitted jointly:

The present law places a money-making monopoly in the hands of the most unscrupulous and lowest class of humanity . . . legalizing the sale of liquor to Indians is a wise measure calculated to promote the welfare of the Indians or at least to prevent the worst features of the trade. . . .¹³²

The petition against liberalizing the liquor law, under the auspices of the Bishop and Church of England pointed out the ill effects of the liquor traffic since Indians drink "by tribes, villages, or companies and almost invariably to excess."¹³³ They were dangerous and difficult to control when in that condition. In their opinion, no sustained or well organized effort had ever been made by the authorities to control the traffic. More police supervision was required, for the Indians must be considered wards of the government and incapable of civilized behaviour.¹³⁴

Kennedy regretfully reported to the Colonial Office that as long as the Assembly refused to vote adequate funds for the Police, and while members of the Legislative Assembly had many friends in the liquor business, little could be done to improve control of the trade.¹³⁵ He informed London that he had been barely able to prevent the passage into law of the Bill to allow the sale of spirits to Indians and that the 1860 Act remained in force. In the end, the opinion that prevailed was

one printed in the Daily British Colonist some six months earlier. It was not one of the inherent rights of the Indian to drink but rather it was a question of whether society could afford him the exercise of the right to do so.¹³⁶

By this time steps to create a united colony of British Columbia through the complete absorption of Vancouver Island by the mainland colony were well under way, being forced along by sheer economic and financial necessity. Kennedy was advised of the passage of an Act of Union by the British Parliament and left the Colony on 23 October 1866.¹³⁷ W.A.G. Young acted as Administrator of the Government in Victoria until 19 November 1866 when the "British Columbia Act, 1866" was publicly proclaimed and the Government of Vancouver Island ceased to exist.¹³⁸

In one last act relative to the Police, former Governor Kennedy wrote to Hankin advising him to inform Governor Frederick Seymour of the "proper salary" in his recently recovered position of Superintendent of Police and congratulating him for the zeal and efficiency with which he had discharged his duty--often under very discouraging conditions.¹³⁹ Hankin took the advice and attempted to claim the difference in salary between an augmented (by Kennedy) \$1,500 per year and \$1,757.50 originally contained in Kennedy's 1866 Estimates. Young, the Colonial Secretary, argued that Hankin was only entitled to the \$1,500 and obtained the approval of Governor Seymour for the lower amount.¹⁴⁰

The Vancouver Island Colonial Police thus came to an end. The demise of the force passed virtually unnoticed since under new command

much the same problems of law enforcement, of recruiting and personnel, of finances, with a leavening of minor disasters and triumphs, continued as before. Hankin was not retained in his post and returned to England.

He was succeeded in command of the Police by Magistrate A. F. Pemberton

who was to experience the somewhat doubtful pleasure of seeing his

former junior in the government service return in a position senior to himself when Hankin became Colonial Secretary of British Columbia and in 1871, Administrator of the Colony just before Confederation with Canada.

⁴ E. J. Nesbitt, Acting Colonial Secretary to Supt. of Police, 23 May 1864, V.I. Colonial Secretary, Correspondence Outward, op. cit. Nesbitt was shortly to be replaced by Henry Wakeford as A/Colonial Secretary.

⁵ Pemberton to Wakeford, 6 May 1864, Colonial Correspondence, Police, op. cit. The five Indians were eventually set free at Kennedy's order. The killing of Garrett's stock was correctly found to be the result of religious strife, much to the regret of the Governor. Wakeford to Pemberton, 9 July 1864, V.I. Colonial Secretary, Correspondence Outward, op. cit. In a sequel, Magistrate Pemberton advised the Executive of the changed point of view of the Rev. Mr. Garrett. Now, wrote Pemberton, Garrett felt that the Indians must be dealt with "truth, justice, and severity." Pemberton to Young, 17 August 1864, Colonial Correspondence, Police, V. 1390, op. cit. As always, it depended upon whose ox was being gored.

⁶ Young to Wood, 5 May 1864, Wakeford to Supt. of Police, 8 June 1864, V.I. Colonial Secretary, Correspondence Outward, ibid.

⁷ Horace Smith to Wakeford, 12 June 1864 and 21 June 1864, ibid.

⁸ Wakeford to Biggs--June 1864 and copies of Wakeford to Chas D. Nest [?], Mathew T. Johnston, and Alex C. Anderson, 25 July 1864, no addresses, ibid.

⁹ Pemberton to Wakeford, 12 July 1864, Colonial Correspondence, Police, op. cit.

¹⁰ Kennedy, Minute, loc. cit., and Wakeford to Pemberton, 14 July 1864, V.I. Colonial Secretary, Correspondence Outward, op. cit.

¹¹ Pemberton to Wakeford, 13 July 1864, Colonial Correspondence, Police, op. cit. One of the transferees to the police department was Door Guard Arthur McBride, who later became Warden of the New Westminster

Footnotes

¹Pemberton to Young, 29 February 1864 and Smith to Pemberton, same date, Colonial Correspondence, Police, F. 1389, op. cit.

²Pemberton to Young, 21 April 1864 and Smith to Pemberton, 19 April 1864, ibid.

³Young to Pemberton, 2 May 1864. Young to Wood, 2 May 1864. Commission for Wood issued same date, V.I. Colonial Secretary, Correspondence Outward, op. cit. Pemberton to Young, 28 November 1863 (2 week's sick leave), F. 1388. Pemberton to Young, 30 April 1864 (2 weeks) and 13 May 1864 (6 weeks), F. 1389, Colonial Correspondence, Police, op. cit.

⁴E. J. Nesbitt, Acting Colonial Secretary to Supt. of Police, 23 May 1864, V.I. Colonial Secretary, Correspondence Outward, op. cit. Nesbitt was shortly to be replaced by Henry Wakeford as A/Colonial Secretary.

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⁶Young to Wood, 5 May 1864, Wakeford to Supt. of Police, 8 June 1864, V.I. Colonial Secretary, Correspondence Outward, ibid.

⁷Horace Smith to Wakeford, 12 June 1864 and 21 June 1864, ibid.

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⁹Pemberton to Wakeford, 12 July 1864, Colonial Correspondence, Police, op. cit.

¹⁰Kennedy, Minute, loc. cit., and Wakeford to Pemberton, 14 July 1864, V.I. Colonial Secretary, Correspondence Outward, op. cit.

