

# American indian history

history 4710

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Distance Education

Utah state university



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Office Hours: Tuesday & Thursday 2:30 - 4:30

*Meeting Schedule:* Monday and Wednesday 3:00 - 4:15

Hi. My name is **John D. Barton**, and I am your instructor for this Distance Education course of American Indian History. As a native of the West and an historian for the past several years, I find this region's past so interesting and hope that you come to share that interest. I want you to succeed in this course of study and also want to make myself available to you. Please write, call, or e-mail me at the above addresses with concerns or questions. Do not assume, due to distance between student and professor, that I am unavailable or uncaring. I will try and make time at the first of and end of each class

period for questions. For out-of-class communication I recommend e-mail as the best method of communication with me. I check my e-mail every day that I am in my office and will respond promptly.

### **Course Description:**

In this course we will cover the history of Native Americans in the Continental United States. Particular emphasis will be in the outline history of governmental/Native American relations and on the Plains Culture of Western Tribes. We will begin with theories of the origins of Native Americans and rapidly progress to present times.

### **Course Objectives:**

1. To assist each student understand Native American History and Cultures.
2. To assist each student understand what history is, what its role is in academics, and how to improve their critical thinking, research, and writing skills.

### **Class Schedule:** Monday & Wednesday 3:00 - 4: 15

Jan. 7 First Day of Class syllabus/begin lecture 1

Jan. 9 lecture 1

Jan. 14 Lecture 2

Jan. 16 Lecture 2

Jan. 21 Martin Luther King Day — No Class

Jan. 23 Lecture 3

Jan. 28 Lecture 3

Jan. 30 Lecture 4

Feb. 4 Lecture 4 **Document Assignment Due** (*Our Hearts Fell to the Ground and Catlin Letters*).

Feb. 6 Film

Feb. 9 Film

Feb. 11 Film

Feb. 13 Film

Feb. 18 Presidents Day No Class -- Meet Tue. 19<sup>th</sup>.

Feb. 19 TUESDAY Lecture 4

Feb. 20 Lecture 5

Feb. 25 Lecture 5

Feb. 27 Lecture 6

March 3 Lecture 6

March 5 Lecture 7

March 10 - 14 Spring Break – No Class

March 17 Lecture 8 (*Custer Died for Your Sins and Killing the White Man's Indian Due*)

March 19 Lecture 8

March 24 Lecture 9

March 26 Lecture 9 and 10

March 31 Lecture 10

April 2 **Dawes Act Debate In Class.**

April 7 Lecture 11

April 9 Lecture 11

April 14 Lecture 12

April 16 Lecture 12

April 21 Lecture/film

April 23 Last Day of Class -- Class Discussion **Essay Journal Due**

### **Required Texts:**

*North American Indians, 3<sup>rd</sup> edition*, Alice B. Kehoe  
*Our Hearts Fell to the Ground*, ed. Colin Calloway  
Vine Deloria, *Custer Died for Your Sins*.  
Fergus M. Bordewich, *Killing the White Man's Indian*  
*Extended Syllabus*

### **Understanding and thinking history:**

The study of history is sadly something that many people do not understand. It is, as most assume, a study of the past, but it is more than that. If we only study/memorize events from the past it is academic mind games and of little real value. Many of the people who feel some distaste for history likely had a teacher in their past who taught history only as an endless memorization of boring dates, facts and figures. **That is not history!** Although it is a part of history. History is examining the past, analyzing and interpreting it, and advancing valid arguments for what occurred, why it occurred, and how it is meaningful (how it may affect us) presently. As societal evolution continues to change how we perceive ourselves and interact with one another, how we interpret what occurred in that past also changes. Not that the facts about what occurred change – but how we explain how it relates to us changes. For example: Consider the former USSR. Their truths of just a few years ago were completely centered in a government directed truth of socialism. Since the USSR broke up would you expect the interpretation of the social contract that seems to have failed the Russian people to be interpreted the same as it was previous to the breakup? Hardly. So have the facts of Marxist doctrine changed? No, but the interpretation of its application and validity have certainly changed.

One of the most significant factors in history then is the ability to critically think about the material that you read and study from. Get familiar with the following questions that should be applied to the books and documents that you read for this class. As you do so you may notice that you start applying the same evaluation to many other things in your life such as the news, or commentary, politics and politicians, even the movies we watch. No longer do we simply take everything at face value. We question and analyze what we see and hear. This leads us to make our own interpretations on life not blindly accepting those that some want to share with you. This doesn't make us jaded and cynical about life, just the opposite. We find life filled with a million questions that need to be answered: Why did that occur? How did that come about? Where did you get that information? Why are you telling me this? What is the real motive here? How does this relate to ...?

Read and re-read these following questions until they become somewhat an automatic part of your thinking.

### **How to read an Historic Document/Text:**

The major factors in reading and analyzing documents are to question:

How to read Historic Documents: (Primary or secondary documents).

The major factors in reading and analyzing documents are to question:

1. What was the primary purpose or motive of the author in writing this document? Secondary purpose?
2. Who was the intended audience?
3. What are the author's biases?
4. What did this document evidence from the time or era? How is this document relevant to gaining an understanding of the contemporary times and people?
5. What did this document mean in a larger scale of the times? To future generations? To us presently? Does this document assist us in understanding the human experience? How?
6. Often to understand a document we need to gain an understanding of the history of the time and place to evaluate the document fairly and accurately. Then we can assess if it is consistent with what is

generally assumed about the time, if it is not, how accurate is it? Why does it contradict what is thought? Remember History is a series of arguments to be debated not merely a body of facts to be memorized, therefore, if a document does not agree with other contemporary documents we do not necessarily throw it out, but carefully analyze it and advance an arguments based on reasonable thought.

7. One of the hardest parts of reading a document is recognizing our own bias. We cannot judge the past by present standards or our own belief and value system. Are we maintaining objectivity or subjecting the document to a view colored by our own experience and thoughts that may not be reflective of the time or place?

As we seek answers to these questions, we then interpret or advance arguments about the significance and relevance of the document. This is the beginning of critical thinking and analysis, which are key elements in understanding history.

**Good writing** is expected on **all assignments** and the format for writing and annotation of history should follow Kate L. Turabian's book, *A Manual for Writers of Term Papers, Theses, and Dissertations* (University of Chicago Press, paperback 6<sup>th</sup> edition). (Non history majors may use MLA style annotation). For examples of this annotation style see appendix I. Include an introduction with a **clearly stated thesis**. The **body** of your paper comes next and should include the narrative of events **and** your evidence and interpretations of arguments. Your arguments should be based on evidence not merely your opinion. One on the main points of college writing is forming informed arguments based on researched evidence and analysis of that evidence. **Use of documents to evidence your arguments is required**. The final part of your paper is the **conclusion**. This is not the place to introduce new evidence or arguments but to sum up those already outlined in the body of your paper. Keep in mind this is **formal writing**. Avoid contractions, first and second person pronouns, colloquial expressions and slang, etc.

Many students unknowingly **plagiarize**. ANY IDEA, NUMBERS, RESEARCH, WORDS (PARTS OF OR WHOLE SENTENCES, PARAGRAPHS, PAGES), ETC. THAT DOES NOT ORIGINATE FROM YOUR MIND, IF NOT SITED TO GIVE CREDIT TO THE SOURCE, IS PLAGIARISM.

**Editing:** What to look for in editing your paper(s): (This is the criteria used to grade the paper).

1. Clearly stated thesis and arguments. Is their argument logical? Supported with documents?
2. Is the paper in good form with introduction, body, and conclusion?
3. Are the requirements of the paper met? Length? Conventions of writing?
4. Sources: are there sufficient sources, are they annotated correctly, is a works cited page added? A good rule of thumb is one citation per paragraph in the body of the paper.
5. Conventions of writing: Punctuation, grammar, spelling, tone, flow, etc.

### **Assignments and Grade Requirements:**

1. **Document Assignment:** Using *Our Hearts Fell to the Ground* and Catlin letters 8 & 17 (Appendix 1) as your documents, write a 4 - 6 page essay addressing what was like for Plains Indians and how that life changed in the 19<sup>th</sup> century and how they viewed the elements of those changes. Worth 75 points.

2. **Analysis Assignment:** Read both *Custer Died for Your Sins* and *Killing the White Man's Indian* and write a 4 - 6 page essay, using the books as your documents, comparing and contrasting the various points of the respective authors, add a discussion on each author's bias, strengths and weaknesses, include your observations about the **dating bias** in the books, and analyze how accurate and valuable these books are in Native American Studies. Worth 100 points.

3. **Debate on the Dawes Act.** Debate: You are in the congress of the United States in 1887 and Senator Henry Dawes has introduced his bill on forced assimilation to save the vanishing race of Native Americans. Each member of the class must prepare a three minute speech defending or defeating some

specific aspect of this bill. Remember that it is 1887 and you cannot see the future. You only know that there are deep problems with the reservation system that has developed. 25 points possible.

4. **Essay Journal:** In lieu of exams each student will prepare an essay journal addressing the following essays. Each essay should be 2 - 3 pages and follow the forms of good writing outlined above. Use sources, examples and details in each to ensure full points. **DO NOT TURN THE ESSAYS IN ONE AT A TIME. THE TOTAL ASSIGNMENT IS DUE AT THE END OF THE TERM.** Information for this assignment will primarily come from *North American Indians*, lectures, films, and readings. See Select Bibliography. Each essay is worth 25 points for a total of 400 points.

1. Where, according to most anthropologists, did Native Americans come from and how do they account for the differences in culture and language?
2. What was the Golden Age of Native American culture? Discuss at least two examples of cultures manifesting this in North America.
3. What was the disease frontier and what was its probable impact(s)? Discuss the Disease Frontier's impact East Coast Indians and Northern Missouri River Tribes in 1837?
4. What was the genesis the Plains Culture and what were the common aspects of the culture for the tribes that adopted the lifestyle?
5. What brought about the Huron-Iroquois War and what were its impacts?
6. Outline Spanish, French, English, and Russian motivations and activities in the New World in the sixteenth through the early nineteenth centuries and each country's impact on Native peoples. How was King Phillip's War a prime example of the impact of English mercantilistic practices?
7. The Navajo and the Apache were both Athabaskan people who came to the southwest in about the Ninth Century A.D. Why did their lifestyles differ so greatly by the Nineteenth Century?
8. There were at least three significant Native leaders that waged war against American expansion into the Ohio Valley. Detail two of those struggles.
9. How and why did the Five Civilized Tribes come to live in Oklahoma?
10. How did the mountain men era (1825 - 1840) impact Native Peoples? What was the Macedonian Call and how did it impact Native Americans in the Pacific Northwest?
11. What were the objectives of the winter campaign and how successful was the military in implementing it?
12. Although the Battle of the Little Big Horn was the Indians greatest victory what was the result of that battle in long-term objectives?
13. Discuss the events that led to the Flight of the Nez Purse, major battles, their defeat and aftermath.
14. What were the major provisions and objectives of The Dawes Act? Why was it passed? How and why did it change from tribal involvement on a voluntary basis to forced compliance? How successful was the Dawes Act? Why?
15. What were the objectives, time frames, successes and failures of Indian Reorganization Act/Howard Wheeler Act, Termination, and Self Determination?
16. How has Reservation Life/U.S. Indian Policy affected Native Americans in the Last quarter century? (See appendix #3).

**Select Bibliography for American Indian History:** These titles are presented to assist students in their research and writing for the Essay Journal Assignment.

