RECEIVED AT Wyat Building, Cor. 14th and F Sts., Washington, D.C.

BILTON, MONTANA FEBRUARY 3, 1912

SECRETARY INTERIOR DEPARTMENT, WASHINGTON D.C.

HAVE SEIZED TRAPS GUNS HADES BELONGING TO TWO INDIANS TRAPPING IN PARK, HAD THEM ARRESTED FOR KILLING DEER.

HUTCHINGS,

IN CHARGE.

Telegram to Hutchings, Feb. 5, 1912.
TELEGRAM.  App:  Glacier Nat. Park, 1911-12

DEPARTMENT OF THE INTERIOR.

February 6, 1912.

To Hutchings,
In charge, Glacier National Park,
Salton, Montana.

Hold traps, guns, hides belonging Indians found trapping in park pending determination of their prosecution for killing deer. Report outcome of latter.

[Signature]
Assistant Secretary.
DEPARTMENT OF THE INTERIOR
GLACIER NATIONAL PARK
OFFICE OF THE SUPERINTENDENT
BELTON, MONTANA

February 6, 1912.

Major W. R. Logan,
Chicago, Ill.

My dear Major:

Frank got home on the 2d and we are so glad to know that you are feeling better and expect to be out in a short time. Frank looks better than I have seen him for a long time.

About the 26th or 27th of January, two Indians went into the Park trapping. We arrested one on Wednesday and on Thursday (Feb. 1) Haney and Thompson took the Indian out and got the other one. I had them arrested for killing game out of season, as they shot a deer. They also trapped one martín and killed five or six squirrels and a blue-jay. Their trial will come up some time in March. I confiscated four traps, one gun, one ax, and the martín hide and have received orders from the Secretary to hold them pending the disposition of the case by the State.

The Lake has frozen over and if this weather keeps up I think it will not be more than a week or so until it will be thick enough to take the mill over. It is snowing some today and it may spoil the ice as it is only about 2 inches thick, except at the foot of the lake it is a foot thick. I expressed you some trout yesterday. Brewster sent them down from Logging.

Best regards to yourself and family.

Sincerely yours,

[Signature]
DEPARTMENT OF THE INTERIOR
GLACIER NATIONAL PARK
OFFICE OF THE SUPERINTENDENT
BELTON, MONTANA
February 6, 1912.

The Honorable, The Secretary of the Interior, Washington. You (redacted)

Sir:

On February 3d I telegraphed the Office as follows:

"Have Seized traps guns, hides, etc. belonging to two Indians trapping in Park. Had them arrested for killing deer."

These Indians went into the Park about January 26th or 27th. They were tracked by one of the Rangers until he found they had crossed the range east of Lake McDonald and supposed they were in the neighborhood of Harrison Lake or Little St. Marys creek. I notified Ranger, Moody but he was unable to locate them. In the meantime one of the Indians came out to Belton and we kept him at Belton the night of January 31st. I telegraphed for the Game Warden at Kalispell, but as he had just returned from an extended trip he sent his deputy who refused to accompany Ranger Thompson to arrest the other Indian. The Indian we had told that his partner shot the deer. Just at this time, Ranger Vaught came in and I immediately detailed him and Ranger Thompson to arrest the second Indian, using the one we had already arrested as a guide. They succeeded in making the arrest and seized four steel traps, one 22 Winchester Rifle, one camp ax and one Martin hide. They also brought a piece of venison found in their camp and an examination of the deer showed a gun shot wound in the head.

Mr. Thompson and myself took the Indians to Kalispell and they are
now being held for trial which will probably occur some time in March. I have today received Office telegram as follows:

"Hold traps, guns, hides, belonging to Indians found trapping in Park, pending determination prosecution for killing deer reported out of latter."

In addition to the deer and martin, they killed five or six squirrels and one Blue-Jay. I will await further instructions.

Very respectfully,

H.W. Hutchings
Clerk in Charge.

Feb. 12, 1912. Letter to Mr. Hutchings.
DEPARTMENT OF THE INTERIOR
WASHINGTON

February 12, 1914.

Mr. H. W. Hutchings,
Acting Superintendent,
Glacier National Park,
Bolton, Montana.

Sir:

Under date of February 7, 1914, you telegraphed the Department as follows:

Have seized traps, guns, hides, etc., belonging to two Indians trapping in Park. Had them arrested for killing deer.

To which, under date of February 8, 1914, the Department wired you —

 Held traps, guns, hides belonging Indians found trapping in park pending determination of their prosecution for killing deer. Report outcome of latter.

Your letter of February 6, has been received, in which you submit a full report in relation to the apprehension of the Indians and the game killed by them and stating that Ranger Thompson and yourself took them to Kalispell where they are now being held for trial, which will probably occur some time in March.

As soon as the results of this trial are known, report thereof should be submitted to the Department, when you will be further advised in relation to the disposition of the guns, traps, hides, etc., taken from these Indians.

Very respectfully,

[Signature]
Assistant Secretary.
THE HONORABLE,
The Secretary of the Interior,
Washington, D. C.

Sir:

Referring to the case of two Indians who were arrested for trapping in the Park, I have to advise that one of them plead guilty to killing deer out of season and was given a sentence of 60 days.
The case against the other was dismissed. I have in my possession, four traps, one ax and one Martin hide which I will hold subject to your order. I also secured one 22 Winchester rifle, but the same was given to the sheriff with instructions to return it as soon as it has served its purpose.

Very respectfully,

[Signature]

Acting Superintendent

Mr. W. W. Hutchings,
Acting Superintendent,
Glacier National Park,
Belton, Montana.

Sirs:

Under date of February 12, the Department instructed you to hold until further orders the traps, guns, hides, etc., belonging to Indians found trapping in the park. You now report that:

Referring to the case of two Indians who were arrested for trapping in the Park, I have to advise that one of them pleaded guilty to killing dear out of season and was given a sentence of 60 days. The case against the other was dismissed. I have in my possession, four traps, one ax and one Martin hide which I will hold subject to your order.

I also secured one 22 Winchester rifle, but the same was given to the sheriff with instructions to return it as soon as it has served its purpose.

