

Wrangell History Unlocked Presents:

# Strange Customs

## Part 3. With Justice For All

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### Episode Description:

*The Army has its man, but the Courts have the final say. A gruesome death threatens to rekindle a bloody conflict between the Army the Tlingit. And Senator John Hipple Mitchell flexes his political muscle to shut down the Army's case against his henchman, John Carr.*

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# Introduction

It was a stunning fall from grace. Deputy Collector John Carr once had an office inside the fort; now, he was its prisoner.

The U.S. Treasury's own Deputy Collector of Customs was reduced to chopping wood for the Army, alongside the other prisoners seized in the Army's round-up of Fort Wrangel's liquor merchants. When they weren't chopping wood, the prisoners were confined to the guardhouse. One of them tried to escape. The Daily Colonist:

DAILY COLONIST: A few evenings ago the nucleus of a first-class prison escape was formed with [Henry] Cutter, one of the prisoners confined here, as the hero; but after a five hours' effort to assume the magnitude of a Monte Cristo, he collapsed a miserable suppliant.<sup>1</sup>

Gold miners hurried down the Stikine River, hoping to make it out before the river froze over. The party was over.

But the battle was just beginning. The prisoners were pawns in the Army's game of chess with the American legal system. If the Army could win this battle, it would set a precedent, and the Army could seize control of the liquor trade in Alaska. For John Carr, this was a test of his connections in Portland's criminal underground, and his powerful ally in the U.S. Senate.

I'm your host, Ronan Rooney. You're listen to the final episode of Wrangell History Unlocked presents: Strange Customs, Part 3: With Justice for All.

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<sup>1</sup> 1874.11.19 Daily Colonist.pdf

# Chapter 10. Hard Labor

## Dyer

Lieutenant A.B. Dyer was only 22 year old, but he commanded the U.S. Army detachment in Fort Wrangel. It was a plumb assignment for the former West Point cadet, who proved himself up to the task. His commander in Sitka gave him a list of names, and he got every man on the list. When one of them, William P. Wilson, turned on Deputy Collector John Carr, Lieutenant Dyer added John Carr to the ranks of his prisoners. This was a big catch for the budding young officer, one that would distinguish his career. But John Carr was more than anyone bargained for.

Lieutenant Dyer entertained gracious overtures from the town's principle property owner, a man named William King Lear.

## King Lear

John Carr and the liquor merchants had been thorns in King Lear's side. King Lear felt challenged by John Carr, and he detested the competition from the other merchants. But now, King Lear's enemies sat in jail. Things became so rosy for King Lear, some people even thought he was behind the recent arrests.<sup>2</sup>

Could King Lear have been behind the raid? Did he secretly report the liquor business to the Army? It's possible. Two years earlier, King Lear reported Fort Wrangel's old-time merchant Charlie Brown to the Customs Collector in Sitka, for selling liquor to Indians. The Army wrote back to King Lear. They declined to make any arrest, but they told him to write them again if he had more specifics in his allegations.<sup>3</sup>

While some people speculated that King Lear was just as guilty as the prisoners of selling liquor, no one furnished any proof. King Lear was a

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<sup>2</sup> 1874.10.01 Daily Colonist

<sup>3</sup> 1876.03.06 Message from the President of the United States communicating i

shrewd businessman, and an experienced merchant, with multiple ways to make money. With the Army's return, King Lear suddenly had his biggest potential payday yet: he tried to get the Army to buy back the fort. The Daily Colonist quoted him:

KING LEAR: I only want to keep this place long enough to make fifty-thousand dollars out of it in any and every way I can and then it may go to the devil.<sup>4</sup>

The fort cost \$26,000 to build, and King Lear only paid \$600 for it. \$50,000 was an extraordinary asking price. To drum up support, King Lear circulated a petition among the fleeing gold miners. The Daily Colonist reported:

DAILY COLONIST: A petition got up and circulated for signatures today by W.K. Lear... praying that a detachment of troops be permanently stationed here, was the cause of much comment by the miners and residents. The general conclusion is that someone wants to pack and leave, if he can only succeed in inducing the Government to "buy him out," by representing the necessity of having soldiers stationed there to drink whiskey and play with the Indians.<sup>5</sup>

The miners balked at King Lear's petition. Instead, 130 men signed their own petition:

...WHEREAS – Passengers to the number of 400 are often delayed and compelled to live in pens, like so many hogs. And whereas, people are prohibited by W.K. Lear from building places suitable for the accommodation of the traveling public...

RESOLVED – That the poverty stricken stores at Fort Wrangel had not at any time during the past ten months the means of subsistence for more than fifty men at a time, and

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<sup>4</sup> 1874.10.01 Daily Colonist

<sup>5</sup> 1874.11.03 Daily Colonist.png

RESOLVED – That the present proprietors of the eating houses at Fort Wrangel are uncourteous, insulting, and unaccommodating; and for filth and nastiness have no comparison, and therefore are not deserving of the public patronage hereafter.<sup>6</sup>

But this may have been King Lear's strategy. The worse things got in Fort Wrangel, the better the chance the Army might come back and purchase the fort at his asking price. Unlike the new merchants that cropped up around him, King Lear didn't need the liquor business. King Lear was in the fort business.

Anticipating that he may be in line for his biggest payday yet, King Lear took out \$2,000 in loans.<sup>7</sup>

## **Collector Daniels**

With no Collector in Fort Wrangel, Canadian ships refused to land goods. Captain J.B. Campbell in Sitka recalled:

CAMPBELL: The customs officials closed the custom-house, and refused to enter or clear the British ships arriving or clearing from that port, thinking thereby to force me to liberate the collector... I told the custom-house people that I would not liberate Carr; that they might act as though he had died...