¹¹Pemberton to Wakeford, 13 July 1864, Colonial Correspondence, Police, op. cit. One of the transferees to the police department was Door Guard Arthur McBride, who later became Warden of the New Westminster

Penitentiary and father of Sir Richard McBride, Premier of British Columbia, 1903-1915. McBride was promoted to the rank of sergeant with the approval of Gov. Kennedy, 28 July 1864. Pemberton to Wakeford, 30 July 1864, Colonial Correspondence, Police, op. cit. Also during this time John H. Sullivan, who became Supt. of Police in 1872 was employed as a Convict Guard.

¹² Ibid. Supplementary report by Rev. A. C. Garrett to Kennedy, 1 June 1864.

¹³ Kennedy to Cardwell, 7 July 1864, C.O. 305/22.

¹⁴ Ibid. Kennedy to Cardwell, 14 October 1864 and Cdr. J. W. Pike to

¹⁵ Ibid. Minutes by Blackwood, 23 August 1864 and Elliot, 30 August 1864. Also Cardwell to Kennedy, 8 September 1864.

¹⁶ Pemberton to Wakeford, 4 August 1864, Minute. Kennedy, 5 August 1864, Colonial Correspondence, Police, F. 1390, op. cit.

¹⁷ Those who left did so without attempting to collect their pay-- which was forfeit to the Crown for lack of proper notice. Pemberton to Wakeford, 4 and 9 August 1864, ibid. However, on 20 August, Kennedy advised Cardwell that the special constables had to be paid as much as \$3.50 per day since men could not be had for less, C.O. 305/23.

¹⁸ Pemberton to Wakeford, 29 August 1864, Minute. Kennedy, 30 August 1864, ibid.

¹⁹ Kennedy to Cardwell, 20 August 1864, C.O. 305/23.

²⁰ Pemberton to Wakeford, 24 August 1864, Colonial Correspondence, Police, ibid. Wakeford to Pemberton, 26 August 1864, V.I. Colonial Secretary, Correspondence Outward, op. cit.

²¹ Only Suspensions by Pemberton were permitted. "Appointment or dismissal from the Public Service rests with the Governor," Wakeford to Pemberton, 6 September 1864, V.I. Colonial Secretary, Correspondence Outward, ibid. One prisoner, a naval deserter escaped from the gaol while the second, an Indian, escaped the chain-gang on the pretext of having to relieve himself. Kennedy considered that the guard "must be inept for his calling," Minute, 3 October 1864. Pemberton to Wakeford, 30 September 1864, Colonial Correspondence, Police, op. cit.

²² Report (1860-1863) by Alex Watson, Colonial Treasurer, August 1864. Kennedy, Minute, n.d., C.O. 305/23.

²³ Daily British Colonist, 13 July 1864. Letter to the Editor signed "Oh! De Cologne." It was claimed that the present incarcerated debtor was unable to eat or rest due to the smell and noise.

²⁴ Daily British Colonist, 4 November 1864.

²⁴ Report of a commission sent to investigate Songhees Indian Reserve (E. G. Alston, A. F. Pemberton, J. D. Pemberton), 27 May 1864, C.O. 305/23. Recommendations included stricter liquor laws and police to be stationed on the Reserve. Also Horace Smith to Wakeford, 21 June 1864. Additional magistrates and police needed, ibid.

²⁵ Supplementary report by Rev. A. C. Garrett to Kennedy, 1 June 1864, ibid.

²⁶ Kennedy to Cardwell, 1 October 1864.

²⁷ Kennedy to Cardwell, 14 October 1864 and Cmdr. J. W. Pike to R./Adm. the Hon. Joseph Denman, C.O. 305/23. These Indians were not convicted of Banfield's death for want of evidence.

²⁸ Kennedy to Denman, 27 September 1864, ibid.

²⁹ Denman to Secretary of the Admiralty, 30 September 1864, ibid. Later, in a Minute attached to a copy of this report sent to the Colonial Office, T. F. Elliot considered it "remarkable in their [the Ahousats] taking time to consider and then giving fair notice that their intention was to fight . . . not mere senseless savages but people who can be dealt with."

³⁰ Ibid. Hankin received a warm commendation from Denman for the coolness and determination in close dealings with the natives. The Admiralty later reinstated Hankin as a Lieutenant in the R.N., granting him permission to continue in the service of the Colonial Government. Admiralty to Hankin, 7 February 1865, C.O. 305/25.

³¹ Ibid., and Lt. H. R. Stewart to Capt. T. P. Goode, H.M.S. Sutlej, ibid.

³² Ibid. Hankin in a later report claimed that Indian sources acknowledged 80 canoes destroyed.

³³ Kennedy to Cardwell, 4 July 1865, ibid.

³⁴ Hankin to Acting Colonial Secretary, 30 June 1865, ibid.

³⁵ Pemberton to Wakefield, 17 October 1864, Colonial Correspondence, Police, F. 1391, op. cit. Wilmer was later to apply for reinstatement. Hankin to Wakeford, 27 December 1864, F. 1391, ibid., and obtained his former rank of Sergeant. Hankin to Wakeford, 8 January 1864, F. 1392, ibid.

³⁶ Pemberton to Wakeford, 25 October 1864, ibid.

³⁷ Pemberton to Wakeford, 2 November 1864, ibid.

³⁸ Daily British Colonist, 4 November 1864.

³⁹ Ibid., 5 November 1864. 5 December 1864.

⁴⁰ Daily British Colonist, 12 November 1864. 305/23.

⁴¹ Thos. L. Wood, A/Attorney-General to Kennedy, Memo, 8 December 1864, Colonial Correspondence, Police, op. cit. Wood wanted to try Blake first, calling Smith as a witness, in hope that Smith might thus convict himself. Kennedy concurred but felt that they could not proceed against Blake. Nevertheless, he was by no means sure that there was not a conspiracy afoot, by persons unnamed, to keep Blake quiet, Minute, 10 December 1864, ibid. Colonist, 26 December 1864.

⁴² Daily British Colonist, op. cit. Wood to Robert Bishop, 10 November 1864, Colonial Correspondence, Police, op. cit.

⁴³ Pemberton to Wakeford, 1 December 1864. Kennedy, Minute, 8 December 1864, ibid. to Wakeford, 27 December 1864, Colonial Correspondence, Police, op. cit. Daily British Colonist, 30 December 1864.

