

# The Red Pipestone Quarry: The Yanktons Defend a Sacred Tradition, 1858-1929

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Pipestone National Monument, which contains substantial deposits of a soft, red-colored stone, is situated in southwestern Minnesota. A nineteenth-century observer reported that either the watercourse of Pipestone Creek eroded the soil and exposed an outcropping of the red stone, or migrating buffalo wore away the surface covering. Whatever the cause of discovery, members of various tribes gathered there to obtain pipestone without fear of attack by neighboring, hostile tribesmen. Unrestricted access to the quarry resulted in the distribution of red pipestone artifacts throughout North America. Native American people used the pipes to perform religious ceremonies, and early European explorers found them to be an essential element in conducting diplomatic negotiations.<sup>1</sup>

Several Plains Indian legends have survived to explain the origin and significance of the stone. One account, which has borne a resemblance to the Great Flood of the Old Testament, suggested that a "great freshet" began to cover the earth and destroy all of the nations. In order to escape the ravages of the flood, members of every tribe gathered in an upland region of

1. U.S., Congress, House, *A Map of the Hydrographic Basin of the Upper Mississippi River*, H. Exec. Doc. 52, 28th Cong., 2d sess., 11 Jan. 1845, p. 11; Edward D. Neill, *The History of Minnesota from the Earliest French Exploration to the Present* (Philadelphia: J. B. Lippincott and Co., 1858), p. 514; Henry R. Schoolcraft, *Information Respecting the History, Condition, and Prospects of the Indian Tribes of the United States*, 6 vols. (Philadelphia: Lippincott, Grambo, and Co., 1851), 1:67.

western Minnesota known as the *Coteau des Prairies*. The *Coteau* failed to provide a refuge, however, as the waters engulfed the assembled masses, and their bodies turned to stone. Miraculously, one young maiden escaped and later gave birth to twins, who began to repopulate the earth.<sup>2</sup> Another legend revealed that the Great Spirit summoned all of the tribes to the quarry. As he stood on the cliff overlooking Pipestone Valley, he took a piece of red stone and formed it into a large pipe. He then smoked the pipe and exhorted his congregation to value the red stone as their own flesh and to use it to make "pipes of peace."<sup>3</sup> Both of these accounts, and many others, accorded the pipestone sacred qualities, revered the quarry as a holy place, and required that the immediate area be regarded as neutral territory.

The United States acquired the region containing the red pipestone quarry on 30 April 1803, as part of the Louisiana Purchase. By then, eastern Sioux tribes were firmly established in the area. They exercised strict control over access to the quarry and remained little bothered by non-Indians. Following the War of 1812, however, a succession of treaties affected the relative independence of the tribes of western Minnesota, for they agreed to peace and friendship *and* to the supremacy of the United States government. As the northern plains frontier moved westward, land became a major issue and the Santees were forced to relinquish most of the land to which they held aboriginal claim. By terms of the treaties of Mendota and Traverse des Sioux, negotiated in the summer of 1851, chiefs representing the Mdewakantons, Wahpekutes, Sissetons, and



*Nicollet Rock and  
commemorative plaque placed by  
the Pipestone Chapter of  
the Daughters  
of the American Revolution  
in 1925.*

Wahpetons surrendered claim to all lands except a twenty-mile-wide reserve along the Upper Minnesota River. In return, they received about three million dollars in cash stipends and other benefits, but significantly, they failed to retain rights to the pipestone quarry.<sup>4</sup>

The Yanktons, however, remembered to reserve these rights. Like the Santees, they surrendered several million acres of aboriginal land due to the onrush of Anglo-American settlers. Then, when Yankton leaders negotiated their last treaty at the national capitol in 1858, they relinquished the remainder of their holdings in return for a 400,000-acre reservation in south-central South Dakota. Fortunately, Head Chief Struck-by-the-Ree refused to approve the Treaty of Washington until federal officials acknowledged the rights of the tribe to the pipestone quarry site.<sup>5</sup> Accordingly, article eight of the treaty specified that "the said Yankton Indians shall be secure in the free and unrestricted use of the red pipe-stone quarry . . . and the United States . . . [shall] retain the same and keep it open and free to the Indians to visit . . . as long as they shall desire."<sup>6</sup> Thus, the Yanktons obtained exclusive right to the quarry and withdrew to their reservation near Fort Randall, Dakota Territory, situated about one hundred fifty miles southwest of the sacred red stone deposits.

