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AN ADMINISTRATIVE TREATY HISTORY OF INDIANS OF
YELLOWSTONE NATIONAL PARK, 1851-1925

By

JEANNE MARIE OYAWIN EDER
(Dakota Sioux)

A dissertation submitted in partial fulfillment of
the requirements for the degree of

DOCTOR OF PHILOSOPHY

WASHINGTON STATE UNIVERSITY
Department of History

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To the Faculty of Washington State University

The members of the Committee appointed to examine the dissertation of JEANNE MARIE OYAWIN EDER find it satisfactory and recommend that it be accepted.

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AN ADMINISTRATIVE TREATY HISTORY OF INDIANS OF
YELLOWSTONE NATIONAL PARK, 1851-1925

ABSTRACT

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Chair: Orlan J. Svingen

Between 1851 and 1868, the Blackfeet, Crow, and Shoshone Indian Tribes negotiated a series of treaties that ceded portions of their lands to the United State Government. The treaties did not relinquish their rights to hunt on unoccupied federal lands. In 1872, Congress created Yellowstone National Park out of lands ceded by those tribal groups, ignoring existing treaty obligations.

Civilian park superintendents and then military superintendents worked to drive Indian people out of the park. Northern Pacific Railroad promoters, park concessionaires, and conservationists persuaded the federal government that Indian people threatened the well-being of the park. Consequently, American Indian people were banned from the Yellowstone. The Indian Citizenship Act of 1924 conferred federal citizenship on Indian people and opened the park to American Indians who entered the park as American citizens.

National Archives material used in this study include the Records of the National Park Service, Record Group 79, and the Records of the Bureau of Indian Affairs, Record Group 75. It incorporates the Annual Reports of the Superintendents of Yellowstone National Park and numerous federal government documents.

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Dedication

This dissertation is dedicated to my mother-in-law, Georgia Vlahovich, who passed away before I finished, but has remained ever close to me and to my grandson, Brandon Albea, who was born May 13, 1998. As one life ended another began and so the circle of life continues.

CHAPTER 1

Introduction

Most American History has been written as if history were a function of white culture--in spite of the fact that well into the nineteenth century the Indians were one of the principal determinants of historical events....American historians have made shockingly little effort to understand the life, the societies, the cultures, the thinking, and the feeling of the Indians, and disastrously little effort to understand how all these affected white men and their societies.

Benard De Voto¹

When it comes to looking at the connections of Indian people with the region that became Yellowstone Park, various terms are used to ignore the fact that Indian people used the park for 11,000 years. Historians have recounted the written stories of trappers which affirm the fact that Indian people did not "permanently occupy" Yellowstone Park. There are studies that state only the Sheepeaters were "permanent dwellers" within the park boundaries. Superintendent Phelitus Norris, who served from 1887 to 1882 as the second Superintendent of Yellowstone Park, created the myth that Indians were superstitious and afraid of the geysers.

This chapter is a discussion of the role of White European terms, phrases and concepts that have been used by trappers, traders, gold seekers, park superintendents, rangers, park historians and others to cloud and nullify the rights and claims

¹Joseph Kinsey Howard, Strange Empire: Louis Riel and the Metis People (New York: Morrow & Company, 1952), 8.

of Indian nations to the resources of Yellowstone National Park. These terms and phrases have led people to believe that Indian people did not actually "occupy," "inhabit," or "permanently dwell" in the park.

Perhaps the most crucial of the terms is the definition of ownership. Native Americans have a distinctive perspective concerning "ownership". Their connection to the land and its resources are tied to their spiritual relationship to the earth or to a particular segment of land. As Dale Van Every said in his book The Disinherited, The Lost Birthright of American Indians:

The Indian was peculiarly susceptible to every sensory attribute of every natural feature of his surroundings. He lived in the open, as responsive to sun, wind, rain, snow as any wild animal. He knew every marsh, glade, hill top, rock, spring, creek as only the hunter can know them. He had never fully grasped the principle establishing private ownership of land as any more rational than private ownership of air but he loved the land with a deeper emotion than could any proprietor....His homeland was holy ground, sanctified for him as the resting place of the bones of his ancestors and the natural shrine of his religion. He conceived its waterfalls and ridges, its clouds and mists, its glens and meadows, to be inhabited by the myriad of spirits with whom he held daily communion.²

Indian Land Ownership & Terminology

Frederick Hoxie, who is currently the Director of the D'Arcy McNickle Center for the History of the American Indian at the Newberry Library in Chicago, has said that the problem with conventional histories is that so many historians who write about

²Dale Van Every, Disinherited: The Lost Birthright of the American Indian (New York: William Morrow & Company, 1966),10.

Indian peoples fail to understand the importance of place to Indian people. He said: "So very often Indian people extend kinship to all living things in their environment, sometimes even to the sun, moon, and stars in the heavens."³

As one searches for the meaning of words that have been used about the indigenous people of this country, one should read Francis Jennings' book The Invasion of America: Indians, Colonialism, and the Cant of Conquest (1975). Jennings devoted a portion of his book to discussion of terms and the meanings of those terms that still apply today. Jennings said that the word "savage" as used about Indian people has always implied an inferior race to that of civilized men. As the word gained currency, he said, it created the myth of the "Ignoble Savage." It is the holders of that myth who deny Indian people their rights to land and sovereign rights. He continued: "When Indians were regarded as partners in profitable trade, they appeared less threatening, and their vices excused. When they resisted eviction

³Frederick E. Hoxie, Indians in American History (Arlington Heights, Illinois: Harlan Davidson, Inc., 1988), 10-11. Hoxie goes on to give one example from the Taos Pueblo people who made a definitive statement when they appealed to regain title to their sacred Blue Lake: 'Our tribal government is responsible to this land and to the people. We have lived on this land for many days beyond history's records, far past any living memory deep into the time of legend. The story of my people and the story of this place are one single story. No man can think of us without also thinking of this place. We are always joined together.'

from lands wanted by the colonizers, they acquired demonic dimensions."⁴

Jennings further states that Indian were as much tied to particular tracts of land as were Europeans. As hunters or farmers they had lived in particular territories marked by natural boundaries. Those boundaries could be entire mountain ranges, valleys or streams or perhaps some other specific geographic formation. Their movements within their specified land areas were cyclical. They moved as animals moved or as crops needed more fertile lands. As Jennings put it: "The Indian did not wander; he commuted."⁵

Perhaps a place to start is to look at the issue of "owning" land in America and how it was decided to purchase it from Indians. According to Daniel Boorstin, The Americans, The Colonial Experience (1958), Americans were concerned about having an edge in the competition for the continent and any semblance of legality might be important someday. Thus Indian people found themselves bound up more and more in a legal relationship with the invading Europeans.

Boorstin goes on to say that the reason the Europeans bothered to purchase the land was because the land title in the

⁴Francis Jennings, The Invasion of American, Indians: Colonialism, and the Cant of Conquest (New York: W. W. Norton & Company, 1975), 59.

⁵Ibid., 71.

beginning actually belonged to the Crown and could only be secured by grants from the Crown. We have no record that the Pilgrim Fathers paid the Indians for the title to their land. It was the Dutch who built the legal foundations of land purchases. Boorstin said that it was Peter Minuit, who in 1626 was in charge of the Dutch settlement on Manhattan Island, who paid the Indians for a twenty-thousand acre tract of woodland. Boorstin said that the sixty gulden was not an unfair price even though the dollar equivalent was \$24.00. It actually equaled several thousand dollars in today's currency. The fact that the Dutch decided to pay at all set an important precedent. Thereafter that the Dutch required that prospective owners of land had to first purchase that land from the Indians.⁶

After the English had their first land disputes with the Dutch, they began purchasing land from the Indians. Under Roger Williams of Rhode Island, land was purchased from the Indians, much to the dismay of his colonial counterparts. His later royal charter for Rhode Island was granted only after he purchased the land from the Indians. Again Boorstin contends that even though the colonies continued purchasing Indian lands, "...they never changed their legal position that the Indian title had no standing in English law. All the Indian lands, they continued

⁶Boorstin, The Americans, 259-60.

legally to assume, were a kind of public domain. The Crown alone could grant title, and to anyone it wished."⁷

Thus American attitudes toward Indian lands and rights included ignoring Indian rights and/or at least taking the Indian lands. In order to hasten that taking of Indian lands, many white Europeans rejected the idea that Indians had prior occupancy rights. That rejection was based on the belief that the "...Indian had been making little or no use of vast regions which could become highly productive under white development."⁸

To many European nations, the Indians of North America held no community title to the land even though they occupied the land for thousands of years. Europeans felt it was a "new world" and as Boorstin stated "...a treasure trove destined by God and nature to benefit a more deserving race...This assumption was supported by the current theological opinion that Christians had obviously been ordained by providence to inherit the earth and the Indians, being heathen, could not hope to oppose the process."⁹

As Europeans moved westward, the treaty period recognized that Indian people had legal ownership of the land they occupied and even some lands upon which they hunted. Treaties were

⁷Boorstin, The Americans, 260.

⁸Van Every, The Disinherited, 80.

⁹Ibid., 80-81.

negotiated under the principle that the Indians held vested title to their ancestral lands.¹⁰

Terms: Indian versus Native American

One always asks: Is the correct term Native American or Indian? There really is no correct term that lumps all the various indigenous nations together. Printed in 1493, Christopher Columbus's letters first introduced the word "Indios" or "Indian." The term "Indios" means "of God" or godlike people. Columbus described them as: "...they all believe that power and good are in the heavens...."¹¹

Here again the use of terms about the indigenous peoples of America can be a problem. They have been called *Indian*, *Native American*, *American Indian*, *Alaskan Native* & *Native Hawaiian*. The indigenous people themselves would prefer to be called by their own names. For the purpose of this paper, the names of the Indian nations will be used when possible but they will be referred to as *Indian* when spoken of collectively. It is a label that they have had for five hundred years.¹²

¹⁰Van Every, The Disinherited, 82.

¹¹Robert F. Berkhofer, Jr. The Whiteman's Indian: Images of the American Indian from Columbus to the Present (New York: Vintage Books, 1978), 4-6.

¹²Jon Reyhner, ed. Teaching American Indian Students. (Norman: University of Oklahoma Press, 1992), xi-xii.

Term: Sheepeaters

The name "Sheepeaters" refers to one tribe within an entire nation, and it is the one tribe that is considered by non-Indian historians to be "permanent dwellers" of Yellowstone National Park. The term Sheepeaters is a Shoshone word that refers to one's eating habits. Their name is "Tukudeka," spelling by Brigham D. Madsen in his book The Lemhi :Sacajawea's People; or "Tukuarika," spelling by Hiram Chittenden in his book The Yellowstone National Park; or "Tukadukas," spelling by Virginia Cole Trenholm and Maurine Curley in The Shoshonis: Sentinels of the Rockies. The spelling used by Joel Janetski in his book Indians of Yellowstone Park, was "Tukarika". Noted Wyoming historian, Grace Hebard, in her book Washakie: Chief of the Shoshones, wrote their name as *Tukuarikas*. Ake Hultkrantz spelled their name *Tukudika* and said that it meant "meat eater" in his article "The Shoshones in the Rocky Mountain Area." However the name is spelled, its meaning refers to being "mountain sheep eaters." It is of the Shoshonean language family.¹³

Hiram Chittenden wrote in his book Yellowstone National Park, "Three great families of Indians, the Siouan, the Algonquian, and the Shoshonean, originally occupied the country

¹³Brigham D. Madsen, The Lemhi: Sacajawea's People (Caldwell, Idaho: The Caxton Printers, Ltd. 1979), 24.

around the sources of the Yellowstone."¹⁴ Of these language families, he said the Crows, the Blackfeet , the Bannocks, the Eastern Shoshones, and the Sheepeaters were the only tribes really connected to the park and its surrounding areas. The term Eastern Shoshone will be dealt with later in the paper.

Historical Statements: Indians did not use the Park

First published in 1914, Osborne Russell's book Journal of a Trapper 1834 - 1843 is generally regarded by non-Indian scholars as one of the best accounts of Indians in the Yellowstone area. The book was originally titled Nine Years in the Rocky Mountains: 1834-1843. He speaks of his encounter with the Sheepeaters in what is now Yellowstone Park as follows: "Here we found a few Snake Indians comprising 6 men 7 women and 8 or 10 children who were the only Inhabitants of this lonely place and secluded spot."¹⁵

In the Annual Report of the Superintendent of Yellowstone National Park in 1880, the superintendent wrote: "The only real occupants of the Park were the pigmy tribe of three or four hundred timid and harmless Sheepeater Indians, who seem to have won this appellation on account of their use of the flesh and skin of the big horn sheep for food and clothing, and their skill

¹⁴Hiram Martin Chittenden, The Yellowstone National Park (Norman: University of Oklahoma Press, 1964), 6.

¹⁵Osborne Russell, Journal of a Trapper 1834 - 1843, ed. Aubrey Haines (Lincoln: University of Nebraska Press, 1965), 26.

in hunting these animals amid the cliffs, crags, and canons of the snowy mountains." He went on to call them the "...legendary wild men of the mountains." He also wasn't sure if they were some remnant band of the Shoshone Indians, as their traditions, spoken language, and sign language had definite similarities to those of the Shoshone.¹⁶

In The Yellowstone National Park (1964), Hiram Martin Chittenden states: "It is a singular fact in the history of the Yellowstone National Park that no knowledge of that country seems to have been derived from the Indians. The explanation ordinarily advanced is that the Indians had a superstitious fear of the geyser regions and always avoided them."¹⁷

He goes on to say, with reference to the Sheepeaters, that they were a "humble branch" of the Shoshone "...known to have permanently occupied what is now the Yellowstone Park."¹⁸ They were found inside the boundary of the park by various exploratory groups, and Chittenden said they "...have engaged the sympathy or contempt of explorers since our earliest knowledge of them."¹⁹

¹⁶"Annual Report of the Superintendent of the Yellowstone National Park to the Secretary of the Interior for the Year 1880 (Washington Government Printing Office, 1881), 35.

¹⁷Chittenden, The Yellowstone National Park, 9.

¹⁸Chittenden, The Yellowstone National Park, 11.

¹⁹Ibid., 11.

Archaeological evidence of Indian

In 1995, Kenneth P. Cannon completed Technical Report No. 34 titled: Archeological Inventory and Testing of Selected Areas For Fishing Bridge Campground Relocation, Hudat, and Lake YPSS Service Station Development Projects, Yellowstone National Park, Wyoming. His report documents the study of several prehistoric sites within the Yellowstone Park boundaries. In his report he mentions that several sites were found at Grant Village, Norris Campground, Canyon Village, Lamar Valley, Yellowstone Lake area, and the East Entrance Road to the Park. Various testing revealed that the prehistoric use of the Park dates back at least 9,000 years.²⁰ So how long must one "occupy" land to be considered "permanent dwellers?"

²⁰Kenneth P. Cannon, Archeological Inventory and Testing of Selected Areas for Fishing Bridge Campground Relocation, Hudat, and Lake YPSS Service Station Development Projects, Yellowstone National Park, Wyoming. (Midwest Archeological Center, Technical Report No. 34. Produced for the Rocky Mountain Region, National Park Service. Lincoln, Nebraska: United States Department of the Interior National Park Service Midwest Archaeological Center, 1995), 15.

CHAPTER 2

Exploratory Expeditions & Indian Policies

...the whole country beyond was smoking with the vapor from boiling springs, and burning with gasses, issuing from small craters, each of which was emitting a sharp whistling sound.

Joe Meek, 1870

...he [David Folsom] was unwilling to risk his reputation for veracity, by full recital, in the presence of strangers, of the wonders he had seen. He said that he did not wish to be regarded as a liar by those who were unacquainted with his reputation.

Aubrey Haines

In 1806 the Lewis and Clark Expedition returned from its journey to the west. One of its members, John Colter, chose to return to the mountains of the west and eventually was recognized as having been one of the first to discover the Yellowstone Park area. Yet it would take another forty years or more before the government set about mapping and exploring the areas previously traversed only by fur trappers.

Joe Meek was another early visitor to the region, and he described the Yellowstone area to his biographer. Eventually Meek's account was published in The River of the West. An excerpt from his book stated that while Meek was having breakfast he decided to climb a mountain and have a look at the area: "the whole country beyond was smoking with the vapor from boiling springs, and burning with gasses, issuing from small craters, each of which was emitting a sharp whistling sound." He had been

under the impression that the country was desolate, as he had not seen a living creature. While he stood looking about, he was startled by two gun shots and the Indian yell. While preparing for some kind of confrontation he heard someone shout his name. It turned out to be an old friend, but he was fully prepared to have encountered Indians. That story is one of many whereby early explorers feared encounters with Indian people in the park. Considering that there were not suppose to be Indians in the park, Meek's story is a good one that illustrates that mountain men certainly knew better.²¹

The stories of the Yellowstone area sparked a lot of interest from individuals who wanted to see the wonders for themselves. In the spring of 1865, Father Francis Xavier Kuppens, heard about the Yellowstone region from a group of Piegans, He managed to recruit some of the young men to take him into the area. He traveled as far of the Grand Canyon of the Yellowstone and then returned to St. Peter's mission, near present-day Great Falls, Montana. In October of that same year, an early winter storm caught some men going by horseback from Helena to Fort Benton, so they spent several days at the mission. These men included the Acting Territorial Governor Thomas Francis Meagher, and two United States Marshals and two Territorial Judges. They

²¹Francis Fuller Victor, The River of the West, The Adventures of Joe Meek. (Missoula, MT: Mountain Press Publishing Company, 1983), 75-77.

spent the time listening to Father Kuppen's stories about Yellowstone Park and they were inspired to create their own expedition.²²

There was no opportunity for this expedition to develop until 1867 at which time forts were built to protect the Gallatin and Yellowstone valleys from the Sioux Indians. At the very last moment, Governor Meagher drowned in the Missouri River at Fort Benton. Thus Captain Charley Curtiss and Surgeon James Dunlevy decided to conduct a brief scouting effort, but they did not get any farther than Mammoth Hot Springs. Later exploratory expeditions were organized for 1867 and 1869 but they failed to materialize as there was a shortage of troops to escort these expeditions because of Indian unrest on the plains. Leaders of the expeditions wanted to have military escorts because of the fear of Indian encounters in the Yellowstone area. Such troop support would not be available even of the Cook-Folsom expedition.²³

Cook-Folsom Expedition

Three friends decided to go on their own without a military escort in September of 1869. They were David E. Folsom, Charles W. Cook, and William Peterson. Cook has been described as an

²²Aubrey Haines, The Yellowstone Story Vol. I., (Yellowstone National Park, WY: Yellowstone Library and Museum Association, 1977), 89-90.

²³Ibid., 91.

"untypical Quaker" and an "intellectual." Folsom was an engineer trained in surveying. Peterson was a former sailor. All had learned to live with the land during their mining excursions.²⁴ This Expedition consisted of these three men on horseback with two pack horses carrying their gear. They left on September 6, for a route they chose from Bozeman, to Gardiner, Montana. At Gardiner they planned to enter the Park through what is today known as the north entrance.

They left from Fort Ellis and followed the old emigrant road toward Bozeman Pass. They went along that trail for five miles until it intersected with Meadow Creek, then they followed that trail up stream for six miles. They referred to that trail as an old Indian trail and it took them to the divide between the Gallatin and Yellowstone drainages. From there they went eleven miles down Trail Creek to where it ran into the Yellowstone River, just near Emigrant Gulch. Apparently miners had used that trail since 1864. They continued south on the west bank of the river until they reached the Bottler brothers' ranch. Their homestead was considered to be thirty-nine miles from Bozeman, and beyond that there was "only the occasional hoofprints of unshod Indian ponies and the drag-marks of travois poles to mark

²⁴Aubrey Haines, The Yellowstone Story, A History of Our First National Park I: 94.

the aboriginal trailway up the Yellowstone."²⁵ Eleven miles upstream from the Bottler ranch they ran into Tom Miner Creek.

The group headed down Trail Creek and into the Yellowstone Valley. At Tom Miner Creek, just north of the park, they came upon a wickiup occupied by two Indian women drying chokecherries. Haynes said: "It was a barely adequate structure of poles thatched with grass, occupied by two old Indian women who were busy gathering and drying chokecherries. By the repeated use of the word *Tonkey*, the elder of the two crones made it clear that they were Sheepeaters."²⁶ These women identified themselves as Sheepeaters and indicated in sign language that Folsom, Cook, and Peterson would run into thirty more lodges of Sheepeaters further along the route, but the men did not pay attention to the women.

Folsom, Cook, and Peterson followed the old Indian Trail and turned east to climb onto Blacktail Deer Creek Plateau. They had a very pleasant camp near a place called Rescue Creek. The trail at that point moves southward and crosses a low ridge to the junction with the Bannock Indian Trail. Yet the group mistrusted the trail and headed off eastward through the rough country, closer to the river. This day produced their second meeting with the Sheepeaters and they became alarmed. It soon became apparent that the Indians only wanted a little ammunition

²⁵Ibid., 95.

²⁶Haines, The Yellowstone Story I: 96.

and some matches. It was at this point that the group realized what the old women had tried to tell them.

The group moved on and eventually came to present-day Tower Junction and there followed the Bannock Indian Trail. The trail took them into the Lamar Valley, where they camped below Calfee Creek. From there they headed south up Flint Creek to the top of Mirror Plateau and to the Grand Canyon of the Yellowstone. Of the Canyon, Cook said: "I sat there in amazement, while my companions came up, and after that, it seemed to me it was five minutes before anyone spoke."²⁷ On September 23rd they left the Grand Canyon of the Yellowstone and explored thermal features on their way to a camp near Mud Volcano. The next day they reached Yellowstone lake. At the lake they decided that their food supplies were running low and that they would have to return home. They forded the Yellowstone at a place today called Fishing Bridge. They then traveled along the north shore of the lake heading west toward the Madison river drainage, which they knew would take them to Montana Territory. They returned home by October 11th. The strange thing about this expedition is that the three felt that they could not talk about their trip and be believed.

Nathaniel Langford, a former St. Paul bank clerk, and Samuel Houser, a civil engineer, invited Folsom to speak to a few people

²⁷Haines, The Yellowstone Story I: 94-98.

at the First National Bank in Helena. Folsom knew so few of the people who showed up, author Aubrey Haines wrote, that "...he was unwilling to risk his reputation for veracity, by full recital, in the presence of strangers, of the wonders he had seen. He said that he did not wish to be regarded as a liar by those who were unacquainted with his reputation."²⁸

Cook and Folsom did manage to have an article printed about their trip in the Western Monthly Magazine of Chicago in July of 1870. In the Fall of 1870, David Folsom returned to work in Helena in the office of the new surveyor general of Montana Territory, Henry D. Washburn. In that office Folsom met another civil engineer, Walter W. deLacy, and they revised the map of Montana Territory. That map was published in 1870 and aided the Washburn Expedition. It correctly portrayed Yellowstone Lake and several drainages.²⁹

Washburn-Doane Expedition 1870

Following the Cook-Folsom Expedition, the Washburn-Doane Expedition was organized. Its leader was Henry Dana Washburn, surveyor general of Montana Territory. He was thirty-eight years old at the time of his expedition into Yellowstone. It would be this expedition that established the truth about sights near the headwaters of the Yellowstone. The expedition itself had a

²⁸Ibid., 100.

²⁹Ibid., 94-103.

definite opinion about the Indian people. Nathaniel Pitt Langford wrote in his diary: "Fresh Indian signs indicate that the redskins are lurking near us, and justify the apprehensions expressed in the letter which Houser and I received from James Stuart, that we will be attacked by the Crow Indians."³⁰

This expedition was known as the Washburn-Doane Expedition of 1870. The main promoters of the expedition were Nathaniel P. Langford and Samuel T. Houser. Langford was a prominent citizen and Houser was a civil engineer and the president of the First National bank of Helena. Henry Dana Washburn had been a general during the Civil War and was now Surveyor General of Public Lands in Montana. He is the one who became excited about visiting Yellowstone after talking to Folsom. Other members were Cornelius Hedges, a lawyer, Truman C. Everts, Assessor for Montana, Walter Trumbull who was the assistant assessor of internal revenue for Montana, Warren Caleb Gillette, a businessman, Benjamin Stickney, a Helena merchant and Jacob Ward Smith, another Helena businessman.³¹

The military escort consisted of First Lieutenant Gustavus Cheeny Doane, Sergeant William A. Baker, Private Charles Moore, Private John Williamson, Private George W. McConnell, and Private

³⁰Nathaniel Pitt Langford, The Discovery of Yellowstone Park (Lincoln: University of Nebraska Press, 1972), 6.

³¹Ibid., xii-xli.

William Leipler. The Washburn party also had two packers named Elwyn Bean and Charles Reynolds and two Negro cooks.

Langford would become the scribe for the expedition as well as promoter of the Northern Pacific Railway. This railway idea would be financed by Jay Cooke. It was Langford who arranged for the military escort as most men at the time did not want to go into the area without one. Several years before a prospecting expedition had been attacked by Crow Indians and a number of them had been killed.

The expedition left from Helena, Montana, and went to Bozeman via Radersburg and Three Forks and then over the Bozeman pass south to Gardiner. As they approached Gardiner they passed a land formation which they named "Devil's Slide." At their camp that night they looked around from the mountaintop behind their camp and saw smoke rising from another peak. Their imaginations took over and they speculated that the smoke was "a signal from one band of Indians to another, conveying intelligence of our progress,"³² From Gardiner they headed southeast to Tower Falls and Antelope, where they camped for the night and broke up into little scouting parties to figure out the next trail. Amazingly, Langford went out in search of one of the parties, and he said that at the top of one of the small mountains he fired his gun

³²Nathaniel P. Langford, The Discovery of Yellowstone Park, 14.

for an hour as a signal to the others. What happened to the fear of Indians?³³

The expedition finally got to the Grand Canyon of the Yellowstone and decided to stay a couple of days. The men were awed by the splendor of the canyon. They then headed for Yellowstone Lake and decided to travel around the south end of the lake. An interesting segment of Langford's diary, written while traveling around Yellowstone Lake, states: "There is very little probability that any large band of Indians will be met with on this side of the lake, owing to the superstitions which originate in the volcanic forces here found."³⁴

It was while they were headed to the west side of the lake that Everts got lost for thirty-seven days. The main expedition had earlier agreed that if one person should get lost the expedition would go to the West Thumb of the lake and wait. The Washburn-Doane Expedition waited for four days and searched for Everts but was unable to find him. The men continued their journey to where the Firehole River and the Gibbons River meet to form the Madison River. It is said that while camped at this location, Hedges came up with the idea to make a national park of the area. This story remains part of the mystery of Yellowstone

³³Ibid., 16.

³⁴Ibid., 58.

because some people say that it was actually Folsom who came up with the idea.

Hayden Geological Survey, 1872

F. V. Hayden conducted a geological survey of Wyoming and portions of the contiguous territories in 1872. He was entirely in favor of land grants in order to settle and develop the West. Of the Indian policies he said: "the present Indian policy, which doubtless looks forward to the localizing and settlement of these roving tribes, is intimately connected with the agricultural development of the west. Unless they are localized and made to enter upon agricultural and pastoral pursuits they must ultimately be exterminated." It is amazing to read that there was indeed a plan to localize Indian people five years before the establishment of Yellowstone National Park. "These roving sons of the Plains know nothing of agriculture," Hayden exclaimed. "They know nothing of the principles of irrigation, and hence they must be taught, and to do this the locality for each tribe must be fixed, and the experiment tried."³⁵

Hayden went on to say that he felt the Indian tribes should be compelled to agree to such arrangement or be exterminated. Those comments would lead to the beginning of treaty councils with the tribes of the Great Plains.

³⁵F.V. Hayden, Preliminary Report of the U.S. Geological Survey of Wyoming, Portions of Contiguous Territories conducted under the Authority of the Secretary of the Interior. (U.S. Government Printing Office, 1872), 264.

In looking at these first exploratory expeditions, it is obvious that their greatest fear was of running into Indians. Secondly, despite their fears of Indians they seem to have seen the land as vacant and unoccupied. It is quite amazing that the Hayden Expedition already had a definite Indian policy in mind: to exterminate Indians and to take their lands.

CHAPTER 3

Treaty Histories

The Blackfoot Nation consent and agree that all that portion of the country recognized and defined by the treaty of Laramie as Blackfoot territory...up the Yellowstone River to its northern source...shall be common hunting ground for ninety-nine years, where all the nations, tribes and bands of Indians, parties to this treaty, may enjoy equal and uninterrupted [sic] privileges of hunting, fishing and gathering fruit, raising animals, curing meat and dressing robes.