1. Early Native American History -- Prehistory:

Charles Mann, *1491: New Revelations of the Americas Before Columbus*

James Axtell, *Natives and Newcomers.*

2. Biological Impact to Native Populations:

Alfred Crosby, *Ecological Imperialism: The Biological Expansion of Europe. 900- 1900*

Jared Diamond, *Guns, Germs, and Steel: The Fates of Human Societies*

3. Overview of Native American History and Issues:

Alice B. Kehoe, *North American Indians, 3<sup>rd</sup> edition*  
 Colin Calloway, *First Peoples*  
 Arrel Gibson, *The American Indian*  
 James Axtell, *The Invasion Within: The Contest of Cultures in Colonial North America*  
 Hurtado and Iverson, *Major Problems in American Indian History*.

4. U.S. Government/Indian Relations  
 Francis Paul Prucha, *The Great Father*  
 Francis Paul Prucha, *Documents of United States Indian Policy*

5. Twentieth Century Issues in Native Studies:  
 Charles Wilkinson, *Blood Struggle: The Rise of Modern Indian Nations*  
 Dee Brown, *Bury My Heart At Wounded Knee*  
 Vine Deloria, *Custer Died for Your Sins*  
 Fergus M. Bordewich, *Killing the White Man's Indian*.  
 Alvin Josephy, *Now the Buffalo Are Gone*  
 Alvin Josephy, *Red Power*

## LECTURE OUTLINES:

Lecture 1: What is an Indian? Origin of Native Americans? Berginga, Ice Ages, Mega Game Hunters, Prehistoric Indians, Division of Tribes Cultures and Languages. Eastern Tribes, Southern, Plains, Southwest, Northwest, Mississippi Mound Builders, California, Pre-Colombian contact,

Lecture 2: Enter the White Man – Columbus and Spain. Spanish Mercantilism and its impact on Native Americans. Cortez to the Pueblo Revolt. The French. Huron and Iroquois Wars, Domino Effect

Lecture 3: Indians and the Horse, The Plains Culture. Comanche, The Sioux. The Plains Religion

Lecture 4: The English Mercantilism. Isolation and Separation of the Races The Disease Frontier. Indian Wars in Colonial America. The Ohio – Indian Land Treaty of Paris 1763. Pontiac, Joseph Bryant, Tecumseh and the War of 1812.

Lecture 5: Indian Removal and the 5 Civilized Tribes. Indian Territory Trail of Tears

Lecture 6: Western Indians: The Mandan The Mountain Men

Lecture 7: The Macedonian Call, The Whitman Mission and the Cayuse. The Small Pox Epidemic of 1837 The Blackfoot

Lecture 8: Crow, Buffalo Culture and Economics. Sioux & Cheyenne Civil War: Sand Creek, Long Walk, Bear River Massacre, Connor's 1864 campaign The Winter Campaign: Washita, 1876 Reynolds, Custer, aftermath

Lecture 9: The Flight of the Nez Purse Wounded Knee and the Death of the Plains Culture

Lecture 10: The Dawes Act Boarding Schools

Lecture 11: Indian Reorganization Act, Howard Wheeler Act,

Lecture 12: Termination (Minonee, Part Blood Utes, Paiutes, Klamath, to Self Determination, Navajo Code Talkers, Read *Jurisdiction of Ute Lands*

### **Grades:**

75 points Document Assignment

25 points debate

100 Critical Analysis Assignment

400 points from Essay Journal

600 points total

93 - 100 % A, 90 - 92 A-, 88 - 89 B+, 83 - 87 B, 80 - 82 B-, 78 - 79 C+, 73 - 77 C, 70 - 72 C-,  
68 - 69 D+ 67 - 60 D, Below 60% F

**Classroom civility:** Each student is expected to be considerate of fellow students and the instructor, and assist in making the classroom a non-threatening experience for all. Rude behavior, vulgar expressions, mocking questions and mannerisms, profanity, lack of courtesy, etc. will not be tolerated. Cell phones and beepers or pagers should be turned off during class time except for emergency medical personnel.

**Academic Honesty-** Each student is expected to maintain high standards of academic honesty. Acts of academic dishonesty which include: cheating of any kind, falsification of work, or plagiarism (trying to pass someone else's work off as your own) will result in a failing grade and potentially further action by the standards office. For further information see the USU undergraduate handbook. Many students unknowingly plagiarize. Plagiarization is using others words or ideas as your own. ANY THOUGHT, IDEA, WORDS, NUMBERS, PHOTO, DRAWING, STATS, ETC. THAT DID NOT ORIGINATE FROM YOU MAY BY USED, BUT IF NOT SITED AND THE AUTHOR CREDITED, IT IS PLAGIARIZATION.

**Add/Drop, Incomplete Grades:** Every term students try to change their schedules without completing the necessary paperwork. Entry into any class after the scheduled registration time has passed requires an add card being completed. Adds can only be done through the third week of class. To withdraw from any class you must complete a drop card with the front desk by the end of the fifth week of instruction. If you do not do so, you will receive a failing grade and still be financially responsible for the course. The only exceptions after the fifth week are medical or family emergencies and a petition for a late drop form must be completed and approved by the Dean of Continuing Education. Incomplete grades are solely up to the instructor and are only considered if there are extenuating circumstances; poor performance in class is not an extenuating circumstance according to the USU Undergraduate Catalogue.

**Late Assignments:** If there is an unavoidable conflict with an assignment or test date, you must clear it with the instructor prior to the due date to ensure that the assignment will be accepted or an alternative test date may be arraigned. Exceptions to this will only be considered if a genuine emergency has occurred. Documentation of such emergencies may be required. Any work handed in late without prior clearance from the instructor will not be accepted or have points deducted.

**ADA:** If you have any kind of medically documented learning disability that requires special consideration in the class-room or on tests or assignments, it is your responsibility to register with the Student Disability Office on the Logan Campus. They will work out the necessary considerations and accommodations with the instructor.

## **APPENDIX 1 (Unedited).**

### LETTERS AND NOTES ON THE MANNERS, CUSTOMS, AND CONDITIONS OF NORTH AMERICAN INDIANS

by George Catlin

(First published in London in 1844)

LETTER--No. 8.

#### MOUTH OF THE YELLOWSTONE, UPPER MISSOURI.

SINCE my last Letter, nothing of great moment has transpired at this place; but I have been continually employed in painting my portraits and making notes on the character and customs of the wild folks who are about me. I have just been painting a number of the Crows, fine looking and noble gentlemen. They are really a handsome and well-formed set of men as can be seen in any part of the world. There is a sort of ease and grace added to their dignity of manners, which gives them the air of gentlemen; once. I observed the other day, that most of them were over six feet high and very many of these have cultivated their natural hair to such an almost incredible length, that it sweeps the ground as they walk; there are several instances of this kind amongst them, and in some cases, a foot or more it will drag on the grass as they walk, giving exceeding grace and beauty their movements. They usually oil their hair with a profusion of bear grease every morning, which is no doubt one cause of the unusual length which their hair extends; though it cannot be the sole cause of it, for the other tribes throughout this country use the bear's grease in equal profusion without producing the same result. The Mandans, however, and the Sioux of whom I shall speak in future epistles, have cultivated a very great growth of the hair, as many of them are seen whose hair reaches near to the ground.

This extraordinary length of hair amongst the Crows is confined to the men alone; for the women, though all of them with glossy and beautiful hair, and a great profusion of it, are unable to cultivate it to so great length; or else they are not allowed to compete with their lords in a fashion so ornamental (and on which the men so highly pride themselves), and are obliged in many cases, to cut it short off.

The fashion of long hair amongst the men, prevails throughout all the Western and North Western tribes, after passing the Sacs and Foxes; as the Pawnees of the Platte, who, with two or three other tribes only, are in the habit of shaving nearly the whole head.

The present chief of the Crows, who is called "Long-hair", and he received his name as well as his office from the circumstance of having the longest hair of any man in the nation, I have not yet seen: but I hope I may. Here I leave this part of the country. This extraordinary man known to several gentlemen with whom I am acquainted, and particular to Messrs. Sublette and Campbell, of whom I have before spoken, who told me they had lived in his hospitable lodge for months together; and assured me that they had measured his hair by a correct means, and found it to be ten feet and seven inches in length; closely inspecting every part of it at the same time, and satisfying themselves that it was the natural growth.

On ordinary occasions it is wound with a broad leather strap, from his head to its extreme end, and then folded up into a bundle or block, of some ten or twelve inches in length, and of some pounds weight; which when he walks is carried under his arm, or placed in his bosom, within the folds of his robe; but on

any great parade or similar occasion, his pride is to unfold it, oil it with bear's grease and let it drag behind him, some three or four feet of it spread out upon the grass, end black and shining like a raven's wing.

It is a common custom amongst most of these upper tribes, to splice or add on several lengths of hair, by fastening them with glue; probably for the purpose of imitating the Crows, upon whom alone Nature has bestowed this conspicuous and signal ornament.

Amongst the Crows of distinction now at this place, I have painted the portraits of several, who exhibit some striking peculiarities. Amongst whom is Chah-ee-chopes, the fourwolves; a fine looking fellow, six feet in stature, and whose natural hair sweeps the grass as he walks; he is beautifully clad, and carries himself with the most graceful and manly men -- he is in mourning for a brother; and according to their custom, has cut off a number of locks of his long hair, which is as much as a man can well spare of so valued an ornament, which he has been for the greater part of his life cultivating; whilst a woman who mourns for a husband or child, is obliged to crop her hair short to her head, and so remained till it grows out again; ceasing gradually to mourn as her hair approaches to its former length.

Duhlr-pits-a-bo-shee, the red bear, a distinguished warrior; and Oo-je-en-a-he-ha, the woman who lives in the bear's den. I have also painted Pa-ris-ka-roo-pa (two crows) the younger, one of the most extraordinary men in the Crow nation; not only for his looks, from the form of his head, which seems to be distortion itself -- and curtailed of all its fair proportions; but from his extraordinary sagacity so a counsellor and orator, even at an early stage of his life.

There is something very uncommon in this outline, and sets forth the striking peculiarity of the Crow tribe, though rather in an exaggerated form. The semilunar outline of the Crow head, with an exceedingly low and retreating forehead, is certainly a very peculiar and striking characteristic; and though not so strongly marked in most of the tribe as in the present instance, is sufficient for their detection whenever they are met; and will be subject for further comment in another place.

The Crow women (and Blackfeet also) are not handsome, and I shall at present say but little of them. They are, like all other Indian women, the slaves of their husbands: being obliged to perform all the domestic work and drudgeries of the tribe, and not allowed to join in their religious rit or ceremonies, nor in the dance or other amusements.

The women in all these upper and western tribes are decently dressed and many of them with great beauty and taste; their dresses are all of deer or goat skins, extending from their chins quite down to the feet; the dresses are in many instances trimmed with ermine, and ornamented with porcupine quills and beads with exceeding ingenuity.

The Crow and Blackfeet women, like all others I ever saw in any Indian tribe, divide the hair on the forehead, and paint the separation or crease with vermilion or red earth. For what purpose this little, but universal, custom is observed, I never have been able to learn.

The men amongst the Blackfeet tribe, have a fashion equally simple, and probably of as little meaning, which seems strictly to be adhered to by every man in the tribe; they separate the hair in two places on the forehead; leaving a lock between the two, of an inch or two in width, which is completely straightened down on to the bridge of the nose, and there cut square off. It is more than probable that this is done for the purpose of distinction that they may thereby be free from the epithet of effeminacy, which might otherwise attach to them.

These two tribes, whom I have spoken of connectedly, speak two distinguish and entirely dissimilar languages; and the language of each is different and radically so, from that of all other tribes about them.

As these people are always at war, and have been, time out of mind, they do not intermarry or hold converse with each other, by which any knowledge each other's language could be acquired. It would be the work of man's life-time to collect the languages of all the different tribes which I am visiting; and I shall, from necessity, leave this subject chiefly to others, who have the time to devote to them, to explain them to the world I have, however, procured a brief vocabulary of their words and sentences in these tribes; and shall continue to do so amongst the tribes I all visit, which will answer as a specimen or sample in each; and which, in a sequel to these Letters (if they should ever be published), will probably be arranged.

