

The Pipestone Indian Reservation

Trava Olivier, November 2020

On Friday, September 30, 1927 a hearing was held at the Pipestone County Courthouse. This hearing, often referred to as “The Yankton Sioux Trials” was held to make a final determination in a legal case that spanned decades. To understand the case, one must first understand the events that lead up to the hearing.

By the 1850s the United States Government had entered into several treaties that removed Native Americans from the majority of Minnesota. In 1851 the tribes of southwest Minnesota were also persuaded to give up their land with the exception of the Yankton Sioux. As annual payments for the lands given up were dispersed, the Yankton Sioux expected to receive a share believing the land sold had belonged to them and not the tribes who had signed away the land. When denied payment because their tribal leaders hadn’t signed any of the treaties, members of the Yankton-Sioux tribe sometimes used force against the government officials and other tribes to take payment. These actions prompted the United States Government to enter negotiation with the Yankton Sioux. Tribal leaders were taken to Washington, D.C. where talks dragged on for months. It was not until Chief Struck-by-the-Ree received acknowledgement from the Federal government allowing the Yankton Sioux tribe rights to the Pipestone quarries that a settlement was reached and the Yankton Sioux moved to a new home reserved for them 150 miles to the west of the quarries.¹ A provision in the agreement set aside one square mile of land around the sacred Pipestone Quarries for the Yankton Sioux Tribe. This agreement, known as the Treaty of 1858, was intended to protect the Yankton’s right to quarry the stone and continue the tradition of pipe making. The treaty was ratified by Congress on February 16, 1859 and President James Buchanan signed it soon after. The Bureau of Land Management was tasked with platting the 640 acres to be set aside. The land set aside for the Yankton tribe used the Nicollet Marker, a remnant of Joseph Nicollet’s exploration of the area in the 1830s, as the center. The land became known as the Pipestone Indian Reservation. Its control and management fell to the Bureau of Indian Affairs.²

For the next 10-15 years the agreement largely worked. There were a few European-American visitors and explorers in the area and some of those individuals took stone for personal gain but in the absence of large-scale settlement the trespassing onto the quarries was limited and the Yankton tribe did not pursue action. A public lands survey was completed in the Pipestone area in 1870. The plat maps from this survey failed to show the boundaries of the Pipestone Indian Reservation. That led to homestead claims being filed within the reservation boundaries when settlement of the county began in earnest. Many of the claims were cancelled when the error was discovered but one claim was granted a patent by the Government Land Office. This sparked anger from the tribe who enlisted the help of their agent. The Bureau of Indian Affairs questioned the validity of the patent. The case went to court and the patent was upheld. Meanwhile, by 1880 other white settlers

¹ Rothman, Hal K. “Managing the Sacred and the Secular: An Administrative History of Pipestone National Monument,” Nevada: Hal K. Rothman and Associates, 1992, pages 25-28.

² National Park Service (Washington, D.C.), “Pipestone Indian Reservation,” 29 August 2020, *National Park Service* (<http://www.https://www.nps.gov/articles/pipestone-indian-reservation.htm> : accessed 24 November 2020.)

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were encroaching on the reservation to harvest the quartzite to be used in building. When the patent was upheld other settlers soon built homes on the reserved land and threatened any Indians who came to quarry the stone. The Yankton complained to Federal authorities. The new agent representing the Yankton tribe visited the reservation and discovered that the settlers were not ignorant to the reservation boundaries, rather they had been blatantly defying them. In 1884 the land patent case reached the U.S. Supreme Court. The patent was cancelled, and the land was to be returned to the Yankton Sioux tribe. Enforcement of this was to be carried out on the local level. Given that the Mayor of Pipestone at the time, C.C. Goodnow, was one of the squatters on the reserved land, the Supreme Court ruling was ignored. More settlers moved onto the land. In 1887, the situation had reached a point where Major J.F. Kinney, a representative for the Yankton tribe asked for military aid to forcibly eject the squatters. In October, a group of 10 soldiers arrived in the area. The settlers were surprised to be asked to leave, some complained but all eventually agreed to do so before any military action ensued.