Charles Kappler, Indian Treaties

Many Indian Nations were involved in the first of the Fort Laramie treaties, but three specific tribes involving four treaties ceded portions of what eventually became Yellowstone National Park. Treaties that deal specifically with those cessions are: the 1855 Judith Basin Treaty with the Blackfeet; the 1868 Fort Laramie Treaty with the Crow; the 1868 Fort Bridger Treaty with the Shoshone and Bannock; and the 1880 Agreement with the Crow. All four of these treaties and agreements include land cessions, but they also contained direct, indirect, and implied language that reserved certain rights to the tribes-namely, reserved hunting rights. Characteristically, treaties involve rights and obligations on both parties. But given the peculiar power arrangements between American Indians and the federal government, some Americans assume that treaties are one-sided agreements with the federal government walking away from the negotiations having essentially stripped Indian people in a

winner-take-all craps game. Rights that Indians retain in a treaty, however, are rights that the federal government is duty-bound to honor.

A basic understanding of the Indian and white relationship is necessary, and how that led to treaty making with the above mentioned tribes is crucial to the understanding of those select treaties regarding Yellowstone National Park.

In 1845, President Polk's message to Congress included a statement explaining the desire to protect emigrants traveling overland to Oregon. On May 19, 1846, Congress passed a law authorizing the establishment of Mounted Riflemen and military stations on the emigrant trail to Oregon. Thus Fort Laramie came into existence as a military post in 1849. An emigrant gave this impression of the new military post, explaining that the "...post is supplied with eight heavy 12 pound howitzers and ammunition enough to send all the red men of the Western Prairies to their happy hunting ground...."³⁶

The discovery of gold in California in January of 1848 meant that larger and larger numbers of emigrants would be using the Oregon Trail. In the spring of 1848 some estimates indicated that 20,000 people had headed for California. The 1850 register at Fort Laramie recorded some 55,000 men, women, and children had

³⁶Leroy R. Hafen and Francis Marion Young, Fort Laramie and the Pageant of the West, 1834 - 1890 (Lincoln: University of Nebraska Press, 1938), 143.

passed by the fort. The influx of whites meant that the relations with Indian people had become a priority.³⁷

Thomas Fitzpatrick, who had been a fur trapper and guide, became the Indian agent for the Upper Platte and Arkansas in 1847. In the summer of 1849 he traveled to Washington to present his proposal for negotiating a treaty with the Indians. He first proposed putting together a treaty council on the Plains for \$200,000.00, but it failed. His second bid for \$100,000.00 passed in February of 1851. Both D.D. Mitchell, Superintendent of Indian Affairs at St. Louis, and Fitzpatrick were selected to organize the first major treaty council of the Great Plains, and they chose Fort Laramie for the site.³⁸

Mitchell asked that Alexander Culbertson, in charge of fur trade at Fort Union on the confluence of the Yellowstone and Missouri Rivers, gather a delegation from the Upper Missouri Tribes including the Blackfeet.³⁹ Unfortunately the information

³⁷Ibid., 137-175.

³⁸Ibid., 177-179.

³⁹The term or name Blackfeet is a contemporary designation and it is used in the Treaties involving this tribe. Thus this paper will use the term Blackfeet. Further discussion of the term comes from a fellows tribal member, Long Standing Bear Chief. In his book, Ni-Kso-Ko-Wa, Blackfoot Spirituality, Traditions, Values and Beliefs (Browning, Montana: Spirit Talk Press, 1992), Long Standing Bear Chief explained the derivation of the name this way: "If your were to ask someone in our language, 'what tribe do you belong to, Blackfoot or Blackfeet?' They would say *Siksika* which means Blackfoot. If you use the plural form of the word then you are talking about black feet, people's black feet. In the first instance the word *Blackfoot* refer's to people, and

arrived too late for him to inform the Blackfeet in time to attend the treaty council. But he did get representatives from the Mandan, Assiniboiné, Hidatsa and Arikaras to attend.⁴⁰

Thus the Blackfeet were not represented at the first of the Fort Laramie treaties, but fortunately they had a couple of friends who spoke on their behalf. There was D.D. Mitchell, who was the commissioner at the council. He had lived among the Blackfeet for nineteen years while founding Fort McKenzie. Alexander Culbertson acted as the interpreter, having traded with the Blackfeet for seventeen years and married a Blackfeet woman. Their third friend at the council was Father Desmet.⁴¹ These three individuals identified the Blackfeet boundaries as encompassing almost the entire state of Montana, including what would become Yellowstone National Park. The Blackfeet lands were identified as "Commencing at the mouth of the Muscle-shell river,

the word blackfeet refers to the color of someone's feet." He then went on to explain that the people were together and called themselves *Pikuni*. With winter coming they decided to divide up into groups. One group would stay and the other two would move on in search of food. The following summer they came back to the *Pikuni* camp that had stayed. As one group came into camp, their faces and mouths were covered with berry juice and it looked like blood. The other group had passed through a prairie fire and the soles of their moccasins were black. It was decided at that time to give these groups their present-day names of *Pikuni*, *Bloods*, and *Blackfoot*.

⁴⁰John C. Ewers, The Blackfeet, Raiders on the Northwestern Plains (Norman: University of Oklahoma Press, 1958), 206.

⁴¹Ibid., 127.

thence up the Missouri river to its source,-thence along the main range of the Rocky Mountains, in a Southern direction to the headwaters of the northern source of the Yellow Stone river....".⁴²

The treaty contained several additional articles. First, the Indians were asked to allow the United States to build roads and forts in Indian territory. Second the tribes were asked to maintain peace and make reimbursements for any wrongs done to whites. Third, the government promised to pay the Indians \$50,000.00 annually in the form of goods for damages done to their lands. This payment was to be paid for fifty years.⁴³ The Senate ratified the treaty but modified the payment period from fifty to fifteen years. All the tribes except the Crow agreed to this change.

According to Ethnologist John Ewers, "Even before the ink was dry on the Fort Laramie Treaty, easterners were agitating for a much more rapid means of transportation across the plains...."⁴⁴ The governor of Washington Territory at the time was Isaac I. Stevens. It was his job to lead a railroad survey through Blackfeet country and develop peaceful relations with the Blackfeet. Thus he invited the Blackfeet to a treaty council to

⁴³Mark H. Brown, Plainsmen of the Yellowstone (New York: G.P. Putnam's Sons, 1961),127.

⁴⁴Ibid., 207.

be held at Fort Benton in September of 1854. Stevens later postponed it until the summer of 1855.

In 1855, Governor Stevens joined with Superintendent of Indian Affairs for the Central Superintendency in the east, Colonel Alfred Cummings. These two men came together to negotiate the 1855 treaty with the Bloods, Blackfeet, Piegan, Assiniboine, Gros Ventre, Salish, Kootenai, Upper Pend d'Oreille, Nez Perce, Cree, Shoshone and Crow Nations.

As director of the northern survey for a transcontinental railroad, Governor Stevens was anxious to have the tribes sign a treaty allowing for peaceful passage through their lands. The treaty banned intertribal warfare and asked for the Blackfeet to agree to stay in the northern territories of Montana and to allow the tribes west of the mountains to hunt buffalo on the eastern lands.

Over 1200 Indian lodges were pitched at Fort Laramie which meant that approximately 10,000 Indians were in attendance. The council convened on October 16, 1855. The commissioners and chiefs were seated on a raised platform constructed of cottonwood logs and lumber from the Mackinaw boats. The meeting lasted for six or seven days. Every day the Blackfeet gathered, including men, women, and children, and they sat on the ground to listen to each section of the treaty as it was read. Sometimes, others would parade around the camp and sing songs. When it came time for the Indians to speak, chief Little Dog spoke for six hours.

He asked his people to support the treaty. At the end of the treaty council, presents were distributed to the Indians. It is obvious that some of the presents received were not useful or desired by them, because their route home could have been followed by anyone as they discarded items, including flour, beans, rice, hominy, and dried apples.⁴⁵

In the 1855 treaty, the Blackfeet agreed to peace and friendship with the United States and the nations of Flathead, Upper Pend d'Oreille, Kootenay [sic], and Nez Perce. The tribes also agreed that whites could pass unmolested through the land occupied by them. The Blackfeet agreed that the United States could build roads, telegraph lines, and military posts through their lands. Agency houses could be built as well as missions, schools, farms, shops, mills, and stations.⁴⁶

Most importantly, however, the Blackfeet also agreed to a common hunting ground under Article 3 of the treaty. It specifically stated:

The Blackfoot Nation consent and agree that all that portion of the country recognized and defined by the treaty of Laramie as Blackfoot territory, lying within lines drawn from the Hell Gate or Medicine Rock Passes in the main range of the Rocky Mountains, in an easterly direction to the nearest source of the Muscle Shell River, thence to the mouth of Twenty-five Yard Creek, thence up the Yellowstone

⁴⁵David A. Walter, ed., "The 1855 Blackfeet Treaty Council: A Memoir by Henry A. Kennerly," Montana, The Magazine of Western History. Vol. 32, No. 1, Winter, 1982, 50.

⁴⁶Charles J. Kappler. Indian Treaties, 1778-1883 (New York: Interland Publishing Inc., 1972), 736-37.

River to its northern source, and thence along the main range of the Rocky Mountains, in a northerly direction, to the point of beginning, shall be common hunting ground for ninety-nine years, where all the nations, tribes and bands of Indians, parties to this treaty, may enjoy equal and uninterrupted [sic] privileges of hunting, fishing and gathering fruit, grazing animals, curing meat and dressing robes. They further agree that they will not establish villages, or in any other way exercise exclusive rights within ten miles of the northern line of the common hunting-ground, and that the parties to this treaty may hunt on said northern boundary line within ten miles thereof.

Provided, That the western Indians, parties to this treaty, may hunt on the trail leading down the Muscle Shell to the Yellowstone; the Muscle Shell River being the boundary separating the Blackfoot from the Crow territory.

And provided, That no nation, band, or tribe of Indians, parties to this treaty, nor any other Indians, shall be permitted to establish permanent settlements, or in any other way exercise, during the period above mentioned, exclusive rights or privileges within the limits of the above-described hunting-ground.⁴⁷

Indicating as it did the northern source of the Yellowstone River, the 1855 treaty provided clear ties to lands subsequently included in Yellowstone Park. It guaranteed their access to a common hunting ground for the purposes of hunting, fishing, and gathering fruit. Its ninety-nine year duration was a compelling indication of long-term access to the region.

Meanwhile, gold was discovered on Grasshopper Creek near Bannack City in 1862. Located west of what would become

⁴⁷Ibid., 736. This was to be a ninety-nine year agreement where the parties to the treaty could enjoy hunting, fishing, graze their animals, gather fruit, and cure meat or robes. They also agreed to not establish any permanent dwellings within ten miles of the northern boundary.

Yellowstone National Park, the gold strike was also in the center of the Common Hunting Ground recognized in the 1855 treaty. With the stampede of whites seeking gold fields in Montana came the inevitable interaction between Indians and whites. Just as inevitable were a series of incidents between the two.⁴⁸ The newcomers included federal agents, farmers, cattlemen, gold seekers, and whiskey traders. Some of them brought beneficial aspects to the Blackfeet, but just as many exploited and debauched the Blackfeet culture. Because of the volatility and conflict between the two, it became apparent to federal authorities that it was necessary to negotiate another treaty to ensure the peace.⁴⁹

As a result of the continued hostilities, federal authorities convened the 1865 Treaty at Fort Benton on November 16, 1865. The Blackfeet and a United States Treaty commission comprised of Newton Edmunds, Edwards B. Taylor, Major-General S.R. Curtis, Brigadier-General H.H. Sibley, Henry W. Reed, and Orrin Guernsey met to negotiate the treaty. The Blackfeet were required to withdraw from established overland routes, which included all lands south of the Missouri River to the Teton River and east to the mouth of the Milk River. In consideration of this

⁴⁸Michael P. Malone, Richard Roeder, William Lang, Montana, A History of Two Centuries (Seattle: University of Washington Press, 1976), 65.

⁴⁹John Ewers, The Story of the Blackfeet Printed by the Haskell Institute for the Department of the Interior, 1952, 40.

withdrawal, the Blackfeet would be paid seven thousand dollars annually. This treaty was never ratified by the Senate, however, so its provisions were never enacted.⁵⁰

What becomes clear then is that when Yellowstone National Park was established on March 1, 1872, the Blackfeet Tribe retained a clear and unabrogated hunting right to the Yellowstone National Park region, guaranteed for ninety-nine years. It had not been extinguished by the 1865 treaty because it was never ratified. Hiram Chittenden claimed that the 'hunting ground' arrangement was abrogated by statute on April 15, 1874, but that statute contains no information regarding hunting rights or abrogation of hunting rights. The statute refers to the tribes of Blackfoot, Piegans, Bloods, River Crow, and Gros Ventre. The statute yields no mention of hunting rights:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following described tract of country, in the Territory of Montana, be, and the same is hereby set apart for the use and occupation of the Gros Ventre, Piegan, Blood, Blackfoot, River Crow, and such other Indians as the President may, from time to time, see fit to locate thereon, viz: Commencing at the northwest corner of the Territory of Dakota, being the intersection of the forty-ninth parallel of north latitude and the one hundred and fourth meridian of west longitude; thence south to the south bank of the Missouri river; thence up and along the south bank of said river, to a point opposite the mouth of the Maria's river; thence along the main channel of the Maria's river to Birch Creek; thence up the main channel of Birch Cree to its source; thence west to the summit of the main chain of the Rocky Mountains; thence along the summit of the Rocky

⁵⁰Charles J. Kappler, Indian Affairs: Laws & Treaties, Vol. IV, 1929, 1133.

Mountains to the northern boundary of Montana; thence along said northern boundary to the place of beginning.⁵¹

As Congress poised itself in 1871 to consider passing legislation establishing Yellowstone National Park, it did so against the background of a Blackfeet treaty which contained clear and unambiguous language guaranteeing that tribe hunting rights to lands contained in the bill.

Treaty with the Crows

On August 4, 1825, the Crow Tribe entered into its first treaty with the United States for the purpose of perpetuating friendship. The treaty was signed at the Mandan Village, in Dakota Territory, by Chief Long Hair and Major Benjamin O'Fallon, Indian agent for the United States. In Article 1 of the treaty, the Crow tribe acknowledged the right of the United States to regulate trade and intercourse with them. Basically, the 1825 treaty was a statement that the Crows would "promise and engage that their tribe will never, by sale, exchange, or as presents, supply any nation, tribe, or band of Indians, not in amity with the United States, with guns, ammunition, or other implements of war." The Crows also promised to police their own lands for stolen horses and property of United States citizens.⁵²

⁵¹United States Statutes at Large, 43rd Congress, 1873-1875, V. 18, 28-29.

⁵²Kappler, Indian Treaties, 1778-1883, 246.

The next treaty the Crows signed was the Fort Laramie Treaty of 1851. Father Desmet described the numbers as about thirty-two Assiniboine, Minnetarees, and Crows who traveled to the Treaty Council at Fort Laramie.⁵³ Frontier authorities assigned about 270 soldiers to police the treaty meeting grounds. The Sioux, Cheyenne, and Arapahoes formed an alliance with each other, and the Shoshones, Crows, Arikaras, Minnetaries, and Assiniboines formed another. Father Desmet estimated that there were 1,000 lodges which probably means that there were 10,000 Indian people in attendance.⁵⁴

Tribal Historian Joe Medicine Crow explained that the Crows were represented by acting-Chief Big Shadow. He was sometimes called Big Robert.⁵⁵ As with the Blackfeet, the Fort Laramie treaty began with the confirming of peaceful relations amongst all the tribes. Article 2 of the treaty explained that the Crow Indian nation would recognize the right of the United States to build roads and military forts within the limits of its territorial boundaries. That meant, of course, that the Crow Tribe had to identify its territory.

In the language of the Fort Laramie Treaty of 1851, the Crow Nation described their lands as:

⁵³Brown, The Plainsmen of the Yellowstone, 126-7.

⁵⁴Ibid., 127.

⁵⁵Joseph Medicine Crow, From The Heart Of The Crow Country (New York: Orion Books, 1992), 14.

...commencing at the mouth of Powder River on the Yellowstone; thence up Powder River to its source; thence along the main range of the Black Hills and Wind River Mountains to the head-waters of the Yellowstone river; thence down the Yellowstone River to the mouth of Twenty-five Yard Creek; thence to the head-waters of the Muscle-shell River; thence down the Muscle-shell River to its mouth; thence to the head-waters of Big Dry Creek, and thence to its mouth.⁵⁶

The last paragraph of Article 5 indicates that they "... do not surrender the privilege of hunting, fishing, or passing over any of the tracts of country heretofore described."⁵⁷ Congress approved the treaty but subsequently changed the period of payment from fifty years to fifteen years. The Crow, however, never agreed to this unilateral change.⁵⁸ The total land reserved for use by the Crow people under the Fort Laramie Treaty of 1851 was thirty-five million acres.

In 1868, seventeen years later, the United States called the Crow Nation to Fort Laramie once again. Crow chiefs, Sits in the Middle of the Land, Long Horse, and White Calf were three of the men who spoke on behalf of the Crows. Sits in the Middle of the Land was seventy years old, and he feared that his people would

⁵⁶Kappler, Indian Treaties, 1778-1883, 595.

⁵⁷Ibid., 595.

⁵⁸Brown, The Plainsmen of the Yellowstone, 127.

lose all their lands.⁵⁹ Crow lands in this treaty are described as:

...commencing where the 107th degree of longitude west of Greenwich crosses the south boundary of Montana Territory; thence north along said 107th meridian to the mid-channel of the Yellowstone river; thence up said mid-channel of the Yellowstone to the point where it crosses the said southern boundary of Montana, being the 45th degree of north latitude; and thence east along said parallel of latitude to the place of beginning....⁶⁰

Article 4 of the 1868 treaty, stated that the Crows "... shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and as long as peace subsists among the whites and Indians on the borders of the hunting districts."⁶¹ Clearly the Crows wanted to retain their hunting rights to their traditional hunting grounds that included Yellowstone.

Montana historian Michael Malone claimed that the discovery of gold on the Upper Yellowstone led to more pressure from whites to open up the western end of Crow reservation lands.⁶² Accordingly, the government worked out a new agreement in 1873.

⁵⁹Frederick E. Hoxie, Indians of North America: The Crow (New York: Chelsea House Publishers), 1989, 71. One should also note here, that in his book, From The Heart Of Crow Country, Joseph Medicine Crow says on page 14 that Chief Blackfoot represented the Crow at this treaty council.

⁶⁰Kappler, Indian Treaties, 1778-1883, 1008.

⁶¹Kappler, Indian Treaties, 1778-1883, 1009.

⁶²Malone and Roeder, Montana, A History of Two Centuries, 93.

The language in that agreement protecting the hunting rights of the Crow Tribe is important. It is clear that the Crow Tribe was intent on protecting tribal rights even though the tribe was willing to relinquish lands. And the 1873 wording came after the creation of Yellowstone National Park in 1872. The excerpt from that agreement is as follows:

...the said Indians hereby cede to the United States all their right, title, and claim to the tract of country described in the said second article, to wit:...and then up said mid-channel of the Yellowstone to the point where it crosses the said southern boundary of Montana...and which is conveyed to them therein, except the right to hunt upon said lands so long as they may remain unoccupied, and as game may be found thereon and peace continues between the whites and Indians.⁶³

The central feature under consideration here, however, is that Article 4 of the Crow's 1868 treaty retained a hunting right to regions in Yellowstone. Land cessions attendant to the 1868 treaty notwithstanding, the Crow Tribe reserved hunting rights to lands subsequently encompassed by Yellowstone National Park.

On April 11, 1882, an AGREEMENT was signed with the Crow Nation. This was called an "agreement" instead of a treaty since negotiating treaties with Indian people had ended in 1871.⁶⁴ This

⁶³Kappler, Indian Affairs, Laws, and Treaties. Vol. 4, 1143.

⁶⁴David H. Getches, Daniel M. Rosenfelt, Charles F. Wilkinson, Federal Indian Law: Cases and Materials (St. Paul, Minnesota: West Publishing Company), 1979. On page 67 one can find the explanation for ending treaty-making. The reason for this was for 95 years all treaties went to the Senate for ratification. The House of Representatives became disenchanted with this process since the House had to appropriate funds for ratified treaties. The House finally refused to appropriate any

particular agreement was concluded after it was approved by a majority of the adult males of the Crow Tribe. That had been the stipulation made in the 1868 treaty.

The title of this agreement is "An Act to accept and ratify the agreement submitted by the Crow Indians of Montana for the sale of a portion of their reservation in said Territory, and for other purposes, and to make necessary appropriations for carrying out the same." The agreement stipulated that the Crow Nation agreed to sell its lands to the United States identified as:

...Beginning in the mid-channel of the Yellowstone River at a point opposite the mouth of Boulder Creek, thence up the mid-channel of said river to the point where it crosses the southern boundary of Montana Territory, being the forty-fifth degree of north latitude; thence east along said parallel of latitude to a point where said parallel crosses Clarke's Fork; thence north to a point six miles south of the first standard parallel, being on the township-line between townships six and seven south; thence west on said township-line to the one hundred and tenth meridian of longitude; thence north along said meridian to a point either west or east of the source of the eastern branch of Boulder Creek; thence down said eastern branch to Boulder Creek; thence down Boulder Creek to the place of beginning....⁶⁵

Chittenden said that the last strip of Crow territory within the boundaries of Yellowstone National Park were purchased under an agreement with the Crows, dated June 12, 1880, and ratified by Congress, April 11, 1882, "thus extinguishing the last remaining

more funds until it could have a voice in Indian Affairs.

⁶⁵United States Statutes at Large. 47th Cong. 1881-1881, Vol. 22, 42.

Indian title to any portion of the Yellowstone Park."⁶⁶ Clearly he is wrong in that summation. And finally, the agreement stated that all the provisions of the 1868 Treaty would remain in force. Against the background of the 1868 treaty, the 1873 agreement, and the 1882 agreement, as with the Blackfeet, the Crow Indian people possessed unabrogated hunting right claims in the areas subsequently encompassed by Yellowstone National Park. Land cessions witnessed the extinguishment of land claims to the park, but hunting rights to the region were reserved in treaty language and in subsequent negotiations and agreements.

This concluded the specific Crow treaties that encompassed the present-day lands of Yellowstone National Park. The park was established in 1872, so this last agreement came eight years after the establishment of the park.

Treaty of the Shoshone Nation, Bannocks, and Sheepeaters

The third group of Indian people affected by the creation of Yellowstone Park is the Shoshone. The Shoshone are essentially divided into eastern and western tribes. The Western Shoshone live farther to the west in central and southern Utah and Nevada, while the Eastern Shoshone occupied parts of Wyoming, central and southern Idaho, and northern Utah. Of the two groups, the Eastern Shoshone possessed occupational and hunting ties to Yellowstone.

⁶⁶Chittenden. The Yellowstone National Park 18-19.

The Eastern Shoshone are comprised of numerous groups of related peoples. The Shoshone people commonly associated with those living in the Fort Hall area were northern Great Basin dwellers, exhibiting Great Basin subsistence patterns. They hunted rabbits and gathered seeds and roots common to the Great Basin, but they also hunted deer and buffalo. The Washakie Shoshone lived farther east, centered in Wyoming, where they combined a Great Basin and Great Plains subsistence patterns. A third group of Shoshones were the Lemhi or Northern Shoshones who lived on the Salmon River, north of Fort Hall, where their subsistence patterns more closely resembled Plateau culture. The Lemhi Shoshone eventually came to include three groups: the Salmon eaters, the Sheepeaters, and the Bannocks. As plateau people, they fished for salmon, dug camas, hunted deer, elk, buffalo, and sheep. With Washakie's people to the east, the Fort Hall Shoshones to the south, and the Lemhi Shoshones to the west, these three groups formed something of a bowl with Yellowstone resting in the middle of the bowl. Among the Blackfeet, the Crow, and the Shoshone, the latter had a particularly strong occupational and hunting presence in Yellowstone. By about 1850, elements of the Bannock Indians came to be associated with the Fort Hall and Lemhi Shoshone. A Paiute-speaking people originally

from eastern Oregon, the Bannocks were gradually accepted into these central and western bands of the eastern Shoshone.⁶⁷

As part of the flurry of treaties negotiated in 1868, the government sent a treaty delegation to Fort Bridger in 1868. Fort Bridger was located in what was then Utah Territory, but today it is located in southeastern Wyoming. There large numbers of Fort Hall and Wind River, Wyoming, Shoshones met to negotiate the Fort Bridger Treaty. Concluded on July 3, 1868, the formal title of the treaty was "Treaty with the Eastern Band Shoshonis and Bannock, 1868." It specified that the signatories included and represented the eastern Shoshone band and the Bannock Tribes of Indians. The treaty defined Shoshone territory, but it failed to establish a specific reservation for the Shoshones inside the broad boundaries described as set aside for them. And language in Article 2 essentially invited the Bannocks to request at some future time the creation of a reservation "in their present country." Article 2 addressed the Bannock tie to the region thusly:

...whenever the Bannacks [sic] desire a reservation to be set apart for their use, or whenever the President of the United States shall deem it advisable for them to be put upon a reservation, he shall cause a suitable one to be selected for them in their present country, which shall embrace reasonable portions of the 'Port Neuf' and 'Kansas Prairie' countries, and that, when this reservation is

⁶⁷Julian H. Steward, Basin-Plateau Aboriginal Sociopolitical Groups (Washington, D.C.: GPO, 1938), 186; Robert F. Murphy and Yolanda Murphy, Northern Shoshone and Bannock (Berkeley: University of California Press, 1960), 288.

declared, the United States will secure to the Bannacks the same rights and privileges therein....⁶⁸

The land identified as belonging to the Shoshone in this treaty is defined as:

Commencing at the mouth of Owl Creek and running due south to the crest of the divide between the Sweetwater and Papo Agie Rivers; thence along the crest of said divide and the summit of Wind river Mountains to the longitude of North Fork of Wind River; thence due north to mouth of said North Fork and up its channel to a point twenty miles above its mouth; thence in a straight line to head-waters of Owl Creek and along middle of channel of Owl Creek to place of beginning, shall be and the same is set apart for the absolute and undisturbed use and occupation of the Shoshone Indians herein named,...⁶⁹

The most important part of the Fort Bridger Treaty, however, deals specifically with the reserved hunting rights afforded to the Shoshone and Bannock Tribes. Article 4 explains these rights.

...they shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts.⁷⁰

It is clear that the 1868 Fort Bridger Treaty allows the Shoshone to hunt in the areas of Yellowstone National Park. Thus their access to areas of Yellowstone are undisputed.

The treaties described here are just a few of the more than 400 treaties signed between the United States and Indian nations. But on March 3, 1871, the United States officially ended the

⁶⁸Kappler, Indian Treaties 1778-1883, 1020.

⁶⁹Ibid., 1021.

⁷⁰Ibid.

treaty process with Indian tribes. The legislation ended treaty negotiations with Indian governments, but it did not modify, alter, or repeal treaties signed and ratified before that date. What followed were "agreements" with Indian tribes.

For years the Senate had ratified treaties, but the House had balked at the process because treaty ratification forced the House of Representatives, grudgingly, to appropriate funds to carry out Senate treaty stipulations. The new "agreements" gave the House members the authority to vote down funding appropriations which they objected to. But the timing of this policy change on the treaty process and the legislation that established Yellowstone National Park in March of 1872 raises many questions. When supporters of Yellowstone National Park promoted their bill, did they choose to ignore Indian interests because treaty making had ended? Did some legislators, moreover, erroneously believe that the end to treaties meant that past treaty provisions were no longer in effect? Whatever the answers to these questions are, it is clear in the early 1870's that non-Indians had dismissed the importance of Indian use of Yellowstone National Park since time immemorial, and they failed to take treaties into account when they enacted their legislation.

CHAPTER 4

Indian Use of Yellowstone National Park

It was sundown when we saw them
Roaming the hills-big, black and awesome.
Our clothes they wore around their girth.
Their meat we want, to give us rebirth.
Their bones, their horns, we use them all,
There can be no waste in this season Fall.

They move and we followed
South and west, forever flowing.
Like the waters of the river, going, going.
We moved in for the kill on the day they stopped,
Ready now to harvest our crop.

