

INTRODUCTION

The original minute books of the legislatures of Vancouver Island and British Columbia are among the most prized possessions of the Provincial Archives of British Columbia. Entered in longhand in leather-bound volumes, by a variety of hands over a span of twenty-one years, these journals represent the most tangible documentary evidence of the initiation and evolution of parliamentary institutions and practice in the colonies that comprised the territory that is now the province of British Columbia. With the exception of perhaps twenty pages, the originals of which have apparently not survived, these volumes constitute the entire record of the official proceedings of the Council, Executive Council, Legislative Council, and General Assembly of the colony of Vancouver Island, and the Executive Council and Legislative Council of the colony of British Columbia.

The need for such a publication has long been noted. Although the journals of the Legislative Council of British Columbia were published annually at the time on a press brought to New Westminster by the Royal Engineers, the legislature of Vancouver Island predated the arrival of the first printing press in 1858. Thereafter, newspapers carried fairly complete reports of the deliberations of the Assembly, but meetings of the Legislative Council were closed to reporters until 1864 in Vancouver Island and 1865 in British Columbia. Meetings of the Executive Council in both colonies were officially secret.

In 1918 the Provincial Archives commenced the publication of the records of Vancouver Island with the publication of Memoir No. II, *Minutes of the Council of Vancouver Island: Commencing August 30th, 1851, and Terminating with the Prorogation of the House of Assembly, February 6th, 1861*, edited by E. O. S. Scholefield. This was followed closely by Memoir No. III, *Minutes of the House of Assembly of Vancouver Island, August 12th to September 25th [27th], 1858* (1918), and Memoir No. IV, *House of Assembly Correspondence Book, August 12th, 1856, to July 6th, 1859* (1918). The curious time frame covered by each volume is explained by the fact that each consists of the initial original minute or correspondence book, without regard to the lifespan or session of the originating institution. For reasons now lost in obscurity, the publication of these records was never resumed, although a body of typescripts still preserved in the Archives bears mute testimony to the fact that further publication was clearly intended. A part of the explanation may be that the subsequent minutes of the Council could not be then located. Nor have they been found to this day. It is not known if the minutes existed in Scholefield's time, but they were almost certainly not in the Archives in the 1930's when W. Kaye Lamb drew up the manuscript classification system for the Archives because he did not assign a number to the missing minute book. Lamb obviously was unaware of the hiatus for in at least two separate articles he stated categorically that the minutes of all the colonial legislatures had been preserved in their entirety.¹

The case of the missing minutes assumed added interest when the writer sought to obtain copies of them from the Public Record Office in London, which the governor was required to file every six months with the Colonial Office. These

¹ "British Columbia Official Records: the Crown Colony Period," *Pacific Northwest Quarterly*, XXIX (January 1938), 17-25; "Records of the Early Proceedings of the Legislature in British Columbia," *Canadian Historical Review*, XXI (December 1940), 394-400.

were readily obtained, except for the period from 26 June 1861 to 3 February 1862, which coincides with the Second Session of the Second House of Assembly. Further investigation revealed that Governor James Douglas forwarded the minutes in question to London on 20 March 1862,² but the Public Record Office could find no evidence that they had ever reached London. Additional evidence indicated that in 1861 Douglas had been forced to use oversize stationery from an American supplier when a shipment of regulation stationery from Her Majesty's Stationery Office had been lost at sea.³ Could these minutes by chance have been filed on the larger stationery and therefore filed irregularly? Yet another exhaustive search of the Public Record Office produced no further clues to the fate of the errant minutes. Meanwhile, archivists in the Provincial Archives sifted through a backlog of uncatalogued materials in storage without success. Among new acquisitions from a Victoria warehouse was some material from the colonial era, including the instrument Douglas issued to appoint Richard Clement Moody to the "Council" of British Columbia (reprinted among the illustrations in Volume IV). Inquiries of the Victoria City Archives uncovered original minutes written by W. A. G. Young of the first meetings of Heads of Departments of Vancouver Island (reprinted as Appendix C, Volume I, 392-96). These minutes, along with other Young papers, recently had been transferred from a vault in the Land Registry Office, where they had lain for longer than the oldest employee there could remember. This find was especially intriguing because it covered the same time frame as the missing Council minutes and because Young, as acting colonial secretary, was the man who had forwarded the Council minutes to England. Moreover, these records furnished important documentary evidence of Douglas' efforts to obtain advice on executive matters before the establishment of the Executive Council, and even before he had requested such an establishment. But the fate of the missing Council minutes remains a mystery, and only time will reveal if a copy remains extant.

The missing minutes unfortunately cover a critical time in the evolution of the Council into the Legislative Council, but in terms of the content of these records, the loss is not too serious inasmuch as one can deduce fairly accurately from the journals of the Assembly the issues that came before the Council during this session. Indeed, with the exception of the minutes of the Executive Councils of both colonies, the official journals of the legislatures ought more properly to be designated as proceedings rather than minutes. They do not constitute a record of the debates in their respective bodies; they are not a Hansard. Although the early records of the Council of Vancouver Island summarize the discussion of that body in some detail, the journals of the Assembly and Legislative Council of Vancouver Island and of the Legislative Council of British Columbia only rarely record anything beyond official actions. In contrast, the minutes of the Executive Councils of both colonies are extremely informative and encompass the full range of issues on which the governor solicited the advice of his official advisers. These deliberations were never made public, and each member was required to take an oath not to divulge their nature.

² Douglas to Newcastle, 20 March 1862, Great Britain, Public Record Office, CO 305/19, p. 96, mf., Provincial Archives of British Columbia.

³ Douglas to Newcastle, 28 May 1862, CO 305/19, pp. 172-74.

In Vancouver Island, the first newspapers appeared in 1858 and began coverage of the sitting of the First House of Assembly. The fact that reporters were barred from the Council, which always seems to have conducted its business in camera, aroused the ire particularly of Amor De Cosmos, the crusading editor of the *British Colonist*, who immediately called for a popularly elected upper house instead of the existing clandestine one that debated "with closed doors like an inquisition or a conspiracy."⁴ Replacing the Council with the Legislative Council in 1863 did not alter the existing state of affairs. Only on 9 March 1864, during his last week in office in Vancouver Island, did Douglas open meetings of the Legislative Council to the press, a practice continued by Governor Arthur Edward Kennedy until the termination of the colony in 1866.

A similar situation prevailed in British Columbia when the first Legislative Council refused to admit John Robson, editor of the New Westminster *British Columbian*, to its meetings, resolving instead by a vote of five to four "that the door be closed to strangers" and the press supplied with copies of the official minutes upon request.⁵ Robson charged the vote transformed the legislature into a "Star Chamber" and, rejecting the official record as too "dry and unintelligible," ran a much more detailed account under the leader, "Legislative Council (Secret)."⁶ The Legislative Council continued to exclude the press and public during the session that began in December 1864 but finally opened its doors to the public when it adopted more liberal Standing Orders introduced by Governor Frederick Seymour in January 1865.⁷ Thereafter sessions were reported at length in the newspapers whose accounts invariably contain much more detailed information than is recorded in the official minutes reprinted here.

Only during the debate over Confederation in 1870 was an attempt made to report verbatim the debate in the colonial legislature. This debate occurred while the Legislative Council sat in Committee of the Whole in which, technically, no minutes are kept, so no record of these debates appears in the official minutes. Doubtless because of the importance of the subject, the government appointed W. S. Sebright Green, a solicitor and journalist from Victoria, to provide a complete transcript of what each member said. These debates were published at the time in two *Government Gazettes Extraordinary* and reprinted in a different format later that year and again in 1912. So closely related are these debates to the official journals of the colonial legislatures that they are reprinted here as Appendix A, Volume V.

Taken individually, the journals reprinted here are not of great immediate consequence to the political history of colonial British Columbia. Except for the journals of the Executive Councils and the debates over Confederation, the content is often tedious, the style repetitious, and the substance disappointing. Nevertheless, the journals collectively represent the official record of the evolution of parliamentary forms of government in the northwestern part of North America and, as such, are of enormous intrinsic historic worth. For this reason alone they are

⁴ 18 December 1858.

⁵ *British Columbian*, 23 January 1864 and ff.; minutes for 26 January 1864, IV, 188.

⁶ *British Columbian*, 17 and 3 February 1864.

⁷ Standing Order 61, Appendix A, IV, 392.

worthy of being published and preserved. More than that, a careful examination of these records can tell us much about the principles on which our political and legal institutions were shaped, of the conditions under which our forebearers lived, and of the rich political heritage that is ours because of events that happened many decades ago and even continents away and have in some measure become a part of all who are the recipients of the unique political culture that is British Columbia.

THE CONSTITUTIONAL DEVELOPMENT OF VANCOUVER ISLAND

The colony of Vancouver Island was created by royal charter, 13 January 1849 (reprinted as Appendix A, Volume I, 374–78), as a consequence of British apprehension of possible further American expansion northward following the Oregon boundary settlement in 1846. The British Colonial Office decided that the best way to strengthen the British presence in this remote territory was to establish a colony of British subjects. After due consideration, it also decided the best agency for this purpose was the Hudson's Bay Company, which had both an interest in and knowledge of the area as well as the requisite capital resources to undertake a project of this magnitude. Thus it happened that a fur-trading monopoly, whose activities were inherently opposed to large-scale settlement, was charged with the responsibility of establishing a colony on Vancouver Island. The charter of grant stipulated that in exchange for an annual payment of seven shillings, the company would become the "true and absolute lords and proprietors" of the island, that ninety per cent of the revenue from land sales and royalty payments must be used for public purposes, and that the company must "defray the entire expense of any civil and military establishments." Another clause stated that if the company had not established a settlement within five years, the grant could be revoked without compensation, and that after ten years, upon the expiry of the company's exclusive rights to trade with the Indians (30 May 1859), the crown could resume title to the island by reimbursing the company for its expenses relative to the colony.

