

**A HISTORICAL AND LEGAL STUDY OF SOVEREIGNTY
IN THE CANADIAN NORTH: TERRESTRIAL
SOVEREIGNTY, 1870-1939**

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ISBN 978-1-55238-774-0

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Whaling and the Yukon Gold Rush

Although Canada undertook to organize her northern territories in 1895, this was done in such haphazard and erratic fashion that there were continuing doubts as to the legality and effectiveness of various aspects of the action taken. In addition, there were circumstances relating to the activities of foreign states and nationals which contributed to Canada's growing concern over the status of these northern regions.

Foreign Whalers in the North

It appears that the first whalers in the Arctic waters west of Greenland were Dutchmen who began to move into Davis Strait from the waters east of Greenland in or about 1719, after the Spitsbergen whaling industry had begun to decline.¹ Later in the century they were joined by British whalers who, after a revival of British Arctic whaling about mid-century, began to move into Davis Strait starting in 1773. The British gradually took over Arctic whaling from the Dutch, not only in this strait but in northern waters generally, and by the end of the Napoleonic Wars had practically completed the process. During these years parliamentary legislation regulated and supported the British industry, most notably in a 1786 statute which consolidated and revised former acts and became the fundamental law on the subject.² Although William Baffin had observed large numbers of whales in northern Baffin Bay during his Arctic voyage of 1616 and had recommended that a whaling enterprise be undertaken there,³ for fully two hundred years afterwards the whalers did not go beyond Davis Strait and the coastal waters of southern Greenland. Ross and Parry finally showed them the way into Baffin Bay and Lancaster Sound in 1818 and 1819. An era of great activity followed, and the first half of the nineteenth century saw the high tide of British Arctic whaling. During this entire period the only kind of vessels used were sailing ships. The steamship was tried for whaling in northern waters for the first time in 1857, and steam quickly replaced sails, the transfer being practically completed within two decades. The boom in Arctic whaling was followed by a period of doldrums, so serious that by about 1875 English whalers had virtually abandoned the industry, although the more persistent and enterprising Scotsmen continued and in some cases did well. American whalers began to operate in Davis Strait as early as 1732, but later in the century they deserted this area and did not return until 1846. Thereafter they concentrated their activities on the west side of the strait, especially Cumberland Sound, where Chief Mate Buddington initiated the

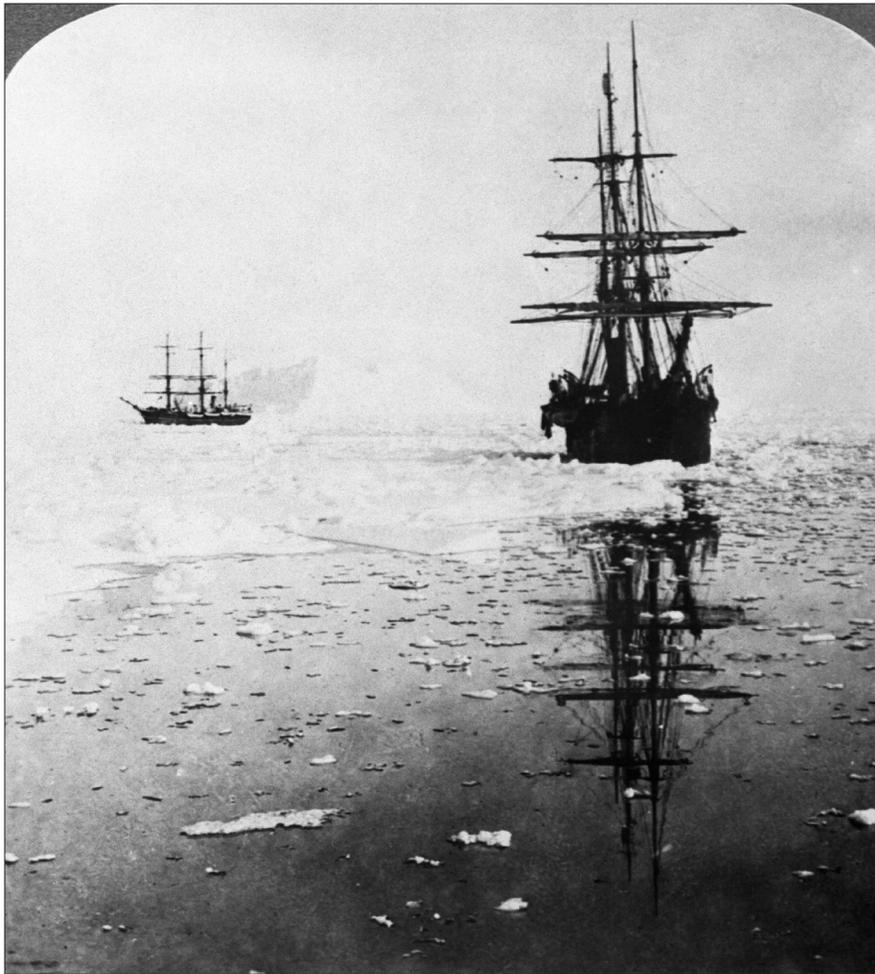


FIGURE 4-1:
 WHALERS *DIANA*
 AND *NOVA ZEMBLA*,
 DEXTERITY
 HARBOUR, BAFFIN
 LAND, 1899.
 GLENBOW NA-1518-1

practice of wintering on the whaling “grounds” in 1853.⁴ The Americans eventually transferred their own attention to Hudson Bay and left Davis Strait to the Scots, who began to develop “land stations” on Baffin Island, maintaining permanent posts operated inexpensively by a few whites with Inuit help.

The Hudson’s Bay Company (HBC) attempted to establish a whaling industry in Hudson Bay at an early stage, but their efforts were spasmodic and generally on a small scale. It concentrated its initial efforts in the Churchill River region, and a small quantity of white whale blubber was shipped to England as early

as 1689 – the year of the company’s first attempt to establish a post on that river.⁵ In later years whaling was carried on periodically from several of the company’s posts around the bay, and also in the waters north of Churchill, but it never assumed the important role that early company enthusiasts had envisaged.⁶ John Rae told of the large numbers of whales in the northwestern part of the Hudson Bay in his accounts of his expeditions of 1846–47 and 1853–54, and thus helped to publicize the possibilities of whaling in this region.⁷

Two American whalers entered Hudson Bay in 1861 and apparently wintered there,

thus initiating American activity which virtually monopolized whaling in the bay. By 1864 there were fifteen American whalers in Hudson Bay. One of them, the *Pioneer*, returned with what was described as the most profitable cargo ever obtained by an American whaler.⁸ The American practice was to winter in the bay, and this necessitated provisioning their ships for at least two seasons. After the 1870s, however, whaling in both Davis Strait and Hudson Bay went into decline. By 1906, British whaling in Canadian Arctic waters had practically ended.⁹ American whaling in Hudson Bay had also become inconsequential, with William Wakeham reporting only three American ships there in 1897,¹⁰ and Albert Peter Low one in 1903–4.¹¹

