



RECONSIDERING CONFEDERATION: Canada's Founding Debates, 1864-1999

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“It is better to have a half loaf than none at all”: The Yukon and Confederation

P. WHITNEY LACKENBAUER AND KEN S. COATES

. . . The Yukon was the locale of a fascinating contrast between two different North American political philosophies. The American version stressed local autonomy and the right of settlers to establish their own system of government and frame their own regulations. . . . Against this stood the tradition of Canadian administration, sprung from British roots—a tradition of authority, of rules and regulations established from outside, of development controlled and directed in the presumed general, or national, rather than the particular local, or regional, interest.

Morris Zaslow, 1971¹

The year 1867 represented a political turning point in the history of what would become the Yukon Territory, although few if any one residing in the northwestern corner of what became the Dominion of Canada would have seen it as such. For millennia, Indigenous peoples of the region (mostly Athapaskan or Dene, with Inuit along the Arctic coast and Tlingit and Inland Tlingit people in the southwest corner) followed a subsistence economy rooted in hunting and gathering, with small groups

following a seasonal cycle of movement within their traditional territories.² Throughout the region, the resources of the land and rivers (and sea, in the case of Inuit) determined their complex social and political systems, land use patterns, and material culture. There were no rigid boundaries. Following Russian colonization efforts in Russian America (Alaska) as part of a growing fur trade empire in the early nineteenth century, the Anglo-Russian Treaty of 1825 set an international border along the 141st meridian. This was done without any consultation with the local Indigenous Peoples, and it had little practical meaning in Indigenous homelands with little to no European presence. As was the case in many parts of the Canadian North, Hudson's Bay Company fur traders represented the vanguard of European penetration into the region and the first sustained contact with the Indigenous population. With only a handful of Euro-Canadian fur traders (soon joined by a couple of missionaries) in their midst, however, the Indigenous Peoples retained significant power or "agency" in their economic, spiritual, and political affairs through the middle of the nineteenth century.³

After US Secretary of State William H. Seward negotiated the purchase of Alaska from the Russians, the American government quickly made Alaska a military district and imposed laws regulating customs, commerce, and navigation. Speculators, developers, settlers, traders, and frontiersmen began to head North, and an agreement with Tlingit leaders allowed miners to cross the Chilkoot Pass and more easily access the Yukon River valley. By contrast, Canadians showed little interest in the far-flung corners of the fur trade preserve still controlled by the Hudson's Bay Company. Although the re-imagination of the Prairie West as a civilized, agrarian frontier served as a catalyst for the young dominion to purchase Rupert's Land and the North-Western Territory, the distant north remained a remote hinterland far removed from the mental maps of Ottawa politicians. Accordingly, the Canadian government's commitment to the Yukon River valley consisted of a few brief attempts to survey its resources and geography and little else until the mid-1890s.⁴

In the 1880s, gold discoveries—overwhelmingly by American prospectors—along the Yukon River near the international boundary led to the emergence of a small, isolated community at Fortymile that, by geographic happenstance, fell on the Canadian side of the 141st meridian.⁵ The absence of any Canadian official for hundreds of kilometres meant

that the community was left to govern itself. When any resident had a grievance, they could call a “miner’s meeting” that would bring together the entire community to render a decision based upon “common sense.” Although this mechanism did not conform with British law, the miners’ meetings served to maintain order on a distant frontier. When William Ogilvie led an official survey party to the region on behalf of the Canadian government in 1887–88, he offered a favourable assessment of this method of local governance. The Canadian government was certainly content to let the miners manage their own affairs, given its preoccupation with more pressing national policies such as completing the Canadian Pacific Railway and settling the southern Prairies. The struggle for responsible government in southern districts of the North-West Territories, discussed by Bill Waiser in his contribution to this volume, paid no attention to the Yukon.

The catalyst for Canadian government action came from two local voices in Fortymile. The owners of the Northwest Trading Company, Fortymile’s principal merchant, appealed to the Crown in 1894 for regular law enforcement and a customs collector after being challenged at a local miners’ meeting. Furthermore, Anglican missionary William Carpenter Bompas demanded that Ottawa preserve order, expressing particular concern about the effects of liquor supplied by Americans crossing the international boundary on First Nations and, along the Arctic coast, of American whalers wintering at Herschel Island. Ogilvie also began to recommend a more formal Canadian presence to ensure that, in the case of a major gold strike, the growing American influence in the region did not threaten Canadian sovereignty.