The decision to establish a colony along the northwest coast of North America carried with it the assumption that British settlers were entitled to a voice in their own government, an assumption that reached back to the establishment of the first British colonies in the new world. The concept that Englishmen were entitled to representative institutions was first legally embodied in the charter of the Virginia Company and led to the summoning of the Virginia House of Burgesses in 1619, the first representative assembly of British subjects outside the mother country. Over the years there emerged a pattern of government in "settled" colonies (that is, in colonies settled by British subjects) consisting of a governor and bicameral legislature. As explained in the Colonial Office's regulations, "According to the old Colonial system of Government, Colonies settled by Englishmen were (and are) held legally entitled to Representative Institutions. In these the Legislature consists of the Governor, a Council nominated by the Crown (which acts also as the Executive Council or Council of advice to the Governor), and an Assembly elected by Freeholders and others according to the electoral laws of each Colony."⁸ In time

⁸ "Rules and Regulations," *The Colonial Office List for 1863*, William C. Sargeant and Arthur N. Birch, compilers (London, Edward Stanford, 1863), chap. II, p. 94. See also Martin Wight, *The Development of the Legislative Council: 1606–1945* (London, Faber & Faber, 1945).

this bicameral legislature gave way to a single Legislative Council to which some members were appointed and others were elected. Crown colonies, on the other hand, were denied representative institutions. Because they were usually acquired by conquest or by cession, they were sometimes referred to as “ceded” or “occupied” colonies. They were not populated primarily by British subjects and were ruled by a governor and council whose members were all nominated by the crown.

Vancouver Island was never a crown colony, even though it has frequently been mislabelled as such. Rather, its constitution was based on the old colonial system, which prevailed generally throughout the British West Indies. Although the Hudson’s Bay Company was granted proprietary rights to the island, the Colonial Office decided to reserve to the crown the right of appointing the governor, after James Stephen, permanent undersecretary from 1836 to 1847 and an inveterate foe of monopoly, objected to granting the company powers of civil jurisdiction, which it had exercised in Rupert’s Land under the terms of its original charter of 1670. A separate act of Parliament empowered the colonial legislature to provide for the administration of justice.⁹ In the absence of any specific organic act establishing the government of the colony, the constitution of the new colony derived from the royal commission and instructions issued to the first governor, Richard Blanshard, an ambitious young barrister who arrived in Victoria on 9 March 1850. In a simple ceremony two days later, Blanshard read his commission and instructions (reprinted as Appendix B, Volume I, 379–91), thereby inaugurating British rule west of the Rockies. Blanshard’s commission and instructions authorized him to appoint a Council of seven persons in addition to himself (three of whom would form a quorum), to summon a General Assembly of freeholders, and with the “advice and consent” of these two bodies to enact legislation for the new colony. A further clause ambiguously stated that the governor, “with the advice of said Council,” could “enact all such Laws and Ordinances as may from time to time be required for the Peace, Order and good Government of the said Colony.”¹⁰

The constitutional history of Vancouver Island has never been adequately described nor even fully understood. For convenience, it might be divided chronologically into three parts, from 1850 to 1856, from 1856 to 1863, and from 1863 to 1866, although the entire period was characterized by groping change and gradual evolution. The first period commenced with the arrival of Blanshard in 1850, or more particularly with the establishment of the Council just before his departure in August 1851. The Council has since been customarily but incorrectly referred to by historians as the Legislative Council, as indeed it was by James Douglas at the time; but technically it was a Council with both executive and legislative functions in keeping with the forms of the old colonial system. The second period began

⁹ An Act to Provide for the Administration of Justice in Vancouver’s Island, 12 & 13 Victoria, c. 48. For information relative to the establishment of the colony of Vancouver Island, see minute on J. H. Pelly to Earl Grey, 5 March 1847, CO 305/1, pp. 105–10; memorandum by H. Merivale, 21 June 1848, CO 305/1, pp. 195–97; Grey to Pelly, 31 July 1848, CO 305/1, p. 207.

¹⁰ Appendix B, I, 380. For a discussion of Blanshard’s appointment and tenure, see Willard E. Ireland, “The Appointment of Governor Blanshard,” *British Columbia Historical Quarterly*, VIII (July 1944), 213–26, and W. Kaye Lamb, “The Governorship of Richard Blanshard,” *BCHQ*, XIV (January–April 1950), 1–40.

with the summoning of the first elected assembly (technically, the General Assembly) in 1856, thereby completing the bicameral legislature as required by the royal commission and instructions. The third period was marked by the issuing of supplementary instructions to Governor Douglas in 1863, which amended the original constitution by dissolving the Council and replacing it by two separate and distinct bodies, an Executive Council and a Legislative Council.

As the Queen's personal representative in the colony, the governor exercised considerable authority, which was broadly defined in his commission and instructions. Under these instruments he was generally empowered to issue writs of summons and elections; to grant or withhold his assent to bills, subject to the pleasure of the crown; to appoint and suspend public officials, again in accordance with strict instructions from the crown; to grant pardon or clemency to persons convicted of criminal offences in colonial courts; and to issue marriage licenses, administer oaths, and ensure that proper records were kept of all matters within his jurisdiction. Public funds could be expended only under his warrant, and he could not absent himself from the colony without express permission from the home government.¹¹

From the outset there were problems with Vancouver Island's constitution, and Blanshard soon discovered his situation was intolerable. For example, he had accepted the governorship without salary on the understanding he would receive a grant of one thousand acres of land, only to learn from Douglas upon his arrival that the land was attached to the office and not for his private use. More important, he quickly discovered he had no one to govern. Because virtually all the settlers in the colony were employees of the Hudson's Bay Company, they were therefore answerable in most matters to James Douglas, who as the company's chief agent was responsible not only for the conduct of the fur trade but also for the sale of land and the consequent expenditures for public works in the colony. Shortly after his arrival, Blanshard promptly advised the secretary of state for the colonies, Earl Grey: "As no settlers have at present arrived, I have considered that it is unnecessary as yet to nominate a council as my instructions direct, for a council chosen at present must be composed entirely of the officers of the Hudson Bay Company, few if any of whom possess the qualification of landed property which is required to vote for members of assembly, and they could moreover be completely under the control of their superior officers but as no immediate arrival of settlers is likely to take place, and my instructions direct me to form a council on my arrival, I should wish for a further direction on this point, before I proceed to its formation." Grey approved of Blanshard's delay, but he impressed upon him the expediency of establishing the "prescribed institutions" at an early date.¹²

Under the circumstances it was probably inevitable that friction should develop between Blanshard and Douglas, who as the agent of the proprietors, exercised de facto power over the colony's employees and public affairs. Blanshard, indeed, soon became convinced that the Hudson's Bay Company was determined to exclude all free settlers from the colony and retain the island as its own preserve. Less

¹¹ "Rules and Regulations," Chap. I, *Colonial Office List*, 1863, p. 93-4.

¹² Blanshard to Earl Grey, 8 April 1850, CO 305/2, pp. 49-50; Grey to Blanshard, 16 July 1850, CO 410/1, pp. 3-4.

than nine months after his arrival, Blanshard tendered his resignation and requested leave to quit the island. In the spring of 1851 he again reported he had deferred implementing his instructions because of "a total want of the necessary materials [i.e., a settled population] either for a council or for any other legislative or executive appointment."¹³ Finally in August he received word that his resignation had been accepted and he was free to depart. His last official act was to appoint a Council of three persons, designating Douglas as senior member, which, in keeping with the royal commission, meant that he would become the administrator of the government upon Blanshard's departure a few days later. Meanwhile, the Colonial Office decided to comply with the request of the Hudson's Bay Company, and appointed Douglas as governor; his commission and instructions were similar to those of his predecessor and arrived at the end of October.

The Council of Vancouver Island, like those of the West Indies, was intended to serve a dual function. It was "both the Privy or Executive Council of the Governor, the advice and assent of which he was bound to secure before he could perform certain of his duties, and the Upper Chamber of the colonial legislature."¹⁴ By the terms of his instructions, the governor was obliged to permit members of the Council "to have and enjoy freedom of debate, and vote in all affairs of public concern," and to keep a record of its proceedings, a copy of which was periodically sent back to England.

These restrictions to the unbridled use of power, Douglas dutifully observed. Although he used the Council sparingly, its journals clearly indicate that he consulted it both on legislative and executive matters, and included in the latter category were many public responsibilities that devolved upon him as agent of the Hudson's Bay Company rather than as governor. His first revenue proposal, a five-per-cent levy on all imports, the Council rejected as impractical; a year later the Council deferred action on the grounds that "without the consent of the representatives of the people," such a tax would also be unconstitutional.¹⁵ Only a few pieces of legislation were enacted during this earliest period, one of which was an act establishing a Supreme Court of Civil Justice. Douglas then appointed his brother-in-law, David Cameron, as judge and raised a storm of controversy because Cameron was not trained as a lawyer. Neither, for that matter, was anyone else in the colony. For this reason, Douglas requested the Colonial Office to have the legal advisers to the crown examine and approve the rules of court that Cameron had drawn up.

The passage of this act threw the Colonial Office into a quandary when the Crown's legal officers discovered that no Assembly had yet been established, and they questioned "whether the Crown can legally convey authority to make Laws in a Settlement founded by Englishmen, even for a temporary and special purpose, to any Legislature not elected wholly, or in part, by the Settlers themselves."¹⁶ In short, the ambiguous clause in Blanshard's and Douglas' commissions permitting them to govern with the advice of the Council only was almost certainly

¹³ Blanshard to Earl Grey, 12 May 1851, CO 305/3, p. 18.

¹⁴ [H.] Hume Wrong, *Government of the West Indies* (New York, Negro Universities Press, 1969), p. 40.

¹⁵ Minutes for 28 April 1852 and 29 March 1853, I, 6, 8.

