Territorial governor as ex-officio Superintendent of Indian Affairs and the decline of American-Indian relations

William Howard Roche

The University of Montana

Follow this and additional works at: https://scholarworks.umt.edu/etd

Let us know how access to this document benefits you.

Recommended Citation

https://scholarworks.umt.edu/etd/3849
THE TERRITORIAL GOVERNOR
AS EX-OFFICIO SUPERINTENDENT OF INDIAN AFFAIRS
AND THE DECLINE OF AMERICAN-INDIAN RELATIONS

By
William Howard Roche
B. A., Lyndon State College, 1976

Presented in partial fulfillment of the requirements
for the degree of
Master of Arts
University of Montana
1991

Approved by

[Signature]
Chairman, Board of Examiners

[Signature]
Dean, Graduate School

Aug. 5, 1991
Date
This thesis examines the role of territorial governors as *ex-officio* superintendents of Indian affairs and the negative consequences combining the two offices had on Indians, particularly in Montana Territory from 1864-1873.

The federal government combined the two territorial offices because it saved the United States Government money, but this created a conflict of interest. Effective territorial governors promoted their territories to encourage settlement, development, and, ultimately, statehood. However, development led to white encroachment on Indian lands and rights. Thus, the tasks of administering white men's affairs while maintaining the rights of Indians often came into conflict. Self-interest dictated that the governor concentrate on his role as territorial governor, since the potential rewards for doing so, such as a seat in the U.S. Senate, were both obvious and greater. The accomplishment of their objectives as governors worked to the detriment of their responsibilities as *ex-officio* superintendents of Indian affairs. They therefore either neglected the latter office or used the position to achieve wealth (though stealing) or fame (through military action against their charges.

The experience of Montana's territorial governors as *ex-officio* superintendents of Indian affairs provides an insight into the problem of territorial governors serving as superintendents of Indian affairs. The contradiction in duties between the two offices made it virtually impossible adequately to fulfill the obligations Indian superintendent. This explains why even conscientious territorial governors failed in that regard. The problems, however, ran deeper than changes in administrative policy could ever solve. Even the attempted structural reforms in the office of superintendent of Indian affairs failed to address the basic problem. The tragedy of United States-Indian relations transcended any adjustment in administrative practice.
# TABLE OF CONTENTS

ACKNOWLEDGEMENTS ........................................ iv

Chapter

I. THE TERRITORIAL GOVERNOR AS EX-OFFICIO
SUPERINTENDENT OF INDIAN AFFAIRS AND
THE DECLINE OF AMERICAN-INDIAN RELATIONS:
MONTANA TERRITORY, 1864-1866 ......................... 1

II. THE HISTORY OF COMBINING THE OFFICES OF
TERRITORIAL GOVERNORS AND SUPERINTENDENTS
OF INDIAN AFFAIRS: 1789-1873 ......................... 8

III. THE MONTANA EXPERIENCE: SIDNEY EDGERTON,
1864-66 ....................................................... 55

IV. GOVERNORS SMITH AND ASHLEY: 1866-1868 .......... 97

V. THE MONTANA SUPERINTENDENCY:
JUNE 1, 1869 - JUNE 30, 1873 ......................... 122

BIBLIOGRAPHY ................................................ 129
ACKNOWLEDGMENTS

The author would like to take this opportunity to thank some of the individuals who helped make this project possible. My subject advisor, Dr. Richmond Clow of the Native American Studies Department, went far beyond his job description. His insights into the material and patience as a teacher were of untold help and paramount importance. My adviser, Dr. Michael S. Mayer, judiciously blended the proper amounts of prodding and morale boosting that helped see me through to this project's successful completion. In addition, Dr. William Farr's careful reading proved most valuable. Friends and proof-readers Hal Neumann and Christine Erickson selflessly devoted much time and effort and cannot be thanked enough. Finally, I thank my father, Michael J. Roche, who always came through when I needed him. A Hammond Fellowship in Western History funded a summer's research and travel.
CHAPTER I

THE TERRITORIAL GOVERNOR
AS EX-OFFICIO SUPERINTENDENT OF INDIAN AFFAIRS
AND THE DECLINE OF AMERICAN-INDIAN RELATIONS:
MONTANA TERRITORY, 1864-1866

Montana’s first two Territorial Governors, Sidney Edgerton and Green Clay Smith, also served as the ex-officio Superintendents of Indian Affairs for the Montana Superintendency. It was not unusual to combine these two different offices into one position. Since the Republic’s beginnings, the United States Congress, through law and practice, had combined these two different administrative positions, with conflicting interests, into one office with uneven results. In Montana Territory, however, the practice proved particularly disastrous to the preservation of peaceful tribal relations; local politics defeated common sense and duty.

Thus, when Sidney Edgerton accepted the territorial governorship on June 22, 1864, he also assumed the position and duties associated with being ex-officio Superintendent of Indian Affairs for Montana Territory.¹ Edgerton, and

¹The practice of designating whoever held the office of governor as superintendent of Indian affairs, or ex-officio superintendent of Indian affairs, can be traced back to September 11, 1789, when Congress authorized the payment of $2,000 annual salary to the governor of the Northwest Territory in compensation for his duties rendered as Indian
the other individuals who served simultaneously as territorial governors and *ex-officio* superintendents of Indian affairs, often found themselves unable to reconcile their contrary positions when they performed their "official" duties. The practice of employing one man to hold the offices of territorial governor and Indian superintendent represented a conflict of interests which Congress overlooked. When a member of a federal Indian treaty commission, a successful territorial governor signed treaties that gained title to tribal lands. These lands could then be opened up to white settlement. A territorial governor measured his ultimate success when his territory achieved statehood, whereas an Indian superintendent measured his success when he insured the assimilation of native tribesmen into the dominant white society while preserving peace between the tribesmen and frontiersmen. Under this ideal scenario, these administrative objectives

were not mutually exclusive. Both would be achieved when a territory became a state. By that time, the tribesmen were to have relinquished their hunter/gatherer or farmer/fisher lifestyles or been removed to another territory. In theory, once Indians had turned away from their hunter/gather lifestyle, they become assimilated and joined the local communities as citizens. With the assimilation of the tribesmen, the need for a superintendent of Indian Affairs would vanish.

The federal government combined the two territorial offices because it saved the United States Government money. This short term thinking meant that one territorial official, had responsibility for two dichotomous frontier issues. The root of the conflict between the two offices lay in the conflict between whites and tribesmen over possession or use of land. Effective territorial governors promoted, or boosted, their territories to encourage settlement, development, and, ultimately, statehood. Boosterism, however, did not preserve peaceful relations with local tribal communities. Development eventually led to white encroachment on Indian lands and rights. Thus, the tasks of administrating white men's affairs while maintaining the rights of Indians often came into conflict. Self-interest dictated that the governor concentrate on his role as territorial governor, since the potential rewards
for doing so, such as a seat in the U.S. Senate, were both obvious and greater. The accomplishment of their objectives as governor worked to the detriment of their responsibilities as *ex-officio* superintendents of Indian affairs. They therefore either neglected the latter office or used the position to achieve wealth (though stealing) or fame (through military action against their charges.

The literature concerning the governance of Western Territories, and the Montana Territory in particular, has focused on particular politics and organization of territorial legislatures. It has paid little attention to the territorial governor's role as superintendent of Indian affairs. On the other hand, studies of Montana's reservation communities during the territorial period have concentrated on the agent/tribesmen relationship and either ignored, or deliberately failed to examine, the territorial

---


governor's role as head of Indian affairs. As a result, the literature has failed adequately to examine the role of Indian affairs in territorial politics. In a situation where the territory's leading politician also served as the official United States representative for Indian affairs, the two were inextricably interwoven. In addition, historians have failed to address the issue of the territorial boundaries also serving as an Indian superintendency and the territorial governor becoming an *ex-officio* superintendent of Indian affairs by virtue of holding territorial gubernatorial office.

An unofficial criterion for a territory's transition to statehood required the establishment of a modicum of law,
order, and civilization within the territory's boundaries. The territorial governor, charged with grooming his territory for eventual statehood, discovered that one of the main obstacles he faced was the problem of imagined or real Indian depredations directed toward white settlers and the effects these had on territorial citizens. Indian activity threatened both statehood and the governor's career. The territorial governor became the sole official charged with bringing the territory into the Union as a state, protecting the interests of the Indian, and conducting United States Indian policy. These Herculean tasks could not be successfully accomplished until the Indians became "civilized," made acceptable to those white citizens within his superintendency, or subdued by the military. Thus, "civilizing" the Indians became a critical and important public and personal issue facing a territorial governor in his role as ex-officio superintendent of Indian affairs. Ironically, governor's neglected the position, much to the determent of Indian relations.

Because much that transpired in the formation of Indian policy preceded the relatively late Montana Territory experience (1864-1869), this paper will trace the origins and implications of the United States Government's practice of combining the positions of territorial governor with that of the superintendent of Indian affairs. Additionally,
selected experiences of individual territorial governors are used to illustrate those means employed by them in the execution of their duties.
CHAPTER II
THE HISTORY OF COMBINING THE OFFICES OF TERRITORIAL GOVERNORS AND SUPERINTENDENTS OF INDIAN AFFAIRS: 1789-1873

The United States Congress had combined the responsibilities of the superintendent of Indian affairs with the territorial governor long before the creation of the Montana Territory and the Montana Superintendency of Indian Affairs. The practice of combining these two very diverse and often incompatible administrative posts began early in the history of the Republic with the passage of the Northwest Ordinance of July 13, 1787. This Act, which authorized the establishment of new states, also provided the nation with its earliest system of territorial government. The law defined the criteria for the establishment of a territorial government, and articulated the young nation’s commitment to westward expansion. The Northwest Ordinance legislation created the framework by which a territory could become a state, with equal rights and responsibilities of the other states within the Union.  

The Northwest Ordinance of 1787 also mandated that the

United States take those measures necessary to ensure the humane treatment of the Indian peoples who actually owned these western territories. Article III of the Northwest Ordinance provided that:

The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time by made for preventing wrongs being done to them, and for preserving peace and friendship with them.7

The Northwest Ordinance created an irreconcilable dilemma when policy makers proclaimed that American westward expansion would be accomplished peacefully and assume that tribesmen would willingly accept western expansion. Congress further complicated peaceful expansion by charging the territorial governors not only with the duties of grooming each territory for eventual statehood, but also mandating that the territorial governors hold the office of ex-officio Superintendent of Indian Affairs. On September 11, 1789, Congress provided an annual salary of $2,000 to be paid to the Governor of the Northwest Territories as compensation for his duties "...and for discharging the

7U.S. Statutes at Large, vol. 1, (July 4, 1776 - March 2, 1799) "An Act to provide for the Government of the Territory Northwest of the river Ohio, August 7, 1779. p. 52.
duties of superintendent of Indian affairs..." By enacting this legislation, Congress established the precedent of making territorial governors Indian officers, responsible for conducting United States policy and Indian affairs with the Indian tribes in their territory.

