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### Monday, the 18th day of July, 1864

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Attorney General, The Colonial Treasurer, The Surveyor General.

*The Minutes of the last Meeting were read and confirmed.*

34. A letter was read from Mr. R. Ker, acting Auditor dated July 7th 1864 relative to the alleged defalcations of Mr. Jeremiah Nagle, late Harbour Master, showing a nett sum of \$308.70½ due beyond all doubt to the Government. A letter from Mr. Nagle on the same subject dated 8th June was also read.

The Council were of opinion that this question having been left unadjusted by the Predecessor of His Excellency since October 1861, it was inexpedient to re-open it and that no proceeding should be taken against Mr. Nagle for the amount of the alleged defalcation, and that Mr. Nagle had had ample opportunities to press for an investigation and settlement of the charge between October 1861 and the period of the departure of the late Governor Sir James Douglas in May 1864.

The Council were further of opinion that the amount of the balance due from Mr. Nagle should be written off the public accounts.

35. A Despatch from the Secretary of State for the Colonies No. 5 dated 16th March 1864 was read together with a letter from the Attorney General dated 13th July 1864 relative to the issue of title to Lot B, Victoria, to Mr. L. Lowenberg.

The Council were of opinion that the authority to issue the title having been granted under a misapprehension of the real facts of the case it was expedient that the question should be further submitted for the decision of Her Majesty's Government.

Adjourned.

A. E. Kennedy

25 July 64

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### Monday, the 25th day of July, 1864

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Attorney General, The Colonial Treasurer, The Surveyor General.

*The Minutes of the last Meeting were read and confirmed.*

36. The following letters were read relative to the reservation of certain lands for the purpose of prospecting for coal in the neighbourhood of Cape Beale:

Mr. C. Street 24th February 1864.

The Colonial Secretary 23rd March 1864.

Mr. C. Street, 13th May 1864.

The Colonial Secretary, 13th May 1864.

Mr. C. Street, 6th July 1864.

The Colonial Secretary, 9th July 1864.

Mr. C. Street and others 23rd July 1864.

The Council were of opinion that the assertion that a promise or undertaking to extend a reserve of 180 square miles for a period of 18 months had been given by His Excellency's Predecessor was disproved by the correspondence, that His Excellency refused on the 13th May 1864 to grant any such extension, and that any portion of the original reserve granted for four months might be applied for and granted under the conditions of the Gazette Notice dated 11th June 1864, and that the parties applying would be satisfied by access to the minutes and correspondence that there had been no breach of faith or honor on the part of the Government but that on the contrary the course adopted had been necessary to protect the public interest.

37. Letters were read from the Surveyor General dated 31st May 1864 and 7th June 1864 pointing out the necessity of appointing an Officer to supervise road contracts.

The Council were of opinion that such a duty should be performed either by the Surveyor General or by the Assistant Surveyor and that a clerk should be appointed to carry on the business of the Survey Office, and that \$1200 a year would be a reasonable remuneration for such an officer.

38. A letter was read from the Surveyor General dated 23rd June 1864 suggesting that a survey should be made of certain public reserves.

The Council were of opinion that all government surveys to be of any value must be made by some of the permanent staff of the survey office.

*Adjourned.*

A. E. Kennedy

Aug. 11/64

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### Thursday, the 11th day of August, 1864

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Colonial Treasurer, The Surveyor General.

*The Minutes of the last Meeting were read and confirmed.*

39. The following correspondence was read:

Despatch of Governor Kennedy to the Secretary of State No. 25, dated 13th May 1864 relative to fees charged by the Attorney General.

Letter from the Attorney General dated 5th May 1864 relative to fees charged by him for criminal prosecutions.

Letter from Mr. M. W. T. Drake, Solicitor, dated 23rd July 1864 enclosing his bill of costs in certain civil cases, as taxed.

Letter from the Attorney General dated 6th August 1864 declining to Act any further for the Crown in cases where Counsel are required.

Letter from the Colonial Secretary dated 6th August 1864 stating that the Governor accepts the letter of the Attorney General as the resignation of his office.

Letter from the Attorney General dated 8th August 1864 stating that he had no intention of resigning this office.

A Bill of costs and charges amounting to 355 dollars made by the Attorney General in respect of certain criminal trials dated 5th August 1864.

Letter from the Colonial Secretary dated 9th August 1864 in reference to the bill of costs of the Attorney General.

Letter from the Attorney General dated 9th August 1864 in reply.

The Council were of opinion that the present system of the Attorney General undertaking prosecutions without the instructions of the Executive is inexpedient, and that the question of the payment of the Bill under consideration amounting to 355 dollars should be held over until a reply should be received to the Despatch dated 13th May 1864.

The Council were further of opinion that the course proposed by the Attorney General in the last paragraph of his letter of 6th August 1864 should be adopted.<sup>1</sup>

40. A letter was read dated 1st August 1864 from Mr. W. Culverwell relative to pecuniary transactions of Mr. G. H. Cary, Attorney General.

The Council were of the opinion that Mr. Cary should be called upon for such explanation as he may have to offer upon the charges and statements contained in Mr. Culverwell's letter.

41. A Despatch was read from the Secretary of State for the Colonies No. 4, dated 12th May 1864 stating that in the absence of any assurance that the office of Chief Justice would have an independent and permanent character he could not offer it to any Member of the Bar of England.

- 41a. The Council were of opinion that the discovery of gold having so completely altered the relative value of Crown Lands and measures for their management being absolutely necessary, it was desirable if possible to have the concurrence of the Legislature in making such Regulations and that it should be convened without delay.

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<sup>1</sup> In brief, Drake protested that the tax imposed on his bill of costs exceeded his actual expenses, and Attorney General Cary supported this position. Cary concluded his letter to Acting Colonial Secretary Wakeford (6 August 1864) by stating that Drake "was fully justified by the instructions given by me to take the steps directed, and I feel myself bound if those items are not allowed him to return the amount of his cheque less the amount allowed him, and pay back the amount of the fees allowed into the Treasury." For correspondence relating to this matter see enclosures in Kennedy to Cardwell, 31 August 1864, Public Record Office, Colonial Office 305/23, 132-160. For Drake's letter to Acting Colonial Secretary Wakeford, 23 July 1864, see Colonial Correspondence, F490/14, PABC.

42. In reference to Tenders for the Beacon Hill Road and the Cedar Hill Road the Council were of opinion that in the present condition of the labour market it was undesirable to accept any of these Tenders.

The Council were further of opinion that no fresh contracts for roads should be undertaken in the present state of the labour market.

*Adjourned.*

A. E. Kennedy

Aug 15/64

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### Monday, the 15th day of August, 1864

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Colonial Treasurer, The Surveyor General.

*The Minutes of the last Meeting were read and confirmed.*

43. A letter was read from the Chief Justice dated 12th August 1864 reporting the sentence of death passed upon How-a-matcha an Indian, for the murder of another Indian, and the recommendation to mercy by the Jury.

The Council were of opinion that under the peculiar circumstances of this case the sentence should be remitted, and that the Indian Tribes should be distinctly informed that henceforth the Law in such cases will be strictly enforced.

44. *His Excellency the Governor* with the concurrence of the Council accepted Tenders from Messrs. Harrison and Lettice for repairing and painting the exterior of the main building of the public Offices and of the House of Assembly for \$610 and \$400 respectively.