Article eight also stipulated that the government would fund the survey of the pipestone reserve; and, after Congress ratified the treaty in 1859, the commissioner of Indian Affairs contacted the General Land Office about the survey. The Land Office commissioner passed instructions on to the surveyor general of Minnesota. He, in turn, directed a survey party to use the quartzite rock, inscribed with the explorer Joseph N. Nicollet's name, as the center point from which to create the

2. George Catlin, *Illustrations of the Manners, Customs, and Conditions of the North American Indians*, 9th ed., 2 vols. (London: Henry G. Bohn, 1850), 1:168.

3. *Ibid.*, 2:164.

4. Charles J. Kappler, ed., *Indian Treaties: 1778-1883* (New York: Interland Publishing Inc., 1972), pp. 588-93.

5. *Ibid.*, pp. 115, 227-30, 305-10, 479-81, 496-97, 594-96, 776-77; John W. Cragun, *Petitioner's Proposed Findings of Fact and Brief for Yankton Sioux Tribe v. United States of America* (Washington, D.C.: Wilkinson, Cragun, and Baker, 1968), p. 55.

6. Kappler, *Indian Treaties: 1778-1883*, p. 779.

boundaries of a one-mile-square reserve. While at the quarry, the surveyors took note of the open pit and described it as several hundred yards long and about twelve feet wide. The survey was completed, the reserve was platted, and a description was recorded by July 1860.<sup>7</sup>

The Civil War and the Minnesota Sioux War of 1862 slowed westward movement considerably, and it was not until the 1870s that settlers began to arrive in western Minnesota in significant numbers. The survey of 1870 divided the region into townships and sections, and the survey party included the pipestone reserve in a subdivisinal plot. The following June, Henry T. Davis filed a preemption declaration on lands that belonged to the reserve. It was not until a year later that the surveyor general became aware of the error and ordered a resurvey. Davis's claim was later canceled, but not before another claim was filed by August Clausen. In May 1874 Clausen received a patent for land within the pipestone reservation.<sup>8</sup>

With the arrival of large numbers of immigrants and the subsequent patent granted to Clausen, the Yanktons began to protest these infringements by settlers on the sacred grounds. The Indians complained to their agent, who, in turn, informed the commissioner of Indian Affairs, but apparently no action was taken. By mid-1876 friction developed between the Sioux and neighboring white settlers, and workmen aggravated the situation when they began to quarry building stone on the grounds. South of the reserve, the recently founded village of Pipestone City served as a ready market for quartzite, which sandwiched the vein of pipestone, as a building material. Indians who returned to the reservation from the quarry protested the erection of buildings on the reserve. In August 1878 Yankton

7. Commissioner of Indian Affairs *ad interim* to Commissioner, General Land Office, 15 Apr. 1859, Letters Received by Office of Indian Affairs, Record Group 75, National Archives, Washington, D.C.; Robert A. Murray, "Administrative History of Pipestone National Monument" (Washington, D.C.: National Park Service, 1961), p. 21.