The Canadian government acquiesced to Ogilvie’s appeals in 1894 when it sent North West Mounted Police Inspector Charles Constantine to investigate. His report revealed that American miners dominated the region and, because they simply carried their supplies and gold to and from the United States directly, Canada was losing thousands of dollars in potential customs duties. Accordingly, Ottawa established the Yukon as a separate district of the North-West Territories the following year and sent Constantine back in to set up a permanent post, impose dominion authority, and establish “law and order among a community of not less than 2000 miners of various nationalities, many of whom have hitherto known no law but that of their own making.”⁶ Constantine, a customs agent, and eighteen Mounties who arrived in Fortymile immediately

asserted control by ending the miners' meetings and registering mining claims. The miners complied, seeking no confrontation with well-armed police, and Canada successfully asserted its first semblances of authority over a territory that would soon face a stampede of outsiders.⁷

The Klondike Gold Rush

The Klondike Gold Rush (1896–99) drew global attention to the Yukon. Although controversy remains about who deserves the credit for finding the first gold in the Klondike in August 1896,⁸ the reports of gold lying “thick between the flaky slabs [of rock], like cheese sandwiches” on Rabbit Creek (soon renamed Bonanza Creek) sent shockwaves throughout North America and beyond. Miners from the area quickly staked claims along the full extent of Bonanza and the surrounding creeks, and hundreds of men began to descend on the Yukon from Fortymile mining camps in Alaska, and over the Chilkoot Pass from Juneau and Skagway. That fall and winter, while miners toiled in the muck in hopes of hitting paydirt, a ramshackle, fire-prone town emerged at the junction of the Klondike and Yukon rivers about 14 km from the discovery. Dawson City, conveniently located on the Yukon River, offered an easy day's travel from a major navigable river to the main gold-bearing creeks. By the spring of 1897 about fifteen hundred people resided in the town, and by the summer about thirty-five hundred. The arrival of ships in Seattle and San Francisco carrying the first hauls of gold from the initial rush that July electrified the public imagination and set in motion the “stampede” to the Yukon. Within two years, Dawson would swell to become the largest town in Canada west of Winnipeg.

Politicians and civil servants in Ottawa, increasingly aware of the magnitude of the stampede to the Klondike, hastily responded to the progressively chaotic situation. The Department of the Interior, headed by the energetic power-broker Manitoba Member of Parliament Clifford Sifton (who visited the Yukon in the fall of 1897), bore principal responsibility for determining the Laurier Government's policies in the region and organizing the new Yukon administration.⁹ The federal government appointed Major James Morrow Walsh, one of the great figures of the early pioneering days on the Prairies and a retired Mounted Police officer, as its chief executive officer in the Yukon district with the title of “commissioner.”

(Major Walsh could not be made “lieutenant-governor”—as had been the case with senior territorial officials in the NWT—because the Yukon was still a District of the North-West Territories, which already had a lieutenant-governor in Regina.) He was charged with coordinating and supervising all the federal employees in the region, including the North-West Mounted Police. Through his special commission from the federal cabinet, Walsh was empowered to alter or amend federal mining regulations under the authority of the Governor in Council without seeking advice or approval of any local council. He exercised this authority to reduce royalties on gold, establish mechanisms to settle disputed claims, and create incentives for miners to prospect in more remote locations.¹⁰ “Although possessing autocratic powers,” Territorial Secretary Dr. J.N.E. Brown noted, the commissioner frequently called upon other federally-appointed officials for advice at this time, particularly the judge, the Crown prosecutor, the gold commissioner, and the mining inspector.¹¹

Given that the Yukon District still legally fell within the North-West Territories, the territorial government in Regina also cast its attention northward in 1897—and fixated on the possibility of reaping financial rewards from liquor revenues. The NWT government had assumed powers to license and regulate liquor traffic, and since the laws of the Territories applied in the Yukon, the Territorial Executive Council sent its member G.H.V. Bulyea to Dawson City to sell permits. The federal government had assumed the costs of administering the Yukon, however, and Clifford Sifton (whose department issued liquor permits) disputed the Territorial government’s jurisdiction. This created a strong incentive for Ottawa to separate the Yukon Judicial District from the NWT. “Now we stand in the position of having had our authority over-ruled, and our self governing rights invaded,” an angry NWT Premier F.W.G. Haultain noted, “and we shall be obliged to protest as strongly as we can against what we consider an unwarrantable and unnecessary diminution of the self governing rights which we were so grateful to you for having procured for the Territories last year.” Sifton conceded that Major Walsh’s commission was “in some respects *ultra vires*” [meaning outside the law, in this case of federal jurisdiction], and the parliamentary session of 1898 provided the first opportunity since the gold rush began for the Liberal government in Ottawa to formally legitimize the Yukon as a distinct jurisdiction.¹²

The *Yukon Territory Act*, which received formal assent on 13 June



Fig 8.1 Yukon miners being chased from power by the Yukon Council and Ottawa “monsters.”
Dawson Daily, 19 May 1903.