Desperate for a customs collector, one of the gold miners stepped forward to fill the job: former Idaho governor William B. Daniels. For three months, he'd been the governor of Idaho. Now he was just one of the many fortune seekers who came to Fort Wrangel aboard the steamer California.<sup>8</sup>

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<sup>6</sup> 1874.11.06 Daily Colonist.png

<sup>7</sup> Stikine River Journal: Early Days on the Stikine River, by Patricia A. Neal. p. 82.

<sup>8</sup> 1874.06.05 Daily Colonist.png

## Dyer Sends Prisoners

Weeks passed away in Fort Wrangel, as John Carr and his fellow prisoners chopped wood and lived inside the guardhouse. Lieutenant Dyer considered them military prisoners — not civilian — which allowed him to keep the men indefinitely.

But finally, after 24 days under arrest, Lieutenant Dyer sent John Carr and his fellow prisoners to Sitka, aboard a steamship, to the custody of his commander, Captain J.B. Campbell, the head of the Army in Alaska.

It was here Lieutenant Dyer made his first big mistake.<sup>9</sup> As the ship steamed away from Fort Wrangel, he realized he'd forgot to include the prisoners' paperwork, including indictments. His commander, Captain Campbell recalled:

CAMPBELL: ...In his hurry and confusion sent his prisoners up here without the affidavits upon which they were arrested. For this I reprimanded him, and I was unable to make up the case against them in time to send them off by the October mail. To send them to Portland without testimony would be equivalent to liberating them.<sup>10</sup>

John Carr and his fellow prisoners were forced to wait in jail in Sitka for the paperwork to arrive from Fort Wrangel. It could take weeks.<sup>11</sup> Captain Campbell described the Sitka guardhouse where the men stayed:

CAMPBELL: I was forced to keep all kinds together; that the post surgeon... advised me that unless I kept the prisoners in the open air and exercised them, their health would be permanently injured; that there were sometimes as many as thirty prisoners, including Indians, and that I

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<sup>9</sup> 1975 Remsberg Thesis.pdf

<sup>10</sup> 1876.03.06 Message from the President of the United States communicating i

<sup>11</sup> 1975 Remsberg Thesis.pdf

had not the force to wait upon them, and cut the wood and carry water necessary for their house...<sup>12</sup>

But Campbell was undaunted. He knew he had his man. He described John Carr as “notorious, disgraceful scoundrel,” guilty of “the most public and scandalous smuggling operations.”<sup>13</sup> On November 11, 1874 Captain Campbell wrote to his superiors in Portland:

CAMPBELL: I am now satisfied, the longer I am here, that Wrangel has been the center of much fraud and corruption and official inertness within the last year.<sup>14</sup>

## Oregon Reaction

Down in Portland, the Morning Oregonian had the story:

OREGONIAN: ...the Custom House building frauds and smuggling shared is by members of the Ring; the appointment from the ranks of that same ring to the Collectorship of Alaska and a felon—a murderer and fugitive from justice...<sup>15</sup>

Portland’s corrupt political ring came out fighting for one of their own. On November 16, 1874, they filed a writ of habeas corpus for John Carr. Judge Deady signed the writ, once again checking the Army’s power, and ordered Carr along with any “essential witnesses” to be brought before him in Portland as soon as possible.<sup>16</sup>

11 days later, the writ of habeas corpus went aboard a steamship for Alaska — a full 63 days after John Carr’s arrest. The writ arrived in Sitka 85 days after John Carr’s arrest.

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<sup>12</sup> 1879.01.31 Captain JB Campbell 45th Congress.pdf p.5.

<sup>13</sup> 1975 Remsberg Thesis.pdf

<sup>14</sup> 1875.02.15 Letter from the Secretary of War transmitting a copy of a commun.pdf

<sup>15</sup> 1874.11.25 Morning\_Oregonian\_Wed\_\_Nov\_25\_\_1874\_.pdf

<sup>16</sup> 1975 Remsberg Thesis.pdf

## Going South

On Christmas Eve 1874, the Army put John Carr and his fellow prisoners aboard a steamship, the Gussie Telfair, to finally take them to Portland.

But first, the Gussie Telfair made a stop-over at Fort Wrangel, in order to pick up the essential witnesses ordered by Judge Deady. The first to board the ship was King Lear, who would make sure he got his revenge on John Carr.<sup>17</sup>

King Lear was followed on board by two Tlingit men, identified in reports as a “sub-chief” named Fernandeste, and his servant.<sup>18</sup> Their role in the story prior to this moment is unclear, but what is clear, is that the story would take a strange, tragic turn.

After a few days at sea, the Gussie Telfair moved past Vancouver Island. Around this time, Fernandeste slipped into an unoccupied stateroom. According to an account in the Montanian newspaper:

At about 8 o'clock in the evening he entered an unoccupied state room... fastening the door behind him with a white linen handkerchief. In about half an hour the corporal called the servant to ask the chief what he was doing so long. No response was made and by reaching over the door the handkerchief was untied and a scene most horrible brought to sight. The floor and walls of the room were covered with blood, while at one end knelt the dead chief, his head thrown back and his throat cut from one ear to the other. Both jugular veins and the windpipe were completely severed, and his head was almost cut from the body.<sup>19</sup>

Fernandeste's gruesome suicide brought two systems of justice clashing together. From the Army's perspective, Fernandeste was a legally seized

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<sup>17</sup> 1875.01.28 The\_Montanian\_Thu\_\_Jan\_28\_\_1875\_.pdf

<sup>18</sup> 1875.01.28 The\_Montanian\_Thu\_\_Jan\_28\_\_1875\_.pdf

<sup>19</sup> 1875.01.28 The\_Montanian\_Thu\_\_Jan\_28\_\_1875\_.pdf



witness, taken into custody under directions from Judge Deady himself. From the Tlingit perspective, Fernandeste was a prisoner, held captive aboard a ship, being taken far away from home. The last man taken prisoner by the Army from *Kaachxana.áak'w* was Scutdoo, just four years earlier, following the bombardment of 1869. As he was about to be hanged, Scutdoo defiantly jumped into the noose himself, in effect, taking his own life. Fernandeste would have been well aware of his example.