⁴⁴ Daily British Colonist, 22 November 1864.

⁴⁵ Ibid. to Wakeford, 3 January 1865, ibid. (a second letter).

⁴⁶ Ibid., 30 November 1864. January 1865, and Minute, Kennedy to

⁴⁷ Ibid., and 3 December 1864. Pemberton to Wakeford, 30 November 1864, C.O. 305/23. Pemberton enclosed Smith's letter of resignation and a letter denying that he had given money to Pemberton or telling Sergeant Blake that he had done so. January 1865, ibid. (a second letter).

⁴⁸ Ibid., 1 December 1864. Kennedy, Memo, 21 January 1865, ibid. Kennedy

⁴⁹ Ibid., 2 December 1864.

⁵⁰ Kennedy to Cardwell, 3 December 1864, C.O. 305/23. Sgt. Wilmer had written to the Governor after his resignation alleging irregularities in the Police.

⁵¹ Ibid. 14 January 1865. The colonial arms consist of 440 Long Enfield rifles with bayonets and 474 of the older Brunswick rifles and sundry other equipment was received at Police

⁵² Ibid. transfer from the now empty Marine Barracks in James Bay-- where they had presented a security problem. Pemberton to Wakeford,

⁵³ Ibid., Elliot, Minute, 13 February 1865. Cardwell approved any measures felt necessary by Kennedy to improve the Police on Vancouver Island. Cardwell to Kennedy, 17 February 1865, ibid. Vancouver Island and

⁵⁴ Kennedy requested a copy of regulations laid down for a "Metropolitan Police Force," Kennedy to Cardwell, 6 December 1864, C.O. 305/23. He also requested the same respecting prisons as well as some plan of construction of prison cells for prisoners of different social classes. Kennedy to Cardwell, 8 December 1864, ibid.

- ⁵⁵ Daily British Colonist, 5 December 1864.
- ⁵⁶ Kennedy to Cardwell, 3 December 1864, C.O. 305/23.
- ⁵⁷ Appointed 24 December 1864, Kennedy to Cardwell, 24 December 1864, ibid. Hankin to Wakeford, 23 December 1864--acceptance, Colonial Correspondence, Police, op. cit. Government Gazette, 27 December 1864, official notice dated 24 December 1864, reprinted Daily British Colonist, 29 December 1864.
- ⁵⁸ Daily British Colonist, 26 December 1864.
- ⁵⁹ Kennedy to Cardwell, op. cit.
- ⁶⁰ Daily British Colonist, op. cit.
- ⁶¹ P. J. Hankin to Wakeford, 27 December 1864, Colonial Correspondence, Police, op. cit. Daily British Colonist, 30 December 1864. Hankin to Wakeford, 3 January 1865, Police, op. cit.
- ⁶² Hankin to Wakeford, 3 January 1865, ibid. (a second letter).
- ⁶³ Hankin to Wakeford, 6 January 1865, and Minute, Kennedy to Wakeford, 7 January 1865, ibid.
- ⁶⁴ Hankin to Wakeford, 18 January 1865, ibid.
- ⁶⁵ Hankin to Wakeford, 18 January 1865, ibid. (a second letter).
- ⁶⁶ Thos. L. Wood to Kennedy, Memo, 21 January 1865, ibid. Kennedy forwarded this memo to Hankin for information.
- ⁶⁷ Hankin to Wakeford, 20 January 1865, ibid.
- ⁶⁸ Kennedy, Minute, same date, ibid.
- ⁶⁹ Daily British Colonist, 14 January 1865. The colonial arms consisting of 440 Long Enfield rifles with bayonets and 474 of the older Brunswick rifles and sundry other equipment was received at Police Barracks on transfer from the now empty Marine Barracks in James Bay--where they had presented a security problem. Pemberton to Wakeford, 13 September 1864, Colonial Correspondence, Police, F. 1390, op. cit.
- ⁷⁰ See Robert L. Smith, "Governor Kennedy of Vancouver Island and the Politics of Union 1864-1866." Unpublished M.A. thesis, University of Victoria, 1973.
- ⁷¹ Daily British Colonist, 4 February 1865.
- ⁷² Ibid., 25 February and 3 March 1865.

- ⁷³ Ibid., 31 March 1865.
- ⁷⁴ Ibid., 7 April 1865.
- ⁷⁵ Kennedy to Cardwell, 3 June 1865, C.O. 305/25. In order to establish better discipline in Victoria Gaol, Cardwell sent Kennedy a copy of gaol regulations for Winchester Gaol. Cardwell to Kennedy, 1 June 1865, C.O. 305/27.
- ⁷⁶ Vancouver Island, Report of H.M. Prisons in the Colonies, 1865, C.O. 305/25.
- ⁷⁷ Ibid.
- ⁷⁸ Hankin to Wakeford, 27 January 1865, Colonial Correspondence, Police, F. 1392, op. cit.
- ⁷⁹ Ibid. Hankin to Wakefield, 30 January 1865, and 14 February 1865, ibid.
- ⁸⁰ Minute by A. F. Pemberton, 7 February 1865, ibid.
- ⁸¹ Hankin to Wakeford, 10 February 1865, ibid.
- ⁸² Hankin to Wakeford, 20 February 1865 and Minute, Kennedy, same date, ibid.
- ⁸³ Hankin to Wakeford, 23 February 1865, ibid.
- ⁸⁴ Although the cost was only estimated at \$100, Hankin to Wakeford, 24 February 1865, Minute by B. W. Pearse, Acting Surveyor General, 4 March 1865, ibid.
- ⁸⁵ Daily British Colonist, 30 June 1865, and Hankin to Wakefield, 11 April 1865 and Minute, Kennedy, same date, Colonial Correspondence, Police, op. cit.
- ⁸⁶ Qualifications and conditions for candidates for the Police Force are to be found in Appendix IV.
- ⁸⁷ Hankin to Wakefield, 13 April 1865-21 December 1865, Colonial Correspondence, Police, F. 1395-F. 1398, ibid.
- ⁸⁸ Hankin to W.A.G. Young, 25 August 1865, F. 1397, op. cit.
- ⁸⁹ Ibid.
- ⁹⁰ Kennedy to Young, Minute, 15 September 1865, ibid., Executive Council Minutes, 12 September 1866, C.O. 305/28.