1898, established the Yukon as a separate territory with the boundaries that the federal cabinet had set for the Yukon Judicial District the previous year and laid out its executive, legislative, and judicial institutions.¹³ Speaking in the House of Commons, Sifton explained that he had adopted the philosophy that had guided governments of John A. Macdonald and Alexander Mackenzie in organizing the West a quarter-century earlier,

with “the only radical departure” being the absence of “any elective members of the council.” He considered the Act an interim measure until the “permanent character” of the community became clearer. He and his government were particularly concerned about the large number of Americans in the area, a demographic and political force of considerable potential consequence. In his view, a system of popular representation would be premature, “especially as all the information we possess goes to show that perhaps nine out of ten persons in the district are aliens, totally unacquainted with our method of representation, and the population will in all probability be a very nomadic character, at least for the present.” Later on, “as a matter of course, if a permanent population establishes itself in the district,” he anticipated that the federal government would provide “some representative system similar in principle to what was given to the North-West Territories.”¹⁴

The head of the Yukon administration was the commissioner, appointed by, instructed by, and responsible to the federal Cabinet. Although this title did not have the royal connotation associated with the position of “lieutenant-governor” used in the other provinces and territories, retaining it was not intended to suggest a lesser status for the Yukon than for the NWT.¹⁵ Indeed, historian L.H. Thomas observed that “the powers of the commissioner were unprecedented—in addition to heading the local administration he was given authority over all officers of the federal government in the territory, because of the obstacles to communication with Ottawa. He was also given the traditional power to reserve approval of any ordinance and send it to Ottawa for decision by the federal cabinet.”¹⁶ Walsh, who had quarrelled with the police and others over the previous year, resigned and was succeeded by William Ogilvie, who knew the country, was popular with the miners, and had solid political connections (as the uncle, by marriage, of Clifford Sifton).¹⁷

The commissioner presided over an appointed territorial council that held similar powers to the lieutenant-governor and legislative council of the North-West Territories in the period up to 1875. Commissioner Walsh had recommended a council consisting of three appointed and three elected members, but the federal government rejected the elective principle. Instead, the cabinet in Ottawa would appoint all of the members of a territorial council of up to six members. The Council consisted of the commissioner, the NWMP superintendent, the Territorial court judge (ex-officio,

meaning by virtue of his status), the gold commissioner, the registrar, and the legal adviser. In Sifton's view, this paternalistic policy was both necessary and fit within the British tradition. An appointed council, designed to implement Ottawa's vision and impose a certain form of government, prevented it from serving as a channel through which the local "grass roots" (predominantly Americans) could voice their grievances to Ottawa. "The effect was rather like trying to clamp a lid on a simmering pot without a safety valve," Ken S. Coates and William Morrison described. "The members of the council . . . neither represented nor understood the problems of the miners, labourers, and others. The steam had to escape somewhere, and Sifton's efforts to cap it simply led to heightened frustration on both sides."¹⁸

Under the provisions of the 1898 Yukon Act, the Governor in Council (the federal cabinet in Ottawa) retained the power to make laws for the general "peace, order and good government" of the territory. The Yukon Commissioner in Council was granted "the same powers to make ordinances for the government of the territory" as the lieutenant-governor and legislative assembly in the North-West Territories at that time, except insofar as the federal cabinet decided to limit them. The Act required that the Yukon administration forward all of its ordinances to Parliament in Ottawa within ten days, with the federal cabinet having the power to disallow any of them within two years. Neither the territorial administration nor the federal cabinet could impose any tax or duty above \$100, alter or repeal any punishment enacted by Parliament, or appropriate any Canadian public land, money, or property without Parliamentary authority. Existing criminal and civil laws, as well as NWT ordinances, remained in force unless explicitly amended or repealed.¹⁹ Both levels of government would appoint certain administrative officials, paid from federal revenues (accrued from gold royalties, mining licenses, land sales, timber fees, customs duties, and liquor imports) and from territorial revenues (generated from retail liquor licenses and taxes for lawyers, auctioneers, ferry operators, and dance halls). Although this model resembled the *North-West Territories Act* from 1875, whereby the territories were governed partly from Ottawa and partly from capitals within the territorial borders, the Yukon Act did not provide for the development of representative institutions. "Feared by federal authorities because of the frontier and cosmopolitan nature of the mining community," historian David Morrison

explained, “this aspect of political evolution had to await a response to organized pressure from within the Klondike basin.”²⁰

Pushing for Responsible Government

By excluding any direct participation by Euro-Canadian residents of the territory in formulating policy, the regime established through the 1898 Yukon Act provoked a strong local backlash. Immediately after the legislation came into force, miners held mass meetings and began agitating for elected representatives in the territorial council as well as representation in federal parliament. “The pre-1897 style of constitutional agitation in the North-West Territories reappeared,” L.H. Thomas observed, with four competing newspapers (three American- and one Canadian-owned; two with anti-Ottawa editorial policies) reporting on incompetence and blatant corruption by Liberal patronage appointees, disputes over federal royalties on gold exports, and controversial new mining regulations—and the absence of meaningful self-government in the territory.²¹ One angry editorial in the *Klondike Nugget* asserted that Ottawa treated Yukoners akin to “underdeveloped races which have given unmistakable evidence of the lack of those qualities of self-government which have made our own race famous,” insisting that Anglo-Canadians needed a vote—as did Americans who deserved it “by virtue of their prominence in opening up the country.”²²