. Gloria Seline, "Song of the
Indian"

For hundreds and probably thousands of years, the Indians of Yellowstone National Park have used a variety of objects, animals, and plants inside the park and within the greater Yellowstone ecosystem. As hunters and gathers, tribal people from different regions, north, south, east, and west of Yellowstone, have relied on today's Yellowstone National Park for vital subsistence purposes. Their seasonal subsistence needs included plants, animals, and objects found in abundance in the park. Animals such as buffalo, elk, moose, and deer provided important food sources, and their bones and hides were used for tools, clothing, and shelter. Plant use extended from lodgepole pines for tepee construction to mint plant leaves used in making tea. Obsidian found in abundance at Obsidian Cliff, was critical for making tools, knives, and spear points and arrowheads.

Permanent sites

The largest of the three categories permanent sites, animals, and plants, is the category representing semi-stationary objects or physical sites in the park. They include rocks and those parts of the environment that cannot be moved easily such as Obsidian Cliff, Sheep Eater Cliffs, tepee ring sites, camp sites, and buffalo jumps. Superintendent P.W. Norris, the second park superintendent, was the first park official to seek out and identify Obsidian Cliff in 1878. In what might be the first non-Indian, official description of Obsidian Cliff, he first observed it from Sepulcher Mountain at a distance of twenty miles. In his annual report of 1878, he observed "specimens of obsidian" that became larger and more numerous the closer he got. He found the eastern slope, to be a thing of beauty and wonder; two miles wide and several hundred feet high, the cliff was "literally towering vertical pillars of glistening black, yellows and mottled or banded obsidian of a quality unequaled, and a quantity elsewhere unknown."⁷¹

Burial Cairns

Norris indicated that numerous tools and weapons had been found in burial cairns, which are piles of stones that represent

⁷¹P. W. Norris, Superintendent of Yellowstone National Park, December 10, 1878, in "Report of Yellowstone National Park, Report of the Secretary of the Interior: Being Part of the Messages and Documents", House Executive Document [HED] 1. 45th Cong., 3d Sess., Serial 1850, 982.

a memorial to a deceased person or the actual burial spot of a person. Burial sites such as these are clear indications of aboriginal occupation of sites in Yellowstone National Park.

In the 1950's anthropologist, Carling Malouf reported on an abundance of flint, obsidian, and other materials used in the making of arrowheads that were found on the west side of Yellowstone Lake. Jasper, once thought to be found exclusively in the northern portions of the park, was also found near Yellowstone Lake. He also found red, green, and blue obsidian at different sites in the park.

In the summer of 1958, Professor Malouf conducted a preliminary archaeological survey of Yellowstone National Park, wherein his survey team conducted primarily surface, non-excavation surveys of 170 sites. Malouf's team found a compound site on Slough Creek, within the park boundaries. A compound site is a location where fairly large animals are driven into a corral or enclosure and then killed. Sites such as these indicate fairly large-scale, complex hunting activities. He also reported finding animal jump sites north of the park along the Gallatin, Yellowstone, and Madison rivers, but none within the park. Recent archaeology research has verified a jump site in the northern portion of the park.⁷²

⁷²Carling Malouf, "Preliminary Report Yellowstone National Park Archaeological Survey, Summer 1958," The Wyoming Archaeologist. Vol. III, (Fall & Winter, 1965), 22-23.

Wickiup Sites

Malouf also found numerous "Wickiup" sites. Although this term was not common to Indians living within the vicinity of Yellowstone National Park, it describes small conical shaped lodges made out of poles that are set upright against a live standing tree. "Most of them appear to be mere hunting lodges erected in clusters of trees, and considerably above the main river courses,"⁷³ Malouf explained. Much has been written about their use by Shoshoni people, the Sheepeaters, but evidence suggests that they were used by Crow, Bannock, and other people as well. Many of these sites were destroyed by the 1988 fires.

Occupation Sites

Malouf's survey located numerous campsites or occupation sites in Yellowstone National Park. These sites are identified by significant amounts of debris such as stone flakes, charcoal, and tools. Numerous sites were found in the area along the Madison River and the mouth of the Fire Hole River and along the western boundary of the park. These campsites extend for several miles, Malouf concludes, indicating that large numbers of tribal people used them either as temporary campsites or permanent occupation sites.⁷⁴

⁷³Ibid., 23.

⁷⁴Malouf, "Preliminary Report Yellowstone National Park Archaeological Survey," 21-23.

Tepee ring sites can be found in the park near Gardiner, Mammoth, and along Blacktail Deer Creek. Tepee ring structures are circles of stones, but the interpretation of how the rings were formed and who put them there and why is still debated. Some anthropologists believe that the stones were used to anchor the sides of tepee walls. That is quite possible, but it is also possible that they were used to hold down hides for scraping or for sewing together large pieces of hides. The sewing together of hides to make a large tepee cover would take a lot of space and might account for the larger sized tepee rings. Archaeologist William Mulloy conjectures that the stones had nothing to do with tepees or any habitation site. Mulloy observed that some were as small as five feet in diameter while others were forty feet in diameter. Sometimes he found a pile of stones in the center. Could tepee rings have been used in the process of smoking hides? In the smoking process of hides, they are sewn into a conical shape and placed over smoldering coals. Mulloy reported that the teepee rings in mountainous areas were frequently located near springs while some were on ridges and crests. Thus not all tepee rings were found on the flat or in meadows. This could also mean that the Indians wanted to have a view while working, since scrapers, knives and domestic tools could often be found nearby.⁷⁵

⁷⁵William Mulloy, "Late Prehistoric Stone Circles," The Wyoming Archaeologist, Volume IX, (December [?]), 2-5.

Thermal hot springs and geysers in the park were sites that illustrated significant evidence of occupation. In the winter these areas were windswept and bare of snow, whose warmth and accessibility attracted aboriginal people. Malouf reported numerous sites at Sulphur Mountain, Gibbon Basin, Norris Basin on the Gibbon River, along the Yellowstone River and Dragonmouth, at the Thumb on Yellowstone Lake. Other important thermal sites were located at Mammoth and at Old Faithful, but these have been very much mutilated by curio hunters and modern development programs.⁷⁶

Animals

Animals formed another category of use that is central to American Indian use of Yellowstone Park. The number of sites in Yellowstone National Park known to have been used by American Indians people now numbers over 1000. Whether they were temporary, semi-permanent, or permanent sites, it is clear that they represent Indian use over hundreds and probably thousands of years. Tribal reliance on obsidian and hunting sites illustrates strong and compelling ties to aboriginal land use by these indigenous peoples.

In an 1895 report, Acting Superintendent of Yellowstone National Park George Anderson reported that buffalo, moose,

⁷⁶Malouf, "Preliminary Report Yellowstone National Park Archaeological Survey, Summer, 1958." The Wyoming Archaeologist, Vol. VIII, (1965), 26.

mountain sheep, elk, antelope, deer, and bears were the predominant animals. He claimed that a herd of at least three thousand elk had been observed. Five hundred antelope wintered on Mount Everts, and he added that bears had become very tame. A 1907 report indicated that moose numbers had increased and coyotes were numerous. Foxes, badgers, marmots, tree squirrels, and three varieties of chipmunks were recorded as well. The report also mentioned that beaver, martin, mink, otter, muskrats, and the common jack rabbit were plentiful.

Buffalo

The buffalo, however, was the mainstay of the Plains Indian culture. The Indians not only used it for food, clothing, and shelter, but the buffalo held a dominant place in traditional stories, religion, and ceremonies. One author wrote that in times of scarcity of food all parts of the buffalo were eaten except: "...the glands of the neck, sinews, bull's pizzle, horns, hoofs and hair...."⁷⁷ Buffalo meat was eaten raw, boiled, dried, or roasted. Buffalo parts that were eaten raw included the "liver, kidneys, gristle of snout, eyes, brains, marrow, manyplies, testicles, foot of small calves in embryo, glands of calf

⁷⁷John C. Ewers, "The Importance of the Buffalo to Plains Indian Culture," The Wyoming Archaeologist, Vol. IX, No.1, (March 1966), 21.

envelope." The cooked delicacies that were especially valued were tongue, tender-loin, bone marrow, and hump.⁷⁸

Buffalo meat was dried, mixed with chokecherries, and pounded together with tallow to make pemmican. When carried in parfleche carriers, it could be kept for a long time. Other ways to prepare buffalo was to collect its blood and boil it with brains, rosebuds, and rawhide scrapings to form a warm pudding. Pounded cherries and prairie turnips were also boiled in the dried stomach of a buffalo to make a sweet soup.

Buffalo Clothing

For clothing, women fleshed the buffalo hides and tanned them to make various items. Even the tail of the buffalo was cut off and used as a fly swatter. Buffalo robes were often times tanned with the hair attached. The hairless side could be painted, and then the entire robe could be worn over one's shoulders as a warm outer covering. They could also be used as a covering for the entire floor of the tepee. This added warmth to the lodge and kept out the cold moisture of the ground. One's bed had several buffalo robes piled up and then a person used buffalo robes to cover themselves. In the winter buffalo hides with hair attached made the warmest moccasins.

Buffalo hides had many uses if tanned without the hair. They could be used for moccasins, tepee covers, bull boats,

⁷⁸Ibid., 23.

containers, parfleche carriers, arrow quivers, and shields. Ethnologist John Ewers explained that the base of shields was made from the fire-hardened rawhide of buffalo skin. Rawhide is made by removing the hair from the hide, fleshing it, and then letting it dry until hard.

The sinew of the buffalo was taken from the large strip of tendon along the back bone and legs. Strips of sinew were wrapped around the backs of wooden bows to make them more pliable.

Another use that came from the buffalo were paint brushes made from the porous sections of buffalo bones or knee cartilage.⁷⁹ Reginald Laubin describes how glue was made from the boiled tendons of the buffalo. The glue was added to a little water and powdered, colored pigments and then worked into a flat round cake. This molded piece of cake could then be used to draw a colored design, somewhat like the first color crayon.⁸⁰

Meat drying racks.

Preserving meat, whether it was buffalo meat or that of any animal, was a very natural science. Indian people dried meat or "jerked" it as some Indian people call it. This is done by taking large chunks of meat and slicing it very thin and then hanging it on drying racks. Sometime skewers were used, made from plum or choke cherry wood. Real jerked meat is neither salted nor smoked.

⁷⁹Ibid., 25.

⁸⁰Reginald and Gladys Laubin, The Indian Tipi (Norman: University of Oklahoma Press, 1977), 86-87.

Dried meat can be cooked with prairie turnips, service berries, or June berries.

Use of glandular meats

Reginald and Gladys Laubin worked with Pretty Shield, a Crow Indian woman, who taught them techniques that the Crow people used in butchering a buffalo. The Laubins reported that the marrow guts or intestines of the buffalo were considered a delicacy. The guts are cleaned and washed inside and out and then cooked over hot coals. The Laubins said: "The Indians used all the glandular meats...The Whites scoffed at the Indians for eating 'guts', but had they been willing to eat them they never would have suffered from scurvy or other ailments...."⁸¹

Other animal hides

It was not just the buffalo that was used to furnish tepee lodges. Other animal hides were also used for many useful items. Animal skins without the hair attached served as ground cloths or floor coverings. Different animal hides were not completely tanned and thus were used in the hard state, called rawhide; these hides were used to make knife sheaths, boxes, cases, or trunks. The softer tanned hides were made into pouches, bags, and pillows. These were the only other tepee furnishings besides the robes and furs.

Use of antlers, horns & teeth

⁸¹Ibid., 155.

The plentiful supply of antlers, horns, and teeth of elk, deer, and sheep could be used for many things. Hide scrapers could be made from elk antlers. Some women attached a long pole to deer antlers and made a kind of garden rake. Small deer antlers could be used as a symbolic coup stick. These would be carried by men when they danced in their traditional regalia. The horns of the mountain sheep could be made into bows and eating utensils. There are only two animals in North America that have ivory teeth and the elk is one of them. Thus the teeth of the elk are extremely valuable to Indian people in the decoration of women's dresses. The more elk teeth that a woman had on her dress, the more prestige and status her family exhibited.⁸²

Tanning Hides

The process of tanning a hide required many things from the natural environment and from the animal itself. One thing from the environment is a fairly good size log from a tree. This needed to be six inches in diameter and six to eight feet long. Once the hide had been removed from the animal, it was placed across this log and "fleshed." The fleshing tool was made from the ulna of an inner leg bone. All meat and flesh must be removed. Then the hide is soaked in water for about two days at which time the hair on the hide will start to "slip." Wood ash in water will also help to "slip" the hair. That means that if one

⁸²Lois Sherr Dubin, North American Indian Jewelry and Adornment (New York: Harry N. Abrams, Inc., 1999), 282.

pinched a piece of hair it would slide right off. The hide is then placed back on the beam and the bone tool is used to scrape all the hair off the hide. Mashed up animal brains are needed for a white hide. Liver is added to the brains for larger hides. A deer has just enough of its own brains to tan its own hide. The brains are squeezed and pulverized between the fingers into warm water and then spread over the hide. The hide is then rolled up and left for a couple of days. After this, the hide is rinsed well in water. The hide is then hung up until nearly dry and then worked by pulling and stretching it until the fibers break and it becomes velvety and white. The white color is very desirable in a hide, but it becomes stiff and hard when wet so it is not worn on a daily basis.

A smoked hide will last longer and is made by smoking the hide over a smoky fire pit. Indian women built a fire and let it burn down until there was a good bed of coals. Using large stitches, they sewed skins together to form a cone. They then constructed a tripod from tree branches over the bed of coals and hung the hides over that tripod. Types of wood chips good for smoking of hides came from green alder, willow or birch, rotten pine or fir. Alder wood gave a reddish color to the hides, and dry willows created a yellow color while green willow produced a

brown color. A smoked hide softens easily after it gets wet in a rainstorm.⁸³

Parfleche is a French term used to describe hide that has not been tanned. It is also called rawhide. Rawhide furnishings were decorated by cutting a design into dark hide. This is called incising. Some of the parfleche carriers were painted.⁸⁴

When Reginald and Gladys Laubin studied with Pretty Shield, she had him cut straight willow sticks to use as rulers in painting straight lines on parfleche. The Laubins said that the "...Indians went over the designs with the juice of the prickly pear cactus. The spines were cut off, the cactus cut in two, and each half used as a sort of sponge, lightly patted on the surface, giving it a thin coat of 'varnish.'" ⁸⁵

Sheep Trapping Pens

Killing mountain sheep in Yellowstone was a very well planned task. Anthropologist George Frison has written extensively about sheep trapping pens. Some of the traps, he explained, were at least one hundred years old and believed to have been used by the Shoshone. The catch pens he recorded near the western boundary of Yellowstone National Park were once

⁸³Laubin, The Indian Tipi, 80-86.

⁸⁴Ibid., 73.

⁸⁵Laubin, The Indian Tipi, 86-87.

thought to be an elongated house structure. Some of the structures were found at heights of 8,500 feet.⁸⁶

These sheep pens began with a long fence construction and are made of dead timber. These fences were high and leaned inward to prevent the sheep from jumping out of the enclosure. The fences resembled winged structures that led the animals into an enclosure or a catch pen constructed out of dead timber, smaller brush, and poles. There is no evidence that the timber was chopped, so obviously a lot of dead and downed timber was used.⁸⁷

Medicine bundles

Western civilization is replete with spiritual and religious items that form a parallel with American Indian medicine bundles. From the Ark of the Covenant, to the Holy Grail, to the Roman Catholic Rosary, to the St. Christopher's medal, the Christian-Judaic tradition embraces holy, sacred, and symbolic items.

American Indian culture has medicine bundles. The medicine bundle was the most important item in the possession of an Indian person. Men, women and children alike wear some form of a medicine bundle. Men and women who are considered "Medicine Carriers" also carry or have in their possession large bundles. One can have several medicine bundles, as each has its own purpose.

⁸⁶George C. Frison, Prehistoric Hunters of the High Plains (New York: Academic Press, 1978), 264-267.

⁸⁷Ibid., 264-67.

A medicine bundle is usually made from an animal skin that could be the size of a one inch piece of hide or as large as the entire animal. An example of using the entire animal hide occurred when a person took that particular animal as his "medicine." A bundle made out of an entire beaver, mink, chipmunk, or weasel are just a few examples. Often times the hide of whatever animal was used was sewn into a bag shape. A draw string would be sewn along the edges in order to allow for closure of the bag. Inside the bag were those items that had some curative ingredients or some special meaning to the carrier of the bundle. Deer tail, herbs, feathers, rocks, beads, seeds, animal hair, and tobacco are just some of the items that could be found in a medicine bundle.⁸⁸

Small medicine bundles could be hung around an individual's neck. For example the umbilical cord of a baby is considered sacred because it connected the baby to the sacred world. A grandmother would take that cord and wrap it in a piece of hide and then attach that to a thong that would be worn about the child's neck. No one had to wonder what was in that little pouch because the people just knew.

To ward off evil spirits or negative influences, sometimes a medicine person would make a medicine bundle for someone. That bundle would consist of those items selected by the medicine

⁸⁸Virgil J. Vogel, American Indian Medicine (Norman: University of Oklahoma Press, 1970), 27-35.

person. The items could be such things as vermillion, sage, cedar, sweet grass, tobacco, or red ochre. Individual carried these bags and placed them inside their lodges to protect their dwellings from evil thoughts.

One has but to look at the list of Blackfeet medicine bundles in order to understand how some of the animals of Yellowstone National Park could be used as spiritual assistants. Some of those animal bundles mentioned by the Blackfeet are: Bear Knife bundles, Beaver bundles, Weasel-tail robes, Deer Dance bundles, and Otter Bundles. John C. Hellson gave a list of medicine bundles and religious artifacts. Please see appendix for complete list.⁸⁹ (See Appendix D).

Birds

Indian tribes of the Plains used feathers for a wide variety of fans and ceremonial dance regalia. Wearing the feather honored the life of the bird, and feathers from eagles and hawks were the most prized. An eagle feather war bonnet signified that a man had achieved exceptional war honors. Among the Crow people, eagle feathers tied to a man's rifle or coup stick meant that he had killed an enemy. Indian children were given tufts of a young eagle because they had not reached adulthood yet and were not allowed to wear the adult eagle feathers.

⁸⁹John C. Hellson, Ethnobotany of the Blackfoot Indians (Ottawa: National Museum of Man Mercury Series, 1974), 49-55.

When one prepares the eagle feathers for an adult man's dance outfit, it requires wrapping each feather individually and then tying them in a circle. Young boys used the feathers of a hawk or some lesser bird for their dance bustles. In the Sun Dance Ceremony dancers must have eagle bone whistles, and each whistle has the feathered plume of an eagle attached to it by a thong.⁹⁰

In 1907, Dr. T. S. Palmer was part of the Biological Survey team in charge of game preservation in Yellowstone Park. He prepared a report for the Annual Report of the Superintendent of Yellowstone Park titled: "Notes on the summer Birds of the Yellowstone National Park." Bird names, he explained, were often used to name points of interest. Sites such as Crow Creek, Duck Creek, Falcon Creek, Goose Creek, Grouse Creek, Jay Creek, Magpie Creek, Owl Creek, and Raven Creek attested to the presence and significance of birds in the park. There were also ten species of raptorial birds in the park including eagles, hawks, owls, and there were substantial numbers of osprey and fish hawks along the Gardiner and Yellowstone Rivers.⁹¹ In the same 1907 annual report, Superintendent S.B.M. Young reported that Canadian

⁹⁰Dubin, North American Indian Jewelry and Adornment, 241-57.

⁹¹T.S. Palmer, "Notes on the Summer Birds of the Yellowstone National Park," in "The Annual Report of the Superintendent of the Yellowstone National Park. June 30, 1907," House Document [HD] 1046. 60th Cong., 1st Sess., Serial 5295, 543.

geese had reared their young in the park. Pelicans and gulls, ducks, and many song birds nested near human habitations in such numbers, he explained, that a rule was put into effect that no cats or dogs would be allowed in the park.⁹²

In the same report, Palmer reported that Dr. Edgar A. Mearns, who had been stationed with the U.S. Army at Fort Yellowstone in 1902, had discovered a number of dead birds in the caves near Mammoth Hot Springs. Dr. Mearns speculated that they had taken refuge from the cold and were overcome by gases seeping into the caves. Mearns recorded the species of birds he had found in the Stygian Caves, and they included "Blackbilled magpie, Clarke nutcracker, Cassin purple finch, Pine siskin, Pink-sided junco, Green-tailed towhee, Louisiana tanager, Western warbling vireo, Audubon warbler, Macgillivray warbler, Rocky Mountain creeper, Rocky Mountain nuthatch, Red-breasted nuthatch, Mountain chickadee, Townsend solitaire, and Western robin."⁹³ Dr. Mearns guessed that thousands had died in those caves. This would have been a fantastic cache of feathers for use by Indians. Prior to the establishment of the park, Indians would have known about the caves and might have collected those feathers for their own use.

⁹²Ibid., 542.

⁹³Ibid., 544.

Ethnobotany of Yellowstone National Park

Plant life in Yellowstone Park was central to the lives of Indian people who used the park, for it was used for shelter, furnishings, food and medicinal purposes.

One of the most important trees in Yellowstone was the Lodgepole Pine or *Pinus contorta*. Three quarters of the park is forested with this tree, and Indian people used this tree for their tepee poles and lodge construction. According to Pliny Haine Hawkins, in his book on The Trees and Shrubs of Yellowstone National Park (1924), a lodgepole pine measuring two inches in diameter at the base and sixteen feet in length weighed only seven to eight pounds. Despite its lightness, it compared favorably in strength to the Douglas fir. This means that it was a light pole that could be carried easily via horse or dog and that it had the strength to support heavy hide coverings.⁹⁴

Indians of the Plains had to travel long distances to the mountain regions to obtain this tree. Normally they were replaced yearly because tribal people wore them out by dragging them across the prairie on the backs of their horses or their dogs. Twenty-five to thirty poles were required for each tepee, and these were cut in twenty-five foot lengths. Peeled and dried in

⁹⁴Pliny Haine Hawkins, The Trees and Shrubs of Yellowstone National Park (Menasha, Wisconsin: The Collegiate Press, 1924), 8-9.

the sun, the lodgepole pine was the lightest tree source for such dwellings.⁹⁵

Numerous trees were used as food sources as well. The Whitebark Pine (*Pinus albicaulis*) was one of those. It is a low shrubby pine, and its seeds and inner bark layer or cambium layer were used as food. The seeds were also eaten. Another was the Cottonwood (*Populus aricocarpa*). Its inner bark was eaten because it had a sweet taste and was very nutritious. Horses foraged on its upper branches. Cottonwood leaf buds produced a yellow dye, toys were fashioned from the smaller twigs, and the cotton fruits from the tree could be chewed like gum. The inner bark and sap of Quaking Aspen (*Populus tremuloides*) was used as a poultice for cuts and wounds, and it was used as a cleansing agent for gangrene, eczema, and burns. The Sub Alpine Fir (*Abies lasiocarpa*), called "sweet pine" by Blackfeet, was used as an incense, and it was associated with Medicine Pipe bundles. The Blackfeet believed that Thunder gave pipes to the people, so during severe thunderstorms they make a smudge of alpine fir needles for their homes.⁹⁶

⁹⁵Wayne F. Replogle, Yellowstone's Bannock Indian Trails. Yellowstone Interpretive Series, Number 6 (Yellowstone Park, Wyoming: Yellowstone Library and Museum Association, 1956), 52.

⁹⁶Hellson, Ethnobotany of the Blackfoot Indians, 36.

Fires

Indian people have used fire in the forests and on the plains for years. Using fire in Yellowstone Park was simply an extension of a practice common to tribal cultures. Seasonal and cyclical hunting and gathering visits to the park meant returning to campsites suited to specific activities such as hunting elk, gathering berries, drying food, soaking in hot springs, or seeking a vision.

Keeping in mind that Yellowstone Park has been used for 11,500 years, the experts in fire behavior and Indian use of fire have said that "In western Montana, investigations of fire-scarred trees suggest that aboriginal burning extended back at least to A. D. 1500."⁹⁷ They needed fire for cooking, hunting, perhaps for warfare, and certainly for ceremonies. Fires stimulated perennial grasses to maintain dominance, so there was more browse material available for deer and elk. Aside from hunting, there were safety reasons involved in fires as well. If a band of Indians were camped in an area covered by tall grass, often times they would burn strips of grass and shrubs around the camp so that they had better visibility against enemies. They knew that enemy tribes often attacked camps by crawling through

⁹⁷Stephen Arno, "Ecological Effects and Management Implication of Indian Fires," Paper presented at the Wilderness Fire Symposium, Missoula, Montana, November 15-18, 1983.

the grass surrounding camp areas. Burning the grass also protected them from enemy fires or naturally-caused fires.⁹⁸

At some point, Indian people learned that less burning meant that certain shrubs and trees tended to take over--shrubs such as choke cherries and service berries, and trees such as aspen. Since Indian people liked to put berries in their pemmican, they needed a certain balance between shrubs, trees, and grasses. Fire was one way to maintain that balance. The food sources for Indian people were not just berried, but they hunted game animals as well, and without horses, Indian people had to figure out ways to hunt large quantities. An effective way of accomplishing this was to use a "fire surround." This technique was used to herd game animals into an area whereby they could be killed more easily. They used fire to both attract animals and to burn undergrowth that would come back the next season in natural grasses that attracted large game hunting herds. In 1858, Father Pierre Desmet saw the Salish Indians use that technique near present-day Lake Couer d'Alene. Here is how Desmet described that:

On both ends of their line they light fires, some distance apart, which they feed with old garments and worn out moccasins....The frightened deer rush to right and left to escape. As soon as they smell the smoke of fires, they turn and run back. Having fire on both sides of them and the hunters in the rear, they dash toward the lake, and soon they are so closely pressed that they jump into the water, as the only refuge left for them. Then everything is easy for the hunters; they let the animals get away from the

⁹⁸Ibid.

shore, then pursue them in their light bark canoes and kill them without trouble or danger.⁹⁹

After acquiring the horse, Indian people used fire for forage enhancement, communication, vegetation clearing, promotion of hunting, and ceremonies. Keeping large horse herds required that Indian people either had to find enough forage or somehow create more forage for horses. It is well known that frequent fires help perennial grasses to become dominant. Less frequent fires allowed for shrubs and trees to become dominant. In Yellowstone National Park, the use of past fires is evidenced by the amount of sagebrush that exists; after prolonged periods of time without burning, sagebrush becomes dominant. Frequent burning lessened the dominance of sagebrush and other undesirable shrubs. Studies have corroborated Indian oral tradition that Indians set fires according to definite patterns to promote cultural subsistence.¹⁰⁰

Indian people also used fire to protect and encourage the growth of certain medicinal and food plants. Burning understories encourages these plants to flourish. However, if Indian people frequently used fire for these purposes, then it would mean that

⁹⁹Stephen W. Barrett, "Indians and Fire," Western Wildlands Journal, (Spring, 1980), 19.

¹⁰⁰Stephen W. Barrett and Stephen F. Arno, "Indian Fires As an Ecological Influence In the Northern Rockies," Journal of Forestry Vol. 80, No. 10, (October 1982): 647-650; Stephen W. Barrett, "Indians and Fire," Western Wildlands Journal (Spring 1980): 17-21.

they also used fire to open stands of timber to make horse travel through the forests easier. More can be said about Indian use of fire in Yellowstone, but that may be more easily done by a forest historian.¹⁰¹

Foods

Stan Valhovich, Forester for the Department of Natural Resources of Montana, has identified approximately 188 native, edible plants of Yellowstone National Park. Vlahovich's list expands upon an earlier list compiled by retired ranger Wayne Replogle.¹⁰²

A particularly popular plant was the Yampa root (*Perideridia gairdneri*) or "Indian carrot," which was known for its good taste. It has a sweet, nutty flavor, and it is not bitter. Indians dug it up in spring and summer, but the most ideal time to dig it was when it was in flower. It could be boiled, dried, or pounded into a mush for soup.¹⁰³

Camas (*Camassia quamash*) was also a very popular root found in Yellowstone. It was easily identified by blue flowers on a lily-like plant. Indians fire-baked its bulbs which were tasty

¹⁰¹Steve Arno, A Paper Presented at the Wilderness Fire Symposium, Missoula, Montana, November 15-18, 1983, 81-82.

¹⁰²Stan Vlahovich, "Edible Native Plants of Yellowstone National Park." Department of Natural Resources, Dillon, Montana. The full list can be seen in Appendix E; Replogle, Yellowstone's Bannock Indian Trail, 14.