In view of the disposition of the case above mentioned, you will notify the Indians to whom the retained property belongs to come to the Superintendent's office at Belton and take the same away. Upon their appearance you will advise them that they will no longer be permitted in the Glacier National Park, and if found within the limits and bounds thereof they will be summarily ejected. You will also warn them that any further violations of the park regulations or of the laws of the State of Montana in regard to killing or game will be rigorously prosecuted. Notify the various rangers on duty in the reservation of the instructions of the Department in the premises, so that if these
Indians return to the park at any time the action herein indicated can be carried into effect.

Very respectfully,

[Signature]

Assistant Secretary.
June 21, 1912.

Mr. R. H. Chapman, 
Acting Superintendent, Glacier National Park, 
Belton, Montana.

Sir:

Your letter of June 15, 1912, has been received, submitting report as to condition of work, etc., in the park up to the date of your letter.

Among other things, you state that:

"The condition of game is generally satisfactory, though there has been killing out of season probably on the Indian Reserve of game straying eastward from the Park. The question of the treaty right of the Indians to hunt on the ceded strip was discussed with Superintendent McFarrigle. His position is that the Indians have the right to hunt in the park, or has any other person, in the open season provided by State law, until jurisdiction is accepted by the United States."

In response thereto I have to state that Superintendent McFarrigle's conclusion as to the right of Indians to hunt in the park is erroneous. No person, whether Indian or white man, has the right to hunt or kill game on any government lands within the limits and bounds of the park and persons found offending in that respect should be proceeded against in accordance with the instructions contained in Department letter of June 13, 1913.
You also state that -

"For your consideration, and if possible, action, in connection with the throwing open of the Blackfeet Indian Reserve, I submit that the extension of Flattop and Point mountains lying between Lower St. Mary's Lake and river and Swift Current Creek should, by all means, be included in the Park, as game uses this ridge for fall and winter range and it is difficult to prevent them from being killed. If possible that portion of Indian Reserve drained by Lee and Kennedy Creeks, between present park boundary and the line between townships 14 and 15 west, should be added to park for same reasons as cited above. The area mentioned is between 55 and 60 square miles."

This recommendation will be borne in mind at the time of the convening of the next session of Congress as it is not likely that any legislation of the character suggested by you looking to the changing of the park boundaries will be passed at the present session.

Very respectfully,

[Signature]

Chief Clerk and Chief Executive Officer.
DEPARTMENT OF THE INTERIOR
WASHINGTON

Mr. H. H. Chapin,
Acting Superintendent,
Glacier National Park.

Sirs:

Your letter of July 23, 1912 has been received, stating that Indians and half-breeds are frequently seen carrying rifles in the eastern section of Glacier National Park, and that they do not know where the park line is, as to which you express doubts. You suggest the advisability of cutting a line from the intersection of the south line of the park at Taku to the Great Northern Railway in a northeasterly direction as far as Two Medicine Lake, and that Mr. Tools, who under the direction of the Surveyor-General for Montana is now making certain surveys in the park, be directed to trace the eastern park boundary line along the lines indicated above, which is a distance of approximately 7 miles.

In response I have to state that Mr. Tools is not an employee of the Department, and if you desire to have him trace the line in question it will be necessary for you to agree with him as to the price at which he will perform the work; if it is reasonable the Department will authorize the expenditure, together with any additional funds that may be necessary to cut out the line in the manner desired.

There have been prepared from the Commissioner of the General Land Office and transmitted to you under separate cover, for your information.
In connection with this work, one copy of plot of each township closing on the eastern boundary of the Blackfeet Indian Reservation north of the Great Northern Railway. As this survey embraces the entire eastern boundary of the park, it should be carefully preserved in your office for further reference. The field notes of this survey are quite voluminous, and it is not practicable at this time to make copies thereof for transmission to your office. Complete copies of such field notes, however, are on file in the office of the Surveyor-General for Montana, and if it is determined to have Mr. Toole do this work and it is necessary to have the field notes, advise the Department thereof and request will be made upon the surveyor-general to loan them for temporary use in the park.

Very respectfully,

Chief Clerk and Chief Executive Officer.
The Solicitor for the Interior Department.

Sir:

By the act of Congress approved May 11, 1910 (36 Stat., 354), certain lands therein described in the State of Montana were set aside as a national park, to be known as the Glacier National Park. Under this act regulations were prescribed for the government of the park which, among other things, prohibited the hunting, killing, wounding, or capturing of any bird or wild animal on the park lands, except dangerous animals where necessary to prevent them from destroying life or inflicting injury, etc.

By act of the Legislature of the State of Montana approved February 17, 1911, exclusive jurisdiction over the lands embraced within the mates and bounds of the Glacier National Park was ceded to the United States, upon the condition that "jurisdiction shall not vest until the United States through the proper officers notifice the Governor of this State that they assume police or military jurisdiction over said park".

By act of Congress approved August 22, 1914 (38 Stat., 699), Congress accepted the cession of jurisdiction over this park from the State of Montana, the act among other things prohibiting the hunting, killing, wounding, or capturing at any time of any bird or wild animal except dangerous animals when necessary to prevent them from destroying
human lives or inflicting personal injury, and provided a penalty for the violations of the provisions thereof.

Under date of October 17, 1855 (11 Stat., 657), a treaty (proclaimed April 26, 1856) was concluded between the United States and the Blackfeet and other Indians for the use of certain lands therein described, which included a portion of the land now embraced in the Glacier National Park. (See map herewith.) Article 3 of this treaty provided, among other things, that such lands "shall be a common hunting ground for 99 years where all the nations, tribes and bands of Indians, parties to this treaty, may enjoy uninterrupted privileges of hunting, fishing and gathering fruit, grazing animals, curing meat, and dressing robes." Such privileges, however, were not to be exclusive.

By the act of April 15, 1874 (18 Stat., 28), to establish a reservation for certain Indians in the Territory of Montana, certain lands therein described, embracing a portion of what is now the Glacier National Park, were set aside as a reservation for the use and occupation of the Blackfeet and other Indians therein mentioned.