- ⁹¹ Kennedy to Cardwell, 15 February 1866 enclosing Bishop of Columbia to Kennedy, 6 February 1866 and A. C. Garrett to Kennedy, 5 February 1866, C.O. 305/28.
- ⁹² Hankin to Kennedy, 8 February 1866, ibid.
- ⁹³ Kennedy to Cardwell, op. cit.
- ⁹⁴ Daily British Colonist, 29 November 1865 and 27 December 1865.
- ⁹⁵ Ibid., 16 January 1866.
- ⁹⁶ Ibid., and Kennedy to Cardwell, 23 January 1866, C.O. 305/28.
- ⁹⁷ Daily British Colonist, 18 January 1866. Four months earlier Hankin, reporting that the prisoners were "almost in a state of nudity from want of proper clothing," the lunatics being particularly destitute, was authorized by Kennedy to purchase 25 hats and pairs of boots and 50 each of shirts and trousers from a local supplier at a total cost of \$375.00. Hankin to Young, 25 September 1865 and Kennedy to Young, same date, Colonial Correspondence, Police, F. 1397, op. cit. On 20 January 1866, the Colonist reported that in the Legislative Assembly the amount of \$500 for criminal punishments was reduced, amid laughter, to \$100 on the grounds that the former amount was insufficient in any case to hang all the Indians likely to require that punishment.
- ⁹⁸ Kennedy to Cardwell, 24 January 1866, C.O. 305/28.
- ⁹⁹ Ibid.
- ¹⁰⁰ Young to Hankin, 1 February 1866, Vancouver Island, Colonial Secretary, Correspondence Outward, Vol. 6, P.A.B.C. Also Daily British Colonist, 3 February 1866.
- ¹⁰¹ Young to Hankin, 3 February 1866, ibid. This order included the sergeant at Nanaimo as well as W. H. Franklyn, the Stipendiary Magistrate and his clerk. Former sergeants Wilmer, Blake, and Farrell were rehired as constables. Daily British Colonist, 2 March 1866.
- ¹⁰² Daily British Colonist, 8 February 1866.
- ¹⁰³ Ibid., 9 February 1866.
- ¹⁰⁴ Ibid., 27 February 1866.
- ¹⁰⁵ Ibid., 20 February 1866.
- ¹⁰⁶ Ibid., 27 February 1866.
- ¹⁰⁷ Ibid., 4 April 1866.

108. Loc. cit., 27 February 1866. and 21 June 1866.
- 109 Kennedy to Cardwell, 28 March 1866, C.O. 305/28. Daily British Colonist, 4 July 1866. Kennedy was in fact willing to let his officers attend, but not to be present.
- 110 Daily British Colonist, 28 March 1866. Kennedy to Cardwell, 16 April 1866, C.O. 305/28. The motion to remove the police from proposed municipal control was finally passed 29 March 1866. After lengthy debate, a similar clause was removed from the Victoria Incorporation Act. Daily British Colonist, 29 March 1866.
- 111 Ibid. T. F. Elliot, Minute, 19 April 1866, C.O. 305/28.
- 112 Daily British Colonist, 6 July 1865, 16 January 1866. W.A.G. Young to Mayor of Victoria, 25 January 1866, Vancouver Island, Colonial Secretary, Correspondence Outward, op. cit.
- 113 Daily British Colonist, 14 May 1866. Young to Mayor and Council, 11 May 1866, Colonial Secretary, Correspondence Outward, ibid.
- 114 Ibid. Legislative Assembly to Kennedy, 8 August 1866, C.O. 305/29.
- 115 Ibid., 16 May 1866, 17 May 1866. Enclosure, Kennedy to Cardwell, op. cit.
- 116 Hankin to Young, 27 February 1866, 7 April 1866, 1 June 1866, Colonial Correspondence, Police, F. 1399, op. cit. Young to W. H. Franklyn, 12 July 1866, 7 August 1866. Young to John Morley, J.P., 10 August 1866, Colonial Secretary, Correspondence Outward, op. cit.
- 117 Hankin to Young, 11 June 1866, Colonial Correspondence, Police, F. 1399, op. cit. Daily British Colonist, 18 June 1866. Kennedy went to describe the method by which liquor traffickers, carrying pure water and with camphor, creosote, or sulphuric acid added for strength and flavour.
- 118 Kennedy to Speaker and Members of the Legislative Assembly, 6 July 1866, C.O. 305/29.
- 119 Daily British Colonist, 7 July 1866.
- 120 Daily British Colonist, 7 April 1866. Hankin to Young, 13 July 1866. Young to Hankin, Minute, 25 July 1866. Kennedy to Young, Minute, 12 October 1866, Colonial Correspondence, Police, F. 1400, op. cit. Young to Hankin, 23 October 1866, Colonial Secretary, Correspondence Outward, op. cit.
- 121 Young to W. H. Franklyn, 12 July 1866, 8 October 1866, Colonial Secretary, Correspondence Outward, ibid. 19 November 1866: "Union proclaimed at noon. Salute fired from Fleet." Colonial Secretary.
- 122 Daily British Colonist, op. cit. In August, Lt. D'Arcy A. Denny, R.N., already a J.P. for British Columbia, was appointed J.P. for Vancouver Island as well. Colonial Secretary, Correspondence Outward, op. cit. F. 1400, op. cit. Both Hankin and Sgt. Welch had resumed their salaries (but not salaries) in October 1866.
- 123 Hankin to Young, 21 August 1866, Colonial Correspondence, Police, F. 1400, op. cit. Young, 19 November 1866. Young to Seymour, Minute, 10 December 1866, ibid.