Mass protests through miners’ and citizens’ committee meetings, newspaper pressure, and Conservative opposition members in parliament soon prompted reforms to territorial governance.²³ The 1899 amendments to the Yukon Act provided for two locally-elected members, with two-year terms, to join four federally-appointed officials on the Yukon Council. (Only “natural born and naturalized male British subjects 21 years of age who had resided continuously in the territory for a year” could vote—thus excluding women and status Indians.) The commissioner and appointed officials remained the executive arm of the Yukon Territorial Government, but the commissioner now presided over council meetings thus “ensuring, by his presence, a measure of co-ordination between executive and legislative functions.”²⁴ The following year, the Yukon Council opened its meetings to the public for the first time and adopted some aspects of parliamentary procedure. “With the Council functioning as a legislative

institution in open session and as a cabinet *in camera*,” Yukon historian Linda Johnson notes, “the Yukon was poised for its first elections [in 1900] and the next important step towards more democratic government.”²⁵

With the addition of the elected members, the Yukon Council became an active legislative body, with members sending petitions and protests to Ottawa in hopes of inspiring federal action on issues important to territorial residents. Commissioner James H. Ross, who replaced Ogilvie in early 1901, promoted and secured legislation to provide for municipal institutions in Dawson and Bonanza (Grand Forks), thus reducing the burden on Council to provide local services.²⁶ Ross also convinced Ottawa to pass a series of amendments to the Yukon Act in May 1902, increasing the number of elected members on the Council to five and clarifying various legislative and judicial powers. *An Act Respecting the Representation of the Yukon Territory* received Royal Assent at the same time, specifying that the Yukon, as an electoral district, would return one member to the House of Commons. Although Ross resigned in July 1902 after suffering a stroke, he was duly elected the Yukon’s first Member of Parliament before the end of the year.²⁷

The Yukon Act made no mention of, or provision for, Yukon’s Indigenous Peoples who, as a small minority of the territorial population during the gold rush era, were pushed to the political margins in the same way as they were across Canada. Several provisions of the federal *Indian Act* of 1876 and subsequent amendments applied to the Yukon, although the absence of any treaties with the First Nations and the lack of official Indian reserves meant that federal officials tended to ignore Indigenous Peoples rather than actively impose assimilationist agendas in the region. Where the government signed Treaty No. 8 in what is now northern Alberta and northeast British Columbia, ostensibly to clear the way for Klondike travellers, the reality is that the government was concerned that treaties and a reserve might preserve valuable gold bearing ground for the First Nations. While some Indigenous People tried to capitalize off of the gold rush activity as woodcutters, labourers, or working on steamboats, those who did not live along the main Yukon River corridor largely continued their traditional ways. Seeing the negative impacts that the influx of outsiders wrought on indigenous homelands, Chief (and business man) Jim Boss (Kishwoot) of present-day Ta’an Kwach’an and surrounding area retained a Whitehorse lawyer to write strong letters to the Superintendent

General of Indian Affairs in Ottawa and to the Commissioner of the Yukon in 1901 and 1902, explaining his people's concerns about the alienation of their lands and resources and their rights to control their own affairs and governance. Ottawa turned down his request to initiate land claim or treaty negotiations within the Yukon Territory. Yukon First Nations would have to wait for more than seven decades before the federal government agreed to initiate such a process.²⁸

The politics of frustration continued amongst the non-Indigenous population of the territory as well. In 1903, the elected members of the Yukon Council began to advocate for responsible government—meaning (in a Canadian context) an executive that is dependent upon the support of an elected assembly rather than simply on the Crown.²⁹ This reform current was subsumed by concerted and virulent opposition by virtually everyone in the Territory over the “Treadgold Concession”—the federal cabinet's decision to grant control over much of the richest gold-bearing creeks, as well as special water rights, to a mining syndicate headed by British entrepreneur A.N.C. Treadgold that sought to introduce large-scale, mechanized mining to the region.³⁰ The situation threatened the Stampeder identity, forged around the individual placer miner, and reflected the declining economic prospects that jeopardized their communities. Adding fuel to the political fire, Frederick Tennyson Congdon, Ross' replacement as commissioner, was an unabashed “Liberal machine politician”³¹ who proved an ineffective and blatantly corrupt leader, dividing Yukoners as well as the Liberal Party.³² Congdon resigned as commissioner in 1904 to contest the federal election as the Liberal candidate, but divisions between the “Tabs” (followers of Congdon) and “Steam Beers” (followers of brewery-owner Tom O'Brien) split the Liberal vote and brought victory to Dr. Alfred Thompson who represented the Yukon Independent Party (a coalition of Liberals and Conservatives). “Now that Congdon had been defeated,” David Morrison explained, “some territorial politicians could turn again to the struggle to secure the [economic and political] reforms they desired.”³³