The policy of making one man responsible for two different, potentially conflicting obligations (protecting Indian interests while encouraging territorial expansion) was doomed to failure. Why did Congress make this ill-advised decision? James W. Nye, who served first as Nevada's territorial governor and ex-officio superintendent of Indian affairs from March 22, 1861 to July 18, 1865, and then as two-term senator from Nevada, explained the rational behind Congress' decision for combining the offices of territorial governor and ex-officio superintendent of Indian affairs. On the floor of the Senate he explained:

The combination of duties is based upon the economy of the thing. The Governor can discharge the duties of superintendent, and thereby save money. A Governor in a new Territory can live just as cheap as a superintendent of Indian affairs, if he chooses; and to have two officers for this business makes too many heads.9

---


In addition to cost effectiveness, Senator Nye believed that a territory would be in greater danger from Indian depredations if the office was split. He reasoned that there would be a delayed reaction in an Indian emergency as the territorial governor and superintendent of Indian affairs would have to confer as to the proper action to take.

Senator Nye's attitude towards Indian affairs reflects the attitudes of those lawmakers who passed the legislation that created Montana Territory, and required the territorial governor to wear two hats. These men justified their improper actions "...as the cheapest way of handling Indian Affairs." The money saving practice of combining the posts of territorial governors and \textit{ex-officio} Superintendents of Indian Affairs in the United States Territories led only to disaster in Montana as it had in other regions and times. Like Senator Nye, these lawmakers also perceived that position of superintendent of Indians affairs as one mainly concerned with punishing errant Indians, with little emphasis given to the protection of Indians' rights.

From 1789 until 1824, the Secretary of War administered Indian affairs with the exception of the government owned

\footnote{Pomeroy, \textit{The Territories and the United States}, p. 10.}
and operated Indian trade factories. Congress created these factories under "An Act for establishing Trading Houses with the Indian Tribes" on April 18, 1796. This Act allowed President George Washington to

...establish trading houses at such posts and places on the western frontiers, or in the Indian country, as he shall judge most convenient for the purpose of carrying on a liberal trade with the several Indian nations, within the limits of the United States.\(^\text{11}\)

From 1806 to 1822, a superintendent of Indian trade, directly responsible to the Secretary of War, administered these trade factories. These factories, designed to operate on a non-profit basis, allowed the Indians to secure trade goods, such as blankets, knives, and axes, at fair market value in exchange for their furs. Although popular with the Indians and those whites who believed that the government houses fostered better relations between the races, the factories came under increasing attack from traders and politicians who believed the government had overstepped its authority and embroiled itself in an area best left to free enterprise and "Yankee" ingenuity.

Each Act authorizing the continuance of the factory system's existence usually remained in force for a period of three years before subsequent legislation of the same nature

had again to be passed to continue its operation. The American Fur Company's owner, John Jacob Astor, and the St. Louis fur trading interests, whose positions were powerfully expressed on the Senate floor by their unofficial spokesman, Senator Thomas Hart Benton, lobbied against the factories. Finally in May 1822, they convinced Congress to pass legislation that permanently disestablished the factories. Astor and Benton found their task simplified because Congress had never been fully comfortable engaged in the Indian trade.¹²

As the government trading factories closed, the Office of Indian Trade evolved into the Office of Indian Affairs. Secretary of War John C. Calhoun, without authorization or orders from Congress, created the Office of Indian Affairs on March 11, 1824.¹³ Calhoun appointed Thomas L. McKenney, the last Superintendent of Indian Trade, as first Commissioner of Indian Affairs.¹⁴ The Office of Indian Affairs operated within the War Department from its founding until July 9, 1832, at which time Congress authorized the appointment of a Commissioner of Indian Affairs who was responsible for directing and managing Indian Affairs and

¹²Prucha, American Indian Policy in the Formative Years, p. 92.

¹³Ibid., p.56.

¹⁴Ibid., p. 57.
reported to the Secretary of War.

In 1849, Congress detached the Office of Indian Affairs from the Department of War and assigned it to the newly created Department of the Interior.\textsuperscript{15} Although now under the control of civilians, the Government's Indian policy did not change appreciably. The military still provided defense on the frontier. Because the regular military was often the only law and policy enforcement agency on the frontier, the separation of the Office of Indian Affairs from the War Department resulted in conflicts over jurisdiction leading to an inevitable lack of cooperation between the Department of the Interior and the Department of War. However, the rift provided each Department with a convenient scapegoat to blame when failures occurred in the implementation of federal Indian policy. The halls of government resounded with the echoes of each department's champion lawmaker competing to be heard over others in support of his particular Department.\textsuperscript{16}

Throughout these administrative changes, superintendencies and agencies were mainstay offices and


\textsuperscript{16} Alban W. Hoopes, Indian Affairs and Their Administration with Special Reference to the West, 1849-60, Philadelphia: University of Pennsylvania Press, 1932) pp. 16-17.
comprised the two field divisions within the Office of Indian Affairs. Positions in both the Indian Bureau's administrative branch, headed by the Commissioner of Indian Affairs and a cadre of clerks in Washington D.C., and its field force of superintendents and agents, were filled by political appointees and a few detached soldiers. Oftentimes, the men in the field did not see a tribesmen until they reached the seat of their respective superintendency or agency. Most appointments were based on no better qualification than faithful party service. Inexperienced with their charges, a majority of these appointees were merely incompetent, while others, realizing their positions were tenuous -- dependent solely on election outcomes -- came to the office with deliberate intentions to misuse their positions for personal gain in wealth, politics or both.  

Superintendencies held general responsibility for Indians in a large geographic area, an area which usually included or mirrored an entire political division, such as Montana Territory. The governor of a territory often served as *ex-officio* superintendent of Indian affairs. Congress appointed full time superintendents in unorganized areas or on those occasions when the duties of a superintendent were

---

17 Utley, The Indian Frontier of the American West, p. 42.
either particularly burdensome or volatile. All Indian superintendents, whether their status was as *ex-officio* or full-time, were not only required to oversee the Indians under their jurisdiction, but also required to supervise and to regulate those traders who conducted business with the Indians. In addition, they acted as watchdogs over the agents assigned to the respective agencies within their superintendencies.

Until the 1870's, Indian superintendents and agents often enjoyed a great deal of autonomy and personal discretion when performing their duties in remote, isolated jurisdictions because conditions often made communications difficult if not impossible with federal authorities in Washington D.C.. On many occasions, superintendents appointed agents and selected the sites for the agency's headquarters. As the double pressures of the government's reservation policy and increased white immigration into Indian territory gradually forced the tribesmen onto reservations, the agencies lost their peripatetic nature and Congress drafted legislation mandating that agency headquarters be established in one location. With this centralization of authority, communications between Washington D.C. and the agencies improved, and subsequently

---

18Hill, *The Office of Indian Affairs*, p. 2.
the superintendents and agents lost much of their autonomy. Centralization and improved communications also led to direct communication between the commissioner of Indian affairs and Indian agents. With official correspondence bypassing the superintendent of Indian affairs, the status and authority of the office was so weakened that the position, regardless of its status as *ex-officio* or full time, became obsolete after the Civil War.

Individual Indian agencies and agents came under the jurisdiction of its assigned superintendencies and superintendents. Until the 1870's, most Indian agents reported to their superintendent; however, a few reported directly to the Commissioner of Indian Affairs in Washington, D.C. Because many Indian agencies were isolated and far from communication centers, the Indian agent's position occasionally became crucial. They were often the only government representation residing with the Indians. The Indian agent, by virtue of his exclusivity, occasionally undertook the delicate tasks of diplomacy and negotiation to secure treaties with various tribes. The agent's responsibilities included the distribution of those annuities and supplies required to honor previously negotiated treaties authorized by Congress. Agents were

---

also required to undertake "civilizing" the Indians through the use of government sponsored educational and agricultural training methods and programs. These programs became increasingly important and desirable as the government confined greater numbers of tribesmen on the reservations.  

Although the President of the United States appointed both Indian superintendents and agents with the advice and consent of the Senate, he could not establish new Indian superintendencies. An Act of June 30, 1834, specifically authorized the creation of certain superintendencies and agencies. This woefully inadequate legislation provided for only one full time Indian Superintendent, who was to reside in St. Louis, Missouri, "...for all the Indian country not within the bounds of any state or Territory west of the Mississippi River.." and only two agents for the Western Territory. Significantly, the act did not grant the President the power to create either new superintendencies or agencies, but rather allowed him to decrease the number and/or change their locals as he deemed

---

20 Hill, The Office of Indian Affairs, pp. 1-2.


22 Ibid., p. 665.
necessary.\textsuperscript{23}

The Office of Indian Affairs circumvented the restrictions the Act of June 30, 1834, by creating subagencies, which did not require Congressional approval. In effect, subagents acted as regular agents, but there were some "technical" differences. The subagencies were assigned to agencies, not superintendencies, and the subagents received half of the $1500 annual salary paid to a full agent.\textsuperscript{24} The Commissioner of Indian Affairs could establish additional agencies by creating "special agencies." Special Agents often carried out a specific assignment, such as a treaty signing mission; but in other cases they were simply regular agents, placed in charge of their own Indian agency, and appointed in addition to circumvent, the established quota of agents.\textsuperscript{25}

The Congressional decision to combine both the administrative duties of territorial governor and superintendent of Indian affairs into one office resulted in a monetary savings to the federal government, but at the same time it created anomalies and confusion within the hierarchy of the government's bureaucracy. It created the

\begin{itemize}
\item \textsuperscript{23}Ibid., p. 656.
\item \textsuperscript{24}Ibid., p. 655.
\item \textsuperscript{25}Hill, \textit{The Office of Indian Affairs}, p. 2
\end{itemize}
awkward situation of requiring the territorial governors to report to two different federal administrators. In their capacity as territorial governors, they reported indirectly to the President through the Secretary of State. Strictly a matter of protocol, this practice continued until 1867, when Secretary of State William Seward ordered all territorial business addressed directly to the State Department, not the White House.26

As *ex-officio* Superintendent of Indian affairs, however, territorial governors first reported to the Secretary of War and later to the Commissioner of Indian Affairs. Submitting written reports to an underling, the Commissioner of Indian Affairs, must have rankled the political sensitivities of a number of territorial governors. The commissioner of Indian affairs reported directly to the Secretary of the Interior, who headed one of the more junior government departments, and as territorial governor, the same official reported directly to the Secretary of State, who headed the oldest government department. This system created an uncomfortable anomaly that required the territorial governor, to report to the commissioner of Indian affairs, an inferior in the government’s hierarchy and protocol in the governor’s

capacity as *ex-officio* superintendent of Indian affairs. Such an arrangement undoubtedly established the idea that the duties of *ex-officio* superintendent of Indian affairs were of less importance and value than those matters pertaining to the office of territorial governor.\(^{27}\)