American whaling north of Bering Strait began in the 1840s, with the successful Arctic cruise of the Sag Harbor bark *Superior*, and developed rapidly thereafter.¹² At first most of the ships were based in New England ports, but San Francisco became a whaling port in 1850 and after the Civil War became the principal base for whaling in the North Pacific and Western Arctic.¹³ The first whalers ventured to the east of Point Barrow in 1854, and in 1889–90 the schooner *Nicoline* of San Francisco began the practice of wintering in the region by spending that winter at Elsom Bay, just east of Point Barrow. The same ship moved eastward and wintered the next year at Canada's Herschel Island, in company with two new arrivals from San Francisco, the *Grampus* and the *Mary D. Hume*.¹⁴

Herschel Island became the winter rendezvous for American whalers in the western Arctic, with as many as fifteen steam and sailing ships spending the season there together. Captains and officers (some with wives along), the crews, and local Inuit combined forces to create a "Gay Nineties" atmosphere vastly different from, but not unworthy of, more

populous southern centres. The island also became the local headquarters for whaling, and from it the whalers penetrated eastward along the coast to Amundsen Gulf and across to Banks Island. The general decline in whaling soon began to affect this region as it affected others, once substitutes for both whalebone and whale oil came into common use. Soon after the high tide of the 1890s, American whaling in the Beaufort Sea began to lose its importance, and within a few years it became almost non-existent.¹⁵

One of the first Canadian officials to become concerned about the unregulated activities of foreign whalers in Canada's northern waters was Lieutenant A. R. Gordon. In his reports on his voyages of 1884, 1885, and 1886 (described in chapter 2), he argued that the waters of Hudson Bay were wholly Canadian. Therefore, he urged that American whaling and fishing in the bay and strait should be strictly supervised, with regulations imposed, a levy of customs duties, and an annual patrol by a Canadian government ship.¹⁶

On 16 April 1888, the following exchange took place in the House of Commons between Guillaume Amyot, the Conservative member for Bellechasse, and Minister of Marine and Fisheries George Eulas Foster:

Mr. Amyot asked, Whether it is the intention of the Government to prevent the whale fishery from being carried on during a certain period in Hudson Bay and vicinity? In case permission is granted to foreigners to engage in such fishery in Hudson Bay and vicinity, whether it is the intention of the Government to impose a license fee upon each vessel so engaged, and to prescribe the

method in which such fishery shall be conducted?

Mr. Foster. It is not the intention of the Government to take any steps in the direction at present....

Mr. Amyot asked, Whether it is the intention of the Government to lease out the salmon rivers emptying into the Hudson Bay or in its vicinity?

Mr. Foster. That is under the consideration of the Government.¹⁷

It would appear that Amyot was well acquainted with Gordon's voyages, since his questions followed very closely a summary of recommendations Gordon submitted in his report on his expedition of 1886.¹⁸ The lack of official concern suggested by Foster's first answer would undergo considerable change before long.

Lieutenant-Governor John Schultz of Manitoba and Keewatin also became worried at a comparatively early stage over the activities of foreign whalers in Canada's northern waters. He mentioned the matter frequently in his reports and seems to have been largely responsible for bringing it to the attention of the authorities in Ottawa. In his concluding report for 1890, for example, he took note of "a decrease of walrus, seal and whale off the east and north-east sea coast of the district, caused it is said, by the increasing and unceasing efforts of whalers in Fox and other northern channels."¹⁹ In his final report for the following year he went into greater detail:

With reference to what I stated in my final report for 1890, I have since received from Churchill and other quarters fuller information, and hence advised you that, while American whalers have ceased to

visit that part of Keewatin sea coast south of the mouth of Chesterfield Inlet, it is simply because they have exhausted that area, and confined their efforts to the still more northern Canadian waters of Fox and other channels, Rowe's Welcome and Lyon Inlet, leaving the more southern water referred to, in which they had carried on their operations without the slightest reference to the distance from shore; while, to enable them to avoid late navigation of Hudson Straits they frequently wintered, as I advised you, in one of the harbours of the Marble Island, where they traded to the Esquimaux with goods upon which no duty was paid, thus violating the revenue laws of Canada, and injuring the trade of a Canadian-English company who traded with goods upon which duties had been paid.²⁰

In his own report for the same year, Deputy Minister of the Interior Alexander Mackinnon Burgess simply remarked that Schultz had made reference to "the illegal operations of American whalers along the more northerly sea coast of the district."²¹

News that American whalers had in 1890-91 begun the practice of wintering at Herschel Island arrived quickly, though in roundabout fashion, to the Canadian government. On 5 December 1890, Captain David Gray of Peterhead, Scotland, sent Secretary Dugald Graham of the Edinburgh Fishery Board a clipping copied from the *Times* of 29 November, which announced that three American whaling ships were wintering at the mouth of the Mackenzie River. In his accompanying letter he complained that whales in northern waters would soon be



FIGURE 4-2: WINTER QUARTERS AT HERSCHEL ISLAND, PAINTED BY JOHN BERTONCCINI. *NEW BEDFORD WHALING MUSEUM COLLECTION, 1971-15*

exterminated and, referring to the “highhanded manner” of the Americans in connection with sealing, maintained that “our ships have as much right to anchor at the Pribyloff Islands and kill seals as the Americans have to anchor in our harbours and bays to kill whales.” The office of the Secretary for Scotland sent a copy of Gray’s letter to the Colonial Office, which in turn sent word to Canadian Governor General Lord Stanley. The matter became a subject for Cabinet discussion in Ottawa, resulting in the following order in council promulgated on 29 April 1891.

The Committee of the Privy Council have had under consideration a Despatch dated 16th January 1891, from the Right Honourable the Secretary of State for the Colonies

respecting the rumours that three United States Whalers had proceeded to the mouth of the Mackenzie River, to winter there....