Frank Oliver, who followed Clifford Sifton as the Minister of the Interior, visited Dawson City in 1905, met with citizens, and announced various changes to mining regulations that the Laurier government hoped would address local complaints. During that year's parliamentary session in Ottawa, however, Yukon MP Dr. Thompson argued ardently for a

ten-member elected Yukon Council and responsible government. Prime Minister Laurier responded in the House of Commons, defending the government's approach to Yukon governance owing to how recently the region had been "brought into civilization" by the gold rush. "My hon. friend will agree with me that it would have been extremely unwise if we had given to this new population coming in from all over the world representative institutions," Laurier insisted. The prime minister now supported an elected Yukon Council, but reiterated that this "should not have been done before, and that the government has not been remiss in the character which it has given to the institutions of the Yukon."³⁴ Back in Dawson, the Council sessions in 1905 and 1906 proved relatively calm compared to previous years, with Commissioner William Wallace Burns McInnes who, along with the Dawson Board of Trade, the Yukon Independent Party, Yukon Liberals, and Opposition MPs, continued to lobby the federal cabinet to consider more substantive political reforms for the territory.³⁵

"The people's desire for a wholly elective Yukon Council has not yet been granted," J.N.E. Brown noted in his 1907 reflection on the evolution of government in the territory. "More or less political unrest may be expected in the Yukon until a wholly elective Council is granted; for the struggles of this youngest territory are but the repetition of the struggles of Ontario, Quebec, and the North-West for fully responsible government."³⁶ Dr. Thompson raised the issue yet again in the 1907 session of Parliament, reassuring the House that he had the non-partisan support of most Yukoners and they did not seek complete provincial autonomy. As things stood, the five appointed members of the existing Council drew "salaries as occupants of various positions under the government, and they are, therefore, necessarily not as closely in touch with the people as would be men who were elected directly by the people." He complained that the Yukon "is the only territory in all this vast Dominion which has not full and complete autonomy, the only portion of Canada that has not directly representative institutions." In response, Frank Oliver anticipated that the upcoming 1907 election would "be the last that will be held in the Yukon where a council not fully elective will be chosen."³⁷

The persistent agitation of newspaper editors, pressure groups, and politicians for a wholly elected Yukon Council was finally paying off. Senior officials in the Department of the Interior instructed their legal staff to prepare an amended Yukon Act which would model territorial

governance after the most recent iteration of the North-West Territories Assembly. Their first draft included provisions for a lieutenant-governor and an elected, eleven-member Yukon Legislative Assembly which would exercise all the powers and duties previously assigned to the Commissioner in Council. Minister Oliver approved the draft bill, which was sent to the King's printer for copying in March 1908, but the following month the Deputy Minister of Justice reviewed the bill and informed his colleagues that "it appears to me to be quite unnecessary to repeal the existing Act, and that it would be a mistake to do so. All that is really required may be accomplished by a short amending Act." The Department of the Interior accepted his advice and abandoned early plans, assigning "new roles, responsibilities and relationships" to the Yukon Council and Commissioner and creating "an unwieldy version of representative but not responsible government" that proved difficult to administer—and difficult to reform, as time would show.³⁸

The July 1908 amendment to the Yukon Act provided for a fully-elected Yukon Council of ten members, who would now choose their own speaker and sit separate from the commissioner.³⁹ This separation of powers meant that the commissioner and Council, respectively, now had a monopoly over executive and legislative powers. "The Commissioner, granted the powers of reservation and disallowance over Council legislation, was to continue his administration of federal responsibilities on advice from Ottawa, and to retain his supervision over employees of the Canadian and Yukon governments," David Morrison summarized. In short, the commissioner kept full executive powers and responsibility for the territorial administration. "The representatives of the people, prohibited from considering financial legislation not recommended by the chief executive, were to have control—but no initiative—over the public purse, power to conduct their proceedings as they saw fit under their own speaker, and freedom to legislate on non-financial matters."⁴⁰

The Laurier government decided to provide for "self-government" by granting a fully elected legislature (in keeping with British parliamentary tradition)—but without conferring responsible government (an affront to the Westminster model). Frank Oliver, in sponsoring the 1908 amendment, proclaimed that "there is naturally a desire on the part of every community in this country to have the fullest possible measure of self-government," but that "in the organization of new territories it has

not always been thought desirable, nor has it always been possible, to give entirely elective legislatures.” He asserted that the government’s proposal would provide for “a form of government generally that will be in accord with the general principle that pervades our constitution namely, that the people shall govern in certain well-defined affairs and within well-defined limitations.”⁴¹ Oliver’s position reflected the long-standing belief, stated often by Clifford Sifton before him, that the Klondike was destined to be a short-term mining camp, with few prospects for longevity, let alone substantial population growth. The government, in turn, favoured small and short-term solutions.