While Americans struggled to force their justice in Alaska, the Tlingit's unique system of justice was firmly in place.

If the Army officers aboard the *Gussie Telfair* wondered if the Tlingit might hold them responsible for Fernandeste's death, they would not have to wait. Almost immediately, Fernandeste's servant began seeking retribution. The newspaper continued:

...His actions became mysterious and were closely watched by another Indian who had also shipped as a sailor. He seemed to linger near the fire room, but for what could not be imagined until he took a large can from his bosom and ran towards the open furnace. He was not quick enough. His wily watcher was upon him quicker than a flash, and seizing his arm, wrenched the can from his grasp... The Indian handed the can to the captain, who saw at once that it contained powder, and that an attempt had been made to blow up the ship... The modern Guy [Fawkes] of the *Stickeen* was placed under guard of two soldiers until their arrival in port, when he was set at liberty...<sup>20</sup>

The Army feared Fernandeste's death would spark a violent conflict with the Tlingit,<sup>21</sup> who would hold them responsible. The reoccupation of Fort Wrangel suddenly faced its biggest threat. This was unfinished business the Army would be forced to come back to.

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<sup>20</sup> 1875.01.28 *The Montanian*\_Thu\_\_Jan\_28\_\_1875\_.pdf

<sup>21</sup> 1875.01.12 *Daily Colonist* 1.png

On January 5, 1875, the Gussie Telfair arrived in Portland.<sup>22</sup> John Carr had been under arrested for 102 days.

While the body of Fernandeste was sent to Astoria for burial,<sup>23</sup> John Carr and his fellow prisoners were sent to appear before the man who would hold their fate in his hands, Judge Matthew Deady.

You're listening to Wrangell History Unlocked Presents: Strange Customs: Part 3: With Justice for All. We'll be back after this commercial message.

**\*\* Commercial \*\***

Heywood's new brand, the "royal standard," family sugar cur'd hams. Also, golden syrup cured breakfast bacon, put up for family use, and for Quality will challenge competitions. I have also a quantity of bacon not equalled on this Pacific coast, cured expressly for the new mines. I invite all Miners before purchasing elsewhere to call and see for themselves.<sup>24</sup>

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<sup>22</sup> 1975 Remsberg Thesis.pdf

<sup>23</sup> 1875.06.15 Daily Colonist.png

<sup>24</sup> 1874.03.10 Daily Colonist

# Chapter 11. Day in Court

## Court Appearance

The U.S. Army attempted to bring down the hammer. But Judge Deady brought down the gavel.

DEADY: In the case of United States vs. Waters...

Through the summer of 1874 in Fort Wrangel, Hugh Waters and John Curry had been side by side in business. But now Hugh Waters was going solo. He appeared before Judge Deady on his own, claiming he was simply taking directions from Curry. He was serving liquor and dealing faro as a mere bartender for Curry.<sup>25</sup> Judge Deady bought the story...

DEADY: Charges dismissed.<sup>26</sup>

For over 100 days, the prisoners had been captives of the U.S. Army, forced to work hard labor. The remaining defendants appealed directly to Judge Deady for relief. They'd been held too long, they argued. They were prisoners of the Army, but charged with civilian crimes. As civilians, they were entitled to appear before a judge in a matter of days — not months.

Just as he had three years earlier in United States vs. Seveloff, Judge Deady torpedoed the Army's case.

DEADY: The statute is peremptory upon the subject and with good reason—"Provided, That no person apprehended by military force as aforesaid, shall be detained longer than five days after the arrest and before the removal..." The petitioner is entitled to be discharged.<sup>27</sup>

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<sup>25</sup> 1879.01.31 Captain JB Campbell 45th Congress.pdf

<sup>26</sup> 1875.01.12 Daily Colonist 2.png

<sup>27</sup> 1875.01.08 Oregonian\_1875-01-08\_3.pdf

Five days was the limit, and the Army was well over that. Lieutenant Dyer's mistake of the forgotten paperwork in Fort Wrangel only added to the size of it. And Captain J.B. Campbell only put the men aboard a steamship after receiving Judge Deady's writ of habeas corpus. Judge Deady ruled the Army's treatment of the prisoners unwarranted and unlawful.

Judge Deady tore a hole in the Army's plans for administering justice in Alaska. Five days was simply not enough time to arrest someone, have them aboard a ship, and before a judge in Portland, Oregon. The Army rode the same steamships as the public, which often reduced service during the stormy, cold winter months. Congress provided no courts to Alaska, or judges of any kind, making Portland the closest option.

Once again, Judge Deady knee-capped the Army. No one questioned the Army's authority to make civilian arrests, but those civilians were entitled to due process, which by law meant being seen before a judge within 5 days.

Judge Deady kept the charges, but released the prisoners pending trial. Henry Cutter was given back all his possessions, except liquor, and sent back to Fort Wrangel at the Army's expense.<sup>28</sup> John Carr immediately got back into ring politics, preparing for an upcoming election, for which The Oregonian newspaper called him one of the "demagogues who have no scruples."<sup>29</sup>

## **Mitchell Resolution**

Far away, in Washington D.C., Senator John Hipple Mitchell heard about John Carr's troubles. He learned about the Army's case against his political minion, one of extortion, lying, bribery, smuggling, and abuse of office. Senator Mitchell got to work. He stood in the well of the U.S. Senate and demanded the Army tell the truth about what really happened in Fort Wrangel.