8. Acting General Land Office Commissioner J. M. Armstrong to Commissioner of Indian Affairs E. A. Hoyt, 17 Mar. 1879, Letters Received, R.G. 75, N.A.; U.S., Congress, House, *Cession of Pipestone Reservation Minnesota*, H. Misc. Doc. 535, 56th Cong., 1st sess., 26 Mar. 1900, p. 31 (hereafter cited as H. Misc. Doc. 535).

leaders met in council and made a formal complaint of the encroachments to their agent, John W. Douglas, who passed the grievances on to the Office of Indian Affairs.<sup>9</sup> The following February, Douglas received authorization from the commissioner of Indian Affairs to "investigate the matter, and remove from said reservation any and all persons found upon the same contrary to law."<sup>10</sup> The agent, however, failed to follow through with his instructions and the Yanktons' grievances remained unattended.<sup>11</sup>

Meanwhile, the commissioner of Indian Affairs apprised Secretary of the Interior Carl Schurz of the situation. Schurz instructed the General Land Office to revoke the Clausen patent, and a subsequent investigation traced the ownership of the patent to Herbert M. Carpenter of Pipestone who refused to voluntarily surrender the title. As a result, the attorney general's office commenced legal action. The United States Circuit Court for Minnesota heard the suit during its June 1880 session. Defendant Carpenter entered a demurrer and claimed that the Yanktons' right to quarry pipestone remained unrestricted. The court upheld Carpenter's plea, but government attorneys appealed the decision to the Supreme Court.<sup>12</sup>

The appeal process took four years, during which time non-Indian violations at the reserve continued. Chief Feather-in-Ear and several others visited the red stone pits in late 1880 and reported that the stone boundary markers had been moved to reduce the size of the reserve.<sup>13</sup> Yankton Agent Major D. E. Andrews traveled to Pipestone several months later and found a number of men, employed by Herbert Carpenter, quarrying building stone within the southern limits of the reservation. Major Andrews speculated that Carpenter had obtained "Clausen's title with full knowledge of the status of the lands and the

9. Murray, "Administrative History of Pipestone," p. 22; Yankton Agent John W. Douglas to Commissioner of Indian Affairs, 21 Jan. 1878, Letters Received, R.G. 75, N.A.

10. Murray, "Administrative History of Pipestone," p. 24.

11. *Ibid.*

12. *Ibid.*, p. 25.

13. Yankton Agent W. S. Andrus to Commissioner of Indian Affairs, 24 Nov. 1880, Letters Received, R.G. 75, N.A.

transfer . . . [was] made for speculative purposes."<sup>14</sup> Although his suspicions could not be confirmed, Andrews felt that there had been collusion among Clausen, Carpenter, and agents at the local land office. Later, a Yankton agent sent letters to Carpenter and other Pipestone residents ordering them to cease their operations and leave the quarry.<sup>15</sup> These efforts, too, proved ineffective.

Due to the absence of a firm government policy and Carpenter's successful circuit court suit, several settlers confidently moved onto the quarry lands. In early 1882 a former employee of the New Ulm, Minnesota, land office, C. C. Goodnow, arrived at the pipestone reserve and proceeded to construct a large house and several outbuildings. Others followed Goodnow, and within a short time, they built more buildings and fences, which enclosed portions of the grasslands that surrounded the red stone pits. In October 1883 Yankton Agent William Ridpath received instructions to remove all the non-Indians who were living at the pipestone reserve and could not show title to their land. Ridpath went to Pipestone in November and approached the interlopers, but he met with little success. Goodnow declined to discuss the matter, and another squatter, Hiram George, admitted that he possessed no title, but refused to leave. In his report to the Office of Indian Affairs, Ridpath requested permission to use soldiers to evict the intruders. The commissioner of Indian Affairs concurred, but the secretary of the Interior refused to support the commissioner.<sup>16</sup> Secretary Henry Teller stated, "The Red Pipe-stone reservation . . . is not an Indian reservation. It is a United States reservation upon which certain privileges are granted to the Yankton Indians by treaty."<sup>17</sup> Teller concluded that no infringement on the Yanktons' right to quarry

14. Murray, "Administrative History of Pipestone," p. 26.

15. Yankton Agent D. E. Andrews to Riley French, Pipestone County Bank, 17 June 1881, Letters Received, R.G. 75, N.A.

16. Murray, "Administrative History of Pipestone," pp. 26, 27; Commissioner of Indian Affairs H. Pryce to Secretary of the Interior, 22 Nov. 1883, Letters Received, R.G. 75, N.A.; Commissioner of Indian Affairs H. Pryce to Secretary of the Interior, 22 Nov. 1883, Letters Received, R.G. 75, N.A.