¹⁶ Labouchere to Douglas, 28 February 1856, CO 410/1, pp. 82-89. For the report of the law officers and attached minutes, see CO 305/5, pp. 184-90.

illegal—and so were all laws passed in Vancouver Island. The Colonial Office could either complete the constitutional process it had initiated seven years earlier, or it could seek authority from Parliament to establish some other form of legislature. It hesitated to order the establishment of an Assembly because there were then known to be only forty-three persons in the colony with sufficient property (twenty acres freehold) to enable them to vote. Moreover, it was also aware that the establishment of such a body could be cited by the Hudson's Bay Company as evidence that a settlement existed and thus impair the crown's right to revoke the charter of grant made in 1849. Before making a final decision, it procured an Order in Council establishing the Supreme Court to provide legal authority for the administration of justice on Vancouver Island. Then in a confidential despatch to Douglas, it cautioned him against enacting any further legislation and requested him to confine his actions to his general powers of preserving the peace.¹⁷

Vancouver Island's constitutional impasse was not resolved until 1856. The reasons for the delay can be attributed in part to the time consumed by the exchange of despatches between Downing Street and Victoria, and to the administrative confusion attending the rapid succession of no less than six principal secretaries of state in the eighteen months prior to Henry Labouchere's installation in November 1855. During this time the Order in Council creating the Supreme Court lay in the law offices for a period of five months. Labouchere sought advice from one of his immediate predecessors, Sir George Grey, who advised him to stay with the existing constitution rather than going before Parliament to seek an alteration. "I think that a bill for the government of a colony is never discussed in Parliament without danger, generally without serious injury not only to the colony immediately affected, but to the whole of the colonial dominions," he wrote privately. "The incredible ignorance & rashness which prevail upon this subject in the House of Commons, lead to the use of language there & the promulgation of doctrines which tend to shake all authority." Grey also recalled that the original intention had been to have the governor of Vancouver Island "immediately on his arrival call an Assembly, & by its aid pass a law creating a council of 2 or 3 members to which legislative authority shd. be entrusted. Though the Queen cannot by her own authority create such a council in a colony formed by settlement it is equally certain that she can do this by the authority of the inhabitants themselves." He concluded by saying that a governor, by the discreet exercise of his executive power, could "prevent an Assembly from doing any real harm. The people themselves are also the only sufferers by any mistakes of the Legislature, & I think it far better to allow them to suffer from these mistakes however gross they may be, than to protect them from the consequences of their own folly by appealing to Parliament. If they will not vote the money necessary to carry on the public services let the service stop, even if it involves turning the criminals out of gaol, & disbanding the police. This was the game I played with the assembly of Jamaica & the Court of Policy in Guiana & in both cases with success."¹⁸

¹⁷ George Grey to Douglas, confidential, 5 April 1855, CO 410/1, pp. 68–69. The list of potential voters is in CO 305/6, p. 251.

¹⁸ George Grey to Henry Labouchere, 26 January 1856, Labouchere Papers, Add. MSS 310, PABC.

In February 1856, Labouchere forwarded instructions to Douglas along the lines suggested by Grey. He pointed out that the Assembly authorized in Blanchard's commission had to be established, but that if the resulting legislature was deemed too elaborate for the circumstances of the colony, Douglas should have the legislature pass a law reconstituting itself into a smaller, single body, as had been done in some of the smaller West Indian colonies, in which not less than one third of the members should be appointed by the Crown and the rest elected. Labouchere recognized, he said, the onerous responsibility these instructions would place on Douglas, "especially as they have to be carried into execution with so small an amount of assistance as the present circumstances of your Settlement afford. But I have every reason to rely on the continuance of such assistance and support as Her Majesty's Government can render you, and on their making full allowance for the peculiarities of your position." He accompanied this despatch with a confidential one of the same date, authorizing Douglas, should an emergency arise, to prorogue the Assembly "whenever you may deem expedient and to conduct the Executive business of the Colony as heretofore with the advice of your Council, leaving legislation for future opportunities."¹⁹

In inaugurating the first representative institutions in British territory west of the Great Lakes, James Douglas was all too aware of the "peculiarities" of his situation. Having left Britain as a teenager before even the passage of the First Reform Bill, having spent all his adult life in the fur trade without an opportunity even to exercise the franchise, having only "very slender knowledge of legislation" and no "legal advice or intellectual assistance of any kind," he embarked on his task with considerable diffidence. He divided the colony's white settlements into seven electoral districts and issued writs for general elections. So few were the electors, he reported, that the returns amounted to "mere nominations" in all districts except Victoria, where five candidates vied for three seats.²⁰ John Work, a member of the Council, found the elections "little better than a farce," but Douglas did his best to make the opening of the Assembly in Bachelor's Hall in Fort Victoria, 12 August 1856, a solemn occasion. "I attended in person and addressed the house as is usual on such occasions," he informed the secretary of the Hudson's Bay Company the following day. "The affair went off very tamely, and with a scanty attendance of the lower orders, who notwithstanding the outcry formerly made, may be now supposed to feel that their liberties are in safe keeping."²¹

The First House of Assembly, 1856–59, produced very little in the way of legislation. In the first order of business, Dr. John Sebastian Helmcken was elected speaker, a position he continued to hold for the entire life of the colony. The Rules of Debate and Standing Orders of the House of Commons in England were quickly adopted. With only "an antediluvian and very learned volume, Horsford's

¹⁹ Labouchere to Douglas, No. 5, 28 February 1856, and confidential, 28 February 1856, CO 410/1, pp. 82–89, 91–92.

²⁰ Douglas to Labouchere, 22 May 1856, CO 305/7, pp. 45–47; Douglas to Labouchere, 22 July 1856, CO 305/7, pp. 59–61.

²¹ John Work to Edward Ermatinger, 8 August 1856, Ermatinger Papers, PABC. Douglas to William G. Smith, 13 August 1856, Fort Victoria, Correspondence Outward to Hudson's Bay Company, 1855–1859, PABC.

Precedent's," to guide them in parliamentary procedure, the new legislators were forced to adopt a common-sense approach to their business and conduct their affairs "as at ordinary meetings." Helmcken later admitted that this sometimes led to difficulties but at least had the virtue that "no one spent every day in discussing 'points of order.'" Eventually the novice legislators obtained "an American book from some State legislature," which aided them "very considerably."²²

From the beginning there was friction between the governor and the Assembly over the control of public expenditures. The only funds at the Assembly's disposal were the revenues from the sale of liquor licenses, one of the few measures previously approved by the Council, which the law officers to the crown agreed could stand on the basis of the governor's general authority to keep the peace. Under the terms of its charter of grant, the Hudson's Bay Company was obligated to pay the full costs of government; another clause permitted the crown to resume control of the island, by reimbursing the company for all its expenses. The Assembly, therefore, refused to sanction the imposition of customs duties, or any other forms of supplementary taxation, and directed their efforts instead to pressure the governor to increase expenditures from company funds, which would eventually then have to be repaid by the imperial treasury. For his part, Douglas was understandably reluctant to allow expenditures to exceed the revenues obtained from the sale of land, preferring instead to have the Assembly raise its own revenue to pay for additional projects.

This was the situation in 1858, when the Fraser River gold rush transformed Victoria and greatly increased demands for public works and government services. In May 1859 the British government decided to terminate the company's grant and resume direct control of the island, thereby forcing the Assembly to consider appropriate ways and means of raising its own revenue. As the demands on Douglas' time mushroomed, he named a number of officials, appointed to head government departments in British Columbia, to acting positions in comparable offices in Vancouver Island. The Assembly was particularly anxious to obtain control of the revenue from the sale of crown land, but Douglas and Colonial Office were unwilling to accede to its wishes unless it, in turn, passed legislation permanently securing the colony's civil list, the salaries of the principal officers of the government. This, the Assembly was unwilling to do, claiming that the government was not responsible to it and that the costs were too high. In these efforts assemblymen were aided and abetted by a vocal "reform" party, headed by a newcomer from Nova Scotia via California, Amor De Cosmos of the *British Colonist*, who spearheaded a noisy campaign to make the executive branch of government responsible to the people's elected representatives instead of to Downing Street.

In 1860, Douglas began the practice of introducing annual spending estimates for the Assembly's consideration. Later that year a dispute arose when the Council, which the Assembly viewed as a mere extension of the executive branch, amended the "Bill to Regulate the Sale of Fermented and Spirituous Liquors," which the Assembly unanimously claimed virtually altered "the scale of taxation . . . fixed by

²² Dorothy Blakey Smith, ed., *The Reminiscences of Doctor John Sebastian Helmcken* (Vancouver, University of British Columbia Press, 1975), p. 334.

this House.” When the Council replied that it had “as good a right” to amend a bill from the lower house as the Assembly had to amend a bill from the upper, the Assembly responded with the following declaration: “That all supplies & aids from the Colony of Vancouver Island & its dependencies for the use of Her Majesty are the sole gift of the House of Assembly of the said Colony & it is the undoubted & sole right of the said House to direct, limit, and appoint in the Bills granting such aids & supplies, the ends, purposes, considerations, limitations, & qualifications of such grants which ought not to be changed or altered by the Hon. Council.”²³ A conference of delegates from both houses failed to resolve the dispute fully, and the Assembly let the bill lapse rather than accept the amendment. Reflecting upon the incident some thirty years later, Helmcken allowed that members of the Assembly were not sufficiently learned to maintain their position against the opposition of the more erudite Council. Subsequently, the records show that the Council and later even the Legislative Council continued to amend or consider amending ways and means bills sent up from the Assembly.²⁴

The contest between the executive and the Assembly pointed up the basic weakness of the old West Indian system of government, the lack of effective liaison between the governor and the elected representatives. The issue was not merely one of responsible versus representative government; the larger problem was that, in the absence of a cabinet, there was no adequate mechanism through which the government, as represented by the governor and his Council, could introduce, justify, and defend government measures in the lower house. As a noted constitutional historian has observed, the system was “essentially unstable” and inevitably produced a state of conflict and stalemate.²⁵ To mitigate this problem, Douglas succeeded in having one of his department heads successfully contest a seat in the Assembly in 1859 and again in 1863. Acting Attorney General George Hunter Cary sat in the Second House of Assembly from 1860 to 1863, and Acting Colonial Secretary W. A. G. Young did so in the Third House for one year, from 1863 to 1864. Both of these men played extremely valuable roles in introducing, explaining, and defending government measures, and Douglas depended heavily upon them as de facto ministers of finance. After Douglas’ retirement and Young’s simultaneous resignation in 1864, the situation deteriorated so markedly that the normal functions of government were reduced almost to paralysis.