*Adjourned.*

A. E. Kennedy

Aug 22/64

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### Monday, the 22nd day of August, 1864

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Colonial Treasurer.

The Minutes of the last Meeting were read and confirmed.

45. *His Excellency the Governor* stated that the Surveyor General was suffering from the effects of an accident which disabled him from attending the Council.

46. *His Excellency the Governor* brought under the notice of the Council the following correspondence:

Letter from the Acting Colonial Secretary to Mr. Cary, Attorney General dated 11th August 1864 calling upon him to explain matters affecting his character brought under the notice of His Excellency.

Letter from Mr. Cary, dated 13th August 1864 stating that he would reply on the 15th August.

Letter from Mr. Cary dated 17th August 1864 in explanation of his conduct.

His Excellency informed the Council that on the 19th August he had had an interview with Mr. Cary on the subject of this correspondence.

A letter was read from Mr. Cary dated 20th August 1864 tendering his resignation of the office of Attorney General.

The Council were of opinion that the resignation of Mr. Cary should be accepted.

47. A Despatch from the Secretary of State for the Colonies No. 4 dated 12th May 1864 relative to the appointment of a Chief Justice was read.

The Council were of opinion that a copy of this Despatch should be transmitted to the Legislative Assembly.

48. Despatches from the Secretary of State for the Colonies Nos. 8 and 9 dated 1st June 1864 relative to the grant of exclusive privileges to the California State Telegraph Company were read.

The Council were of opinion that a copy of these Despatches should be transmitted to the Legislative Assembly.

*Adjourned.*

A. E. Kennedy

25 Aug. 64

### Thursday, the 25th day of August, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer.

The Minutes of the last Meeting were read and confirmed.

49. *Thomas Lett Wood Esqre.* Acting Attorney General was sworn in a Member of the Council.

*Adjourned.*

A. E. Kennedy

Sep. 10/64

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**Saturday, the 10th day of September, 1864**

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer.

The Minutes of the last Meeting were read and confirmed.

50. His Excellency the Governor submitted to the Council an outline of the speech he proposed to address to the Legislature on the opening of Parliament on the 12th instant.
51. A letter was read from the Revisors under the Trades Licences Amendment Act 1862 dated 15th August 1864 pointing out defects in the Law.
52. The Council concurred with His Excellency the Governor in the acceptance of the Tender of Messrs. Harries and Co. to print evidence taken before Committee of Legislative Assembly on Crown Lands for \$500.

Adjourned.

A. E. Kennedy

Sep. 22/64

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**Thursday, the 22nd day of September, 1864**

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Surveyor General.

The Minutes of the last Meeting were read and confirmed.

53. A Bill to amend the Land Registry Act 1860 prepared by the Registrar General was read and referred to the Attorney General for consideration.
54. Letters were read dated respectively 10th and 21st September 1864 from Messrs. J. Nagle and others stating that they had cleared a trail from Sooke Harbour to the North Forks of Leech River and constructed six bridges, and expended \$3000 on those works, and requesting to be allowed to locate 150 acres on the trail—and referred to the Surveyor General with a request that he will send an officer to examine and report upon this application.
55. With reference to the Indian Reserve at Victoria His Excellency the Governor stated that he proposed to remove the Indians to Discovery Island compensating them for the removal.

The Council were of opinion that the Indians should be removed if their consent could be obtained upon terms satisfactory to the Government.

56. A letter was read dated 5th September 1864 from a Board consisting of the Attorney General, the Colonial Treasurer, and the Registrar General showing that the amount of fees received by Mr. G. H. Cary, late Registrar of Joint Stock Companies and paid into the Treasury was less than should have been received by various sums amounting to \$526.

Letters were read from the Acting Colonial Secretary to Mr. Cary dated 6th and 20th September 1864 calling upon him to pay into the Treasury the deficiency.

The Council were of opinion that if no satisfactory action should be taken by Mr. Cary in the matter by the 27th instant proceedings should be taken against him for the amount.

57. Letters were read from the Registrar General and the Attorney General dated respectively 20th and 26th May 1864 relative to the administration &c. of the estates of persons dying intestate.

The Council concurred with His Excellency the Governor in the propriety of appointing a Board to inquire into the matter consisting of the Acting Colonial Secretary, the Colonial Treasurer and the Registrar General.

58. The Council approved of the acceptance by His Excellency the Governor of the Tender of Thomas Mann for certain work on the Metchosin Road at \$1.79 per lineal yard and at \$1.00 per yard for culverts.

Adjourned.

A. E. Kennedy

Sep. 26/64

### Monday, the 26th day of September, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Surveyor General.

The Minutes of the last Meeting were read and confirmed.

59. His Excellency the Governor brought under the notice of the Council a Return of defaulters in respect of Real Estate Tax.

The Council were of opinion that a notice should be inserted in the Government Gazette to the effect that a nominal list of defaulters in respect of Real Estate Tax for the years 1860-61, 1861-62, and 1862-63 lies at the Treasurer's Office for inspection and that any sums contained in that list and not paid on or before the 15th October next will be handed over to the Sheriff for collection according to law;—and that it should be an instruction to the Treasurer to deduct from any sums payable by the Government to Public Officers and others any sums due by them according to the list of defaulters above referred to.

60. In reference to the Tender of Matthew Reynolds, being the lowest for the Cedar Hill Road it appearing that the cost of the work if that Tender were accepted together with a sum already spent on the road would exceed the vote of \$6,000 by \$893.34, the Council were of opinion that the vote being insufficient to complete the work it was inexpedient to proceed with it until it could be undertaken as a whole.

61. His Excellency the Governor submitted to the Council the question whether it was desirable that the subject of public education should be brought forward in the Legislative Council, which was resolved in the affirmative.

His Excellency the Governor stated his opinion that the system of public education should be such that children of all denominations might be enabled to attend the schools maintained at the public expense without doing violence to the religious scruples of their parents.

Adjourned.

A. E. Kennedy

Oct. 3/64

### Monday, the 3rd day of October, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Surveyor General.

*The Minutes of the last Meeting were read and confirmed.*

62. A letter was read from Assistant Surveyor [General] Pearse dated 23rd September 1864 recommending that a new trail should be cut from Goldstream to the forks of Leech and Sooke Rivers, six miles, at an estimated expense of \$1140.

The Council were of opinion that Tenders should be invited for cutting this trail and for bridging and corduroying it where necessary.

63. A letter was read from Henry Kibblewaite [Kibblewhite] dated 22nd September 1864 applying to be allowed to take up land at Goldstream which he had occupied since October 1863.

The Council were of opinion that the applicant might be permitted to occupy the land subject to such Regulations as might be laid down.

64. A letter was read from the Surveyor General dated 26th September 1864 with reference to re-roofing the porches of the Court House and House of Assembly &c., to the extension of the balconies of both buildings, and to converting the barrack store into a stable.

The Council were of opinion that the work should be undertaken by the Surveyor General.

65. His Excellency the Governor with the concurrence of the Council accepted a Tender from Messrs. White and Company for painting the Race Rock Light-house for \$430.

66. A letter was read from Messrs. Anderson and Company, agents of the Royal Insurance Company, dated 27th September 1864 suggesting the insurance of the public buildings, at Victoria.