Controversy remained. In 1884 the Cedar Rapids & Northern Railroad had laid tracks across the reservation. It was not practical to have the tracks removed. In ordinary circumstances during this era, the railroad would be granted a right-of-way through the property by the government, but this was not an ordinary situation. The government did not own the land and therefore could not grant a right-of-way. In 1889 Congress passed a bill that allowed the Yankton tribe to sell off any portion of the reserved land if a majority of the adult male tribal members agreed to it. After it was appraised, the land the railroad track was laid on was given a value at \$1,740.00. The Yankton tribe agreed to accept that amount for the railroad right-of-way but refused to sell any other portion of the reservation.³

The victory for the tribe meant disappointment for the settlers who had held on to the hope that they would one day be allowed to return to their claims on the reservation land. It also led to a shift in how the community of Pipestone viewed the neighboring reservation. Forced to accept that the land would not be open for settlement, the citizens of the town began to lobby for an Indian Training School at Pipestone. The Government had authorized the creation of such schools in Minnesota, Wisconsin, and Michigan. The citizens of Pipestone City viewed the creation of one at Pipestone as an opportunity for local builders to win contracts for the construction, ensuring a source of employment both during and after the build. Even the support of local Native Americans, though none of them were members of the Yankton tribe, was gained. The presence of Indian signatures on a petition of public support for such an institution to be located at Pipestone helped to ensure the creation of the Pipestone Indian Training School. On February 16, 1892 President Benjamin Harrison signed the measure into law. When the Yankton tribe learned of the proposed school, they tried to stop it. The conflict reached the auspices of the Justice Department for a ruling. That entity determined that the tribe's rights were to quarry the stone and that the erection

³ Rothman, Hal K. "Managing the Sacred and the Secular: An Administrative History of Pipestone National Monument," Nevada: Hal K. Rothman and Associates, 1992, pages 29-37.

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of a school on the land would not hinder their ability to do so. Talks regarding the land continued. The government attempted to purchase the land they deemed “surplus” from the tribe. From the Government’s point of view the land surrounding the quarries was not being utilized by the tribe and was therefore “surplus.” The Tribe’s point of view differed. While they didn’t use the land for agricultural purposes as the white settlers did, the land was used for camping, grazing and hunting when members trekked the 150 miles between their home and the quarries to harvest stone. The Yankton refused to sell. This situation continued without resolution. Finally, an agreement was reached that called for the Government to take the case to the U.S. Supreme Court within one year of the agreement being ratified by Congress. If they failed to do so the title to the reservation would revert to the Yankton and would deem them owners of the land and not merely owners of the mineral rights to the quarry. Disputes over this agreement and how it should proceed in the government offices led to the failure of the agreement to be ratified or make it to the High Court. One day after the anniversary of the signing of the agreement, Yankton officials asked for written proof of title to the land. The Government ignored them.

Four years later, in January 1897, the tribe petitioned the government for legal title to the land and for compensation and damages from its unauthorized seizure when the Pipestone Indian Training School was erected. Negotiations between the Federal Government and the Yankton began again, but this time the Yankton’s position had shifted. The tribe was more interested in the value of the land than they were in its ownership. They no longer wanted the land back. They wanted payment for the land they felt had been seized.⁴

Talks over the value of the land began in 1899. The two sides held widely different views. The Yankton tribe asked for \$1,000,000. The government negotiator, James McLaughlin, scoffed. The tribe dropped the asking price to \$100,000. McLaughlin still balked and claimed the amount too high. McLaughlin then began talking to individual tribe members, namely younger mixed-blood members. A majority agreed to accept \$75,000 in cash and an additional \$25,000 in cattle. Had the Federal government paid, the case would have been settled. Congress, however, refused to ratify the agreement believing the 1858 Treaty had only granted mineral rights to the quarry and not the land. They felt no need to purchase the land they believed the government owned. Ownership of the land remained in limbo.