During the first two Houses of Assembly, 1856–63, the role of the Council also underwent significant changes. Until 1858 it sat infrequently at the call of the governor, but as the volume of legislation from the Assembly increased following the gold rush, the Council began to discard its function as the governor’s select privy council and to assume more the posture of a formal legislative body. In July 1859 it dropped its advisory function entirely when, in response to a request from Douglas, the Council “declined entertaining or passing any opinion on a subject

²³ Minutes of Assembly, 16 October 1860, II, 247; minutes of Council, 4 January 1861, I, 70; minutes of Assembly, 15 January 1861, II, 271.

²⁴ Smith, ed., *Reminiscences of Helmcken*, pp. 151–52. See also minutes of Council, 10 October 1862, I, 94; minutes of Legislative Council, 2 June 1865, I, 313, and *Colonist*, 3 June 1865.

²⁵ Arthur Berridale Keith, *Responsible Government in the Dominions* (London, Stevens and Jones, 1909), pp. 1–2.

which they conceived to belong to the Executive, and not come under their province as a legislative body."²⁶ Douglas himself ceased to attend meetings of the Council in late 1860, and on 6 February 1861, at the end of the first session of the Second House, the Council was "prorogued" for the first time along with the House. By March 1862, Roderick Finlayson, the senior member of the Council, is referred to in the minutes as the presiding member.

The transformation of the Council into a purely legislative body caused Douglas to turn to members of his official family for advice. In August 1861 he began holding formal but unofficial meetings with his department heads, and the following May he sought authority from the Colonial Office to establish two separate and distinct bodies, an Executive Council to be composed of his principal executive officers, and a Legislative Council to be composed of the present membership of the Council, except those who also held seats in the Assembly.²⁷

Almost a year elapsed before London responded to this request. Although officials in the Colonial Office recognized, as one of them noted, that the "machinery of Government" on Vancouver Island was already "ludicrously complex for such a miniature community,"²⁸ they proceeded to draft the necessary supplementary commission and instructions. But the Duke of Newcastle, secretary of state for the colonies, had other priorities. Following the gold rush to the Fraser River, the British government had created a separate colony of British Columbia on the mainland. It then appointed Douglas as governor of that colony also and armed him with temporary, emergency powers to legislate there by proclamation only, without reference to any other body. Douglas quickly and efficiently established British jurisdiction over the gold fields, and the Colonial Office began laying plans to unite the two colonies just as soon as the population on the mainland became more settled. What London failed to realize, however, was how strongly mainlanders resented being ruled by an absentee governor, armed with absolute powers, who pursued policies that seemed calculated to favour the island at the expense of the mainland—like declaring Victoria a free port while imposing customs duties in British Columbia. In establishing a permanent government for British Columbia, measures had to be taken to check this developing local rivalry before it became irreconcilable. It was in this context that Newcastle decided to replace Douglas with separate governors in each colony.

In searching for the appropriate constitution for British Columbia, Newcastle was careful not to reproduce the old representative system employed in Vancouver Island, nor to select an alternative that would impose any impediments to the eventual union of the two jurisdictions. His solution was a single Legislative Council in which the elective principle could gradually be introduced so that in time the legislature would become compatible with that in Victoria. Only when he had fully decided on the constitution for British Columbia, and that an Executive Council on the island would be paralleled by a counterpart on the mainland, did he authorize the supplementary commission and instructions to Douglas (reprinted as Appendix D, Volume I, 397–400), dissolving the Council of Vancouver Island

²⁶ Minutes for 21 July 1859, I, 36.

²⁷ Douglas to the Duke of Newcastle, 31 May 1862, CO 305/19, pp. 182–84.

²⁸ Minute by Chichester Fortescue on *ibid.*

and replacing it with a separate Executive Council and a Legislative Council. On 14 April 1863, Newcastle outlined his plans for both colonies and authorized Douglas to implement the constitutional changes.²⁹

The dissolution of the Council ushered in the final phase in Vancouver Island's constitutional development. Douglas' establishment of the Executive Council on 20 October 1863 filled a void that had existed since the Council had eschewed its executive functions, and it legitimized the practice Douglas had begun in August 1861 of meeting separately with his department heads. The Executive Council inherited all of the powers and authority of the former Council except for the enactment of laws, a function now transferred to the Legislative Council. By the terms of his commission, the governor was required to seek the advice of the Executive Council on a wide variety of matters, ranging from the appointment of judges, the expenditure of public funds, the regulation of elections, and the pardoning of criminals. The governor was the presiding member of the Executive Council, and only he could summon it to meet. Its membership consisted of the colonial secretary, attorney general, treasurer, and surveyor general, in that order of precedence, and any two members constituted a quorum. In the event of the incapacity of the governor or his absence from the colony, the colonial secretary, as ranking member, became the officer administering the government. Meetings were always held in camera, and members were required to take oaths of secrecy with respect to their deliberations. The governor did not have to accept their advice, but if he did not he was obliged to record in the minutes his reasons for not doing so. Members could likewise request that their questions as well as the governor's answers be duly recorded for transmission to England.

The Legislative Council assumed the legislative functions of the former Council, continuing without interruption as the upper house in Vancouver Island. It sat only when the Assembly was in session, its existence now regulated by the same authority as that of the lower house, which from then on became increasingly referred to as the Legislative Assembly. The governor was not a member of the Legislative Council, and membership was restricted to a maximum of eight persons in the following order of precedence: the chief justice, members of the Executive Council, members of the Council at the time of its dissolution, and up to four additional persons whom the governor might appoint provisionally from time to time. Members were free to contest a seat in the Assembly but if elected had to vacate their seats in the Legislative Council while sitting in the lower house. As ranking member, the chief justice became the presiding officer and held a second and casting vote in the event of a tie. After Kennedy's arrival, the chief justice verified the minutes of each day's proceedings with his signature. Kennedy also made it clear that he expected official members of the Legislative Council to vote in support of government measures. Although he permitted free votes on many measures, he frequently placed on the agenda of Executive Council meetings legislation sent up from the Assembly to determine beforehand how government officials should vote in the upper house.

²⁹ Newcastle to Douglas, separate, 14 April 1863, CO 410/1, p. 409. Newcastle memorandum, 27 March 1863, CO 60/17, pp. 176-92.

The amendment of Vancouver Island's constitution did not directly affect the inherent conflict between the executive branch of government and the Assembly, but a subsequent event certainly did. In a despatch dated 15 June 1863, Newcastle announced his intention of terminating the executive link between the two colonies by "placing them under different Governors so soon as the proper financial arrangements are made for the permanent support of the Government." To this end he instructed Douglas to place before the Assembly two acts, one securing the civil list on a permanent basis and the other giving the governor the right to initiate all money bills. In exchange, the Colonial Office would transfer the crown revenues to the control of the Assembly.³⁰ Shortly thereafter Newcastle appointed Arthur Edward Kennedy to replace Douglas in Vancouver Island and Frederick Seymour to replace him in British Columbia.

The Assembly reacted angrily to these measures. Although it had repeatedly attacked Douglas' leadership and authority in the past, it suddenly realized how vulnerable the island's economy and commercial policy would be to independent action by British Columbia. Under its own governor, that colony would be free to pursue its own economic destiny without reference to Victoria, and the island would lose the pre-eminent influence it had enjoyed because of Douglas' simultaneous jurisdiction over the mainland. To avoid such a fate, the Assembly mounted a full-scale offensive to cause Newcastle to reconsider his course of action. Unfortunately, the person who bore the brunt of this displeasure was Kennedy, a career officer and first-rate administrator, whose very appointment came to symbolize the Colonial Office's policy the Assembly was determined to resist.

Even before Kennedy arrived, the Assembly rejected the civil list, thereby refusing to pay salaries to him and members of his official family. It further resolved that the absolute separation of the two colonies could only be "injurious to both and render their Union hereafter impracticable" and asked that their "intimate necessary and advantageous connexion" be retained.³¹ Upon Kennedy's arrival, the Assembly refused to provide him with a residence, with passage money and salary for his private secretary, or even adequate office accommodation. He informed members of his Executive Council that "the whole furniture of his office consisted of a Table, a Carpet and a few common Chairs. That there was no Library, Maps, or Books of reference of any kind. That there is no Messenger or Attendant of any kind provided for the Governors Office, nor provision made for any of these requisites in the Annual Estimates."³² The Assembly soon came to a temporary agreement with the governor to indemnify him against personal loss if he used the crown revenues for these purposes, but not before a mass meeting of one thousand citizens had voted nonconfidence in the Assembly and branded the Assembly's actions as "incourteous, uncalled for, and quite unbecoming the representatives of a loyal people."³³

³⁰ Newcastle to Douglas, separate, 15 June 1863, CO 398/2, pp. 139-48.

³¹ Minutes for 9 February 1864, III, 69. For a discussion of Kennedy's relations with the Assembly, see Robert L. Smith, "Governor Kennedy of Vancouver Island and the Politics of Union, 1864-1866" (unpublished M.A. thesis, University of Victoria, 1973).

³² Minutes for 11 April 1864, I, 125.

³³ *Victoria Colonist and Chronicle*, 12 April 1864.

For months the Assembly continued to debate a variety of schemes that would salvage some kind of executive union under one civil establishment and a federated legislature. Victoria's dilemma was that total union with British Columbia could jeopardize its status as the capital and free port and its elected Assembly, while absolute separation would invite economic retaliation by British Columbia—which, eventually is what transpired. The situation was compounded by an economic recession that descended on both colonies in late 1864 and 1865. Finally the Assembly capitulated. On 25 January 1865 it passed a resolution praying for the immediate union of the two colonies “under such constitution as her Majesty’s Government may be pleased to grant.”³⁴ It was a rash move, and little did islanders expect the consequences that would flow from this action. In the end, however, the Colonial Office decided to take them at their word and unify the colonies by abolishing outright the legislature of Vancouver Island and annexing the island to British Columbia.