The root of the conflict between whites and the tribesmen lay in the possession or use of land. Effective territorial governors promoted, or boosted, their territories to encourage settlement, development, and, ultimately, statehood. Boosterism, however, did not preserve peaceful relations with local tribal communities, but encouraged conflict between the tasks of administrating white men's affairs while maintaining the rights of Indians often came into conflict with one another. To many westerners, the Indian personified the impediment to culture and civilization. Much as nature and the wilderness itself, the tribesman became an obstacle that had to be overcome if

\(^{27}\)The annual reports territorial governors submitted to the Commissioner of Indian Affairs were the main liaison between the territorial governors as *ex-officio* superintendents and Washington, D.C. Over the years, the Commissioners of Indian Affairs did not give territorial governors discretionary guidelines for writing these annual reports. Each governor was expected to prepare reports containing as much detail as possible, including a census, and description of tribal lifestyle and culture. The completeness of each annual report to the Commissioner of Indian Affairs ultimately depended upon the individual governor's discretion, talent, concern, and ability, or any combination of these factors. See Neil, "The Territorial Governor as Indian Superintendent" pp. 213-214.
progress and civilization were to flourish. The whites coveted Indian lands, and the governor/ex-officio superintendent of Indian affairs usually abandoned the Indian's best interests for that of the white constituent's. Self-interest dictated that the governor concentrate on his territorial duties, since the potential rewards, such as a seat in the U.S. Senate, were both obvious and greater. Unfortunately, these duties were almost always accomplished to the detriment of his duties as ex-officio superintendent of Indian affairs.

Fiscal problems constantly influenced a territorial governor's political decisions to either abandon or to minimize their duties as ex-officio Superintendent of Indian Affairs. Financial concerns plagued territorial governors, and the federal government slowly and often reluctantly disbursed those funds slated for the territories. Further complicating this matter was the fact that all forms of currency, other than hard specie, was accepted at a discount on the frontier. Senator James W. Nye, former Territorial Governor and ex-officio Superintendent of Indian Affairs for Nevada from March 22, 1861 through July 18, 1865, testified on the floor of the Senate that the federal funds he

---

28 For a discussion of the conflicts between politics and Indian affairs see Pomeroy, The Territories and the United States and William M. Neil "The Territorial Governor as Indian Superintendent".
received to operate his territory and Indian superintendency was accepted at the discounted rate of thirty-eight cents on the dollar.\textsuperscript{29} Matters improved in this respect, but as late as 1866, U.S. Indian Agent Augustus S. Chapman at the Flathead Reservation in the Montana Territory complained that government checks drawn on a San Francisco bank were devalued thirty percent; those drawn on Virginia City or Helena twenty percent; and greenbacks, or government script, were discounted ten percent.\textsuperscript{30}

The territorial governor ran into financial difficulties for two reasons. First, the territorial governor dispersed all territorial funds, but only the territorial secretary possessed the authority to write money drafts on the territorial account. Second, the Federal Government niggardly dispersed funds from its coffers, and the territorial governor often attempted to perform the Herculean tasks imposed by his office without the benefit of clerks to assist him with his Indian superintendency duties. If the territorial governors had a clerk assigned to assist him in the administration of Indian affairs, the clerk's

\textsuperscript{29} The Congressional Globe, 40th Cong., 2d sess. No. 176. p. 2801.

salary often came from the governor's private funds.\textsuperscript{31}

During the 1870's, the Federal Government gradually discontinued superintendencies. The last combined territorial governors/\textit{ex-officio} superintendencies of Wyoming, Dakota and Colorado were discontinued in 1871 under the territorial governors. After that date, Indian agents were appointed who reported directly to the Commissioner of Indian Affairs.\textsuperscript{32} Then, the Montana Superintendency was abolished on June 30, 1873, and by 1878, the last superintendency, a bureaucratic anachronism whose usefulness had expired, finally ceased to exist. From that time forward, all Indian agents submitted their reports directly to the Commissioner of Indian Affairs, Office of Indian Affairs, in Washington, D.C. However, inspectors and special agents were occasionally granted supervisory powers over agents when conditions warranted - usually following the aftermath of an Indian uprising.\textsuperscript{33}

The Indian Superintendency constituted one bureaucratic level of the Indian Service. The government created the Indian Bureau to conduct policy with the tribesmen, and especially to deal with displaced people on reservations.

\textsuperscript{31}Neil, "The Territorial Governor", p. 216.

\textsuperscript{32}Pomeroy, The Territories and the United States, p. 18.

\textsuperscript{33}Hill, The Office of Indian Affairs, p. 3.
The Indian Bureau also utilized its field agents as negotiators (Congress used treaties to gain title to the tribesmen's lands.) There was little doubt that whites would take the land held by the Indians. Employing treaties to secure this end perhaps soothed the country's conscience by cloaking such seizure in a neat, legal blanket; however, the government's use of war as an alternative to diplomacy left the Indians without any alternatives other than surrender or extinction. The treaty system was flawed, as Congress did not feel the same obligation to honor tribal treaties as they did with those signed with foreign powers.\textsuperscript{34}

In spite of the difficulties in reconciling the conflicting duties inherent in their roles as territorial governor and \textit{ex-officio} superintendent of Indian affairs, some early territorial governors conducted both administrative offices effectively through an inherent ability that allowed them to separate their two duties and distinguish between their two roles.

Arthur St. Clair, William Henry Harrison, and William Clark were among several early \textit{ex-officio} superintendents of Indian affairs who conducted their dual responsibilities in a statesmanlike manner. Arthur St. Clair became the United

\textsuperscript{34}\textit{Utley, The Indian Frontier of the American West}, pp. 42-45.
States' first territorial governor when, on October 5, 1787, he reluctantly acquiesced to those in Congress who urged him to accept the appointment as Governor of the Northwest Territory. A Major General during the Revolutionary War, St. Clair served as Pennsylvania's Delegate to the Confederation Congress from November 1785 to November 1787. In February 1787, St. Clair was elected President of the Confederation Congress, and his tenure in that capacity witnessed Congress pass in July the Ordinance of 1787 that established the framework of government for the Northwest Territory.\textsuperscript{35} St. Clair also became the nation's first \textit{ex-officio} superintendent of Indian affairs when on September 11, 1789, Congress passed legislation granting an annual salary of $2,000 be paid to the Governor of the Northwest Territory as compensation for his duties as superintendent of Indian affairs.\textsuperscript{36}

The Northwest Territory was a geographically defined as the area that comprised all or parts of the current States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and Minnesota. The United States gained sovereignty over the


\textsuperscript{36}U.S. Statutes at Large, vol. 1, (July 4, 1776--March 2, 1799), "An Act for establishing the Salaries of the Executive Officers of the Government with their Assistants and Clerks," p. 68.
area by terms of the Treaty of Paris (1783) that ended hostilities between the United States and Great Britain. While it made great territorial gains, the new nation at the same time inherited the Indian problems that had plagued Great Britain in the region. In 1763, reacting to the successful Indian Confederacy put together by Chief Pontiac, the British reaffirmed Indian rights and title to all the territory west of the Appalachian Mountains. In the early 1760’s, King George III’s government enacted laws to prohibit settlers from immigrating into the area, to prevent expensive Indian Wars. The British government passed legislation that negated all colonial land claims beyond the Appalachian Mountains and established the Proclamation Line of 1763, which forbade colonists from entering the area west of the Appalachians until a more effective Indian policy could be developed. This became the first major grievance the colonists harbored against British rule after the French and Indian War. This grievance and others eventually led to the American Revolutionary War.\(^{37}\)

Between 1784 and 1786, the United States dictated a series of treaties with those Indians who had claims in what is now eastern and southern Ohio. The American treaty

"negotiators", accompanied by an intimidating military escort, informed the Indians that Great Britain had ceded the property that they now inhabited and announced that the United States was now prepared to allow them to retain possession of some of their lands. The Indians were bullied into signing these treaties and did not understand the terms "sovereignty" and "right of soil." Under these circumstances, they refused to abide by the treaty terms and commenced raiding white settlements, with British encouragement.  

The Northwest Ordinance provided a framework of government for the Northwest Territory. Previously, the area possessed very few settlers. Passage of this Ordinance opened the area to white immigration and settlement, which increased hostilities between the tribesmen and the whites. Confronted with escalating Indian depredations and an impecunious treasury, the Articles of Confederation Government decided to treat the different tribes as sovereign nations and negotiate treaties with them rather than launch a series of expensive military campaigns. In January, 1789, two treaties were signed at Fort Harmer, Northwest Territory. These reaffirmed the land cessions

---

from the previous treaties. This time, however, the government paid the signatory tribes $9,000. Many tribes in the area either did not sign or disavowed the Fort Harmer Treaties, and hostilities resumed at a more heated pace than before; the Territorial Capital at Marietta was reduced to little more than a besieged camp.\textsuperscript{39} Although the Fort Harmer Treaties can only be considered an unmitigated failure, their implementation marked the beginning of the Government's quixotic "treaty/annuity" policy when it negotiated with Indian tribes. This policy approached Indian relations with the confusing assumption that these Indian "nations" inhabited the same land that the United States claimed sovereignty over, a policy the federal government followed until 1871.\textsuperscript{40}

Heeding the appeals for help from the war ravaged settlers in the Northwest Territory, the new, more powerful Constitutional Government flexed its military muscles and sent an armed punitive expedition in two columns against the hostile Indians. One column numbered some 1,500 regular and militia troops was placed under the command of General Josiah Harmar. It struck north from Fort Washington, now Cincinnati. The western arm of the attack, 300 troopers

\textsuperscript{39}Horsman, \textit{The Frontier in the Formative Years}, pp. 39-40.

\textsuperscript{40}Kelley, \textit{The Shaping of the American Past}, p. 133.
strong, was to march from Vincennes under the command of Major John Francis Hamtramck. All military operations were planned in consultation with Territorial Governor and ex-officio Superintendent of Indian Affairs, Arthur St. Clair. The campaign achieved nothing. Harmar split his command and lost 180 men in piecemeal actions. Hamtramck never found the Indians he was after. The Indians, buoyed by their success and supplied by the British in Detroit, increased their depredations.\textsuperscript{41}

In October, 1791, the Government again attempted to use military force to bring order to the area, when in October of that year, Arthur St. Clair lead a large force northward from Fort Washington. St. Clair spent one month moving his command one hundred miles, only to have it routed by the Indians with a loss of 600 men. The survivors fled back to Fort Washington in a matter of days. Known as the "Battle of No Name," this debacle was the worst defeat ever suffered by an American army at the hands if the Indians.\textsuperscript{42} Only after General "Mad" Anthony Wayne defeated the Indians at the Battle of Fallen Timbers on August 20, 1794, and the signing of the Treaty of Greenville in August 1795 did the

\textsuperscript{41}Horsman, The Frontier in the Formative Years, p. 49.