¹⁰³Ibid., 65.

and very nutritious. This particular plant was such an important food item that tribes used it as a trade item. Therefore stories of its origin attest to its prominence in tribal culture. The roots resemble moose droppings in size, shape, and color and the following story reflects that image. The Kootenai people tell a story about camas, Coyote and the Moose. When Coyote went visiting, he stopped at Moose's house. To feed his guest, Moose slapped his backside and out popped camas. He then put it in a pot and cooked it up for Coyote. The Kootenai still believe that wherever Coyote defecated large camas prairies have grown.¹⁰⁴

Another edible plant that is very prevalent in the park is Balsam root (*Balsamorhiza sagittata*). It resembles sunflowers growing on the hillsides with large arrow, shaped leaves. The Blackfeet people called it the Big Turnip and used it as an incense for certain ceremonies in addition to the use of the root as food.¹⁰⁵

Many berries were staple items when found in the spring and summer. Berries could be dried and kept throughout the year. To dry the berries, they were spread out on hides and turned often while drying. After drying, the berries could be mixed with grease and stored. The most widely used berries in the Park were the Chokecherry (*Prunus virginiana*) and Serviceberry (*Amelanchier*

¹⁰⁴Ibid., 14.

¹⁰⁵Hellson, Ethnobotany of the Blackfoot Indians, 47.

alnifolia). Other edible berries found in the park are: Red Elderberry (*Sambucus racemosa*), Russet Buffaloberry (*Sheperdia Canadensis*), Dwarf Huckleberry (*Vaccinium caespitosum*), Grouse Whortleberry (*Vaccinium scoparium*), Hudson Bay Current (*Ribes hudsonianum*), and Mountain Gooseberry (*Ribes montigenum*).¹⁰⁶

Household Furnishings

Numerous species of willows abounded in Yellowstone Park, and Indian people used them for a variety of purposes. They used them to make baskets, travois, and cordage or rope, windbreaks, dyes, mats, and teas that treated rheumatism. Tooth brushes, forks, fibers, and canes were additional products that came from willow trees. The most important article of furniture in the tepee was the willow backrest. This is hung over a tripod and will support the heaviest of people. The tripod is made of thin willow poles, four to five feet in length. The back rest is made from peeled willow rods that are about one-half inch in diameter, and strung together by sinew to form a mat. The mat itself is tapered from two feet at one end to three feet in width at the other end. When unrolled the mat is about five feet long. The narrow end of the mat is hung at the top of the tripod, and the wider end is placed on the ground. The entire backrest is usually decorated and the poles of the tripod are carved or painted.¹⁰⁷

¹⁰⁶Interview with Stan Vlahovich, Forester Department of Natural Resources, State of Montana, April, 2000.

¹⁰⁷Laubin, The Indian Tipi, 70.

Many household furnishings were decorated with colors of yellow, red, or blue that were rubbed into the item. These colors came from plants such as tree bark for reds and blacks, berries, and iron-bearing minerals that could make blues and greens. These minerals could be found in the park. Black could also be made from charcoal.

Still another important item made from park plants was cordage. Some cordage was fashioned from buckskin, rawhide, or rabbit skins twisted together. In his book Handbook of Indian Foods and Fibers of Arid America, Walter Ebeling argues that most cordage came from vegetable fibers. In Yellowstone Park, Juniper (*Juniperus scapularum*) was a common source of cordage. Common sage (*Artemisia tridentata*) and milkweed (*Asclepias speciosa*) made some very popular ropes.¹⁰⁸ The type of fiber selected depended upon the intended use.

Medicinal

The use of plants in the religious and ceremonial lives of Indian people was just as important as the uses of animals. Thus one of the primary uses of plants in the park was for cleansing the heart and soul. American Indian people did not travel anywhere without taking their methods for sending prayers. If a person was in the wilderness seeking a vision or perhaps just

¹⁰⁸Walter Ebeling, Handbook of Indian Foods and Fibers of Arid America (Berkeley: University of California Press, 1986), 81-82.

traveling, the use of plants for incense was important. The plant used most often was sage. After bathing in a river, a person dried himself off with sage grass (*Artemisia ludoviciana*). The Blackfeet used fringed sage (*Artemisia frigida*) and Louisiana sage (*Artemesia ludoviciana*) as a deodorant. They also used sages as stuffing for saddles, women's pillows, hide bags, quivers, and rattles.

Indian elders have taught that before a person can be healed or can heal someone else, he or she must be cleansed of bad feelings, negative thoughts, and any negative energy. They also taught that all ceremonies, whether private or for the entire tribe, must be conducted with positive feelings and therefore prayers are sent to ask for those good blessings. Long Standing Bear Chief said that smoke was a symbolic way to send prayers. Certain plants or herbs were burned, and the smoke was taken into one's hands and figuratively brushed over one's own body. Another term that was used for this action was called "smudging."¹⁰⁹

A number of plants were used to create a smudge which was used ceremonially and ritually. Indian people also used plants to smudge themselves, their lodge, their personal belongings, and their families and friends. The plants found in Yellowstone National Park that were used for such purposes as spiritual cleansing are Big Sage, (*Artemisia tridentata*), Tarragon,

¹⁰⁹Adrienne Borden and Steve Coyote, "Sacred Herbs, the Smudging Ceremony," Shaman's Drum, (Spring, 1987), 55.

(*Artemisia dracunculus*), Louisiana Sagebrush, (*Artemisia ludoviciana*), and Mountain Big Sage, (*Artemisia tridentata* sub *species vaciena*).

Another spiritual feature of tribal culture, used by the Blackfeet, Crow, and Shoshone, was the sweat lodge or purification ceremony. Yellowstone Park contained an abundance of material that could be used to put together a ritual sweat lodge ceremony. First the long stems of the willow were collected and stuck into the ground to form a dome-shaped structure. It would then be covered with hides to form a small area where anywhere from one to six people could sit inside and virtually take a steam bath. The floor of the sweat lodge was covered with Louisiana sage, (*Artemisia ludoviciana*), which served as a cleansing agent for the participants.

Taking a "sweat" is a spiritual process for Indian people. One must take a "sweat" before performing any of the sacred ceremonies, and the builder of the sweat lodge learned how to construct it from another medicine man. Among the Crow people, only men may build the sweat lodge. The centrality of the sweat lodge to tribal culture and its reliance on traditional building material is clear from oral history, traditions, and anthropological accounts.

It was important for hunting cultures to have a form of ritual cleansing in order to assist in a successful hunt. Hellson explained that, like animals, plants were considered to be alive,

so taking a sweat bath and rubbing sage onto one's skin helped to disguise a hunter's scent. "If we combine the animate and inanimate traits," Hellson continued, "we find that plants were the ideal mediators between man and the supernatural realm."¹¹⁰ This was especially true of their ability to replace man's foul scent with their own and so symbolically release him from mortal bonds.¹¹¹

The use of Yellowstone National Park by tribal peoples such as the Crow, Blackfeet, and Shoshone may very well be captured by the meaning and symbolism of the sweat lodge, for it figures prominently in all three cultures, whether the sweat lodge was built at Browning, Fort Hall, or Crow Agency. When these tribes came to Yellowstone, they used Yellowstone's willows, its sage, and its animal skins to construct their sweat lodges in the park to promote spiritual healing and cleansing and to assure themselves of a successful hunt and life.

A passage in the book North American Indian Jewelry And Adornment perhaps best summarizes the plant and animal use of Yellowstone National Park: "In the traditional world of the nomadic tribes, one departs and returns. The journey is not linear and permanent...but circular...as it was with the tribes that moved with the seasons, spiritually in pursuit of game,

¹¹⁰Hellsen, Ethnobotany of the Blackfoot Indians, 7.

¹¹¹Ibid., 6-7.

returning always to their origin places, to their native grounds. One returns to one's native landscape whenever possible to renew oneself."¹¹²

¹¹²Dubin, North American Indian Jewelry and Adornment, 15.

CHAPTER 5

Creating a National Park

It was not an illegal 'taking,' but it was an unjust 'taking,' and it was an uncompensated taking of aboriginal title.

Dennis Colson

...the Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith.

Felix Cohen

For most Americans, the establishment of Yellowstone National Park in 1872 conjures up a feeling of pride, for it symbolizes the nation's commitment to preserving a region whose beauty is universally acclaimed. When Congress passed the bill into law, creating Yellowstone National Park, it set aside over two million acres of land for the enjoyment and pleasure of American citizens. When it did so, however, few if any took into consideration the effect of the action on American Indian people who had used the park since time immemorial for temporary, semi-permanent, or permanent occupation. Creating Yellowstone National Park came at a great cost to Indian people.

Congress set aside the national park without so much as an eviction notice to its aboriginal inhabitants. As if to punctuate the symbolism of the formal end to treaty-making with Indian people in 1871, Congress severed Indians' treaty rights to the park with absolutely no consultation with Indian people. Indian people learned of their exclusion some years later from Indian agents who issued perfunctory statements and directives, informing them that they were no longer allowed inside the park boundaries.

As Dennis Colson, Law Professor at University of Idaho Law School, explained, the "taking" of that land without attention to Indian treaty rights may not have been an "illegal taking," but it was an "unjust taking."¹¹³ This was not the only time that had happened because numerous park creations have followed Yellowstone. What few people understood then--and even now--is that the creation of Yellowstone National Park was a violation of the treaty rights of those tribes who had lawful claims to the area. Specifically, the treaty rights of the Blackfeet, Crow, and Shoshone people were ignored, for the park's establishment never addressed any kind of compensation for breaking treaty stipulations spelled out in their respective treaties.

¹¹³Interview with Professor Dennis Colson, University of Idaho Law School, Moscow, ID, April 5, 2000.

Doctrine of Discovery

In an article titled "The Spirit and the Law: Indian Policy and Indian Religious Freedom," Anthropologist, C. Patrick Morris argued that assimilation of Indians would succeed only if their religion were destroyed. The body and the soul of the Indian could be saved, but assimilation required the destruction of his heathen ways. Morris said that this "taking" of the Indian culture and religion received legal support from the United States Supreme Court, itself a defender of America's right to religious freedom.¹¹⁴

Historically in colonial New England, the idea of Christianizing the Indian was implemented when the Puritans formed "praying towns" to protect converted Indians from their heathen brethren. "This zealous rush to proselytize the Indian," Morris argues, "was fired as much by interdenominational struggles over the number of souls saved, as it was by Christian piety and duty."¹¹⁵ Historian James Axtell explains that the reason "praying towns" worked so well was because of the influx of disease and enemies. Ultimately, in order to survive, Indian people needed to find a speedy way to adapt and use Christianity as a tool to survive with part of their culture intact. Although

¹¹⁴C. Patrick Morris, "The Spirit and the Law: Indian Policy and Indian Religious Freedom," The Concept of Sacred Materials and Their Place in the World ed. George P. Horse Capture (Cody, Wyoming: Buffalo Bill Historical Center, 1989), 9.

¹¹⁵Ibid., 7.

there are other arguments, the fact remains that disease, armies, liquor, and land greed were used to bring the "savage" Indian to some form of civilization. Put another way, the key to civilization for many of the eighteenth-century missions was to civilize the Indians before Christianizing them.¹¹⁶

The "civilizing" program could happen only if Indian children attended institutions designed to influence them in the ways of a civilized world and to educate them with the language of the white world. One of the leading institutions of this kind was created by Captain Richard Pratt at Carlisle, Pennsylvania. Indian children were removed from their home reservations and sent to such schools as Carlisle and educated until the age of sixteen.¹¹⁷

The Puritan perspective viewed the New World as a vacant land occupied by uncivilized heathens without a claim to the land. This mind-set became so firmly infused in the British-American tradition that by the nineteenth century policy-makers saw it as their duty to divest the "savage hunters" of land providentially destined to fall under the mastery of the superior yeoman farmer. "Once the tribes were brought into 'civilized'

¹¹⁶James Axtell, After Columbus, Essays in the Ethnohistory of Colonial North America (New York: Oxford University Press, 1988), 52-53.

¹¹⁷Frederick E. Hoxie, A Final Promise: the Campaign to Assimilate the Indians, 1880-1920 (Lincoln: University of Nebraska Press, 1984), 56-57.

society," Fred Hoxie has explained, "there would be no reason for them to 'usurp' vast tracts of 'underdeveloped' land. And membership in a booming nation would be ample compensation for the dispossession they had suffered. "¹¹⁸

Chief Justice John Marshall's ruling in the 1823 Johnson v. McIntosh decision speaks to the issue of the legal relationships between the European "discoverer" and the Indians. The "discoverer" used the "uncivilized" character of indigenous people and their "heathen" religion against them to appropriate their land. The religion of Indian people was deemed inferior, and therefore the European "discoverers" needed to civilize and Christianize the newly-found heathen. That came to be viewed by Europeans as just compensation for the taking of Indian lands.¹¹⁹

The assertion of a superior civilization and Christianity established for Europeans what came to be known as the "Right of Discovery." Marshall's interpretation in Johnson v. McIntosh held that since European societies, and later the United States, had used this doctrine for so long, it could not be dispensed with by courts of justice. Thus the age-old Doctrine of Discovery justified permanent dominion over an inferior culture and religion. "To this day," Morris explained, " the Indian holds

¹¹⁸Ibid., 15.

¹¹⁹Ibid., 9.

only an 'impaired' title to the approximately five percent of North America he still 'occupies'-the reservations."¹²⁰

Definition of Treaty

Kirke Kickingbird, director of the Institute for the Development of Indian Law, explains that a treaty is a legal contract between sovereign nations, and he argues that the reason the United States negotiated treaties with American Indian nations was to acquire their lands. All treaties between sovereign nations are protected by Article VI, Clause 2 of the Constitution which defines treaties as the "supreme law of the land." Kickingbird further elaborated that Congress has from time to time "assumed the power to ignore or change Indian treaties without the consent of the people."¹²¹ This view came about when the courts ruled that Congress had plenary power when it came to issues of Indian Affairs. The legal definition of plenary means absolute, full and entire. The Supreme Court enunciated this interpretation in the 1903 decision in *Lone Wolf v. Hitchcock*.

Definition of "Taking" and Eminent Domain

In Black's Law Dictionary, Henry Campbell Black defines "taking" as a "transfer of possession, dominion, or control...to assume ownership." The dictionary further explains that

¹²⁰Morris, "The Spirit and the Law," The Concept of Sacred Materials And Their Place In the World, 9.

¹²¹Kirke Kickingbird, Indian Treaties (Washington, D.C.: Institute for the Development of Indian Law, 1980), 35.

constitutions generally provide that property shall not be taken for public use without just compensation, a right protected by the "due process clause" of the Fifth Amendment of the United States Constitution.¹²² The term "*eminent domain*" is defined as the "power to take private property for public use by the state, municipalities, and private persons or corporations authorized to exercise functions of public character."¹²³

The "taking process," however, is not a loosely understood process. Congress may indeed have plenary power, but that power must be exercised in legally prescribed ways. Treaties are binding agreements among signatories; each party to a treaty makes concessions and assumes obligations to the other. And until Congress specifically modifies, abrogates, or extinguishes any aspect of a negotiated treaty or agreement, the original provisions of the treaty remain in force. A treaty is not muted by the passage of time or some vague sense of a "statute of

¹²²Henry Campbell Black, M.A., Black's Law Dictionary. Abridged Fifth Edition (St. Paul, MN: West Publishing Co., 1983), 757.

¹²³Ibid., 273; In the United States this power of eminent domain is found in federal and state constitutions. No wonder the federal government has been pressuring the Crow Tribe to adopt a constitutional form of government and no wonder the Indian Reorganization Act solicited the same from other tribes throughout the United States. Doing so would specify that the Crow Tribe would allow the United States the authority to express that power of eminent domain, perhaps even over their own tribal lands.

limitations." provisions of a treaty remain in full effect until such time that they are specifically altered by Congress.¹²⁴

Creation of the first National Park

The idea for establishing a national park at Yellowstone had its origins in the numerous exploratory expeditions beginning with the Cook and Folsom Expedition of August 1-October 11, 1869, which has already been discussed in Chapter 2. Upon its completion, Cook and Folsom sought a firm that would publish their account of the expedition. They ran into some difficulties in publishing the information about their journey. Aubrey Haines wrote that in 1868 Cook met an A. W. Clark. Cook told him about what he had seen in Yellowstone and Clark's interest was aroused. He wanted to explore the area. This A.W. Clark then went to Helena to visit H. N. McGuire, who eventually became the publisher of a Bozeman, Montana, newspaper. McGuire was well acquainted with the northern area of the greater Yellowstone region and told Clark that September was too late in the season to attempt such a trip. Clark then returned to his home in the east without visiting Yellowstone. It was after Cook and Folsom returned from their trip that Cook received a letter from Clark. He was so intrigued with their stories that he offered to help find a publisher for an article describing their adventures in Yellowstone. Cook and Folsom wrote an account from their

¹²⁴Kickingbird, Indian Treaties, 31-37.

personal diaries and sent it to Clark. It was at this time that both the New York Tribune and Scribner's refused the manuscript because they did not want to risk their reputation on such "unreliable" material. The Western Monthly Magazine of Chicago, however, finally accepted the article and published it under Cook's name in July, 1870. The issue did not get distributed because the offices were destroyed in the Chicago fire of October 8-11, 1871.¹²⁵ Aubrey Haines disagreed with this fact. He said that the printing plant for Western Monthly Magazine was also burned on September 4, 1870, but neither of these fires would have interfered with the distribution of the July edition and that the subscribers had received their copies prior to the fires, so only a small stock would have been lost.¹²⁶

David Folsom, who worked in the Helena office of the surveyor general of Montana Territory, began working with Henry D. Washburn in the winter of 1869 after his return from his Yellowstone expedition. There, Folsom met Walter W. deLacy, a civil engineer and also a Yellowstone explorer. Together they revised deLacy's map of Montana Territory, which had been

¹²⁵Haines, The Yellowstone Story Vol. I., 101; Aubrey Haines, however, disagreed with this fact. He also said that the printing plant for the Western Monthly Magazine was burned on September 4, 1870, but neither of these fires would have interfered with the distribution of the July edition and that the subscribers had received their copies prior to the fires, so only a small stock may have been lost.

¹²⁶Ibid., 101.

published in 1865. They finished the revised map in 1870 just in time for the Washburn Expedition. During his work, Folsom made a remark that the Yellowstone area "should be reserved for public use as a park," essentially seconding a suggestion made in 1865 by Thomas Meagher, Acting Territorial Governor.¹²⁷

Some years later C. W. Cook remembered that the Cook-Folsom group was camped near the Firehole River when a camp-fire discussion centered on the marvelous "beauty of the area." The discussants recognized that it would not be long before settlers moved into the area and everyone acknowledged this as unfortunate. Cook recalled that Folsom said the "The Government ought not to allow anyone to locate here at all."¹²⁸

Led by Henry D. Washburn with financial backing from the Northern Pacific railroad and escorted by a military unit from Fort Ellis, Montana Territory, headed by Lieutenant Gustavus C. Doane, the Washburne-Doane expedition reached the Firehole River on September 19, 1870, and after a trip where all members of the party saw nature's miracles, they sat around camp that evening and discussed the future of Yellowstone. There was talk about each member of the expedition selecting a parcel of land at each of the prominent points of interest. Discussion followed as to how that could be profitable. One member speculated that if title

¹²⁷Ibid., 103.

¹²⁸Ibid.

to two or three quarter-sections of land could be secured below the lower falls of the Yellowstone, then the owners could make significant profits. Another member thought the Upper Geyser Basin might be more profitable as it could be easily reached by tourists. As if to remind themselves that they were all together in this adventure, another suggestion was that the entire party should benefit and that all of them should hold the land in common. Cornelius Hedges from Helena, however, dissented. He thought the whole area ought to be set aside as a national park, and if the members agreed with him then each member of the expedition ought to make an effort to see that it was made into a park.¹²⁹

When the expedition returned to Montana, Cornelius Hedges wrote a series of articles that were published in the *Helena Herald*, between October 6 and November 9, 1870. His "Yellowstone Lake" article contained the first public suggestion by a member of the expedition to reserve Yellowstone. On October 6, 1870, Hedges wrote that

This beautiful body of water is situated in the extreme northwest corner of Wyoming, and, with its tributaries and sister lakes of smaller dimensions, is entirely cut off from all access from any portion of that Territory by the impassable and eternally snow-clad range of the Wind River Range of mountains [Absaroka Range]. Hence the propriety that the Territorial lines be so readjusted that Montana should embrace all that lake region west of the Wind river Range, a matter in which we hope our citizens will soon move

¹²⁹Ibid., 129-30.

to accomplish, as well as to secure, its future appropriation to the public use.¹³⁰

By now the appeal of setting Yellowstone aside as a national park began to take hold with more Americans. The article in the Western Monthly Magazine popularized the idea with that magazine's subscribers, and the series of articles Cornelius Hedges wrote for the Helena Herald stirred interest in Montana Territory. The stage was set for carrying this idea to another level.

Nathaniel Pitt Langford, a Montana businessman who had help to organize the Langford-Doane Expedition, developed a series of lectures for Jay Cooke & Company. On November 11, 1871, the Helena Herald wrote that "Hon. N.P. Langford, we understand, is to lecture in the states this winter, on the wonders of Yellowstone country...We understand that Mr. Langford will deliver his lecture here before his departure...."¹³¹ The paper also indicated that he would present twenty lectures as part of a publicity agreement with the Northern Pacific Railroad. His first lecture outside Montana was given on January 19, 1871, for an audience in Lincoln Hall in Washington, D.C. The head of the U. S. Geological Survey, Ferdinand V. Hayden, was in the audience that evening, and he promptly took action to ask

¹³⁰Ibid., 134.

¹³¹"A Grand Lecture," Helena Herald, November 17, 1870.

Congress to fund a survey expedition of Yellowstone. Hayden had numerous supporters in Congress including John G. Blaine, an advocate for Northern Pacific Railroad and upcoming Speaker of the House, and Henry M. Dawes, chair of the House Committee on Appropriations. They helped secure the appropriations, even though those monies would not be made available until July 1, 1871. Hayden wasted no time. He established Ogden, Utah, as a rendezvous point by mid-May. The Union Pacific and Central Pacific railroads transported all his team members and their equipment at no cost in the weeks preceding their planned departure of July 14, 1871. Hayden's party included his assistant James Stevenson; Henry W. Elliott, artist; Anton Schoenborn, chief topographer; A. J. Smith, assistant topographer; William H. Jackson, photographer; George B. Dixon, assistant photographer; J. W. Beaman, meteorologist; G. N. Allen, botanist; Robert Adams, assistant botanist; Albert C. Peale, mineralogist and medical doctor; Charles Turnbull, medical doctor; Edward Carrington, zoologist; William B. Logan, secretary and son of Illinois representative John Logan; F. J. Huse, Chester Dawes, the son of Massachusetts Representative Henry L. Dawes; Clifford D.V. Negley and J. W. Duncan, both general assistants. The Northern Pacific Railroad hired an artist, Thomas Moran, to accompany the

expedition. Twenty additional men went along to serve as packers, cooks, workers, hunters, and guides.¹³²

On July 25, 1871, the Hayden survey party left from Green River Station about a mile east of Ogden, Utah, and headed northward toward Yellowstone. With army mule wagons and mounted men on horses, the expedition's first destination was Fort Hall, Idaho. From there they traveled along the stage route that headed for Virginia City, Montana. They stopped in Alder Gulch and then headed northeast to Fort Ellis near present-day Bozeman, Montana. The group had gone north along the west side of the park and entered the park from the north along the Gardiner River. It was at Fort Ellis that they met up with the Barlow-Heap military expedition, and from then on traveled with them. With such a late start his team was faced with a very short field season.

Hayden divided his survey team into four groups. The first group was to survey the park and points north. Two groups were to do topographic and geologic work, and one of these two was to conduct an exhaustive geological survey of the park. The other of the two topographic groups was to explore the Wind River range and Snake River area. The fourth group was to conduct special photographic and geologic work.

The objective in the Hayden Expedition in the park was to resurvey all the hot spring basins, to record soundings and

¹³²Ibid., 137-41.

temperatures, and to study the history and habitat of the geysers. The photographer got over 200 photos. They surveyed, mapped, photographed, painted landscapes, collected specimens of rocks, minerals, animals, and plants. Twelve thousand square miles were surveyed. Three tons of volcanic rocks and hot-spring specimens were collected. All the information was included in the twelfth annual report. They left the park on August 26, 1871. Hayden and many of his key people went back to Washington, D.C. Barlow and Hine went to Chicago and Captain Heap went to St. Paul, Minnesota.¹³³

The Hayden Expedition returned on August 26, 1871, and set about preparing their final report. They had several mishaps, one involving Captain John W. Barlow who returned to Chicago with the photographic negatives, meteorological records, and specimens. Before he could get the photographs developed, they were destroyed in the Great Chicago Fire. Fortunately Captain Heap had taken the astronomic data with him to St. Paul, and he was able to put together a map. Hayden's chief topographer, Schoenburn, committed suicide, but Hayden had the United States Coast Survey office put together Schoenborn's field notes. This information was of particular importance to the Northern Pacific Railroad.¹³⁴

¹³³"Report of the Secretary of the Interior, House Executive Document [HED] 1, Part 5. 45th Congress, 3d. Sess. Serial 1850, xxxii.

¹³⁴Haines, The Yellowstone Story, I:153.

Meanwhile, important correspondence was exchanged in October of 1871 regarding the Northern Pacific Railroad's bid to get a bill passed establishing the park. In October, A.B. Nettleton, Jay Cooke's office manager, wrote to William D. Kelley, a Republican congressman from Pennsylvania, suggesting to Kelley that Congress ought to pass a bill reserving Yellowstone lands as a public park, much like it had done for Yosemite Valley. Nettleton knew that Kelley supported the idea of a transcontinental railroad. The congressman had close ties with Cooke's company and had actually worked for it in the past. Kelley then forwarded Nettleton's letter to Ferdinand Hayden, as he knew that Hayden would be submitting a report on his expedition into Yellowstone.¹³⁵

Before the Hayden Expedition had returned, William H. Clagett was elected on August 7, 1871, as the delegate from Montana Territory. As one of the authors of the bill that eventually established Yellowstone National Park, his story alone is very interesting. He was born in Maryland in 1838. His family moved to Keokuk, Iowa, where his father, Thomas William Clagett, formed a law firm with George C. Dixon. Dixon's son, William Wirt Dixon, became a life-long friend of William Clagett. Both young men attended law school and later returned to Keokuk where they

¹³⁵"Records of the Department of the Interior, Geological Survey, Letters Received by F. V. Hayden, 1871." Record Group [RG] 57, National Archives [NA].

too formed a law partnership. From Iowa, they moved to Nevada in 1861, where they were active in Nevada Territorial politics, and in 1866 both families moved to Montana Territory, settling in Deer Lodge.

Clagett's entry into Montana Territorial politics began in the fall of 1868, when he supported for territorial delegate Republican Wilbur Fisk Sanders. Sanders lost his bid. In an "out-of-schedule election" on August 7, 1871, William Clagett defeated his opponent, becoming the Montana Territorial delegate to the 42nd Congress. Clagett was sworn into office on December 4, 1871, and began his eight-month term as the Montana Territorial Delegate. While territorial delegates had no real authority or bargaining power, they did, his grandson Fred Clagett explained, give a frontier voice to Congress. "They were ambassadors seeking new mail routes, railroad rights of way,..." and the like, Clagett explained.

It was during this time that Dixon, Clagett's law partner, began working on the Yellowstone National Park bill. Just two weeks after he was seated in Congress, Clagett introduced the bill (House Bill 746) to create Yellowstone National Park.

On the same day, December 18, 1871, Senator Samuel Clarke Pomeroy, a Republican from Kansas and chairman of the Committee on Public Lands, introduced the bill in the Senate (as Senate

Bill 392).¹³⁶ Both bills advocated the creation of Yellowstone National Park. In his book Our National Park Policy, A Critical History, John Ise explained that the vote was largely along political lines. The Republicans favored the bill and the Democrats opposed it.

Defeated for reelection in the fall, Clagett, left Montana in 1876. Clagett's achievements in his short eight-month term, however, were significant. Hubert Howe Bancroft proclaimed that Clagett "did more for Montana in the first eight months of his term than the two preceding delegates had in seven years."¹³⁷

Campaign for support

In support of the Yellowstone bill, Hayden arranged for a display of geological specimens his survey had collected while on its expedition. The exhibit was displayed in the capital rotunda. Langford's article in Scribner's Monthly was one item in the exhibit, and it was distributed to all senators and representatives along with published copies of Doane's report detailing his 1870 expedition. Clagett claimed that Hayden, Langford, and he contacted and interviewed every member of Congress about the bill.

¹³⁶John Ise, Our National Park Policy, A Critical History (Baltimore: Johns Hopkins Press, 1961), 16-17.