As the dispute between the Assembly and the Colonial Office wore on, it increasingly centred upon the right of the lower house to initiate and control public expenditures. There was never any question about the Assembly’s prerogative in initiating taxation (ways and means) measures. Rather, the point at issue was the Assembly’s insistence on its right to initiate bills of supply and Newcastle’s explicit instructions of 15 June 1863 that the initiation of all money votes should be secured to the government. In rejecting the civil list as proposed by the Colonial Office, and in urging, as much as possible, one civil establishment for both colonies, the Assembly argued that the colony could not afford the increased costs. In reality, what it was striving to achieve was responsible government, that is, making the executive branch of the government directly responsible to the elected representatives.

On 13 January 1864, De Cosmos gave notice of motion to introduce a resolution “that it is the undoubted right of this House to originate and pass a money Bill with or without a request from the Executive.” The motion was postponed at his own request, and after simmering for several months the matter came to a head during the consideration of Kennedy’s estimates for 1866, when a similar resolution was affirmed and implemented.³⁵ Throwing caution to the wind, the Assembly ran roughshod over the estimates, drastically slashing many items, amalgamating and even abolishing several government offices, and adding some \$77,000 in new and increased estimates beyond what Kennedy had requested.³⁶ Relations between the governor and Assembly eventually broke down entirely and no appropriation bill was passed for 1866, the Assembly being content (once it realized union was under way) to let the governor borrow the funds to meet necessary government expenditures inasmuch as the added indebtedness would then have to be assumed by the united colony. Not until April 1867 was the matter finally settled, when the Legislative Council of British Columbia was forced to pass an ordinance confirming the expenditure of \$141,295.15 for the service of Vancouver Island in 1866.³⁷

³⁴ Minutes for 25 January 1865, III, 248.

³⁵ Minutes for 13 January 1864, III, 56, n. 48; minutes for 16 January 1866, III, 406.

³⁶ Kennedy to Speaker and Members of Legislative Assembly, 2 February 1866, minutes for 7 February 1866, III, 428–30.

³⁷ Minutes for 1 April 1867, V, 98–99.

The obstructionist tactics of the Assembly increasingly exasperated Colonial Office officials and undoubtedly contributed to their draconian decision to terminate the constitution of Vancouver Island and extend the jurisdiction of the mainland over it. In July 1865, even before the clash over the 1866 estimates, the assistant undersecretary wrote: "This petty body at Vancouver [Island] is exceptionally obstinate and unmanageable, and is among the worst specimens of a Colonial Assembly. The idea of Responsible Government at such a place would be preposterous."³⁸ Several months later, after wrestling for several weeks over how best to unify the colonies, the same official again lashed out at Vancouver Island's "lunatic House of Assembly, and a bankrupt Government. There is clearly no other remedy than annihilation of the Constitution, or mixing the Colony up with British Columbia. . . . How Governor Kennedy manages to get on at all and keep his temper with such a Legislature is surprising."³⁹

The bill for the union of the colonies was first introduced on 11 June 1866 and lay on the table of the House of Commons for some weeks before the Russell administration resigned and the Tories returned to power. The new government adopted substantially the same bill with one notable exception: a provision allowing the legislature of Vancouver Island not to concur with the union was dropped.⁴⁰ The new bill passed through both houses of Parliament without debate; it received third reading in the Commons on 20 July, in the Lords on 30 July, and royal assent on 6 August. Its proclamation by Frederick Seymour on 19 November 1866 formally terminated the existence of the colony of Vancouver Island.

THE CONSTITUTIONAL DEVELOPMENT OF THE COLONY OF BRITISH COLUMBIA

The constitutional history of the colony of British Columbia, like that of Vancouver Island, can also be divided most conveniently into three distinct periods. The first, from 1858 to 1864, was one in which absolute power was vested temporarily in the governor, who ruled without benefit of any other established local authority. The second period, from 1864 to 1870, was marked by the establishment of a separate Executive Council and a single Legislative Council in which some members were popularly selected before being nominated by the governor. The final phase began with the achievement of representative government in 1870 and culminated with British Columbia's entry into the Canadian confederation in 1871.

The decision to establish the colony of British Columbia resulted directly from the rush of several thousand gold seekers to the Fraser River in the spring and summer of 1858. Efforts to establish a settled colony of British subjects on Vancouver Island had not succeeded in attracting large numbers of people there, but they had contributed to preserving the territory north of the 49th parallel to British commerce and influence. The Fraser River gold rush suddenly inundated the mainland with a polyglot collection of men, many of whom had participated in the California gold rush of 1849. From the British point of view, the rush presented both a threat and an opportunity. From nearby Vancouver Island, James Douglas

³⁸ Minute by T. F. Elliot on Kennedy to Edward Cardwell, 4 May 1865, CO 305/25, p. 378.

³⁹ Minute by Elliot on Kennedy to Cardwell, 1 March 1866, CO 305/28, pp. 182-85.

⁴⁰ The British Columbia Act, 1866, is reprinted in Appendix E, pp. 401-02; for a draft of the bill originally introduced by Cardwell, see *Colonist and Chronicle*, 3 August 1866. See also minute by Blackwood on Speaker of House of Assembly to Cardwell, telegram, 20 June 1866, CO 305/28, pp. 477-76.

quickly issued proclamations declaring that all gold belonged to the crown and could be mined only under licenses issued at Victoria. Although he had no legal jurisdiction on the mainland, the Colonial Office gratefully approved his efforts as it began to consider how best to respond to this new situation.

In 1852, following reports of gold discoveries on the Queen Charlotte Islands, the Colonial Office had issued Douglas a commission as lieutenant governor of that territory, which authorized him to protect British rights there by issuing licenses to mine for gold, but it did not permit him to grant titles to land, enact legislation, or establish a government.⁴¹ Had a major rush ensued, the home government undoubtedly would have had to consider the best means of establishing permanent jurisdiction there, whether by annexing the Queen Charlotte Islands to Vancouver Island, or organizing it as a separate territory to be administered from Victoria, or establishing it as a separate colony. When the Fraser River rush broke in the spring of 1858, the initial reaction of the Colonial Office was to issue Douglas yet another commission as lieutenant governor of the mainland, but as reports of the developing gold fever reached London in June—it took about two months for mails to pass between Victoria and London—Sir Edward Bulwer Lytton, the secretary of state for the colonies, decided instead to establish a separate colony on the mainland. (Meanwhile in Victoria, James Yates gave notice of a motion that would have petitioned the home government to annex the mainland to Vancouver Island.) On 1 July Lytton introduced a bill to provide for the temporary government of British Columbia, which was the name Queen Victoria chose for the new colony; on 16 July he wrote privately to Douglas offering him the governorship of British Columbia, in addition to that of Vancouver Island, on the condition that he sever all connections with the Hudson's Bay Company.⁴²

The reasons why Lytton decided to establish a separate colony on the mainland rather than to extend the jurisdiction of Vancouver Island over the goldfields were never clearly articulated. Moreover, once the new colony was created, the Colonial Office almost immediately began laying plans to unify the two colonies under a single constitution. The explanation of this anomaly seems to lie in constitutional considerations. Lytton was an inveterate foe of the Hudson's Bay Company and was determined not to give any added advantage to the fur trade monopoly. Although there would have been practical difficulties in incorporating the mainland with Vancouver Island, where the Hudson's Bay Company held proprietary rights at least until 1859, the most important factor seems to have been Downing Street's reluctance to extend Vancouver Island's constitution to the mainland. Apart from the inherent problems of Victoria's bicameral legislation, of which the Colonial Office was fully aware, it was simply not prepared to extend the island's elected Assembly to the mainland with its large, transient population, so much of which had recently arrived from the United States. So the Colonial Office evidently thought it necessary for constitutional reasons to establish a separate colony, and that the appointment of one man as governor of both colonies would facilitate, or at least not hinder, their eventual amalgamation.

⁴¹ Sir John Pakington to Douglas, 27 September 1852, CO 410/1, pp. 22–23. The commission may be found in CO 381/77, pp. 144–46.

⁴² Minutes of Vancouver Island Assembly, 10 June 1858, II, 39; Lytton to Douglas, confidential, 16 July 1858, CO 410/1, pp. 139–44.

Notwithstanding the large numbers of indigenous Indians in British Columbia, the Colonial Office clearly regarded it as a settled rather than a ceded or occupied crown colony, and thereby entitled to representative institutions and self-government. Although the home government was anxious to establish popular institutions as soon as practical, Lytton decided to withhold them temporarily until "by the growth of a fixed population the materials for those Institutions shall be shown to exist."⁴³ The act to provide for the government of British Columbia received royal assent on 2 August 1858. One clause defined the boundaries of the colony, which extended only as far north as the Finlay and Nass Rivers; another clause underscored the temporary nature of the act by limiting its life until the end of December 1862 or "thenceforth to the end of the then next session of Parliament."⁴⁴ Still another clause enabled the crown to establish a government in the colony, consisting of either a unicameral or bicameral legislature. Subsequently, on the basis of this authority, an Order in Council, dated 2 September 1858, confirmed on the governor absolute power to legislate and provide for the administration of justice by issuing proclamations having the force of law and subject only to the approval of Parliament. "These powers are indeed of very serious and unusual extent," Lytton warned Douglas in a despatch accompanying the Order in Council. "You are aware that they have only been granted in so unusual a form on account of the very unusual circumstances which have called into being the Colony committed to your charge, and which may for some time continue to characterize it. To use them except for the most necessary purposes, would be in truth to abuse them greatly." Two weeks later Lytton impressed upon Douglas the necessity "to write me fully by each Mail as Her Majesty's Government wish to know everything that passes of importance in British Columbia."⁴⁵ Given the existing state of communications, the home government had little choice but to grant Douglas large amounts of discretionary power. Despite Lytton's pleas, he could not possibly have responded adequately to the rapidly changing events in British Columbia, and the Colonial Office was fortunate indeed to have a man of Douglas' background and temperament to safeguard British interests in the area. For the next five years Douglas sought diligently to exercise his unusual powers, faithfully transmitting despatches to London in an effort to explain and defend his actions and keep his superiors abreast of developments in the colony.