The Blackfeet are, perhaps, the most powerful tribe of Indians on this Continent; and being sensible of their strength, have stubbornly resisted traders in their country, who have been gradually forming an acquaintance with them, and endeavouring to establish a permanent and profitable system of trade. Their country abounds in beaver and buffalo, and most of the Fur-bearing animals of North America; and the American Fur Company with an unconquerable spirit of trade and enterprise, has pushed its establishments into their country; and the numerous parties of trappers tracing up their streams and rivers, rapidly destroying the beavers which Indian languages of North America can all be traced to two or three roots. The language of the Dohcotas is entirely and radically distinct from that of the Mandans, and theirs equally so from the Blackfoot and the Crows. And from the lips of Mr. Brazeau, a gentleman of education and strict observation, who has lived several years with the Blackfeet and Shiennes, and who speaks the language of tribes on either side of them, assures me that these languages are radically distinct and dissimilar, as I have above stated; and also, that although he has been several years amongst those tribes, he has not been able to trace the slightest resemblance between the Cree, Dohcotas, and Blackfoot, and Shienne, and Crow, and Mandan tongues; and from a great deal of corroborating information, which I have got from other persons acquainted with these tribes, I am fully convinced of the correctness of his statements.

Besides the Blackfeet and Crows, whom I told you were assembled at this place, are also the Knisteneaux (or Crees, as they are commonly called), a very pretty and pleasing tribe of Indians, of about 3000 in number, living on the north of this, and also the Assiniboins and Ojibbeways; both of which tribes also inhabit the country to the north and north-east of the mouth of Yellow Stone.

The Knisteneaux are of small stature, but well-built for strength and activity combined; are a people of wonderful prowess for their numbers, and have waged an unceasing warfare with the Blackfeet, who are their neighbours and enemies on the west. From their disparity in numbers, they are rapidly thinning the ranks of their warriors, who bravely sacrifice their lives in contentions with their powerful neighbours. This tribe occupy the country from the mouth of the Yellow Stone, in a north-western direction, far into the British territory, and trade principally at the British N. W. Company's forts.

The Assiniboins of seven thousand, and the Ojibbeways of six thousand, occupy a vast extent of country, in a north-eastern direction from this; extending also into the British possessions as high north as Lake Winnepeg; and trading principally with the British Company. These three tribes are in a state of nature, living as neighbours, and are also on terms of friendship with each other. This friendship, however, is probably but a temporary arrangement, brought about by the Traders amongst them; and which, like most Indian peace establishments, will be of short duration.

The Ojibbeways are, undoubtedly, a part of the tribe of Chippeways, with whom we are more familiarly acquainted, and who inhabit the south-west shore of Lake Superior. Their language is the same, though they are separated several hundred miles from any of them, and seem to have no knowledge of them, or traditions of the manner in which, or of the time when, they became severed from each other.

The Assiniboins are a part of the Dohcotas, or Sioux, undoubtedly; for their personal appearance as well as their language is very similar.

At what time, or in what manner, these two parts of a nation got strayed away from each other is a mystery; yet such cases have often occurred, of which I shall say more in future. Large parties who are, straying off in pursuit of game, or in the occupation of war, are oftentimes intercepted by their enemy; and being prevented from returning, are run off to a distant region, where they take up their residence and establish themselves as a nation.

There is a very curious custom amongst the Assinneboins, from which they have taken their name; a name given them by their neighbours, from a singular mode they have of boiling their meat, which is done in the following manner -- when they kill meat, a hole is dug in the ground about the size of a common pot, and a piece of the raw hide of the animal, as taken from the back, is put over the hole, and then pressed down with the hands close around the sides, and filled with water. The meat to be boiled is then put in this hole or pot of water; and in a fire, which is built near by, several large stones are heated to a red heat, which are successively dipped and held in the water until the meat is boiled; from which singular and peculiar custom, the Ojibbeways have given them the appellation of Assinneboins or stone boilers.

This custom is a very awkward and tedious one, and used only as an ingenious means of boiling their meat, by a tribe who was too rude and ignorant to construct a kettle or pot.

The Traders have recently supplied these people with pots; and even long before that, the Mandans had instructed them in the secret of manufacturing very good and serviceable earthen pots; which together have entirely done away the custom, excepting at Public festivals; where they seem, like all others of the human family, to take pleasure in cherishing and perpetuating their ancient customs.

Of these three tribes, I have also lined my painting-room with a number of very interesting portraits of the distinguished and brave men; and also representations of their games and ceremonies, which will be found in my INDIAN GALLERY, if I live, and they can be preserved until I get home.

The Assinneboine, or stone boilers, are a fine and noble looking race of Indians; bearing, both in their looks and customs, a striking resemblance to the Docotas or Sioux, from whom they have undoubtedly sprung. The men are tall, and graceful in their movements; and wear their pictured robes of the buffalo hide with great skill and pleasing effect. They are good hunters, and tolerably supplied with horses; and living in a country abounding with buffaloes, are well supplied with the necessaries of Indian life, and may be said to live well. Their games and amusements are many, of which the most valued one is the ball-play; and in addition to which, they have the game of the moccasin, horse-racing, and dancing; some one of which, they seem to be almost continually practicing, and of all of which I shall hereafter give the reader (as well as of many others of their amusements) a minute account.

Their dances, which were frequent and varied, were generally exactly the same as those of the Sioux, of which I have given a faithful account in my Notes on the Sioux, and which the reader will I meet with. There was one of these scenes, however, that I witnessed the other day, which appeared to me to be peculiar to this tribe, and exceedingly picturesque in its effect; which was described to me as the pipe-dance, and was as follows -- On a hard-trodden pavement in front of their village, which place is used for all their public meetings, and many of their amusements, the young men, who were to compose the dance, had gathered themselves around a small fire, and each one seated on a buffalo-robe spread upon the ground. In the centre and by the fire, was seated a dignitary, who seemed to be a chief (perhaps a doctor or medicine-man), with a long pipe in his hand, which he lighted at the fire and smoked incessantly, grunting forth at the same time, in half-strangled gutturals, a sort of song, which I did not get translated to my satisfaction, and which might have been susceptible of none. While this was going on, another grim-visaged fellow in another part of the group, commenced beating on a drum or tambourine, accompanied

by his voice; when one of the young men seated, sprang instantly on his feet, and commenced singing in time with the taps of the drum, and leaping about on one foot and the other in the most violent manner imaginable, In this way he went several times around the circle, bowing and brandishing his fists in the faces of each one who was seated, until at length he grasped one of them by the hands, and jerked him forcibly up upon his feet; who joined in the dance for a moment leaving the one who had pulled him up, to continue his step and his song in the centre of the ring; whilst he danced around in a similar manner, jerking up another, and then joining his companion in the centre; leaving the third and the fourth, and so on to drag into the ring, each one his man, until all were upon their feet; and at last joined in the most frightful gesticulations and yells that seemed almost to make the earth quake under our feet. This strange manoeuvre, which I did but partially understand, lasted for halfer three-quarters of an hour; to the great amusement of the gaping multitude who were assembled around, and broke up with the most piercing yells and barks like those of so many affrighted dogs.

The Assinneboins, somewhat like the Crows, cultivate their hair to a very great length, in many instances reaching down nearly to the ground; but in most instances of this kind, I find the great length is produced by splicing or adding on several lengths, which are fastened very ingeniously by means of glue, and the joints obscured by a sort of paste of red earth and glue, with which the hair is at intervals of every two or three inches tilled, and divided into locks and slabs of an inch or so in breadth, and falling straight down over the back to the heels have painted the portrait of a very distinguished young man, and son of the chief, his dress is a very handsome one, and in every respect answers well to the descriptions I have given above. The name of thir man is Wi-jun-jon (the pigeon's egg head), and by the ride of him & his wife, Chin-cha-pee (the fire bug that creeps), a fine looking squaw, in a handsome dress of the mountainsheep skin, holding in her band 8 stick curiously carved, with which every woman in this country is supplied; for the purpose of digging up the "Pomme Blanche", or prairie turnip, which is found in great quantities in these northern prairies, and furnishes the Indians with an abundant and nourishing food. The women collect these turnips by striking the end of the stick into the ground, and prying them out; after which they are dried and preserved in their wigwams for use during the season.

I have just had the satisfaction of seeing this travelled-gentleman (Wi-jun-jon) meet his tribe, his wife and his little children; after an absence of a year or more, on his journey of 6000 miles to Washington City, and back again (in company with Major Sanford, the Indian agent); where, he has been spending the winter amongst the fashionables in the polished circles of civilized society. And I can assure you, readers, that his entrCe amongst his own people, in the dress and with the airs of a civilized beau, was one of no ordinary occurrence; and produced no common sensation amongst the red-visaged Assinneboins, or in the minds of those who were travellers, and but spectators to the scene.

On his way home from St. Louis to this place, a distance of 2000 miles, I travelled with this gentleman, on the steamer Yellow-Stone; and saw him step ashore (on a beautiful prairie, where several thousands of his people were encamped), with a complete suit in military a colonel's uniform of blue, presented to him by the President of the United States, with a beaver hat and feather, with epaulettes of gold -- with sash and belt, and broad sword; with high-heeled boots -- with a keg of whiskey under his arm, and a blue umbrella in his hand. In this plight and metamorphose, he took his position on the bank, amongst his friends. His wife and other relations; not one of whom exhibited, for an half-hour or more, the least symptoms of recognition, although they knew well who was before them. He also gazed upon them -- upon his wife and parents, and little children, who were about, as if they were foreign to him, and he had not a feeling or thought to interchange with them. Thus the mutual gazings upon and from this would-be-stranger, lasted for full half an hour; when a gradual, but cold and exceedingly formal recognition began to take place, and an acyuantance ensued, which ultimately and smoothly resolved itself, without the least apparent emotion, into its former state; and the mutual

kindred intercourse seemed to do on exactly where it had been broken off, as if it had been but for a moment, and nothing had transpired in the interim to check or change its character or expression.

Such is one of the stoic instances of a custom which belongs to all the North American Indians, forming one of the most striking features in their character; valued, cherished and practiced, like many others of their strange notions for reasons which are difficult to be learned or understood; and which probably will never be justly appreciated by others than themselves.

This man, at this time, is creating a wonderful sensation amongst his tribe, who are daily and nightly gathered in gaping and listless crowds around him, whilst he is descanting upon what he has seen in the fashionable world; and which to them is unintelligible and beyond their comprehension; for which I find they are already setting him down as a liar and impostor.

What may be the final results of his travels and initiation into the fashionable world, and to what disasters his incredible narrations may yet subject the poor fellow in this strange land, time only will develop.

He is now in disgrace, and spurned by the leading men of the tribe, and rather to be pitied than envied, for the advantages which one might have supposed would have flown from his fashionable tour. More of this curious occurrence and of this extraordinary man, I will surely give in some future epistles.

The women of this tribe are often comely, and sometimes pretty; the dresses of the women and children, which are usually made of the skins of the mountain-goat, and ornamented with porcupine's quills and rows of elk's teeth.

The Knisteneaux (or Crees, as they are more familiarly called in this country) are a very numerous tribe, extending from this place as high north as the shores of Lake Winnepeg; and even much further in a north-westerly direction, towards, and even through, a great part of the Rocky Mountains.