17. Commissioner of Indian Affairs H. Pryce to Secretary of the Interior, 22 Nov. 1883, Letters Received, R.G. 75, N.A.



White men quarrying pipestone in May 1889.

pipestone had occurred. Therefore, he rejected the proposal for forcible eviction of the trespassers.

Within a few months of Teller's decision, however, the Supreme Court made possible the removal of the squatters. The Court reviewed the case of the Clausen patent and reversed the circuit court's decision. In a ruling handed down in *U.S. v. Carpenter*, the Supreme Court found that "the whole of said land was by treaty withdrawn from private entry or appropriation."<sup>18</sup> Still the squatters stayed on, and more settlers moved onto the pipestone reserve.<sup>19</sup> The Yanktons complained vigorously. Chief Struck-by-the-Ree wrote to the commissioner of Indian Affairs and asked if "our Great President has broken his treaty with me, and sold the land which he bound himself to let me keep."<sup>20</sup> Finally in October 1887, Agent J. F. Kinney, accompanied by Captain J. W. Bean and ten troopers from Fort Randall, arrived at the quarry. They ordered the interlopers to remove their buildings, to vacate the grounds, and to sign

18. 111 U.S. 347, 4 S. Ct. 435, 28 L. Ed. 451, 452 (1884).

19. Murray, "Administrative History of Pipestone," p. 31.

20. Yankton Chief Struck-by-the-Ree to Commissioner of Indian Affairs, n.d., Letters Received, R.G. 75, N.A.



*Winnewissa Falls on the reserve east of the quarry, about 1885.*

affidavits whereby they agreed not to return. A young lieutenant who accompanied the eviction party resurveyed and verified the boundaries of the section-sized plot.<sup>21</sup>

Not all residents of the Pipestone area were indifferent to the encroachments and the depredations that occurred on the Indian reserve. Daniel E. Sweet, a founder of Pipestone City, wrote several letters to Struck-by-the-Ree and the Yankton agents. He kept them informed of the squatters' activities, and on at least one occasion attempted to stop non-Indians from digging pipestone. Sweet also wrote his congressman and suggested that someone be appointed to protect the area. The county sheriff was also sympathetic to the Indians' plight. Upon the request of Agent Kinney, the local law officer served preliminary eviction orders to the squatters and informed the agent of their reactions. Sweet, however, continued to show an interest in the quarry. In October 1884, he prefaced the next

21. Captain J. W. Bean to Major-General Alfred H. Terry, 1 Nov. 1887, Letters Received, R.G. 75, N.A.; Murray, "Administrative History of Pipestone," pp. 32-33.



problem that arose at the Yanktons' sacred lands when he informed their agent that a railroad had been constructed across the northern portion of the reserve.<sup>22</sup>

The presence of the railroad on the quarry lands provoked another round of protests and demands by the Yanktons for corrective action. Sweet's warning had apparently received no attention because when Agent Kinney arrived at Pipestone in the fall of 1887 with the eviction party, he discovered the railroad tracks. The Cedar Rapids, Iowa Falls, and Northwestern Railroad had taken a right-of-way one hundred feet wide and almost a mile long. Also, the rail company's claim to the right-of-way had been filed under laws that did not apply to the pipestone reserve. The Supreme Court had ruled, in *U.S. v. Carpenter*, that the quarry lands had been removed from private entry or appropriation. The Yanktons demanded compensation, and the commissioner of Indian Affairs notified railway company officials that they had to seek special legislation to retain their right-of-way. A bill, passed on 2 March 1889, provided a threefold plan for settlement: a three-member commission was appointed to appraise the value of the land taken by the Cedar Rapids, Iowa Falls, and Northwestern; persons who formerly occupied the reserve lands, but were "compelled by U.S. military authorities to abandon the same," were entitled to reassert their claims; and the act was to become effective upon approval by a majority of adult Yankton men.<sup>23</sup>

A commission subsequently valued the right-of-way at \$1,740, and negotiations opened with the Yanktons to obtain their consent to sell. In August 1889 the bargaining parties came to terms. Apparently, tribal leaders realized that it was impossible to have the railroad removed; however, they agreed only to the sale of the right-of-way. Thus, the Yanktons retained the sacred quarry, and the second section of the settlement plan never became effective. In December 1890 the

22. D. E. Sweet to Congressman M. H. Donnell, 22 Nov. 1877, Letters Received, R.G. 75, N.A.; Murray, "Administrative History of Pipestone," pp. 22-23, 33, 37.