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<sup>28</sup> 1875.02.13 Oregonian\_1875-02-13\_3.pdf

<sup>29</sup> 1875.06.22 Oregonian\_1875-06-22\_2.pdf

MITCHELL: I offer the following resolution and ask for its present consideration: Resolved, That the Secretary of War be requested... to furnish the Senate at the earliest practicable moment all information within the knowledge of his Department relative to the arrest and imprisonment by military authority, in the fall of 1874, of John A. Carr, a United States customs officer in Alaska...<sup>30</sup>

In March 1875, Judge Deady called a grand jury to hear evidence on the case of John Carr for two indictments: one for official corruption, and another for introducing liquor into Indian Country.

The Corvallis Gazette-Times, well aware of the Army's reputation in Alaska, wondered why the Army wasn't be charged with the same offenses as John Carr.

If half the reports that come from that country are true there are a good many others up there who ought to be making brick, that are now trying to prosecute Carr. Concerning the merits of the case I know nothing; but the conduct of some of the shoulder-strapped gentry who commenced the prosecution against him and others has been most infamous, or dame rumor is greatly at fault; and should the present Grand Jury take it into their heads to go after some of them, they will find it quite tropical in the District Court, for in the administration of justice, Judge Deady is no respecter of persons, no matter what their position is.<sup>31</sup>

The rest of the prisoners, Samuel Goldstein, William P. Wilson, John Curry, and Henry Cutter<sup>32</sup> were also indicted for introducing spiritous liquors into Indian country.<sup>33</sup>

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<sup>30</sup> 1875 Congressional Record p730.png

<sup>31</sup> 1875.03.20 Corvallis Gazette-Times.pdf

<sup>32</sup> 1875.07.30 Oregonian\_1875-07-30\_3.pdf

<sup>33</sup> 1875.03.15 Oregonian\_1875-03-15\_3.pdf

Senator Mitchell wasn't about to let the Army have its way. He attempted to introduce a provision into a bill which would have freed John Carr, but a fellow Senator caught on. The Oregonian reported:

Oregon's junior Senator distinguished himself by an attempt to smuggle through... a law to set at liberty certain one or more persons then under arrest and awaiting trial for crimes alleged to have been committed in Alaska. It is well known that Senator Hipple procured the appointment of Mr. John A. Carr as... deputy collector of customs at Fort Wrangel, Alaska, and before that individual had been in Alaska long there were grave complaints of malfeasance in his office...<sup>34</sup>

The Army in Alaska made an enemy of Senator Mitchell. Senator Mitchell began using his influence to have the Army removed from Alaska completely. He argued that military rule had proved oppressive in Alaska, and he introduced a bill to make Alaska a county of Washington territory.<sup>35</sup>

By the end of 1875, John Hipple Mitchell failed to garner enough support in Congress to save John Carr. With all options exhausted, John Carr changed his plea to guilty. Judge Deady sentenced John Carr to \$2,000 in fines, and 1 day in jail.<sup>36</sup>

But John Carr would make the man who had done this to him pay.

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<sup>34</sup> 1875.04.16 Oregonian.pdf

<sup>35</sup> 1875.12.30 Helena\_weekly\_herald\_1875-12-30\_5.pdf

<sup>36</sup> 1875.12.08 Oregonian\_1875-12-08\_3.pdf

# Chapter 12. Revenge

## Hard Luck

By 1876, Hugh Waters was all alone. His former partner, John Curry, took the fall for both of them, allowing Hugh Waters to avoid trial completely. In February 1876, it was Hugh Waters' chance to take the fall, when he fell off a gangplank while boarding a steamship breaking his leg.<sup>37</sup>

It was another turn of bad luck for the former merchant of Fort Wrangel. Like John Carr, he'd been the Army's prisoner for over 100 days, forced to work hard labor, unsure when his day in court would ever come. The Army deprived him of his freedom and property, and he had no criminal conviction to show for it.

As far as Hugh Waters was concerned, he was an innocent man, strung up on unproven charges, a victim of the Army's reckless abuse of power.

## Lawsuit

In June 1876, Hugh Waters sued the man who had overseen his arrest and detention: Captain J.B. Campbell. Waters held Campbell—not the Army—personally responsible, to the tune of \$25,000. J.B. Campbell wrote urgently to the Army begging for assistance.

Once again, Judge Deady presided over the trial. Hugh Waters called a witness who could validate Hugh Waters' complaint: John Carr. Under oath, John Carr told the truth: they'd been prisoners of J.B. Campbell, well past the limit of five days, confined and forced to work hard labor. Judge Deady virtually assured Hugh Waters a victory, when he instructed the jury to determine exactly how much J.B. Campbell should pay to Hugh Waters.

DEADY: In making up your verdict, then, you start with the undisputed fact that the defendant falsely, wrongfully, imprisoned the plaintiff from October 29 to December 24,

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<sup>37</sup> 1876.02.10 Morning\_Oregonian\_Thu\_Feb\_10\_\_1876\_.pdf

1874, a period of fifty-six days. The plaintiff being entitled to recover, the amount of your verdict must depend upon the injury which he has sustained, and the motives which influenced the defendant.<sup>38</sup>

The jury ordered Captain J.B. Campbell to pay \$3,500 to Hugh Waters for wrongfully arresting him. It was exactly as Campbell had feared. On appeal, the award was reduced to \$2,000 — the same amount John Carr paid in fines. Today, that's approximately \$50,000. John Carr got his revenge.