I have before said of these, that they were about 3000 in numbers -- be that, I meant but a small part of this extensive tribe, who are in the habit of visiting the American Fur Company's Establishment, at this place, to do their trading; and who themselves, scarcely know anything of the great extent of country over which this numerous and scattered family range. Their customs may properly be said to be primitive, as no inroads of civilized habits have been as yet successfully made amongst them. Like the other tribes in these regions, they dress in skins, and gain their food, and conduct their wars in a very similar manner. They are a very daring and most adventurous tribe; roaming vast distances over the prairies and carrying war into their enemy's country. With the numerous tribe of Blackfeet, they are always waging an uncompromising warfare; and though fewer in numbers and less in stature, they have shewn themselves equal in sinew, and not less successful in mortal combats.

Amongst the foremost and most renowned of their warriors, is Bro-cas-sit?, the broken arm, in a handsome dress; and by the side of him, his wife, a simple and comely looking woman. In a sketch, will be seen the full length portrait of a young woman with a child on her back, shewing fairly the fashion of cutting and ornamenting the dresses of the females in this tribe; which, without further comment, is all I shall say at this time, of the valorous tribe of Crees or Kniteneaur.

The Ojibbeways I have briefly mentioned in a former place, and of them should say more; which will be done at a proper time, after I shall have visited other branches of this great and scattered family.

The chief of that part of the Ojibbeway tribe who inhabit these northern regions, and whose name is Shaco-pay (the Sir), is a man of huge size; with dignity of manner, and pride and vanity, just about in

proportion to his bulk. He sat for his portrait in a most beautiful dress, fringed with scalp locks in profusion; which he had snatched, in his early life from his enemies' heads, and now wears as proud trophies and proofs of what his arm has accomplished in battles with his enemies. His shirt of buckskin is beautifully embroidered and painted in curious hieroglyphics, the history of his battles and charts of his life. This, and also each and every article of his varied dress, had been manufactured by his wives, of which he had several; and one, though not the most agreeable.

I have much to see of these people yet, and much consequently to write; so for the present I close my book.

LETTERS AND NOTES ON THE  
MANNERS, CUSTOMS, AND CONDITIONS OF  
NORTH AMERICAN INDIANS

by George Catlin

(First published in London in 1844)

LETTER--No. 17.

MANDAN VILLAGE, UPPER MISSOURI.

I mentioned in the foregoing epistle, that the chiefs of the Mandans frequently have a plurality of wives. Such is the custom amongst all or these North Western tribes, and a few general remarks on this subject will apply to them all, and save the trouble of repeating them.

Polygamy is countenanced amongst all of the North American Indians, so far as I have visited them; and it is no uncommon thing to find a chief with six, eight, or ten, and some with twelve or fourteen wives in his lodge. Such is an ancient custom, and in their estimation is right as well as necessary. Women in a savage state, I believe, are always held in a rank inferior to that of the men, in relation to whom in many respects they stand rather in the light of menials and slaves than otherwise; and as they are the "hewers of wood and drawers of water," it becomes a matter of necessity for a chief (who must be liberal, keep open doors, and entertain, for the support of his popularity) to have in his wigwam a sufficient number of such handmaids or menials to perform the numerous duties and drudgeries of so large and expensive an establishment.

There are two other reasons for this custom which operate with equal, if not with greater force than the one above assigned. In the first place, these people, though far behind the civilized world in acquisitiveness, have still more or less passion for the accumulation of wealth, or, in other words, for the luxuries of life; and a chief, excited by a desire of this kind, together with a wish to be able to furnish his lodge with something more than ordinary for the entertainment of his own people, as well as strangers who all upon his hospitality, sees fit to marry a number of wives, who are kept at hard labor during most of the year; and the avails of that labour enable him to procure those luxuries, and give to his lodge the appearance of respectability which is not ordinarily seen. Amongst those tribes who trade with the Fur Companies, this system is carried out to a great extent, and the women are kept for the greater part of the

year, dressing buffalo robes and other skins for the market; and the brave or chief, who has the greatest number of wives, is considered the most affluent and envied man in the tribe; for his table is most bountifully supplied, and his lodge the most abundantly furnished with the luxuries of civilized manufacture, who has at the year's end the greatest number of robes to vend to the Fur Company.

The manual labour amongst savages is all done by the women; and as there are no daily laborers or persons who will "hire out" to labour for another, it becomes necessary for him who requires more than the labour or services of one, to add to the number by legalizing and compromising by the ceremony of marriage, his stock of laborers; who can thus, and thus alone, be easily enslaved, and the results of their labour turned to good account.

There is yet the other inducement, which probably is more effective than either; the natural inclination which belongs to man, who stands high in the estimation of his people and wields the scepter of power -- surrounded by temptations which he considers it would be unnatural to resist, where no law or regulation of society stands in the way of his enjoyment. Such a custom amongst savage nations can easily be excused too, and we are bound to excuse it, when we behold man in a state of nature, as he was made, following a natural inclination, which is sanctioned by ancient custom and by their religion, without a law or regulation of their society to discountenance it; and when, at the same time, such an accumulation of a man's household, instead of quadrupling his expenses (as would be the case in the civilized world), actually becomes his wealth, as the results of their labour abundantly secure to him all the necessaries and luxuries of life.

There are other and very rational grounds on which the propriety of such a custom may be urged, one of which is as follows: -- as all nations of Indians in their natural condition are unceasingly at war with the tribes that are about them, for the adjustment of ancient and never-ending feuds, as well as from a love of glory, to which in Indian life the battle-field is almost the only road, their warriors are killed off to that extent, that in many instances two and sometimes three women to a man are found in a tribe. in such instances I have found that the custom of polygamy has kindly helped the community to an evident relief from a cruel and prodigious calamity.

The instances of which I have above spoken, are generally confined to the chiefs and medicine-men; though there is no regulation prohibiting a poor or obscure individual from marrying several wives, other than the personal difficulties which lie between him and the hand which he wishes in vain to get, for want of sufficient celebrity in society, or from a still more frequent objection, that of his inability (from want of worldly goods) to deal in the customary way with the fathers of the girls whom he would appropriate to his own household.

There are very few instances indeed, to be seen in these regions, where a poor or ordinary citizen has more than one wife; but amongst chiefs and braves of great reputation, and doctors, it is common to see some six or eight living under one roof, and all apparently quiet and contented; seemingly harmonizing, and enjoying the modes of life and treatment that falls to their lot.

Wives in this country are mostly treated for with the father, as in all instances they are regularly bought and sold. In many cases the bargain is made with the father alone, without ever consulting the inclinations of the girl, and seems to be conducted on his part as a mercenary contract entirely, where he stands out for the highest price he can possibly command for her. There are other instances to be sure, where the parties approach each other, and from the expression of a mutual fondness, make their own arrangements, and pass their own mutual vows, which are quite as sacred and inviolable as similar assurances when made in the civilized world. Yet even in such cases, the marriage is never consummated without the necessary form of making presents to the father of the girl.

It becomes a matter of policy and almost of absolute necessity, for the white men who are Traders in these regions to connect themselves in this way, to one or more of the most influential families in the tribe, which in a measure identifies their interest with that of the nation, and enables them, with the influence of their new family connexions, to carry on successfully their business transactions with them. The young women of the best families only can aspire to such an elevation; and the most of them are exceedingly ambitious for such a connexion, inasmuch as they are certain of a delightful exemption from the slavish duties that devolve upon them when married under other circumstances; and expect to be, as they generally are, allowed to lead a life of ease and idleness, covered with mantles of blue and scarlet cloth--with beads and trinkets, and ribbons, in which they flounce and flirt about, the envied and tinselled belles of every tribe. These connexions, however, can scarcely be called marriages, for I believe they are generally entered into without the form or solemnizing ceremony of a marriage, and on the part of the father of the girls, conducted purely as a mercenary or business transaction; in which they are very expert, and practice a deal of shrewdness in exacting an adequate price from a purchaser whom they consider possessed of so large and so rich a stock of the world's goods; and who they deem abundantly able to pay liberally for so delightful a commodity.

Almost every Trader and every clerk who commences in the business of this country, speedily enters into such an arrangement, which is done with as little ceremony as he would bargain for a horse, and just as unceremoniously do they annul and abolish this connexion when they wish to leave the country, or change their positions from one tribe to another; at which time the woman is left, a fair and proper candidate for matrimony or speculation, when another applicant comes along, and her father equally desirous for another horse or gun, &c. which he can easily command at her second espousal. From the enslaved and degraded condition in which the women are held in the Indian country, the world would naturally think that theirs must be a community formed of incongruous and unharmonizing materials; and consequently destitute of the fine, reciprocal feelings and attachments which flow from the domestic relations in the civilized world; yet it would be untrue, and doing injustice to the Indians, to say that they were in the least behind us in conjugal, in filial, and in paternal affection. There is no trait in the human character which is more universal than the attachments which flow from these relations, and there is no part of the human species who have a stronger affection and a higher regard for them than the North American Indians.

There is no subject in the Indian character of more importance to be rightly understood than this, and none either that has furnished me more numerous instances and more striking proofs, of which I shall make use on a future occasion, when I shall say a vast deal more of marriage -- of divorce -- of polygamy -- and of Indian domestic relations. For the present I am scribbling about the looks and usages of the Indians who are about me and under my eye; and I must not digress too much into general remarks, lest I lose sight of those who are near me, and the first to be heralded.

Such, then, are the Mandans -- their women are beautiful and modest,-and amongst the respectable families, virtue is as highly cherished and as inapproachable, as in any society whatever; yet at the same time a chief may marry a dozen wives if he pleases, and so may a white man; and if either wishes to marry the most beautiful and modest girl in the tribe, she is valued only equal, perhaps, to two horses, a gun with powder and ball for a year, five or six pounds of beads, a couple of gallons-of whiskey, and a handful of awls.

The girls of this tribe, like those of most of these north-western tribes, marry at the age of twelve or fourteen, and some at the age of eleven years; and their beauty, from this fact, as: well as from the slavish

life they lead, soon after marriage vanishes. Their occupations are almost continual, and they seem to go industriously at them, as if from choice or inclination, without a murmur.

The principal occupations of the women in this village, consist in procuring wood and water, in cooking, dressing robes and other skins, in drying meat and wild fruit, and raising corn (maize). The Mandans are somewhat of agriculturists, as they raise a great deal of corn and some pumpkins and squashes. This is all done by the women, who make their hoes of the shoulder-blade of the buffalo or the elk, and dig the ground over instead of ploughing it., which is consequently done with a vast deal of labour. They raise a very small sort of corn, the ears of which are not longer than a man's thumb. This variety is well adapted to their climate, as it ripens sooner than other varieties, which would not mature in so cold a latitude. The green corn season is one of great festivity with them, and one of much importance. The greater part of their crop is eaten during these festivals, and the remainder is gathered and dried on the cob, before it has ripened, and packed away in "caches" (as the French call them), holes dug in the ground, some six or seven feet deep, the insides of which are somewhat in the form of a jug, and tightly closed at the top. The corn, and even dried meat and pemican, are placed in these caches, being packed tight around the sides, with prairie grass, and effectually preserved through the severest winters.

Corn and dried meat are generally laid in the fall, in sufficient quantities to support them through the winter. These are the principal articles of food during that long and inclement season; and in addition to them, they oftentimes have in store great quantities of dried squashes and dried "pommes blanches", a kind of turnip which grows in great abundance in these regions, and of which I have before spoken. These are dried in great quantities, and pounded into a sort of meal, and cooled with the dried meat and corn. Great quantities also of wild fruit of different kinds are dried and laid away in store for the winter season, such as buffalo berries, service berries, strawberries, and wild plume.