23. Murray, "Administrative History of Pipestone," p. 37; U.S., Congress, House, *Cedar Rapids, Iowa Falls, and Northwestern Railway Company*, H. Rept. 2862, 50th Cong., 1st sess., 12 July 1888, p. 1; An act for the disposition of the agricultural lands. . . , 25 Stat. 1012 (1889).

Yanktons submitted a petition to the commissioner of Indian Affairs, which requested per capita allotment of the sum paid by the railway. Approximately one year later, a Yankton agent distributed a cash payment of ninety-nine cents to each member of the tribe.<sup>24</sup>

Soon after the Yanktons received payment for the land taken by the railroad, they were confronted by another threat to their claim to the sacred quarry. In February 1891 a bill became law that provided for construction of Indian industrial training schools in the states of Michigan, Wisconsin, and Minnesota. This act specified that the Minnesota institution be built "on the Pipestone Reservation." Consequently, Flandreau Indian School Superintendent Daniel Dorchester visited the reserve and recommended a location north of the actual quarry site, near the railroad. Apparently no one consulted the Yanktons; and after their experience with the squatters and the railroad, they were understandably hostile toward further intrusions on their sacred reservation. Yankton leaders gathered in general council; and, in July 1891, Agent E. W. Foster forwarded to the commissioner of Indian Affairs a petition that protested the construction of the school. The Yanktons did not object to the school as such, but regarded it as an attempt by the government to invalidate the tribe's title to the property. Although the entire 648 acres had been appropriated for the school, the right of the Yanktons to quarry pipestone had not been challenged. The attorney general ruled that the title of the land was with the United States; therefore, the government did not have to obtain permission from or pay compensation to the Indians.<sup>25</sup>

24. Special Agent J. E. Hatchell to Commissioner of Indian Affairs, 14 Aug. 1889, Letters Received, R.G. 75, N.A.; George W. Parker, Sam T. Leorey, and Frank W. Rowles to Commissioner of Indian Affairs, 21 Aug. 1889, Letters Received, R.G. 75, N.A.; Yankton Agent J. S. Smith to Commissioner of Indian Affairs, 5 May 1894, Letters Received, R.G. 75, N.A.

25. An act for the construction and completion of suitable school buildings. . . , 26 Stat. 764 (1891); Superintendent Flandreau, South Dakota Indian School to Commissioner of Indian Affairs, 7 Apr. 1891, Letters Received, R.G. 75, N.A.; Murray, "Administrative History of Pipestone," p. 50; U.S., Department of the Interior, Office of Indian Affairs, *Sixtieth Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1891*, 2 vols. (Washington, D.C.: Government Printing Office, 1891), 1:427; H. Misc. Doc. 535, p. 32.



*The Pipestone Indian School about 1900. Left to right:  
main school building and girls' dormitory.*



*The school about 1914. Left to right: girls' dormitory,  
dining hall, and boys' dormitory.*



*Indians at the quarry, 1893.*

Construction of the school began in 1892, but the Yanktons refused to concede defeat and pressed for a settlement of the question of title to the pipestone quarry. In December 1892 Yankton leaders and government agents concluded an agreement that called for the ownership of the quarry to be decided by the Supreme Court. A portion of the accord stated, "If the Secretary of the Interior shall not, within one year after ratification . . . refer the question of ownership . . . [of] Pipestone Reservation to the Supreme Court . . . all rights of ownership shall thereafter be solely the property of the Yankton tribe."<sup>26</sup> Congress ratified the agreement in 1894, but the attorney general advised the Interior Department to seek a legislative solution rather than submit the question of the quarry's title to the Supreme Court. Congressional action, however, was not obtained, and a day after the one-year grace period expired, headmen of the Yankton tribe asked to be officially informed of their undisputed ownership of the pipestone reserve. The Interior Department made no reply to their request and took no immediate alternative action.<sup>27</sup>

26. H. Misc. Doc. 535, p. 31.

27. *Ibid.*, p. 32.