Captain Campbell, furious at having to personally pay the \$2,000 out of pocket, begged his superiors in the Army to foot the bill:

CAMPBELL: This man Carr belonged to a dirty political ring of Oregon...<sup>39</sup> As this suit was brought against me for an act I did in my official capacity and in obedience to specific orders, I respectfully ask that the War Department assume the payment of the judgment against me as well as the costs for defending the suit.<sup>40</sup>

At the same time Judge Deady was handing Hugh Waters a victory, another judge, in British Columbia, was handing Hugh Waters a defeat. The Daily Colonist wrote:

DAILY COLONIST: He was addicted to drinking, and the money procured had been used for buying liquor. The prosecutor [Waters' neighbor] appealed to the court to deal leniently with the case, as he believed prisoner was more or less drunk when he took the coat, and perhaps did not know what he was doing. His Honor said it was pitiable that prisoner, a fine mechanic who could earn his \$3 or \$4 per day, should have become possessed of such

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<sup>38</sup> 1877.09.03 Waters v. Campbell, 29 F. Cas. 412, 5 Sawy. 17; 10 Chi. Leg. News, 68; 4 Law & Eq. Rep. 616 (1877).pdf p. 414.

<sup>39</sup> 1879.01.31 Captain JB Campbell 45th Congress.pdf p.4

<sup>40</sup> 1879.01.31 Captain JB Campbell 45th Congress.pdf p. 5.



an insatiable desire for liquor as to steal a coat from a friend to gratify his cravings.<sup>41</sup>

**\*\*\* Commercial \*\*\***

When we come back, it's the conclusion of Wrangell History Unlocked Presents: Strange Customs. But first, this commercial message.

A. Choquette, Indian Interpreter & Explorer, Dealer in Groceries, Provisions, & Miners' Outfits, Boundary Post, Stickeen River, & Telegraph Ck., Cassiar.<sup>42</sup>

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<sup>41</sup> 1876.11.03 Daily Colonist.png

<sup>42</sup> 1875.01.19 Daily Colonist.png

# Chapter 13. Epilogue

John Carr was just another legal case in the long, simmering feud between Judge Matthew Deady and Senator John Hipple Mitchell. Each man represented a branch of government, but also two approaches to American law. Where Judge Deady saw the law as a safety net to protect people, Senator Mitchell saw it as a spider web to ensnare victims.

Today, Mitchell and Deady are most famous from a landmark legal case that unfolded at the same exact time as John Carr. The case is *Pennoyer vs. Neff*, and it's our last John Hipple Mitchell Swindle.

## **Hipple Swindle: *Pennoyer v. Neff***

Back when John Hipple Mitchell was still new to Oregon, he took on a client named Marcus Neff who owned vast tracts of valuable land. Mitchell waited for the right moment to strike.

After Neff traveled to California, Mitchell pounced. Mitchell billed Neff for legal work. When the absent Neff naturally failed to pay, Mitchell went to court, and had a judge seize Neff's property as payment. Three days later, Mitchell sold the property to Oregon politician Sylvester Pennoyer, as a quitclaim deed that put all the risk on Pennoyer should Neff ever come back, wanting his land. Sure enough, when Neff returned to Oregon in 1874, he was shocked to find his former lawyer Mitchell had taken his property and that Pennoyer claimed to own it. In the lawsuit that followed, Judge Deady ruled in favor of Marcus Neff. The case went all the way to the U.S. Supreme Court, who also ruled for Neff. But the Supreme Court went further. For the first time ever, the Supreme Court formally establish the rules of personal jurisdiction, specifically, how courts attach themselves to individuals and property. *Pennoyer v. Neff* is a landmark case still examined by many first-year law students, and it all began with a scheme hatched by John Hipple Mitchell, and judged by Matthew Deady.

## Continued Involvement with Alaska

Deady and Mitchell continued to hold an outsized influence over the administration of Alaska, during this period known as the Era of Neglect. Historians recognize this period for its weak federal investment and heavy-handed practices.

In 1879, Judge Deady convicted a Tlingit man, Kot ko wot, of murder. He sentenced Kot ko wot to death, and gave his body to a medical school for dissection.<sup>43</sup> Three years later, he did the same for a Tlingit man named Ki ta tah. This time, Judge Deady personally attended the dissection.<sup>44</sup>

## Deady/Mitchell Feud

In his diary, Judge Deady wrote bitterly about the man he called Hipple:

DEADY: Hipple spoke here on Tuesday and is speaking at other points wherever the office holders can get up an invitation for him. I did not go to hear him, for which I suppose he will remember me if he can get a chance...<sup>45</sup>

DEADY: Hipple has gotten his ring friends summoned to Washington as witness[es] in the Oregon electoral vote matter. A job to pay their expenses to Washington and back. They know nothing about the matter and there is nothing to tell as the facts are admitted and the question is one of law...<sup>46</sup>

In 1883, Judge Deady discovered information he thought could destroy John Hipple Mitchell, once and for all.

DEADY: When I came home [I] found letters from [Samuel] Potter enclosing some of Mitchel[1]'s letters to

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<sup>43</sup> 1989 The Incorporation of Alaska Natives Under American Law\_ The Unit.pdf, p. 288.

<sup>44</sup> 1989 The Incorporation of Alaska Natives Under American Law\_ The Unit.pdf, p. 289.

<sup>45</sup> Pharisee Among Philistines: The Diary of Judge Matthew P. Deady, p. 219. Saturday, October 7, 1876.