By the act of Congress approved May 1, 1886 (25 Stat., 129), to ratify and confirm an agreement with the Gros Ventre, Piegan, Blood, Blackfeet, and River Crows Indians in Montana, and for other purposes, a separate reservation was therein described and set aside for the Blackfeet and other Indians, which includes a portion of the land now embraced within the Glacier National Park.

In the act making appropriations for current and contingent expenses of the Indian department for the fiscal year ending June 30, 1897
approved June 10, 1896 (29 Stat., 354), there is included an agree-
ment with the indians of the Blackfeet Indian Reservation, Montana,
under which certain lands heretofore assigned to the indians of
the Blackfeet Indian Reservation in the State of Montana, were con-
veyed, relinquished and released to the United States, and other
tracts of land therein described were set aside for the use of the
indians, not including, however, any portion of the lands now em-
braced within the Glacier National Park. Article 1 of said agree-
ment, after describing the lands assigned for the use of the indians,
is as follows:

"Provided, That said indians shall have, and do hereby
reserve to themselves, the right to go upon any portion of
the lands hereby conveyed so long as the same shall remain
public lands of the United States, and to cut and remove
therefrom wood and timber for agency and school purposes,
and for their personal uses for houses, fences, and all
other domestic purposes: And provided further, That the said
indians hereby reserve and retain the right to hunt upon
said lands and to fish in the streams thereof so long as
the same shall remain public lands of the United States
under and in accordance with the provisions of the game
and fish laws of the State of Montana."

As indians in the Blackfeet Indian Reservation claim the right
to hunt in Glacier National Park by virtue of the treaties above
referred to, I have to request to be advised, in view of the legis-
lation subsequently enacted by Congress in relation to the Glacier
National Park, what rights, if any, the indians have under existing
law to fish and kill and hunt game within the metes and bounds of
the Glacier National Park. The indians have been in the habit of
entering the park and driving mountain sheep and other wild animals
from the park lands into the abutting Blackfeet Reservation and
there killing same. It is desirable that this practice be stopped, if possible, and I have also to inquire as to whether or no the Indians in the Blackfoot Indian Reservation can hunt therein in accordance with the provisions of the game and fish laws of the State of Montana.

Copies of the act of May 11, 1910, establishing the Glacier National Park, the act of February 11, 1911, of the Montana Legislature ceding jurisdiction thereon, the act of August 22, 1914, accepting cession of State of Montana of exclusive jurisdiction over the park, as well as the park regulations will be found in the attached report of the superintendent of the park for 1914.

Your early consideration of this matter will be appreciated.

Respectfully,

(Sgd) STEPHEN T. MATHER

Assistant to the Secretary.

Inclosure 2064.
United States Senate,
WASHINGTON, D.C.
November 6, 1915.

E. J. Heritt, Asst. Commissioner,
Office of Indian Affairs,
Washington, D.C.

Dear Sir:

In the absence of Senator Lane, I transmit herewith letter addressed to him from D. D. LaBreche, a Blackfoot Indian, of Glacier Park, Montana, together with copy of the Treaty of 1896 made with the Blackfoot Indians.

Mr. LaBreche asks certain questions in the enclosed and it would be appreciated if you can furnish us with information concerning same.

Thanking you for an early reply with the return of the enclosures, I am

Very truly yours,

[Signature]

Secretary to Senator Lane.
Honorable F. K. Lane,
Superintendent of Indian Affairs,
Washington, D.C.

Sir:

I kindly ask you to send me a permit to kill one deer and one elk in the Park. There are so many of them anywhere in the mountains, sometimes you can see from thirty to fifty head, but I think there are most mountain sheep than deer and elk in this Park. If you have no objection to give two heads of mountain sheep, I shall be very thankful for your kindness towards the Indians because you are the main men to see you and get permit from you. No one else but you, the big very high chief and some bridle does not exist in this Park. Now I would like to have meat bone, rice, and some poor man and have big family to support and bridle. Don't make enough money to buy any farming implements and clothing for my family. In the year to speak of, the state wagon horses, mules, and some land. I live alone, plow and harvest corn.
So something on my ranch, but under
this circumstance before me that I don't do
nothing. Two years ago this fall, God
bought me the team to work on my farm.
But what I can do didn't have any farm
farming implements that I have written
about, but if I have it I can be able to
paid up my farm in two years time, blean.
God I find hay land and add good farming
but also, I have any of the above implements or
something on my billment, but if I do ask
for any of this implements that I always sign
by the Indian Agent and why, because don't
like not and buy another Robert Hamilton
because we are trying to do what is right with
the Indians in the Reservation and besides we
cought them their dishonest among our people
husband for that purpose, they are looking on me
in that proposition. You shall be very glad that
if you help help me and tell forkinson sells
hold me the above mention implements, the money
I make in the U.S. Treasy individual and that
is my own family and also if you can give me
permission to hold above mention affidavit criminally. That I am
writing for an immediately reply.

Apost Nov 27 1915 Very truly yours Peter Oreem, Settle & Nov.
DEPARTMENT OF THE INTERIOR
WASHINGTON

NOV 27 1915

Peter Oscar Little Chief,
Browning, Montana.

Sir:

Acknowledging receipt of your letter of November 20th, requesting permission to kill game in the Glacier National Park, and that you be provided with farming implements to work your allotment on the Indian reservation, I have to state that under existing law the killing of game within the metes and bounds of the Glacier Nat'l Park is prohibited.

So much of your letter as relates to furnishing you with farming implements has been forwarded to the Commissioner of Indian Affairs for consideration, to whom all further communications on the subject should be addressed.

Respectfully,

(Sgd) E. J. AYERS

Acting Assistant Secretary.
The Commissioner of Indian Affairs.

Sir:

I transmit herewith copy of letter from Peter Oscar Little Chief, Browning, Montana, requesting permission to kill game within the Glacier Nat'l Park, and also that he be provided with farming implements to work his allotment on the Indian reservation.

The department has advised the writer that the law prohibits killing of game in the Park and that the matter of furnishing farming implements has been forwarded to you for your consideration.

Respectfully,

(Sgd) E. J. Ayers

Acting Assistant Secretary.