- 124 Daily British Colonist, 20 and 21 June 1866.
- 125 Kennedy to Cardwell, 8 August 1866. Daily British Colonist, 4 July 1866. Kennedy was in fact willing to let his officers attend, but not until or unless specific charges were made about the Police and Gaol Departments.
- 126 Daily British Colonist, ibid.
- 127 Ibid.
- 128 Ibid., 6, 7, and 11 July 1866.
- 129 Kennedy to Cardwell, 3 September 1866, Enclosure, C.O. 305/29. Kennedy claimed that "it has been found impossible under the present law to prevent the Indian getting drunk by Tribes."
- 130 Ibid.
- 131 Legislative Assembly to Kennedy, 8 August 1866, C.O. 305/29.
- 132 Petition to the Legislative Assembly, Enclosure, Kennedy to Cardwell, op. cit.
- 133 Ibid.
- 134 Ibid.
- 135 Kennedy to Cardwell, op. cit. In Victoria alone, there were 85 licensed public houses and 20 wholesale dealers in liquor. Kennedy went on to describe the method by which liquor traffickers, carrying pure alcohol, would flavour the concoction as brandy, rum, or whisky to suit, possibly diluted with salt water and with camphor, creosote, or sulphuric acid added for strength and flavour.
- 136 Daily British Colonist, 7 April 1866.
- 137 Carnarvon to Kennedy, 13 August 1866. Acknowledged in Kennedy to Carnarvon, 1 October 1866. W.A.G. Young to Carnarvon, 24 October 1866, C.O. 305/29.
- 138 W.A.G. Young to Carnarvon, 19 November 1866, ibid. Telegram, Young to Gov. Seymour, New Westminster, 19 November 1866: "Union proclaimed at noon. Salute fired from Fleet." Colonial Secretary, Correspondence Outward, op. cit.
- 139 Kennedy to Hankin, 29 October 1866, Colonial Correspondence, Police, F. 1400, op. cit. Both Hankin and Sgt. Welch had resumed their old titles (but not salaries) in October 1866.
- 140 Hankin to Young, 19 November 1866. Young to Seymour, Minute, 10 December 1866, ibid.

CHAPTER VII

CONCLUSION

The Vancouver Island Colonial Police was a modest success. Over a period of years settlers and Indians came to recognize that justice and the power of punishment for infractions of the British law were sited in Victoria. The Police were able to hold both the white man and the Indian in control, although in the latter instance usually when in small numbers and close to Victoria. Convictions were most often of white men because, with the exception of a few categories (infractions of the liquor law being the most prevalent), Indians could not be convicted of most crimes on Indian testimony alone. They continued to be adjudged incapable of understanding the full meaning of truthful testimony under oath. Corroborative testimony by whites was essential to obtain convictions.

The process of making the Coastal Indians amenable to the law, in their native habitat, required the use of the Royal Navy which provided the necessary compulsive force. Certain captains of naval vessels acted as justices of the peace, often holding court on the decks of their vessels and, upon occasion, dealing out summary physical punishment. Although the Colonial as well as the British governments recognized that much could be achieved by the naval forces simply by their physical presence, at times the full weight of the armed forces was required to subdue the Indian. The naval authorities were almost

reported to the Colonial Secretary that he had given charge of the Police and Jail Departments, including all stores, to Augustus F.

without fail willing to assist the civil power--and it was always in the performance of that function that the Navy became involved--recognizing that without their help the lives of white settlers might be forfeit and that the colony itself might disappear in a sea of native peoples.

Control of the Indian was vital to the survival of the Colony, a requirement that did not cease to exist when the Colony of Vancouver Island united with British Columbia.

The Police and Magistracy were generally limited in number.

The quality of men recruited for the Police was often poor, drunkenness was far from unknown, training was of the "on the job" variety, and the pay was very low. As a result the temptation of the members of the

Force to avail themselves of the opportunities for graft and bribery were sometimes hard to resist--and thus applied to all ranks although,

of course, not universally. The record of the police in this regard is not an enviable one and these problems continued to surface from time to time during the British Columbia colonial period and after Confederation with Canada.

The Royal Navy continued to make regular coastal patrols for many years, provided specific aid to the police, and answered the call of the government for aid in combatting fractious or rebellious Indians. This was vital to white settlement of the most westerly part of British North America.

The Police in Victoria carried on after the union of the two colonies with little practical change. Former Superintendent Hankin reported to the Colonial Secretary that he had given charge of the Police and Gaol Departments, including all stores, to Augustus F.

Pemberton¹ whereupon he returned to England. Under Pemberton the position of Superintendent was eliminated and a serious effort in financial retrenchment was undertaken. The Police establishment was reduced to a sergeant, or acting inspector, and three constables.²

"Public odium" once again struck the Police Department when, after an investigation chaired by Chief Inspector of Police Chartres Brew of New Westminster, Inspector Welch was suspended from the Force for on several occasions being

Criticism of the police continued. The editor of the Daily Standard wrote that in neglect of duty in that he engaged in attending . . . drinking saloons and in a house of ill fame which places he entered not in the performance of his duty but for his amusement.³

Welch was dismissed a few days later by Governor Seymour.⁴

A responsible replacement for Inspector Welch was found in William Bowden, formerly a messenger at the legislative buildings. Bowden had been made a sergeant almost immediately upon his transfer to the Police in 1867, and was confirmed in the rank of Inspector in 1869.⁵

Governor Seymour died in June of 1869 while on an inspection of the coast aboard H.M.S. Sparrowhawk. Philip Hankin, who had returned to the colony as Colonial Secretary in January of 1869, administered the affairs of British Columbia until Anthony Musgrave arrived in August 1869 to fill the position of Governor.¹¹

At that time there was considerable agitation in the town for the removal of the Indians by the police in order to improve sanitation.⁶ Although Musgrave acknowledged the necessity of a major effort in this regard and agreed that it was

when Amor De Cosmos, former publisher of the Daily British Colonist, became premier of the province in late 1872, he

not possible to treat savage races as on perfect equality with more civilized classes of persons. . . .⁷

he felt that, because the days of the colonial government were limited, it was not practical to undertake the removal of more than "surplus" Indians from Victoria.

The Colonial Police became Provincial Police on 20 July 1871 but with no discernible change in organization or role. Augustus Pemberton remained as Commissioner of Police for the Victoria force.⁸ Criticism of the police continued. The editor of the Daily Standard wrote that the Victoria Police were

exceedingly deficient in proper training and dull of comprehension as to be no match . . . for criminals . . . and who . . . are remarkable only for the way in which they manage not to detect crime. . . .⁹

In the legislature the crowded and unsanitary conditions in the gaol where the smell was alleged to be "enough to knock a man over" was brought forward, resulting in consideration of the motion that the Police and Gaol Departments be placed directly under control of the Attorney General's Department.¹⁰ This was agreed upon, with the rider that the position of Superintendent of Police be re-established. John H. Sullivan, Constable and Clerk of the Bench in Cariboo was chosen and accepted command from Pemberton in December 1872.¹¹