<sup>46</sup> Pharisee Among Philistines: The Diary of Judge Matthew P. Deady, p. 222. Saturday, December 16, 1876

his wife's sister Carrie Price, which are about the most love sick things I ever read...<sup>47</sup>

Mitchell's letters to his own wife's sister revealed their torrid affair:

MITCHELL: Oh! My own dear Carrie, will you believe me when I say that since I last saw you I have been the most miserable, I expect, of all living men. I have felt as I have never felt before. My thoughts have been of you, and you alone, and although you promised me faithfully, my own girl, that you would not leave me now—and you have never told me a lie in your life to my knowledge—yet, notwithstanding all this, I have continually felt doubts creeping into my mind... you have given me, my dear good girl, too many proofs of that love...<sup>48</sup>

Judge Deady timed the release of the letters to destroy Mitchell's chance at winning a Senate seat in 1885:

DEADY: This mornings Oregonian contains the Mitchel[l] love letters to Carrie Price his wife's sister. They must fix him with the decent part of the community, but with his particular henchmen I imagine it will make no difference unless his pretensions to piety disgust them. He is alone in making fornication a means of salvation.<sup>49</sup>

His scheme didn't work. Mitchell won another term in the U.S. Senate, and their feud continued. After 14 years of avoiding each other, the two men met face-to-face in October 1887 at a social gathering:

DEADY: ...Dined at Montgomerys... The dinner was excellent and the company tolerable. I don't think they were well selected and were rather in one anothers way. Mitchell and I spoke and took hold of hands when he came in. We had not spoken before since 1873.<sup>50</sup>

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<sup>47</sup> Pharisee Among Philistines: The Diary of Judge Matthew P. Deady, p. 417. Saturday, August 28, 1883.

<sup>48</sup> Pharisee Among Philistines: The Diary of Judge Matthew P. Deady, p. 435.

<sup>49</sup> Pharisee Among Philistines: The Diary of Judge Matthew P. Deady, p. 480. Saturday, November 14, 1885.

<sup>50</sup> Pharisee Among Philistines: The Diary of Judge Matthew P. Deady, p. 523. Wednesday, October 5, 1887.

Matthew Deady died six years later, on March 24, 1893 at the age of 68.

## **John Hipple Mitchell**

His old foe, John Hipple Mitchell lived to serve four terms in the U.S. Senate. In his fourth term, he ran up against the progressive politics of President Teddy Roosevelt, who publicly declared war on corruption. Mitchell was charged in the Oregon land fraud scandal. A jury convicted Mitchell, making him one of only five U.S. Senators convicted in office. While his case waited on appeal, he died on December 8, 1905, at the age of 70. No longer able to defend himself, the criminal charges were vacated. Even in death, John Hipple Mitchell got away with it.

## **Ben Holladay**

Back in 1874, around the time John Carr was working hard labor, Ben Holladay was in Portland, celebrating his 55th birthday by marrying 25 year-old Ester Campbell.<sup>51</sup> Ben Holladay remained an important figure in Portland power and politics, even though his fortune never quite recovered from the Panic of 1873. He died on July 8, 1887 at the age of 67. Today, his name is emblazoned in large letters on the walls of the Oregon State House.

## **Merchants**

In the months following the Army's takeover of Fort Wrangel, King Lear thought he was in line for his biggest payday yet. He planned to convince the Army to buy the fort back, for a high price. Instead, the Army simply took the fort, no questions, and refused King Lear's demands. Instead, they paid King Lear a fixed, monthly rent set in vouchers. King Lear won the battle with John Carr, but lost the fort. The Cassiar Gold Rush brought great highs to Fort Wrangel, but the Army's crashing arrival, and onset of the cold, fall season brought life to a standstill.

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<sup>51</sup> 1874.10.23 Daily Colonist.png

In November 1874, the Daily Colonist sent a reporter to Fort Wrangel, who observed King Lear's new life:

...Thinking a drop of brandy would do me no harm, I immediately started in search of the same. The first building that attracted my attention after landing, was a somewhat imposing wooden structure with the sign "W. King Lear" written at the side of the door in several places with a lead pencil. Into this place I bolted. Nine [Native men] and a [Native woman] were seated in a group around the stove, and six more were playing big kaseno at the door. Behind the counter to the left, his chin resting on the palms of his hands, his elbows resting on the counter, was a man somewhat beyond the noon of life. The expression of his countenance was mild, though it showed little animation. One eye was closed and the other fixed steadily on the group on the floor...I approached him and asked him for a drink. He looked at me with as much wonderment as if I had just told him I had walked from Buck's Bar on my hands. He then whistled two verses of an old Irish tune, walking forward and taking a seat behind the group at the stove, paid me no more attention.

I made for what they call the Fort... To the left was a somewhat larger and more respectable-looking structure with "U.S. Customs" painted on the door, at the side of which stood the present Collector, Mr. Daniels, a gentleman who is past the prime of life, but still maintains a resolute countenance. Immediately in front of where I stood, and across the yard was one of Uncle Sam's "boys in blue" pacing his beat in front of a long row of log buildings... I walked toward and asked him "Can I get anything to drink in there," pointing to the log building... He lowered his eyes, and for a moment looked at me sorrowfully, after which he turned to the right face and stepped off on his beat whistling in a low and mournful key the air "Mother I've come home to die."<sup>52</sup>

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<sup>52</sup> 1875.01.21 Daily Colonist

King Lear lived in Fort Wrangel until old age. In 1902, the very first issue of what became the Wrangell Sentinel published a small notice, announcing the end of an era:

King Lear, the oldest resident of Wrangell and one of the very earliest of Alaskan pioneers, has gone to make his house with a son-in-law near Seattle. For some time the old gentleman had been failing in health, and friends prevailed upon him to make the change of residence. Mr. Lear has seen many ups and downs while a resident of Wrangell.<sup>53</sup>

King Lear lived another 13 years, dying in 1915 at the age of 83 in a Washington state mental hospital. In 1931, the Wrangell Sentinel printed a letter which recalled:

Many years ago Wrangell had a noted character who lived on the hill at the present location of the court house. He was known as King Lear, and if you were not in his good graces you were just out of luck, as he just about ran things to suit himself.<sup>54</sup>

## **John A. Carr**

As for John Carr, he continued a life of crime.