Inclosure 4352.
DEPARTMENT OF THE INTERIOR
WASHINGTON
JAN -4 1916

D-39574

My dear Mr. Secretary:

My opinion has been requested upon the question, stated briefly, as to whether the Blackfeet Indians of Montana have a right to hunt and fish within that part of the Glacier National Park which was ceded to the United States by the Blackfeet Indians under the agreement of September 26, 1895 (29 Stat., 353), which was ratified and confirmed by the act of June 10, 1896 (29 Stat., 357).

The inquiry, after referring to the agreements under which it is asserted the Indians claim the right, states the questions submitted as follows:

... I have to request to be advised, in view of the legislation subsequently enacted by Congress in relation to the Glacier National Park, what rights, if any, the Indians have under existing law to fish and kill and hunt game within the metes and bounds of the Glacier National Park. The Indians have been in the habit of entering the park and driving the mountain sheep and other wild animals from the park lands into the abutting Blackfeet reservation and there kill the same. It is desirable that this practice be stopped, if possible, and I have also to inquire as to whether or not the Indians in the Blackfeet Indian Reservation can hunt therein in accordance with the provisions of the game and fish laws of the State of Montana.

The territory involved was originally a part
of that tract of country set aside for the Blackfeet Indians by article 4 of the treaty of October 17, 1885 (11 Stat., 667), between the United States, the Blackfeet and other Indian tribes. This article provided that the tract—

... shall be the territory of the Blackfeet Nation, over which said nation shall exercise exclusive control, excepting as may be otherwise provided in this treaty. Subject, however, to the provisions of the third article of this treaty, giving the right to hunt ...

Article 3 of that treaty created a common hunting ground for the period of 99 years, for the various tribes signatory to the treaty. The tract so set aside for a common hunting ground was situated south of the present Glacier National Park, and has never been incorporated in the park.

By the agreement of September 26, 1895, supra, the Blackfeet Indians made a cession to the United States embracing the territory here involved, for a consideration of $1,500,000.00. Article 1 of said agreement contains the following proviso:

That said Indians shall have, and do hereby reserve to themselves, the right to go upon any portion of the lands hereby conveyed so long as the same shall remain public lands of the United States, and to cut and remove therefrom wood and timber for agency and school purposes, and for their personal uses for houses, fences, and all other domestic purposes; And provided further, That the said Indians hereby reserve and retain the right to hunt upon said lands and to fish in the streams thereof so long as
the same shall remain public lands of the United States
under and in accordance with the provisions of the game
and fish laws of the State of Montana.

The treaty was ratified and confirmed by the
act of June 10, 1896, supra, which further provided that
the lands ceded should be open to occupation, location
and purchase, under the provisions of the mineral land
laws only.

The Glacier National Park was established
by the act of May 11, 1910 (36 Stat., 364), which places
it, in section 2 of that act, under the executive control
of the Secretary of the Interior, authorizing him to make
rules and regulations-

... for the care and protection of the fish and
game within the boundaries thereof.

Exclusive jurisdiction over the lands set aside
as a national park by the act of May 11, 1910, was ceded
to the United States by the State of Montana, in an act of
its legislature, approved February 17, 1911. The session
was accepted by the United States by the act of August 22,
1914 (38 Stat., 690). Section 1 of that act stated that
sole and exclusive jurisdiction was thereby assumed by the
United States over the territory. Section 4, provided, in
part as follows:

That all hunting or the killing, wounding, or capturing at any time of any bird or wild animal, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior.

This section authorizes the Secretary of the Interior to make regulations for the protection of the animals and birds in the park from capture or destruction. The possession of the dead bodies of any such bird, or animal is made prima facie evidence of guilt as to violation of the act, and the violation of the regulations adopted by the Secretary of the Interior for the protection of game is constituted a criminal offense. Section 5 renders paraphernalia used in killing game etc., in violation of the law within the park subject to forfeiture. Section 6, authorizes the appointment of a United States Commissioner to try cases of violation of the regulations, as adopted by the Secretary of the Interior.

In the case of Ward, v. Race Horse (163 U.S. 504), the Supreme Court considered the right of an Indian of the Bannock Tribe to hunt upon public lands situated in the
State of Wyoming. The treaty under which the Indian claimed the right to hunt, in violation of the law of the State of Wyoming, provided, in article 4, as follows:

The Indians herein named agree, when the agency house and other buildings shall be constructed on their reservation named, they will make said reservation their permanent home, and they will make no permanent settlement elsewhere; but they shall have the right to hunt upon the unoccupied lands of the United States, so long as game may be found thereon and so long as peace subsists among the whites and Indians on the border of the hunting districts.

The Supreme Court said, beginning at page 509:

The right to hunt given by the treaty clearly contemplated the disappearance of the conditions therein specified. Indeed, it made the right depend on whether the land in the hunting districts was unoccupied public lands of the United States. This, as we have said, left the whole question subject entirely to the will of the United States, since it provided, in effect, that the right to hunt should cease the moment the United States parted with the title to its lands in the hunting districts. No restraint was imposed by the treaty on the power of the United States to sell, although such sale, under the settled policy of the government, was a result naturally to come from the advance of the white settlements in the hunting districts to which the treaty referred. And this view of the temporary and precarious nature of the right reserved, in the hunting districts, is manifest by the act of Congress creating the Yellowstone Park Reservation, for it was subsequently carved out of what constituted the hunting districts at the time of the adoption of the treaty, and is a clear indication of the sense of Congress on the subject. Act of March 1, 1872, c. 24, 17 Stat. 38; act of May 7, 1894, c. 72, 28 Stat. 73. The construction which would affix to the language of the treaty any other meaning than that which we have above indicated would necessarily imply that
Congress had violated the faith of the government and defrauded the Indians by proceeding immediately to forbid hunting in a large portion of the territory, where it is now asserted there was a contract right to kill game, created by the treaty in favor of the Indians.