Pressure had been building for some time to have the Victoria Police and magistrate's court under the management of the Municipal Council, as part of a continuing effort on the part of Victorians to control their own affairs. When Amor De Cosmos, former publisher of the Daily British Colonist, became premier of the province in late 1872, he

announced his approval of the transfer of the Police of Victoria and Esquimalt to the Corporation of Victoria.¹² Augustus Pemberton was ordered to relinquish his appointment as Stipendiary Magistrate and devote his time to his County Court duties.¹³ A number of the police applied to the Municipal Council for positions on the new force, as did several citizens who felt that they could adequately fulfil the duties of Police Magistrate. On 1 March 1873 the Victoria City Police came into being--consisting of Inspector William Bowden and four constables, subsequently reduced the next week to three constables, as Victoria did not want the responsibility of policing Esquimalt.¹⁴ Mr. A. C. Elliott, formerly High Sheriff of the Province was made Police Magistrate at a salary of \$1,500 per annum.¹⁵ The Municipality Amendment Act, 1873 which authorized municipalities to form their own police forces and appoint police magistrates provided that municipalities could issue and receive monies for liquor licences, formerly the prerogative of the province, but in so doing the police were placed under the direction of the Provincial Superintendent of Police, within municipal limits, as he might find necessary.¹⁶ This section of the Act had the obvious advantage, in time of need, of placing all police at the command of the provincial government.

The constable at Nanaimo was dismissed as an economy measure and until the following year when Nanaimo and Esquimalt policemen were reinstated, Superintendent Sullivan was the only Provincial Policemen on Vancouver Island.¹⁷ Sullivan was a diligent officer, spending considerable time away from Victoria on duty. However his principal claim to fame rests on the fact that he was the only Superintendent of Police to

be tried for murder. The circumstances of the case involved the death of one Indian and the wounding of another during an attempted search for liquor in an Indian canoe near Cape Mudge. On 16 June 1873 a jury at the Assizes reported that Sullivan's action was justifiable homicide committed in the performance of his duty, and as a result he was not guilty of murder. They included their congratulations to the government "on having an officer who so efficiently and energetically discharged his duty."¹⁸

Nevertheless Sullivan's reputation had suffered and, possibly by mutual agreement, the government began searching for a new Superintendent. By June 1874¹⁹ Philip A. Woolacott, the Gaoler of Victoria Gaol was Acting Superintendent of Police and during the next year made at least one journey up the east coast with the Royal Navy (in order to successfully apprehend six Indian murderers) before returning to his former position subsequent to the appointment of Charles Todd as Superintendent.²⁰

Todd had been one of the members of the legislature from the Kootenay District and was, according to the Daily British Colonist completely untrained for the position except through four years of unwavering support for the government.²¹ Todd, in fact, turned out to be quite satisfactory, being gazetted 1 May 1875, vice J. H. Sullivan who was promoted to Gold Commissioner for Cassiar. Sullivan was unfortunately drowned a few months later in the sinking of the steamship Pacific.²²

Todd was an able and vigorous Superintendent, holding his appointment until 1884 when he was succeeded by H. B. Roycraft, formerly

Constable and Collector at Yale.

By now the Superintendent commanded one or two constables in Victoria and environs and began to exert some degree of administrative authority over magistrate's constables throughout the province. Eventually Roycraft found himself unable to live within his means and became heavily in debt. He had to resign the position within five years of his appointment and leave the province.²³

H. B. Roycraft was not succeeded in his position until 1891 when Frederick S. Hussey was appointed. Under Hussey for twenty years, the Provincial Police made great strides in the control of crime and detection. In 1923 the Provincial Police underwent a complete reorganization, becoming semi-military in form²⁴ while continuing to expand. In 1953, over five hundred strong, and the longest established federal or provincial police force in Canada, it was absorbed by the Royal Canadian Mounted Police and thus passed into history.

¹⁰ *Daily British Colonist*, 27 February 1872. A Commission was formed to enquire into the conditions of the gaol (Messrs. McCraith, Hunter, Duck, and Robson).

¹¹ The British have taken many useful things with them when they have gone out to colonise or administer other parts of the world, but history may well record that they took nothing which was to have a more profound and lasting influence than their own particular conception of the police and its function.

¹² *Daily British Colonist*, 4 February 1873. The police were to do duty within a six mile radius of the city. The Legislature passed the Municipality Amendment Act to establish municipal police and appoint a police magistrate. *The Daily Standard*, 15 February 1873.

²⁵ --Sir Charles J. Jeffries
The Colonial Police.

¹³ *Ibid.*, 22 March 1873. Officially retired 24 March 1873. The *Daily British Colonist* praised him for "fearless honesty of purpose and freedom from vindictiveness . . . justice tempered with mercy."

- ¹⁴ Victoria City Council, Footnotes and 8 March 1873, City of Victoria Archives. The Daily Standard, 3 March, 10 March 1873. Inspector Bowden, Constables Wm. McEwan, Chas. Bloomfield, and Wm. Clarke.
- ¹ P. J. Hankin to W.A.G. Young, 15 December 1866, Vancouver Island, Colonial Correspondence, Police, F. 1400, P.A.B.C.
- ² Pemberton to Young, 27 December 1866, Miscellaneous Police Correspondence Outward, op. cit., and Colonial Correspondence, Police, op. cit.
- ³ British Columbia, Statutes, 36 Vict. 3. (Victoria: Government Printer, 1873). Chartres Brew to Young, 5 February 1867. Pemberton to Young, 30 January 1867, ibid. In a Minute Pemberton stated that while it was Welch's duty to report on the state of public houses, to be served champagne in the Eureka Saloon on Government Street by a "reputed prostitute" was going too far.
- ⁴ Daily British Colonist, 17 and 22 June 1873. Seymour to Young, Minute, 12 February 1867, Police, F. 1401, op. cit. British Columbia, Legislative Journals, Vol. IV (Victoria: Richard Wolfenden, Government Printer, 1875). See under Public Accounts, 16 June 1867.
- ⁵ Daily British Colonist, 21 June 1869.
- ⁶ Pemberton to Hankin, 2 March 1870, Police, F. 1407, op. cit.
- ⁷ Anthony Musgrave, Minute, 15 February 1871, ibid.
- ⁸ Pemberton remained for a time as Provincial Stipendiary Magistrate as well as a Dominion County Court Judge. ay Cemetery.
- ⁹ The Daily Standard, 16 February 1872. B.C.
- ¹⁰ Daily British Colonist, 27 February 1872. A Commission was formed to enquire into the conditions of the gaol (Messrs. McCreight, Hunter, Duck, and Robson).
- ¹¹ Charles Joseph Jeffries, The Colonial Police. (London: Max Parrish, 1911). The Daily Standard, 21 November, 14 and 30 December 1872. Daily British Colonist, 24 November 1872. Cariboo Sentinel, 9 November 1872. Sullivan apparently began his duties on 14 December 1872 but was not gazetted until 28 December. Pemberton to Attorney General, 17 December 1872, Miscellaneous Police Correspondence Outward, op. cit.
- ¹² Daily British Colonist, 4 February 1873. The police of Victoria were to do duty within a six mile radius of Victoria. The Legislature passed the Municipality Amendment Act, 1873 authorizing Victoria to establish municipal police and appoint a police magistrate. The Daily Standard, 15 February 1873.
- ¹³ Ibid., 22 March 1873. Officially retired 24 March 1873. The Daily British Colonist praised him for "fearless honesty of purpose and freedom from vindictiveness . . . justice tempered with mercy."