\textsuperscript{42}John Hoyt Williams, "Defeated Army In Shame" Military History, Volume 5, Number 3 (December 1988) pp. 19-24.
area become safe for white settlement.\textsuperscript{43}

Arthur St. Clair, a staunch Federalist, remained Territorial Governor and \textit{ex-officio} Superintendent of Indian Affairs for the Northwest Territory until President Thomas Jefferson, a Republican, removed him from office on November 22, 1802, for partisan political reasons. The Northwest Territory was heavily Republican, and St. Clair tried to keep the area from entering the Union and providing additional votes for the Republicans. After his removal, the governorship fell to the territorial secretary, Charles W. Boyd, who served as Acting Governor until Congress created the State of Ohio on March 1, 1803.\textsuperscript{44}

Arthur St. Clair’s tenure as the Northwest Territory’s Territorial Governor and \textit{ex-officio} Superintendent of Indian Affairs set many precedents that would guide the government’s policies throughout the first half of the nineteenth century in its implementation of Indian policy. Perhaps the most important policy established during the years St. Clair was territorial governor/\textit{ex-officio} superintendent of Indian affairs was the precedent that white expansion into the frontier would be at the expense of


\textsuperscript{44}McMullin and Walker, \textit{Biographical Directory of American Territorial Governors}, p. 263.
Indian land title. The government preferred to use treaties and annuities to secure title to Indian lands, but proved it was not beyond the use of military force if a tribe proved recalcitrant, refused to sign a treaty, or, worse yet, broke an existing one. During St. Clair's tenure, for the first time these two disparate and conflicting offices were combined under the aegis of a single official when Congress joined the offices of territorial governor and superintendent of Indian Affairs. Designed with the hope of avoiding similar costly Indian wars such as those St. Clair undertook, Congress formulated the "treaty/annuity" plan in order to secure title to Indian lands, and passed a series of laws, in 1796, 1799, and 1802, "to regulate trade and intercourse with the Indian tribes.". During the Northwest Territory experience, in the early years of the Republic, there developed a recurrent pattern that defined Indian-white relationships on the frontier. First, a treaty would be signed to turn Indian land title over to the whites. Then, the area would experience white immigration. The terms of the treaty would be broken by either the tribesmen or the whites, which led to Indian attacks on white settlements. After which, the settlers would call on the government to provide military protection. An Indian

---

45Prucha, American Indian Policy, pp. 44-45, 50.
war would ensue, and upon the war's conclusion, a new peace treaty was signed, which often required the tribesmen to cede more of their lands.46

William Henry Harrison, also typified the early breed of territorial governors. A scion of an aristocratic Virginian family and later the ninth President of the United States, he served as the first Territorial Governor and ex-officio Superintendent of Indian Affairs for the Territory of Indiana from 1801 to 1812.47

Using his family's connections, Harrison secured a commission in the army, and in 1792 was stationed at Fort Washington, Northwest Territory, in what is now Ohio. He served as Aide-de-Camp to General Anthony Wayne and served in Wayne's campaigns against the Shawnee, fighting in the Battle of Fallen Timbers, and participated in the signing of the Treaty of Greenville which opened much of the area to white settlement. After resigning his army commission in June 1798, he accepted an appointment as Territorial

46See, for example, Philip Weeks, ed., The American Indian Experience: A Profile, Arlington Heights, Illinois: Forum, 1988), pp. 81-189, passim and Frederick E. Hoxie, ed., Indians in American History, Arlington Heights, Illinois: Harlan Davidson, 1988), particularly the essays "Indian/White Relations: A View From The Other Side of The 'Frontier'" by Alfonso Ortiz; "National Expansion from the Indian Perspective" by David Edmonds; and "How the West was Lost" by William T. Hagan.

Secretary of the Northwest Territory and worked in that capacity under Territorial Governor Arthur St. Clair. He used the Territorial Secretaryship as a platform to become to Congressional delegate, after defeating Arthur St. Clair's son by the narrowest of margins, one vote. As Territorial Delegate, he chaired a committee on public lands and was instrumental in passing the Harrison Land Act in 1800. This important legislation liberalized the terms governing a citizen's purchase of frontier lands and accelerated the influx of white farmers into the frontier.\footnote{McMullin and Walker, \textit{Biographical Directory of American Territorial Governors}, pp. 149-150.}

Harrison recognized the problems inherent in the size of the Northwest Territory, and his ideas led to the creation of a separate Indiana Territory which included the parts of western Michigan, eastern Minnesota, Indiana, Illinois, and Wisconsin. President John Adams appointed Harrison as Territorial Governor and \textit{ex-officio} Superintendent of Indian Affairs to the new Territory of Indiana on May 13, 1800.\footnote{Ibid., p. 149.}

During Harrison's early years in office, he encountered difficulties in discharging his duties in preparing Indiana Territory for statehood while at the same time serving as
the guardian of the Territory’s Indians, forced him to confront a myriad of important issues. An able administrator, he quickly tackled the problem of lawlessness, streamlined the militia, and reorganized the judiciary in Indiana Territory. He also took measures to defuse the volatile problem of slavery in the Territory. However, all of these major and important issues paled in importance compared to the Indian issues. The Indians, under the brilliant leadership of Shawnee Chief Tecumseh and his brother Tenskwatawa, also known as the Prophet, built a powerful tribal coalition that would not only sorely test Harrison’s diplomatic and military skills but, as allies of the British in the War of 1812, posed a serious threat to America’s sovereignty over its frontier.\(^5^0\)

Tecumseh and the Prophet made their historical appearance in 1807. The Prophet was an Indian shaman who preached resistance to the white man’s ways and desired a return to the old Indian ways. Tecumseh was a political/military leader, determined to stop any further white encroachment into Indian territory. Tecumseh claimed that no one tribe could sell Indian lands; all the tribes

\(^{50}\)For a discussion of the problems associated with white immigration into Indian lands during this period, see David Edmonds, The Shawnee Prophet, (Lincoln: University of Nebraska Press, 1983), Tecumseh and the Quest for Indian Leadership, (Boston: Little, Brown & Company, 1984).
had to be a party to any sale, or the transaction was rendered invalid. Armed and encouraged by the British (relations between America and Great Britain steadily worsened after the Chesapeake Affair in 1807), Tecumseh built the most powerful and effective tribal confederation to confront America's western expansion since the time of Pontiac nearly fifty years before. The problems the Americans thought were resolved by the Battle of Fallen Timbers and the Treaty of Greenville were resurrected, and Indian relations in Indiana and Illinois steadily worsened from 1806 through 1812.51

Despite increased Indian hostility and militancy, on September 30, 1809, Harrison concluded a treaty and land sale at Fort Wayne with the Miamis, Weas, and Delaware Tribes. Although Shawnee lands were not involved, Tecumseh held to his stated views of not selling any more land to the whites and viewed the Fort Wayne Treaty and subsequent land sale with great alarm. (Tecumseh, while visiting Harrison at the Territorial capitol in Vincennes in 1810, threatened Harrison with military reprisals, and declared the Treaty of Fort Wayne invalid.) A temporary truce prevented war, but the following summer, the two antagonists met again at

Harrison's estate in Vincennes. When this meeting ended, Tecumseh announced his intention to bring the southern tribes into his confederacy.\textsuperscript{52}

Harrison, with a force of regular and militia troops, moved towards the Prophet's village in September 1811, with the intention of negotiating the tribesmen. The Indians rejected Harrison's efforts at diplomacy, and, on November 7th, they attacked his column. The Indians were repulsed, but only at the cost of heavy American casualties. The Battle of Tippecanoe, written in Harrison's official report as an overwhelming victory for America, accomplished very little in terms of bringing peace to the frontier.\textsuperscript{53}

However, the battle established Harrison as an Indian fighter and that served him well as a platform plank and part of a campaign slogan that launched him into the White House thirty-nine years later.\textsuperscript{54}

The tribesmen proved their worth as British allies in the War of 1812. Initially, America suffered serious defeats on its frontier, including the surrender of an entire army in Detroit. Only after Admiral Oliver Hazard

\textsuperscript{52}Prucha, \textit{The Great Father}, vol. 1, p. 77.


\textsuperscript{54}Prucha, \textit{The Great Father}, vol. 1, pp. 77-78.
Perry secured the Great Lakes was Territorial Governor/Major General William Henry Harrison able to defeat the British and their Indian allies at the Battle of the Thames on October 5, 1813. This battle, although a marginal military victory for the Americans, proved disastrous for the Indians when Tecumseh was killed in the fighting. The tribesmen never recovered from this loss, and Tecumseh’s mighty tribal confederacy died with him.\textsuperscript{55}

The Treaty of Ghent, signed on December 24, 1814, ended the War of 1812. The United States in its desire to impress upon the Indians that the British had ceded all claims to the old Northwest, sent commissions among the tribes to ensure that the tribesmen understood that no further British assistance would be forthcoming. In order to ensure peace, the War Department established a series of forts from Chicago to St. Louis. A peace treaty signed at Spring Wells on September 8, 1815 reaffirmed peace between the tribes and the United States and pardoned those Indians who continued hostilities after 1811.\textsuperscript{56}

Harrison’s later career reflected on the quality of his leadership. He resigned his governorship in May 1813, after a dispute with Secretary of War John Armstrong, and later

\textsuperscript{55}Ibid., pp. 78-79.

\textsuperscript{56}Ibid., p. 82.
served as a State Senator in Ohio, a bank director, a United States Senator, Minister to Columbia. He capitalized on his experiences as territorial governor and the fame won as an Indian fighter. In 1840, he successfully ran for President of the United States employing one of the first successful campaign slogans, "Tippicanoe and Tyler Too!" As Superintendent of Indian affairs, Harrison performed better than most. One need not admire all of his policies to appreciate the integrity and competence he brought to the office.

The defeat of Mexico and the settlement of the Oregon question with Great Britain enlarged the physical size of the nation and dramatically increased the numbers of tribesmen under its jurisdiction. These increases rendered the Act of June 30, 1834 obsolete. Congress was compelled to enact new legislation that would expand the number of superintendencies and agencies to meet the new needs of the nation.