The agreement here involved reserves the right to hunt and fish so long as the ceded lands should remain "public lands of the United States." The agreement, therefore, contemplated that the right to hunt and fish should cease as soon as the land fell out of the category of public lands, as that term is used and evidently understood in the agreement. The agreement itself, together with the act ratifying it, distinctly contemplated that the lands ceded should be disposed of by the United States, and Congress had full power to make such disposition thereof as it saw fit. Congress has enacted that the land so ceded shall be a part of the Glacier National Park. The right to hunt and fish under this agreement was temporary and precarious, as pointed out by the Supreme Court in Ward v. Race Horse, supra, and the observation there made concerning the creation of Yellowstone Park likewise applies to the present matter. Congress would, of course, have the power to place the land to such use, even if it violated the treaty with the Indians. See Ward v. Race Horse, supra, at p. 511, citing Fong Yue Ting v. United States, (149 U.S., 698); The Cherokee Tobacco (11 Wall. 616).
I am, therefore, of the opinion that upon the dedication of the land to use as a national park, it ceased to be public land of the United States, within the intent and meaning of the term as used in the agreement, and that the right of the Indians to hunt and fish ceased with the approval of the act of May 11, 1910, supra.

The above conclusion is not in conflict with the decision of the Supreme Court in the United States v. Winans (198 U.S., 371). The Winans case involved the construction of article 3 of the treaty of 1859, entered into with the Yakima Indians. This article provided in part:

The exclusive right of taking fish in all the streams where running through or bordering said reservation, is further secured to said confederated tribes and bands of Indians, as also the right of taking fish at all usual and accustomed places, in common with citizens of the Territory, and of erecting temporary buildings for curing them; together with the privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed land.

In other words, in the Winans case, the treaty distinctly contemplated that the lands ceded should be disposed of by the United States, and that the right to hunt and fish should continue after such disposition. In the
agreement here involved, it was distinctly stipulated that the right to hunt and fish should continue only so long as the lands should remain public lands of the United States; the term public lands being very evidently used in the sense of lands undisposed of, and not set aside or reserved for any particular use.

In an opinion dated September 23, 1915, I considered the right of the Yakima Indians to hunt within the boundaries of the Mount Rainier National Park, by virtue of the treaty of June 9, 1855, proclaimed by the President, April 18, 1859 (12 Stat., 951), and expressed the view that under the terms of that treaty the right of the Indians to hunt within the Mount Rainier National Park still existed, subject to regulation by the Secretary of the Interior. The treaty there considered, however, was identical in character with that involved in the case of the United States v. Winans, supra, and the distinction above pointed out regarding that case likewise applies.

I am, accordingly, of the opinion that the Blackfoot Indians have no right to hunt and fish within the Glacier National Park, other than that accorded to the general public, under the regulations adopted by
the Secretary of the Interior, as to the fish and game
therein.

Cordially and respectfully,


Solicitor.

The Honorable,

The Secretary of the Interior.
Mr. S. F. Ralston,
Supervisor, Glacier National Park,
Belton, Montana.

Dear Mr. Ralston:

I transmit herewith for your information two copies of an opinion by the Solicitor for this Department to the effect that the right or privilege of the Blackfoot Indians to hunt and fish over the lands embraced within that part of the Glacier National Park ceded to the United States by the Blackfoot Indians under the agreement of September 26, 1895 (29 Stat., 353), which was ratified and confirmed by the act of June 10, 1896 (29 Stat., 357), ceased with the approval of the act of May 11, 1920 (36 Stat., 354), establishing the Glacier National Park.

Please take such steps as may be necessary to bring this decision to the attention of park employees, concessioners, and others interested therein, and furnish one copy thereof to the U. S. Commissioner on duty in the park for his information in the matter of enforcement of the provisions of the act of August 22, 1914 (38 Stat., 699), accepting cession by the State of Montana of exclusive jurisdiction over the lands embraced within the Glacier National Park.

Copies of this opinion have been supplied the Commissioner of Indian Affairs with request that the officer in charge of the Blackfoot Indian
Reservation be forwarded a copy and directed to make the contents known to all Indians under his charge.

Very truly yours,

(Sgd.) RO SWEENEY.

Assistant Secretary.

Enc., 11415.
DEPARTMENT OF THE INTERIOR
WASHINGTON

My dear Senator:

I am in receipt, by reference from you, of a letter from Mr. D. D. La Breche, stated to be a member of the Blackfeet Indian Tribe, inquiring as to the rights of the Blackfeet Indians to hunt and fish within that part of the National Glacier Park, Montana, ceded to the United States by the treaty of 1896.

I transmit herewith a copy of an opinion by the Solicitor of this Department to the effect that the rights or privilege of the Indians to hunt and fish over this part of the Territory ceased with the approval of the act of May 11, 1910 (36 Stat., 354), establishing the Glacier National Park.

Mr. La Breche's letter to you, together with its inclosure, is herewith returned.

Cordially yours,

(sgd.) BO SWEENEY,
First Assistant Secretary.

Honorable Harry Lane,
United States Senate.

Inclosure 10778
The Commissioner of Indian Affairs,
Washington, D. C.

Dear Mr. Commissioner:-

I am in receipt by your reference of November 16, 1925, of a communication from Honorable Harry Lane, United States Senate, and accompanying letter from Mr. D. D. LaBreche, a member of the Blackfoot Indian Tribe, inquiring as to the right of the Blackfoot Indians to hunt and fish within that part of the Glacier National Park, Montana, ceded to the United States under the agreement of September 26, 1895 (29 Stat., 353), which was ratified and confirmed by the act of June 10, 1896 (29 Stat., 357).

In response thereto I transmit herewith two copies of an opinion by the Solicitor for this Department to the effect that the right of the Indians to hunt and fish over the territory in question ceased with the approval of the act of May 11, 1910 (36 Stat., 354), establishing the Glacier National Park.

Senator Lane has been furnished with a copy of this opinion and it is requested that one of the copies enclosed herewith be forwarded to the officer in charge of the Blackfoot Indian Reservation with instructions to give due notice thereof to the Indians under his charge.

Very truly yours,

(Sgd.) BO SWEENEY.

Assistant Secretary.

Enc., 11414, NOTED:
R. B. MARSHALL,
Superintendent.
Hon. Stephen T. Mather,

Director National Park Service,
Department of the Interior.