The Council were of opinion that Tenders should be invited for insuring the whole of the public buildings in James Bay.



67. A Despatch was read from the Secretary of State for the Colonies No. 27 dated 1st August 1864 stating that the accounts of the Revenue of a Colony possessing a Representative Assembly are not subject to audit in England, but that the Crown Revenues of the Colony should have been so audited.

Adjourned.

A. E. Kennedy

Oct 10/64

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### **Monday, the 10th day of October, 1864**

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

68. Benjamin William Pearse, Acting Surveyor General was sworn in a Member of the Council.

69. A Message from the Speaker of the Legislative Assembly dated 7th October 1864 enclosing a Resolution of the Assembly for transmission to the Secretary of State pledging the Assembly to vote £1200 per annum as salary to the successor of the present Chief Justice, was read.

A Despatch from the Secretary of State for the Colonies No. 4 dated 12th May 1864 relative to the appointment of a new Chief Justice, was also read.

His Excellency the Governor read his proposed reply to the Resolution, stating his willingness to transmit it to the Secretary of State but pointing out the necessity of a permanent provision.

The Council concurred in the proposed Message.

70. Letters were read from Mr. G. H. Cary late Attorney General, dated 20th September and from the Acting Attorney General dated 4th October 1864 relative to short payment into the Treasury by Mr. Cary of fees receivable by him as Registrar of Joint Stock Companies.

The Council in a full consideration of the matter were of opinion that Mr. Cary should be informed that if the sums payable be not promptly paid over legal proceedings will be taken for their recovery.

71. In reference to "A Bill respecting Barristers and Attorneys at Law," passed by the Legislative Assembly it was resolved that it should be treated as an open question by the Members of the Council, in the Legislative Council.

72. In reference to the Minute of the Council of the 26th September 1864 on the subject of Public Education the Council were of opinion that the Legislative Assembly having taken that subject into consideration it was inexpedient to proceed with the Resolutions of which the Acting Attorney General had given notice in the Legislative Council.

73. A letter was read from the Surveyor General dated 29th September 1864 recommending the discontinuance of the services of Mr. Leigh as Inspector of the dredging vessels. A Minute of the Surveyor General suggesting the reconsideration of the subject was also read.

The Council were of opinion that Mr. Leigh's services should be continued until the hulls of the vessels should be completed and that the Acting Surveyor General should be requested to report the earliest period when his services could be dispensed with.

74. A letter was read from the Surveyor General dated 13th September 1864 showing the current expenditure for the improvement of Victoria Harbour to be in excess of the vote for the purpose.

The Council were of opinion that the subject should be brought under the notice of the Legislative Assembly.

Adjourned.

A. E. Kennedy

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### Wednesday, the 19th day of October, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

75. The following Tenders were accepted by His Excellency the Governor with the concurrence of the Council.

John Nicholson for cutting &c. road from Pedder Inlet to copper Mine, Secretary Island at \$97 per mile.

C. Ochsner and Alexander Mackenzie for cutting &c. a mile trail from Goldstream to the Forks of Leech and Sooke Rivers at \$75 per mile.

John J. Cowley for cutting &c. a road from Shawnigan to Cowichan at \$78 per mile.

76. His Excellency the Governor signed a plan of a Townsite at Maple Bay.
77. The Council concurred in the approval of His Excellency the Governor of an outlay of from \$300 to \$500 for altering the deck of the steam dredge for Victoria Harbour improvement, to admit the machinery as recommended by the Acting Surveyor General in a memorandum dated 10th October 1864.
78. A letter was read from Messrs. Duncan and George dated 17th October 1864 applying to be allowed to cut timber on 1000 acres of land to the westward of Sooke Harbour.

The Council were of opinion that Messrs. Duncan and George should be informed that pending the decision of the Legislature upon the question of Crown Lands the Governor does not feel justified in taking any action in the matter.

79. A letter was read from Mr. Stephens dated 17th October 1864 proposing fees to be paid to the Acting Gold Commissioner for the survey of disputed boundaries of mining claims. A minute of the Acting Surveyor General thereon was also read.

The Council were of opinion that Mr. Stephens and the Acting Gold Commissioner should be informed that no outlay can be authorized on this head pending permanent Regulations and that parties disputing the boundaries of claims must take their own measures for proving their respective cases.

80. A letter was read from the Postmaster dated 12th October 1864 stating his inability to pass the account for the conveyance of Mails from Victoria to Comox by the "Emily Harris" without authority the Mails not having been carried according to contract.

The Council were of opinion that the account might be passed but that the Postmaster should give notice to the owner of the "Emily Harris" that the contract will be terminated at the end of the month. The Council were further of opinion that an offer should be made to the owners of the "Fideliter" to convey the Mails on the same terms as the "Emily Harris" till the end of the year when fresh Tenders will be called for.

81. A letter was read from the Acting Attorney General dated 13th October 1864 by which it appeared that although Mr. Cary late Registrar of Joint Stock Companies had registered the Britannia Quartz Mining Company, no fee appeared to have been paid by the Company nor had the registration been recorded.

The Council were of opinion that a copy of the certificate of registration should be sent to Mr. Cary and that he should be informed that no fee appears to have been credited to the public and requested to afford any information he may see proper in the matter.

82. A Petition was read from Mr. J. Nagle and others applying for the construction of the road from Ogden Point to Victoria. The Council were of opinion that Tenders should be invited for the work to the extent which the vote of \$1500 might cover.

83. A letter was read from Messrs. Lodge and Landale dated 17th October 1864 applying for reserves of land for coal mining purposes in the Cedar District.

The Council were of opinion that the applicants should be informed that pending the decision of the Legislative Assembly on the question of the Crown Lands the only conditions which can be offered are those contained in the Gazette Notice of 11th June 1864.

84. Certain Resolutions passed by the Legislative Assembly on the subject of the Union of the Colony with that of British Columbia were considered.

The Council were of opinion that these Resolutions should be laid before the Legislative Council as having passed the Legislative Assembly.

85. A letter was read from the Stipendiary Magistrate at Nanaimo dated 12th October 1864 pointing out difficulties relative to the collection of trades

licence duties at Nanaimo. The remarks of the Treasurer thereon were also read.

The Council were of opinion that the Assessor should be directed to visit Nanaimo periodically for the purpose of assessment and the Revisors likewise and that the Stipendiary Magistrate should be instructed to receive the duties.

Adjourned.

A. E. Kennedy

### Monday, the 31st day of October, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

86. The Council concurred in the issue by His Excellency the Governor of a special Commission for the trial of Indians in three cases of murder.

87. His Excellency the Governor called the attention of the Council to the fact that the Legislative Assembly had taken no action respecting the question of accepting the Crown Lands.

The following Despatches from the Secretary of State for the Colonies were read:

No. 27 dated 1st August 1864 directing the preparation and audit of accounts of Crown Revenue.

No. 32 dated 15th August 1864 with reference to the Civil List &c.

A proposed Message of His Excellency the Governor to the Assembly was read in the tenor of which the Council concurred.

88. A Despatch was read from the Governor of British Columbia dated 14th October 1864 relative to postage and postage stamps as between the two Colonies.