An amendment to the Indian Appropriations Act in 1910 transferred authority in this case to the Indian Court of Claims. A petition to determine the ownership of the Pipestone Indian Reservation was presented to this court in 1911. In 1917 the court determined it did not have jurisdiction to make such a decision. The Yankton tribe pushed the issue. In 1920 Congress ratified a bill that gave full jurisdiction over ownership and value of the Pipestone Indian Reservation to the Court of Claims for determination. In 1925, the case again made its way before the court. Many years

⁴Rothman, Hal K. “Managing the Sacred and the Secular: An Administrative History of Pipestone National Monument,” Nevada: Hal K. Rothman and Associates, 1992, pages 38-45.

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had passed, elders had died, traditions had been lost, and the younger generation, having been educated in government schools, had lost interest in their cultural heritage. When the Court of Claims decision came down, it ruled that the Treaty of 1858 had granted an easement to the tribe for use of the quarry but had never given ownership of the land to the tribe. The tribe appealed to the Supreme Court. A hearing was set for October 4th, 1926.

When news came down from the Supreme Court, it reversed the lower court's ruling. The High Court determined the Government had improperly taken the land through the power of eminent domain in 1891 when it established the Pipestone Indian Training School. It also determined that it would not be able to return the land to the tribe and therefore owed the tribe "just compensation." The tribe had asked for a judgement of \$100,000 plus interest for the 35 years that had passed.⁵ Once an amount could be determined, ratified by Congress and payment made, the tribe would forfeit all rights to the quarries, both land and mineral.⁶ The case again returned to the Indian Court of Claims for a determination on the value of the Pipestone Indian Reservation. It was this task that led to the hearing at the Pipestone County Courthouse, the hearing referred to as the Yankton Sioux Trial.

A May 6, 1927 article in the *Pipestone County Star*, announced that a hearing would be held regarding the Pipestone Reservation to determine its value.⁷ In August of the same year the newspaper revealed that a hearing had been held at Lake Andes, South Dakota to determine value and that attorneys for the Yankton tribe had been in Pipestone to tour the quarries and interview local citizens in regards to the value.⁸ A month later it was learned that the Commissioner of the Court of Claims was to come to Pipestone that fall for a hearing on the matter before the court and granted J.W. Balmer, Superintendent of the Pipestone Indian Training School, permission to find accommodations for those who would be attending as well as a location for the hearing. It was speculated that the courtroom of the Pipestone County Courthouse would be suitable and desired. Attorneys for both the Interior Department and the Yankton tribe would present evidence at the hearing. Each side would call witnesses to present testimony relative to the value of the Pipestone Reservation.⁹ Just days later, the date of the hearing was announced. It was set for September 30 at the Pipestone County Courthouse.¹⁰ In the next edition of the *Pipestone County Star* it was

⁵ "Indian Claims Upheld by U.S. Supreme Court," *Pipestone County Star*, (Pipestone, Minnesota), 26 November 1926, p. 1, col. 2.

⁶ "U.S. Supreme Court Decision in Local Case," *Pipestone County Star*, (Pipestone, Minnesota), 14 December 1926, p. 1, col. 3.

⁷ "To Determine Value of Pipestone Reservation," *Pipestone County Star*, (Pipestone, Minnesota), 6 May 1927, p. 1, col. 2.

⁸ "Attorneys for Indians Visited Pipestone," *Pipestone County Star*, (Pipestone, Minnesota), 2 August 1927, p. 1, col. 4.

⁹ "Yankton Sioux Claims Will be Heard Here," *Pipestone County Star*, (Pipestone, Minnesota), 19 September 1927, p. 1, col. 2

¹⁰ "Important Hearing in Pipestone Sept. 30." *Pipestone Country Star*, (Pipestone, Minnesota). 23 September 1927, p. 1, col. 1.