My dear Mr. Mather:

With further reference to the Acting Director's letter of July 3, 1917, in which the cooperation of this Office was requested in the matter of preventing the killing by Indians of elk straying from the Glacier National Park onto the Blackfeet Indian Reservation, in Montana, I am pleased to advise you that the Superintendent of that reservation reports that the forest guard has looked after this matter and talked with the Indians, advising and instructing them in the premises. Superintendent Ferris further reports that to his knowledge no elk have been killed on the reservation or in the park since he has been in charge at that agency.

I trust that the efforts being made by the employees of the Blackfeet reservation to cooperate with the Supervisor of the Glacier Park in discouraging killing of elk by the Indians will result in breaking up the practice.

Very truly yours,

[Signature]

Assistant Commissioner.
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
WASHINGTON

December 8, 1917.

Dear Mr. Payne:

Referring to letter dated June 19, 1917, written by Mr. Goodwin to the Superintendent of the Blackfeet Indian Agency, Browning, Montana, I transmit herewith copy of a letter just received from Assistant Commissioner Heritt, for your information and files.

Cordially yours,

[Signature]

Assistant Director.

Mr. W. W. Payne, Superintendent
Glacier National Park,
Whitefish, Montana.

Inc. 1864.
DEPARTMENT OF THE INTERIOR
WASHINGTON

January 4, 1918.

Dear Mr. Payne:

It has come to the attention of this Service, through State Game Warden Delhart and Senator Myers, that the Blackfoot Indians are slaughtering the wild animals as they cross the east park boundary into the Blackfoot Indian Reservation.

This is a matter that you should familiarize yourself with and keep in close touch with through your rangers on the east side of the park. Chief Ranger Derrington has written at length to State Game Warden Delhart about the killing of the animals. While it is not improper for the Chief Ranger to correspond thus with the State officials, he should also bring all matters of this kind to your attention in order that you may advise the Service about them. In other words, the Service does not wish to be advised about matters regarding Glacier National Park through State officers and congressmen rather than directly through its own local officers. The protection of the Glacier Park wild animals is one of the most important matters under your jurisdiction, and you should keep us advised of the condition of these animals at all times.

Your monthly report should contain a detailed statement regarding the condition of the animals as observed by your rangers, and between monthly reports special reports on the animals should be submitted whenever there is anything important to be presented to the Service.

Cordially yours,

(Sgd.) HORACE M. ALBRIGHT
Assistant Director.

Mr. W. W. Payne, Superintendent,
Glacier National Park,
Belton, Montana.
My dear Senator:

I have received your letter of January 3, with its inclosures from State Game Warden DeHart, of Montana, with regard to the killing of Glacier National Park animals in the Blackfeet Indian Reservation.

The situation which Mr. DeHart has brought to your attention is not one that can be remedied by increasing the ranger force of Glacier Park. I am advised that the ranger force is large enough now to properly protect the wild animals and fish of the park itself. These officers, however, have no authority to deal with the hunters of the park animals after they cross the eastern boundary into the Indian Reservation, and it is in the Reservation that all of the slaughtering is going on.

By reason of the fact that the boundary line between the Glacier National Park and the Blackfeet Reservation is many miles in length, with no natural or artificial barriers between, it is difficult for the reservation employees to cover this area satisfactorily in order to prevent the killing of elk by the Indians, though every effort has been made by the employees to confine these killings to the minimum. The Blackfeet reservation having been established by treaty, the Indians claim the right to hunt and fish thereon without restrictions.

There will be a new man in charge of the Blackfeet reser-
vation shortly. He is a man of long experience in the Service and the matter will be taken up with him and a special endeavor made to work out some plan to prevent the slaughter of these animals.

Cordially yours,

[Signature]

Hon. H. L. Myers,

United States Senate.
My dear Senator:

I have received your letter of January 2, with its inclosures from State Game Warden DeHart, of Montana, with regard to the killing of Glacier National Park animals in the Blackfeet Indian Reservation.

The situation which Mr. DeHart has brought to your attention is not one that can be remedied by increasing the ranger force of Glacier Park. The ranger force is large enough now to properly protect the wild animals and fish of the park itself. These officers, however, have no authority to deal with the hunters of the park animals after they cross the eastern boundary into the Indian Reservation, and it is in the Reservation that all of the slaughtering is going on.

The Indian Office has made an earnest endeavor to stop the illegal hunting by the Indians under its jurisdiction, but I am going to discuss the matter again with the Commissioner of Indian Affairs and see what further steps can be taken to remedy the existing bad situation.

Cordially yours,

[Signature]

Hon. H. L. Metcalfe, Indian Office

United States Senate.
DEPARTMENT OF THE INTERIOR
WASHINGTON

By dear Senator:

I have received your letter of January 2, with its inclosures from State Game Warden Dellart, of Montana, with regard to the killing of Glacier National Park animals in the Blackfoot Indian Reservation.

The situation which Mr. Dellart has brought to your attention is not one that can be remedied by increasing the ranger force of Glacier Park. The ranger force is large enough now to properly protect the wild animals and fish of the park itself. These officers, however, have no authority to deal with the hunters of the park animals after they cross the eastern boundary into the Indian Reservation, and it is in the Reservation that all of the slaughtering is going on.

The Indian Office has made an earnest endeavor to stop the illegal hunting by the Indians under its jurisdiction, but I am going to discuss the matter again with the Commissioner of Indian Affairs and see what further steps can be taken to remedy the existing bad situation.

Cordially yours,

[Signature]

Hon. E. L. Myers,
United States Senate.
My dear Judge Sells:

Cannot something be done to prevent the Blackfoot Indians slaughtering the animals of Glacier National Park after they cross the boundary into the Indian Reservation during stormy weather? Each winter since I have been in charge of this Department the illegal slaughtering of wild animals in the Blackfoot Indian Reservation has been going on, and I just learned through correspondence submitted to me by Senator Myers that the Indians are killing the animals again this winter.

I wish you would give this your personal consideration and devise some means for making the Blackfoot Indians obey the law. There is not much use in our spending thousands of dollars to protect the wild animals in Glacier National Park during the summer only to have them killed as soon as storms drive them over into the Indian Reservation.