¹³⁷Fred Clagett, "William H. Clagett-The Silver-Tongued Orator of the West: Idaho Statehood and the Closing of the Pacific Frontier: The Life of William H. Clagett." in Professor Dennis Colson's "Idaho Constitutional Law" Fall , 1966, 29-39. Clagett also wrote the 1872 mining law.

When Pomeroy's bill was read on January 30, it was defended by Senators Henry B. Anthony (Rhode Island), Thomas W. Tipton (Nebraska), George F. Edmunds (Vermont), and Lyman Trumbull (Illinois). It was opposed, however, by Senator Cornelius Cole from California. Cole questioned why settlers should be excluded from that tract of land. Cole argued that the "natural curiosities" would always be there no matter who owned the lands, and he did not know why settlers should be excluded from the tract of land. He could not see setting aside that much land for a public park as there was a lot of public park land in the Rocky mountains. Trumbull told him that the geysers in Yellowstone were the most fantastic on the face of the earth; that it was land that would not likely ever be an agriculturally rich area; and that at some time in the future, if it proved to be an unjust decision, the bill could be repealed.¹³⁸ The Senate passed the bill without a roll-call vote and it was sent to the House where it stayed until it was voted on, which was February 27, 1872. President Grant signed it into law on March 1, 1872.

The act creating Yellowstone National Park explained that:

Sec. 2474. The tract of land in the Territories of Montana and Wyoming, lying near the head-waters of the Yellowstone River and described as follows, to wit, commencing at the junction of Gardiner's River, with the Yellowstone River, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone Lake; thence south along said meridian to the parallel of latitude passing ten miles south of the most southern part of

¹³⁸Ise, Our National Park Policy, A Critical History, 16.

Yellowstone Lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison Lake; thence north along said meridian to the latitude of the junction of the Yellowstone and Gardiner's Rivers; thence east to the place of beginning, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people; and all persons who locate, or settle upon, or occupy any part of the land thus set apart as a public park, except as provided in the following section, shall be considered trespassers and removed therefrom.

Sec. 2475. Such public park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be, as soon as practicable, to make and publish such regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders, within the park, and their retention in their natural condition. The Secretary may, in his discretion, grant leases for building purposes for terms not exceeding ten years, of small parcels of ground, at such places in the park as may require the erection of buildings for the accommodation of visitors; all the proceeds of such leases, and all other revenues that may be derived from any source connected with the park, to be expended under his direction in the management of the same, and the construction of roads and bridle-paths therein. He shall provide against the wanton destruction of the fish and game found within the park, and against their capture or destruction for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same to be removed therefrom, and generally is authorized to take all such measures as may be necessary or proper to fully carry out the objects and purposes of this section.¹³⁹

An important question needs to be asked about Clagett's sponsorship of a bill creating the first national park in the United States: What accounted for the almost immediate

¹³⁹Second Edition Revised Statutes of The United States, 1st Session, 43rd Section. 2474, 2475, 453, (1873-1874).

introduction of the Yellowstone National Park bill and its hasty consideration by Congress? In three short months the bill attracted influential and monied support. What accounts for the remarkable success from a relatively unknown and uninfluential territorial delegate such as William Clagett?

It is no wonder that by January of 1872, the idea for creating Yellowstone National Park had by now attracted widespread national support from politically and financially influential groups across the country. The Congressman from Kansas championed the movement, government officials gave Hayden exhibition space in the capitol to promote the wonders of Yellowstone, and transcontinental railroad expansionists rallied to the support of a northern line connecting Minneapolis and St. Paul with the Pacific Ocean. And along the way developers began promoting the idea of Yellowstone National Park as a resort destination like none other.

It is obvious that the grand plan was for the Northern Pacific Railroad to develop a passage across Montana with a trunk line to Yellowstone National Park. According to Dennis Colson, interest in Yellowstone stemmed from three areas: railroad promotion, destination resort promoters, and scientific explorations. The grand plan, however, was derailed by the Panic of 1873, which left the Northern Pacific Railroad bankrupt. As a result the railroad line was stranded for six years at the town of Bismarck, Dakota Territory.

While Yellowstone National Park promoters clamored to organize support for their cause, it appeared that no one inquired into the bill's effect on American Indian people. Indeed, the idea of Yellowstone National Park fundamentally, completely, and comprehensively ignored the rights of the American Indians tribes who possessed reserved rights clearly stipulated in a series of treaties ratified previously by the United States Senate. Language in these treaties is unambiguous. For instance Article 5 of the 1873 Treaty of the Crow Tribe unequivocally retained reserved hunting rights to lands included within the Yellowstone National Park boundaries. What happened to those treaty rights remains unclear, for nowhere in the historical record did anyone take into account the bill's impact on American Indian treaty language. Language in the legislation prohibits "all persons" from locating or settling upon or occupying any part of the park. It also provides "against the wanton destruction of the fish and game found" therein. But the term "Indian" does not appear in the act. More importantly, at no point in the bill's promotion was any consideration given to Indian issues, and Congress offered no language, either stated, implied, or inferred that reserved Indian hunting rights to areas inside the park were modified or abrogated.

In his article on "Indian Land Use and the National Forests," Richard White discusses how Indian people have been left out of national forests. "They once lived in them, shaped

them, and used them," White explains. "The formation of forests usually shut Indians off from the accustomed resources and the use - or misuse - of national forest lands often greatly affecting adjoining Indian reservations."¹⁴⁰ Being "shut out" of national parks by Bureau of Indian Affairs circulars and regulations or written orders from an Indian agent, however, has never been equated with a congressional abrogation of a treaty right. In common practice, meanwhile, the Blackfeet, Crow, and Shoshone people were excluded from the park, having been unceremoniously, unofficially, and unlawfully stripped of reserved hunting rights to areas inside Yellowstone National Park.

¹⁴⁰Richard White, "Indian Land Use and the National Forests," Ed. Harold K. Steen, The Origins of the National Forests (Durham, North Carolina: Forest History Society, 1992), 173.

CHAPTER 6

Early Park Policies

From the Indians we learned a toughness and a strength;
and we gained
A Freedom: by taking theirs: but a real freedom: born
From the wild and open land our grandfathers heroically
stole.
But we took a wound at Indians hands: a part of our
soul scabbed over.

Thomas McGrath¹⁴¹

Overview of Indian Policies

Reviewing basic federal Indian policies from the Fort Laramie Treaty of 1851 to the passage of the Indian Citizenship bill in 1924 helps to understand how the National Park Service overlooked the reserved treaty rights of the Blackfeet, Crow, and Shoshone Indian tribes. The relationship that tribes had with states and the federal government has consisted of both informal and formal decisions that cost Indian people access to Yellowstone National Park.

A picture of federal Indian policies usually begins with the 1830 Indian removal policy of Andrew Jackson. The idea was to move Indian people west of the Mississippi River in order to have a natural barrier between the Indians and whites. This was

¹⁴¹Frank Pommersheim, "The Reservation as Place, A South Dakota Essay", in William L. Lang, ed., Centennial West, Essays on the Northern Tier States (Seattle: University of Washington Press, 1991), 59.

simplistic because gold was discovered in Georgia, and that led to conflict between the State of Georgia and the Cherokee people. The court cases that ensued became the basis for Indian law. The 1831 Worcester v. Georgia case involved two white missionaries who had violated state of Georgia law by not applying for a state permit which would have allowed them access to work with Cherokee people. The Cherokee Nation supported Worcester in suing the state of Georgia. The Cherokee Nation believed that Georgia could not pass a state law against whites on the Cherokee reservation. Supreme Court Justice John Marshall ruled in this case that Indians were domestic dependent nations and that the United States had a fiduciary responsibility to protect the rights of Indian nations. Therefore, the state law of Georgia was illegal and not applicable on the Cherokee reservation. This case also is the basis for the United States protecting the rights of Indian nations, including treaty rights.¹⁴²

Nevertheless, the policy of Indian Removal began a whole set of policies that gradually evolved into the reservation concept. The reservation system was a way to identify "Indian Country," where Indian people came to be confined.

The large influx of whites subsequently moving to Oregon and California passed through Indian Country and destroyed a large number of buffalo and grazing lands of the Indians. It also

¹⁴²Francis Paul Prucha, Documents of United States Indian Policy (Lincoln: University of Nebraska Press, 1975), 60-62.

increased intertribal warfare among Indian tribes who had to move farther and farther from their ancestral lands in search of game animals. In 1849, Commissioner of Indian Affairs William Medill sent a proposal to the Secretary of the Interior to compensate the various Indian tribes for damage done to their lands by the westward-moving emigrants. He also suggested that the tribes be instructed in farming techniques as the buffalo were not going to be able to afford them an adequate living forever. Thus federal authorities arranged for the Fort Laramie Treaty negotiations of 1851.

Historian Francis Paul Prucha had speculated that there was a need to organize the Plains to accommodate for the construction of the transcontinental railroad. The person most likely to accomplish that was Commissioner of Indian Affairs George W. Manypenny. He visited many tribes and tried to persuade them to cede their lands and move to a designated southern and northern colony. The tribes said that they would not have any of it. But some said that they would give up some of their lands if they were allowed to remain on small reserves in their original areas.¹⁴³

By the time the 1860's arrived, the Civil War had disrupted the treaty process on the Plains but not the movement of whites

¹⁴³Francis Paul Prucha, American Indian Treaties, The History of Political Anomaly (Berkeley: University of California Press, 1994), 241.

into Indian lands. Open conflict between Indians and invading whites persisted, and by 1863 Indian Commissioner William P. Dole provided some very clear statements about the treaty system. He thought it was ridiculous to think that Indians could be easily removed from their homelands without their consent. He denied that military control of the Indian situation would eliminate fraud and corruption in the Indian service. In the end he believed that there was not a better system around except that which would fix the rights, obligations, and duties of each race to the other.¹⁴⁴

In 1859 Superintendent Edward R. Geary proposed a plan for the Indians in Washington and Oregon. There were five points in his plan. Individual Indians would be assigned individual lots for a home site and soil to farm. Indians would have to become self-sufficient. Thirdly, an Indian agent would send Indian orphans to white homes. Industrial boarding schools would be established, and, lastly, only men "of pure morals and correct deportment" would be employed on the reservations.¹⁴⁵

The above plan could only work if the military was responsible for forcing Indians onto reservation. Those resistant to reservation life would be exterminated. Once on the reservation, Christian agents and teachers could instruct them

¹⁴⁴Ibid., 273-75.

¹⁴⁵S. Lyman Tyler, A History of Indian Policy (Washington, D.C.: United States Department of the Interior, 1973), 75.

how to assimilate into the white man's culture. This dual policy did not stop the Indians from resenting the whites crossing their hunting lands. "Although opinions differed on the exact techniques to be followed in individualizing relations with the Indians," Lyman S. Tyler explained, "there came to be a general unanimity of opinion that the allotment of land in severalty was one of the basic methods that should be employed."¹⁴⁶

Even some of the preliminary geological reports of the times envisioned the development of the West. "These road, wherever they pass through Indian countries, would not only greatly lessen the expense of military transportation, but would also have a tendency to check their [Indian] depredations. Therefore it is not wise for the government so to bind itself by treaties that the right of way for railroads cannot be given through reservations," F. V. Hayden, United States Geologist explained, and he continued "that the policy of making treaties with them, as quasi-nationalists, is detrimental to the agricultural development and best interest of the West."¹⁴⁷

The transcontinental railroad was completed in 1869, and subsequent to that came the annihilation of the buffalo and the

¹⁴⁶Ibid., 85.

¹⁴⁷F.V. Hayden, Preliminary Report of the United States Geological Survey of Wyoming, Portions of Contiguous Territories. (Being A Second Annual Report of Progress) concluded Under the Authority of the Secretary of the Interior (Washington: Government Printing Office, 1872), 263.

end of the Indian way of life. "The Indians were soon virtually surrounded by their conquerors and newly appointed rulers," Tyler explained, and "the Indian agent was the new taskmaster bringing a multitude of new programs foreign to Indian ideas of the proper role of man in his society."¹⁴⁸ Following the treaty era was the allotment policy which did not work any better because "aggressive settlers and speculators desired the choice lands still in the hands of the Indians and paid little attention to Indian rights," Tyler concluded.¹⁴⁹

Dawes Allotment Act

On February 8, 1887, Congress passed the Dawes Allotment Act, which aimed to make individual land owners out of the Indians who had previously thought of their land holdings as communal and for the benefit of the entire tribe. Tyler explained the reasons for the breaking up of reservations and allotting lands to individuals. There was the "desire to replace tribal culture with white culture," Tyler explained, "to protect the individual Indian allottee [sic] from further depredation by covetous individuals, by the railroads, and by the Government itself."¹⁵⁰ Senator Henry Dawes of Massachusetts was the force behind the General Allotment Act, which eventually took his name.

¹⁴⁸Tyler, A History of Indian Policy, 86.

¹⁴⁹Ibid., 242.

¹⁵⁰Tyler, A History of Indian Policy, 96.

He also had the aid of private interest groups, churches, and the Indian Rights Association.¹⁵¹

All allotted lands were to held in trust by the federal government for a period of twenty-five years during which time the Indians were suppose to learn business methods. At the end of the time period, the Indian would receive clear title to his allotment along with citizenship. "Through this simple formula and rather naive expectation federal officials believed they could solve the problems of the Indians in one generation," Deloria and Lytle explained. "Private property, they believed, had mystical magical qualities about it that led people directly to a 'civilized' state."¹⁵²

Dennis Colson, University of Idaho law professor, agrees that the assimilation ideas of the Dawes Allotment Act were the lowest point of federal Indian policies for Indian tribes. The idea of assimilation, he explained, was to force the cultural values of the dominant culture onto Indian culture. The citizenship that was awarded with the allotment policy was a legal issue. The issue of giving Indian people citizenship began with this policy, but it took until 1924, with the passage of the Indian Citizenship Act, before blanket citizenship was assigned

¹⁵¹Senator Dawes' son was on the Hayden Expedition in 1871. The objective of the expedition was to survey the park area and to submit a report which preceded the passage of the Yellowstone National Park legislation in 1872.

¹⁵²Ibid., 9.

to all Indians. The point of citizenship in reference to Yellowstone National Park is whether an Indian could be regarded as a citizen who could then enter the park as a tourist. Conversely, could an Indian enter the park as an "Indian," essentially as a non-citizen? Colson makes the argument that Indians could enter the park as a tourist after the Citizenship Act as long as they did not enter as "Indians." They could enter Yellowstone National Park as assimilated citizens, but they could not enter as hunters and gatherers. Colson further argues that the lands of Yellowstone National Park were no longer part of the public domain, meaning that Indian treaty rights had been extinguished.¹⁵³

If Indian treaty rights to the park area were extinguished, Colson suggests, it is a fair question for Indian people to ask: how were they extinguished? Compared to hundreds of Indian treaties negotiated earlier, did Congress inform, consult, or negotiate with Indian people prior to this act's passage, explaining its implication for solemnly negotiated past treaties whose every word had been ratified by the U. S. Senate? If not, did Congress intend to keep its decision secret, only to spring its implications on unsuspecting Indian people gradually over the years? Or were the park's promotees and Congress guilty of intentionally failing to inform numerous with aboriginal and

¹⁵³Interview with Professor Dennis Colson, University of Idaho Law School, Moscow, ID, April 5, 2000.

treaty rights to the park? Lacking clear answers to these questions, a conclusion difficult to dismiss is that Congress acted high-handedly and arrogantly or it blundered blindly into the legislation. And then it authorized low-level Indian agents to write a letter here and there informing Indian people they could not enter a vast location previously guaranteed by treaty right.

A clear pattern emerges, nonetheless. Between 1872 and 1887, the federal government and its agents initiated a slow but steady release of letters, circulars, and pronouncements aimed at banning Indians from the park. At the same time, Indian people continued using the park as they had for years--as a hunting ground, and even as an escape route. Accustomed to explicit and unambiguous language contained in numerous treaties, Indian people now confronted vagaries and ambiguities dispensed not by treaty commissions but by park promoters who became park superintendents, and by Indian agents.

Nathaniel Pitt Langford, (May 10, 1872 to April 18, 1877)

Once Yellowstone National Park was created by an act of Congress in March of 1872, the government appointed one of its early promoters as its first superintendent, Nathaniel Pitt Langford. Referred to jokingly as "National Park" Langford, he held this official but unpaid position for five years, until April of 1877. While he was in charge of the park, he was

employed as a federal bank examiner for the Pacific Coast states, a job he held until 1885. Receiving no salary as superintendent and no federal appropriations, Langford was a superintendent in name only. Records indicate that he visited the park on only two occasions, once in 1872 as part of the Hayden Expedition and once in 1874.

Meanwhile, with the onset of the Panic of 1873, construction of the Northern Pacific Railroad came to a halt. This meant that tourists wishing to visit the park traveled overland to Yellowstone National Park on conveyances other than the railroad. During Langford's superintendency, tourist visits averaged about 500 per year, and once visitors got to the edge of the park they were required to enter it on horseback or by wagon.

There is no question that Langford would have been a more effective park administrator had he not been required to work elsewhere to secure wages. Essentially, he received no salary or financial support to manage a park that was the size of Delaware, Rhode Island, and Massachusetts combined. He had no rangers under his supervision, so the killing of park animals went unchecked. The park boundaries were not marked so poachers had free rein. During Langford's tenure, the small number of tourists' only mode of travel into the park was by pack train. If they did not have their own horses, tourists rented them from a group of self-proclaimed guides living near the park.

At the time, Congress believed that private enterprise was the appropriate way for the park to operate. It was expected that the park would become self-sustaining. Concessionaires would be expected to pay rent for space they used inside the park. They would be granted leases so they could build and operate toll roads, and they were expected to protect the park boundaries from encroachment.¹⁵⁴

From the standpoint of American Indians, what had changed with the establishment of Yellowstone National Park? Probably the only perceptible change was the arrival of about 500 visitors in the summer months at the park's northern entrance. No rail lines were built because the Northern Pacific Railroad's construction had stalled. No roads had been built inside the park, and in the first five years the superintendent had visited the park only twice. Virtually no effort had been made to prohibit Indian entrance into and use of the park. And no formal pronouncements had been made banning Indians from its confines. For all practical purposes, the Blackfeet, Shoshone, and Crow people were unaware of its existence as a "national park." An occasional letter to an Indian agent warned tribes against going to Yellowstone, but its near-non-existent structure left the superintendent and Indian agents ignorant of Indian use. No

¹⁵⁴"Historical and Descriptive Sketch of Yellowstone National Park" January 15, 1909, Senate Document 752, 60th Cong., 2d, Sess., Serial 5409, 16.

official ever indicated that reserved hunting rights language contained in previous treaties had been abrogated by the park's creation, and Langford certainly did or said nothing to suggest this. Federal neglect contributed to Indians' understanding that park use could continue much as it had in the past. No federal official had so much as hinted at any form of Indian consultation prior to the park's creation, leaving its implication to fall on someone else's shoulders in the future.¹⁵⁵

During the tenure of N.P. Langford, tourists could only travel through the park by pack train. If they did not have their own horses, they rented them from a group of developing guides. The next superintendent, Philetus .W. Norris, had a very negative picture of this particular group of entrepreneurs. Since Langford did not live and work near the park he was unaware of the problems that Norris critiqued in his Michigan newspaper.

Phelitus W. Norris (April 18, 1877 to March 31, 1882)

Phelitus W. Norris founded a town near Detroit, Michigan, called Norris, and it was there that he developed a newspaper business. In his newspaper he published numerous articles about Yellowstone National Park, and he often criticized the operation of the park under Superintendent Nathaniel Langford. As a result he was appointed, at the age of fifty-six, as the next superintendent of Yellowstone Park. On April 18, 1877, Norris

¹⁵⁵Charles J. Kappler, Indian Affairs: Laws and Treaties Vol. II (Washington: Government Printing Office, 1929), 736.

became the second civilian superintendent of Yellowstone National Park and the first salaried superintendent.

Upon receiving notice on April 19, 1877, that he had been appointed as the new superintendent, Norris wrote a letter immediately to James McCartney, who was the owner of the Mammoth hotel and bathhouse, making him assistant superintendent until he arrived in June. He crossed Dakota Territory by railroad to Bismarck. Then he went by Missouri River steam boat to Fort Buford on the Yellowstone River. He reached that point by June 18 and then transferred to a freighter on the Yellowstone River. He disembarked from the steamboat at the mouth of the Tongue River, the site of Fort Keogh, near present-day Miles City, Montana. He then traveled by horseback, stopping at the site of the Battle of the Little Big Horn. At Bozeman he received word that General William T. Sherman wanted to tour the park, so he then hurried up the Yellowstone to meet the general at the Bottler ranch, near the north entrance. Sherman wrote to the Secretary of War on August 3, explaining that he saw no danger in the area. He was, however, convinced that Indians were afraid of the geysers. Norris met up with the party and guided them towards Tower Falls until he lost a stirrup and was thrown by his horse injuring his neck and back. He returned to Mammoth Hot Springs, but Sherman continued his tour. General Sherman's party continued through the park and came upon George Huston at Upper Geyser Basin. Huston was there waiting for a party he was employed to

guide. Sherman's party told him that the "hostile Nez Perce Indians would not invade the geyser regions because of superstitious fear."¹⁵⁶ Although an erroneous claim, it stuck. Norris subsequently exploited the myth to entice and reassure tourists that they would not encounter Indians in the park.¹⁵⁷

Nez Perce War 1877

"Their horsemen and villagers ranged far and wide in freedom across the hills and river valleys of the region from the Cascades to the Rockies;... noted historian Alvin Josephy has said, but "until they were defeated in war and penned on their reservations, they were familiar with almost every land feature of the Inland Empire."¹⁵⁸

During the two weeks that he was touring the park, General Sherman was surprised to learn of the extent of the campaign once he returned to Fort Ellis on August 18, 1877. Yellowstone National Park had become the battle ground for two weeks of the Nez Perce campaign. On August 21, 1877, about 600 Nez Perce men, women, and children entered the park on the western border through an area called Targhee Pass. Their flight through the park took them up the Madison River where they camped at the

¹⁵⁶Haines, The Yellowstone Story Vol. I. 218-19.

¹⁵⁷Alston Chase, Playing God in Yellowstone: the Destruction of America's First National Park (Boston: Atlantic Monthly Press, 1986), 108-109.

¹⁵⁸Alvin M. Josephy, The Nez Perce Indians and the Opening of the Northwest (New York: Houghton Mifflin Company, 1965), xix.

junction of the Firehole River and Nez Perce Creek. They then proceeded up Nez Perce Creek, past Mary Lake and Mary Mountain, and down the hills to Hayden Valley, just upriver from Yellowstone Falls. They camped near Mud Volcano, which is approximately five miles north of Yellowstone Lake. They forded the Yellowstone River from the eastern side to the Pelican Creek side, and then headed northeast into the mountains. Precisely where they exited the park on the east remains unclear. There were three separate scouting parties. One went up the Lamar River to Cache Creek and then traversed a pass through the Absaroka Range to the upper waters of Clark Fork River that took them to the Yellowstone River. It is likely that the main group of 600 Nez Perce also crossed that same pass through the Absaroka Range, leaving Yellowstone Park somewhere around September 5.¹⁵⁹

Several tourist groups were in the park at the time of the Nez Perce War, with twenty-two tourist actually encountering them on their flight through Yellowstone Park. On August 23, 1877, a Nez Perce scouting party captured an old prospector named John Shively. The scouting party had been looking for a short cut to the east and Crow country, and Shively agreed to guide them.¹⁶⁰

While the main Nez Perce group camped near Nez Perce Creek and the Firehole River on August 24, another scouting party

¹⁵⁹Josephy, The Nez Perce Indians, 602-603.

¹⁶⁰Ibid., 597-601

encountered the Radersburg tourists whose party numbered nine people. It included George and Emma Cowan, Mrs. Cowan's brother and sister who were Frank and Ida Carpenter, Charles Mann and Henry Meyers, Frank Carpenter, William Dingee, and Albert Oldham. The Nez Perce feared that the group would report their location so they kidnaped the entire group. They were escorted by Yellow Wolf for a time, but later a group of fifty young warriors came up and ransacked their wagons. They asked then to trade their horses for weaker ones in the Indians' possession. They were told that if they did so then they could go free if they agreed to remain hidden.

After a half mile of riding in the timber, the Cowan group returned to the trail where it was immediately attacked by thirty young warriors. As the tourist were led back to the main Nez Perce camp, shots rang out and George Cowan and Albert Oldham fell from their horses. Meyers, Mann and Harmon ran to hide, and Arnold and Dingee headed for the Gibbon River. Frank Carpenter, Ida, and Emma were once again forced to travel with the Nez Perce. The discharged soldier, James Irwin, was found hiding in a ravine the same day. He inadvertently told the Nez Perce about the Helena group, and that group was found and attacked as well.¹⁶¹

¹⁶¹Haines, The Yellowstone Story, I: 222-25.

The Helena tourists were attacked by the Nez Perce on August 26th. They were Andrew Weikert, Richard Dietrich, Charles Kenck, Frederick Pfister, Jack Stewart, Leonard Duncan, Joseph Roberts, August Foller, Leslie Wilke, and Benjamin Stone. They all managed to escape except Kenck and Dietrich, who were killed.¹⁶²

Of the tourists taken hostage, the Radersburg group was released on August 25, 1877. Kenck and Dietrich had been killed, and George Cowan was left for dead, but he was rescued and survived his wounds.¹⁶³

In 1932 Major General Hugh L. Scott visited Yellowstone National Park and described his memories of his 1877 experience with the Nez Perce in the Park. He remembered that a small band of Nez Perce had been responsible for the hostilities on the park. Chief Joseph led the main portion of the band through the southern part of the park headed toward Crow country.

A second lieutenant with the 7th Cavalry in 1877, Scott was sent with ten men to drive out the small band of Nez Perce that was "...stealing horses and burning ranches and bridges." Coming from south of the park, he recalled that the Nez Perce had stolen nineteen horses from the Henderson Ranch and then rode to the area around Mammoth Hot Springs.

¹⁶²Ibid., 220-35.

¹⁶³Haines, The Yellowstone Story, I: 220.

Before continuing his pursuit, Scott rounded up the horses they had abandoned. At Clematis Gulch, just behind the spot where the Mammoth Hotel now stands, the Nez Perce party killed an old man named R. Dietrich who was living at the McCartney cabin.¹⁶⁴

The intent of the Nez Perce was to reach the reservation of their friends, the Crows. Enroute, however, they learned the Crows had sided with the military, so the Nez Perce had no choice but to head northward out of the park to Canada. Their hope was to reach the Sioux Chief Sitting Bull's band.¹⁶⁵

In the meantime, Norris was in St. Paul where he heard by telegram that the park had been under siege. He was not able to return to the park during the winter months, and it took him until the last week in July, 1878, to appear in the park. He had heard about the problems with the Bannocks, and fearing another war campaign through Yellowstone Park he put off building the administrative headquarters at Mammoth and concentrated on constructing a wagon road to connect Mammoth Hot Springs with the geyser basin and the military road that General Howard had built the previous summer.

He organized a group of "well-armed" men and built the Norris Road, from Mammoth across Snow Pass, across Swan Lake and

¹⁶⁴Press Memo, Department of the Interior, National Park Service, Yellowstone National Park, 1932.

¹⁶⁵Cheryl Wilfong, Following the Nez Perce Trail, A Guide to the Nee-Me-Poo National Historic Trail with Eyewitness Accounts (Corvallis: Oregon State University Press, 1990), 16.

then to the Gardiner River. He constructed a rough bridge across the Gardiner, and then built a road along the edge of Obsidian Cliff. At the height of his road building he completed sixty miles in a month. Just as the road was completed, the road building crew met topographer A. D. Wilson and Harry Yount who had been surveying land at Henry's Lake just west of the Park. They reported that they had been shot at by Bannock Indians on their way to the park. Norris urged the topographers and survey crews to go back to Mammoth with him.¹⁶⁶

The Bannock War of 1878

The 1868 Fort Bridger Treaty with the Bannocks had promised certain provisions that the United States government was slow in providing. So the Bannocks were forced to go hunting for food. Their treaty provisions were barely enough to keep them on the reservation, and each year they had to roam farther and farther in search of game. During the Nez Perce War they had remained on the reservation where they received barely enough in terms of rations and benefits. They were also annoyed by white people encroaching on reserved lands. Lastly, despite their "chronic dislike" for the Shoshone, they shared the same reservation with them.¹⁶⁷

¹⁶⁶Haines, The Yellowstone Story I: 237-39.

¹⁶⁷"Report of Commissioner of Indian Affairs" House Executive Documents 1 45th Cong., 3d. Sess. 1878-79, Serial 1850, 447.