In his Annual Report of 1849, the Commissioner of Indian Affairs, Orlando Brown, pointed out the problems created by the government's underfunding the Office of Indian Affairs and the need for more efficient administrative control over these newly acquired

\footnote{McMullin and Walker, Biographical Directory of American Territorial Governors, p. 151.}
territories. Brown believed these two problems blocked the effective implementation of Indian policy. When the jurisdiction of Texas, Oregon, California, and New Mexico, fell to the United States, the number of superintendencies, still at the level of 1834, proved inadequate. When Congress passed the Act of 1834, it authorized the establishment of five positions of Superintendents of Indian Affairs. Of these five, two were local agents for particular tribes. These two agents, called "acting superintendents" were expected to perform, without any increase of compensation, the duties of superintendents as well as agents.58

Commissioner Brown made the specific point that the others, the Territorial Governors of Oregon and Minnesota, also held the posts of ex-officio Superintendents of Indian Affairs, thus inferring that they were overwhelmed by their responsibilities. Commissioner Brown believed that the territorial governors were inadequately compensated for their extra duties as Indian Superintendents "...for which they are allowed, the one fifteen hundred, the other one thousand dollars per annum, in addition to their salaries as governors." He complained of the lack in the numbers of

superintendencies and noted the existence of only one full and independent superintendent, located in St. Louis, Missouri. Accordingly he recommended the establishment of seven "full and independent" Indian superintendencies. His suggested plan centered on the creation of four superintendencies for the Indians east of the Mississippi including Texas, and three for the Territories of Oregon, California, and New Mexico. This plan, he argued, "...would supersede the necessity of governors acting as superintendents."59

As Commissioner of Indian Affairs, Brown dealt with political appointees rather than officers of the caliber of St. Clair and Harrison. Brown offered two major criticisms concerning the operation of the Superintendent of Indian affairs. He disliked the system which allowed the governor to locate his residence away from the Indians. He also expressed the opinion that a territory's superintendent of Indian affairs should be a permanent appointment, because the governor's position would terminate when the territory achieved statehood. This lack of continuity created a situation in the Indian Bureau "...always producing changes inconvenient, embarrassing, and injurious."60

59Ibid., p. 953.
60Ibid., pp. 952-53.
Due to the lobbying efforts of such men as Orlando Brown, Congress provided for an expanded and different arrangement between existing superintendencies and agencies. The Act of February 27, 1851 increased the number of Indian superintendencies east of the Rocky Mountains, and north of New Mexico and Texas to three while decreasing the number of agents and subagents in the same area from twenty-three to seventeen. This reshuffling of superintendencies and agencies, remained woefully inadequate to administer Indian affairs on the American frontier properly.

The American Western Territories were the beneficiaries of the Act of February 27, 1851. Into the expanded number of Indian superintendencies Congress appointed both famous territorial governors, as well as a cadre of political hacks who secured their appointments through the political patronage system. Brigham Young of Utah, Isaac Stevens of Washington, were representative of the former, and Caleb Lyon of Idaho was typical of the latter. All served as examples of later Territorial Governors and ex-officio Superintendents of Indian Affairs. The experience of this later group preceded the Montana experience, but their story provided insights into what would later take place in

---

Montana. Politics, finances, and Indian policy constantly conflicted with the territorial governor's ability adequately to perform their duties as *ex-officio* superintendent of Indian affairs.\(^6^2\)

Young's experience as both territorial governor and *ex-officio* superintendent of Indian affairs demonstrated that the combined administrative positions were at odds with one another. When President Millard Fillmore signed the Organic Act of September 9, 1850 that created the Territory of Utah, he appointed "Gentiles" to the offices of the territory's secretary, judges, marshall and district attorney, but reserved the governorship for the Head of the Church of Latter Day Saints. President Fillmore recognized that Young had the total allegiance of his people. This was crucial in that many Mormons opposed organizing into a territory because they believed they would be subjected to far less bigotry and persecution in a unorganized province than in a political unit under Congressional control. Retaining Young as the territorial governor would reduce their fears.\(^6^3\)

Brigham Young was a capable leader. As such, he also understood the government's interest in carrying out Indian

---


policy as efficiently as possible. However, this understanding did not prevent him from asking for more money to carry out his plans of Indian pacification in Utah Territory. He laced his Annual Report to the Commissioner of Indian Affairs, George W. Manypenny, in 1855, with phrases such as "the small amount of expenditures", "The cheap rate at which these results have been attained," and "Advocating a course not only the least expensive to the general government...", to describe the economical means he used to implement Indian policy.64

Although Young paid lip service to the Federal Government's desire to run Indian affairs as cheaply as possible, he recognized that the funding allocated by the Federal Government to run Indian affairs in his superintendency was inadequate. This realization prompted Young to request more funds from the Commissioner of Indian Affairs. In his Annual Report to the Commissioner of Indian Affairs, Young wrote:

You will at once perceive that not only myself, but the subordinate officers of this superintendency, find it impossible, as proven by our united and best endeavors and judgements, to carry out your admirable policy -- which we all happily coincide with -- except at considerable expense; hence may I not rely upon your powerful mediation with the next Congress for

appropriations commensurate with the justice of the case and the magnanimity of our nation?\textsuperscript{65}

Young also complained about the burdens placed on him in his dual capacity as both the Territorial Governor and \textit{ex-officio} Superintendent of Indian Affairs for Utah. He believed his salary did not pay commensurate with the work involved. He wrote to the Commissioner of Indian Affairs suggesting that "...inasmuch as I perform the duties of both offices, I am entitled to the pay appropriated for it, and trust that you will so considerate it."\textsuperscript{66}

As might be expected, his call for more pay landed on deaf ears. Indeed, Commissioner of Indian Affairs James W. Denver had reached the end of his patience with Governor Young and his constant requests for more funds. In a letter to Governor Young, Denver responded with the following literary salvo aimed at Salt Lake City:

Sir: Your communication of the 12th of last September has been received, and would not require a formal reply were it not for the effort you make to place this office in the wrong, when, in fact, whatever difficulties exist have resulted from your own conduct.

Your claim for double salary cannot be allowed; for even if it did not come in conflict with the general rule which forbids the payment of two salaries at the same time to the same person, yet you could not be entitled to it, for the

\textsuperscript{65}Ibid., p. 516

\textsuperscript{66}1857 \textit{Senate Executive Document} no. 11, 35th Congress, 1st Session, Serial 919. "Report of the Commissioner of Indian Affairs" p. 600
reason that you became superintendent of Indian affairs by virtue of your appointment as governor of the Territory; and although these offices have since been separated, yet you had not, at the date of your communication, been relieved of the duties appertaining to them.67

In July 1857, Brigham Young's tenure as Territorial Governor of Utah ended when President James Buchanan replaced him with the appointment of Alfred Cumming during the "Mormon War."68 On September 9, 1857, Jacob Forney was appointed Superintendent of Indian Affairs for Utah, and Young's argument that the office should be split became a reality, but too late for him to benefit. After its experience with Young, Congress separated the office of superintendent of Indian affairs from the office of territorial governor in Utah.69

67 Ibid., Letter from James W. Denver to Governor Brigham Young. November 11, 1857.

68 Rumors had reached Washington D.C that the Mormons in Utah were in open rebellion against the United States. President James Buchanan sent 1,500 Federal troops with orders to march on Salt Lake City to restore federal authority to the "treasonous" Territory of Utah. Enroute, some brief skirmishes occurred, but major battles in the so called "Mormon War" (Spring 1857 - Spring 1858) were avoided. The affair ended abruptly when Buchanan reversed himself and pardoned the Mormon leaders. With that, the Mormons allowed the troops to pass through, but not encamp, in Salt Lake in June 1857. See Furness, The Mormon Conflict: 1850 - 1859, or Stanley Hirshon's biography of Brigham Young, The Lion of the Lord (New York: Alfred A. Knopf, 1969.) p. 102.

As ex-officio Superintendent of Indian Affairs, the territorial governor sometimes negotiated treaties with the Indians within his jurisdiction. Some territorial governors, such as Washington Territory's Isaac I. Stevens, entered these treaty meetings fully prepared and armed with knowledge of the Indian's culture and desires and a full vision of the treaty's importance to expansion. A talented thirty-five year old, blessed with phenomenal physical stamina, Governor Stevens, a general, explorer, cartographer and accomplished artist, demonstrated that one man, albeit an extraordinary one, could accomplish the duties of territorial governor and ex-officio superintendent of Indian affairs.70

On March 2, 1853, in the waning days of his Presidency, Millard Fillmore signed the Enabling Act that created Washington Territory. Although territorial governorships were generally considered a second rate political position, Stevens, to the disbelief of his friends and associates, actively sought the position. An ambitious man, Stevens

70For an account of Isaac Stevens, see Kent D. Richards, Isaac I. Stevens: Young Man In A Hurry (Provo, Utah: Brigham Young University Press, 1979). Also see the biography written by his son, Hazard Stevens, The Life of Isaac Ingalls Stevens Vol. 1 & 2. (Boston: Houghton, Mifflin & Co., 1901). Although understandably biased in his opinion of his father's accomplishments, the latter biography's value lies in the extensive record of events that took place at the Indian councils from 1854-1859.
believed that as Washington Territory’s Territorial Governor and *ex-officio* Superintendent of Indian Affairs, he could become the spokesman for the Pacific Northwest, much in the same way Harrison and Thomas Hart Benton became associated with their respective regions of the Nation. Having sown the political seeds to secure his appointment by actively campaigning for Franklin Pierce’s successful presidential bid, Stevens’ nomination was approved on March 17, 1852.\(^\text{71}\)

In addition, Stevens applied to Secretary of War Jefferson Davis to lead the northern transcontinental railroad route survey while enroute to Olympia, Washington Territory.\(^\text{72}\) Railroad surveys, contrary to what the name implies, were broad in scope. Railroad survey reports, in addition to topography, included as much information possible concerning such topics as geography, meteorology, botany and zoology. As if these tasks were not enough to occupy Stevens’ energies, Commissioner of Indian Affairs George W. Manypenny thought such an expedition would provide Stevens with an opportunity "to acquaint the department as fully as possible with the condition of Indian affairs in


Arriving in Olympia in November 1853, Stevens proceeded to set up a territorial government. He then tackled the problems of settling those claims the Hudson Bay Company still had outstanding with the United States Government. Because white immigrants had already flooded into the area he recognized the urgent need to sign treaties to gain land title and settle the area's Indians onto reservations. A careful observer, Stevens noted these Indians were profoundly attached to their traditional lands. Because most of the area's tribesmen lived by fishing, relocation of these tribes to the interior would be impossible. On a return trip to Washington D.C. in the spring of 1854, he convinced Commissioner Manypenny of the wisdom behind his plan to negotiate a number of treaties which would keep the Indians on their traditional lands within small, non-contiguous reservations. Accordingly, Congress appropriated $45,000 to negotiate treaties with the Indians in Washington Territory as well as an extra $80,000 to fund those expenses likely to be incurred to negotiate and to sign a treaty with the Blackfeet, Gros Ventres, and other tribes in the area.

that would eventually become Montana Territory.\(^\text{74}\)

Upon Stevens’ return to Olympia in December 1854, he began a whirlwind Indian treaty signing mission. From the winter of 1854 through the autumn of 1855, the energetic Stevens managed to secure title to an area of settlement from the Puget Sound to beyond the border of Washington Territory and the jurisdiction of his Indian Superintendency.\(^\text{75}\) He was especially interested in signing treaties with the Blackfeet in the area that would eventually become Montana Territory. Stevens hoped to pave the way for a railroad through their lands and to remove them as a military threat to those tribesmen within the Washington Superintendency.\(^\text{76}\)

Accordingly, on October 17, 1855, Stevens signed the Judith River Treaty with the Blackfeet tribes. Under the terms of the Treaty, the Blackfeet were not to establish any permanent villages south of a line drawn ten miles north of the Musselshell River, so that these lands, to the Yellowstone, could be used in commonality by western tribes to hunt buffalo. In return, the Blackfeet received

\(^{74}\)Prucha, \textit{The Great Father}, vol. 1, p. 403.