The Minister under these circumstances submits that proper notice be given through the Canada Gazette of the law and regulations bearing on such matters, and that with the concurrence of the Minister of Customs and the Minister of Inland Revenue, a special Messenger be despatched from Fort Macpherson, or the nearest point from which a messenger can be despatched, for the purpose of warning all parties concerned against the killing of Whales and the illegal traffic in liquor, and fire arms, the result of his journey to

be reported, and that the expenses of this Mission be charged to “Unforeseen Expenses.”²²

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This order in council recommended that the government issue official notice of the whaling laws, and Minister of Marine and Fisheries Charles Tupper signed a public note to that effect on 6 July 1891. The notice called attention to several chapters of the *Revised Statutes of Canada*, specifically chapters 94 (*An Act Respecting Fishing by Foreign Vessels*), 32 (*An Act Respecting the Customs*), 43 (*An Act Respecting Indians*), 50 (*An Act Respecting the North-West Territories*), and 53 (*An Act Respecting the District of Keewatin*), and pointed out relevant provisions in each. These included licensing, searching, fining, and seizure of foreign fishing vessels in Canadian waters (chapter 94), the requirement that all goods imported into Canada (whether dutiable or not) must be brought in at a port of entry with a custom house (chapter 32), the regulations forbidding the supply of intoxicants to Indians (chapter 43), and the regulations prohibiting the unauthorized manufacture or trade of intoxicants in the Northwest Territories and Keewatin (chapters 50 and 53).²³

Another order in council on the subject was issued on 12 September 1892:

The Committee of the Privy Council have had under consideration a communication from the Lieut. Governor of Manitoba, relative to the trespassing of United States Whalers at Herschell Island, near the mouth of the Mackenzie River, in the Arctic Ocean, and to their trading with the Esquimaux of the North Arctic Coast, and Canadian Indians on the coast of Hudson's Bay, also drawing attention to the injurious

effects which a continuance of this contraband traffic must have on these Indians, who are described by the Right Reverend Bishop Bompas, as an excitable, quarrelsome and treacherous people....

After quoting part of the order in council of 29 April 1891, and referring to the notice published in the *Canada Gazette* of 25 July 1891, the order recounted that posters containing this notice had been sent to the Commissioner of the HBC at Winnipeg, with the request that he have them posted at suitable company stations, and that he also send a special messenger from Fort McPherson to the Arctic coast to warn against killing whales.²⁴

On 11 April 1894, in the course of a speech advocating the development of the Hudson Bay shipping route, Senator John Ferguson of Niagara read from a petition by the Geographical Society of Quebec which said that “the said fisheries [in Hudson Bay] are reported to have been practically monopolized by foreigners, without any hindrance whatever, for nearly half a century.” The petition went on to observe that American whalers had taken cargoes valued at \$1,371,000 from Hudson Bay during the eleven years preceding 1874.²⁵

The important exchange between David Mills and Sir Charles Tupper in the House of Commons on 28 May 1894, already referred to in chapter 3, was occasioned largely by reports of the activities of American whalers in Hudson Bay:

Mr. Mills: I understand, Mr. Speaker, that lately American vessels have been going in there, engaged in whale, porpoise, and other fishing operations, and I do not understand that any steps have been taken by the

Government to assert the jurisdiction of Canada over these waters....

Sir Charles Tupper: I may say that from time to time rumours of that character have reached me. The remoteness of the region, however, has made it extremely difficult to ascertain with any degree of accuracy the correctness of these rumours. Some steps have been taken, through the agency of the Department of Marine and Fisheries, to publish notices that the laws of Canada apply in those waters; but it is only fair to say that since we are not as yet familiar with either the time that those vessels are likely to arrive or the portions of the bay where they may be found at any time, these notices have been to a great extent formal.²⁶

Lieutenant-Governor Schultz returned to this theme in his report of 31 December 1894, for the year just ending, and put his case bluntly and in considerable detail:

After a cessation of their efforts for a number of years, American whalers have again resumed their former practice of wintering their ships at Marble Island, from which part of Canada, it will be remembered, the almost complete denudation of sea animal life in our great Canadian inland sea was effected, and our Customs regulations and some other laws especially relating to Indians completely ignored. The two whaling ships which wintered in our harbour on that island last winter [1893–94], no doubt pursued the same methods as those of past

years, and though their presence there and the employment by the Hudson Bay Company of their whaling ship the “Perseverance,” for the past two seasons, is a gratifying evidence that during these years of rest from pursuit and attack, the whale, walrus and seal have increased in the north-western waters of the bay, yet I have again to repeat the warning given so many times since I first brought the matter up seventeen years ago that, without some control is exercised over the present method of killing these animals which will allow them a fair chance of escape and of restocking these once valuable waters, the merciless bomb-lance and gun and other appliances which give these creatures no chance of life at all, will speedily destroy the last hope of restocking these Canadian waters.

As Canada may be said to possess the last remaining fur preserve of the world, so too does it seem that the tidal channels of her Arctic archipelago are destined to be the last home of these leviathians [*sic*], who, within the memory of living men, have been driven from Newfoundland latitudes to the places where their remnants have sought retreat. On the eastern and western verge of our wide group of Arctic islands they are now to be found in larger numbers than in any other seas; and now that after some years of rest they show a disposition to resume these former feeding grounds in the bay, some effort should be made, if the power belongs to Canada, to limit the catch

and define the method of their being taken, in accordance with the principle which dictates the restrictive enactments for the preservation of our freshwater and other food fishes. Our Canadian harbour in Hudson Bay (Marble Island) should at least not be used to further the work of destruction, especially when it is also used in winter as a trading station for the procuring of Canadian furs and other articles which have been bartered for with goods which have contributed nothing to our revenue, and other articles, the sale or giving of which is in contravention of our Indian and other enactments.

While alluding to this violation of our laws by foreign whalers, I have had occasion from time to time to call your attention to the large and lucrative catch of sea animals by the foreign whaling fleet, which, having its headquarters at San Francisco, annually enters the Arctic sea through Behring straits in pursuit of whalebone, oil, ivory, etc. So long as this fleet was limited to the short season when Point Barrow could be safely passed and repassed, and many belated ships were crushed on the shallow and dangerous Arctic Alaskan coast, there was little danger of the denudation of these seas; but the loss of life was so great and the crushed ships so many that the government of the United States decided to build and maintain a permanent relief station of Point Barrow (see my report of the cruise of the United States SS. "Thetis," map of coast, ice movements, plan and soundings of

harbour on Herschel Island, etc.), and the United States SS. "Thetis," being detailed to escort the store ships and the artisans to build the relief station, sailed eastward after doing so to be near the fleet should her services be required by disabled ships, and while thus engaged found, sounded and mapped the valuable harbour on the Canadian island lying near our Arctic coast, and about one hundred miles west of one of the mouths of the Mackenzie river, known as Herschel island. No more perfect Arctic harbour could be found, as it was on the southern side, near enough to the Arctic coast to maintain daily communication with the Eskimo, and far enough to allow late fall entry and early spring departure, and excellent entrance and deep water with good holding ground within. Foreign whalers have been quick to see its advantages, as giving them nearly double the length of their fishing season, and they had long known that great advantage afforded in point of extent of fishing waters by the early spring rush of the waters of this mighty river setting back the elsewhere closely impinging permanent icepack; so that last winter four whaling ships wintered in this Canadian haven, seven ships the winter before, four in the previous winter, and two ships in the winter before that again.