With the arrival of Matthew Baillie Begbie and Richard Clement Moody in late 1858, Douglas decided to implement a suggestion made earlier by Lytton of forming an informal council of advice to assist him in his duties. In February 1859 he informed Lytton he had asked the two men to serve as members and that, although he had not yet formally appointed them, "we have already met upon several occasions to confer upon the policy to be pursued, and upon various measures to be adopted in connection with the future Government of the Colony." The Colonial Office approved these appointments "as a mere voluntary Committee of advice" and offered to formalize them "whenever you consider that the time has

⁴³ Lytton to Douglas, No. 6, 31 July 1858, CO 410/1, pp. 147-57.

⁴⁴ Section VII, An Act to Provide for the Government of British Columbia, 21 & 22 Victoria, c. 99.

⁴⁵ Lytton to Douglas, No. 16, 2 September 1858, CO 398/1, pp. 73-87; Lytton to Douglas, No. 20, 16 September 1858, CO 398/1, pp. 93-99.

arrived for the formation of a regular Executive Council.”⁴⁶ What happened next is unclear from the available records. On 1 March, before he received the Colonial Office’s reply, Douglas provisionally appointed Moody and Begbie to the “Council” of British Columbia and swore them in,⁴⁷ but it is unlikely that this body ever reconvened. Douglas himself never seems to have referred to it again. He evidently decided to let the matter drop, perhaps because of a deteriorating relationship with Moody. He did later request the establishment of an Executive Council for Vancouver Island, but he appears never again to have sensed the need for a similar body in British Columbia. The establishment of an Executive Council in New Westminster, therefore, had to await the arrival of Frederick Seymour, who succeeded Douglas as governor in April 1864.

In September 1861, Douglas relayed reports to London of gold strikes along the Stikine River, well to the north of the existing boundaries of the colony. When these reports were confirmed early in 1862, the British cabinet responded with an Order in Council organizing British territory north to the 62nd parallel and east to the 125th meridian as the “Stekin Territory,” and authorizing its administration by the governor of British Columbia for the time being. When a short-lived rush failed to discover gold in paying quantity, Parliament in 1863 quietly passed an act extending the boundaries of British Columbia to their present limits of the 60th parallel and the 120th meridian, thereby incorporating most of the former Stikine Territory into British Columbia. The same act also extended the life of the government of British Columbia until 31 December 1863⁴⁸ to give the secretary of state more time to consider the precise form of government to establish on the mainland.

There was opposition to Douglas’ rule in British Columbia almost from its inception, especially by a group of reform-minded residents of New Westminster, many of whom had recently emigrated from Canada West (Ontario) or the Maritimes and were accustomed to more liberal institutions. Their dissenting voices were increasingly raised against Douglas’ autocratic powers, his nonresidence in British Columbia, and his economic policies that tended to benefit Victoria at the expense of the lower mainland. Led by John Robson, they mounted a vigorous campaign calculated to win representative institutions, replace Douglas with a governor unconnected to Vancouver Island, and institute policies that would benefit New Westminster instead of Victoria. After directing a series of petitions to the imperial authorities, the last of which called for responsible government, they sent Malcolm Cameron, a visiting Canadian politician, to London in September 1862 to lay their grievances before the home government. Neither Douglas nor the Colonial Office showed any great alacrity to respond to these demands. In the summer of 1860, Douglas incorporated the city of New Westminster with an elected municipal council, a move that Downing Street thought creative and calculated to provide an “excellent preparation for a future general Assembly.”⁴⁹ After the last

⁴⁶ Douglas to Lytton, No. 94, 5 February 1859, CO 60/4, 133–34; Carnarvon to Douglas, No. 46, 11 April 1859, CO 398/1, pp. 260–61.

⁴⁷ See illustrations, IV, xi, xii.

⁴⁸ Order in Council, CO 381/18, pp. 81–92; An Act to Define the Boundaries of the Colony of British Columbia, and to Continue an Act to Provide for the Government of the Said Colony, 26 & 27 Victoria, c. 83.

⁴⁹ Minute by Elliot on Douglas to Newcastle, 22 April 1861, CO 60/10, p. 190.

petition in July 1862, a copy of which was also circulated to opposition members of Parliament, Douglas conceded that the colony had developed to the point that some form of popular institutions was becoming a political necessity. The colony's needs might best be served, he suggested, by a "simple form of Government," and although no great friend of representative institutions, he recommended the establishment of a unicameral legislature of fifteen members, five of whom would be appointed by the governor and the remainder elected by the people.⁵⁰

The Colonial Office was not surprised by the growing clamour for political reform on the mainland, but it had not anticipated the extent to which Douglas' policies and leadership would drive the two colonies apart. It was also becoming increasingly concerned about the soaring public debt that attended his single-minded efforts to push roads through to the goldfields. The Duke of Newcastle, who became secretary of state in 1859, had hoped to unite the colonies before it became necessary to erect a permanent government in British Columbia, but so great was the local rivalry that he reluctantly concluded in early 1863 that it would be "almost as hopeless to attempt to amalgamate the two as it would be to rejoin the Confederate with the Federal States."⁵¹ Instead, he decided to terminate the executive union by relieving Douglas of both governments and to constitute in British Columbia a unicameral legislature in such a way as to permit some element of representation and at the same time impose no obstacles to the future union of the two colonies. In searching for models for such a constitution, officials in the Colonial Office suggested, among others, either that of Newfoundland or the crown colony of Ceylon.⁵² After deliberate consideration, Newcastle opted for a unicameral Legislative Council of fifteen members, of which five would be elected initially and more as the population developed. Undersecretary Frederic Rogers, the Colonial Office's legal expert, advised that the purely elective feature be set aside in favour of the practice in Ceylon and most other crown colonies of having all members, even the unofficial or elected representatives, nominated by the Crown. It was an important technical distinction and one that was not always grasped by people at the time—or since. By employing the device of a crown council, Rogers argued, the crown could retain complete legal control over the legislature, and yet permit an element of representation by having the governor appoint a number of representatives who enjoyed the confidence of the electorate. This arrangement would not only offer an effective safeguard against undue American influence but also provide greater flexibility to respond to the rapidly changing needs of the various mining communities. Newcastle was not nearly as concerned as Rogers about the dangers of direct elections, but he nevertheless agreed to his recommendation. Newcastle's authorization of the necessary instruments set the stage for the second phase of the colony's constitutional development; it also had the effect of delaying the introduction of representative government in British Columbia until almost the end of the colonial period.⁵³

⁵⁰ Douglas to Newcastle, No. 33, 28 July 1862, CO 60/13, 332–38.

⁵¹ Newcastle memorandum, 27 March 1863, CO 60/17, pp. 176–93.

⁵² Newcastle to Douglas, private, 16 March 1863, Newcastle Papers, Referring to Canada, Public Archives of Canada, mf.; minutes by Blackwood on Douglas to Newcastle, No. 33, 28 July 1862, CO 60/13, pp. 338–43.

⁵³ Minutes by Rogers and Newcastle, Newcastle memorandum, 27 March 1863, CO 60/17, pp. 191–93.

The Order in Council authorizing the establishment of a Legislative Council of fifteen members (reprinted in Minutes, IV, 182–84) was passed on 11 June and forwarded to Douglas with instructions for its implementation on 15 June 1863. After asking Douglas to issue a proclamation permanently securing a civil list, he outlined in general terms the necessity of selecting not less than one third of the members to represent the interests and needs of the local communities. “By what exact process this quasi-representation shall be accomplished, whether by ascertaining informally the sense of the residents in each locality, or by bringing the question before different Public Meetings, or (as is done in Ceylon) by accepting the nominee of any Corporate Body or Society, I leave you to determine. I also leave it [to] you to determine the period for which (*subject to Her Majesty's pleasure, which involves a practical power of dissolution*) the Councillors should be appointed. What I desire is this; that a system of virtual though imperfect representation shall be at once introduced which shall enable Her Majesty's Government to ascertain with some certainty, the character, wants, and disposition of the community with a view to the more formal and complete Establishment of a Representative System as circumstances shall admit of it.”⁵⁴

In sharp contrast to the storm that erupted over the civil list in the Vancouver Island Assembly, Douglas had only to issue a proclamation in British Columbia to accomplish the same end. In July 1863 the Colonial Office issued supplemental instructions to him, appointing the five principal executive officers to the Legislative Council, and in September he divided the colony into five districts and instructed gold commissioners to invite the residents in each “to select a person of good character and approved loyalty” to represent them in the legislature. He then appointed these men, plus five magistrates, members of the Legislative Council, during Her Majesty's pleasure, “until the 31st day of December, A.D. 1864, and no longer.”⁵⁵ The first Legislative Council convened on 21 January 1864 and had almost concluded its deliberations when Seymour arrived on 20 April. Three days later, in accordance with his commission and instructions, Seymour swore in the Executive Council, and British Columbia's new constitution was complete.

The role of the Executive Council was essentially the same as that of its counterpart on Vancouver Island. It tendered advice to the governor on a wide range of administrative, legislative, and judicial matters and became a convenient venue for the governor to discuss problems, formulate policy, and review administrative practices. Its membership consisted of the principal heads of government departments, namely the colonial secretary, attorney general, treasurer, chief commissioner of lands and works, and the collector of customs, in that order of precedence. Its advice on administrative matters ranged from the appointment and conduct of public officials to the acceptance of government contracts and approval of timber and mineral leases. Because the initiation of money bills in British Columbia was secured to the government, it played a significant role in reviewing legislation, especially the annual estimates, before their introduction in the Legislative Council. Following the union of the colonies, Seymour decided to eliminate

⁵⁴ Newcastle to Douglas, 15 June 1863, CO 398/2, pp. 139–48.