\(^{75}\)Ibid., pp. 404-406.

\(^{76}\)Richards, \textit{Isaac I. Stevens}. p. 115.
As a testimony to his abilities in carrying out these difficult duties from the government's standpoint, Stevens received a glowing review from the Commissioner of Indian Affairs, George W. Manypenny. In his annual report, Manypenny wrote, "...I would refer... to the elaborate report of Governor Stevens of Washington, as containing much valuable and interesting information in regard to the tribes, and the condition of Indian affairs in those two Territories." Although he may have impressed the Commissioner of Indian Affairs, a closer examination of his record reveals some flaws with his handling of Indian matters.

Stevens spoke condescendingly to and held a paternalistic attitude towards the Indians; thus the treaty negotiations he entered into were not two sided negotiations. Stevens' Treaties took the form of dictated terms that the tribesmen were cowed or bribed into signing. A number of Indian wars soon broke out. In 1855, the Rogue River War and the Yakima War broke out in Washington and Oregon Territories. The causes of these wars were two-fold.

---

77Ibid., p. 232.

Congress dragged its feet ratifying Steven's treaties, and the area experienced a large influx of white immigrants. These wars dragged on until 1858 when the military power of the Indians was finally broken at the Battles of Four Lakes and Spokane Plains. American military action achieved its desired objectives in Washington and Oregon Territories. After the subsequent hanging of those Indian parties implicated in inciting attacks, Indians in the region never resorted to war to settle their grievances again.\textsuperscript{79}

The Judith River Treaty has often been credited with maintaining peace with the Blackfeet until the Civil War, when the pressures of white immigration into the area heightened tensions and eroded the peace.\textsuperscript{80} By 1864, and the formation of Montana Territory, the area was a powder keg awaiting a match.

Some \textit{ex-officio} superintendents, such as Caleb Lyon, Territorial Governor of Idaho from 1864-1866, initiated Indian negotiations with little desire of learning anything about the Indians under his charge.\textsuperscript{81} Such ethnocentric attitudes almost always resulted in flawed or unworkable Indian treaties. The nature of tribal diplomacy was

\textsuperscript{79}Prucha, \textit{The Great Father}, pp. 407-408.

\textsuperscript{80}Richards, \textit{Isaac I. Stevens}. p. 223.

\textsuperscript{81}Neil, "The Territorial Governor," p. 223.
delicate and difficult. Lengthy in ritual and formality, patience was demanded of any successful Indian treaty negotiator. Although Lyon negotiated treaties with the Boise and Bruneau Shoshoni, Congress never ratified them because the whites in Idaho Territory rejected his reservation proposals as too generous to the tribesmen. Territorial governors such as Lyons, because they received their appointment as a political reward, came to their posts ill-trained, ill-prepared, or lacking the temperament to enter into such delicate diplomacy. They also lacked the training necessary to prepare for the inevitable Indian war that followed.

Lyon ended his career ignobly by embezzling $46,418 in federal funds allocated for the Nez Perce Indians. After arriving east and being confronted with the accusation, he claimed the money was stolen from his pillow during the train trip, which contradicted his previous claim that the money never arrived in Idaho. He escaped conviction, and retired to a life of writing poetry and collecting art at his home "Lyonsmere" on Staten Island.

---

Unfortunately for Indian-American relations, many territorial governors were drawn from the ranks of those in the ilk of Lyons. Ironically, however, even with honest, ambitious men such as Stevens and Young, people possessed with good intentions and abilities, their achievements differed little from those of incompetent and dishonest Lyons. Even good territorial governors and ex-officio superintendents of Indian affairs, were thwarted by factors beyond their control: a lack of funding, inadequate means to implement or enforce federal Indian policy, or their own ignorance of their charges. More often than not, many territorial governors saw their positions as temporary – a steppingstone that would lead to a seat in the United States Senate when statehood was achieved. Others were simply thieves. Against this backdrop, the Montana experience began in 1864.
CHAPTER III
THE MONTANA EXPERIENCE: SIDNEY EDGERTON, 1864-66

During the Civil War, an event occurred that provided an impetus for policy change that would eventually culminate in a revision of the official relationships between the tribesmen and the Federal Government. On a cold and early morning on November 29, 1864, Colonel John M. Chivington led seven hundred militia troopers of the Third Colorado Cavalry into the camp of Black Kettle, a Cheyenne Chief at Sand Creek, Colorado. Of five hundred Cheyennes, some two hundred (fully two-thirds of whom were women and children) died in what could only be termed a massacre.

In the west, whites lionized Chivington and the men of the bloody Third as heroes. It mattered little that Black Kettle's band was friendly and that they had received solemn promises of government protection. What mattered to most of the whites in Colorado and the west was fact that the Indians were defeated, revenge was extracted, and, as a result of the "battle", a clear message would be sent to all tribes to change their ways or suffer the consequences.

Public opinion in the East, driven by the horror of the Sand Creek Massacre, called into question the nation's practice of allowing the military, especially local militias, to
develop and administer Indian policy. The realities of the Civil War, however, mandated that the west would establish its own Indian policy with little interference from the federal government. This remained so until the inauguration of the country’s greatest warrior, Ulysses S. Grant, in 1868 and the enactment of his vaunted Peace Policy.\(^{85}\)

Again, the Sand Creek Massacre of 1864 in the Colorado Territory compelled America’s reformers to examine the nation’s treatment of, and improve its policy towards, Indian peoples. The Doolittle Commission, the body charged with this task, consisted of the then Commissioner of Indian Affairs, Nathaniel Green Taylor; the Chairman of the Senate Committee on Indian Affairs, Samuel F. Tappen; former general John Sanborn; and three military representatives, appointed by President Andrew Johnson: Lieutenant General William T. Sherman, Major General William S. Harney, and Major General Alfred Terry.\(^{86}\) Simply put, this investigative committee provided evidence that the role of territorial government in the administration of Indian Affairs, needed to be changed. The existing system that allowed territorial governors to administer or neglect

---


Indian affairs as a function of their dual capacities, was identified as an area that mandated reform. Although the events that led to a questioning of the nation's Indian policy took place outside of Montana Territory, the impact of the reform movement would exert a great impact upon the governors and government of Montana Territory.

Idaho, in what was to become Montana, experienced gold rushes of 1862-63 which upset the fragile balance of relations previously established between the American nation and the tribesmen based on treaties negotiated in 1851 and 1855. Montana's gold beckoned to those miners who missed the big placer strikes in Colorado and California. Veterans from the Union or Confederate armies recently discharged or civilians displaced by the ravages of war came by the thousands to start over and seek their fortunes. The Homestead Act of 1862 allowed many of these immigrants to stake their claims to this new land. Thousands of white prospectors, merchants, and the usual camp followers streamed into the Montana mountains. This white "invasion" spilled into or across valuable Indian hunting grounds, and tensions increased until the region became plagued by isolated violent clashes between the immigrants and the tribesmen. The Blackfeet especially felt this influx of whites into Montana because the goldfields lay along and
below the southern limits of their 1855 reservation.87

Miners in western Montana, concerned for their lives and property and fearing Indian depredations, demanded federal military protection. The military not only provided protection, but the frontier citizens also benefitted from the financial boom that resulted from lucrative government contracts required to support the fort and from military payrolls, all of which bolstered local economies.

Regardless of their reasons, westerners’ pleas for more military protection found support among the lawmakers in Washington D.C. Commissioner of Indian Affairs Dennis N. Cooley, who supported the use of the military as an Indian policy enforcement agency, wrote:

It will thus be seen that the failure to establish military posts upon the upper Missouri, together with the severe and almost unexampled drought, have resulted in an almost complete loss of the controlling influence we have heretofore held upon the Indians of that country, and that as a consequence the important and most direct route of the immigration setting in upon Idaho, by reason of the newly discovered and immense gold-bearing districts of that Territory, is cut off.88

This "most direct route" the Commissioner referred to was the famous Bozeman Trail. Blazed in 1863 by John

87Malone and Roeder, Montana: A History of Two Centuries, p. 89.

Bozeman and John Jacobs, the Bozeman Trail ran from Deer Creek, near present day Casper, Wyoming, to Virginia City, Montana. An offshoot of the Oregon Trail, the Bozeman Trail held several attractions for those journeying to the goldfields of Montana. The Bozeman Trail not only provided the travelers with a route that bypassed the rugged Rocky Mountains, but the lush and fertile grassland along the trail also provided the necessary forage required by the goldseeker's livestock and draught animals. However, travel along the Bozeman Trail also proved dangerous, as it crossed the prime hunting grounds of the Sioux, Northern Cheyenne, and Blackfeet tribes. These mobile hunters required large tracts of land to continue their way of life. The immediate past had demonstrated to these Indians that wherever white men traveled or settled, firewood and forage grew scarce and the buffalo disappeared. As a result, these tribes strongly resisted white encroachment, and quite often this resistance manifested itself in violence. Indeed, the Bozeman Trail experienced a violent baptism when the first wagon train to attempt to travel on the Bozeman Trail, led by John Bozeman, was turned back by the Sioux short of its intended destination of Virginia City. As a result of this, and other fierce clashes, the trail soon became known as
"The Bloody Bozeman."

With the end of the Civil War in April 1865, the nation once again looked west to the frontier. After many years of neglect, government funds once again became available, and western matters gained a renewed priority in Washington. As part of its plan to protect white immigrants using the Bozeman Trail, the government established two forts in 1866. One was the short lived Camp Cooke at the mouth of the Judith River, 100 miles down the Missouri from Fort Benton, the other Fort C.F. Smith on the Big Horn River. The following year, the government constructed Fort Ellis and Fort Shaw, the two major military bases on the mining frontier. Fort Shaw's position on the Sun River crossing near the Mullan Road, enabled the military to intercept any hostile Blackfeet Indians who intended to raid the southern mining camps. Fort Ellis, built on the western side of the Bozeman Pass near the town of Bozeman, shielded the southeastern flank of the goldfields from those Sioux operating out of the Yellowstone Valley.