Cordially yours,

Hon. Cato Sells,
Commissioner of Indian Affairs.
DEPARTMENT OF THE INTERIOR
WASHINGTON

My dear Judge Sells:

Cannot something be done to prevent the Blackfeet Indians slaughtering the animals of Glacier National Park after they cross the boundary into the Indian Reservation during stormy weather? Each winter since I have been in charge of this Department the illegal slaughtering of wild animals in the Blackfeet Indian Reservation has been going on, and I just learned through correspondence submitted to me by Senator Myers that the Indians are killing the animals again this winter.

I wish you would give this your personal consideration and devise some means for making the Blackfeet Indians obey the law. There is not much use in our spending thousands of dollars to protect the wild animals in Glacier National Park during the summer only to have them killed as soon as storms drive them over into the Indian Reservation.

Cordially yours,

Hon. Gato Sells,
Commissioner of Indian Affairs.

[Signature]
DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE
GLACIER NATIONAL PARK
BELTON, MONTANA

OFFICE OF THE SUPERVISOR

Refer letter January 4, 1918.

The Director, National Park Service, Washington, D. C.

January 19, 1918.

NATIONAL PARK SERVICE RECEIVED
OFFICE OF THE DIRECTOR
JAN 28 1918

Sir:

The matter referred to was taken up by this office last June, a copy of the letter to the Superintendent of the Reservation under date of June 19th being sent to the Director. I also respectfully refer you to letter of July 9th from Mr. E. B. Merritt to Mr. Griffith and letter to Mr. Mather from Mr. Merritt of December 3rd.

While we have received every assurance from the Superintendent of the Reservation that he will cooperate with us in the protection of the game, it seems that his only weapon is persuasion as the Indians understand that under their treaty they have a perfect right to kill game "as long as the waters run and the Sun shines".

Mr. Dorrington, our Chief Ranger, is also a Deputy State Game Warden, and in this capacity reported the dynamiting of fish on the Reservation near St. Mary's. This matter was taken up with the Superintendent of the Reservation and two arrests were made but when the parties were brought to trial they were dismissed on advice from District Attorney B. K. Wheeler that there was no case.

The Elk reported killed by Mr. Dorrington referred to those killed last spring and were referred to in the letter of June 19th, 1917, Mr. Goodwin to the Superintendent of the Reservation, of which you have a copy. I am calling the attention of the present Superintendent of the Reservation to the killing last week of game on the Reservation near the Two Medicine by a party of nine Indians, among them being Wallace Munro and one Wells by name.

[Signature]

[Stamp]
It seems that the only way to successfully combat the present condition is for the Government to acquire and put into the Park that strip of land laying east of the Park line and west of the Blackfeet Highway.

Very respectfully,

[Signature]

Superintendent.
January 19, 1918.

Mr. R. R. Wadsworth, Act'g. Supt.
Blackfeet Indian Reservation,
Browning, Montana.

Dear Sir:

I have been advised by our Chief Ranger that a party of Indians including one Wells and Wallace Manro were seen killing elk on the reservation near the Park line last week.

Realizing that we have no jurisdiction over the Indians outside of the Park I am bringing this to your attention with the hope that you will make an effort to stop the Indians from killing game that has drifted over the Park line. Any action that you see fit to take which will tend to stop this practice of slaughtering game, especially out of season, will be appreciated.

An expression of your views in this matter will be appreciated.

Yours very truly,

[Signature]
Superintendent.
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

My dear Mr. Mather:

There is inclosed herewith for the files of your office, copy of Senator Myers' letter of January 2, 1918, with inclosures, relative to the killing of deer of the Glacier National Park by Indians of the Blackfeet Reservation. There is also inclosed copy of a memorandum of January 15, 1918 to the Department on the subject.

The Office will, as indicated in Department letter of January 19 to Senator Myers, a copy of which has been furnished you, take this matter up with the new man who will assume charge at Blackfeet shortly, with a view to formulating a plan to meet the situation in question.

Very truly yours,

[Signature]

Assistant Commissioner.
Hon. Henry L. Myers,
United States Senate,
Washington, D. C.

My dear Senator:

You will please find enclosed copy of letter we recently received from the Chief Ranger, Mr. Wm. Dorrington, at Glacier Park, Montana.

This letter particularly refers to the conditions that prevail upon the Blackfeet Indian Reserve immediately adjacent to the Glacier National Park boundary line.

In calling your particular attention to this condition of affairs, you will kindly permit me to ask you to lend your assistance in an effort to secure additional rangers for that portion of the eastern boundary of Glacier National Park which forms the west boundary of the Blackfeet Indian Reserve.

As Mr. Dorrington has described the conditions, it will not be necessary for me to go into detail other than to call your attention to the fact that during the hauling of the logs and cutting the lower ground during the winter, the game are being chased for, and as a result they stray from the Glacier Park on to the Indian lands, there being no natural protection.

As a result of these conditions, the Indians certainly take a terrible toll from the different species of wild life that frequent the Glacier National Park.

If you are not too busy with matters of more serious importance, I would like very much to know that you have presented this matter to the Secretary of the Interior for his kind consideration.

With the compliments of the season, we wish to be remembered as,

Very truly yours,
United States Senate,
COMMITTEE ON PUBLIC LANDS,
WASHINGTON, D.C.

I am in receipt from the President of the Senate of Montana of the inclosed communication from the Secretary of the Interior, which presents a very serious state of affairs, and am respectfully submitted to you.

I am lead to believe that there is a very urgent need for the employment of more rangers in Glacier National Park. Will you please give due consideration to this matter?

A number of men from the Park Service would have been, an increased appropriation would have been a boon to the Park Service, the increased employment would have been profitable to the Park Service. However, if you disapprove of the same.

I suggest the supplemental estimate and you will permit me to submit the same to the House Committee on Appropriations.

Yours sincerely,
[Signature]
Glacier Park, Dec. 12, 1917.

Mr. J. E. DeHart,
State Game Warden,
Helena, Mont.

Dear Jake:

Just a line to let you know what we are doing against the eastern boundary of Glacier Park, regarding game violations.