A letter from the Postmaster of Vancouver Island dated 27th October 1864 stating that no payments had been made to British Columbia on account of postage.

The Council were of opinion that a Board should be appointed to inquire into the subject.

89. A letter was read from the Acting Surveyor General dated 26th October 1864 with reference to the construction of the Land Proclamation together with the opinion of the Acting Attorney General thereon stating continuous personal residence of pre-emptors on their land to be requisite.

The Acting Attorney General was requested to prepare a notice on the subject for the Government Gazette.

90. A letter was read dated 19th October 1864 from Mr. P. J. Hall desiring to pre-empt certain lands.

The Council were of opinion that the lands sought being reserved no title could be given to them till the question of the Crown Lands should be settled

but that Mr. Hall might be permitted to occupy the land subject to any rules and regulations which might be laid down at a future time.

91. His Excellency the Governor with the concurrence of the Council accepted the following Tenders:

M. M. Titus to construct bridge at Swan Lake, Saanich Road for \$125.

Matthew McGowan to plaster Fisgard Lighthouse for \$360.

92. The Council concurred in the acceptance by His Excellency the Governor of the following Tenders:

Malcolm Munro to make Cedar Hill Road, Section 1, for \$1.<sup>69</sup>/<sub>100</sub> per lineal yard, and Cedar Hill Road, Section 2, for \$1.<sup>98</sup>/<sub>100</sub> per lineal yard.

*Adjourned.*

A. E. Kennedy

Nov. 23/64

### Wednesday, the 23rd day of November, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

*The Minutes of the last Meeting were read and confirmed.*

93. *His Excellency the Governor* stated that information had reached him that Mr. Richard Golledge, Acting Gold Commissioner at Sooke River had been guilty of conduct unbecoming an officer and a gentleman in having been, at his station, in a state of intoxication, and in having there played cards in a public drinking tent with a common prostitute.

The following letters on the subject were read:

Letter from the Acting Colonial Secretary to Mr. Golledge dated 21st November 1864 stating matters charged against him and affording him an opportunity of denying them.

Letter from Mr. Golledge in reply dated 21st November 1864 denying the charges.

Letters dated 22nd November 1864 addressed to Mr. Ernest R. Walker and Capt. Robert Owston inquiring whether they are aware of the facts alleged against Mr. Golledge.

Letters from Mr. Ernest R. Walker and Capt. Robert Owston in reply dated respectively 23rd and 22nd November 1864.

*His Excellency the Governor* stated that he had personally explained the charges to Mr. Golledge.

*Mr. Richard Golledge*, Acting Gold Commissioner, was called in.

*Mr. Ernest R. Walker* was called in.

The letter of the Acting Colonial Secretary to Mr. Golledge of 21st November 1864 was read.

*Mr. Golledge* admitted receiving this letter.

The letter of *Mr. Golledge* of 21st November 1864 was read.

*Mr. Golledge* admitted writing this letter.

The letter of the Acting Colonial Secretary to *Mr. Golledge* of 22nd November 1864 was read.

*Mr. Golledge* admitted receiving this letter.

The letter of the Acting Colonial Secretary to *Mr. Ernest Walker* of 22nd November was read.

*Mr. Walker* stated that he had received that letter.

*The Governor (To Mr. Walker)* Did you in answer to that letter write this letter, "I have the honor to acknowledge the receipt of your letter of yesterdays date and beg to state in answer thereto that I have seen *Mr. Golledge* in a state of intoxication and playing cards with a prostitute while resident at Sooke Mines and would testify to the same in the presence of *Mr. Golledge* if required."

A. I wrote that letter this morning.

Q. Have you anything to add to that letter.

A. Insofar as I have seen *Mr. Golledge* intoxicated and playing cards with a prostitute. The facts I refer to in that letter happened on one occasion. *Mr. Golledge* was intoxicated to judge by his actions and playing cards with a prostitute, a person named *Fanny Clarke*.

*Mr. Golledge* Who were present when you saw me in a state of intoxication in open day.

A. I did not say "in open day."

Q. Who were present.

A. There was *Wall* the man who keeps the tent.

Q. Anybody else.

A. *Captain Owston*.

Q. Any others.

A. A Miner named *Jack*, and *Richard Porter* I think—a man named *Draper*—*Dr. Hall* was there.

Q. And you saw me playing cards in the tent.

A. I saw you playing cards in the tent.

Q. With a prostitute.

A. With a prostitute.

Q. At what hour of the day was this.

A. I should imagine about half past nine or ten in the evening and later than that.

Q. Only on one occasion.

A. Only on one occasion I saw you playing cards with *Fanny Clarke*.

Q. Had you ever seen me intoxicated before.

A. It is difficult to say—it is the kindest thing to say of a man when he is like that to say that he is under the influence of drink.

*Acting Colonial Secretary* Would you say that *Mr. Golledge* was unmistakably under the influence of drink.

A. Yes.

Q. Have you any doubt that those persons must have been equally aware of the fact.

A. I should imagine so.

*The Governor* Who is Dr. Hall.

A. He is a medical man on the creek.

Q. This person, Fanny Clarke, is a person of notorious ill repute.

A. Yes—known I should imagine to the whole community as a prostitute.

*Acting Attorney General* You say that you saw Mr. Golledge intoxicated judging from his acts. What did he do on this occasion.

A. I think if a man puts up a bottle at 50 yards and offers to bet drinks with the crowd, if he did not hit it and not go anywhere near it—I go more from his language—bragging—I cannot remember exactly what he did say—he talked such nonsense, and allowed Fanny Clarke to call him such names as she did—she called him a little rat in public.

Q. How long were you there.

A. Four or five hours.

Q. How long did it continue.

A. It was going on when I left. I left after 12. Mr. Golledge was there when I went. He drank continually when I was there. He drank with me a good many times.

*Acting Colonial Secretary* Were you quite sober at the time.

A. I think so.

*Acting Attorney General* You saw him playing cards with Fanny Clarke.

A. Yes—at Euchre there were four persons. They were playing for an hour or two. I do not know what they were playing for—drinks I suppose.

*The Governor* You stated something about another occasion that Mr. Golledge was boasting of hitting a bottle at 50 yards.

A. He bet drinks all round that he would. It was either the morning of the same day or the morning of the next day.

Q. Are you in a position to say whether Mr. Golledge was then under the influence of drink.

A. I thought so and I think so still. The remark we made among ourselves was “Mr. Golledge is tight again.”

Q. Was “betting drinks all round”, with a number of people.

A. There were men standing round the bar. Draper was one. Wall was one.

*Acting Colonial Secretary* Have you had any disagreement with Mr. Golledge.

A. No, I do not think we have. I have no ill feelings to him. We have often had a glass of beer together.

*Mr. Golledge* How many drinks did you take that morning when you came to my tent to carry out the bet about the bottle.

A. I do not know I am sure—about four or five.

Q. Where was I.

A. Outside your tent.

Q. Did you see me shoot.

A. Yes. I said "What a muff you are."

*Acting Colonial Secretary* Can you call to mind any language used by Mr. Golledge.

No.

Q. What was his conduct to the prostitute.

A. Playful.

*The Governor* This place where Mr. Golledge was with the prostitute was a public place.