During the three-day parliamentary debate on the amendment, Conservative MP George Foster found it “a little peculiar to have the people elect their own representatives to do their legislation and then have the whole of the administration vested in someone appointed by the Crown.” Senator James Lougheed also found it odd that if the commissioner, as the federal representative, initiated a money bill and the Council disagreed with it, there was no cabinet-like body to push Council members to compromise. To break a deadlock, the commissioner was empowered to simply dissolve the Council and call another election—a strange situation that deviated from the system of government prevailing in the rest of Canada. From the Liberal government’s standpoint, however, Secretary of State R. W. Scott summed up the logic of the situation: “it would be rather a farce . . . to invest a community of that kind [with less than 10,000 inhabitants] with powers given to a province. . . . Surely it would be making a toy of government if you were to give all the ceremonial incident to the constitution of a province to a community of that number.”⁴² The political debates were followed with interest in the North, but by this time many northerners had fallen into a pattern of working in the Yukon in the summer and relocating to the South during the long winter months when placer mining was not possible. The steady decline of the post-Klondike Yukon was exacerbated by the creation of seasonal migratory patterns that reinforced the transient nature of the regional population.

The achievement of representative and not responsible territorial government did not provoke a serious backlash in the Yukon, in part because of shifting relationships. “Partly because they could not foresee the problems that would arise, but mostly because of apathy, the men who fought so hard for an elective council and an increase in popular control

over government did not seem upset by the compromise Oliver and his colleagues effected,” Morrison noted. “Even Dr. Thompson, who was not in Ottawa when the amendment was debated, said he regretted that the changes had not been more sweeping, ‘but it is better to have half a loaf than none at all.’”⁴³ R.G. Robertson would later suggest that “this clear division of executive and legislative responsibility—reminiscent of United States territorial practice—was a new, though apparently unrecognized, departure from Canadian precedents, and from the principles of parliamentary government.”⁴⁴ But as Morrison astutely noted, “the new formal relationship between the Commissioner and the Council was similar to that between the governor and the legislature in any British system of government.” By separating the chief executive from the Yukon Council without any cabinet to exercise executive powers, however, the 1908 amendments “created a hybrid system half-way between two British constitutional patterns.”⁴⁵

The 1908 amendments reflected the government’s best guess about how to manage a distant territory, still with a large American population and close proximity to the Territory of Alaska. Their assumptions about the transient, impermanent nature of Yukon life proved to be prescient.⁴⁶ The population had plummeted from over twenty-seven thousand in 1901 to less than ten thousand, gold production declined precipitously, and the civil service in the territory shrank accordingly. Mining had changed from the hardy placer miner working his claim by hand to large-scale, capital-intensive, industrialized mining, with the Yukon economy dominated by the great “concessionaires”: the Guggenheims of New York, A.N.C. Treadgold, and “Klondike Joe” Boyle.⁴⁷ Control of water supplies—the centrepiece of the concessions—had taken over from prospecting guile, good luck, and hard work as a determinant of financial success. “The glamour of the Yukon has passed, the days of the individual miner and the romance of great fortunes picked up in a week, have altogether gone,” the Canadian *Annual Review* reported in 1908.⁴⁸ As the energy of the gold rush dissipated, the Yukon became less and less a priority in southern corridors of power. Representative government had arrived by 1908, but “like a hot-house plant exposed to a cold wind,” Robertson observed, “it then stopped developing for over forty years.”⁴⁹

The Yukon’s heyday passed, and the far northwest corner of the country slipped back into political irrelevance. Not until the 1970s would the

Yukon once again appear on the nation's constitutional and political radar in a significant manner. The First World War had accelerated the decline. Yukoners threw heart and soul—plus a large portion of their workforce and a lot of money—into the war effort. The population decline continued as did the hollowing out of Dawson City. Mining continued with the Klondike dredges operating into the mid-1960s, but the discoveries proved small and often short-lived. The government of Canada considered in 1918 eliminating the elected territorial council all-together and reluctantly settled on maintaining a three-person representative council. With the major exception of a potential troubling contretemps over a 1930s merger with British Columbia (a process overturned by the discovery that the Yukon government provided a small payment to the Catholic school in Dawson City), the Yukon did not factor much into national affairs. The Second World War thrust the far northwest back into the continental spotlight, although the government of Canada's engagement in the construction of the Alaska Highway, the Northwest Staging Route (airfields leading to Alaska), the CANOL pipeline, and related projects was restricted to near-total acquiescence and minimal government oversight.

Change accelerated after the Second World War. The government of Canada assumed greater responsibilities, matching a nation-wide expansion of the social welfare state with larger and rapid investments in the North. A region-wide mining boom further renewed southern interest in the Yukon, leading to an expansion of government operations in the territory, the relocation of the territorial capital from Dawson City to Whitehorse, and the expansion of the Yukon's population (although not to Gold Rush levels). The growing population, particularly in Whitehorse, agitated for greater political autonomy, particularly after the widely-admired James Smith stepped down as commissioner (1966–76). Yukon politicians, known for being obstreperous at times, demanded responsible and cabinet-style government. A major shift occurred in 1979, when the short-lived government of Prime Minister Joe Clark was in office. Clark, supporting Yukon Member of Parliament Erik Nielsen (who had backed his leadership campaign), promised provincehood for the Yukon, only to discover that Yukoners were lukewarm to this expensive proposition. Instead, the Conservative Government agreed to establish responsible government in 1979, by way of a letter issued by Indian and Northern Affairs Minister Jake Epp.