In the early 1870's, reservation rations typically fed the Bannocks for two days out of seven. With such a bleak outlook, the Bannocks had no choice but to go hunting. The 1878 report of the commissioner of Indian affairs verified the accounts leading up to the Bannock Indian War of 1878. The Indian Office agree that they were insufficiently supplied with food, owing to a lack of appropriations by Congress. The report also indicated that formerly the Bannock Indians had compensated for the ration shortages by hunting. During the Nez Perce War of 1877, the Bannocks had remained confined to the reservation at Fort Hall, hoping to avoid getting pulled into the conflict.

While the Nez Perce campaign continued through Yellowstone Park, the Bannocks were forced to remain on their reservation at Fort Hall. The Indian agent and the military did not want the Bannocks to become sympathetically involved with the Nez Perce, fearing a much greater and wide-spread campaign. Yet as the Bannocks remained on their lands, they continued to feel the deprivation of treaty rations while not being allowed to hunt.

On August 1, 1877, the hysteria of the Nez Perce campaign found its way into the Bannock camp. A couple of warriors left camp under the influence of whiskey and seriously wounded two white men. The man guilty of shooting the two white men was arrested on November 28, 1877. A friend of his named Tambiago then shot and killed another white man. Indian agent W. H. Danilson telegraphed the military post at Fort Hall and asked for

assistance from Captain A.H. Bainbridge. He arrived with fifteen soldiers and demanded that the Bannock turn over Tambiago. The Bannocks at the agency balked. On December 5, three more companies of soldiers arrived, led by Major Montgomery Bryant. He gave the Bannocks ten days to turn over the perpetrator. On December 26, with still no arrest made, General John E. Smith visited the agency and demanded Tambiago. On January 9, the military found Tambiago loitering in the area and arrested him. The Bannocks were upset, and on January 15 three more companies of soldiers arrived and surrounded two of the Bannock villages containing about thirty-two lodges. The military captured fifty-three warriors, thirty-two guns, and 300 horses. They were soon released but the prelude to the Bannock War had been set. On May 5, 1878, most of the military left over the protests of the Indian agent. It was not long after that about 200 rebellious Bannocks gathered near Payne's Ferry on the Snake River.¹⁶⁸

During the Nez Perce War of 1877, General O. O. Howard had employed twenty Bannock scouts, led by Chief Buffalo Horn. It was Buffalo Horn who gathered with his followers and joined other Bannocks from the Lemhi reservation at Payne's Ferry. They spent almost a month on the Prairie and refused to trade with white people. By July 27 there were scattered groups of Bannocks heading in different directions. Originally the Bannocks pushed

¹⁶⁸Brigham D. Madsen, The Bannock of Idaho (Moscow, Idaho: University of Idaho Press, 1996), 202-207.

north hoping to gather the support of the Cayuse Indians, but the military positioned a steamer on the Columbia River to keep them from crossing. The Bannocks fled toward the Wallowa Country and the Umatilla Reservation. After the death of one of their chiefs, the Bannock groups broke up and fled to other reservations hoping for support from their allies. By August 25, 1878, a large group was headed for Yellowstone Park, hoping to escape to Canada. They attacked a survey party at Henry's Lake, just south and west of Yellowstone National Park, but they were finally captured on the Clarks Fork River near Heart Mountain just east of the park. By October 1878, the war was over.¹⁶⁹

The Bannock war, extending from August to October of 1878, resulted in the deaths of nine soldiers and thirty-one civilians. Fifteen soldiers were wounded along with three citizens. Seventy-eight Indians were killed and three times that many were wounded. General George Crook later observed that he did not blame them for going to war; starvation stared them in the face and the United States had failed to live up to its treaty obligations.¹⁷⁰

Interior Secretary Carl Schurz offered his assessment: "After a protracted pursuit and several encounters, the hostile Bannocks were dispersed, and most of them surrendered and are now held as prisoners," he explained. "The military authorities have

¹⁶⁹Ibid., 223-27.

¹⁷⁰Ibid., 227.

called upon the Interior Department to take them off their hands, and it is intended to transport them to the Yakima Reservation, and to put them under the charge of Mr. Wilbur, the most successful agent in the service."¹⁷¹ Many of the prisoners, however, were held at Fort Keogh in Montana Territory; Fort Washakie in Wyoming Territory; Omaha, Nebraska; and Fort Hall, Idaho. Captain Bainbridge recommended that none be allowed to return to the reservation for two years. But by the end of the year, many had been allowed to return to their original reservations.¹⁷²

The Nez Perce War followed by the Bannock War one year later was a cause for concern from Superintendent Norris. The well publicized hostilities had the effect of frightening tourists from visiting Yellowstone National Park. In their flights, the Nez Perce had merely crossed a piece of territory enroute to Canada. The Bannocks left their reservation to hunt in usual and accustomed hunting regions to supplement insufficient government rations. The much publicized entry into the park by substantial numbers of Indian people dramatized problems and the necessity of finding ways to keep Indian people out of an area that was familiar and beneficial to them.

¹⁷¹"Report of the Secretary of the Interior", House Document 1 Part 5, 45th Congress, 3d Sess., Serial Set 1850, VIII.

¹⁷²Madsen, The Bannock of Idaho, 226.

It was the Indian campaigns through the park that caused Norris to go to each reservation and ask that the Indians from that reservation stay within their own lands.

Additionally, Superintendent Norris capitalized on General Sherman's view that Indians were afraid of geysers and therefore circulated stories to that effect. As a park superintendent he could not afford to have the tourists fearful of Indian raids such as those that took place with the Nez Perce and Bannock Wars.

So Superintendent Norris had plenty to occupy his mind the first two years of his administration in Yellowstone Park. The Nez Perce War and the Bannock War kept him busy with road building. He built roads and bridges from 1878 to 1882, including the assistance he gave to Jack Baronett in rebuilding his bridge that was burned in 1877 by a Nez Perce scouting party. Norris converted it to a wagon bridge by adding trusses for a stout structure. He then turned the road building over to the Army Corps of Engineers, which continued road construction until 1916.

Norris had been making preparations to build his administrative headquarters at Mammoth when word arrived about the Bannock Indian War. He continued that construction in 1879, building the headquarters there thinking it might offer protection in the event of an Indian raid.¹⁷³ There were only

¹⁷³Haines, The Yellowstone Story, I: 246.

thirty-two miles of road when Norris took over as superintendent, but by his departure there were 153 miles of road. Road building notwithstanding, he also constructed the first government buildings at Mammoth Hot Springs.

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The Northern Pacific Railroad had wanted to develop the tourist travel to Yellowstone National Park, but its efforts had been halted by the Panic of 1873. In 1879 it resumed construction, building west to Bismarck and then heading to Montana. In the meantime, Jay Gould had gained control of the Union Pacific Rail Road, which included the northbound line of the Utah and Northern railway out of Ogden, Utah. Gould figured that he could beat the Northern Pacific Rail Road to Yellowstone Park by building a branch line from Virginia City into the park. Superintendent Norris was enthusiastic about the idea, but the people of Bozeman, Montana, came to resent Norris for seeming to abandon their interests. The Utah and Northern line went north to Dillon and then to Butte, Montana. A weekly mail service had been authorized in July of 1874, connecting Bozeman to Mammoth Hot Springs, but the residents were dissatisfied with their service so Congress suspended its service. A new route was proposed from Virginia City to Yellowstone, but once again Norris was caught in a dilemma. He exposed the corrupt dealings of the assistant postmaster, and that led to a barrage of anti-Norris news articles. He was criticized for his buckskin clothing, too many roads, slaughtering game in the park, gathering specimens, and

opposing land speculators who wanted unconstrained access to the park. In the end he was removed on March 31, 1882.¹⁷⁴

Patrick Henry Conger (April 1, 1882 to September 9, 1884)

Patrick Conger, was Norris' successor and he arrived at the park on May 27, 1882. Clarence Stephens was Norris's assistant and he remained as Acting Superintendent until Conger arrived. When he had failed to arrive by May 18, Stephens sent a letter to the Secretary of the Interior asking to be replaced as soon as possible. The Secretary sent a letter to Conger and ordered him to the park at once. It did not take long for Conger's character flaws to appear. He did not like to work, and his administration of the park was so weak that it fell to its lowest depths. Conger became entangled in Yellowstone Park Improvement Company, which was a collection of twenty-five individuals. These men received grants of favorable lands that included tracts up to 640 acres. The project surfaced when Assistant Secretary M. L. Joslyn issued a lease to Carrol Hobart and Henry Douglas. They were later joined by Hatch, so this project became known as the Hobart-Douglas-Hatch Lease. They wanted to build hotels and telegraph lines in the park and buy stages. In August, 1883 they began construction of the 200 room hotel at Mammoth Hot Springs, but it was not completed for several years.¹⁷⁵

¹⁷⁴Haines, The Yellowstone Story, I: 254-60

¹⁷⁵Ise, Our National Park Policy, A Critical History, 35.

Things got so bad in the park that the governor of Montana appealed to Congress, prompting passage of the 1883 Sundry Civil Act. The bill allowed for only ten acres to be leased to any single party, authorized use of the military, and provided for ten assistants to the superintendent. The assistants, however, turned out to be inexperienced and useless, and they peddled merchandise from those things they were suppose to protect. They were as bad as vandals.¹⁷⁶

Carroll Hobart also wanted a railroad through the park to Cooke City. Jay Cooke and the U.S. Railroad Commissioner advocated building a narrow gauge line through the park. Articles of incorporation for the Bullion Railroad Company were filed and claimed no connection to the Northern Pacific, although the attorney of the Northern Pacific Rail Road was known to be organizing a new line. Senator Vest said that a railroad would ruin the park.

On February 17, 1883, Missouri Senator George Vest asked for a special committee to study the park and to call on the military for assistance. General Sheridan was in the area and he wanted even more land inside the park boundaries. This did not set well with local ranchers, miners and others.

¹⁷⁶Ibid., 17-18.

Robert Emmett Carpenter (September 10, 1884 to June 30, 1885)

Robert Emmett Carpenter essentially received the job as fourth superintendent of the park because his brother was Governor of Iowa. He took charge on September 10, 1884 and served until June 30, 1885. In that one year, Chittenden argued that Carpenter wanted to use the park for his own profit. He wanted to throw open the park to private ownership and spent most of his time in Washington, D.C. with the Improvement Company trying to get Congress to grant tracts of land inside the park to private parties so they could have some commercial success. They almost succeeded. When the scandal was uncovered, Carpenter was dismissed.¹⁷⁷

David Walker Wear (July 1, 1885 to August 20, 1886)

The next Superintendent was David Wear from Missouri, who only served a year. Although he was seen as a man of rare ability and wanted to right the wrongs of his predecessors, Congress had already marked the park for administration by the military. Congress refused to appropriate more money for the operation of the park, and the Secretary of Interior asked the War Department for assistance.¹⁷⁸

¹⁷⁷Ibid, . 18.

¹⁷⁸"Historical and Descriptive Sketch of Yellowstone National Park," January 15, 1909, Senate Document 752, 60th Cong., 2d, Sess., Serial 5409, 18.

Between 1872 and 1885, Yellowstone National Park witnessed significant changes from the non-Indian perspective. The Panic of 1873 stalled the railroad efforts to develop Yellowstone National Park into a resort destination for tourist from the east, but the ultimate goal never eluded the series of park superintendents. Railroads, tourism, and a resort capitalism fueled the park's promoters. Sooner or later, the railroads, and hotels would dominate a park that would beckon monied travelers from the east.

But the Panic of 1873 was not the park's only problem. The Nez Perce and Bannock Wars of 1877 and 1878 demonstrated the importance of keeping Indian people out of the park. Indians frightened tourists. Keeping them out became as important as completing railroad connections. Gradually a park superintendent's effectiveness came to have yet another yardstick of measurement: did he, in addition to all his other responsibilities, keep Indian people in check?

CHAPTER 7

Suppressing Lawlessness: A Military Presence

In pleasing contrast to the noisy, ever changing management, or mismanagement, of blustering, blundering, plundering, money-making vote-sellers who receive their places from boss politicians as purchased goods, the soldiers do their duty so quietly that the traveler is scarcely aware of their presence.
John Muir (1901)

Captain Moses Harris (August 20, 1886 to May 31, 1889)

In 1886, sufficient problems in the park had prompted Congress to commission the military to protect it and administer it. In the aftermath of the Nez Perce and Bannock Wars, Superintendent Conger's political entanglements with the Yellowstone Park Improvement Company, Carroll Hobart's and Jay Cooke's railroad financial irregularities, and the attempts to throw open the park to private ownership and enterprising capitalists, Congress required a disinterested party to oversee the park. Accordingly, on August 20, 1886, Captain Moses Harris took charge of Yellowstone National Park as its first military superintendent. He was born in New Hampshire and began his military service in 1857. He was promoted to captain in June of 1872, the year that Yellowstone became a national park. He had considerable experience in dealing with Indians, having participated in an expedition against the Cheyenne in 1857, against the Kiowa in 1860, and the Snake and Paiute in 1867, the

Apaches in 1869 to 1870, the Nez Perce in 1875, the Bannocks in 1878, the Apaches in 1881, and the Piegiens in 1885 to 1886.¹⁷⁹

For those concerned primarily for park stability, Captain Harris offered a reassuring profile. His Indian-fighter reputation and military presence formed a hopeful corrective to previous park chaos. Even though he did not have the support of strong laws, he established respect for the existing rules and regulations. John Muir, often times called the father of Yosemite, was a prolific writer on the issue of preservation of national forests, and Muir claimed that the military offered the best way to manage the park. For him, the military was a pleasing contrast "to ever changing management, or mismanagement, of blustering, blundering, plundering, money-making vote-sellers who receive their places from boss politicians as purchased goods," and he concluded that, "the soldiers do their duty so quietly that the traveler is scarcely aware of their presence."¹⁸⁰

On August 13, 1886, Harris marched fifty soldiers of Company M, First United States Cavalry, from Fort Custer, Montana Territory, to Mammoth Hot Springs, arriving on August 20. The first thing he did, after touring the park, was to establish an "outpost system," stationing men at Norris Geyser Basin, the

¹⁷⁹Central Classified Files [CCF], 201-006, box 453, Records of the National Park Service [NPS], RG 79, National Archives [NA].

¹⁸⁰Ise, Our National Park Policy: A Critical History (Baltimore: Johns Hopkins Press, 1961), 45.

Lower and Upper Geyser Basins, the Grand Canyon of the Yellowstone, Soda Butte on the way to Cooke City, and at Riverside on the Madison River. His troops replaced the assistant superintendents at these locations. Harris was also authorized to construct buildings to house his troops during the winter months. He recalled his men from their outposts by November 1, and by the end of December, he had constructed five buildings to house them. The next year he built a headquarters building and officer's quarters. The post was named Camp Sheridan after General Philip H. Sheridan, who had recommended Captain Harris for the Yellowstone assignment. During his first year, he kept his men busy guarding against robbers, poachers, and conducting a winter expedition to take photographs of park features.¹⁸¹

Captain Harris was effective at ending the destructive trends that had dominated the first years of the park. He used his military experiences in the Indian wars to initiate the expulsion of Indians from the park, seen by many as a long-term park problem. During his tenure, Harris sent numerous telegrams to Indian agents asking that "their Indians" be recalled to the reservation. One such telegram was sent on August 20, 1887.¹⁸² In turn the Acting Secretary of the Department of the Interior, on August 22, 1887, replied via telegram that he had referred the

¹⁸¹Haines, The Yellowstone Story II: 3-19.

¹⁸²Captain Moses Harris to Secretary of the Interior, August 20, 1887, LR, 1887-22870, OIA, RG 75, NA.

letter to the commissioner of Indian affairs and asked that the commissioner handle it.¹⁸³ The commissioner telegraphed the Lemhi Indian agent to "require the Indians complained of, if they belong to his agency, to return to their reservation."¹⁸⁴ J. M. Needham was the Indian agent at Lemhi, and on August 25, 1887, he wrote to the Indian commissioner and mentioned that he had indeed received the telegram. Needham explained that he would leave the same date as the letter and use all his efforts to induce the Indians to return since they were gone without permission.¹⁸⁵ These letters were illustrative of numerous correspondence between Harris and the interior department and the office of Indian affairs. Relying on the traditional chain of command, Harris called on others to live up to their responsibilities in controlling illegal entry into the park by Indian people. He also complained about how annoying it was to have Indians entering the park at the height of the tourist season. He explained that tourists were not accustomed to "seeing Indians in their wild state." Furthermore, it made the tourists uneasy, and it also made his job more difficult, especially if they wanted to "hunt and trap on the headwaters of the Gallatin river where game is

¹⁸³Harris to Secretary of the Interior, August 20, 1887, LR, 1887-22152, OIA, RG 75, NA.

¹⁸⁴Commissioner of Indian Affairs to Lemhi Indian agent, August 22, 1887, LR, 1887-22152, OIA, RG 75, NA.

¹⁸⁵J. M. Needham to John Atkins, August 25, 1887, LR, 1887-23027, OIA, RG 75, NA.

abundant." He also complained that the previous year, Indians had started a number of fires which destroyed valuable timber.¹⁸⁶

On May 14, 1888, Superintendent Harris once again informed the interior secretary that the Bannocks and Shoshone were approaching the park and that the year previous they had set a number of fires in the western portion of the park. Army scouting parties were very vigilant in preventing the Indians from hunting in the park, but they found one party of Indians from Fort Hall with their animals loaded with meat. The Indians had so intimidated the military scouting party, Harris explained, that they set them free with words of warning.¹⁸⁷

During his last year as superintendent, Captain Harris carried on a letter writing campaign with the Indian agents at the Fort Hall and Lemhi agencies about the Indians and their activities in or near Yellowstone Park. The letters reflected Captain Harris' anxiety about Indians entering the park and his concerns that they were not knowledgeable of the rules and regulations of Yellowstone Park.

In May of 1888, Harris indicated that he was annoyed by the "hunting operations in the vicinity of this National Park of parties of Bannock Indians from Fort Hall and Lemhi

¹⁸⁶Harris to Secretary of the Interior, August 20, 1887, LR, 1887-22870, OIA, RG 75, NA.

¹⁸⁷Harris to the Assistant Secretary of the Interior, May 14, 1888, LR, 1888-12385, OIA, RG 75, NA.

Reservations."¹⁸⁸ It was necessary, Harris explained, that someone talk to the Indians about not entering Yellowstone.

Agent Needham responded that he was in compliance with the instructions from Harris and that he had informed the Indians that "it was against the rules of the department for them to go near the Park." The Indians were willing to take their chances, however, because Needham stated that "these Indians are of a roving disposition and have gone when and where they pleased," despite his attempts to get them to remain on the reservation.¹⁸⁹ When Indian agents denied that their Indians were involved, Harris offered affidavits corroborating his charges. The affidavits came from non-Indian people who had spoken with the Bannocks, who said they were going to hunt on Fall River which was inside the park boundaries.¹⁹⁰

Harris obtained a signed affidavit from Private James J. Pearson of Troop M who had observed one hundred Indian men, women, and children. The tourists who saw them were "much alarmed" and uneasy, Pearson reported. A scout for Harris' troops, Edward Wilson, and the saddler, Joseph M. Loyus, reported

¹⁸⁸Harris to Secretary of the Interior, May 4, 1888, LR, 1888-12385, RG 75, NA.

¹⁸⁹Needham to Atkins, Commissioner of Indian Affairs, May 31, 1888, LR, 1888-14646, OIA, RG 75, NA.

¹⁹⁰"Report of the Superintendent of the Yellowstone National Park," June 1, 1889, HED 1 Part 5, 51st Cong., 1st Sess., Serial 2726, 140.

that seven lodges of Bannocks were camped within four miles of the southern boundary of the park. The Indians told these two men that they were from the Fort Hall and Lemhi agencies.¹⁹¹

Captain Harris concluded his annual report with a general statement that the park was a "favorite hunting ground" for the Indians, but as long as the laws were followed the park was not in any danger. "These Indians have no knowledge of the law, and submit to no restrictions," Captain Harris contended, and "a single one of these hunting parties works more destruction during summer's hunt than all of the gentlemen sportsmen put together...."¹⁹²

On June 16, 1888, Agent Peter Gallagher from the Fort Hall Reservation responded to a letter from Superintendent Harris by writing to the Indian commissioner. He indicated that he did not believe that any Indians from his reservation had committed any acts of depredations for the past two summers, and he explained that he had "cautioned these Indians time after time and forbid them going in the vicinity of the Yellowstone Park."¹⁹³

¹⁹¹Ibid., 140.

¹⁹²"Report of the Superintendent of the Yellowstone National Park," June 1, 1889, HED 1, Part 5, 51st Cong., 1st Sess., Serial 2726, 139-42.

¹⁹³P. Gallagher, Indian Agent, to J. D. C. Atkins, Commissioner of Indian Affairs, June 16, 1888, LR, 1888-15733, OIA, RG 75, NA.

Meanwhile, before being replaced by Captain Frazier Boutelle, Captain Harris submitted his final report as superintendent of Yellowstone National Park. He elaborated in great detail about the problems he had with Indians entering the park, and his communications with the various Indian agents. A flurry of at least thirteen letters had been exchanged during Harris' final two years with J. M. Needham, Indian agent at Lemhi Reservation, and Peter Gallagher, Indian agent at Fort Hall, Idaho. Both Indian agents adamantly denied that "their Indians" had hunted within the park. Harris, however, backed up his contention that the Bannocks and Lemhi had hunted in the park with six signed affidavits from non-Indians who had either witnessed or spoken to the various Indian groups. Although he wrote about the Indian agents' failure to gather in their Indians, he said: "my only object...was to induce such instructions as would tend to the employment of more efficient methods for the restraint and control of their Indians." He concluded that the "summer raids" of the Indians was "an unmitigated evil." The Indians were such a problem for the park that they ignited destructive forest fires, and killed large numbers of game animals over the summer months. He reported that this was a serious drain on the protected game of the park and

therefore undermined efforts for the park's protection. He asked that this issue continue to receive attention.¹⁹⁴

As Harris' tour of duty in Yellowstone came to a conclusion, he was in a unique position to make judgments about Indian entry into Yellowstone. It had also become evident to Harris that Indian people seemed genuinely unaware of park restrictions against their entry into the region which, he acknowledged, was traditional hunting grounds admittedly filled with game. Until Harris' arrival, Crow, Blackfeet, and Shoshone had continued hunting in the park, largely unnoticed or at least unreported by civilian park personnel. His hope was that the next park superintendent would continue the battle.

At the very end of his duty, Captain Harris' final effort to halt Indian hunting in Yellowstone led him to endorse a resolution passed by the Boone and Crockett Club on April 3, 1889. Meeting in the Knickerbocker Club in New York City, the organization was dedicated to forest conservation among other things. Its membership, moreover, was a virtual "who's who" of national figures of prominence. Theodore Roosevelt was club president, and other regular members included the naturalist George Bird Grinnell of Forest and Stream, Senator George Vest of Missouri, geologist Clarence King, Arnold Hague, and associate

¹⁹⁴"Report of the Superintendent of the Yellowstone National Park," June 1, 1889, HED 1, Part 5, 51st Cong., 1st Sess., Serial 2726, 141-42.

members General William H. Jackson and Carl Schurz. Listed as one of the associate members was Captain Moses Harris. Honorary members included General William T. Sherman and John D. Eaton.

George Bird Grinnell mailed a copy of the resolution drafted by the organization to the interior secretary on April 12, 1889. Remarkable for its thorough indictment of Indian use of Yellowstone Park, the resolution charged that it was the custom for some years for Indians from Fort Hall, the Lemhi Agency, and Wind River Shoshones from Wyoming to spend summers on or near the boundaries of the park "hunting and collecting dried meat and hides of game." The signatories also accused tribal people of "destroying great quantities of game" in flagrant violation of game laws in force at the park. To guarantee that past transgressions not be repeated, they proposed that Indian people not only be banned from the park, but prohibited from coming within twenty-five miles of the park's boundaries. The resolution concluded with an appeal to the interior secretary to put into action administrative restraints which would keep Indian people, once and for all, on their respective reservations and out of the park.¹⁹⁵

Whether this resolution was ever adopted by Congress is unclear, but the importance tied to it by its list of influential

¹⁹⁵George Bird Grinnell, Secretary, Boone and Crockett Club, to Secretary of the Interior, April 12, 1889, LR, 1889-17006, OIA, RG 75, NA.

members is evident. And the subsequent absence of letters voicing concern over Indian hunting in the park suggests that it had its desired effects.¹⁹⁶

Captain Harris had set the standard for managing the park. He saw his job as protecting game animals and the forests, even if it meant training soldiers to become fire fighters, protecting thermal features, and expelling poachers and Indians. But his battles were not over when he was replaced. The monopolistic railroad attempts to commercialize the park was one element that still had to be addressed.¹⁹⁷

Captain Frazier A. Boutelle (June 1, 1889 to February 15, 1891)

Captain Harris was replaced by Captain Frazier A. Boutelle. Born at Troy, New York, in 1840, he began his military service in June of 1861. He saw action in several Indian campaigns as well including the Snake and Paiute War of 1866 to 1867, the Modoc Expedition of 1872-1873, the Nez Perce War of 1877, the Modoc War of 1878, and the Sioux Campaign of 1890-1891.

In a September 3, 1890 letter from S. G. Fisher, Indian Agent at Fort Hall, to the interior secretary, Fisher indicated that the problem of Indians entering the park or being near its boundaries had not been completely resolved. The Indian agent

¹⁹⁶Ibid.

¹⁹⁷Haines, The Yellowstone Story II: 27-29. The highest rank that Harris reached was major on July 22, 1892. He retired in March of 1893 and died in 1927.

reported that he had three lodges of Indians absent without permission, explaining that he intended to send his Indian police after them. Fisher also learned from some Indians at the Lemhi Agency that "there are some seven or eight lodges of the Lemhi Indians hunting in the mountains south of Yellowstone Park."¹⁹⁸

In May of the following year, Thomas Cooper, an old frontiersman, wrote to Senator Francis E. Warren, from Cheyenne, Wyoming, complaining about the slaughter of elk by Indians in the park. Cooper had returned to Cheyenne after visiting the Jackson Hole district on the Snake River which borders the southern boundary of Yellowstone National Park. He explained that in the spring, bands of elk came down from the mountains into the valley in what he described as a "weakened condition, and at a time when the females are with young." Cooper was critical of Indian hunters killing pregnant cows, claiming that non-Indians spared cows with calves as a means of protecting their natural increase. "This species of game, however, is in danger of total and speedy extermination," Cooper warned, "through the practices of Indians from the Shoshone reservation in Wyoming." Cooper described how the Wind River Shoshone rounded up 300 to 400 hundred elk every spring and slaughtered them. He reported that they carried off the hides and portions of the meat while the greater portions were wasted. The settlers were "greatly annoyed by these

¹⁹⁸S. G. Fisher, Indian Agent, to Commissioner of Indian Affairs, September 3, 1890, LR, 1890-27771, OIA, RG 75, NA.

incursions,..." but they thought that perhaps their agent had given them permission to be on a hunt. Cooper implored Senator Warren to bring this to the attention of the interior secretary so that the upcoming spring hunt could be stopped.¹⁹⁹

Captain Boutelle's first report was brief since he had been appointed only recently, but his first impression was that the park was very vulnerable to forest fires, prompting him to ask for fire fighting equipment. He also asked to be allowed to clear timber for 100 yards on each side of roads, that campgrounds be established, and that the park be authorized to have two or three water wagons pulled by mules.²⁰⁰

Boutelle did not understand the relationship between Indians, fire, and game animals. If forests and grass lands are managed by use of fire, they can increase the growth of certain plants. In burning forest understories, the berry species of plants, in particular, could be increased, and browse plants for big game animals also became more prevalent. Fires also promoted certain medicinal plants that were very important for medicine men and women. Six informants of the Salish and Kootenai Indian people reported that they had set ground fires in and around camps to clear tall grasses, weeds, and brush. Enemies were known

¹⁹⁹Thomas Cooper to Francis E. Warren, May 5, 1891, LR, 1891-17211, Wind River Agency [WRA], OIA, RG 75, NA.