From sources of information which I believe to be entirely reliable (see copies of letters sent me by Arctic bishops, explorers, and others, which were transmitted to

you) I have reason to believe, in fact, my last communication upon the subject leaving no room for doubt, that from the first these vessels have traded with the Eskimo on our Arctic coast, carrying on a barter with the articles upon which no duties have been paid, and furnishing as matters of trade or reward for inland trading expeditions, magazine rifles, fixed ammunition and intoxicants, thus violating the laws of Canada and defrauding her revenue, as well as very materially interfering with the trading operations carried on by those who have had to transport their goods from Montreal to the Arctic circle, and who have, so far as I am aware, observed all the regulations in force regarding traffic with the Indians, as well as paid duties on their goods.

An idea of the valuable nature of the sea and sea coast products carried to San Francisco by the foreign whalers in question may be had from reports believed to be reliable, as to the large quantity and value of only one of such articles brought to San Francisco by a single whaler which had wintered at Herschel Island.

I am aware, of course, of the great difficulty which will be found in endeavouring to enforce Canadian rights on this distant sea, and that the Government have had this subject under consideration; but if the rich whaling grounds near the estuary and off the mouth of the Mackenzie and as far east as Cape Bathurst are to be preserved for Canadian use, some restrictive measures

must be adopted to prevent the wholesale destruction of the valuable species of that region with the deadly bomb-lance and swivel gun of the pursuing whaleboats.²⁷

Deputy Minister of the Interior Burgess underlined the principal points made by Schultz in his own report for the same year:

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His Honour calls attention to the fact that, after a few years cessation, two American whale ships wintered at Marble Island in Hudson's Bay during 1893-94, and no doubt pursued the same destructive methods as in past years which caused the almost complete extinction of animal life in these waters; and he repeats the warning that unless some control is exercised over the present mode of killing the seals and walruses they will soon become utterly exterminated. These foreign seamen not only capture and kill whales and seals in our waters, but also obtain from the Indians furs and other articles in exchange for goods upon which no duty is paid. A great proportion of these goods are of classes which are prohibited by our laws from being introduced among the Indians.

Attention is also called to the fact of the American whaling fleet annually entering the Arctic Ocean from Behring Sea, and carrying on the same destructive methods of capture and the same illegal traffic with the Eskimos. This has been going on to a much increased extent of late owing to the discovery of the important Arctic harbour on Herschell Island,

about one hundred miles west of one of the mouths of the Mackenzie River, where numbers of these whaling vessels pass the winter.²⁸

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J. C. Patterson, who succeeded Schultz as Lieutenant-Governor of Keewatin, referred briefly to the American whalers in Hudson Bay in his report for 1896:

I am informed that in past years a considerable traffic in intoxicating liquors was indulged in by American whaling vessels which wintered on the shores of the northern part of Hudson's Bay. These vessels, not being under the British flag, have for some time carried on a considerable trade in these Canadian waters, and their crews, it is stated, have shown but little respect for our Canadian laws or the regulations regarding the aborigines of the country, while they were not contributors in any way to the revenues of the Dominion. Whether there has been any recurrence of this traffic in that remote part of the district during the past season I am, as yet, without information.²⁹

Burgess also referred briefly to the matter in his report for the same year:

His honour's predecessor, the late Sir John Schultz, during his term of office, called the attention of the department to the illegal traffic carried on by American whalers who were in the habit of wintering at Marble island in Hudson's Bay. These people introduced intoxicating

liquors among the Indians, and traded with them, giving them in exchange for valuable furs goods which they brought into the country free of customs duty. No recurrence of this offence has been reported during the past year.³⁰

Further reference to the Herschel Island situation was made in the House of Commons on 12 April 1897.

Mr. [Thomas Osborn] Davis asked: Is the Department of Customs aware that smuggling is being carried on by the crews of American whalers from Herschel Island into Mackenzie River Basin?

The Controller of Customs (Mr. Paterson): It was reported to the department in December, 1895, that illegal trade was being conducted by United States whalers at the mouth of the Mackenzie River. On 5th March, 1896, the department received a letter alleging that smuggling was going on at Herschel Island.³¹

The Controller of Customs was obliged to answer a similar question about two months later, on June 21, posed by Mr. [Frank] Oliver of Alberta.

Mr. Oliver asked: 1. Is the Government aware that a considerable trade is done by United States whalers at the mouth of the Mackenzie River without duty being paid? 2. Is it the intention of the Government to protect Canadian trade revenue by establishing a customs office here?

The Controller of Customs (Mr. Paterson): 1. The Department of

Customs has been informed that illegal trading is being carried on at the mouth of the Mackenzie River by United States whalers. 2. The question of establishing a customs office there will receive consideration.³²

Inspector Charles Constantine, commander of the North West Mounted Police (NWMP) force which had been sent to the Yukon in 1895, commented on the matter in his report of 20 November 1896. His report, based only upon hearsay, was written at his base at Fort Constantine on the Yukon River, and he had not been to the Arctic coast. He said, *inter alia*:

The territory about the mouth of the Mackenzie River and Herschel Island is one that the attention of the government is called to. Twelve whalers, steam and sailing, wintered there last winter. The crews number from 1,000 to 1,200, these vessels do not leave winter quarters till about the middle of end of July. Each year a vessel is loaded at and despatched from San Francisco with supplies for this fleet, of which cargo liquor forms a large share. This liquor is sold or traded to the natives for furs, walrus, ivory bone and their young girls who are purchased by the officers of the ships for their own foul purposes. The natives have also learnt to make liquor from dried fruit, sugar or molasses. They are very violent and dangerous when in liquor. Last winter, it is reported, that one had tied up his daughter by the heels, and whipped her to death. Mr. Whittaker (a missionary) and the ships' captains tied up the man, and whipped him. The

result was that the natives threatened to make the missionary leave the island, if not worse.