A. Yes. An open bar.

Q. You stated four persons were playing cards. Can you state who the other two were.

A. I am not certain.

*Mr. Golledge* stated that he had no further questions to put to Mr. Walker.

*Mr. Walker withdrew.*

*Captain Robert H. Owston* was called in and examined as follows:

*The Governor* Will you inform me whether you received a letter to this purport (*reading the letter of the Acting Colonial Secretary to Captain Owston of the 22nd November 1864*).

A. I received such a letter.

Q. Did you write this letter in reply, to the Acting Colonial Secretary, "In answer to your letter of this date I have the honor to state for the information of His Excellency the Governor that I have seen Mr. Golledge, the Acting Gold Commissioner for Sooke, in a state of intoxication at a public drinking tent on the creek, I have also seen the same official playing at cards with a prostitute in the same tent."

A. I did.

Q. Can you recollect the names of any other persons of character or credit who were present on that occasion.

A. I cannot exactly.

Q. Who keeps the drinking tent.

A. Wall.

Q. What was your reason for supposing that Mr. Golledge was in a state of intoxication on that occasion. How did you judge of it.

A. From his conduct and manner.

Q. At what hour was this.

A. In the evening late.

Q. Were there a number of people in the tent at the time.

A. A number outside the tent. The tent was thrown back and there was a fire and seats in front.

Q. Was Mr. Golledge on that occasion playing cards with anybody.

A. Yes I believe he was on that same occasion. I certainly did see him playing cards. I will not be quite certain whether it was on that occasion.

Q. But you saw him playing cards in a public tent.

A. Yes.

Q. Who was the woman he was playing cards with.

A. Fanny Clarke.



- Q. Is that Fanny Clarke a prostitute by repute.
- A. I believe so certainly.
- Q. You consider her so and other people do.
- A. Yes and she considers herself so.
- Q. Is she a notorious character.
- A. Oh yes. She was up at Cariboo this year.
- Q. Have you any reason or object in making these statements except being called upon by me to do so.
- A. None whatever.
- Q. Have you any doubt on the occasion that you state that Mr. Golledge was in a state of intoxication.
- A. Not the slightest.
- Q. Have you seen him in that state more than once.
- A. I have seen him what would be called intoxicated on more than one occasion.
- Q. Under the influence of drink.
- A. Under the influence of drink.
- Q. Were you present on any occasion when Mr. Golledge was practising with a pistol at a bottle.
- A. I was.
- Q. Was he betting on that occasion.
- A. He was. He made a wager with myself that he would hit the bottle.
- Q. What was this wager—for money or drink.
- A. It was for drinks.
- Q. Was Mr. Golledge sober on that occasion.
- A. I could not say that he was sober on that occasion. That was in the morning.
- Q. What was your impression from his conduct on that occasion. Was it the conduct of a steady sober man.
- A. I should not say he was intoxicated. He might have been a little nervous from the effects of the previous night.
- Q. Were there many people about on that occasion.
- A. A great many. It was about noon.
- Q. And this was at the immediate scene of Mr. Golledge's official duties.
- A. He loaded the pistol in his tent.
- Q. But it was at the immediate scene of his duties.
- A. Yes.
- Q. Who were the people that were standing about.
- A. Miners and labouring men and this Fanny Clarke was there too looking on.
- Acting Attorney General*—What did you see Mr. Golledge do particularly in the evening when you say he was intoxicated. Did you see him drink.
- A. I cannot say the quantity. I did not notice what amount he drank.
- Q. What made you think he was intoxicated. What did he say or do.
- A. I saw him attempt to jump.
- Q. What was the result of that.
- A. A fall. He made a very poor jump and fell back.

Q. Was he speaking in a way to attract your attention.

A. He talked very foolishly. He said he wanted ten dollars out of me for a ditch we cut. He said Government must have it. I did not think it right to speak about it after business hours.

Q. Did he talk or shout much.

A. No. He talked at random. He wanted to make some absurd bets—what he could do in jumping and one thing and another—shooting.

Q. With whom were the bets made.

A. He offered to make them generally and when any one offered to take him he declared off.

*Colonial Treasurer* Can you state the circumstances under which this Fanny Clarke was in the tent. What brought her there.

A. I do not know. I found her there.

*Acting Attorney General* Did you positively see Mr. Golledge playing cards with Fanny Clarke.

A. Yes.

Q. For how long.

A. I cannot say. I did not remain long.

*The Governor* Do you happen to know what they were playing for.

A. I believe for drinks but I do not positively know. That is my impression. I believe I heard her say so.

Q. Can you remember how many were playing cards.

A. A party I fancy. Those two were playing together.

Q. You heard him conversing with this woman.

A. Yes.

Q. And you have no doubt that he was associating with that woman in that tent and playing cards with her.

A. Certainly he was.

Q. How far is that tent from Mr. Golledge's office where he transacts his official business—in yards.

A. It is the other side of the creek. I should say about 45 to 50 yards.

*Acting Colonial Secretary* Have you any doubt whatever of the state that Mr. Golledge was in on that evening.

A. I have not the slightest doubt.

*Mr. Golledge* How many people were present when I made the jump.

A. I really cannot say. There were several there. There was a man holding a lantern and there were several more looking on.

*Acting Surveyor General*—Have you any cause of disagreement or enmity to Mr. Golledge.

A. No.

*The Governor* Would you have made any statement in reference to this subject if you had not been applied to formally by me to do so.

A. Certainly not. In fact I have been asked to sign papers with regard to Mr. Golledge on the creek and have always declined to do so.

*Mr. Golledge* stated that he had no further questions to put to Captain Owston.

*Captain Owston withdrew.*

*His Excellency the Governor* inquired of *Mr. Golledge* what he wished to say in his defence after hearing the evidence.

*Mr. Golledge* denied being intoxicated and also denied that he had played at cards with Fanny Clarke in the tent, but admitted that he had played at Cards with her in the immediate vicinity of it and desired to have, *Mr. Draper* *Mr. Wall*, and *Dr. Hall* called in his defence.

*Mr. Golledge was directed to withdraw.*

The Council deliberated and affirmed the following Resolution, the Governor, the Acting Colonial Secretary, and the Acting Surveyor General voting for it, and the Acting Attorney General and the Colonial Treasurer voting against it:

The Council having heard the evidence adduced in reference to *Mr. Golledge's* conduct together with what he has stated in his defence is of opinion that there are sufficient grounds for his suspension pending the decision of Her Majesty's Secretary of State for the Colonies.

*Adjourned.*

A. E. Kennedy

Nov. 28/64

### Monday, the 28th day of November, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

94. A letter was read from His Honor the Chief Justice dated 24th November 1864 reporting sentence of death passed upon, and enclosing his notes of the trial of, Quoquilimot and Stashal, both Indians, for the murder of Mary Smith and her child, Tax, Neach, and Lo-lo-ax, all Indians, at Saltspring Island.

The Council were of opinion that it was not expedient to interfere with the course of the law.

95. A letter was read from the Acting Attorney General dated 6th October 1864 together with a letter from *Mr. J. D. Pemberton* late Surveyor General dated 17th October 1864 and a Minute of the Acting Attorney General thereon dated 14th November 1864 recommending in respect of a suit with the Hudson's Bay Company that the Company should be applied to for an account in a proper and formal manner.