²⁰⁰"Supplemental Report of the Superintendent of the Yellowstone National Park," June 1, 1889, HED 1, Part 5, 51st Cong. 1st Sess., Serial 2726, 147-49.

to crawl through tall grasses and brush so burning helped to protect the camp sites.²⁰¹

Other matters plagued Boutelle's superintendency, particularly the civilian employees within the park who violated the rules and regulations as they tried to benefit their own monied interests. An example of this was E. C. Waters, manager of the National Hotel, who had provided a tour of the park geysers for the Vice President and Division Superintendent for the Northern Pacific Railroads. In violation of the rules to not disturb the thermal features of the park, Waters threw soap into a common geyser to trigger an eruption, instead of waiting for it to erupt on its own natural schedule. The result was that it erupted twice a day as long as the soap lasted. Geyser eruptions can become dependent on soap, failing to erupt unless they get soap. This constituted interference with thermal features and became one of the things that the troops had to protect against. The Vice President and Division Supervisor of the Northern Pacific Railroad also began throwing soap into the geyser and were arrested and evicted from the park. In response, E. C. Waters set out on a vengeful non-cooperation campaign against the military. Compounding matters, it was not long before Boutelle discovered that some key employees of the Yellowstone Park Association were involved in a poaching-for-profit scheme.

²⁰¹Stephen W. Barrett, "Indians & Fire," Western Wildlands Journal Vol. 7 (Spring, 1980): 19.

Boutelle was unsuccessful in evicting Waters and that ultimately led to him being replaced. It also signified that management of the park had become politicized. E.C. Waters approached Russell B. Harrison, son of President Benjamin Harrison, for help in his campaign to get Boutelle removed. Boutelle was replaced by Captain George S. Anderson on February 15, 1891.²⁰²

Captain George S. Anderson (February 15, 1891 to June 23, 1897)

George Anderson was the first West Point officer to take command of Yellowstone. During the six years that he was superintendent, he confronted problems including railroads, poachers, and Indians. Anderson reported trouble with poachers as a continuing problem. He explained that there was a particular community of people on the edges of the park who were catching and selling live animals and profiting from poaching. Anderson recommended that a system of regulations and judicial order be implemented in the park for the immediate execution of penalties.²⁰³ The problem had become sufficiently serious that it required legislation in Congress. Judge John F. Lacey, a congressman from Iowa, introduced House Resolution 6442 on March 26, 1894. The purpose of the act was to protect birds and

²⁰²Haines, The Yellowstone Story II: 17-19. In 1885, a Chinese laundryman had decided to wash clothes in the Upper Geyser Basin and got some soap in the hot springs. The geyser erupted immediately and shot up into the air for 100 feet.

²⁰³ "Report of the Superintendent of Yellowstone National Park," August 15, 1892, HED 1 52 Cong., 2d Sess., Serial 3089, 651-53.

animals, and to punish crimes in Yellowstone Park. The resolution stated that all laws of the United States had force within the park boundaries, and that a commissioner would be appointed to reside in the park and act upon all complaints. A United States Marshall would also reside within the park to make necessary arrests. The bill became law on May 7, 1894, with the passage of the Lacey Act. Anderson now had the power and legal authority to deal with poachers immediately.²⁰⁴

As early as 1886, the issue of railroad penetration into the park and the segregation of park lands had become prominent issues of discussion. Special Agent of the Department of the Interior W. Hallet Philips opposed construction of a railroad into the park, but he supported Montana's desire to keep its strip of land within the park boundaries. The strip inside Montana was a prime wildlife refuge and a standoff ensued. The Lacey Act had the effect as well of eliminating the political leverage of the railroad monopolies. Corporate attempts to cut off a northeast corner of the park to construct a rail line to Cooke City faltered and died because railroad lobbyists failed to win sufficient political support.²⁰⁵

Anderson is credited with having established Fort Yellowstone by replacing the temporary facilities of Camp

²⁰⁴Haines, The Yellowstone Story II: 64.

²⁰⁵Ibid., I: 39-41.

Sheridan. Initially the facilities provided for one troop of sixty soldiers, and Anderson asked that plans be drawn up for a two-troop post. Initially, twelve buildings were constructed, including a guardhouse that held fifteen prisoners, an administrative building, a duplex quarters for officers, barracks for sixty men, and a commissary, storehouse, granary, bakery, stables, and noncommissioned officers quarters.²⁰⁶

In 1897, Congress appropriated funds to construct additional facilities to support a two-troop fort. By 1911 Fort Yellowstone was able to support one to four troops. With each troop totaling sixty men, the post held as many as 240 men. Captain Anderson handled the problems of the park with zeal and "vigorous administration," so much so that he came to be known as the "Czar of the Yellowstone."²⁰⁷

For the next twenty-eight years, a series of park superintendents rotated in and out of the superintendency, some staying one year or even a few months. Colonel Samuel B. M. Young stayed for six months; Captain Oscar Brown was stationed in Yellowstone for one year; Captain Wilber E. Wilder stayed for three months. The laws created to protect Yellowstone Park from poachers and railroad monopolies had the effect of also quieting problems with the Indians, many non-Indians believed. Only

²⁰⁶Ibid., II: 162.

²⁰⁷Ibid, II: 455.

Captain John Pitcher and Colonel Lloyd M. Brett stayed at the park for six years each, and their superintendencies were fairly uneventful except for the occasional poacher and tourist taking thermal feature specimens.

Captain Pitcher administered the park in its "golden years." During his tenure, from 1901 to 1907, the Northern Pacific railroad completed a trunk line connecting Livingston to Gardiner, Montana, at the north entrance; Hiram Chittenden, chief engineer, completed the road system inside the park; and with law and order clearly established the tourists were pleased and the concessionaires were happy.²⁰⁸

The driving force behind the Interior Secretary's decision to replace civilian with military administration of the park was an overpowering need from many quarters to establish order and stability to a sector of the West swirling with controversy. Railroad developers saw Yellowstone as a resort destination for easterners whose railroad ridership created strong appeal to the Northern Pacific Railroad. Even more directly, park concessionaires viewed tourists as their "bread and butter." Conservationists like John Muir and others saw the wonders of Yellowstone as a wilderness resource whose beauty and features needed to be preserved. And then there were the hunters, sportsmen, and poachers. Thrown into this already complicated mix

²⁰⁸Ibid., II: 455-57.

of competing non-Indian interest in Yellowstone were American Indians.

Despite their share-holding tie to Yellowstone spelled out in numerous treaties, Indian people had been left out of the park's legislative birth process. Reserved hunting rights that linked them to the park were completely ignored by Congress, which gave the Interior Department and the military the task of giving the "bad news" to Indian people very much after the fact. Admitting that Indian people seemed completely unaware of the park's creation and its new restrictions, military officers spent about twenty years informing Indian people through their Indian agents what the establishment of the park meant to them: it was off limits to Indian people.

The military in its customary observance of its orders did just that. Except for individuals or small groups who entered the park undetected, Indians were driven from Yellowstone Park. Ironically, doing so created another problem for those who wanted to enjoy the park in its "natural state": Yellowstone's first inhabitants, American Indians, were no longer seen in its natural landscape.

As John Muir had said, the military presence in Yellowstone Park brought order in such a quiet way that even the tourists were scarcely aware of them. Yet in the same quiet way, the Indians and their reserved treaty rights vanished with every letter or telegram sent to an Indian agent demanding that the

agent come and herd his Indians back to the reservation. Not a shot was fired, but the Indians must have known that the "outposts" were manned with the military machine--lumping Indian hunters and non-Indian poachers into the same lawless target.

CHAPTER 8

Recapturing a Park Presence: Citizen Chiefs

Mr. Chairman and fellow citizens, I was thirteen years old when I first visited this place. This region was my hunting grounds. I am very glad that I met all the people here in a friendly way and have, in this way, been able to draw closer together the white and red peoples.

White Man Runs Him (Crow)
Max Big Man, Crow Interpreter
1927 Yellowstone Park Opening

What happened to the Indians from the end of George Anderson's superintendency in 1897 to 1925 is another story. The great assimilation machine had been put into full gear with the passage of the Dawes Allotment Act in 1887. The civilizing and Christianizing machine actually removed the children of Indian people and put them in Christian schools in the east. By the turn of the century, the Dawes Allotment Act was beginning to have an impact on Indian reservation lands in Montana and Wyoming. The Blackfeet and Crow reservations were allotted in March of 1907. The Wind River Shoshone were allotted in March of 1905. What did this mean? It meant that Indians received individual allotments of land, and any surplus lands were open for non-Indian purchase. For the Crow people who owned land that bordered Yellowstone National Park, it ultimately had the effect of creating a line of non-Indian-owned land surrounding the park. Being boxed in by

non-Indian land owners meant that it was more difficult for Indians to hunt within the park boundaries.²⁰⁹

Efforts on the part of the military to keep Indian people out of the park had their effect as well. Fewer Indians used the park in traditional ways--hunting game and gathering food. At least large numbers of them were no longer described in superintendent reports. As fewer reports complaining of Indian trespass were seen, however, a new pattern began to emerge. Civilian non-Indians began proposing ways to reintroduce Indian people, Indian goods and artifacts, and Indian culture to Yellowstone National Park. Tourists who had complained of the Indian presence now began to question the Indians' absence from the park. This trend, questioning the Indians' absence, began in the late 1890's and continued persistently for the next two decades. For years, Indian critics had labeled Indian visitation to the park as an "evil" that had to be eliminated for the sake of the park's future. But by the late 1890's, new voices were heard which presented an entirely different perspective.

On April 10, 1899, E. C. Waters, President of the Yellowstone Lake Boat Company, under the Superintendency of Captain Wilber E. Wilder, wrote to the interior secretary about

²⁰⁹Personal Interview (telephone) with Jimmie R. Jones, Retired Land Appraiser for the Bureau of Indian Affairs Specializing in lands on the Crow Indian Reservation, June 3, 1999, Billings, Montana. He spent several years working on the Wind River Shoshone Reservation lands and the Blackfeet Reservation lands.

the Indian absence from the park. Waters explained that tourists traveling through the park oftentimes expressed a desire to see real Indians in traditional Indian villages. Waters went on to propose that his company would like to encourage a few Indians "to be kept in their tepees or wigwams, to be located on Dot Island in the Yellowstone Lake."²¹⁰ His company would be willing to pay all expenses to bring the Indians into the park and "guarantee their proper conduct." Captain Wilder recommended favorable action "so far as the interests of the Yellowstone National Park are concerned." The Indian commissioner also gave his approval, provided that the Indians would agree to do it and that the Yellowstone Lake Boat Company paid the expenses and abided by the rules and regulations as established by Captain Wilder.²¹¹ There is no evidence that such a village was ever established on the island, but the request itself reflected a new attitude toward Indian people in Yellowstone Park. Prior to this, Indians had been excluded from the park, but here was an invitation to have Indians incorporated into a for-profit, commercial, and non-Indian entrepreneurial scheme.

The Dot Island proposal to reintroduce Indian people at Yellowstone was followed by a growing concern over the dwindling

²¹⁰E. C. Waters to Secretary of the Interior, April 10, 1899, Land Letterbook [LLB], Letters Sent [LS], 1889-15747, OIA, RG 75, NA.

²¹¹Ibid.

wild buffalo herd in the park. Winter kill and poachers had taken their toll on what was regarded as the last wild herd in the United States. The concept of the park as a natural preserve manifested itself differently to competing users and admirers of the park. The Boone and Crockett Club promoted the stabilization and growth of the park's buffalo herd while simultaneously working to prevent Indian people from approaching within twenty-five miles of the park boundary. Concessionaires, on the other hand, were interested in precisely the opposite: bringing Indian people and their crafts and culture back into the park--whether for reasons of nostalgia or profit. But it was clear that a movement was afoot to preserve the park in accordance with its tradition.

Consequently, Congress appropriated \$15,000 in 1902, to establish a new buffalo herd in the park. Park officials purchased twenty-one animals in all; eighteen cows came from the Allard Ranch herd at the Flathead Agency in Montana, and they bought three bulls from the Goodnight Ranch herd in Texas. An enclosure was built about one mile south of Fort Yellowstone, where they were put under the care of a buffalo handler. Under close supervision, park officials established the herd, feeding it, and protecting it from poachers. It grew rapidly over the next years until eventually its numbers exceeded the park's

ability to keep them, necessitating surplus numbers being given to nearby Indian agencies.²¹²

On March 28, 1913, F. C. Christ and H. B. Curtis wrote to Congressman Addison T. Smith and asked him to submit their application to the interior secretary authorizing them to establish an Indian village in the Upper Geyser Basin or at the location in the vicinity of present-day Old Faithful. Christ had been in the jewelry business at Blackfoot, Idaho, for ten years, and he had befriended many Indians from the Fort Hall Indian Reservation as had H. B. Curtis. They reported that a number of their Indian friends were very positive about their idea, and they had received an encouraging response to their plans from Indian Agent Major E. W. Estep at Fort Hall. He promised support for their project since the idea "could furnish employment for a few of that class of indians [sic] who will not attempt farming, or anything else."²¹³

Bolstering Curtis's proposal was Fred Dubois, a friend of Curtis. Writing on First National Fire Insurance Company letterhead on November 6, 1913, Dubois outlined to the interior secretary a detailed proposal for an Indian village. Dubois suggested organizing ten or more Indian families from Fort Hall, moving them and their "tents, ponies, and trappings" into the

²¹²Haines, The Yellowstone Story II: 68-72.

²¹³H. B. Curtis to Addison T. Smith, March 21, 1913, Central Classified Files [CCF] 1907-39, Box 230, NPS, RG 79, NA.

park for the tourist season, and establishing a permanent Indian camp. Rations would be issued to them, and they would dance and entertain tourists for an admission fee. Curtis and Christ also proposed selling "strictly Indian-made curios." Having lived at Blackfoot, Idaho, near the reservation, Dubois assured the interior secretary that when the Indians "are dressed up with their paint and feathers ready for a dance, it is a sight worth looking at."²¹⁴ An interior department communication informed Dubois that his request had been forwarded to Lieutenant-Colonel Lloyd M. Brett, Acting Superintendent of Yellowstone National Park, for his consideration and recommendation. Shortly thereafter, Superintendent Brett rejected the application, explaining that it was the policy of the interior department to only make changes to the park that would give easy access "to the most interesting and wonderful features therein...." He contended that "the magnificent scenery and the rare freaks of nature are sufficient to wholly occupy the time and attention of the tourist, and any side show would be a profanation of nature's entertainment."²¹⁵ Colonel Brett put to rest the proposal by Dubois, Christ, and Curtis. Unsuccessful as it was, their proposal did, however, cast Indian people in a positive light,

²¹⁴Fred Dubois to Secretary of Interior, November 6, 1913, CCF 1907-39, Box 230, NPS, RG 79, NA.

²¹⁵Lieutenant-Colonel L. M. Brett to Secretary of the Interior, April 8, 1913, CCF 1907-39, Box 230, NPS, RG 79, NA.

albeit a commercial one. Brett's rejection of the idea, moreover, was in keeping with the military's policy of excluding Indians from the park.

Two years later, park concessionaires Anna K. Pryor and Elizabeth Trischman requested a renewal lease on their business at Mammoth Hot Springs. Their original lease agreement had been negotiated with the Department of the Interior, and in it they listed everything they intended to sell in their store. Under Article 1, section (a) of the lease renewal, however, they inserted the words "Indian rugs."²¹⁶ As concessionaires, they saw the profitability of offering Indian-made materials to Yellowstone National Park tourists. More important, tourists wanting to purchase Indian goods in the park reinforced the notion that Indian people were identified with the park setting.

An even more telling event occurred in 1921, when an Indian entertainer entered the park. In the Tourist Tattler, a newspaper published in Yellowstone Park, the headline read "Chief Red Wolf Talks Old Times." A protege of Buffalo Bill Cody, Red Wolf gave a series of talks and performed dances to "enthusiastic audiences" at the Canyon area of Yellowstone. The newspaper article reported

²¹⁶Anna Pryor and Elizabeth Trischman to Secretary of the Interior, September 5, 1916, CCF 1907-39, Box 493, NPS, RG 79, NA. As to what kind of Indian rugs these two women would have purchased, one can speculate that they would have been Navajo-made rugs. Such rugs are in the shops of Yellowstone even today, and do not reflect the culture of the tribes that ceded the park lands to the United States.

that he was "three-quarter breed Sioux," and the other quarter was "Irish-Canadian a bad combination...."²¹⁷ Described as being sixty-five years old, Red Wolf talked about the battles that had taken the lives of his mother and father and how Buffalo Bill had found him and sent him to the Carlisle Indian School in Pennsylvania. He had been in the government service as a scout, and then toured with Buffalo Bill's Wild West Show until he set out on his own. Red Wolf, an orphaned, Carlisle-educated, Indian scout, had become a performing celebrity who entertained appreciative audiences in the park.

Little by little, more attention was given by concessionaires in Yellowstone to offering Indian-made items in their stores or businesses. This attested to a new trend of having aspects of Indian culture incorporated as part of the park's story. Not everyone agreed, it would seem, with Colonel Brett's earlier claim that the physical wonders of the park provided sufficient awe for park tourists. The recurring requests by tourists and concessionaires indicated a new-found appreciation for Indians, their culture, and their presence in the park.

In the spring of 1923, Howard Hays, President of the Yellowstone Park Camps Company in Livingston, Montana, made an inquiry of several federal agencies about Indian crafts. Hays was

²¹⁷Charles Poore, The Tourist Tattler, Yellowstone Park, Wyoming, CCF 1907-39, Box 247, NPS, RG 79, NA.

eager to learn the names of large manufacturers of "native Indian handiwork" so that he could pass along the information to non-Indian businessmen associated with Yellowstone Park. Indian Commissioner E. B. Merritt indicated that large quantities of Indian-made items were available for commercial purposes. Navajo blankets could be obtained from the San Juan Agency in New Mexico, and baskets could be purchased through the Pima Agency in Arizona. Beadwork could be procured from the Mohonk Lodge in Oklahoma, from the Chippewa at Cass Lake, Minnesota, and from the Sioux at Pine Ridge in South Dakota. Evidently it did not occur to Hays to inquire into the possibility of obtaining "native Indian handiwork" from the park's most frequent Indian visitors--the Blackfeet, Shoshone, and Crow people. Nonetheless, Hay's inquiry indicated that non-Indian entrepreneurs recognized that tourists were willing to spend money on Indian history and culture in Yellowstone Park.²¹⁸

Finally, on June 2, 1924, Congress passed the Indian Citizenship Act, awarding citizenship to all Indian people born in the United States. The language of the act specified that granting citizenship did "not in any manner impair or otherwise affect the right of any Indian to tribal or other property."²¹⁹

²¹⁸E. B. Merritt to William Spry, April 11, 1923, General Service Files, 29768-23-124, RG 75, NA.

²¹⁹Francis Paul Prucha, ed. Documents of United States Indian Policy (Lincoln: University of Nebraska Press, 1975), 218.

Prior to 1924, perhaps as many as two-thirds of American Indians had already gained their citizenship, largely though not exclusively, following the allotment policy established by the Dawes Act of 1887. But this citizenship, prior to the 1924 act, was largely a by-product of allotment's real estate function. Only those Indians who accepted allotment were granted citizenship. All allotted lands were to be held in trust by the federal government for twenty-five years, which meant that they could not be sold and therefore they were non-taxable lands. At the end of those twenty-five years, an Indian would be able to sell his land and it would receive a "fee patent" status and therefore be taxable. So pre-1924 citizenship had more to do with an Indian person's fee patent status than it did with his ability to perform his obligations as a citizen. But the sweeping nature of the 1924 citizenship legislation, Indian advocates hoped, brought Indian people new levels of responsibility. Nonetheless, conferring federal citizenship on Indian people did not change things that much. Their legal and sovereign connections to the federal government involving rights to tribal property, and the federal trust responsibility toward tribes left their status open to controversy and interpretation. Their tribal status and their ties to federal protection created a form of second-class

citizenship that left state and federal authorities free to treat Indian citizens differently.²²⁰

The citizenship issue created a quandary for park and Indian office officials. Previously, Indian people were systematically forbidden to enter the park. Yet an Indian citizen who had severed his tribal relations prior to the 1924 citizenship act could enter the park, at least theoretically, as a tourist, but not as an Indian who might conduct himself in a traditional manner--hunting, fishing, or gathering food, as guaranteed under treaty rights. Prior to 1924, banning Indians from the park had been simple and straight-forward, but could Indian people who had just recently had federal citizenship conferred on them be banned as well? The rapid descent of Indian citizenship after 1924 into second-class status gave aid and comfort to officials accustomed to prohibiting Indians from entering the park, but the uncertainties over the meaning of federal Indian citizenship came at a time of renewed interest in seeing an Indian person in the park.²²¹

By 1924, it was apparent that Indian entry into the park as tourists or on some equal footing as other non-Indian citizens

²²⁰Vine Deloria, Jr. and Clifford M. Lytle, American Indians, American justice (Austin: University of Texas Press, 1983), 220-21; John R. Wunder, "Retained by the People:" A History of American Indian and the Bill of Rights (New York: Oxford University Press, 1994), 48-50.

²²¹Ibid.

had been virtually suppressed. Their exclusion had been so successful that Indian people had, for at least some, become objects of nostalgia. Accustomed to seeing elk, deer, buffalo, and geysers in the park, tourists now realized the park was missing a key ingredient: American Indian people.

On May 25, 1924, Superintendent William Donner from the Fort Hall Indian Agency wrote to the Indian commissioner about having the Oregon Short Line railroad build a "small Indian village at West Yellowstone entrance as an attraction to the tourists." Donner indicated that he wanted twenty Indian men with "real Indian teepees" to form the core of the proposed village. He preferred that they be elderly men with their wives because he figured that older people would not be that heavily engaged in farming practices anyway. Donner told Commissioner Charles H. Burke that he expected the railroad to pay them a daily wage which he, as the Indian Superintendent, would hold in trust for them until they returned to the reservation at the conclusion of the tourist season. In a letter dated June 10, 1924, eight days after Congress passed the Indian Citizenship Act, Commissioner Burke wrote to Donner, authorizing him to pursue the project.

Later that fall, Superintendent Donner informed Burke that he had not been able to reach an agreement with the Oregon Short Line for a number of reasons. Short Line railroad officials insisted on locating the Indian village outside the park at West Yellowstone. Donner objected to West Yellowstone, describing it

as "a frontier town with an abundance of moonshine and all that goes with it." The Short Line also agreed to pay only \$1.50 per day for each Indian, a paltry sum in Donner's judgment. Superintendent Donner wanted the village to be located at Old Faithful Inn, inside the park, where they "would be permitted to put on a clean wholesome show, demonstrating the better class of Indian dances, songs and so forth...." Given these stumbling blocks, Donner informed Commissioner Burke that he would try again next year.²²²

Meanwhile in December, another Indian-village advocate voiced a similar proposal. Wyoming businessman, E. J. Farlow wrote to Wyoming Senator John B. Kendrick, explaining that he had heard a number of tourists in the park asking questions about the relationship between Indians and the park. For several decades, tourists and concessionaires had voiced concerns over the lack of any Indian presence in the park--whether souvenirs, Indian rugs, or people. This prompted Farlow to come up with an idea for a different type of Indian village--this one inside the park. He proposed that the village would be "a typical Indian village complete with the tepee travois, ponies, dogs, papooses and squaws together with the warriors, all dressed in their old time

²²²Donner to CIA, September 30, 1924, LR, 1924-40961-24, OIA, RG 75, NA.

paint, feathers and buckskin, without any of the whiteman's clothing as they were fifty years ago."²²³

Farlow planned to charge a nominal fee to park visitors so that the Indians living there could be paid a wage and fed. He suggested that the fee might be twenty-five cents per tourist, and he wanted the camp to be established at the old ranger station near Old Faithful Inn. He proposed building a ten-foot-high board fence that would enclose the make-believe village where Indians "...would put on their various dances and sports and the squaws do bead and buckskin work as of old making moccasins, leggins, head dresses, war bonnets and so on."²²⁴

Commissioner Burke sent a copy of Farlow's letter to Director Stephen Mather of the National Park Service. While Mather was on leave in California on January 3, 1925, Acting Director A. E. Demaray wrote to Horace M. Albright, Superintendent of Yellowstone Park from 1919 to 1929, informing Albright that the Indian Office "would not look with favor on having the Indians established as a permanent institution as contemplated in the scheme."²²⁵

²²³Farlow to Kendrick, December 9, 1924, LR, 1924-92650, File No. 130, General Services Files, RG 75, NA.

²²⁴Ibid.

²²⁵A. E. Demaray to Horace Albright, January 3, 1925, LR, 92650-1924, NPS, RG 79, NA.

In support of Farlow's request, Senator Kendrick wrote to Director Stephen Mather, offering his support of Farlow's plans. He knew Farlow very well, Kendrick explained, and he hoped that some kind of cooperative plan could be put into place between Farlow and Superintendent Albright. "I know how very familiar he is with Indians and their customs, habits, etc," Kendrick observed, and "his ability to pick out the right kind [Indians] for such a purpose and to handle them efficiently...make of him an invaluable man for this kind of work."²²⁶

The new Acting Director of the National Park Service, Arno B. Cammerer answered Senator Kendrick's letter. "While I think that the presence of Indians in Yellowstone for a short period of each summer might become an attractive feature by giving park visitors an idea of the old west," Cammerer speculated, "I feel that the idea of a Buffalo Week suggested by Superintendent Albright at Director Mather's recent dinner would provide a more suitable means of bringing this about."²²⁷

The opposition to Farlow's plan took a curious turn. The National Park Service opposed his plan to reintroduce Indians, not because it opposed Indians in the park, but because it favored a reintroduction under National Park Service tutelage. In

²²⁶John B. Kendrick to Stephen Mather, January 26, 1925, NPS, RG 79, NA. It is nice to know that Indians come in "kinds," and "classes".

²²⁷Cammerer to Kendrick, January 3, 1925, LR, 1924-92650, File No. 130, General Services Files, RG 75, NA.

fact, the issue of having Indians at a "Buffalo Week" was actually preceded by an earlier request. On May 26, 1925, Wyoming Senator Francis E. Warren, submitted a letter to Indian Commissioner Burke on behalf of citizens in Cody, Wyoming. Senator Warren requested having Indians from Pryor, Montana, on the Crow Indian Reservation attend the Fourth of July Cody Stampede Celebration. Commissioner Burke acted on Warren's proposal by informing Crow Agency Superintendent, Calvin H. Asbury, that he had worked on a plan that would benefit both the Indians and the Indian Affairs Office:

Under this plan, when permission is sought for Indians to visit and take part in celebrations, etc., it is the policy, if permission is granted, to require that the superintendent select the Indians to go. In designating Indians for this purpose, the superintendent will select those who have accomplished something worth while along industrial lines, and whose presence at, and participation in, a celebration will reflect credit on the Indians and the activities of this Service in their behalf. The Superintendent lets it be understood in advance by the Indians that he will select those who have made praiseworthy effort and progress along industrial lines. In other words, the trip is held out as a sort of reward for good work.²²⁸

The enthusiasm evident in the correspondence of the National Park Service and the Indian Office, however, was not reciprocated by the Crow Agency Superintendent. Superintendent Asbury expressed his irritation and took exception with Commissioner Burke's "plan." He objected to the idea of "allowing" Indians to

²²⁸Ibid. This occurred after the Indian people have been granted citizenship, leaving one to wonder what the intent of citizenship was in the first place.

leave the reservation in light of their new role as "citizens" of the United States. On one hand, he was expected to "get the Indians to farm," and to minimize any "unnecessary assemblage." And he expressed frustration with parts of the "plan" that required him to select those Indian who "have accomplished something worth while along industrial lines." Superintendent Asbury said that he received numerous request to have Indians attend rodeos, Fourth of July celebrations, and county fairs. He took umbrage, moreover, at the dehumanizing nature of exhibiting Indian people in what resembled a circus atmosphere. He complained that:

if we are to encourage the Indians to go to these things off the reservation, I am sure I do not know how we can discourage their holding their own meetings on the reservation and if they are going to do nothing but attend these meetings all summer, then we had better discharge our Farmers and establish issue stations.

I doubt if we have any real authority to prevent their going to these meetings. They are citizens. It has been my practice not to attempt to tell the Indians not to go off the reservation. I have felt that we should not act as jailors, but as advisors and I have not forbidden Indians to leave the reservation, but have often admonished them not to go and they have generally done as they pleased about it. I have written to a good many people, perhaps including Cody, saying that we would certainly take no part in organizing a bunch of Indians to be exhibited for show on the same principle that they exhibit monkeys and other curious animals.²²⁹

On May 28, 1925, two days after the request to have the Crow Indians attend the Fourth of July Celebration at Cody, Wyoming,

²²⁹C. Hasbury to Commissioner of Indian Affairs, June 19, 1925, LR, 3901-1925, OIA, RG 75, NA.