Constantine also reported that deserters from the whaling ships were coming overland and by river to the Yukon placer mines, and advised that an armed government vessel should be sent to those waters to keep order.³³

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The Yukon Gold Rush

When Great Britain and Russia established the 141st meridian as the dividing line between their territories in northwestern North America in 1825, the region through which the line passed was still virtually unexplored and unknown. The Russians, who were already familiar with much of the Alaskan coast, subsequently explored the interior, and in 1838 an employee of the Russian American Company named Malakoff (or Malakhof) ascended the Yukon River as far as the site of Nulato. Four years later, the company established a trading post at Nulato, several hundred miles up the Yukon and about eighty miles from Norton Sound – the farthest inland and the most northerly of the company's posts.³⁴ In 1866–68, Smithsonian scientist Dr. William Healey Dall of the American Western Union Telegraph expedition, which was connected with a plan for an overland telegraph line from America to Europe via Bering Strait, led a party up the Yukon as far as the HBC post Fort Yukon, at the junction of the Yukon and the Porcupine Rivers.³⁵ In the spring of 1867, two Canadian members of the party, Frank Ketchum and Michael Labarge, went farther upstream to another HBC post, Fort Selkirk, at the juncture of the Lewes and the Pelly.³⁶ Another member of the party, the English artist

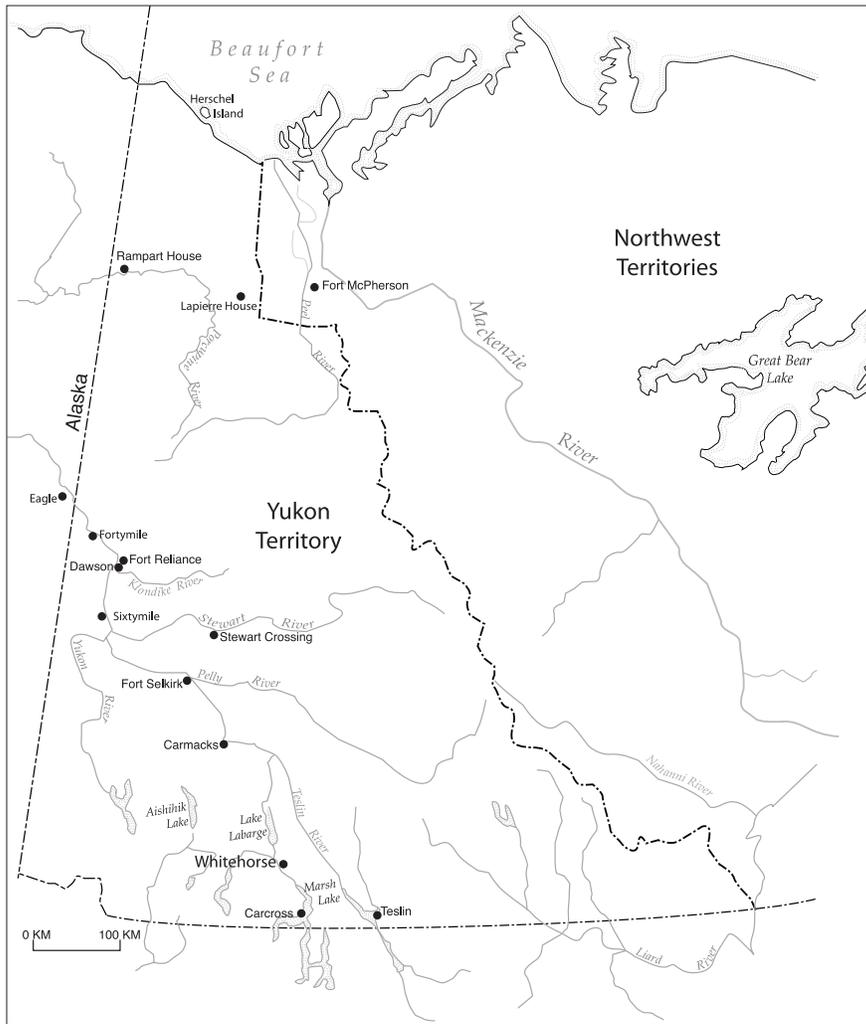


FIGURE 4-3: MAP OF THE YUKON AFTER 1901. JENNIFER ARTHUR-LACKENBAUER.

Frederick Whymper, asserted that the mouth of the Tanana (240 miles above Nulato) was the farthest point ever reached by Russian traders, and that occasionally HBC men reached the same point from the east.³⁷

In the meantime, the HBC was approaching the Yukon from the opposite direction. In 1840, clerk Robert Campbell made his way from the headwaters of the Liard River to a tributary of the Yukon, which he named the Pelly after the company's governor. In 1843 he reached the junction of the Pelly and the Lewes (i.e., the Yukon), and he established Fort Selkirk at

this spot four or five years later.³⁸ In 1842, John Bell crossed from the Peel River, a tributary of the lower Mackenzie, to the Porcupine, which he descended for some distance. In 1846, he repeated his exploit and descended the Porcupine to the Yukon, where Alexander Hunter Murray founded Fort Yukon the following year. In 1850, Campbell went downstream from Fort Selkirk to Fort Yukon, this proving that the Lewes-Pelly and the Yukon were the same river.³⁹

For a few years the HBC had the Yukon region practically to itself and dominated its trade. Besides Fort Selkirk and Fort Yukon,

they had Fort McPherson on the Peel River, and Lapierre House across the mountains on the upper Porcupine. Fort Selkirk was pillaged by coastal Tlingit First Nations in 1852,⁴⁰ however, and Fort Yukon eventually had to be given up because it was located far to the west of the 141st meridian. This had been known for some time, but little was done about it as long as the Russian occupation lasted. In August 1869, however, two years after the Americans had purchased Alaska, Captain Charles Walker Raymond of the US Corps of Engineers notified the agent of the HBC at Fort Yukon “that the station is in the territory of the United States; that the introduction of trading goods, or any trade by foreigners with the natives, is illegal, and must cease; and that the Hudson Bay Company must vacate the buildings as soon as practicable.”⁴¹ The company moved the post successively to two sites farther up the Porcupine in what was thought to be British territory, but an approximate determination of the boundary line in 1889 showed that it was still in Alaska, so it was again moved up the river to a point just east of the 141st meridian. Identified as Rampart House, it was abandoned by the HBC a few years later.⁴²

Prospector George Holt first reached the headwaters of the Lewes, or Yukon, from the Lynn Canal around 1878.⁴³ Over the next several years, miners and prospectors similarly entered the Yukon country, most of them traveling via the Chilkoot Pass. Thus, when Lieutenant Frederick Gustavus Schwatka of the US Army crossed the Chilkoot Pass in 1883 and descended the river, making the first survey of it, he had been preceded by a considerable number of others.⁴⁴ This was, in brief, the situation at the time of the great coordinated expedition of George Mercer Dawson, William Ogilvie, and Richard George McConnell in 1887–88.