The Council were of opinion that the course proposed by the Acting Attorney General should be adopted.

96. A Memorandum was read from the Acting Surveyor General dated 25th November 1864 with reference to certain lands the payments for which were in arrear.

His Excellency the Governor stated that he had postponed the sale of such lands till February 1865 in which course the Council concurred.

Adjourned.

A. E. Kennedy

Nov. 29

### Tuesday, the 29th day of November, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

97. His Excellency the Governor with the concurrence of the Council accepted a Tender from M. Munro for the erection of two bridges at Albert Head for \$2.<sup>95</sup>/<sub>100</sub> per lineal foot.

98. Mr. Richard Golledge Acting Gold Commissioner was called in. Mr. Henry Kibblewhite was called in and examined as follows:

The Governor. You have been called upon I believe by the Government to state what you know in reference to some acts of Mr. Golledge.

A. Yes

Q. Have you any difference or animosity towards Mr. Golledge of any sort or description.

A. None whatever.

Q. You keep a house of public accommodation on the road between Victoria and Leech River.

A. I do.

Q. Do you remember seeing Mr. Golledge on or about the 6th or 7th of November.

A. On or about that time.

Q. He came to your house about that day.

A. He did.

Q. Was there any person in company with him.

A. Yes. They came in together. I do not know whether they were travelling together. Mr. Golledge was I believe on his way to Victoria.

Q. The person with him was a woman named Fanny Clarke.

A. Yes.

Q. She came into your house together with him.

A. Yes.

Q. How long did they remain in your house.

A. I cannot say.

Q. Did they leave it together.

- A. They did.
- Q. How were they proceeding. Were they riding or walking.
- A. To the best of my knowledge Mr. Golledge was walking and Fanny Clarke was riding.
- Q. How was the woman dressed at that time.
- A. She had on a pair of my trowsers.
- Q. Partly in male attire.
- A. Yes.
- Q. Do you know anything of the character of that woman by repute or otherwise.
- A. I believe she is well known as a common prostitute. I do not think she makes any secret of it.
- Q. Do you know when Mr. Golledge returned after that visit to Victoria.
- A. He returned the same week.
- Q. Can you tell me whether they had anything to drink in your house on that occasion.
- A. I think they had a glass of porter.
- Acting Colonial Secretary. Were Mr. Golledge and the woman sober on that occasion.
- A. Yes.
- Mr. Golledge admitted the correctness of Mr. Kibblewhite's evidence, and stated that he had no questions to put to him.
- Mr. Kibblewhite withdrew.
- Mr. Christian Ochsner was called in and examined as follows.
- The Governor. You are the Contractor on the road between Victoria and Leech River.
- A. Yes.
- Q. You have been called upon I believe by the Government to state what you know in reference to some part of Mr. Golledge's conduct.
- A. Yes I was.
- Q. Have you any personal feeling or animosity towards Mr. Golledge.
- A. Not at all.
- Q. You would not have made any statement unless you had been called upon so to do.
- A. No. I was sorry I had to come.
- Q. Did you meet Mr. Golledge upon that road coming towards Victoria at any period lately.
- A. I did.
- Q. About what time.
- A. Well at the beginning of this month. I could not exactly say—between the 6th and 13th of this month.
- Q. Was Mr. Golledge riding or walking.
- A. He was on a horse.
- Q. What kind of saddle had he upon that horse.
- A. A lady's saddle—a side saddle.
- Q. Was there anybody with him on that occasion.
- A. There was a female called Fanny Clarke walking behind.

- Q. How was she dressed on that occasion.
- A. In man's attire—in man's clothing.
- Q. Had you seen that horse before.
- A. I had seen it going up to Leech River. The horse was then behind a wagon and she was riding in the wagon.
- Q. At what hour of the day was it that you say you met them.
- A. I should say between 12 and 3. I walked right out from Victoria in the morning to the place where I met them.
- Q. Can you state whether Mr. Golledge was sober or not at that time.
- A. I could not. I should think he was.
- Q. How far was it from Mr. Kibblewhite's house.
- A. About as near as I could say a mile and a quarter.
- Q. Do you know what is the character of this woman Fanny Clarke.
- A. She bears a very bad character.
- Q. She is by repute a notorious prostitute.
- A. Yes.
- Acting Surveyor General* Was it before or after I walked through to show you the bridges at Leech.
- A. It was before.
- Acting Colonial Secretary* Did you stop and speak to Mr. Golledge and the woman.
- A. Mr. Golledge walked on without stopping. The woman stopped for a moment and asked if the steamer was in. That was all that passed.
- Mr. Golledge* admitted the correctness of Mr. Ochsner's evidence and stated that he had no question to put to him.
- Mr. Ochsner withdrew.*
- Mr. R. C. Portway* was called in and examined as follows:
- The Governor* Have you been called upon by the Government to state what you know in reference to some part of Mr. Golledge's conduct.
- A. Yes.
- Q. Would you have made any statement if you had not been called upon so to do.
- A. I should not if I had not been called upon.
- Q. Did you see Mr. Golledge in Wall's drinking tent at any period lately.
- A. Yes.
- Q. How long ago.
- A. About three weeks.
- Q. What was he doing on that occasion.
- A. He was playing cards.
- Q. Whom was he playing cards with.
- A. With Fanny Clarke.
- Q. About what o'clock was that.
- A. About six in the evening as nearly as I can recollect.
- Q. What is the character of this woman Fanny Clarke.
- A. She is a prostitute by repute.
- Q. Did you see Mr. Golledge again during that evening.
- A. I saw him after dinner the same evening at a later hour.

- Q. What was he doing then.
- A. He was having another game of cards.
- Q. Was it with the same woman.
- A. The same and some more—there were four playing together.
- Q. Do you know what they were playing for on the first occasion.
- A. For drinks.
- Q. Did Mr. Golledge make any remark at the end of the game.
- A. "I have lost" I believe he said.
- Q. Did he order drinks then.
- A. Yes. I will not say that he ordered them but all hands came and had drinks at his expense.
- Q. Those present.
- A. Yes.
- Q. Did Mr. Golledge return again to the tent after dinner.
- A. Yes.
- Q. And played again.
- A. And played again.
- Q. What o'clock was it when you last saw Mr. Golledge that night at the tent.
- A. I could not say—about midnight I suppose.
- Q. Was he then sober or drunk or in what condition was he.
- A. I should not say sober but he was not drunk.
- Q. He was obviously under the influence of drink.
- A. Yes. He was perfectly able to do anything.
- Q. Did you see him drinking yourself in the course of the evening.
- A. Yes.
- Q. Have you seen Mr. Golledge in that tent on other occasions.
- A. Once or twice before.
- Q. Was it a public drinking tent open to the public.
- A. Yes.
- Q. Is this tent in immediate proximity to Mr. Golledge's place of business.
- A. It is on the other side of Sooke River.
- Q. What is the distance of it.
- A. It is from 50 to 100 yards from Mr. Golledge's place of business.
- Mr. Golledge* denied the truth of *Mr. Portway's* evidence but declined to put any question to him.
- Mr. Portway* withdrew.
- Mr. Prior A. Simon* was called in and examined as follows.
- The Governor* You have been called up by the Government to state what you know in reference to some portion of *Mr. Golledge's* conduct.
- A. Yes.
- Q. Did you see *Mr. Golledge* about the 3rd of November at Bacon Bar.
- A. I did.
- Q. Where did you see him on that occasion.
- A. At our store. It is a public house.
- Q. About what o'clock was that.
- A. About four o'clock in the afternoon.