¹⁴Victoria City Council, Minutes, 1 and 8 March 1873, City of Victoria Archives. The Daily Standard, 3 March, 10 March 1873. Inspector Bowden, Constables Wm. McEwan, Chas. Bloomfield, and Wm. Clarke. Esquimalt was deemed to be an unwanted expense. Daily British Colonist, 6 March 1873.

¹⁵Ibid., 13 March 1873. Elliott later became premier of the province (1876-1878).

¹⁶British Columbia, Statutes, 36 Vict. 5. (Victoria: Government Printing Office, 1873).

¹⁷British Columbia, Statutes, 36 Vict. 39, 37 Vict. 6, ibid. (Budgets for 1873-4 and 1874-5).

¹⁸Daily British Colonist, 17 and 22 June 1873.

¹⁹British Columbia, Legislative Journals, Vol. IV (Victoria: Richard Wolfendon, Government Printer, 1875). See under Public Accounts, 16 June 1874.

²⁰Op. cit., 1 May 1875.

²¹Ibid.

²²Ibid., 19 November 1875. Sullivan's body came ashore on Vancouver Island. He is buried in Ross Bay Cemetery.

²³J. B. Roycraft, Vertical Files, P.A.B.C.

²⁴British Columbia, Statutes, "Police and Prison Regulation Act, 1923." (Victoria: King's Printer, 1924).

²⁵Sir Charles Joseph Jeffries, The Colonial Police. (London: Max Parrish, 1952), p. 1.

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APPENDIX I

LIST OF PRISONERS IN VICTORIA JAIL, AUGUST 8th 1859

No.	Name of Prisoner	Crime	Sentence	1859 Date of Committal
1	Mathew Neil	Manslaughter	4 Years penal Servitude	18th April
2	Jim (a Kanaka)	Aiding Seamen to Desert	6 Months hard labour	21st April
3	Charles Rivers	Aiding Seamen to Desert	6 Months hard labour	21st April
4	Henry Hyde	Aiding Seamen to Desert	6 Months hard labour	23rd April
5	An Indian	Shooting his Sister	Awaiting his trial	7th May
6	Thomas Rice	Larceny	6 months hard labour	16th May
7	William Wallace	Larceny	4 Months hard labour	18th May
8	James McDonough	Larceny	3 Months hard labour	19th May
9	John Jones	Larceny	6 Months hard labour	15th June
10	George Becker	Embezzlement	6 Months hard labour	20th June
11	A Stickeen Indian	Stabbing his Wife	Awaiting his trial	27th June
12	An Indian	Burglary	2 Months hard labor & low diet	7th July
13	H W Hazel		Sentenced by Court Martial	17th July
14	An Indian	Assault with intent to Murder	Imprisoned for life	20th July
15	Charles Aubrey Angelo	Embezzlement	Awaiting his trial	25th July
16	An Indian	Assault with intent to murder	Awaiting his trial	28th July
17	An Indian	" " "	" "	28th July
18	Patrick Flynn	Failing to find Sureties to keep Peace	1 Month hard labour	26th July
19	William Rodgers	Failing to find Sureties to keep the Peace	1 Month hard labour	26th July
20	John Weymaus	Selling Liquor to Indians	2 Months Imprisonment	30th July
21	Har-go-yesk	Murder of James Newbird	Awaiting his trial	30th July
22	Patrick Keirney	Selling Liquor to Indians	2 Months imprisonment	25th July
23	An Indian Woman	Drunkeneds [sic]	Her hair cut off & discharged	8th August
24	An Indian	Drunkeneds [sic]	Fined	8th August
25	An Indian	Larceny	10 days hard labour & his hair cut off	8th August
26	Thomas Martin	Insane	detained for safe keeping	29th Sept. 1858
27	James Brown alias "Scotty"	Vagrancy	10 days hard labour	2nd August

Aug. F. Pemberton
Commissioner of Police

Source: Colonial Correspondence,
Police, F. 1382, P.A.B.C.

Estimated Cost of Mounted Police

	First outfit for 14 Mounted Men	Remarks
Arms. Rifle Carbine \$35.00, Revolver \$25.00, Horse Pistol \$34.00, Sabre \$15.00	114.50 x 14 = 1573.00	
Accoutrements. Pouch belt & Carbine scabbard \$5.00, sword belt & scabbard \$2.50, Carbine buckles & springs \$1.50, Holsters \$5.00	14.60 x 14 = 204.40	
Clothing. Coat & shirt \$15.00, Two Dress Pants \$16.00, Two pair Dress Pants \$12.00, High boots \$6.00, Half boots \$4.00, Gaiters \$2.50, Gaiters \$2.50, Gaiters \$2.00, State Packet & Sewers \$6.00, Quaintlets \$4.00	67.50 x 14 = 945.00	
Horse accoutrements. Saddle & bridle \$30.00, Buck Bridle & halter \$6.50, Curry Comb & brush \$2.00	38.50 x 14 = 539.00	
Barracks & Stabling, including Store for Horses	1825.00	
Barrack Furniture. \$255.50		
Bedding, including iron bedsteads 153.30	408.50	
Horses. (14 @ \$100.00 each)	1400.00	
Storage.	30.00	365.00
Pay to Constables, from which will be deducted Cost of Clothing, Rations, Lodgings &c.	75.00	412.50
Additional pay to 4 Sergeants.		1216.33 1/3
Ammunition		657.7
Stationery, Prerogative expenses &c.		208.33 1/3
Total of first outfit for 14 Men & Horses \$6855.20		
Total Annual expense of 14 Men & Horses \$21571.7		
The cost of Clothing deducted from the Constable's pay will repay the expense of Fuel, Wood, Coal, Candles, Water &c.		