The background and purpose of this expedition were set forth by Deputy Minister of the Interior Burgess in his department’s annual report for 1886:

For several years past reports have been reaching the Department from various quarters to the effect that explorations conducted by prospectors in that part of the valley of the Yukon River lying within Canadian territory have indicated the district to be of great economic value and capable of development, particularly in regard to its mineral resources; and it had become apparent that it would be of importance to the Dominion that the region should be thoroughly explored and that accurate information should be obtained with respect to it at as early a moment as possible. In May last Messrs. J. C. Phinney & Co., bankers and brokers, of Seattle, Washington Territory, wrote to the Department stating that they were satisfied, from explorations conducted on their behalf, that the district was rich in mineral deposits.... In view of the facts thus elicited and of other information in your possession in regard to the Yukon, region, I received in September last your instructions to proceed with the organization of a joint geological and topographical expedition, which should start out early this spring. This expedition will be conducted by Dr. G. M. Dawson, Assistant Director of the Geological Survey, and Mr. William Ogilvie, of the topographical corps of the Department.⁴⁵

The three sections of the joint expedition all carried out their responsibilities with determination and success. Dawson left Ottawa on 22 April 1887, travelled by rail to Vancouver, by boat to Wrangell, then via the Stikine, Dease, Frances, and Pelly to Fort Selkirk, where he rendezvoused with Ogilvie on 13 August. They headed up the Lewes and over the Chilkoot Pass to Lynn Canal, arriving on 19 September.⁴⁶ His assistant McConnell accompanied him to the mouth of the Dease, after which he descended to Liard to where it joins the Mackenzie at Fort Simpson, wintered at Fort Providence on Great Slave Lake, descended the Mackenzie the following spring, crossed the portage between Fort McPherson and Lapierre House, descended the Porcupine to the original Fort Yukon, and then ascended the Yukon and crossed the Chilkoot Pass, reaching salt water on 15 September 1888.⁴⁷ Ogilvie's route, approximately the reverse of McConnell's, was from the Lynn Canal across the Chilkoot Pass and down the Yukon to the 141st meridian, which he located during the winter, then via the Tatonduk and upper Porcupine Rivers, Lapierre House, and Fort McPherson to the Mackenzie, and finally up the Mackenzie and overland to Edmonton, which he reached on 23 December 1888.⁴⁸

The principal outcomes of the expedition, apart from its detailed surveys of hitherto largely unknown country, were the varied geographical, geological, meteorological, and other information it brought back, its first-hand observation of trading, prospecting, and mining activities, and Ogilvie's identification of the boundary line where the 141st meridian crossed the Yukon River. Increased prospecting and mining, combined with continued uncertainty about the location of the international boundary, had created a situation of growing concern to the Canadian government. Burgess,

in his 1887 report, observed that a considerable population of miners had "for the past three seasons been at work upon the placer diggings in that region, a large number of them within what is well known to be Canadian territory."⁴⁹ A year later, with reference to Ogilvie's assignment, he wrote that "an approximate calculation shows that the boundary is nearly ninety below the point where it is marked on the United States maps. This is of great importance, as the line passes through the best gold bearing districts yet discovered in the country."⁵⁰

The date of the first discovery of gold in the Yukon is uncertain. In his account of his 1866–67 travels in Alaska, Frederick Whympers mentioned that "minute specks of gold have been found by some of the Hudson's Bay Company men in the Yukon, but not in quantities to warrant a 'rush' to the locality."⁵¹ Dawson later commented that he had been able to find no earlier reference to the discovery of gold in any part of the Yukon waters than that by Whympers.⁵² According to Pierre Berton, Robert Campbell found traces of gold at Fort Selkirk, and sixteen years later the Reverend Robert M. McDonald was reported to have seen it in abundance near Fort Yukon.⁵³ Dawson, however, dates the real initiation of gold mining in the Yukon to 1880, when a large party of prospectors crossed the Chilkoot Pass. From that time on, he said, miners entered the country in increasing numbers.⁵⁴ Within a few years their searches had extended to the Big Salmon, the Pelly, the Lewes, the Stewart, Forty-mile Creek, and other streams in the vicinity. Gold was found literally "anywhere" and "everywhere" along some streams, but only occasionally in paying quantities.⁵⁵

Contrary to popular impression, gold prospecting and mining had reached significant proportions in the Yukon before the sensational Klondike discovery of 1896. In his annual

report dated 28 December 1895, Burgess noted the steady yearly increase in the number of gold miners in the Yukon, referring to estimates that at the beginning of the previous season there had been at least 1,000 of them and that \$300,000 in gold had been produced in 1894. He also disclosed details about the carrying into the territory by American companies of goods, via both the Yukon River and the mountain passes from Lynn Canal, upon which no duty was being paid, and about the existence of an illicit traffic in intoxicating liquors.⁵⁶ These facts clearly established, he said:

first, that the time had arrived when it became the duty of the Government of Canada to make more efficient provision for the maintenance of order, the enforcement of the laws, and the administration of justice in the Yukon country, especially in that section of it in which placer mining for gold is being prosecuted upon such an extensive scale, situated near to the boundary separating the North-west Territories from the possessions for the United States in Alaska; and second, that while such measures as were necessary to that end were called for in the interests of humanity, and particularly for the security and safety of the lives and property of the Canadian subjects of Her Majesty resident in that country who are engaged in legitimate business pursuits, it was evident that the revenue justly due to the Government of Canada, under its customs, excise and land laws, and which would go a long way to pay the expenses of government, was being lost

for the want of adequate machinery for its collection.⁵⁷

Burgess also underlined the need to continue Ogilvie's determination of the 141st meridian south and north of the Yukon River, preferably in co-operation with the United States, especially because an American expedition had already made its own placing of the boundary line across several of the Yukon rivers. (He referred, evidently, to the McGrath-Turner expedition of 1889-91, which had obtained results similar to those of Ogilvie in 1887-88.)⁵⁸

In short, the Klondike discovery was not a totally unheralded event, falling like a bolt from the blue upon the Canadian government and creating a host of problems where none had existed before. Rather it was a spectacular fulfillment, or outcome, or effort which had been in progress for some time. And, of course, it multiplied many times over problems which already existed. Whether the key discovery was that of Robert Henderson on Gold Bottom Creek sometime in the summer of 1896, or that of George "Siwash" Carmack on nearby Rabbit Creek a few weeks afterwards on 16 August, has been debated ever since. Regardless, the consequence was one of the most remarkable gold rushes of all time.⁵⁹ During that fall and winter, prospectors flocked to the Klondike from elsewhere in the Yukon and Alaska, to be joined the following year by fortune hunters from literally everywhere as news of the momentous discovery seeped through to the outside world. The town of Dawson, which sprang up immediately at the confluence of the Klondike and the Yukon, grew from nothing to an estimated 17,000 people in July 1898.⁶⁰ (Other estimates went much higher, but in the circumstances were unreliable.) Dawson reached its peak in 1899, and for a time was the most populous centre in Canada west and north of

Winnipeg. How many people altogether joined the gold rush remains unknown; one estimate was that at least 100,000 started for the Klondike from different parts of the world.⁶¹ Many failed to arrive, and others did not stay long enough to become part of the community. Few were Canadians, and of the polyglot remainder the overwhelming majority were American.⁶² Estimates of gold production varied greatly and were doubtless exaggerated in many cases. Those of the Canadian Department of the Interior, for the period 1 July 1897 to 30 June 1903, gave a value of gold produced totalling \$51,305,959.51, from 66,509 recorded claims, with \$2,827,070.93 paid in royalties.⁶³

The rush began in a situation of almost total absence of facilities to maintain law and order, to provide necessary administrative and governmental machinery, or to supply elementary needs of food, clothing, and shelter to the growing swarms of miners who tumbled pell-mell into Dawson, often with the barest minimum of experience, know-how, and equipment.⁶⁴ In the circumstances, things were almost certain to get worse before they got better. Matters were further complicated by the nature of the incoming horde which – typical as it was of the average frontier boom town – contained the usual generous proportion of speculators, adventurers, profiteers, gamblers, thieves, prostitutes, and ne'er-do-wells. The inevitable result was a period of chaos and confusion in Dawson and throughout the Klondike.