Crow Agency Superintendent Asbury received a letter from Commissioner Burke, directing him to assist Yellowstone National Park Superintendent Horace Albright in implementing his "Buffalo Week" plan. Albright wanted to conduct a buffalo roundup at the park in place of establishing a special Indian villages. Albright had sent his request to his supervisor, Director Stephen Mather, of the National Park Service, and a copy had been forwarded to Commissioner Burke. Superintendent Asbury had no choice but to comply with his supervisor's directive, but complying did not mean he agreed with Burke. "The duties of your bureau are to entertain the public by making available to them the beauties of nature," Asbury observed, but "the duties of our bureau are to try to take these children of nature and make self-respecting, self-supporting people of them."²³⁰ While the Indian Bureau continued promoting Dawes Act policies that stressed allotments, acculturation, assimilation, and citizenship, it was now, in this instance, willing to allow Indian people back into Yellowstone Park--but as curios, nineteenth century Wild West Show throw-backs.

Buffalo Plains Week took place in August of 1925, and by most standards it was judged successful. Indian Superintendent Asbury reported that he had sent twenty Indian men, four to five teepees, and five to six Indian women. During the week's

²³⁰C. H. Asbury to H. M. Albright, June 19, 1925, LR, 1925-46469, NPS, RG 79, NA. Emphasis added.

festivities, mounted Crow Indian men helped with the daily roundup of Yellowstone's buffalo herd. "They wore their ancient hunting costumes," Albright and Taylor reported, "and rode bareback as they chased the buffalo over the hills of the Lamar River country." Onlookers and tourists gathered each day to observe the Crows driving the buffalo down from the mountain. During one of the roundups, a buffalo was killed accidentally, so park service officials gave the carcass to the Crows. One of their party knew how to cut and dry the meat, so they worked through the night preparing it, "cutting the meat into small pieces and pounding it into thin sheets which they hung on a line to dry." To non-Indian observers, "it looked from a distance as if the Indians had put out a big washing as the buffalo meat occupied so many long lines strung between the trees." Albright and Taylor reported that the Crows chose not to eat the meat in the park. Instead, they planned to take it, together with the hide and head, back to Crow Agency where they would have a celebration.²³¹

Some Crow men had refused to go to Yellowstone once they learned their families were not allowed to accompany them. Those who said they would go, moreover, wanted more money. "This is an Indian characteristic," Asbury complained, "they were obedient to

²³¹Horace M. Albright and Frank J. Taylor, OH, RANGER! A BOOK ABOUT THE LIFE IN THE NATIONAL PARKS, circa 1930, Special Articles, Yellowstone Publicity and Statistics, CCF 1907-1942, File 501-04, box 461, NPS, RG 79, NA.

the common slogan 'how much.'" Yellowstone Park Superintendent Albright, predictably, was very pleased with the arrangements, and he kept the event going for several years.²³²

The civilizing and Christianizing of Indian people created an entire generation of Indian children who had been removed from their parents and their culture. It was a generation that had been prohibited from experiencing the wonders of Yellowstone Park. But Indian people kept their culture and traditions alive somehow. The "old ones," the elders, kept those stories alive. They told their grandchildren about the treaty rights of the park. They told their grandchildren about the buffalo-hunting days. They told their grandchildren about the white men and the lies they had manufactured about Indians being afraid of the geysers. Then the invitations started arriving from every white man's town: Come dance and sing at our celebrations, the rodeos, the Fourth of July events, and the Wild West shows. And finally they asked the Indians to come and entertain the tourists in Yellowstone Park.

²³²Ibid.

CHAPTER 9

Conclusion

...they shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts.

Fort Bridger Treaty, 1868

By 1925, certain aspects of American Indian connections to Yellowstone National Park had come full circle, through a web of tangled controversy, misunderstandings, illegal dealings, and non-communication. At first glance, national parks give the appearance of being creations that exist for the good of all people. Given its beauty, majesty and its awe-inspiring landscapes, Yellowstone National Park offered the American people the opportunity to embrace parks as uniformly positive vacation lands.

National parks call to mind a late-twentieth century commercial advertisement: "MILK IS GOOD FOR EVERYBODY!" The inference is, that like milk, national parks are good for everybody.²³³ On closer examination, however, it appeared that Indian people had been "pasturized" out of the park, eliminated and excluded because non-Indians viewed their presence in the park as destructive and evil.

²³³Yet most American Indian people are lactose intolerant and are not able to drink milk.

With the passage of the legislation creating Yellowstone National Park in 1872, American policy makers fashioned America's first national park without so much as a glance as to its implications for American Indians, for United States Senate ratified treaties, or for the traditional and historic use of the park by Indian people. This prompts one to ponder whether this was done by design or through the haste of anxious politicians and entrepreneurial railroad monopolies. For one thing, those who promoted passage of the bill simply failed to take into account the treaty obligations affecting the park area.

Answering these questions will undoubtedly create controversy and speculation, leaving ambiguity and a clash of interpretation in its wake. But from an Indian perspective, the impact of Yellowstone National Park is not the least bit ambiguous. National parks are bad for Indians. In the case of Yellowstone National Park's creation, Indians possessed legal-historical guarantees to hunting, gathering activities on lands unilaterally and without consultation withdrawn by Congress from their use.

What policy makers did in 1872 was to dismiss American Indian occupation of Yellowstone Park that extended back at least 11,500 years. They did so with one short bill that was introduced in December of 1871 and passed into law in March of 1872. In a 1995 archaeological inventory of selected sites in Yellowstone Park, Kenneth P. Cannon of the Midwest Archaeological Center in

Lincoln, Nebraska, reported hydration studies results on obsidian artifacts found at an occupation site in the park that dated the between 2,000 and 8,100 years ago. Most observers would conclude that as permanent occupation. From excavations in the West Thumb and Grant Village area, Canon's researchers found large numbers of projectile points suggesting that those sites were "winter hunting and spring fishing occupations."²³⁴ This finding would lead most people to conclude that Indian people used the park in winter months as well.

In the post-contact period, Indian reliance on Yellowstone National Park for subsistence purposes is clearly born out in the treaty process between the Blackfeet, Crow, and Shoshone people and the United States. It is clear that the Fort Bridger Treaty with the Eastern Band of Shoshoni and Bannocks in 1868 considered Indian subsistence. Article Four of that treaty addresses Indian hunting and use: "they shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts."²³⁵ That particular treaty provision was securely in place when the park

²³⁴Kenneth P. Canon, Archaeological Inventory and Testing of Selected Areas For Fishing Bridge Campground Relocation, Hudat, and Lake YPSS Service Station Development projects, Yellowstone National Park, Wyoming, (Lincoln: Midwest Archaeological Center and National Park Service), 8.

²³⁵Kappler, Indian Affairs: Laws & Treaties II, 1021.

legislation was passed in 1872. The Crows agreed to make the reservation their permanent home, but they retained their rights "to hunt on the unoccupied lands of the United States so long as game may be found thereon, and as long as peace subsists."²³⁶ The solemn negotiations, signing, and ratification of that treaty between the Crow and the United States recognized the Crow's reliance on subsistence that was dependent on regions subsequently incorporated into Yellowstone National Park boundaries.

With the creation of the Yellowstone Park statute, it appears that not a single word was written on the implications that this law had for Crow, Blackfeet, and Shoshone treaty rights. Similarly no discussion appears to have taken place among Clagett, Langford, Cooke, and Hayden, the four key promoters who probably should be credited with creating the park. One wonders if these men understood the legal implications of this law on Senate ratified treaties.

It followed then that after the park had been established that there would be several years of unrest among park administrators. There was a succession of attempts by civilian and military park superintendents to systematically and comprehensively exclude Indians from coming inside the boundaries of Yellowstone National Park. For instance, who fabricated the

²³⁶Kappler, Indian Treaties, 1778-1883, 1009.

claim that there were no permanent dwellers in the park? Sheepeaters left behind archaeological and post-contact evidence of their occupation of Yellowstone National Park. There are 11,500 years of compelling archaeological evidence attesting to aboriginal use of the park. Nonetheless, civilians such as Superintendent Norris invented and perpetuated the myth of migratory and impermanent ties to Yellowstone Park that made Indians look like indigenous tourists for all those 11,500 years.

Norris also created the myth that Indian people were superstitious of the park and its dramatic thermal features. Claiming that Indians feared the geysers fed non-Indian eagerness to believe that the park was not all that important to Indians. It was, moreover, a shameless invention on its part to calm the nerves of non-Indian tourists who feared the Indian presence.

After warfare involving the Nez Perce and Bannocks erupted in the late 1870's, civilian superintendents and railroad promoters redoubled their efforts at expelling Indians from Yellowstone Park. Tourists were killed, wounded, kidnaped, and traumatized. By the early 1880's, Indians had come to be identified as dangerous, hostile park neighbors, who threatened the economic welfare of Yellowstone National Park. If Indian people were not killing tourists on a regular basis, they were certainly seen as habitual hunters and poachers who threatened the animal population of the park.

In time, Indian use of the park was labeled as "destructive" and their presence went from being annoying and disruptive to "evil." The only positive things that Indians did was to have created trails over which major automobile roads were later constructed. Their campsites were selected as the areas for building sites at Mammoth, and for developing Yellowstone Lake and Canyon campground areas. Where Indian people entered the region became the principal entrances to the park. Nonetheless in their eagerness to erase the Indian from the park, even Indian names for various landscape features were renamed as Mount Washburn, Norris Road, Dunraven Pass, Norris Geysers, Mount Norris, Hayden Valley, Mount Haynes, Madison Junction, and Grant Village.

Eventually promoters, developers, and entrepreneurs were successful in having civilian superintendents replaced by the United States Army officers, who arrived with proven records in Indian warfare. With their installation in 1885, the determined efforts to exclude Indians reached yet another level. The military established an army garrison at Fort Yellowstone, which at its zenith numbered approximately 250 soldiers.

The authority and the presence of an armed military had a devastating impact on American Indian access to and use of the park. The military was so effective that by the end of the century, non-Indian tourists began sensing that something was missing in the park. The Dot Island plan that never materialized

was a clear indication that Yellowstone National Park without Indian people was incomplete. What Dot Island symbolized was the beginning of a movement to reintroduce safe, nostalgic, and commercially-viable Indians as curiosities or entertainment. Put another way, with a "zoo mentality," Dot Island promoted Indians in an exhibit format where they could be displayed for the enjoyment and gratification of non-Indian tourists. "We constantly have requests...for parties of Indians to be exhibited on the same principle that monkeys are exhibited at a menagerie,"²³⁷ non-Indian Superintendent Asbury complained. He added that his job was to make farmers of the Indians, and if the Bureau of Indian Affairs was not going to do that then he might as well close up shop.

But non-Indian interests required Indians in Yellowstone National Park to be paid exhibitors and performers, but enclosed behind a high board fence or kept at a safe distance out on Dot Island. Indian re-entry had little to do with their legal and historic connection to the park, but it had a great deal to do with non-Indian nostalgia and the capitalist-driven idea that Indian products, rugs, curios sold readily and that live dance shows drew crowds. While policy makers wanted them to be farmers, transformed into white agriculturalists, they were confronted by commercially-minded promoters who wanted to make dollars off the

²³⁷Asbury to Albright, June 19, 1925, LR, 1925-46469, NPS, RG 79, NA.

traditional 19th century Indian imagery. Eventually policy makers allowed Indians to return to Yellowstone National Park, especially after federal citizenship was conferred on them in 1924, but they returned as bit players and wild west show performers rather than indigenous peoples with traditional cultures and legal ties to the park.

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APPENDIX A

United States Indian Service
Fort Hall (Idaho) Agency
Ross Fork, August 13, 1888

Sir:

Referring you to my report under date of June 16 in reference to charges preferred by Capt. Harris in charge of Yellowstone Park.

Your letter is 12385-1888 under date of May the 23rd/88-would further report, that these Indians stoutly deny having gone into the Park, much less near there. That the charges of burning & laying waste does not properly lie at their door.

This is just as they stated things some two months ago. I have continued in disclaiming. - But a short time now till they could be "rounded up", if guilty of the charges alleged, & if desired that a thorough investigation be made as to these & the Lemhi Indians, (for they disclaim also I am informed,) I will proceed at an early day to do so. All that I can do on the reservation has been done. I am free to say some one ought to be detailed for this purpose, & should it - please the Office to order some one else to do the work I will indeed be obliged, but should it be thought best that I do the work as a matter of course will go at it with good cheer & at as early a day as practicable.

Awaiting your orders in the matter I have the honor to remain very respectfully,

P. Gallagher, Indian Agent

APPENDIX B

LIST OF BUNDLES AND RELIGIOUS ARTIFACTS ASSOCIATE WITH THE USE OF SWEET GRASS

Taken from: John C. Hellson. Ethnobotany of the Blackfoot Indians. Ottawa: National Museum of Man, Mercury Series, 1974.

Bear Knife bundles	Name-giving bundles
Beaver bundles	Natoas bundles
Big Smoke ceremony bundles	Personal charms
Birth Control bundles	Umbilical cord amulets
Thunder Bands	Otter bundles
Ceremonial headdresses	Rattling Smoking Otter bundle
Medicine hat (straight-ups)	Personal war-charm bundles
Round Dance headdress	Riding Big Dance bundles
Half-white headdress	Scalp Dance bundles
Half-red headdress	Buffalo Runner bundles
Split-horn headdress	Shaman's bundles
Bear Medicine hat	Shields
Snake Horn headdress	Bear Shield
Ceremonial robes	Thunder Shield
Weasel-tail robe	Never-Sits-Down shield
Calf robe	Ghost shield
Hairlock robe	Weasel shield
Ceremonial shirts	Tipis (painted lodges). Those lodges having flags with them are starred. Certain designs had ceremonial doors which were transferred separately. This list is not complete. There are many variations and combinations of many of these designs. Certain designs would use more than one kind of incense.
Weasel-tailed shirts (suits)	
Hairlock shirts	
Lord's shirt	
War shirt	
Ghost shirt	
Thunder shirt	
Deer Dance bundles	
Black-tailed Deer Dance bundle	
Ghost Dance bundle	
Holy Hand Game bundle	Bald Eagle design
Horse bundles	Wolverine design
War bridle bundles	Otter design
Mask bundles	Half-yellow Painted Otter design
Quirt bundles	Black Otter design
Medicine bundles	Bear design
Lances	Black Buffalo design
Medicine lance	Buffalo Head design
Bear spear	

Hoof design
 Fisher design
 Marten design
 Big Rock design
 Underwater Monster design
 Kit Fox design
 War Lodge design
 Thunder Lodge design
 Rattlesnake design
 Crow design
 Elk design - Litho spermum
 ruderae (Elk food) is used as
 incense during the transfer
 ceremony.

Middle-painted design
 Beaver Lodge design
 Skunk design
 Cougar design
 Half-black and Half-red design
 White-tailed Deer design
 Raven design
 Deer design
 Horse design
 Prairie Chicken design
 Crane design
 Own design
 Bullrushes design
 Human design
 Hailstone design
 All-painted design
 Antelope design
 Mule design
 Moon design
 Half-yellow design
 Mountain Sheep design
 Yellow Mink design
 Winter-painted design
 All-stars design
 Big Circle design
 Striped design
 Head-down design
 Fish design
 Rib design
 Gnawed design
 Sun design
 Black design
 Blue Star design
 Downward Star design

Red Striped design
 Eagle Trap design
 Yellow Thunder design
 Wave design
 Loop design
 Four Tail design
 Arrow design
 Pine Tree design
 Spider design
 Butterfly design
 Swallow design
 Badger design
 Weasel design
 Coyote design
 Wolf design
 Goat design
 Mule Deer design

Society Bundles

Black Seizers Society
 Black Seizers medicine
 pipe
 Wolf-collar bundle
 Crow headpiece bundles
 Red Seizers bundles
 Coyote bundle

Braves Society
 Bear-belt bundles
 All-white Braves bundles
 Willow Braves bundles
 Black Braves bundles

Bull Society
 Bull headdress bundles
 Buffalo-scalp headdress
 bundles
 Straight-up headdress
 bundles

Catchers Society
 Black-covered pipe bundle
 Quiver bundle
 Bow bundles
 Crazy Dog Society
 Rattle bundles
 Leader's headdress bundle

Crow-carrier Society
Crow-headpiece bundle
Staff bundles
White Crow-carrier
bundles
Pink Crow-carriers
bundles
Black Seizers Ax-owner
bundle

Crow Waters Society
Society bundles

Dog Society
Black Rope bundles
Black Dog bundles
Yellow Dog bundles
Coyote bundles
Snake-carrier bundles

Files Society
Claw bundles

Horn Society (Although there
were Piegan members, the Horns
operated as autonomous
societies only among the Blood
and the North Blackfoot.
Straight-up headdress
bundles

Horned-bonnet headdress
bundles
Arrow headdress bundle
Initiation bundles
Scout bundle
firelighter's bundle
White-wrapping staff bundle
Black or White Otter staff
bundle
Yellow staff bundle
Wristlets staff bundle
Kit Fox bundles
Kit Fox headdress bundles
Rider's staff bundle (Also
known as the Blackfoot staff
tot he Blood; introduced in
1912 from the North
Blackfoot.)

Horn Society drum bundles
(North Blackfoot)

Big Smoke bundle (North
Blackfoot)

Staff Second-highest in Power
bundle (North Blackfoot)

Retreating staff bundle (North
Blackfoot)
Otter bundle (North Blackfoot)

Swan Hip staff bundle
Marten staff bundle
Broad-wrapping staff bundle

Kaispa Society (Sioux Society)
Red fox Whip bundle
Staff bundle
Eagle-belt bundles
Drum bundle
Clown bundle
Crow-belt bundle
Whistle bundle
Announcer bundle
Belt bundles
Long Knife bundle
Straight-up headdress
bundle
Whip bundles
Skewer bundles
Initiation staff bundle

Kit Fox Society
Kit Fox-skin headdress
bundle
Kit Fox staff bundles

Motokiks Society
Box-and-arrow bundles
(North Blackfoot)
Snake headdress bundles
Scabby-bull headdress
bundles
Lame-bull headdress
bundles
Bird headdress bundles

Pigeon Society
 Coyote bundle
 Rattle bundle
 Bear pigeon bundles
 Yellow Pigeon bundles
 Pink Pigeon bundles
 Smear staff bundle

Prairie Chicken Society
 Rattle bundles
Small Flies Society
 Claw bundles

Tails Society
 Breech-cloth bundles

Tobacco Society
 Tobacco Society bundles

Bad Horn Society
 Bad Horn Society bundles

Crow Society
 Crow Society bundles

Bee society
 Bee Society bundles

APPENDIX C

Compiled to address series of actions prior to Yellowstone Park bill.

Fall 1870	Langford arrived in MT to spark Washburn & Doane Expedition after received approval from Jay Cooke in St. Paul. (Northern Pacific RR)
Aug. 15, 1870	Washburn & Doane Expedition
Sept. 27, 1870	Expedition returns
Oct. 6 - Nov. 9	Hedges article in <u>Helena Herald</u>
Nov. 11, 1870	Langford's "Wonders of Yellowstone Article" in <u>Scribner's Monthly</u>
Jan. 19, 1871	Langford lecture in Washington, D. C., Hayden in attendance
July 15, 1871	Hayden Expedition leaves
Aug. 7, 1871	Montana election--Clagett made a delegate
Aug. 26, 1871	Hayden expedition returned
	Barlow went to Chicago with photo negatives, all destroyed by Chicago fire Oct. 8/11 1871.
	Hayden's topographic chief commits suicide.
	Hayden still had enough to create a positive report for the YNP creation.
Oct. 27, 1871	Nettleson letter to Judge Kelly to Hayden - create the park.
Nov. 9, 1871	Langford called to Minnesota
Nov. 11, 1871	Sexton, member of Jay Cooke & Co. telegraphed St. Paul to tell Cooke that Scribner's article by Langford had not been published,
Dec. 4, 1871	Clagett sworn into office
Dec 18, 1871	YNP bill introduced: Clagett introduces it to the House
	Campaign supporting bill: all members of Congress posted.
Jan. 22, 1872	Senator Pomeroy reported his bill back from Committee on Public Lands
	Only California showed opposition
Jan. 27, 1872	Senate asked Dept. of Interior for a report
Jan 30, 1872	Bill came up in Senate for a vote.
Jan 31, 1872	<u>Helena Herald</u> publicity, NPR will have a branch track.
Mar. 1, 1872	Yellowstone National Park bill becomes law.

APPENDIX D

From Second Edition Revised Statutes of The United States. Passed at the First Session of the Forty-Third Congress, 1873-'74. Washington: Government Printing Office, page 453, 1878.

The statute that created Yellowstone National Park said: "The tract of land in the Territories of Montana and Wyoming, lying near the head-waters of the Yellowstone river and described as follows, to wit, commencing at the junction of Gardiner's River, with the Yellowstone River, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone Lake; thence south along said meridian to the parallel of latitude passing ten miles south of the most southern point of Yellowstone Lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison Lake; thence north along said meridian to the latitude of the junction of the Yellowstone and Gardiner's Rivers; thence east to the place of beginning, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people; and all persons who locate, or settle upon or occupy any part of the land thus set apart as a public park, except as provided in the following section, shall be considered trespassers and removed therefrom.

Section. 2475. "Such public park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be, as soon as practicable, to make and publish such regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation, from injury or spoilation, of all timber, mineral deposits, natural curiosities, or wonders, within the park, and their retention in their natural condition. The Secretary may, in his discretion, grant leases for building purposes for terms not exceeding ten years, of small parcels of ground, at such places in the park as may require the erection of buildings for the accommodation of visitors; a;; of the proceeds of such leases, and all other revenues that may be derived from any source connected with the park, to be expended under his direction in the management of the same, and the construction of roads and bridle-paths therein. He shall provide against the wanton destruction of the fish and game found within the park, and against their capture or destruction for the purpose of merchandise or profit. He shall also cause all persons trespassing upon the same to be removed therefrom, and generally

is authorized to take all such measures as may be necessary or proper to fully carry out the objects and purposes of this section."

APPENDIX E

In a letter titled: Office of United States Geological and Geographical Survey of the Territories, Washington, D.C., February 21, 1878:

SIR: Your communication, inclosing a letter from Mr. P. W. Norris, requesting my views in regard to any preliminary steps looking toward the permanency of boundary lines , topographical or other surveys, &c., of the National Park, has been received. Before proceeding to answer your request directly, I be to present a brief statement of the history of the National Park.

In the summer of 1871, the survey under my direction extended its operations to the country about the sources of the Yellowstone and Missouri Rivers, where it was reported that hot springs, geysers, and other natural phenomena of unusual interest existed. Great quantities of maps, sketches, photographic views, &c., were secured and brought back to Washington on the return of the party at the close of the season. So great was the interest excited in Congress by the results of this expedition that a bill was introduced into both houses of Congress, withdrawing from sale or settlement the entire area containing these wonders, as a National Park, or pleasuring-grounds for the benefit and enjoyment of the people. This bill passed both houses and became a law March 1, 1872.

I beg permission to state here, that, so far as I know, I originated the idea of the park, prepared the maps, designated the boundaries, and in connection with the Hon. W. H. Clagett, then Delegate from Montana Territory, wrote the law as it now stands. During the pending of the bill, every effort was made by myself and other members of the survey to remove all objections to the bill, and the labor was constant and great. It is now acknowledged all over the civilized world that the existence of the National Park, by law, is due solely to my exertions during the sessions of 1871 and 1872. The growing oppositions to the withdrawal of any portion of the public domain, for any purposes, however, laudable, would undoubtedly have prevented the success of the bill at any subsequent session.

I may, therefore, venture to make a statement in regard to the purposes and expectations of Congress in the passage of the bill.

1. While the bill was pending in Congress the principal objection urged against the park was that annual appropriations would be required for its care and improvement. I was myself compelled to give a distinct pledge that I would not apply for an appropriation for several years at least. Had not Congress been assured that no demands would be made upon them for annual appropriations, it is very doubtful whether the bill would have ever become law.

2. At the time of the passage of the bill it was supposed that the Northern Pacific Railroad would be extended to Montana within a year or two. This road would have passed within about forty miles of the northern boundary of the park. The officers and friends of that road gave assurance that a narrow gauge branch would be at once extended to the park for the accommodation of visitors. The failure of this road retarded the development of the park for years.

3. As soon as it was known that there was a bill before Congress for this reservation, a number of applications were made to the Secretary of the Interior for leases in various portions of the park. A gentleman from Helena, Mont., came to Washington to secure the privilege of constructing a telegraph line to the park for the accommodation of visitors. It was generally believed by Congress that a sufficient income would be derived from leases to pay a superintendent and to make all necessary improvements that would be demanded. The projected railroad failed to reach it, and the interest died out, and thus the park has remained to this time in its natural condition.

4. By examining the accompanying map, it will be seen that the only available stage-route to the park is about 500 miles from the nearest railroad. It is, therefore, practically cut off from the civilized world. A few adventurous spirits have succeeded in making the tour of the park, but it is practically inaccessible. It is probable that in about two years the Utah Northern Railroad (narrow gauge), which branches off from the Union Pacific Railroad at Ogden will be extended to a point within 30 miles of the Park. If, then, the travel is sufficient to warrant it, a branch road will be extended into the park. Then a new interest will be excited among our people and an appropriation for the improvement of the park might be secured without much opposition, and the immediate practical use of the park would be more readily understood by Congress.

5. Again referring to the map, it will be seen that Helena, Mont., the nearest point at which a civil officer of the General Government could be secured, is 170 miles from the northern boundary of the park. The park itself, covering an area of 3, 775 square miles of the most rugged surface on the continent, is almost entirely isolated from settlements. Therefore, however, stringent the laws might be framed for the protection of the park, the civil officers of the government could not enforce them. It would be very difficult for a superintendent to detect trespassers over so broad an area, and until the park is more accessible it would require the establishment of a military post within its boundaries, for its thorough protection, garrisoned by one or more companies of soldiers who could be sent out over various portions of the park from time to time on police duty.

6. Inasmuch as it is the purpose of the survey under my charge, if suitable appropriations are made by Congress during

the present session, to make a trigonometrical survey of the national Park and its surroundings during the coming season, it might be more economical to omit the survey boundary-lines until the following year, when the located points and monuments made by the survey would be of great service. The work of the past season in Wyoming and Idaho has been connected directly by triangulation with Salt Lake City, one of the most accurately located points in the United States. From this point the triangles have been expanded northward about 200 miles, and during the coming season will be extended so as to embrace the entire area of the park and much of the surrounding country. All the prominent points in and around the park will then be located with nearly absolute precision. Upon the plats which will be immediately constructed from this work, all the details of a systematic plan of improvements could be laid down.

7. On the other hand, the very terms of the act establishing the park seem to imply an intention on the part of Congress to provide the means for the support of the superintendent, and for such improvements as would be needed to prepare the park for the reception of visitors. The carrying out of the provisions of the law, as well as the care of the park itself, were placed by Congress under the exclusive control of the Secretary of the Interior. If, therefore, the honorable Secretary of the Interior were to recommend an appropriation for carrying out the purpose of the act, the responsibility for any apparent neglect would rest on Congress alone.

I have the honor to be very respectfully, your obedient servant,

F. V. Hayden, United States Geologist.²³⁸

²³⁸"Letter from the Secretary of the Interior in Regard to the Better Protection of the National Park from injury," February 21, 1878, House Document 75, 45th Cong, 2d sess., Serial 1809.

APPENDIX F

Boone and Crockett Club Resolution of April 3, 1889, Kickerbocker Club, New York City

Whereas, It has for some years been the custom for Indians from the Fort Hall and Lemhi agencies, and from Washaki and, perhaps, the Crow agency, to spend the summer or a part of it on the borders of the Yellowstone National Park hunting and collecting dried meat and hides of game, and

Whereas, These hunting parties destroy great quantities of game without regard to the game laws in force in the Territories where their hunting is done, and

Whereas, In addition to this destruction of game, they cause incalculable damage to the forests of the continental watershed by the fires which they start, either through carelessness or intentionally, as adjuncts to their hunting, and

Whereas, The acting superintendent of the Yellowstone National Park has repeatedly brought this matter to the attention of the Interior Department, and has fortified his reports by affidavits from intelligent and trustworthy men, most of whom are well known to many members of the Boone and Crockett Club, and

Whereas, The destruction of forests and of game caused by these Indian hunting parties is a serious evil and ought to at once cease, therefore be it

Resolved, That the Indians of the Fort Hall, Lemhi, Washaki, and Crow agencies should not be permitted to approach within twenty-five miles of the borders of the Yellowstone National Park, and

Resolved, That the Secretary of the Interior be respectfully requested to call this matter to the attention of the Commissioner of Indian Affairs, and to instruct him to direct the agents in charge of the above named tribes to keep their people on the reservations.