In 1879, John Carr was indicted for attempted bribery. The Douglas Independent newspaper wrote:

Carr is not a man who would allow himself to be caught in a manner very easy, and it will be a matter of surprise to us if his conviction follows his indictment.<sup>55</sup>

True to form, John Carr beat the charges on a legal technicality and was released.<sup>56</sup>

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<sup>53</sup> 1902.11.20 Alaska Sentinel vol.1 no.1 clipping.png

<sup>54</sup> 1931.03.31 Wrangell Sentinel clipping.pdf

<sup>55</sup> 1879.11.22 The Douglas independent., November 22, 1879, Image 2

<sup>56</sup> 1879.12.12 The Corvallis gazette., December 12, 1879, Page 2, Image 2

When John Carr's cousin joined Portland's police department, John Carr attempted to blackmail him and threatened to have him fired. When his cousin was fired, he blamed John Carr, and sought revenge. The cousin got in touch with the sheriff of Oroville, California and gave him a name that had not been spoken in years: Juan Fernandez.<sup>57</sup>

Oroville's sheriff sent word to the authorities in Portland, Oregon to arrest John Carr. He put up no resistance.<sup>58</sup> In fact, he proclaimed:

JOHN A. CARR: I have nothing to say except that I am not guilty, and I am quite willing to go to Oroville and abide by the decision of the courts.<sup>59</sup>

Twenty years after the murder of Juan Fernandez, John Carr returned to Oroville, but his stay wasn't long. On January 27, 1883, the Morning Astorian reported:

John A. Carr, who was taken to California on a charge of murder, a few weeks ago, was a returning passenger on the Queen, yesterday. No indictments.<sup>60</sup>

The charges simply disappeared. John Carr was again a free man.

In 1889, John Carr approached a young man named Richard Walker and claimed to be the only person who knew where Richard Walker's dead mother left her will and testament.<sup>61</sup> While stroking his beard with his bejeweled, diamond-ringed hand, John Carr gave an interview to The Morning Oregonian:<sup>62</sup>

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<sup>57</sup> 1882.12.14 Oregonian\_1882-12-14\_3.pdf

<sup>58</sup> 1882.12.14 Oregonian\_1882-12-14\_3.pdf

<sup>59</sup> 1882.12.14 Oregonian\_1882-12-14\_3.pdf

<sup>60</sup> 1883.01.27 Carr\_not\_indicted.pdf

<sup>61</sup> 1889.07.30 Morning\_Oregonian\_Tue\_\_Jul\_30\_\_1889\_.pdf

<sup>62</sup> 1889.08.20 Morning\_Oregonian\_Tue\_\_Aug\_20\_\_1889\_.pdf



REPORTER: Is it true that you wanted the heir to agree to give you 30 per cent of the esstate before you would disclose the place where his mother died, or where her property is located?

JOHN A. CARR: No; I asked 75 per cent.

REPORTER: Do you mean that, or are you jesting?

JOHN A. CARR: I am in earnest.

REPORTER: Of course Walker would not agree to anything of that sort?

JOHN A. CARR: No, he wouldn't; but I wanted to get as much as I could.

REPORTER: Don't you think you were asking for a pretty big slice?

JOHN A. CARR: I'd take it all...

REPORTER: It takes a good deal to satisfy you, I imagine.

JOHN A. CARR: No; I am a reasonable sort of man.

REPORTER: Well, did you come to any agreement with Walker's lawyer before you left New York?

JOHN A. CARR: Oh yes; I am satisfied. All I wanted was to get my money back, and to be paid for the trouble I had in finding the heir.<sup>63</sup>

John Carr's cruelty to Richard was simply too much for Richard's father, James. The Daily Morning Astorian reported:

John A. Carr, a well known speculator, was shot, though not seriously, by James Walker during an insane freak.<sup>64</sup>

John Carr survived being shot, but he wasn't taking any chances. Weeks later, he was arrested for assault and found carrying three pistols.<sup>65</sup>

A few years later, in 1894, John Carr and a rookie Portland lawyer were caught attempting to bribe a juror. The Daily Morning Astorian reported:

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<sup>63</sup> 1889.08.20 Morning\_Oregonian\_Tue\_Aug\_20\_\_1889\_.pdf

<sup>64</sup> 1890.04.16 The daily morning Astorian., April 16, 1890, Image 1

<sup>65</sup> 1890.04.30 Oakdale Graphic.pdf

It seems that they approached Mrs. Huntington, whose husband was one of the jurors, and Carr told her, so it is claimed, that if her husband voted for any other verdict than acquittal, he would be murdered. He also gave the woman \$100 to give to her husband, and told her there was \$200 more, and if that was not enough, he could fix his price.<sup>66</sup>

The plan didn't work. The defendant was sentenced to life in prison,<sup>67</sup> and John Carr and the lawyer were charged with bribery.<sup>68</sup> After only 10 minutes of deliberation, a jury sentenced John Carr to five years in prison.<sup>69</sup> But, on appeal, the Oregon Supreme Court overruled the verdict on a technicality, setting John Carr free.<sup>70</sup>

In 1908, The Oregonian ran a photo of John Carr, and asked the well-known political old-timer his thoughts on the upcoming presidential race:

JOHN A. CARR: If the money is equally divided, Bryan will be the next president. But if Taft has the big side of the sack he will beat Bryan. Money can beat Bryan or it can beat Taft, and money will decide the battle in November.<sup>71</sup>

John Carr died on November 15, 1921. He was 88 years old. He is buried in the Pioneer Cemetery in Salem, Oregon.<sup>72</sup>