Ignored by Washington officialdom, but not discouraged, the Yanktons continued to push for a settlement. In May 1896 they held a general council at their South Dakota reservation. Tribal leaders once again decided to ask the Department of the Interior to consider their claim to the pipestone quarry. Based on the assumption that the Treaty of 1858 made them legal owners, council members contended that the government had appropriated the Minnesota site illegally. A second council met the following January. The assembled tribesmen reaffirmed their earlier decision and resolved to petition for legal title to the sacred lands as well as for "just compensation" for damages that resulted from unauthorized use of the grounds. Shortly after the Yanktons submitted their petition, Senator Richard Pettigrew of South Dakota wrote to the commissioner of Indian Affairs in support of the Indians' claim and recommended monetary compensation.<sup>28</sup>

Hope for a final settlement appeared in an amendment to the Indian Appropriations Act of 1897. Legislation directed the secretary of the Interior to conduct negotiations, through an Indian inspector, for the purchase of the entire pipestone reserve. James McLaughlin, who had twenty years experience with the Indian Office and an excellent reputation as an agent for the Sioux, was selected to consult with the Yanktons. In March 1899, as he was traveling to the Yankton Reservation, McLaughlin received a letter from D. S. Harris, superintendent of the Pipestone Indian School. Harris suggested that only the immediate school grounds be purchased and that the land adjacent to the reserve be obtained from local residents for \$45 or \$50 per acre. Because McLaughlin had already been instructed as to the purpose of his mission by Washington officials, he disregarded the superintendent's advice. Negotiations began in April but made little headway. The Yanktons first demanded \$3 million (a price suggested by former agent J. F. Kinney) for the sacred quarry lands, but Inspector

28. W. T. Selweyn, Alfred Gosseth, and Pete St. Pierre to Secretary of the Interior, 13 May 1896, Letters Received, R.G. 75, N.A.; F. T. Brunot, W. T. Selweyn to Secretary of the Interior, 2 Jan. 1897, Letters Received, R.G. 75, N.A.; R. G. Pettigrew to Commissioner of Indian Affairs, 15 Jan. 1897, Letters Received, R.G. 75, N.A.

McLaughlin countered with an offer of \$64,840 (\$100 per acre). After many speeches and much deliberation, the Indians reduced their price, but stood firm on an offer of \$100,000 for the entire reservation. McLaughlin again objected to the price as too high and negotiations broke off.<sup>29</sup>

Shortly thereafter, the Yanktons petitioned to reopen the talks and McLaughlin returned to South Dakota. At the first meeting Chief Feather-in-Ear, who represented full-blooded factions that were opposed to the surrender of any land, asked for \$1 million, which convinced the inspector that further negotiations at the council level would be fruitless. McLaughlin, however, proposed that an eight-member committee be selected to deal with the problem of a purchase agreement. This move proved satisfactory as McLaughlin reported that those chosen were of "the more intelligent members of the tribe, all . . . could speak, read, and write the English language."<sup>30</sup> The committee produced a proposal within two days and submitted it to the tribal council for ratification. On 2 October 1899 the Yanktons approved a \$100,000 settlement for the Minnesota quarry lands: one-fourth in cattle, the rest in cash. Also, the Yankton tribe retained sole right to quarry pipestone.<sup>31</sup>