In an attempt to end the violence between the whites

---


Ibid., pp. 89-90.
and the tribesmen, policy makers in Washington D.C. urged that the government undertake a plan that would "civilize" the Indians. The American nation's notion of "civilizing the Indians" had one broad interpretation - the tribesmen would be civilized according to western concepts. As early as 1854, Commissioner of Indian Affairs George Manypenny foresaw the detrimental impact that white immigration would have on Indian/white relations. With this in mind, Manypenny instructed treaty negotiator Isaac Stevens, to insist that any treaty negotiated with the Blackfeet reflect the government's plan to "Civilize the Indian." The Judith River Treaty (1855), which brought the Blackfeet into the reservation system, indeed attempted to "gradually reclaim the Indians from a nomadic life," and to "encourage them to settle in permanent homes and obtain their sustenance by agriculture and other pursuits of civilized life."92

The federal government never promulgated a set formula to implement its policy to "civilize" the Indians. Quite often the entire process fell under the jurisdiction and discretion of the individual Indian agents or a superintendent. William P. Dole, the Commissioner of Indian Affairs during Abraham Lincoln's administration, believed that confining tribesmen to reservations provided them with

their best hope to learn the ways of white civilization. Dole wrote:

...the policy, recently adopted, of confining the Indians to reservations, and from time to time as they are gradually and become accustomed to the idea of individual property, allotting to them lands held in severalty, is the best method yet devised for their reclamation and advancement in civilization."^3

Intimidating and difficult as these objectives appeared to implement, they provided both the official policy and the guidelines employed by the United States Government in its dealings with Native American tribesmen. These vague and open-ended statements provided the official guidelines to the territorial governors serving as ex-officio superintendents of Indian affairs. Montana Territory’s first Territorial Governor and ex-officio Superintendent of Indian Affairs, Sidney Edgerton, confronted the difficult task of implementing this policy in Montana Territory.

On May 26, 1864, Lincoln signed the Enabling Act creating Montana Territory. By signing this Enabling Act, Lincoln also created the Montana Superintendency to administer the Territory’s tribesmen. At this time, both the Territory and the Superintendency were common federal administrative units, designed to exist only until their

---

varied objectives had been reached. Sidney Edgerton, Montana Territory's first governor, assumed the position of ex-officio superintendent of Indian affairs for the Montana Superintendency of Indians when he accepted the appointment of Territorial Governor. The record of his administration, which extended from June 22, 1864, to July 13, 1866,\textsuperscript{94} amply illustrated the disastrous results of combining these two administrative units, with differing objectives, under one office.

Edgerton's career as a territorial politician began on March 6, 1863, when Territorial Governor William Wallace of Idaho nominated him to the position of Chief Justice of Missoula County, Idaho Territory. Shortly after he reached his assigned location, the gold mining town of Bannock, Idaho Territory, the town's citizens, as well as those of nearby Virginia City, collected $2,500 in gold samples and enough cash to send Chief Justice Sidney Edgerton to Washington, D.C. Edgerton's mission was as a representative to plead with Congress for the creation of a new territory. The citizens of Bannock and Virginia City argued that the territorial capital in Lewiston was inaccessible and could not represent their interests. Travel and communication between the goldfield communities, 

\textsuperscript{94}\textit{Hill, The Office of Indian Affairs}, p. 101.
then part of Idaho Territory, and the Territorial capital at Lewiston proved impossible much of the year. Heavy snows in the winter blocked the Mullan Road, the only road leading from the goldfields to those connections to Lewiston, and made the route impassible until well after the spring thaw. Citing this inaccessibility and the immediate need for government to adjudicate mine claims, these proto-Montanans believed that the creation of another territory would make their government more accessible and responsive to their needs.95

Justice Edgerton possessed impeccable political credentials and proved to be an excellent choice to send to Washington D.C. A Radical Republican from Ohio, he had represented the Buckeye State for two terms in the United States House of Representatives. More important, he had befriended both President Abraham Lincoln and fellow Ohioan James M. Ashley, the chairman of the powerful House Committee on Territories.96 Immediately upon arriving in Washington, he met and reestablished old ties with former Idaho Territorial Governor William Wallace who now served as

95Spence, Territorial Politics and Government in Montana, p. 10.

the territorial delegate to Congress from Idaho Territory. 97

Wasting little time, Edgerton secured a meeting with President Lincoln, who fully endorsed the creation of another territory in the Northern Rockies. An astute politician, Lincoln recognized the creation of another western territory as an opportunity to appoint additional Republicans to high territorial offices and eventually a new Republican State. Edgerton also discovered that Representative Ashley had initiated some of the required political groundwork by introducing a bill designed to provide a temporary government for the Territory of Montana on December 14, 1863. 98 Ashley and other like-minded Republicans listened favorably to western citizen's demands for the creation of more territories and accompanying territorial governments. They argued that although the cost of a territorial government was approximately $20,000 a year, the protection supplied by tighter governmental control over smaller areas would help prevent large scale Indian uprisings and result in an actual savings to the


98Spence, Territorial Politics and Government in Montana, p. 11.
Federal Government. Through the creation of new territories, the Republicans, as long as they retained control of the executive branch of government, would enjoy the partisan political benefit of appointing Republicans to high positions of territorial government. This was especially important as the Republican Party represented a minority of voters.

While Edgerton lobbied in Washington, D.C., the Idaho Territorial Legislature proposed their own plan to create a new territory. Realizing that the current Territory of Idaho was too large to manage efficiently and that new territories would by necessity have sizeable portions carved from it to create new territories, in early 1864, the Idaho Territorial Legislature petitioned Congress to create "Jefferson Territory" from land already under Idaho's jurisdiction. Jefferson Territory, if created, would have the Continental Divide and the 113th Meridian as its western border, and would place Idaho's eastern border just west of the Deer Lodge Valley. This arrangement would conveniently eliminate Idaho Territory's problems with the Blackfeet and Sioux.100

---


100Malone and Roeder, Montana: A History of Two Centuries, p. 72.
Edgerton, however, envisioned Montana's western border on the crest of the Bitterroot Mountain Range. The Bitterroot boundary would secure the gold fields in Deer Lodge County, the Flathead Valley, the Upper Clark Fork Valley, and middle Kootenai Valley, all rich in agricultural and mining resources, for the new territory. He convinced Idaho's Territorial Delegate, William Wallace, that as matters now stood, the Idaho Legislature's "Jefferson Territory" plan ill-served the settlers east of the Bitterroots, as it ignored the problem of accessibility to Lewiston. Edgerton's plan, however, insured that the gold camps of Alder Gulch, Grasshopper Creek, and Gold Creek would have year-round-access to the population centers in Bannock and Virginia City.\(^{101}\)

Convinced of the wisdom in Edgerton's plan, William Wallace supported his friend, going as far as to endorsing the Bitterroot boundary before the hearings conducted by the House Committee on Territories. The combined testimony of both Edgerton and Wallace swayed the Committee. The House Committee approved the Bitterroot boundary, and Congress quickly passed it into law.\(^{102}\)

Lincoln signed the Enabling Act into law on May 26,

\(^{101}\text{Ibid., p. 71.}\)

\(^{102}\text{Ibid., p.11.}\)
1864, and created Montana Territory. Idaho Territory suffered the loss of a 130 mile strip of territory along half of its northern and eastern boundaries. The combination of William Wallace's testimony, Sidney Edgerton's alliance with James Ashley, and most important, Sidney Edgerton's tireless and incessant lobbying, secured for Montana Territory some of the region's most economically important and grandest terrain. Lincoln rewarded Edgerton for his work by appointing him to be Montana Territory's first Territorial Governor and *ex-officio* Superintendent of Indian Affairs.¹⁰³

The creation of Montana Territory also provided convenient boundaries for the creation of a new Indian superintendency. The Indian Service quickly acted to establish the Montana Superintendency of Indian Affairs and charged it with administering the nation's relations with the tribesmen in Montana Territory. Upon Edgerton's appointment as Territorial Governor and *ex-officio* Superintendent of Indian Affairs on June 22, 1864, the Montana Superintendency held responsibility for two agencies: the Blackfeet and the Flathead.¹⁰⁴


Unlike a specific Indian agency, where the agent was responsible to tribesmen located at a specified location, an Indian superintendency encompassed several agencies within a political or geographical tract. The *ex-officio* superintendent of Indian affairs responsibilities lay in maintaining relations with and fulfilling United States treaty obligations to all tribesmen within the superintendency's jurisdiction. In essence, the Indian superintendent became another federal official placed between the field agent and the Commissioner of Indian Affairs. The agents in charge of agencies reported directly to the *ex-officio* Superintendent of Indian Affairs, who then reported to the Commissioner of Indian Affairs.¹⁰⁵

The Montana Territorial Governor served as *ex-officio* Superintendent until 1869, when Congress appointed an independent federal authority to operate the office. During this initial period, Indian agents in the Montana Superintendency reported to the Territorial Governor or independent superintendent until the superintendency was

¹⁰⁵Here the "chain of command" became muddied. Territorial governors were directly responsible to the Secretaries of the Interior. As *ex-officio* superintendents of Indian affairs, they were responsible to the Commissioner of Indian Affairs, who reported to the Secretary of the Interior. There can be little doubt that with this arrangement, many territorial governors thought of their role as *ex-officio* superintendents a lesser role than governor. See Neil, "The Territorial Governor as Indian Superintendent in the Trans-Mississippi West," p. 214.
discontinued on June 30, 1873. After the office of superintendent was abolished, the middle level management was eliminated, and agents reported directly to the Commissioner of Indian Affairs in Washington, D.C.\textsuperscript{106}

When Congress created the Territory of Montana and the Montana Indian Superintendency in 1864, the Indian agencies under its jurisdiction consisted of the Blackfeet and the Flathead Indian Agencies. Of the two agencies in the Montana Indian Superintendency in 1864, the Flathead Agency, established in 1854, was the older. The Flathead Agency had been initially placed under the Washington Indian Superintendency's jurisdiction. Its headquarters was first located near the junction of the Flathead and the Jocko Rivers. The agency's tribal population was divided between the Kootenai and the Pend d'Oreille Tribes, who lived on the Jocko Reservation; and the Flathead-Salish, who resided in the Bitterroot Valley. In 1857, while the Washington and Oregon Superintendencies were temporarily combined under the provisions of the Act of Congress of March 3, 1857, Congress consolidated the Flathead Agency and renamed it the "Washington East of the Cascades Agency."\textsuperscript{107}

\textsuperscript{106}Hill, \textit{The Office of Indian Affairs}, p. 99.