⁵⁵ Proclamation No. 12, 24 September 1863, B.C. *Government Gazette*, 19 December 1863; supplementary instructions, 31 July 1863; *ibid.*, 16 January 1864; Young to Chartres Brew and others, circular, 16 September 1863, B.C., Colonial Secretary, Letterbook, Correspondence Outward, 1862–63, pp. 277–78, PABC; *Gazette*, 16 January 1864.

the office of treasurer, so supplementary instructions were issued to him substituting in its place the office of police magistrate of New Westminster and permitting the appointment of up to two unofficial popularly selected members of the Legislative Council. Seymour himself never appointed any unofficial members, but Anthony Musgrave availed himself of the opportunity and appointed John S. Helmcken and Robert W. W. Carrall to become members of the Executive Council. It was this enlarged body that drafted the terms of confederation that Musgrave then placed before the Legislative Council for final approval.

The precise nature of the Legislative Council eluded for a time both Seymour and his attorney general, Henry P. P. Crease. Arriving near the end of the legislature's first session, Seymour naturally felt some diffidence about assenting to legislation about which he had but limited knowledge and experience, especially when it entailed the spending of substantial sums of money. That October he "dissolved" the Legislative Council and appointed a second one, which sat from 12 December 1864 to 11 April 1865. When the Colonial Office learned what had happened, Secretary of State Edward Cardwell wrote back to explain that he could not legally do this; that each member appointed by Douglas held his seat at the pleasure of the crown; that their appointments ran until the end of 1864; and that the Legislative Council was "not technically a representative body, but a mere Crown Council to which the expedient of dissolution is not naturally applicable." All enactments of the new Legislative Council, therefore, were also illegal. To remedy this situation, Cardwell advised Seymour to reappoint the various members and then enact an ordinance confirming all sections taken by the legislature before the reappointments.⁵⁶ By the time Seymour received this information, he had already prorogued the legislature, and many of its members had dispersed throughout the colony. Pleading ignorance of the workings of a crown colony's constitution, he replied rather lamely that he was only trying to prepare the colony for representative institutions. He also submitted a lengthy defense of British Columbia's position as outlined by Crease, which served only to exasperate Colonial Office officials, who showed little sympathy for the "obstinacy" of an attorney general and governor who "will not own themselves wrong, and go on arguing the case; confusing . . . arguments of expediency with arguments of law." In the end, Cardwell again advised Seymour he would have to reappoint the legislature at "some convenient opportunity" and have it pass a law validating the actions of the previous session.⁵⁷ At that point, Seymour returned to England on leave, so it fell to Colonial Secretary Arthur N. Birch to issue a proclamation convening the third session of the Legislative Council on 18 January 1866, at which time the members assembled and were sworn in. On the same day the Executive Council, in reviewing the entire matter, questioned the legality of Birch's proclamation, which had not nominated the members by name. To remove all doubt, another public notice was issued that formally named the various members of the Legislative Council, whose members were then sworn in a second time on 22 January. This

⁵⁶ Minutes of the Legislative Council, IV, 247; Cardwell to Seymour, 3 March 1865, CO 398/2, pp. 299–302. See also Seymour to Newcastle, 1 June 1864, CO 60/18, pp. 311–15.

⁵⁷ Seymour to Cardwell, confidential, 12 June 1865, enclosing Crease to Seymour, Secret, 7 June 1865, and ff. minutes, CO 60/22, pp. 107–25; Cardwell to Seymour, separate, 7 October 1865, CO 398/2, pp. 365–73.

comedy of errors was finally brought to a close the following day, when the Standing Orders were suspended so that a bill confirming the actions of the previous session could be given three readings in succession and forwarded to Birch, as the officer administering the government, for his assent.⁵⁸

The union of the colonies in 1866 altered the size of the Legislative Council but otherwise had no effect on the constitution of British Columbia. The fourth clause of the British Columbia Act, 1866, stated, "On the Union taking effect, the Form of Government existing in *Vancouver Island* as a separate Colony shall cease, and the Power and Authority of the Executive Government and of the legislature existing in *British Columbia* shall extend to and over Vancouver Island." The same clause also increased the maximum number of councillors from fifteen to twenty-three.⁵⁹ Even though Seymour, like Kennedy, had been instructed "to use all means in his power" to effect a union of the two colonies,⁶⁰ he quickly discovered that it was good politics not to oppose the heady, anti-Victoria sentiments of the mainland. Two weeks after his arrival, the Legislative Council unanimously rejected any form of union with Vancouver Island, and he forwarded the resolution to London with his "strong opinion" that it would be "simply impossible" to govern the vast territory of British Columbia from Victoria.⁶¹ Only after the terms of union had been settled in London to British Columbia's advantage did he publicly alter his position and support the amalgamation. His anti-island bias was perhaps evident in his selection of only two of nine magistrates and four of nine popularly selected representatives from Vancouver Island to the first session of the enlarged legislature of the united colony. Nevertheless, such disparity of numbers did not prevent the islanders from obtaining sufficient support of members from the interior to pass a resolution in March 1867, by a vote of thirteen to eight, urging the removal of the capital from New Westminster to Victoria. This vote made it even more difficult for him to retain the capital at New Westminster. The Colonial Office was fully prepared to let him make the decision but urged him to do it quickly. After placing a similar resolution before the legislature the following year, which passed by a vote of fourteen to five, he finally accepted the consequences of his own indecision and officially proclaimed Victoria the capital as of 25 May 1868.⁶²

The sixth session of the Legislative Council, 17 December 1868 to 15 March 1869, was the first to sit in Victoria, convening in the legislative hall formerly occupied by the Vancouver Island Assembly. Seymour used the occasion to enlarge the representative element by appointing to the magisterial seats three members not in any way connected with the government, in this manner giving the popularly selected representatives a simple majority over the official members for the first time. In his opening remarks to the legislature, he suggested a modification of even greater consequence when he stated, "One change appears to me perfectly

⁵⁸ Proclamation, 9 December 1865, IV, 329; minutes of Executive Council, 18 and 19 January 1866, IV, 48; minutes of Legislative Council, 22 and 23 January 1866, IV, 333, 337.

⁵⁹ The act is reprinted in V, 5.

⁶⁰ Seymour, Message No. 37, minutes of Legislative Council, V, 89.

⁶¹ Seymour to Newcastle, 1 June 1864, CO 60/18, pp. 311-15.

⁶² Minutes of Legislative Council, 29 March 1867 and 28 April 1868, V, 92-93, 122-24; Seymour, Message No. 16, minutes of Legislative Council, V, 152.

simple and unobjectionable, and that is, under our present restricted Constitution, to allow the people to elect their representatives, without having to obtain the concurrence of the Governor in their choice."⁶³ This proposal elicited considerable interest, especially on the part of the popularly selected members, who were eager to gain representative government, but in the end their efforts came to naught when the Colonial Office pointed out that the Legislative Council, being a crown council, did not have the legal authority to change its own constitution; that only colonies with representative institutions in which at least one half of the members were elected directly by the voters were competent to do this.⁶⁴ It is possible that Seymour might have proceeded on the basis of this information to request an act of Parliament to amend British Columbia's constitution and grant representative government, but before he was able to consider the matter further, he died suddenly in June 1869 while returning from a visit to the northern coast.

The sixth session also witnessed the unlikely spectacle of the governor refusing to accept a colonial secretary appointed from London, Philip J. Hankin, so that his own acting appointee, W. A. G. Young, could continue to preside over the legislature. This curious episode began when Seymour appointed Young to replace Birch who returned to England in 1867. Seymour thought Young the only man capable enough and experienced enough to manage the affairs of the legislature, but he did not wish to confirm him in this position because he thought him too prominently identified with the interests of Victoria. The secretary of state therefore confirmed Philip J. Hankin to the office and sent him out to Victoria. When Seymour heard this, he appealed to London to withdraw the appointment, declaring Young's services absolutely indispensable. When Hankin arrived, just after the session had nicely begun, Seymour refused to accept his credentials, even after being informed by the Colonial Office that Hankin could not be recalled. Only after the session had ended, more than two months later, did Seymour finally permit Hankin to replace Young.⁶⁵

Anthony Musgrave, Seymour's successor, was especially selected with a view to securing British Columbia's entrance into the Canadian federation. As early as 1867, when the British North America Act was still before the Imperial Parliament, the Legislative Council passed a resolution requesting Seymour to take steps to ensure British Columbia's entry into confederation on fair and equitable terms. This position was reaffirmed in 1868, but by 1869 the official members, who feared for their jobs, succeeded in reversing this position. Seymour himself was largely indifferent to the matter, feeling that it was not of practical concern as long as the intervening territory was held by the Hudson's Bay Company. This situation changed abruptly in 1869, when the Hudson's Bay Company agreed to surrender its lands to the Canadian government, and Gladstone's Liberal party won control of the home government and embarked on a plan to encourage the consolidation of

⁶³ Seymour to the Duke of Buckingham, No. 130, 12 December 1868, CO 60/33, pp. 629-634. Minutes of Legislative Council, 17 December 1868, V. 173.

⁶⁴ Granville to Seymour, 5 March 1869, CO 398/5, pp. 247-51.

⁶⁵ For a more complete discussion of the Hankin affair, see Robert Louis Smith, "The Hankin Appointment, 1868," *BC Studies*, No. 22 (Summer 1974), pp. 26-39.

all British territory in North America. In August 1869, Lord Granville, the new secretary of state for the colonies, outlined his government's views, which he instructed Musgrave both to publish and support.⁶⁶

The confederation issue contributed directly to the establishment of representative government in British Columbia. Making it clear that the home government would not force anything on the colony against its wishes, Musgrave embarked upon a course of action designed to achieve his goal. To win the support of his government officials, he pledged to safeguard their interests by securing adequate pensions and blocking the introduction of responsible government at least until after confederation was effected. He also appointed two of the most respected popularly selected members of the legislature to seats in the Executive Council, Helmcken, who opposed the idea, and Robert W. W. Carrall, who ardently supported it. He then had the Executive Council draft a set of terms that they thought would be required to make confederation acceptable. In placing the terms before the Legislative Council, he explained that the only way to ascertain "whether Canada will agree to such arrangements as will suit us, is to propose such as we would be ready to accept." He further promised that he would present any terms agreed to by the Canadian government for final ratification by a reconstituted legislature in which the majority of its members would be elected directly by the people. A week later he requested the home government formally to amend the colony's constitution to permit a legislature of fifteen members, of whom six would be appointed and nine "formally & legally elected" by the people.⁶⁷

After lengthly debate, the Legislative Council accepted the confederation terms and a three-man delegation was sent to Ottawa to present British Columbia's terms to the Canadian government. Meanwhile the Imperial Parliament passed the British Columbia Government Act, 1870, and an accompanying Order in Council (*see* Volume V, 360–363), which replaced the existing Legislative Council with one based on elective principles, thereby inaugurating representative government in British Columbia.