The inspector sent the terms of the agreement to Washington for approval, but two years passed before South Dakota Senator Robert Gamble introduced legislation for ratification. Gamble's bill was referred to committee, and in March 1903, the committee issued its report. A majority of the senators found fault with the basic premise upon which the negotiations had been conducted: the government had dealt with the Yanktons as if they held undisputed title to the quarry. Like Secretary Teller in 1883, the senators declared that the Yanktons had not acquired title to the lands, even as a result of the Agreement of 1892. Furthermore, they decided that the

29. Murray, "Administrative History of Pipestone," pp. 53, 54; Charles E. Hyde, *A Sioux Chronicle* (Norman: University of Oklahoma Press, 1956), pp. 77-78; Frank W. Rowles to Commissioner of Indian Affairs T. J. Morgan, 7 Aug. 1889, Letters Received, R.G. 75, N.A.; H. Misc. Doc. 535, p. 34.

30. H. Misc. Doc. 535, p. 36.

31. *Ibid.*, pp. 36-37.



Indians quarrying pipestone in the early 1900s.

Treaty of 1858 only “created an easement,” which gave the Yanktons the right to use the quarry, but nothing more.<sup>32</sup> As a result, the bill to ratify the Agreement of 1899 died in committee. Senator Gamble continued to submit similar legislation, but none of his efforts were successful.

Remarkably, the Yanktons persisted, and an amendment attached to the 1910 Indian Appropriations Act provided a new avenue of approach. The amendment conferred jurisdiction upon the United States Court of Claims to hear the pipestone case.<sup>33</sup> Court action, however, was delayed. Money for the

32. Murray, “Administrative History of Pipestone,” p. 58; U.S., Congress, Senate, *Agreement with the Yankton Sioux Indians of South Dakota*, S. Rept. 3316, 57th Cong., 2d sess., 3 Mar. 1903, p. 2.

33. An act making appropriations. . . , 36 Stat. 269 (1910). The court of claims was established by Congress in 1854 as an effective means to bring suit against the federal government. Eight years after the court was created, an act was passed that prohibited Indian tribes from suing the government unless Congress approved specific legislation that named specific issues over which the court had jurisdiction (Herbert T. Hoover, “Yankton Sioux Tribal Claims Against the United States, 1917-1975,” *Western Historical Quarterly* 7, no. 2 [Apr. 1976]: 125-26).

Indians' legal fees was not made available until 1911, and an intratribal controversy arose over who should be selected as the tribe's attorney. Finally, L. B. French of Yankton, South Dakota, was contracted as tribal counsel, and a petition was filed in November 1911. The court of claims' decision, delivered six years later, found that the jurisdictional act provided only for the court to "hear and report a finding of fact," and that it had no authority to decide the ownership, title, or right of possession of the pipestone quarry.<sup>34</sup>

Undaunted, Yankton leaders and their attorneys worked for new legislation, and in June 1920, Congress provided the necessary jurisdiction. Yet another delay occurred when the Yanktons, apparently dissatisfied with their legal counsel, retained Munn, Anderson, and Munn of Washington, D.C. They also sent to Washington a five-member liaison committee to work with their new attorneys. A petition was filed before the court of claims in 1924, and while the case was pending, Congress provided more explicit jurisdiction for the court. Approximately one year after proceedings were initiated, the court found that the Yanktons had the right to mine pipestone, but that the provision did not include the "right of occupancy." Therefore, the Yanktons' claim to ownership was, according to the court, "without merit" and the petition was dismissed. Almost immediately tribal attorneys appealed to the Supreme Court, which granted a writ of *certiorari*.<sup>35</sup>