Q. Was he playing cards on that occasion.

A. He was.

Q. Who was he playing with.

A. A man who lives round there and has a claim in the neighbourhood—a miner.

Q. Was Mr. Golledge sober on that occasion.

A. Mr. Golledge in my opinion was not exactly sober but I could not say he was drunk with the excitement at the time. He had been drinking but far from trying to create any disturbance he tried all he could to quell it. There was a man came in who was very much the worse for liquor and wanted to have a fight and Mr. Golledge intercepted and prevented a disturbance in the house.

Q. Had Mr. Golledge on that occasion a sparring match with anybody.

A. He had a sparring match with the man he had been playing with—the man he was playing with proposed that they should spar for fun and Mr. Golledge consented—and they stood up and I believe Mr. Golledge hit him first and this man being the worse for liquor got out of temper and it was on this occasion that Mr. Golledge intercepted and tried to keep the peace.

*Acting Colonial Secretary* Was the man that was drunk the same man that Mr. Golledge was playing cards with.

A. Yes.

*The Governor* Have you any ill feeling or animosity towards Mr. Golledge of any description.

A. Not the slightest.

*Acting Surveyor General* How far is Bacon Bar from the Forks.

A. About a mile and five eighths from Mr. Golledge's place of business.

*Mr Golledge* Was it four o'clock when this occurred.

A. I should think it was about four o'clock. Mr. Golledge came there about twelve o'clock and it was about four o'clock when this occurred. It was dusk.

*The Governor* Was Mr. Golledge there during the whole of that period.

A. Yes.

*Mr. Golledge* You say I hit the man.

A. You tapped him on the nose the first time. The proposal was that whoever tapped the other on the nose first the one that was tapped on the nose should pay for drinks.

Q. Was that proposal made by me.

A. Made by this other man.

*The Governor* But Mr. Golledge acquiesced in that proposal.

A. Mr. Golledge acquiesced.

*Mr. Golledge* stated that he had no further question to put to Mr. Simon.

*Mr. Simon withdrew.*

His Excellency the Governor inquired whether Mr. Golledge had any remarks to make upon the evidence and informed him that if he desired to make any statement he might do so either verbally or in writing.

Mr. Golledge stated that he had no remarks to make.

Mr. Golledge was directed to withdraw.



His Excellency the Governor put it to the Council to say whether Mr. Goll-edge was now sober.

The Council were of opinion that Mr. Goll-edge was not sober—that he was under the influence of drink.

Adjourned.

A. E. Kennedy

Monday 5th

### Monday, the 5th day of December, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

99. The Council having considered "A Bill to appropriate the sum of £1200 sterling per annum from the General Revenue of the Colony for the salary of a Chief Justice passed by the Legislative Council and Assembly were of opinion that it should be reserved for the Assent or otherwise of Her Majesty.

100. A letter was read from the Commissioner of Police dated 30th November 1864 enclosing the resignation of Mr. H. Smith, Superintendent of Police.

The Council were of opinion that under the circumstances no further proceedings should be taken against Mr. Smith.

101. A letter was read dated 29th November 1864 from Mr. J. Copland, enclosing a letter signed "J. Waddell" charging Mr. Smith, late Superintendent of Police, and Mr. Green, Attorney, with attempting to defeat justice in respect of the robbery at the bank of Mr. Macdonald.

The Council concurred with His Excellency the Governor in the propriety of merely acknowledging the receipt of this letter.

102. A letter was read from the Acting Gold Commissioner dated 3rd November 1864 recommending that privileges in respect of the right to hold additional claims should be granted to discoverers of new diggings &c.

The Council were of opinion that privileges similar to those granted in British Columbia should be granted.

103. His Excellency the Governor with the concurrence of the Council accepted the following Tenders.

From William Hick to construct a road from Somenos to Maple Bay for \$100 per Mile.

From John Nicholson for partial repairs of East Saanich Road for \$2.<sup>27</sup>/<sub>100</sub> per lineal yard.

104. In reference to the necessity of raising additional Revenue the Council having considered the rate of duty paid on sales at auction, namely  $\frac{1}{4}$  per cent, were

of opinion that the expediency of raising the duty to 2½ per cent should be considered with the next Estimates.

105. In reference to a letter from Mr. J. D. Pemberton dated 2nd September 1864 submitted by the Acting Surveyor General relative to Schmutz an Indian disabled in the service of the Government, the Council were of opinion that in order to meet this and similar cases a sum should be placed on the Estimates for 1865 under the head of miscellaneous Charitable Allowances.
106. With reference to "A Bill relating to the office of Coroner" passed by the Legislative Assembly, the Council were of opinion that the consideration of it by the Legislative Council should be deferred until the course of action with regard to it should have been determined by this Council.

Adjourned.

A. E. Kennedy

Dec. 20/64

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### Tuesday, the 20th day of December, 1864

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed .

107. A Bill relating to the office of Coroner passed by the Legislative Assembly was considered.

The Council were of opinion that the Bill should be rejected by the Legislative Council and that a new Bill should be prepared by the Acting Attorney General.

108. A Despatch was read from the Secretary of State for the Colonies No. 39 dated 29th September 1864 approving amendment of "The first Telegraph Act 1864" in respect of monopoly of telegraphic communication conferred on California State Telegraph Company.

The Acting Attorney General was directed to prepare a Bill for the purpose.

109. A Despatch was read from the Secretary of State for the Colonies No. 40 dated 29th September 1864 approving the writing off from the public accounts, of the defalcations of Mr. J. Nagle, late Harbour Master.
110. The Council concurred in the acceptance by His Excellency the Governor of a Tender from John Morris to make a road from Craigflower to Burnside for \$175 per lineal mile.
- 111 & 112. A letter was read from the Stipendiary Magistrate at Nanaimo dated 17th December 1864 relative to disturbances caused by Indians in the Comox District.

The Council were of opinion that a sum should be placed on the Estimates for 1865 for the maintenance of a Stipendiary Magistrate at Comox.

113. His Excellency the Governor with the concurrence of the Council accepted the following Tender for the service of the year 1865.

Messrs. Hutchinson and Co. to supply Lighthouses with provisions for \$900, coals for \$450, and water at 8 cents a gallon.

Messrs. Wallace and Allen to print the Government Gazette at 80 cents per page of ordinary matter and \$3.<sup>45</sup>/<sub>100</sub> per page of tabular matter.

Messrs. Hutchinson and Co. to supply the Government with meat at 9½ cents per pound and vegetables at 4 cents per pound.

Mr. D. Kavanagh to supply coal at \$11 per ton and wood at \$3 and \$5 per cord.

Messrs. Wilson and Murray to supply bread and groceries at various prices.

Mr. T. B. Shaw to convey Mails weekly between Victoria and Saanich for \$300.

Mr. H. E. Wilby to convey Mails between Victoria and Esquimalt daily Mail for \$3 per diem and express Mails for \$6 and \$2 subject to the expense being voted by the Legislature.