The buffalo meat, however, is the great staple and "staff of life" in this country, and seldom (if ever) fails to afford them an abundant and wholesome means of subsistence. There are, from a fair computation, something like 250,000 Indians in these western regions, who live almost exclusively on the flesh of these animals, through every part of the year. During the summer and fall months they use the meat fresh, and cook it in a great variety of ways, by roasting, broiling, boiling, stewing, smoking, &c.; and by boiling the ribs and joints with the marrow in them, make a delicious soup, which is universally used, and in vast quantities. The Mandans, I find, have no regular or stated times for their meals, but generally eat about twice in the twenty-four hours. The pot is always boiling over the fire, and any one who is hungry (either of the household or from any other part of the village) has a right to order it taken off, and to fall to eating as he pleases. Such is an unvarying custom amongst the North American Indians, and I very much doubt, whether the civilized world have in their institutions any system which can properly be called more humane and charitable. Every man, woman, or child in Indian communities is allowed to enter any one's lodge, and even that of the chief of the nation, and eat when they are hungry, provided misfortune or necessity has driven them to it. Even so can the poorest and most worthless drone of the nation; if he is too lazy to hunt or to supply himself, he can walk into any lodge and everyone will share with him as long as there is anything to eat. He, however, who thus begs when he is able to hunt, pays dear for his meat, for he is stigmatized with the disgraceful epithet of a poltroon and a beggar.

The Mandans, like all other tribes, sit at their meals cross-legged, or rather with their ancles crossed in front of them, and both feet drawn close under their bodies; or, which is very often the case also, take their meals in a reclining posture, with the legs thrown out, and the body resting on one elbow and forearm, which are under them. The dishes from which they eat are invariably on the ground or door of the lodge, and the group resting on buffalo robes or mats of various structure and manufacture.

The position in which the women sit at their meals and on other occasions is different from that of the men, and one which they take and rise from again, with great ease and much grace, by merely bending the knees both together, inclining the body back and the head and shoulders quite forward, they squat entirely down to the ground, inclining both feet either to the right or the left. In this position they always rest while eating, and it is both modest and graceful, for they seem, with apparent ease, to assume the position and rise out of it, without using their hands in any way to assist them.

These women, however, although graceful and civil, and ever so beautiful or ever so hungry, are not allowed to sit in the same group with the men while at their meals. So far as I have yet travelled in the Indian country, I never have seen an Indian woman eating with her husband. Men form the first group at the banquet, and women, and children and dogs all come together at the next, and these gormandize and glut themselves to an enormous extent, though the men very seldom do.

It is time that an error on this subject, which has gone generally abroad in the world, was corrected. It is everywhere asserted, and almost universally believed, that the Indians are "enormous eaters;" but comparatively speaking, I assure my readers that this is an error. I venture to say that there are no persons on earth who practice greater prudence and self-denial, than the men do (amongst the wild Indians), who are constantly in war and in the chase, or in their athletic sports and exercises; for all of which they are excited by the highest ideas of pride and honour, and every kind of excess is studiously avoided; and for a very great part of their lives, the most painful abstinence is enforced upon themselves, for the purpose of preparing their bodies and their limbs for these extravagant exertions. Many a man who has been a few weeks along the frontier, amongst the drunken, naked and beggared part of the Indian race, and run home and written a book on Indians, has, no doubt, often seen them eat to beastly excess; and he has seen them also guzzle whiskey (and perhaps sold it to them) till he has seen them glutted and besotted, without will or energy to move; and many and thousands of such things can always be seen, where white people have made beggars of them, and they have nothing to do but lie under a fence and beg a whole week to get meat and whiskey enough for one feast and one carouse; but amongst the wild Indians in this country there are no beggars -- no drunkards -- and every man, from a beautiful natural precept, studies to keep his body and mind in such a healthy shape and condition as will at all times enable him to use His weapons in self-defense, or struggle for the prize in their manly games.

As I before observed, these men generally eat but twice a day, and many times not more than once, and those meals are light and simple compared with the meals that are swallowed in the civilized world; and by the very people also, who sit at the festive board three times a day, making a jest of the Indian for his eating, when they actually guzzle more liquids, besides their eating, than would fill the stomach of an Indian.

There are, however, many seasons and occasions in the year with all Indians, when they fast for several days in succession; and others where they can get nothing to eat; and at such times (their habits are such) they may be seen to commence with an enormous meal, and because they do so, it is an insufficient reason why we should for ever remain under so egregious an error with regard to a single custom of these people.

I have seen so many of these, and lived with them, and travelled with them, and oftentimes felt as if I should starve to death on an equal allowance, that I am fully convinced I am correct in saying that the North American Indians, taking them in the aggregate, even where they have an abundance to subsist on, eat less than any civilized population of equal numbers, that I have ever travelled amongst.

Their mode of curing and preserving the buffalo meat is somewhat curious, and in fact it is almost incredible also; for it is all cured or dried in the sun, without the aid of salt or smoke! The method of doing this is the same amongst all the tribes, from this to the Mexican Provinces, and is as follows:-- The

choicest parts of the flesh from the buffalo are cut out by the squaws, and carried home on their backs or on horses, and there cut "across the grain," in such a manner as will take alternately the layers of lean and fat; and having prepared it all in this way, in strips about half an inch in thickness, it is hung up by hundreds and thousands of pounds on poles resting on crotches, out of the reach of dogs or wolves, and exposed to the rays of the sun for several days, when it becomes so effectually dried, that it can be carried to any part of the world without damage. This seems almost an unaccountable thing, and the more so, as it is done in the hottest months of the year, and also in all the different latitudes of an Indian country.

So singular a fact as this can only be accounted for, I consider, on the ground of the extraordinary rarity and purity of the air which we meet with in these vast tracts of country which are now properly denominated "the great buffalo plains", a series of exceedingly elevated plateaus of steppes or prairies, lying at and near the base of the Rocky Mountains.

It is a fact then, which I presume will be new to most of the world, that meat can be cured in the sun without the aid of smoke or salt; and it is a fact equally true and equally surprising also, that none of these tribes use salt in any way, although their country abounds in salt springs; and in many places, in the frequent walks of the Indian, the prairie may be seen, for miles together, covered with an incrustation of salt as white as the drifted snow.

I have, in travelling with Indians, encamped by such places, where they have cooked and eaten their meat, when I have been unable to prevail on them to use salt in any quantity whatever. The Indians cook their meat more than the civilized people do, and I have long since learned, from necessity, that meat thus cooked can easily be eaten and relished too, without salt or other condiment.

The fact above asserted applies exclusively to those tribes of Indians which I have found in their primitive state, living entirely on meat; but everywhere along our Frontier, where the game of the country has long since been chiefly destroyed, and these people have become semi-civilized, raising and eating, as we do, a variety of vegetable food, they use (and no doubt require), a great deal of salt; and in many instances use it even to destructive excess.

**APPENDIX 2**

The following article was published December 2001 in American Indian Law Review.

Jurisdiction of Ute Reservation Lands

John D. Barton

Candace M. Barton

After years of litigation involving several court cases, in 1994 the Supreme Court of the United States handed down a landmark decision that ruled on jurisdiction of former Ute reservation lands. This case has since become the final word in jurisdiction of reservation lands throughout the United States. As with most policy-setting decisions, the underpinnings of this case were framed centuries earlier. Throughout the colonial era of the Thirteen Colonies, and continuing after the ratification of the United States Constitution, an isolation/separation policy developed and was practiced towards the Native Americans by first the colonial governments and then by the United States. By the late 1880s, the government admitted failure in the policy's application as beneficial to Native Americans and reversed itself by attempting forced assimilation into Euro-American culture with the passage of the Dawes Act. Huge portions of the Native American reservation lands were seized with implementation of the General Allotment Policy of 1887, which was the official policy that implemented the Dawes Act. Nearly a century later, the Ute Tribe demanded jurisdictional rights over reservation land that was taken from them under the General Allotment Policy which then necessitated litigation for settlement of the jurisdiction issue between the Ute Tribe and jurisdiction institutions of the cities of Roosevelt, Ballard, and Duchesne, Duchesne County, and the State of Utah. But what put the wheels in motion that lead to this conflict was the conflicting governmental policies of the nineteenth century -- isolation followed by forced assimilation. This resulted in the controversy over jurisdictional land issues among the Ute Tribe that plagued the courts and troubled both the Ute and Non-Indian communities of the Uintah Basin from 1981 to 1994.

The isolation/ separation policy of the American Federal Government was an outgrowth of colonial attitudes and policy. When England first established colonies in the New World they proceeded from a premise that the two races, the English and the Native Americans, were incompatible.<sup>1</sup> One of

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<sup>1</sup>For a general overview of the policy see, Richard White, *It's Your Misfortune and None of My Own*. (Norman: University of Oklahoma, 1991) 110, 115. Additional documentation of the policy of separation is evident in the following: George Washington to James Duane, September 7, 1783; Report on Committee on Indian Affairs, October 15, 1783, Treaty of Fort McIntosh, January 21, 1785 between the States and the Wiandot, Delaware, Chippawa and Ottawa Nations, as cited in *Documents of United States Indian Policy Second Edition*, Francis Paul

many significant differences was their respective views of land ownership. The English divided land up into individual parcels which usually one person or family would own. In contrast Native Americans' territorial lands were communally not individually held. The English also acted from the premise that each tribe was an individual nation, therefore each tribe was dealt with by a separate treaty. This method of dealing with the native Tribes varied from their European neighbors to the north, the French, who wanted to take advantage of the financial benefits they saw from using the Indians as trade partners in the fur trade.<sup>2</sup> The Spanish, to the southwest, also differed from the English in that they wanted to convert the Indians to Christianity and utilize them as laborers.<sup>3</sup> But the English wanted as little to do with the Indians as possible. Mostly they wanted them out of the way. From the start the English settlers in America wanted their towns, cities, and colonies separated from the Indians' territory. After the Revolutionary War and the framing of the constitution, the new government continued similar policies.<sup>4</sup>

The separation of the races caused problems for over two hundred and fifty years between the Native Americans and Euro-Americans. As immigrants continued to pour into America the newly arrived Euro-Americans wanted additional land that native tribes occupied. Generation after generation the Americans, starting from the east coast, pushed Native Americans westward resulting in displacement throughout the entire region.<sup>5</sup>

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Prucha, editor, (Lincoln: University of Nebraska Press, 1990), 1, 3, 5,6. In these documents and many others the major issues deal with peace between the White and Indian Nations and the attempt to impose upon the Native Americans boundaries to insure separation.

<sup>2</sup> James Axtell, *The Invasion Within*. (New York: Oxford University Press, 1981) 3-5.

<sup>3</sup> Albert L. Hurtado, "Sexuality in Early California's Franciscan Missions: Cultural Perceptions and Sad Realities" In Clyde A. Milner II, Anne M. Butler, David Rich Lewis, *Major Problems in the History of the West*. (New York: Houghton Mifflin Co. 1997), 69-80.

<sup>4</sup> President Washington's Third Annual Message, October 25, 1791, as cited in *Documents of United States Indian Policy*, notes: "That the mode of alienating their (Indian) lands, (was) the main source of discontent and war... Also see White, 110, 115.

<sup>5</sup> Arrell Morgan Gibson, *The American Indian* (Lexington: D.C. Heath And Company, 1980), 290-291.

As settlers took land from the Eastern Indian tribes in the late eighteenth and early nineteenth centuries the Indians were forced to move ever further westward which caused the tribes that already occupied those lands to also move creating a domino effect. During the first half of the nineteenth century the western tribes started to feel the strain that their eastern counterparts had long been suffering. Miners, explorers, hunters, homesteaders, and Mormon pioneers flowed into the West, and like the eastern settlers, they too wanted land occupied by Native Americans.