Yukoners' demand for autonomy during this era was matched by the rise of Indigenous political activism and, in particular, the emergence of the Yukon Native Brotherhood (later the Council for Yukon Indians/Council for Yukon First Nations). Indigenous leaders, led by Elijah Smith, demanded a modern land claims settlement, which the Government of Canada reluctantly agreed to in 1973. This launched a twenty-year negotiation process that resulted in the signing of an umbrella final agreement in 1993 and the emergence of Indigenous self-government as a major force in territorial affairs. Yukon governance had been marked by decline for nearly seventy years, with changes sparked by restless Yukon politicians and the emergence of the Yukon land claims process. The passage of a renewed and modernized Yukon Act in 2002, combined with an extensive program of devolution of federal powers (including control of land and natural resources) and the steady re-establishment of Indigenous governance in the territory, gave the Yukon province-like authority while retaining access to large annual transfers from the Government of Canada.

Even in Canada's 150th year, Confederation is not constitutionally complete. The Yukon, Northwest Territories, and Nunavut are not provinces and are probably blocked, by way of the constitutional amending processes, from achieving that status in the coming decades. The Yukon Territory stands as a corrective to the standard Whiggish expectations about political reform that treat it as a linear, if bumpy, progression from colony to self-governing jurisdiction. The Yukon gained a measure of political autonomy after 1900, only to have it set aside due to the economic distress caused by the First World War and the doldrums that settled in after that time. Consequently, the Yukon holds a special place in the constitutional history of Canada, as a sign of the country's reluctance to turn its full attention northward and its uneven treatment of the country's northern colonies.

Further Reading

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- Zaslow, Morris. *The Opening of the Canadian North, 1870–1914*. Toronto: McClelland & Stewart 1971.

NOTES

- 1 Morris Zaslow, *The Opening of the Canadian North, 1870–1914* (Toronto: McClelland & Stewart 1971), 139.
- 2 For a map of traditional territories, see http://www.env.gov.yk.ca/animals-habitat/documents/traditional_territories_map.pdf.
- 3 Ken S. Coates, *Best Left as Indians: Indian-White Relations in the Yukon Territory* (Montreal: McGill-Queen's, 1991).
- 4 Ken S. Coates, "Controlling the Periphery: The Territorial Administration of the Yukon and Alaska, 1867–1959," *Pacific Northwest Quarterly* 78, no. 4 (1987): 146.
- 5 See Michael Gates, *Gold at Fortymile Creek: Early Days in the Yukon* (Vancouver: University of British Columbia Press, 1994).
- 6 Comptroller F. White of the NWMP quoted in D.J. Hall, *Clifford Sifton. Vol. 1: The Young Napoleon, 1861–1900* (Vancouver: University of British Columbia Press, 1981), 160.
- 7 David R. Morrison, *The Politics of the Yukon Territory, 1898–1909* (Toronto: University of Toronto Press, 1968), 7–9; Thomas Stone, "The Mounties as Vigilantes: Perceptions of Community and the Transformation of Law in the Yukon, 1887–1897," *Law and Society Review* 14 (1979): 83–114; and William R. Morrison, *Showing the Flag: The Mounted Police and Canadian Sovereignty in the North, 1894–1925* (Vancouver: University of British Columbia Press, 1985), ch. 2.
- 8 See Great Unsolved Mysteries in Canadian History, "Who Discovered the Klondike Gold?" <http://www.canadianmysteries.ca/sites/klondike/home/indexen.html>.
- 9 Hall, *Clifford Sifton*, vol. 1, 172.
- 10 R.G. Robertson, "The Evolution of Territorial Government in Canada," in *The Political Process in Canada*, ed. J.H. Aitchison (Toronto: University of Toronto Press, 1963), 40.
- 11 J. N.E. Brown, "Evolution of Law and Government in the Yukon Territory," in *University of Toronto Studies. History and Economics*, vol. II, ed. S.M. Wickett (Toronto: Librarian of the University of Toronto, 1907), 199.
- 12 Hall, *Clifford Sifton*, vol. 1, 190–91; and C.E.S. Franks, "How the Sabbath Came to the Yukon," *Canadian Public Administration* 10 (March 1967): 123–35.