About two weeks ago I was advised that fish were being dynamited along the boundary at St. Mary's. I immediately started and found that I was advised quite correctly. What I saw was certainly a crime - hundreds upon hundreds of dead fish, some of them weighing several pounds, besides a sack full of spoiled fish on the banks.

As this was off the Park (maybe 100 yds or so) it was not under my bands. However, I went to Browning and put the case up to the Indian Department, with the result that I caused the arrest of two half-breeds. I had witnesses to testify that they had bought fish in quantities from these two, and also witnesses that had seen them coming after the fish.

The case came up before a U. S. Commissioner at Browning; the defense claimed that no federal charge could be brought against wards of the government for this act committed on a Reservation. The case was postponed until next Saturday was considered. Last Friday H. K. Wheeler wrote advising us that we have no case in the Federal Courts.

This terrible waste of fish I suppose will continue. Game is hunted by Indians at all seasons and is permissible according to this treaty.

The most damage is done in the spring when elk are down in the foothills, cow elk being heavy with calf and very poor are easy prey for the Indian, and many such are killed.

It seems a shame that game in the Park is being destroyed only to be slaughtered when they cross the line for feed.

If you could interest the Indians in game conservation by appealing to the Indian Council to make their own game laws on their Reservation, I feel sure you would be doing us all a good turn. Game is
increasing rapidly in the Park, and the more plentiful they become the more and better hunting the Indians would have on the Reservation, but let them keep up the spring slaughter and it will be too late for them to enjoy any season of hunting.

If you should drop off at Browning, look up some of the boys here. You will find a good bunch around here and ready to help to put down this evil. Frank Guardapoo is Indian Forester and a good sportsman, and would lend you any aid you want.

Trusting that your department can be of service, and wishing you a Merry Christmas, I am,

Respectfully yours,

(Mrs. J. Dorrington)

Chief Ranger, Glacier Nat'l. Park
NOTICE

TO HUNTERS AND FISHERMEN:

Only enrolled Indians, Persons married to them and regularly authorized employees of the Government and licensed traders are allowed to hunt and fish on this Reservation.

Government employees and traders and their employees are granted this privilege only by special permission of the Indian Office through the Superintendent in each individual case, which permission may be revoked at any time. This permission is granted only with the distinct understanding that only in reason are SMALL GAME AND BIRDS to be killed, and game and fish taken only in sufficient quantities for the individual use of the permittee and in no case for sale.

Government employees and all others must be governed by the FEDERAL GAME AND FISH LAWS and those of the STATE of MONTANA except that the killing of big game by whites is in no case permitted.

Under authority of the regulations of the Indian Office the provisions of the STATE GAME AND FISH LAWS are hereby made applicable to Indians off the Reservation and any violations of the same will be punished in conviction by the court of Indian Offences by a term of thirty days in the Agency Jail or a fine of Ten dollars or both.

Note that song birds, hares, mountain sheep, and goats and beaver cannot be killed at any time, also note Federal Laws relative to migratory birds which apply to all persons alike on the Reservations.

Any one not familiar with the provisions of the above laws may obtain information at the Agency.

(Signed) O. J. Ellis
Superintendent.
Under date of October 1, 1912, it was agreed that the Indians and the United States would dispose of certain portions of the reservation by the act of April 20, 1923, and the parcels of land specified in the act would be transferred to the United States, to be held as part of the national forest.

Under this decision, the Indians are entitled to a portion of their reservation for hunting and fishing. There being no Federal laws covering hunting and fishing by Indians on Indian reservations, as the state laws being applicable, they are concerned. It is for the Indian authorities to consider the conditions and make suitable arrangements.
Fish regulations thorough, given yet little to have the indians conform as closely as possible to the state laws. The Blackfoot reservation being a treaty one and the Indians having reserved the right to enjoy equal and uninterrupted privileges of hunting and fishing thereon, they have resisted the promulgation of regulations having for their purpose the conservation of fish thereon.

In a letter received from the Acting Director of the National Park Service under date of July 27, 1937, attention was invited to a communication addressed by Mr. W. H. Buzard, supervisor of the Glacier National Park, to the Superintendent of the Blackfoot Indian Reservation, containing a report that a number of the Indians on the reservation were killing elks, ahoys, mule and other big game animals, and were using the same animals as a kind of meat. Further, the Superintendent advised him that this matter was brought to the attention of the Superintendent of the Blackfoot reservation, with instructions to look into same and to advise what steps should be taken to prevent a recurrence of the killing. Under date of July 28, the Superintendent advised as follows:

"The Superintendent has also written to the forest supervisor by Superintendent Buzard, and the Forest Service has already decided to visit the place, and advise the Indians that the killing of elk, ahoys, mule deer, and other big game animals, must cease. He reports that he has informed the Indians that by continuing the practice they should be prepared to face consequences on the same.
In a letter received from the Superintendent under date of November 15, 1917, it is stated that the Forest Guard had locked all the gates and posted with the Indians, dividing the hunting territory among them and prohibiting their hunting in that part of the park. The Superintendent further reports that the Indians had not been killed on the reservation or in the park since he had been in charge at that post.

Reports have been received that Indians have stopped the practice of poaching, and it was recommended that the practice be continued.
difficult for the reservation employees to cover this area satisfactorily in order to prevent the killing of elk by the Indians, though there is every reason to believe that efforts are being made by the employees to keep these killings to the minimum. The Indians having always regarded game found on the reservation as property of the hunter, it naturally follows that they can not draw a line of distinction between animalia ferae naturae and those of the tame/protected class. If true, as reported, that many of the elk are killed by white hunters when they stray from the protection of the Park, this would strengthen the belief among the Indians that they have a right to kill elk.

It is possible that there have been instances of the slaughter or killing of elk of which our Superintendent has no knowledge, and therefore in order to assist in the preservation and conservation of this game, it is probable that we might interest the Indians by appealing to the Council to adopt suitable regulations to this end as suggested by Mr. Dorrington, the Chief Ranger of the Park.

There will be a new man in charge of Blackfeet reservation shortly. He is a man of long experience in the Service and the matter will be taken up with him and a special endeavor made to work out some plan to prevent the slaughter of these animals.