114. The Council were of opinion that the consideration of Tenders for the conveyance of Mails between Victoria and Sooke Mines should stand over till the Estimates for 1865 should be passed.

115. A letter was read from Messrs. Henderson and Burnaby dated 19th December 1864 proposing that the Government should cancel the lease of certain land at Nanaimo to Mr. A. G. Horne, that as Trustees of the estate of Mr. Horne they should pay the rent up to the end of the current quarter, that they should formally convey the building erected on the land to the Government, and that the Government should pay for the building \$1500 as soon as a vote for that purpose should be passed.

The Council were of opinion that the proposal should be accepted.

Adjourned.

A. E. Kennedy

### Wednesday, the 28th day of December, 1864

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney-General, The Colonial Treasurer, The Acting Surveyor General.

The Minutes of the last Meeting were read and confirmed.

116. The Council concurred in the acceptance by His Excellency the Governor of the Tender of the Vancouver Island Coal Mining and Land Company to convey Mails during 1865 between Victoria and Nanaimo and Comox and intermediate places.

117. A Despatch from His Excellency the Governor to the Secretary of State for the Colonies No. 50 dated 1st August 1864 relating to the opinion of the Chief Justice that real property cannot be alienated for the payment of taxes thereon,

and the reply of the Secretary of State thereto No. 50 dated 27th October 1864 giving the opinion of the Law Offices of the Crown that real property may be so alienated, were read.

The Council were of opinion that the Treasurer should be directed to make out a list of defaulters in respect of real estate tax and hand the same to the Sheriff for recovery.

118. A Despatch from His Excellency the Governor to the Secretary of State for the Colonies No. 46 dated 14th July 1864 relative to the reservation of Assent by the Governor to "A Bill respecting Barristers and Attorneys" was read together with the reply of the Secretary of State No. 54 dated 29th October 1864 authorizing the Governor to give his assent.

The Council were of opinion that the Bill should not be assented to in view of the passing of another Bill now nearly through the Legislative Council.

119. The following Despatches from the Secretary of State for the Colonies were read:

No. 47, dated 20th October 1864 approving the acceptance of the resignation of Mr. G. H. Cary, Attorney General.

No. 45, dated 20th October 1864 approving the convening of the Legislature by the Governor.

No. 43, dated 20th October 1864 acknowledging receipt of Address of Governor on opening Legislature.

No. 53, dated 28th October 1864 approving provisional appointment of Mr. T. L. Wood to be Acting Attorney General.

No. 56, dated 29th October 1864 with reference to an application of Mr. D. B. Ring to be appointed Attorney General.

No. 46, dated 20th October 1864 approving appointments of Acting Gold Commissioner and Acting Stipendiary Magistrate at Sooke.

No. 58, dated 1st October 1864 relative to Bills drawn on the Crown Agents for the Colonies for £4000 on account of the Road and Harbour Loan.

120. A Despatch from the Secretary of State for the Colonies No. 49 dated 26th October 1864 relative to a proposal to divide into two the Diocese of British Columbia was read.

The Council were of opinion that such a division of the diocese was desirable.

121. A letter was read from the Acting Attorney General dated 21st December 1864 with a correspondence enclosed showing that the Hudsons Bay Company had refused to give an account applied for of sales of certain lands by them.

The Council were of opinion that pending a reference of the matter to the Secretary of State for the Colonies by His Excellency the Governor and with a view to avoid delay, legal steps if necessary should be taken to compel the disclosure of the information sought.

122. The Council having considered the subject were of opinion that a supply of postage labels of the value of five and ten cents each should be procured from England.

123. A Petition from Inhabitants of Nanaimo praying for the establishment of a small debt Court there was considered.

The Council were of opinion that a Measure for this purpose was desirable.

124. A letter was read from the Acting Town Clerk of Victoria dated 20th December 1864 enclosing a Resolution of the City Council requesting the Government to pay the second instalment of the loan from the Bank of British North America due on the 31st instant amounting to \$10170 including interest for one year.

The Council were of opinion that in view of an outstanding balance due by the City to the Government of \$6982 and of the present state of the finances of the Colony the Government were wholly unable to comply with the request of the Corporation to pay to the Bank of British North America the amount of the Debentures falling due on the 31st December 1864, viz. \$10,170.

125. The Council having considered a draft Bill to amend the First Telegraph Act 1864 were of opinion that it should be introduced into the Legislative Council forthwith.

Adjourned.

A. E. Kennedy

### **Tuesday, the 10th day of January, 1865**

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

1. Two letters were read from the Chief Justice dated 28th December 1864 respecting the preparation of Returns relative to Bankruptcy and Probate and in reference to the non production by the Acting Registrar of the Supreme Court of vouchers and other documents respecting the estates of deceased persons administered by the Registrar acting as Official Administrator.

The Council considered and settled the draft of a letter to be written to the Chief Justice calling upon him to state whether or no he will produce the required documents.

Adjourned.

A. E. Kennedy

### **Friday, the 13th day of January, 1865**

Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

2. The proposed Estimates of Revenue and Expenditure for 1865 were considered together with a letter from the Acting Colonial Secretary dated 12th January 1865 in explanation thereof.

The Council were of opinion that the Estimates should be laid before the Legislature.

3. His Excellency the Governor with the concurrence of the Council accepted the Tender of the Vancouver Coal Mining Company to supply about 1200 tons of coal for the use of the tug and dredger about to be employed in Victoria Harbour.

Adjourned.

A. E. Kennedy

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**Monday, the 30th day of January, 1865**

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Present: His Excellency the Governor, The Acting Colonial Secretary, The Acting Attorney General, The Colonial Treasurer, The Acting Surveyor General.

*The Minutes of the Meetings of 28th December 1864, and of the 10th and 13th January 1865 were read and confirmed.*

4. His Excellency the Governor with the concurrence of the Council assented to "An Act respecting Barristers and Attorneys at Law."

The Acting Attorney General was instructed to confer with the Chief Justice with a view to additional Rules of the Supreme Court being prepared in pursuance of this Act.

5. His Excellency the Governor brought before the Council certain Resolutions passed by the Legislative Assembly in reference to the State of the Colony and recommending union with the Colony of British Columbia.

The Council were of opinion that these Resolutions should be acknowledged and action thereon deferred.

6. A Bill respecting the Medical Board and Practitioners in Medicine and Surgery passed by the Legislative Assembly was considered.

The Council were of opinion that the course to be adopted with reference to this Bill in the Legislative Council should be left to the discretion of individual Members.

7. A Petition from Sarah Rowland, and letters from Thomas Estall and from W. P. Sayward, John Jackson, and T. B. Shaw dated respectively 23rd November and 26th November 1864 were read, and also a further letter from Sarah Rowland dated 12th January 1865 complaining that Herman Rolant the Contractor for building the Supreme Court House had not paid for the material furnished.

The Council were of opinion that the question treated of in these papers arose and appeared to have been adjusted during the Government of His Excellency's Predecessor and that His Excellency could not undertake to re-open or review it.

8. A Memorandum of the Acting Surveyor General dated 19th January 1865 was read enclosing a plan for baths and wash house proposed to be erected at the Gaol Victoria at an estimated cost of \$425.

The Council approved of the work being undertaken.

Adjourned.

A. E. Kennedy

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