At the above prices for Commissioned ranks, the horses to be purchased at the expense of the Govt. Government. Through by which to be paid, it must be paid in advance, as before for men stationed here to ride, it is not given to them, the horses to be paid to go to the station. The horses to be paid to go to the station. The horses to be paid to go to the station.

CANDIDATES, QUALIFICATIONS, AND CONDITIONS OF THE
VANCOUVER MUNICIPAL POLICE
APPENDIX III
P. J. HANKIN, SUPERINTENDENT OF POLICE
APPROVED BY GOVERNOR A. E. KENNEDY 16 MAY 1865

AID TO THE CIVIL POWER

Sir:

I have the honour to transmit for the information of his Ex. the Governor, the copy of a letter addressed to me by the Captain and Passengers on board the Schooner "Royal Charlie," & as I apprehend resistance to the Police when arresting the Offenders, I respectfully request the Co-operation of the Naval and Military Forces in enforcing obedience to the Laws.

The following qualifications are indispensable.

1. To be under twenty five years of age.
2. To stand clear five feet seven inches without shoes.
3. To read and write.

I have, ec.

4. To be free from any bodily complaint, of a strong constitution and generally intelligent judgment of the Surgeon.

Aug^{tus} F. Pemberton

Commissioner of Police

Conditions.

Source: A. F. Pemberton to W.A.G. Young, 29 June 1860, C.O. 305/15.

The conditions upon which each constable is admitted may be made on their being enforced. The Superintendent desires it to be understood at the same time that he reserves to himself power subject to the approbation of His Excellency the Governor to alter or amend any of these Conditions, and also to make new regulations as may be expedient.

1. Each Constable shall devote his whole time to the Police Service and shall not to carry on any trade or calling.

CANDIDATES, QUALIFICATIONS, AND CONDITIONS OF THE
VANCOUVER ISLAND COLONIAL POLICE
P. J. HANKIN, SUPERINTENDENT OF POLICE
APPROVED BY GOVERNOR A. E. KENNEDY 16 MAY 1865

Encl. R. ²²/₁₅₉₆

Candidates.

Applications for admission into the Police Force are to be made in writing to the Superintendent. — If the testimonials are satisfactory, and the applicant is represented to be duly qualified, he is noted on the list of Candidates, and a written communication is sent to himself, or the persons recommending him. When the Services of the Candidate are required he is summoned to attend for examination.

Qualifications.

The following qualifications are indispensable.

1. To be under thirty-five years of age.
2. To stand clear five feet seven inches without shoes.
3. To read and write.
4. To be free from any bodily complaint, of a strong constitution and generally intelligent, according to the judgement of the Surgeon.

Conditions.

The conditions upon which each Constable is admitted into the Police Force are stated here, that no complaints may be made on their being enforced. The Superintendent desires it to be understood at the same, that he reserves to himself power subject to the approbation of His Excellency the Governor to alter or amend any of these Conditions, and also to make new regulations as may be expedient.

1. Each Constable shall devote his whole time to the Police Service, and he is not to carry on any trade or calling.

2. He is to serve and reside wherever he is appointed; and the practice of Constables in out-lying districts living with Indian women will not be tolerated.
3. He is to appear in his Police Dress at all times, unless when leave is given to him to wear plain clothes.
4. He is promptly to obey all lawful orders he receives from persons in authority over him.
5. He is to conform himself to all regulations which may be made from time to time for the good of the Service.
6. He is not upon any occasion or under any pretence whatever to take money, or any gratuity from any person without the express permission of the Superintendent.
7. He shall not resign or withdraw himself from his duties unless allowed to do so in writing by the Superintendent; or unless he shall have given to the Superintendent one month's previous notice.
8. If he resign or withdraw himself without such leave or notice, he is liable to forfeit all pay then due, or a Penalty of \$25.
9. Each Police Constable is liable to immediate dismissal for unfitness, negligence or misconduct, independently of any other punishment to which he may by law be subject.
10. Certificate of good conduct in the Police Service will not be given by the Superintendent to any one (1) If he has been dismissed the Service (2) If he has been guilty of any misconduct of a serious nature. (3) If he has been frequently guilty of misconduct, although of a light nature. (4) If he has served less than 12 months in the Police. (5) If the Certificate be not applied for within three months of the date of leaving the Police Service.
11. If he be dismissed the Police Force, the whole of his pay then due is forfeited.
12. A Constable dismissed from the Police Force, or who resigns his situation, shall before he quits the Service, deliver up

VITA

Surname: TRACKERAY Given Names: WILLIAM SHANTON

every article of dress and appointments which has been supplied to him - If any such articles, or appointments have in the opinion of the Superintendent been improperly used or damaged a deduction shall be made from any pay that may be due to the constable, sufficient to make good the damage, or supply a new article.

VICTORIA COLLEGE, VICTORIA 1945 to 1947

Appointment

UNIVERSITY OF BRITISH COLUMBIA VANCOUVER 1947 to 1950

The Constables are appointed by His Excellency the Governor upon the recommendation of the Superintendent of Police.

UNIVERSITY OF VICTORIA VICTORIA

Approved W. Shanton
May 1875

Degree, Diploma, Etc. Awarded with Distinction

Source: Colonial Correspondence, Police, May-June 1865,
 B.A. F. 1396, P.A.B.C. University of Victoria, Victoria

Honors and Awards:

University of Victoria, Graduate Supplement, 1979/80

Publications:

VITA

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Surname: THACKRAY Given Names: WILLIAM SWANTON

Place of Birth: SAFFRON WALDEN, ENGLAND Date of Birth: May 1, 1927

Educational Institutions Attended, with Dates of Entering and Leaving:

VICTORIA COLLEGE, VICTORIA 1945 to 1947

UNIVERSITY OF BRITISH COLUMBIA, VANCOUVER 1947 to 1950

UNIVERSITY OF VICTORIA, VICTORIA 1975 to 1980

_____ to _____
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KEEPING THE PEACE ON VANCOUVER ISLAND:

THE COLONIAL POLICE AND THE

ROYAL NAVY, 1850-1866

Author


Signature

William Swanton Thackray

Name

1 October 1980

Date