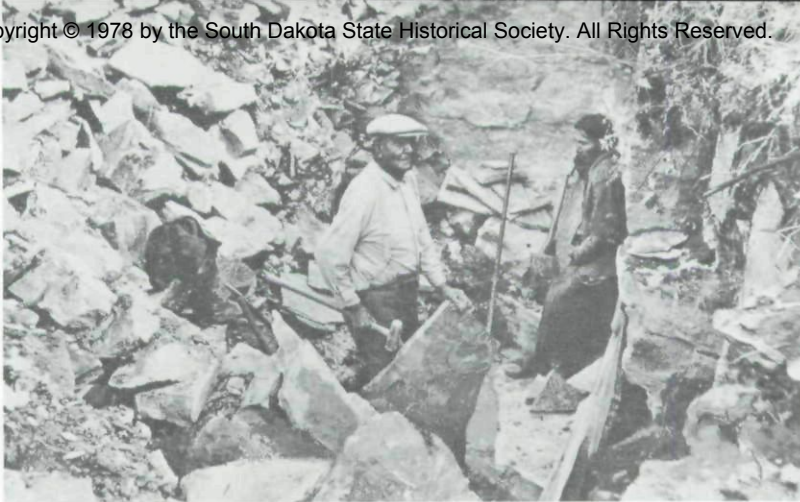
The Supreme Court decision, handed down in November 1926, provided a final answer to the question of ownership. The Court ruled that, in fact, the Yanktons held title to the pipestone reserve as a result of the Agreement of 1892 and "were entitled to just compensation."<sup>36</sup> The case then remanded to the court of claims for a judgment on the value of

34. Murray, "Administrative History of Pipestone," p. 60; *Yankton Sioux v. United States*, 53 Ct. Cl. 67, 78 (1917).

35. An act authorizing the Sioux Tribe of Indians to submit claims to the Court of Claims, 41 Stat. 738 (1920); Murray, "Administrative History of Pipestone," p. 64; *Yankton Sioux Tribe of Indians v. United States*, 61 Ct. Cl. 40 (1925); *Yankton Sioux Tribe of Indians v. United States*, 270 U.S. 637, 46 S. Ct. 204, 70 L. Ed. 773 (1926).

36. *Yankton Sioux Tribe of Indians v. United States*, 272 U.S. 351, 47 S. Ct. 142, 71 L. Ed. 294, 298 (1926).





*Indians quarrying pipestone, about 1920.*

the property. The Yanktons' attorneys moved that the evaluation be conducted by a commissioner, and the court agreed. The commissioner was instructed to determine the value of the land at the time it was appropriated for construction of the Indian school. Approximately a year later, the completed report placed a total value of \$236,125 on the quarry lands. The court, however, took the commissioner's findings under advisement. On 16 April 1928 the court of claims awarded the Yanktons \$100,000, plus interest from 1 March 1891 until paid.<sup>37</sup> In May 1929 Congress appropriated \$328,558.90 to pay the judgment. Deductions of \$27,707.96 for legal fees and \$4,000 for compensation to Yanktons who worked on the claim left a total of \$296,835.94. In order to distribute the money on a per capita basis, officials used the 1920 tribal membership roll to determine recipients. In June 1929 the superintendent of the Yankton Agency distributed checks to the 1,953 persons that qualified: 1,900 payments at \$151.99 each and 53 payments at \$151.98 each. The \$15.00 surplus was placed in the tribal treasury.<sup>38</sup>

The end result of the pipestone quarry case was significant for several reasons. Although no individual Yankton received a financial windfall from the cash settlement, the favorable judgment encouraged the tribe to pursue other claims, and they have met with considerable success before the Indian Claims Commission. A second result can be found in the final opinion of the claims court judges. They recognized the traditional

37. Murray, "Administrative History of Pipestone," p. 66; *Yankton Sioux Tribe of Indians v. United States*, 65 Ct. Cl. 427 (1928).

38. Hoover, "Yankton Sioux Tribal Claims," p. 131.

meaning of the pipestone reserve as the foremost reason for the Yanktons' legal action. Struck-by-the-Ree and his followers had regarded the quarry as a holy place and had experienced little opposition to their argument. As the frontier expanded, the Yanktons' traditional way of life was disrupted and the cultural significance of pipestone became clouded by the intrusion of non-Indians, but the fact that the tribe pressed the claim for so long evidenced a commitment to their native religion. Finally, even though title to the reserve passed to the government in 1929, the claims court reaffirmed the Yanktons' rights—by implication all Indians' rights—to continued use of the pipestone quarry.

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