Western tribes were being forced to inhabit ever shrinking territories and adopt new lifestyles. Particularly disastrous to native lifestyle was the mass slaughter of buffalo that were killed by the tens-of-millions in the 1870s and 1880s, thus eliminating the most significant food source of native peoples. Equally damaging to their old way of life were the white invaders who took their most valuable lands. For the Northern Ute Indians in what became Utah this invasion upon their native habitat began in 1847, when the Mormon pioneers began filling the Salt Lake Valley.<sup>6</sup>

Prior to 1847, most Euro-Americans who came to Utah were Spanish explorers and later mountain men who came to trap beaver and trade with the Utes. Few, if any, of these visitors to Ute lands intended on staying. The Utes of Northern Utah and Western Colorado were, at this time, at the pinnacle of their military strength. George Brewerton, a frontiersman, met the Utes in 1848 and said of them:

The Eutaws are perhaps the most powerful and warlike tribe now remaining on the continent. They appear well provided with firearms, which they are said to use with the precision of veteran riflemen.<sup>7</sup>

With the entry of the Mormons to the homelands of the Utes, and nearly a decade later the miners of Colorado, the Utes felt, for the first time, large scale encroachment. The native people failed to recognize that what started as a pitiful few near-starving emigrants swelled into a flood that covered their lands. This influx of settlers eventually resulted in the Utes being dispossessed of the land they had lived upon for generations.<sup>8</sup>

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<sup>6</sup>Fred A. Conetah, *Fred A History of the Northern Ute People* (Salt Lake City: University of Utah Printing Service, 1982), 37 - 42. In this study the present-day Utes, of the Uinta Basin, are referred to as Northern Utes to differentiate them from the Southern Ute and the Ute Mountain Utes of Southern Colorado. On the Northern Ute Reservation there are presently three divisions called bands: the Uintah, Whiterivers, and Uncompahgre. All three of these bands prior to removal to the reservation were actually divided into several smaller bands each designated by a separate band name.

<sup>7</sup>George D. Brewerton, *Overland with Kit Carson*, ed. Charles H. Carey (Portland Oregon: Metropolitan Press, 1931), 42.

<sup>8</sup>John R. Alley, Jr., "Prelude to Dispossession," *Utah Historical Quarterly*, 50 (Spring 1982), 104 - 123.

When the Mormons first settled the Valley of the Great Salt Lake in 1847, most Utes felt little or no concern. That valley was the unofficial border between their lands and their enemy, the Shoshone, who lived to the north. Both tribes occasionally hunted there but neither permanently occupied it. The Mormons did, however, unknowingly bring death to the Utes that first year. Within months of their arrival measles spread through the Indian villages and several died.<sup>9</sup>

By spring of 1849, at Ute Chief Wakara's request, Brigham Young sent settlers south to San Pete, Utah and Sevier Valleys to establish permanent settlements. Young promised the Utes that the Mormons would neither drive them from their lands nor interfere with Ute lifestyles. But within a few short months the Utah Valley settlers built a fort on a site where the Utes had camped for generations. Mormon-owned cattle grazed where the Utes had traditionally wintered their horses. In the fall Mormon fishermen took large numbers of spawning lake trout out of the Provo and Spanish Fork rivers. These same fish were a dietary mainstay of the Timpanoguts Utes that timed their return to Utah Valley each fall to coincide with the spawning runs of the trout. Within the first year of the Mormons settling in their land the Utes felt threatened. The Mormons, though, failed to recognize that their occupation of Utah Valley and other eastern valleys of the Great Basin disrupted the fragile ecology and traditional subsistence patterns of the Ute people. The two cultures did not understand each other's use of the land for providing sustenance. From a settler's point of view the Utes camped for a short time in one place, did not plant or farm the land; rather they just hunted or fished and then moved on. Little did they understand that the Utes followed the same cycles: camped in the same places, and hunted and fished the same valleys and streams in season year after year. Their use of the land was much different than the Mormons anticipated use of it.<sup>10</sup>

By 1850 the Timpanoguts Utes of Utah Valley, in desperate need of food, turned to raiding Mormon livestock. This resulted in retaliatory raids by the cattle's owners on Timpanoguts' camps and battles ensued at Battle Creek, Rock Canyon and Payson. Several Utes were killed. The hostilities continued for several months until February 1851, when the Utah Territorial Indian Agency was formed to deal with the Indians. A short peace was enjoyed but renewed conflict erupted in 1854 with the Walker War and again in 1865 with the Black Hawk War.<sup>11</sup>

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<sup>9</sup>Hubert Howe Bancroft, *History of Utah*, (San Francisco: The History Company, 1890), 278. Conetah, 37.

<sup>10</sup>Conetah, 38.

<sup>11</sup>Conetah, 38 - 42.

In the early 1850s, the Utah Territorial Indian Agency dealt with the problem between Mormon settlers and the Utes by urging peace on both sides and as both Indian Agent and spiritual leader for the Mormons, Brigham Young issued the policy of “feed the Indians.”<sup>12</sup> Over the next few years, Mormon settlers continued settled on the fertile, tillable land of Utah that were the Utes homelands. For all its vast acreage Utah has only a few valleys that are highly desirable for farming and these are surrounded by miles of sage, cedar, and mountains. Like San Pete and Utah Valleys, soon Fillmore, Sevier and the southern portions of Ute claimed lands were settled and again the Native Americans were expected to vacate. Brigham Young established several small Indian farms or reservations at Corn Creek, Spanish Fork, Twelve Mile Creek and elsewhere in the territory. The purpose of these Indian farms were to segregate the Utes from the growing number of Mormon settlements, provide the opportunity to teach the Utes farming, and provide a means to feed the Utes.<sup>13</sup>

The Indian farms, poorly outfitted and worked by unwilling volunteers, failed. In 1855 federal appointee Garland Hurt replaced Brigham Young as Indian agent and took over management of the Indian farms. Just a few years later newly appointed Indian agent T. W. Hatch reported that the Indian farms were in a "destitute condition, stripped of their stock, tools, and moveable fences, and no one [was] living upon either of them."<sup>14</sup> Most of the Utes refused to settle on the farms, preferring to live according to traditional ways and Mormon settlers encroached on the land which was set aside for these Indian farms as it fell into disuse.

Garland Hurt was forced by federal government penury to abandon the Indian farms. The idea of separating the Utes from the Mormons and removing the Utes to some isolated region of the territory remained with Hurt and other federal territorial officials. The search was undertaken to locate such an area in the territory.

In 1861 Brigham Young sent a small expedition to the Uinta Basin to investigate its suitability for settlement.<sup>15</sup> The earlier Bean expedition's report had postponed Mormon entry into the Basin for nine

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<sup>12</sup>Brigham Young continued as Indian Agent until 1854 when he was replaced by Garland Hurt. Conetah, 41.

<sup>13</sup>David Rich Lewis, “Environment, Subsistence, and Dependency: Farming and the Northern Ute Experience, 1850-1940,” In *Major Problems in the History of the West*. 359 - 370.

<sup>14</sup>T.W. Hatch to Commissioner James D. Doty, September 1862. (Washington D.C.: Annual Report of the Commissioner of Indian Affairs, 1862, microfilm copy Harold B. Lee Library (HBL), Brigham Young University), 205.

<sup>15</sup>There are two accepted spellings of the word Uinta. For geologic features such as the Uinta Basin or Uinta Mountains it is spelled without the “h”. For institutions created by man, such as Uintah County or the Uintah

years. Young wanted a second look at that region. Shortly after the expedition's return to Salt Lake City the *Deseret News* printed their report:

The fertile vales, extensive meadows, and wide pasture ranges were not to be found; and the country, according to the statements of those sent thither to select a location for a settlement, is entirely unsuitable for farming purposes, and the amount of land at all suitable for cultivation extremely limited. After becoming thoroughly satisfied that all the sections of country, lying between the Wasatch Mountains and the eastern boundary of the Territory, and south of Green River Country, was one vast 'contiguity of waste,' and measurable valueless excepting for nomadic purposes, hunting grounds for Indians and to hold the world together.(sic)<sup>16</sup>

This discouraging report reversed Young's plans for settling the Uinta Basin and postponed Mormon entry into the region for another several years. For territorial Indian officials, the expedition had located a place considered of little value which was isolated geographically. This rendered it, by government standards, an ideal location for an Indian reservation.

In 1861 President Lincoln issued an executive order establishing the Uintah Indian Reservation.<sup>17</sup> This new Indian reservation included all of the territory within the drainage of the Duchesne River, mistakenly named in Lincoln's Executive Order as the "Uintah"(sic) River. This included all the land on the south side of the Uinta Mountains to the Tavaputs Plateau, from Strawberry to the confluence of the Duchesne and Green rivers. In 1864 the United States Congress voted to approve President Lincoln's action and make the Uinta Basin the permanent homeland for the Uintah Utes.<sup>18</sup> The reservation was created to separate them from the Mormon settlers in accordance with the isolation/separation policy. However, the Utes did not move to the Uinta Basin until 1868 when the first agency was established.<sup>19</sup>

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Ute Reservation the latter spelling is generally accepted. However some authors, unknowingly, may use either spelling. There are places in the following text that the spelling is left in context even though it does not follow the correct form.

<sup>16</sup>The Deseret News, September 25, 1861.

<sup>17</sup>A. Lincoln, Executive Order, October 5, 1861 in "Executive Orders Relating to Indian Reservations, 1855-1912," (Washington D.C. : GPO, 1912), 169. Microfilm copy held HBLL, Brigham Young University, Provo, Utah.

<sup>18</sup>Even though the 1865 Senate failed to ratify the Spanish Fork Treaty they did pass an act to disallow Ute claims to all lands not included in the Uintah Reservation See *U. S. Statutes at Large*, 38 Congress, Session II, Chapter 45, February 23, 1865. This act states: Be it enacted ..., that the President of the United States ... be ... authorized ... to enter into treaties with the various tribes of Indians of Utah Territory, upon such terms as may be deemed just to said Indians and beneficial to the government of the United States: Provided that such treaties shall provide for the absolute surrender to the United States, by said Indians, of their possessory right to all the agricultural and mineral lands in said Territory except ... lands ... set apart for reservations for said Indians....

<sup>19</sup>Conetah, 89 - 90.

This reservation was originally set aside for the Uintah Utes of Utah, which consisted primarily of the Utes who had lived in the Uinta, Utah, Sanpete and Sevier Valleys. In 1879, following the Meeker Massacre, the White River Utes from Colorado were sent to the Uinta Basin to share the Uintah Ute Reservation. In 1880 the Uncompahgre Utes, also from Colorado, were sent to the Uinta Basin, but they were given their own reservation; it was later combined with the Uintah Reservation.<sup>20</sup>

The Indians on the reservations did not know how to support themselves with little game to hunt, and they had to rely upon the United States Government to take care of them. The government did not provide adequate supplies on a regular basis to all the Indian reservations. In addition to negligence the federal government often appointed corrupt Indian agents who took advantage of the supplies that were sent for the Indians.<sup>21</sup>

The mismanagement and corrupt practices of the era affected the Utes. In 1871 Agent J. J. Critchlow complained in his first annual report that his predecessors had not sufficiently provided for the Utes in foodstuffs and clothing.<sup>22</sup> The Utes, along with other Native Americans in the last quarter of the nineteenth-century saw reservation life as a period of readjustment and loss of culture, restriction of travel and personal freedoms, and loss of social and personal esteem. Placed in a situation where the Ute People became dependant on the federal government for most of their needs it is little wonder that the Ute population, like other tribes, declined under reservation life. The government's reservation policy forced Indians onto reservation lands which stripped them of the ability to maintain control of their traditional lands.<sup>23</sup>

The reservation policy more than justified, in terms of real dollar value, the cost of feeding and clothing rather than campaigning against warring nations of Indians. All reservation Indians became "wards of the government." The government treated Indians as children unable to care for themselves; the Utes were no exception to this way of thinking.

The conditions on reservations throughout the West were deplorable. In response social reformers set about to reverse the isolation/ separation policy. They believed that Indians needed to assimilate into the Euro-American culture to survive. The reformers convinced Massachusetts Senator

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<sup>20</sup>Conetah, 77 - 113.