The Northwest Mounted Police and the Gold Rush

Yukon gold caused the extension of NWMP activity to the Canadian Arctic. As described above, gold had been known to exist in the

Yukon for over a quarter of a century before the Klondike discovery in 1896, and during these years had been mined on a steadily increasing scale, but the miners who drifted into the region had carried on without benefit of any organized government or law except for what they arranged in ad hoc fashion among themselves. The growing number of prospectors and the increase of crime, the latter doubtless exaggerated by lurid reports seeping out of the mining camps, compelled the Canadian government to look into the matter. In May 1894, Inspector Charles Constantine of the Regina Division was sent to the Yukon to make an investigation.⁶⁵ Accompanied by Staff Sergeant Charles Brown, he proceeded by way of Victoria, the “Inside Passage,” the Chilkoot Pass, and the Yukon River, and by 7 August had reached Fort Cudahy near the mining camp of Forty-mile, not far from the Alaska border. Staying only until 3 September, and leaving Brown to look after the collection of customs duties, he returned to “civilization” by descending the Yukon River and then taking ship to Victoria, which he reached on 2 October. His lengthy report, written at Moosomin on 10 October, went into considerable detail about all aspects of the country which he thought required comment, and recommended in particular that a force of about fifty NWMP should be sent there to keep order.⁶⁶ The government acted promptly by sending Constantine back next spring as its official representative in charge of a force of nineteen NWMP members. Taking the long sea route from Seattle to St. Michael and then up the Yukon River, they reached Fort Cudahy on 24 July and immediately began construction of Fort Constantine nearby – by far the most northerly NWMP post at the time. Constantine, a rough-hewn, humourless, no-nonsense type, immediately set about establishing his authority. Armed officially with the powers of

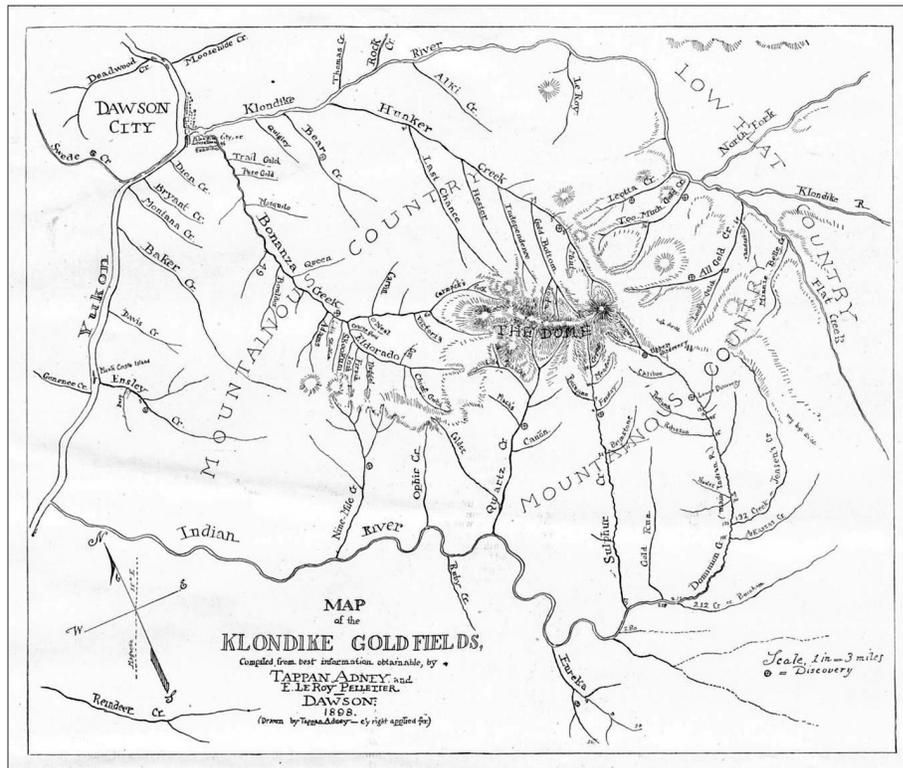


FIGURE 4-4: "MAP OF THE KLONDIKE GOLD FIELDS," HARPER'S WEEKLY (MAY 1898).

magistrate and customs officer as well as commander of the police force, he soon succeeded in imposing a large measure of control over the mining camps.⁶⁷

After George Carmack made his fabulously rich gold strike beside Bonanza Creek, the already considerable stream of prospectors, gamblers, traders, adventurers, and others into the Yukon soon assumed the proportions of a flood, and Dawson City at the mouth of the Klondike, which did not exist when the strike was made but sprang up immediately afterwards, mushroomed to a roaring boom town. Reports from Constantine⁶⁸ and others, including Canadian government surveyor William Ogilvie,⁶⁹ brought home to the authorities in Ottawa that a difficult and potentially very dangerous situation was on their hands, and they decided that increased surveillance was

essential. One of the obvious means of doing this was to send in more police.