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learned that Commissioner Myron L. Cohen would preside over the hearing. The attorneys for the Yankton tribe would present their case on Friday, September 30 and the following day U.S. Assistant Attorney General George T. Stormont would present the Federal Government's case.¹¹

As the case unfolded, a wide range of valuations were presented to Commissioner Cohen by 15 witnesses. Some parties approached the matter from a practical standpoint and presented figures based on the value of neighboring farm and quarry land. Others allowed compensation for the historical value as well as the sentimental value and the sacredness it held to the tribe. Estimates presented ranged from \$128,000-\$500,00 plus interest. Cohen, who heard the case, would make a recommendation to the entire Court of Claims.¹² On October 13th a final hearing was held in Washington, D.C. with evidence presented by the War Department, the National Park Service, the Department of the Interior, the Commissioner of Indian Affairs and the Bureau of Ethnology. Testimony in this portion of the hearing allowed for expert opinion on the historical and scientific value of the site and noted that the Government had not been in the practice of dealing with the owners when acquiring such types of land.¹³

On December 2nd Commissioner Cohen filed his determination with the Court of Claims for review. He set the recommended value for the 640-acre Pipestone Indian Reservation at \$787,000 including all interest and fees. The Yankton tribe had expected more, believing the value to be \$665,00 plus interest that would bring the sum much higher. The entire Court of Claims now had to review the case and either uphold or revise Cohen's recommendation.¹⁴ Several months of waiting transpired. Finally, in April 1928, a decision was rendered. The Yankton Sioux Tribe would be paid \$322,000 (\$100,000 for the land plus interest) in compensation for the Pipestone Reservation as soon as Congress appropriated the money. Once received, the money would be divided equally among the 1850 members of the Yankton tribe.¹⁵ That meant each tribal member would receive \$174.05. The tribe was not satisfied with the decision and filed an appeal to the U.S. Supreme Court. They felt the awarded compensation was too low given that Commissioner Cohen had recommended a higher settlement. The individuals from Pipestone who had testified at the hearing felt that their testimony had been ignored.¹⁶ It did not take long for the Supreme Court to offer a decision. Stating that they had already determined tribal ownership and noting that

¹¹ "Hearing in Reservation Matter this Week," *Pipestone County Star*, (Pipestone, Minnesota), 27 September 1927, p. 1, col. 3.

¹² "Evidence Taken as to Value of Reservation," *Pipestone County Star*, (Pipestone, Minnesota), 4 October 1927, p. 1, col. 2.

¹³ "Another Hearing on Reservation Value," *Pipestone County Star*, (Pipestone, Minnesota), 21 October 1927, p. 1, col. 1.

¹⁴ "Differ Widely on Reservation Value," *Pipestone County Star*, (Pipestone, Minnesota), 20 December 1927, p. 1, col. 2.

¹⁵ "Decision Rendered in Indian Controversy," *Pipestone County Star*, (Pipestone, Minnesota), 24 April 1928, p. 1, col. 1.

¹⁶ "Indians Dissatisfied with Court Decision," *Pipestone County Star*, (Pipestone, Minnesota), 27 April 1928, p. 1, col. 1.

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Congress had already determined that the Court of Claims held jurisdiction over the settlement valuation, the High Court refused to review the case.¹⁷ The long fight between the Yankton Sioux Tribe and United States Government had reached an end.

The Yankton Sioux Trial, or hearing, that was held in Pipestone was a small portion of a much larger controversy that played out over the course of 70 years, beginning with the Treaty of 1858 and ending at the 1927 hearing. The Red Pipestone Quarries were at the center of the controversy. As a result of the trial, The Pipestone Indian Reservation ceased to be reserved land and became the property of the United States Government. In addition, portions of the original 640-acre tract were sold or given to the Department of Natural Resources when the Indian School was closed in 1953. Approximately 300-acres of the land remains under Government control today [2020] which includes the sacred quarries. Managed by the National Park Service after the creation of the Pipestone National Monument in 1937, the area has been committed to preserving the quarries for Native Americans. Only registered members of a Federally recognized tribe can obtain a permit to quarry the red stone. The area has been set aside for personal enjoyment of the public, as well as to provide interpretation and education of the cultural and historical significance of the site. That significance will remain into perpetuity. Continued financial support from Congress in combination with dedicated effort from current and future staff of the Pipestone National Monument will ensure visitors to the site understand the importance of the land that was once part of the Pipestone Indian Reservation.

¹⁷ "Sioux Indians are Refused New Trial," *Pipestone County Star*, (Pipestone, Minnesota), 6 June 1928, p. 1, col. 1.