<sup>21</sup>David Rich Lewis, *Neither Wolf Nor Dog*, (Oxford: Oxford University Press, 1994) 15- 16.

<sup>22</sup>Commissioner of Indian Affairs, Annual Report 1871 (Washington D.C. 1872), 547.

<sup>23</sup>John D. Barton, *A History of Duchesne County* (Salt Lake City: Utah State Historical Society, 1998), 61 - 64.

Henry L. Dawes, chairman of the Senate Indian Committee, that distributing land in severalty [property owned by individuals not shared with any other] was a solution to the Indian problem. Dawes pushed the bill through Congress and on February 8, 1887, President Grover Cleveland signed the General Allotment Act, referred to as the Dawes Act, into law.<sup>24</sup> The Dawes Act addressed “the demand of reformers that Indian reservations be allotted in severalty to individual Indians and that tribal relations be broken up.”<sup>25</sup>

The Dawes Act had three main objectives. The government believed that the only way that the Indians could survive was to get them to assimilate into the white culture. Breaking up tribal land holdings and replacing native culture with white culture was the primary goal. In an effort to end tribalism the government divided the reservations up, allotting individual Indians a certain amount of land. Surplus reservation lands were then returned to the general domain, meeting a second goal of putting large parts of the remaining Indian Lands into the hands of homesteaders. During the next three decades thousands of acres of Indian reservation lands were opened to homesteaders resulting land rushes on the former reservations.<sup>26</sup> In addition to the allotment, for the third objective, the government tried to further assimilation by taking Indian children away from their families and putting them into Indian boarding schools. In these boarding schools the Indian children were not allowed to speak their native language or practice their religious ceremonies. Some of the Indian children learned and embraced the white culture, but most resented the whites and returned to their native culture after their schooling was over.<sup>27</sup>

Initially participation in the Dawes Act was voluntary on the part of the individual tribes. But in 1902, in the landmark case of *Hitchcock v. Lone Wolf*, the Supreme Court ruled that an individual Indian or tribe did not have to consent to have their lands allotted.<sup>28</sup> This granted the United States government plenary power over all Indians, which meant that the government could allot and sell excess land without

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<sup>24</sup>General Allotment Act (Dawes Act) February 8, 1887 [U.S. Statutes at Large, 24:388-91.]

<sup>25</sup>Francis Paul Prucha ed, *Documents of United States Indian Policy* (Lincoln: University of Nebraska Press, 1975), 171.

<sup>26</sup>White, 110, 115. Before Congress passed the Dawes Act Indians held over 155,600,000 acres of land on 99 Indian reservations and the Indian territory. Thirteen years later Indian reservation lands had dwindled to less than 79 million acres, a fifty percent reduction of land.

<sup>27</sup>Kim M. Gruenwald, “American Indians and the Public School System: A Case Study of the Northern Utes,” *Utah Historical Quarterly*, 64, (Summer 1996), 251, 252.

<sup>28</sup>Supreme Court of the United States *Lone Wolf v. Hitchcock*. [Senate Report No. 156, 39<sup>th</sup> Cong., 2d sess., serial 1279, pp. 3-10]

the Indians' consent. The court argued that even though the Indians' right of occupancy prevented white trespass, it did not prevent the government from acting unilaterally in the sale of surplus lands. With the *Lone Wolf Decision* the last obstacle in breaking up reservations was now in place. Now the government could force allotment of Indian lands and give 160 acre parcels to individual Indians and then open all the remaining lands to homesteading as had been outlined in the Homestead Act of 1862. Most the Indian tribes still opposed the Dawes Act, but with the *Hitchcock v. Lone Wolf* case they had no choice in the matter. So in 1902 the United States Government passed the General Allotment Act which amended the Dawes Act where the Indians' land was to be allotted regardless of their consent.<sup>29</sup> Indians were each given an allotment and were promised citizenship into the United States of America.<sup>30</sup>

In 1903 the Uintah/Whiterocks Reservation under went allotment. In March of that year James McLaughlin, a United States Indian Inspector, was sent to the Uinta Basin to inform the Indians that their land was to be allotted and that if they would sign an Allotment Agreement than they could choose the piece of land they wanted. Of the 127 Ute men in attendance at the first meeting all refused to sign.<sup>31</sup> The Utes believed this was similar to a treaty, and if they did not sign then the government could not allot their land. However, since the *Lone Wolf Decision* the government did not give them any other option. After six councils, McLaughlin finally convinced some of the Utes that the U.S. government would allot the reservation without their consent, and that if they wanted to choose their allotment of land they must sign the Allotment Agreement. Most of the Ute men still refused to sign. Of the 280 Ute males in attendance, only 82 signed the Allotment Agreement.<sup>32</sup>

The move to allot the reservation lands upset the Utes so deeply that 300 left the Uintah Reservation in protest. Under the leadership of Red Cap, from the Whiteriver Band, they fled cross-country to the Sioux Reservation hoping their long-time friends would help them. However, upon arrival in South Dakota, the Sioux were in no position of offer aid. They too were destitute. After two years the Utes returned to Utah in defeat.<sup>33</sup>

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<sup>29</sup>General Allotment Act (Dawes Act) February 8, 1887 [U.S. Statutes at Large, 24:388-91.]

<sup>30</sup>Northern Utes Respond to the Break-up of Their Reservation, 1903 Uintah Reservation Allotment council Proceedings,1903. National Archives, Record Group 75, Bureau of Indian Affairs, Uintah Reservation, Special Case 147. In *Major Problems in the History of the West*. 342-345.

<sup>31</sup>*Northern Utes Respond to the Break-up of Their Reservation*, 348.

<sup>32</sup>*Northern Utes Respond to the Break-up of Their Reservation*, 348.

<sup>33</sup>Floyd A. O'Neil, "An Anguished Odyssey: The Flight of the Utes 1906-1908," *Utah Historical Quarterly* (Fall 1966), 36:4, 315-327.

After allotment, the U.S. Congress opened the Ute Reservation lands to homesteading under the provisions of the 1862 Homestead Act. Starting in August 1905 thousands of would-be settlers flooded the roads into the Uinta Basin. Within a few short years several new towns sprung up including Myton, Roosevelt, and Duchesne; and some 3,800 homesteaders were making their homes on the former reservation lands. By 1913 Duchesne County was formed. The creation of these towns and counties partially set the stage for conflict over jurisdiction decades later.<sup>34</sup>

By the 1930s government officials realized that the Dawes Act was not working any better than the separation policy had. The Indians were still dwindling on the reservations under the Dawes Act and they resented governmental control of their lives. As individual land owners, the Utes were expected to live and raise crops on their allotment of land. This put them miles away from their relatives and friends. They frequently left their farms for extended visits and the farms declined in their absence.<sup>35</sup> In short, the objective of forcing the Utes to receive land in severalty and absorb them into the mainstream American society failed. The Native Americans were thwarted, for the most part, from becoming successful, independent farmers living without government assistance due to their lack of understanding of agriculture, poor land allotments, insufficient water delivery systems, and their cultural aversion to farming.<sup>36</sup>

To deal with the problems of forced assimilation, the New Deal Democrats passed the Wheeler-Howard Act in 1934 (often called the Indian Reorganization Act).<sup>37</sup> This new bill provided for a reversal of governmental policy from forced assimilation to isolation once again. Now tribes could reorganize themselves into tribal governments and write constitutions.<sup>38</sup> The Ute Tribe choose to reorganize themselves and was officially formed in 1937. They wrote a constitution and elected a business

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<sup>34</sup>Barton, 116.

<sup>35</sup>David Rich Lewis, *Neither Wolf Nor Dog*. 62-66. ■

<sup>36</sup>The reasons for the Utes, like the majority of tribes in the West that also failed under the Dawes Act, are complex and need a complete study. It is not the purpose of this study to detail those problems. For additional reading see Conetah, 115 - 137.

<sup>37</sup>The Howard Wheeler Act (Indian Reorganization Act) June 18, 1934 (U.S. Statutes at Large), 48:984-88.

<sup>38</sup>Wheeler-Howard Act (Indian Reorganization Act) June 18, 1934. The government set up other facilities to assimilate the Indians, however, their believed that the best way was to teach the children because they were less set in their ways. The Dawes Act was a failure. It has a lasting impact upon the Ute tribe that has continued to cause problem for over a century. The juridical land issues over lost land today has directly stemmed from the General Allotment, and the selling of the excess land without Ute consent.

committee to run the affairs of the tribe.<sup>39</sup> The business committee functions, in many ways, similar to the Indian Councils of past generations.<sup>40</sup>

Membership eligibility for the Northern Ute Tribe consisted of being born in the tribe and residing on the reservation. By October of 1937, it was determined that one must be 1/8 Indian to qualify for membership. On May 27, 1953, Resolution Number 600 was passed by the tribe that stipulated that enrollees must be one-half Indian to be a member of the Ute Tribe.<sup>41</sup>

Years after the reorganization of the Northern Ute Tribe a problem arose that has been a source of continuous tension between the Utes and their neighbors. The problem was how to deal with the jurisdiction concerning the land that allotment had confiscated. For seventy-six years, between 1905 and 1981, the question did not surface in a significant case. However, in 1981, the Ute Tribe sued Duchesne County, Duchesne City, and Roosevelt City for jurisdiction of their lands.<sup>42</sup> The Utes argued that although Congress had in fact opened the lands to homesteading in 1905, Congress never intended that the tribe should lose jurisdiction of those lands. The Ute Tribe argued that it should have legal jurisdiction over all of the lands that were established as their reservation in 1861. With that jurisdiction the Ute Tribe maintained that they should retain taxation rights, and privilege status as a nation within a nation. The tribe argued that even with the loss of lands due to homesteading, it should still be the governing body of all lands that were once theirs with full precedence over any other governing body including city, county, and state powers. With this interpretation the tribe wanted governing rights to all the land that had been theirs, including private lands, state lands, and all federal lands.<sup>43</sup>

Many Utes felt that the land had unjustly been taken from them and that they did not deserve, nor did congress intend, for them to loss jurisdiction as well. The reservation of the Utes, however, had already been allotted and the remaining land was opened for homesteading. The decision to open and allot the reservation may or may not have been right or fair at the time, however, this is the cardinal issue. The main point of the jurisdiction question was centered in what Congress really intended when it forced

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<sup>39</sup>Conetah, 136 - 139.

<sup>40</sup>Conteah, 136 - 139.

<sup>41</sup>The Roosevelt Standard, April 8, 1954.

<sup>42</sup>Jurisdiction was argued in courts for the next decade yet it was never fully defined. Radical speculation rumored that Ute jurisdiction rights meant total law enforcement and possible property taxation of non-Utes. Even though the Ute tribe did gain jurisdiction rights for nine years they never tested the limits of that authority.

<sup>43</sup>Barton, 367-368, 376-382.

the Utes into compliance with the Dawes Act and then returned the surplus lands to the public domain. For seventy-six years, between 1905 and 1981, the question did not surface in a significant case.<sup>44</sup>

When the Ute Tribe challenged the federal, state and local governments right of jurisdiction on what had been reservation land previous to the Dawes Act the case was first argued in the 10<sup>th</sup> District Court before Judge Bruce Jenkins. He ruled that the Uncompahgre Reservation was terminated with allotment but that the Uintah Reservation was not terminated and therefore the tribe did have jurisdictional rights. Duchesne County and the cities of Roosevelt, Duchesne, and Ballard were the losers in Jenkins' ruling. Jenkins' ruling gave jurisdiction of all former reservation lands to the Ute tribe. With some reluctance the State of Utah appealed to the Federal Appellate Court. After reviewing the case the Appellate Court, which consisted of a three judge panel, ruled in a two to one decision that with the exception of trust lands, the reservation was terminated and the lands were returned to public domain and therefore governed by the laws of the national government and the State of Utah.<sup>45</sup>

With the Appellate Court ruling most parties thought the matter closed. Then in 1983, the United States Supreme Court ruled on a similar case in *Solom v. Bartlett*.<sup>46</sup> This opened the door for the Ute Tribe to ask for another hearing based on the *Solom v. Bartlett* decision that said other factors can be considered in tribal land cases. The court was now to consider if the land that was put back into public domain was automatically remove it from the reservation. Due to the *Solom Decision* the court also needed to weigh if the Indians were paid for their land, if they had agreed to lose of their lands at the time of allotment, and if they had not, what rights they now have concerning that land. In other words, the court now needed to decide what Congress really intended when they terminated the reservation.