The final stage of British Columbia's constitutional development began when Musgrave established electoral districts throughout the colony and issued writs for the first general election, which took place in November 1870.⁶⁸ The new Legislative Council that assembled on 5 January 1871, though similar in form to previous legislatures, was fundamentally different in substance. Although six members were appointed by the governor at the pleasure of the crown, the remaining nine members were elected for terms of four years, subject only to the dissolution or prorogation of the legislature by the governor. Because it was now legally a representative body, its first order of business was to elect its own speaker, who presided over its sessions and could vote only in case of a tie. The right to initiate all money bills remained with the governor, but for the first time the legislature was legally

⁶⁶ Minutes of the Legislative Council, 18 March 1867, 24 April 1868, and 17 February 1869, V, 73, 145, 226; Earl Granville to Musgrave, 14 August 1869, CO 398/5, pp. 320–27. See also Susan Dickinson Scott, "The Attitude of the Colonial Governors and Officials towards Confederation," *British Columbia & Confederation*, W. George Shelton, ed. (Victoria, University of Victoria, 1967), pp. 143–64.

⁶⁷ Minutes of the Legislative Council, 15 February 1870, V, 272; Musgrave to Granville, No. 20, 23 February 1870, CO 60/38, pp. 179–189.

⁶⁸ Musgrave, Proclamation, 13 October 1870, V, 364–70.

competent to amend its own constitution. By ratifying the terms of confederation, the eighth session of the Legislative Council effectively terminated its own life, and in so doing it profoundly affected the destiny of the colony and each of its inhabitants.

Confederation was the most important issue considered by the new, representative Legislative Council. In his opening speech, Musgrave referred to the widespread and growing desire for responsible government and pointed out that while confederation itself would not make the executive branch of the government responsible to the legislature, the Canadian government had expressly agreed, upon confederation, to introduce responsible government whenever so requested by the people of British Columbia. He also promised that once the confederation terms were accepted by the Legislative Council, he would introduce a bill to expand the number of elected representatives and exclude all official members, thus enabling the introduction of responsible government in the first Legislative Assembly of the province of British Columbia. On 12 January the legislature passed a resolution calling on the governor to introduce such a bill; on 20 January it ratified, by unanimous vote, an address to the Queen embodying the confederation terms without modification; and on 31 January, Musgrave sent down a bill to make the next legislature composed entirely of elected representatives so that responsible government could begin during the first sitting of the legislature subsequent to the union of the colony with Canada. Formally entitled *The Constitution Act, 1871*, the bill was given third reading on 7 February and received Musgrave's consent six days later. The confederation terms were then formally approved by the Canadian House of Commons on 1 April, and on 16 May the British government issued an Order in Council admitting British Columbia into the Canadian federation as of 20 July 1871. On that day, under the terms of section 146 of the British North America Act, British Columbia shed its colonial status and took its place among the provinces of the Dominion of Canada.

EDITORIAL POLICY

The decision to publish the journals of the colonial legislatures in the format that follows was not taken easily or suddenly but was part of a complex process that developed over a period of time. As previously stated, the decision stemmed from an incidental query by the writer during research in the Provincial Archives of British Columbia for the second volume of the minutes of the Council of Vancouver Island, which the archivists were unable to locate. Some time later the writer obtained a copy of the missing volume from the Public Record Office in London, only to discover that a portion of the minutes was missing even from the Public Record Office's files. In subsequent conversations with the provincial archivist, the writer and he agreed that the official minutes of the colonial period really should be available in printed form, that the Provincial Archives would be the most appropriate agency to undertake such a publication, and that the writer would prepare a transcript and perform other necessary editorial functions.

The initial intention was to publish only the journals of the legislature of the colony of Vancouver Island, but as the project began to take shape, the journals of the Executive Council of Vancouver Island were also included and eventually the comparable records from the colony of British Columbia. A careful examina-

tion of the two slim volumes of Vancouver Island minutes published as *Memoirs* in 1918 indicated that it would be more appropriate to republish this material than simply to continue in the format of that series. For one reason, it seemed more appropriate to group minutes of the Council or individual sessions of the Assembly as complete units rather than interrupting them wherever the original minute book began or ended. The next major decision was to include in the journals the minutes of the Executive Council, in part because of the important nature of the minutes themselves, and in part because the Executive Council represented the continuation of one of the functions of the Council before its reconstitution as a purely legislative body.

Because of the intrinsic nature of the journals themselves, the basic editorial policy arrived at was to edit the material as lightly as possible and present it in a format that would render the content as intelligible as possible. Except for the journals of the Legislative Council of British Columbia, which were printed officially at the time, the minute books as originally written stand as the official records of the colonial period. From the material officially printed, it is difficult to discern any body of editorial practices deliberately formulated and consistently applied. Rather than attempting either to impose editorial practices presently utilized in the reporting of legislative proceedings or to fabricate a style that might have been appropriate to the nineteenth century, the journals that follow attempt to reproduce a very close approximation of the original records, even to the extent of duplicating irregularities of spelling, nomenclature, grammar, and capitalization. Users of these journals who find such irregularities irksome and inhibiting and who feel greater editorial discretion is required to assist the reader are, of course, free to exercise their own editorial judgments in ways that are appropriate to their purposes; but except in rare instances where specialists may think it necessary to re-examine the original manuscript, it is hoped that the text here presented will serve as an accurate and reliable guide to the minutes as originally written and formally approved.

In the course of transcribing the minutes from the original manuscripts, a number of arbitrary judgments were necessarily made in keeping with the overall objective of altering the text as little as possible. In the first place it was decided to begin all sentences with a capital letter and close them with a period, and to apply the same rule to sentence fragments whenever the sense of the meaning seemed to justify it. Original spelling, capitalization, and punctuation were retained throughout, except in rare instances when it was apparent that the clerk had made an obvious error—that is, an error that he himself did not intend and would have likely noted and corrected upon re-reading the sentence. Throughout the journals the use of “*sic*” is avoided. Obvious errors have been silently corrected; when errors are not obvious, they have been corrected by use of brackets. Names that were misspelled have been corrected only when first used, again with brackets. In cases when it is difficult to determine whether capital or lower case letters were intended, modern usage has been adopted. Particular problems were encountered with interpreting punctuation, especially the use of dashes and semicolons or the employment of commas for periods. When the original’s meaning and intent were unclear, modern practice was preferred. Clerks generally were not at all consistent in placing punctuation inside or outside of quotation marks, and their practices

were duplicated with doubtful cases being resolved in conformity with the most generally accepted modern usage of placing commas and periods within quotation marks and colons and semicolons without. Missing quotation marks were silently corrected when meaning was clear and corrected in brackets when it was not. Abbreviations also proved troublesome on occasion. As a rule, superior letters were reduced to inferior status, and the abbreviated word was followed by a period. But in some cases when meaning might thus be unclear, the first time such a word was used in a session it has been written in full and the missing letters supplied in italics.

Some of the most difficult problems arose with respect to paragraphing and format and the need to provide a visual consistency that was frequently lacking or only hinted at in the original manuscripts. After some experimentation, the model finally selected for this purpose was the printed minutes of the Legislative Council of British Columbia, which featured an inverse form of indentation that readily lent itself to grouping paragraphs and subparagraphs around a common theme. Moreover, this was the format adopted by officials of that era for a similar purpose. In keeping with this format, the date of each day's minutes has been standardized and set in bold face type, and the listing of members present has also been presented in a consistent form. For the same reason, letters, resolutions, petitions, protests, messages, addresses, and other external materials introduced into the minutes have been indented and set in packed or smaller type, in accordance with the practice of the printed journals of British Columbia.

It was only after the journals of Vancouver Island had been substantially completed that the decision was made to augment them by publishing also the journals of the Executive Council of British Columbia and reprinting the journals of its Legislative Council. Apart from the silent correction of typographical mistakes, these latter journals have been reprinted as they were originally edited. During the course of the colonial period, the printed journals of the Legislative Council of British Columbia began to include the annual estimates and other material properly designated as sessional papers. The annual estimates for British Columbia have been reprinted and the ones from Vancouver Island partially reconstructed from available records, but no effort has been made to reproduce here the complete sessional papers for both colonies, which is a task that still needs to be done. Similarly, a schedule of bills in progress was compiled from the minutes of the Assembly, Council, and Legislative Council of Vancouver Island to parallel that reprinted from the journals of the Legislative Council of British Columbia.

These journals are the last major project to be typeset by the hot metal process by the Queen's Printer of British Columbia before switching over to photocomposition. For the past several years the press has had to function under most trying conditions that have necessarily complicated the processes of production of a project of this magnitude and duration. Because of legislative priorities and other demands, there has rarely been sufficient metal to set type for more than a portion of each volume, so each volume has been proofread and printed in stages so the metal could be remelted and the next portion set in type. This state of affairs meant, for example, that the indexes had to be prepared, for the most part, after the volumes had already been printed. Beyond these technical limitations, the style

adopted for this project represented such a marked change from that customarily employed by the press, that the Provincial Archives and the editor shared to an unusual degree many of the technical aspects of production—from the complex copy-editing process to the selection of acid free paper and binding.

The task of editing these journals proved more complicated than initially expected, but their publication has at last brought together under one format the entire proceedings of the governments of both colonies and made them available for reference purposes. It has also served to bring these journals under detailed scrutiny, perhaps for the first time, with a view to ascertaining the precise nature of the institutions that were established, of their relationship to each other, and of the manner in which they changed and developed through time. For this reason if no other, we trust that the users of these volumes will find them of value in reconstructing the nature and sequence of the evolution of parliamentary institutions in this part of the world.