Inspector W. H. Scarth arrived at Fort Constantine with the first body of reinforcements, twenty strong, in June 1897; Inspector F. Harper arrived with twenty more in October. That month, Minister of the Interior Clifford Sifton also arrived for a hasty inspection with Major James Morrow Walsh, a former inspector in the NWMP who had just been appointed Commissioner of the recently created Yukon Territory.⁷⁰ They were accompanied by Inspector Zachary Taylor Wood and another band of Mountie reinforcements. By the end of 1897, eight officers and eighty-eight men of the NWMP were serving in the Yukon (under the Commissioner of the Yukon rather than under the Commissioner of the NWMP), and by the end of the following year the total had increased to ten officers and

254 men. During the summer of 1897, the police built Fort Herchmer at Dawson and transferred their regional headquarters there from Fort Constantine. Other detachments opened while the gold rush was at its height, including Chilcoot Pass, White Pass, Lake Bennett, Tagish, Ogilvie, Fort Selkirk, and Whitehorse. There were about thirty detachments and outposts altogether, almost all of them being located in the mountain passes and along the Yukon River from its source just north of the passes to the Alaska border, as well as on some of its tributaries.⁷¹

On 4 July 1898, William Ogilvie was appointed Commissioner of the Yukon to replace Major Walsh, who had evidently indicated his wish to resign. The top official in the territory now became a civilian having no previous or current connection with the NWMP.⁷² On 7 July, the redoubtable Superintendent Samuel Benfield Steele, who had been sent to the Yukon the preceding February to “hold the pass,”⁷³ was appointed to command all police in the Yukon under the general authority of the commissioner, thus becoming Constantine’s replacement.⁷⁴ The authorities on the scene always had their hands more than full, especially during the first two or three years of the rush. Thanks to the presence of the NWMP, however, matters were kept under reasonable control and the Yukon was spared the outright lawlessness that characterized life in American centres such as Skagway, only a few miles across the undetermined border line.⁷⁵

Most of the newcomers to the goldfields, police and civilians alike, went in either through one of the mountain passes from the Pacific seaports or else up the Yukon River. Attempts were made to cross over from the Prairies or from the Mackenzie River, usually with disastrous results, as the intervening country was then practically unknown. Acting upon

the government’s request that the NWMP examine the practicability of an overland route, Commissioner Lawrence Herchmer picked Inspector John Douglas Moodie to test it by leading a patrol from Edmonton through the wilderness all the way to the Yukon. Moodie’s small party, which included Constable Francis Joseph Fitzgerald and Special Constables Frank Lafferty and Henry Tobin, both graduates of Royal Military College, successfully completed the patrol, but only after a difficult, dangerous journey spanning from 4 September 1897 to 24 October 1898. In the meantime, three support patrols under Inspector W. H. Routledge, Inspector A. E. Snyder, and Sergeant Major A.E.C. Macdonell made successful trips to Fort Simpson, Fort St. John, and Dunvegan respectively, although upon their return they could report little about Moodie except that he had disappeared into the little-known country beyond Fort St. John. The obvious conclusion to be drawn from Moodie’s successful but perilous journey was that although it was possible to go from Edmonton overland to the Yukon, it would be extremely unwise for the gold seekers to make the attempt. Entry through the coastal mountain passes or up the Yukon River, in spite of the inconveniences associated with each route, proved less difficult and less time consuming in the long run.⁷⁶

Thanks largely to the NWMP and a few capable and conscientious public servants, the difficult period of chaos and confusion was remarkably short, and internally the Yukon was soon quiet and stable. On the other hand, problems with external aspects, or international implications, such as access, river transportation, and customs, tended to become associated with the Alaska boundary dispute, which was now approaching its climax.

One such problem involved the transportation of goods and personnel through the

Panhandle on their way to and from the gold-fields. On 23 July 1897, C.F.F. Adam at the British Embassy in Washington sent a letter to Secretary of State John Sherman, on behalf of the Canadian government, requesting permission for the Canadian Pacific Navigation Company to send a steamer from Victoria to Dyea, with passengers and freight destined for the Klondike. The company proposed that the shipment should be bonded through the Panhandle without being subjected to customs duties, and it offered to pay to have an American official accompany the shipment until it was within undisputed Canadian territory.⁷⁷ On 28 July, Acting Secretary of State Alvy Adee replied favourably, saying that Dyea had been made “a subport of entry” to facilitate business,⁷⁸ and soon Skagway was similarly opened. As one commentator remarked, by making the request “the Canadian Government had implicitly recognized American jurisdiction over the head of Lynn Canal.”⁷⁹ On 11 August, Adam further requested, on behalf of Canada, American permission for the Canadian government to build a telegraph line from the head of winter navigation on the Lynn Canal across the most suitable pass and into the interior, to establish more efficient communication with the Klondike.⁸⁰ This request was also granted on 14 September,⁸¹ but in this instance both request and acceptance reserved the boundary rights or claims of both countries.

Not long afterwards the shoe was on the other foot, when the American government requested Canadian permission to send a relief expedition to the Yukon through Canadian territory. Secretary of State Sherman’s letter to British ambassador Sir Julian Pauncefote on 20 December 1897 drew attention to an act of Congress, approved just two days earlier, which appropriated \$200,000 to purchase relief supplies for people “in the Yukon River country, or

other mining regions of Alaska” and noted that with Canada’s permission the goods would not only be sent over Canadian territory but also would be made available there.⁸² On 27 December, Pauncefote replied that the Canadian government would permit the entry of the goods, duty free and accompanied by American escorts, but that a Canadian officer should accompany each convoy.⁸³ Yukon Commissioner James Morrow Walsh was displeased with the idea, doubtless lacking complete information about it. He wrote to Minister of the Interior Clifford Sifton:

If a foreign expedition is to pass over this district, I consider it my duty to go and see what it is, the number of troops the party consists of, what part of the territory it is to pass over, its authority for doing so, the length of time it is to be in the district, from what point it will depart, and what stores it is carrying. There is not the slightest necessity for an expedition of this kind.

Walsh added that the United States could contract to send supplies over the mountain passes and down the Yukon River, that the danger of shortage was for the following rather than the present year, and that the Americans could best send supplies up the Yukon. In due course, however, he learned to his great relief that this “inexplicable” expedition had been abandoned.⁸⁴

The matter of navigating the northwestern rivers flowing through Canadian and American territory had been settled previously in satisfactory fashion. Article 26 of the Washington Treaty (8 May 1871) had provided that:

The navigation of the Rivers Yukon, Porcupine, and Stikine, ascending and descending from, to, and into the sea, shall for ever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty and to the citizens of The United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.⁸⁵

This stipulation was understood to secure “the right of access and passage” but not “the right to share in the local traffic” between American or Canadian ports. After further discussion, both governments made additional regulations on the subject in 1898.⁸⁶

One dispute which was ultimately settled by arbitration involved a claim by the British government for Crown dues on (or alternatively the value of) 68,500 feet of lumber cut without

permit or authority by Howard Mountain in the Yukon Territory, sold by him to contractor O. N. Ramsay, and sold in turn by Ramsay to the US military authorities in Alaska in 1900. Mountain left for San Francisco without paying the Crown dues, and both Ramsay and the American military authorities refused to pay the Canadian authorities. The decision of the arbitration tribunal, given after long delay on 18 June 1913, was that Great Britain could not claim for the value of the timber because for a period of about thirteen years she had claimed only for the dues upon it, and that the American military authorities could not be held responsible for the negligence or dishonesty of either Ramsay or Mountain.⁸⁷

Particular cases of this sort were of small importance compared with the larger dispute over the Alaskan boundary, however, which had been developing while affairs in the Yukon itself had been gradually approaching a state of stability.