- 13 *The Yukon Territory Act*, 1898, 61 Victoria, c.6 (Canada).
- 14 Hall, *Clifford Sifton*, vol. 1, 191.
- 15 Linda Johnson, *With the People Who Live Here: The History of the Yukon Legislature 1909–1961* (Whitehorse: Legislative Assembly of Yukon, 2009), 11.
- 16 Lewis Herbert Thomas, *The Struggle for Responsible Government in the North-West Territories, 1870–97*, rev. ed. (Toronto: University of Toronto Press, 1978), 268.
- 17 Ken S. Coates and William Morrison, *Land of the Midnight Sun: A History of the Yukon* (Montreal and Kingston: McGill-Queen's University Press, 2005), 105.
- 18 Coates and Morrison, *Land of the Midnight Sun*, 191.
- 19 *The Yukon Territory Act*, 1898, 61 Victoria, c.6 (Canada). The Commissioner in Council powers included “direct taxation for territorial and local expenditure; the establishment of a territorial civil service to be financed by the territory; the establishment, maintenance and management of prisons; the incorporation of municipal institutions; the imposition of shop, saloon, tavern, auctioneer and other licenses; the incorporation of certain companies; the solemnization of marriage; the protection of property and civil rights; the administration of justice; the imposition of punishments—by fine, penalty, or imprisonment—for infractions of territorial ordinances; the expenditure of funds appropriated by Parliament for territorial purposes; superintendence over all matters of a merely local or private nature; and the provision of educational facilities.” Quoted in Johnson, *With the People Who Live Here*, 12.
- 20 Morrison, *Politics of the Yukon Territory*, 20. See also Johnson, *With the People Who Live Here*, 11.
- 21 Thomas, *The Struggle for Responsible Government in the North-West Territories*, 269–70.
- 22 Quoted in Morrison, *Politics of the Yukon Territory*, 28.
- 23 See Morrison, *Politics of the Yukon Territory*, 25–32.
- 24 Robertson, “Evolution of Territorial Government,” 141.
- 25 Johnson, *With the People Who Live Here*, 16.
- 26 Thomas, *The Struggle for Responsible Government in the North-West Territories*, 271; and Morrison, *Politics of the Yukon Territory*, 39–41.
- 27 See Steven Smyth, *The Yukon Chronology (1897–1999)*, vol. 1, 2nd ed. (Whitehorse: Clairedge Press, 1999), 6–7.
- 28 Ken S. Coates, *Best Left As Indians: Native-White Relations in the Yukon Territory, 1840–1973* (Montreal: McGill-Queen's University Press, 1991).
- 29 Careless, J.M.S., “Responsible Government.” Accessed from <http://www.thecanadianencyclopedia.ca/en/article/responsible-government/>.
- 30 On the Treadgold Concession, see D.J. Hall, *Clifford Sifton*, vol. 2: *A Lonely Eminence, 1901–1929* (Vancouver: University of British Columbia Press, 1985), 132–44; and Morrison, *Politics of the Yukon Territory*, 43–56.
- 31 Thomas, *The Struggle for Responsible Government in the North-West Territories*, 271.
- 32 Hall, *Sifton*, vol. 2, 141.
- 33 Morrison, *Politics of the Yukon Territory*, 71.

- 34 *House of Commons Debates*, 1905, cols. 7074–79. Quoted partially in Thomas, *The Struggle for Responsible Government in the North-West Territories*, 272; and Morrison, *Politics of the Yukon Territory*, 74.
- 35 Appointed commissioner by P.C. 968 on 27 May 1905. See Steven Smyth, *The Yukon Chronology: The Yukon's Constitutional Foundations*, vol. 1 (Whitehorse: Northern Directories, 1991), 8.
- 36 Brown, “Evolution of Law and Government,” 211.
- 37 *House of Commons Debates*, 1906–7, cols. 4521–23. Morrison, *Politics of the Yukon Territory*, 88. On Thompson’s hopes for representative and responsible government, see his article “Government of Yukon,” *Alaska-Yukon Magazine* 5 (1908): 414.
- 38 Johnson, *With the People Who Live Here*, 20–21.
- 39 Yukon Act, 1908 amendment, 7–8 Edward VII, c.76.
- 40 Morrison, *Politics of the Yukon Territory*, 88. The act also provided a three-year term for Council, but gave the commissioner power to dissolve it and call a new election at any time. During the three-day Parliamentary debate on the 1908 amendment, Conservative Opposition members raised concerns with this issue, but did not insist that it be changed. See R.L. Borden and G.E. Foster, *Hansard*, 1907–08, cols. 10528–10545.
- 41 *House of Commons Debates*, 1908, quoted in Thomas, *The Struggle for Responsible Government in the North-West Territories*, 272.
- 42 Morrison, *Politics of the Yukon Territory*, 89.
- 43 Morrison, *Politics of the Yukon Territory*, 90.
- 44 Robertson, “Evolution of Territorial Government,” 141–42.
- 45 Morrison, *Politics of the Yukon Territory*, 88.
- 46 Robertson, “Evolution of Territorial Government,” 141–42.
- 47 Coates and Morrison, *Land of the Midnight Sun*, 157–65; and Lewis Green, *The Gold Hustlers* (Vancouver: J.J. Douglas, 1972).
- 48 *Canadian Annual Review* (1908), 542, quoted in Morrison, *Politics of the Yukon Territory*, 87.
- 49 Robertson, “Evolution of Territorial Government,” 142–43.