The Ute Tribe requested another appeal; this time from the entire Judicial Panel of the 10 Circuit Court of Appeals, based upon the *Solom v. Bartlett* decision. The 10th Circuit Court ruled that public domain was insufficient reason to disestablish the reservation. This meant that all the land that the Ute Tribe had once owned they still had jurisdiction over -- until the next court decision. The State of Utah asked for an appeal and was denied. They then asked the U.S. Supreme Court for a writ of *certiorari*,

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<sup>44</sup>The only exception was the *Clifford Washington v. Duchesne County* Case. In 1965 George Stewart, a Roosevelt attorney, argued that the court proceedings were occurring on a reservation and the court system, being a regular court not the tribal court, did not have jurisdiction over his client. The case was dismissed without any ruling on the argument. This is the first recorded case where jurisdiction was argued as an issue of right for a court to try a Ute.

<sup>45</sup>*Ute Indian Tribe v. Utah*, 521 F.Supp. 1072 (10<sup>th</sup> Cir. 1981).

<sup>46</sup>*Solom v. Bartlett*, 465 U.S. 463 (1984); *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584 (1977).

which is a petition for the Supreme Court to make a ruling where lower courts have contradicted one another. That too was denied.

The next several months were tense for both the Indian and non-Indian communities on the land in question. The tribe had won a major legal victory but knew that they still had to live with the non-Indian population in the area. Anything rash or hasty could trigger more bad feelings and negative reactions. As is often the case with major court cases a pair of non-related incidents occurred that eventually landed the whole affair in the U.S. Supreme Court.

In 1983, Clinton Perank, a part-blood Ute was arrested in Myton for breaking into the American Legion building. Perank, whose mother was non-Indian and father Ute, was not a member of the Ute Tribe at the time of his arrest. He pled guilty in the Circuit Court and placed on probation. In 1986, he was again arrested, this time for violation of probation. Between his two arrests he had become a member of the Ute Tribe. In his hearing Perank's attorney argued that the circuit court decision that had first found him guilty of breaking into the American Legion building was wrong due to the fact that did not have the right to try him because he was not tried in Indian Court. Therefore, Perank's attorney argued, the circuit court had no jurisdiction over him based upon the 1983 10th Circuit Court of Appeals Jurisdiction ruling. The 10th Circuit Court's decided that Perank was in violation of his parole and that the original ruling was correct because his enrollment status was in question at the time of the original ruling, and Myton was not on the reservation. Myton was outside of reservation land, but previous to the allotment and opening of the land in 1905 it had been within the boundaries of the Ute Reservation. So it was part of the land which the Ute Tribe was contesting for jurisdiction. Perank was sent to the state prison for parole violation. Perank appealed in October 1988, and the Utah State Supreme Court upheld this decision.<sup>47</sup>

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<sup>47</sup>State v. Perank, 858 P.2d 927 (Utah 1992).

About this time, 1988, the second key case came up. Robert Hagen, a member of the Little Shell Band of Chippewa, was caught in a drug bust and arrested on possession of marijuana with the intent to distribute. Hagen argued that the sheriff's department of Duchesne County did not have the right to arrest him because he was an Indian on reservation lands, and therefore they had no jurisdiction over him. Hagen was turned over to a U.S. Attorney and was arraigned in a Bureau of Indian Affairs court. Judge George Tabone ruled that Duchesne County had no jurisdiction over Hagen because he was a member of a recognized Indian tribe and on reservation lands at the time of his arrest. However, Duchesne County processed the charges against Hagen and a trial was held. Hagen pled guilty to one count of possession of marijuana. In the sentencing he still claimed that Duchesne County did not have jurisdiction over him.<sup>48</sup>

Hagen appealed and the Utah Court of Appeals reversed the decision, making Duchesne County prove that Hagen was not an Indian. The State of Utah appealed the case for Duchesne County to the Utah Supreme Court. The Utah Supreme Court agreed to hear the case which focused on two important factors: was Hagen an Indian, and a clear determination had to be made regarding the meaning of tribal lands. With all the questions of the *Hagen Case*, Perank's attorneys appealed his case on the jurisdiction questions once again.<sup>49</sup>

On the same day that the Perank Case was decided, the Utah Supreme Court ruled that the reservation had been diminished and therefore Hagen's status as a Native American was immaterial. This resulted in the 10<sup>th</sup> District Circuit Court and the Utah Supreme Court having made contradictory rulings. With this contradiction the Supreme Court of the United States agreed to hear the *Hagen Case* and rule on the issue of jurisdiction. The U.S. Supreme Court agreed to use the records of the *Perank Case* in deciding the *Hagen Case*. The decision of the Supreme Court for Hagen would also determine the jurisdictional arguments in the *Perank Case*.<sup>50</sup>

On November 2, 1993, Jan Graham, Attorney General for the State of Utah, and Martin Seneca and Daniel Israel, representing Hagen and the Ute Tribe, presented their case to the U.S. Supreme Court. The issue before the court was what was Congress' intent when it returned the non-allotted reservation lands to public domain in 1905. Did Congress intend the land to be returned to public domain and leave jurisdiction to the tribe, or had jurisdiction over the land also diminished? To determine this, after the

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<sup>48</sup>Herb Gillespie, interview by John D. Barton, March 12, 1992, Roosevelt Ut., with follow up interviews in 1994, 1998. Gillespie has served as Duchesne County Attorney throughout the entire Jurisdictional dispute.

<sup>49</sup>Gillespie.

<sup>50</sup>Gillespie

court heard the arguments from both sides, they needed to determine if the reservation was diminished by Congress in 1905 based upon three things: first, the statutory language used to open the Indian lands to homesteading, second, the contemporaneous understanding of the action, and third, the identity of the persons who moved onto the reservation lands once they were returned to the public domain.<sup>51</sup>

The Supreme Court on February 23, 1994, handed down its decision that the reservation was in fact diminished and that this was the intent of Congress in 1905. In the decision the court quoted the Act of May 27, 1902, which provided for allotments of some Uintah Reservation land to Indians, and that "all [of] the unallotted lands within said reservation shall be restored to the public domain." This decision was based upon three specific arguments that bore consideration. The first was Congress' intent to eliminate the Ute Reservation through allotment of tribal lands. Second, since the homesteaders who moved onto the former reservation lands in 1905 were non-Indian, and the population that presently (1994) occupies lands from the terminated reservation are "approximately 85 percent non-Indian and 93 percent non-Indian in the area's largest city (Roosevelt); by the fact that the seat of local tribal government is on Indian trust lands, not opened lands." Third, the decision was based on by the State of Utah's assumption of jurisdiction over the opened lands from 1905 until the 10th Circuit decision over the jurisdiction issue.<sup>52</sup>

Throughout the past years of litigation over jurisdiction of the former Ute Reservation has been on the cutting edge of national Indian Policy. Tribes and politicians throughout the nation have watched the roller-coaster ride of jurisdiction being granted by one court and taken away or amended by the next. Residents of Duchesne and western Uintah County, from both the Ute and White communities, along with law enforcement agencies, and local and state governments, have all felt a vested interest in the eventual outcome since the first ruling in 1983. At times emotions ran high on the several sides, yet all acted with moderation and good judgement. When the Supreme Court finally handed down the decision that the reservation had been terminated and therefore the Utes did not have jurisdictional rights over non-Indians, the non-Ute community breathed a collective sigh of relief. The jurisdiction issue, complete with its several legal cases makes for an interesting study on how modern policies are formed. The most significant impact is that with the 1994 Supreme Court ruling of *Hagen v. Utah* national Indian/Reservation policy has been set – until the next law case arises. This case study clearly

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<sup>51</sup>*Hagen v. Utah*, 510 U.S. 399 (1994).

<sup>52</sup>Supreme Court of the United States, Syllabus, *Hagen v. Utah*, Certiorari to the Supreme Court of Utah, No. 92-6281. I-iii. Justice O'Connor delivered the opinion of the Court, in which Justices Rehnquist, Stevens, Scalia, Kennedy, Thomas, and Ginsburg, agreed; Blackmun and Souter were dissenting.

demonstrates that governmental policies have direct impact decades after they are adopted. The isolation/separation policy and the conflicting General Allotment Policy, now generations since repealed, set into motion events that have taken many cases and years of litigation to settle.<sup>53</sup>

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<sup>53</sup>*Ute Indian Tribe of the Uintah and Ouray Reservation v. State of Utah: Duchesne County, Roosevelt City, Uintah County*, Appeal from the United States District Court for the District of Utah, United States Court of Appeals Tenth Circuit, May 8, 1997, ruling clarifies and adds exemption to the 1994 *Hagen v. Utah* ruling stating: We therefore conclude that *Hagen* did not erase the boundaries of the Uintah Valley Reservation and that the current “limits of the reservation” thus embrace the ... categories of non-trust lands at issue. Those lands are specifically: lands that passed from trust to fee status pursuant to non-Indian settlement under the 1902-1905 allotment legislation, lands apportioned to the Mixed Blood Utes under the Ute Partition Act of 1954, lands allotted to individual Indians that have passed into fee status after 1905, and lands that were held in trust after the Reservation was opened in 1905 but that since have been exchanged into fee status by the Tribe for now trust lands in an effort to consolidate its land holdings pursuant to the Indian Reorganization Act of 1934.

On a more positive note, as a result of the jurisdictional issues, tribal leaders and elected officials from Duchesne and Uintah Counties have much better dialogue and a mutual desire to arbitrate issues and concerns before they get to the courtroom than they have in the past. For the first time ever the Ute Tribal Business Council invited anyone interested to attend and give input in one of their meetings on March 22, 1994. The leaders of both communities hope that a new era of mutual trust and understanding will evolve. Dialogue has led to the passage of legislation by the Utah State Legislature. Senate Bills SB0062, 0181, 0213 from the 2000 legislative session, all authored by State Senator Beverly Ann Evans, address some of the tribal concerns. Included is a provision to return the state's severance tax to the county where it is taken. The net gain for the tribe would be about \$2 million and nearly half million for Duchesne County. The partnership between the State of Utah, Duchesne County, Uintah County, and the Ute Tribe; in this manner would be a first since the jurisdiction issue came up in 1981. SB 0213 is a Motor and Fuel Tax Exemption on the Uintah and Ouray Reservation, and SB0062 is an agreement between the Ute Tribe and the State of Utah providing authorization between the tribe and state in enter agreements over hunting and trapping on Indian lands. And Utah State Senate Bill 0181 is an agreement finalized between the State of Utah, Uintah and Duchesne Counties, and the Ute Tribe. Key points of agreement include: Unrolled tribal members living within the original or extended boundaries of the Uintah and Ouray Reservation and who earn a living from work on the reservation do not have to pay state income taxes. The tribe-operated gasoline station and tribal members who purchase fuel within the boundaries of the present reservation are exempt from the state of Utah's fuel tax. There will be no sales tax charged for goods and service received within the current reservation boundaries for Tribal members. These bills bring to finality the twenty-five year lawsuit that has resulted in millions of dollars of litigation and a new working relationships between the various communities.