## **Fernandeste**

For the U.S. Army, there was one piece of unfinished business. The disturbing death of Fernandeste in U.S. custody created a serious rift with

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<sup>66</sup> 1894.12.19 Dalles Daily Chronicle.pdf

<sup>67</sup> 1895.12.13 San Francisco Call 2.pdf

<sup>68</sup> 1894.12.21 Weekly Oregon Statesman.pdf

<sup>69</sup> 1895.06.01 Petaluma Daily Morning Courier.pdf

<sup>70</sup> 1895.12.13 San Francisco Call 1.pdf

<sup>71</sup> 1908.06.20 The Oregon Daily Journal.pdf

<sup>72</sup> Salem Pioneer Cemetery ~ John Carr ~ part of the Marion County Pioneer Cemeteries of Oregon.pdf

Kaachxana.áak'w, the Tlingit village next to Fort Wrangel. Only a few years earlier, the village and the Army battled around Christmas 1869. The Army feared Fernandeste's death might rekindle that conflict. In January 1875, The Sacramento Daily Union wrote:

When the news of the suicide of the Indian chief on board the Gussie Telfair reached Fort Wrangel, the Indians were greatly startled. They donned their war paint, held a council of war, and prepared for hostilities. The guard of the United States troops were strengthened by a detachment from Sitka.<sup>73</sup>

Two months later, the Alaska Bulletin wrote:

One or two Indian scares occurred during the month, owing to the feeling of discontent existing among the Stickeen Indians, arising from the Indian Chief Fernandestes' suicide on board the Gussie Telfair. The Indians threaten to kill a white man to settle their (the Indians) ideas, of how the question of his death should be settled. Trouble is apprehended by the whites who are well posted on the Indian character.<sup>74</sup>

It seemed as if a dark chapter of Alaska history might repeat itself.<sup>75</sup>

General Jefferson C. Davis was no longer around to resolve this conflict. That fell to his replacement, General Oliver Otis Howard.

General Howard was a Civil War legend, who lost his arm in 1862 while fighting for the Union. After the war, he helped found the historically Black college bearing his name, Howard University.

Shortly after the arrest of John Carr, the Army replaced Davis with Howard, who now had to resolve the simmering diplomatic dispute over

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<sup>73</sup> 1875.02.20 Sacramento Daily Union 20 February 1875 — California Digital Newspaper Collection.pdf

<sup>74</sup> 1875.03.05 The Alaska Bulletin.pdf via AlaskaWeb.org

<sup>75</sup> 1875.06.15 Daily Colonist.png

Fernandeste. In the summer of 1875, General Howard and a detachment boarded a steamship for Alaska. When he arrived, he met personally with the Tlingit villagers:

HOWARD: The Indians from the "ranches..." came with dejected looks to interview me. They fortunately had a prime interpreter, in Mr. Alexander Choquette, who speaks English and Stickeen... with equal readiness. The complaint that we had taken away their chief, Fernandeste, by force; that our people (the accused prisoners, no doubt) had so frightened him as to the consequences of his detention and journey to Portland, that in terror he took his life; that his immediate relations were worried almost to madness by the sneers and gibes of other Indians, who said they were cowards because they did not have their "revenge" or "settlement." I learned that under the influence of this passion and drink, an attempt had been made more than once to kill a white man, and that the promise of a "settlement" by me was what the Indians rested in.<sup>76</sup>

I asked what would satisfy them and he replied, one hundred good blankets, only they must have their dead chief back again... At a word the soldiers went into the stockade and then slowly returned bearing the body of Fernandeste back to those who loved him, and a hundred army blankets for the tribe. A sudden change came over the faces of the Indians, and taking the body from the soldiers they returned to their homes satisfied... In the evening we came together. The starlight was very bright and it was all still except for the washing of the sea on the shore. The Indians came quietly, and without much ado built a fire on the ground for a big torch to light us. The men were dressed fantastically, no two alike, and their arms and legs were painted. They gave first a dance of joy, which lasted over an hour. Then they showed in a rude

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<sup>76</sup> 1876.06.01 Letter from the Secretary of War transmitting a report of the co.pdf

way without speaking a word, simply by signs and motions, how Fernandeste went to the steamer, how he died, the crossing of the bar on the Columbia River, how his body was buried and taken again from the ground and the return of it by the steamer to Wrangel; then our coming, our lunch and the council, but all so plainly shown that everybody knew what it meant and clapped their hands in applause for this fine acting.<sup>77</sup>

Fernandeste's death is a reminder that while the American government struggled to enforce any system of justice in Alaska, the Tlingit system of justice was firmly in place. It had been at the forefront of European-Tlingit relations for generations, a set of rules governing responsibility, reciprocity, and maintaining honor. In this dispute, General Howard and the Army achieved a settlement by honoring the Tlingit system of justice.

John Carr made the American system of justice into a three ring circus.

John Carr worked the legislative, executive, and judicial branches against each other. It was a system of checks and balances, that kept everyone guessing who was really in charge.

John Carr played the game, through dirty tricks, dishonest deeds, and secret influence. He helped to change the way life was lived in the West forever.

It's a strange custom, but an American tradition.

I'm your host, Ronan Rooney. From all of us at Wrangell History Unlocked, thanks for listening.

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<sup>77</sup> Famous Indian Chiefs, by O.O. Howard, May 1908. St. Nicholas, Vol 35, No 7.

## Credits

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If you're interested in learning more about this period of Wrangell history, please check out two books by Patricia A. Neal, *Fort Wrangel: Gateway to the Stikine*, and *Stikine River Journal: Early Days on the Stikine River*.

That's all for Strange Customs. I'm your host, Ronan Rooney. Thanks for listening.