\textsuperscript{107}U.S., \textit{Statutes at Large}, Vol. 11, (December 3, 1855 -- March 3, 1859) "An act making appropriation for the Current and Contingent Expenses of the Indian Department for fulfilling Treaty Stipulations with various Indian tribes, for
In 1861, the Flathead Agency was reestablished and transferred from the Washington to the Idaho Superintendency in 1863. With the creation of Montana Territory, Congress transferred the agency to the Montana Superintendency in 1864. From September 1865 until February 1866, Congress reassigned the Agency to the Idaho Superintendency "...for greater facility of communication."\textsuperscript{108} Sidney Edgerton realized the communication problems this would create, and while in Washington D. C. he wrote:

While I am not particularly desirous to have charge of the Flathead Agency, at the same time I trust you will allow me to submit that the distance from Flathead Agency to Boise City, the Capitol of Idaho, where the Governor resides, is about 400 miles farther then to my residence. Furthermore, during the winter months, all communications from the Agency have to be sent via Virginia City to Boise City, inasmuch as the Bitterroot Mountains are situated between and on the direct route from Flat Head Agency to Boise City.\textsuperscript{109}

Congress reversed itself in 1866, by returning the Flathead Agency to the Montana Indian Superintendency's


\textsuperscript{109}Governor Sidney S. Edgerton to Commissioner of Indian Affairs D.N. Cooley, January 24, 1866, Letters Received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.
The second agency in the Montana Superintendency consisted of the Blackfeet Agency. The signing of the Judith River Treaty in 1855 established the reservation and situated the headquarters of the Blackfeet Agency at Fort Benton. Although federal law outlawed the practice of trading whiskey to the Indians, this practice remained common at the fort. Due to Fort Benton's isolated location, the law was not enforced. Compounding the lack of a law enforcement agency was the fact that very few Fort Bentonites sought to have the law enforced. Most were illegal whiskey traders, and huge profits were gained through this illegal activity.

From 1855, until the creation of the Montana Superintendency, the Blackfeet Agency, comprised of the Blackfeet, Piegan, Blood, and Gros Ventre Tribes, came under the jurisdictions of the Central, Dakota, and Idaho Superintendencies. The Blackfeet Agency's headquarters remained at Fort Benton until 1869, when the facility was moved to a site on the Teton River approximately 75 miles northwest from Fort Benton. The Blackfeet Agency, while

---

110 Hill, The Office of Indian Affairs, p. 100.

located at Fort Benton, created the most trouble for Montana's Territorial Governors as ex-officio Superintendents of Indian Affairs.\textsuperscript{112}

Fort Benton was a wide open town with a history of lawlessness. Established in 1846, it holds a strong claim to be the oldest continually inhabited town in Montana.\textsuperscript{113} Fort Benton, often referred to as the "World's Innermost Port", lay at the western most point of the Missouri River navigable by commercial river traffic.\textsuperscript{114} In 1864, Fort Benton, located in the heart of Blackfeet country, was surrounded by a number of past and present Blackfeet trading posts. These posts included Fort Piegan, 1831-32; Fort McKenzie, 1832-44; Fort Cotton, 1844-45; Fort Lewis, 1845-47; Fort Campbell, 1846-47; Fort Campbell II, 1847-59; Fort Labarge 1862-66; and Fort Francis A. Chardon, 1844-46.\textsuperscript{115} Fort Benton's economic importance grew with the beginning of the buffalo robe trade. Buffalo robes, far too heavy to be

\textsuperscript{112}For a detailed discussion of the problems at Fort Benton, which include racial tensions and whiskey trading, see Ewers, The Blackfeet. (Norman: University of Oklahoma Press, 1958) Chapter 14.

\textsuperscript{113}Joel Overholser, Fort Benton: World's Innermost Port (Fort Benton, MT: Joel Overholser, 1987), p. 19.

\textsuperscript{114}From St. Louis, Missouri, it is 2,385 miles on the Missouri River to Fort Benton, and a further 1,100 miles to salt water. See Overholser, Fort Benton, p. v.

\textsuperscript{115}Ibid., p. 30.
economically freighted overland from the frontier, could be profitably shipped by steamboat down the Missouri River from Fort Benton to the commercial trade center at St. Louis, Missouri.\textsuperscript{116}

The Federal Government did not possess the economic and military resources to exercise its authority in Eastern Montana Territory, and the tribes inhabiting this area, the Western Sioux, Northern Cheyenne, and Crow, lived outside of the reservation system. Eastern Montana was sparsely populated and the territorial tribesmen who inhabited this region continued their traditional hunter/gatherer lifestyle with little interference from the American Government.\textsuperscript{117}

When Sidney Edgerton was appointed Territorial Governor of Montana and \textit{ex-officio} Superintendent of Indian Affairs for Montana Territory, he held the task of moving the Territory towards statehood while directing the tribal populations towards civilization. Edgerton and his successors learned that being in charge of these delicate and opposing tasks could become an administrative nightmare especially when opposing obligations could not be carried

\textsuperscript{116}Ibid., p. 35.

\textsuperscript{117}By 1867, through a series of military battles and sieges, Chief Red Cloud and his Sioux warriors forced the United States to abandon its series of Forts built along the Bozeman Trail. For an history of the Bozeman Trail, see Johnson, \textit{The Bloody Bozeman}. 
out. The agents, already in place at the Flathead and Blackfeet Agencies, now reported to Edgerton as *ex-officio* Superintendent of Indian Affairs. Despite the assistance of two experienced Indian agents, he inherited the problems with the Blackfeet, and maintaining relations with the Blackfeet became the new Territorial Governor's major tribal concern.\(^{118}\)

Fort Benton's proximity to the new Territory's western settlements fostered tensions which often erupted into violence between the Blackfeet and the whites. Edgerton's immediate problems were two-fold. The first focused upon the very location of the Blackfeet Agency at Fort Benton, which was far from any civil authority. Law and order ended hundreds of miles from Fort Benton. The second problem concerned the enforcement of past treaty obligations the United States had made with the tribesmen especially the timely distribution of the Indian's annuities.\(^{119}\)

Edgerton faced long term problems with the Blackfeet that he could not solve. The issue of white encroachment on Blackfeet Tribal lands required the territorial governor/*ex-

---

\(^{118}\)For a discussion of the Blackfeet in Montana Territory during the Civil War, see Edmund Jefferson Danzinger, Jr., *Indians and Bureaucrats: Administering the Reservation Policy During the Civil War*, Chapter 11 (Urbana: University of Illinois Press, 1974).

\(^{119}\)Ibid., p. 68.
officio superintendent’s attention, however, given his lack of an efficient police force, there remained little Edgerton could do to evict these white trespassers. Even if he had such a force at his command, political disaster would befall any governor who turned soldiers against citizens. On the other hand, Edgerton’s position as Territorial Governor mandated he encourage and protect immigration and that he act to hasten the transformation of Montana Territory to Montana State. The use of force might expedite that transformation, but excessive force might inflame popular opinion in the East, thus jeopardizing his position as territorial governor.

Compounding the problem, the United States Congress appropriated territorial funds slowly. This lethargic fiscal action forced agents to deliver the treaty annuities promised to the Indians sporadically, at best; and the Indians, resentful of this inexcusable delay, grew angry. Contact with whites brought diseases. Not understanding communicable diseases, and witnessing the decimation of their families and tribal members, the leaders of the Blackfeet Confederacy accused whites of spreading poison through these annuities. Finally, ruthless, irresponsible traders, who provided whiskey to tribesmen and

---

120Ibid., p.51.
therefore won the friendship of the Indians. The stature of
those traders with the tribesmen grew as white encroachment
on Indian lands increased, which threatened the traders and
tribesmen. This process furthered the region's instability.
White immigration into the Bitterroot Valley forced even the
peaceful Salish Indians who lived there to display an ever
increasingly hostile attitude towards the whites.¹²¹

Montana territorial citizens compounded the tribal
problems by criticizing Congress's relations with tribes.
Congress' actions disgusted frontier settlers who believed
the Eastern Congressmen were too far removed from the scene
to understand either Indians or the proper way to deal with
them. Westerners expressed opinions implying that
Easterners mollycoddled the tribesmen. They believed that
the best method of handling Indian affairs was with lead
fired from a rifle.¹²²

Hostilities between tribes and whites often helped to
boost the western economy. Equipping an American military
force was quite expensive. Most of the gear would be
purchased from local dealers at inflated prices, and the
bill for these expenditures would be sent back to Washington

¹²¹Robert G. Athearn, "Early Territorial Montana: A
Problem in Colonial Administration," Montana Magazine of

¹²²Robert G. Athearn, "Frontier Critics of the Western
D.C. for reimbursement. Westerners also wanted the government to provide permanent military bases in their territories, and, most significantly, they demanded a reduction of Indian lands and the opening up of these "freed" lands to settlement. Herein lay the main contradiction faced by Edgerton and the other western territorial governors: it was impossible to please his white constituents to move the Territory towards settlement and statehood while at the same time effectively discharging his duties as the federal representative and guarantor of Indian rights and property.

As Montana’s first Territorial Governor, Sidney Edgerton undertook those first steps, as described under the organic act, to start the wheels of territorial government into motion. Arriving in Bannock from Washington, D.C. in July, 1864, he busied himself with the formation of judicial districts, commissioned county officers, named Bannock as the temporary Territorial Capital and ordered a census taken.¹²³

Edgerton had functioned brilliantly as the elegant spokesman who pleaded for creating Montana Territory. He possessed the ability to immerse himself into and follow through to successful completion one straightforward task at

¹²³Spence, Territorial Politics and Government in Montana, p. 20.
one time. On the other hand, Edgerton compromised only reluctantly, and this hurt him in the unforgiving world of Montana Territorial politics, an arena where give and take was essential. A Radical Republican and abolitionist, the Ohioan had little in common with the Democratic majority of in Montana Territory, many of whom expressed Southern sympathies.

Reluctant to operate outside the boundaries of partisan politics, Edgerton could not hide his contempt toward the Democrats. In his opening speech to the first Territorial Legislature, Edgerton called former Democratic President James Buchanan an "imbecile" in referring to his mishandling of the events that led the nation towards the Civil War.\textsuperscript{124} Afraid of Southern sympathizers in Montana's Territorial Government, he insisted that all the legislators take the "Iron Clad Oath". This oath bound its taker to swear that he had never taken up arms against the United States, and was intended by Congress to insure the loyalty of all newly installed officials in the reconstructed South. The Democrats and Edgerton agreed on the necessity for laws concerning road construction and maintenance, founding

public schools, and those involving irrigation and mining.\textsuperscript{125}

The Governor's uncompromising, idealistic nature also adversely affected tribal relations. Indeed, his stated Indian policy was confusing and worked toward cross means. It also typified politicians of that era, particularly those who held the position of territorial governor/\textit{ex-officio} superintendent of Indian affairs. In his first message to the Territorial Assembly, Edgerton promised to punish promptly and severely any Indian aggression, however he also warned that whites would be punished if they infringed on Indian rights. He summed up his statements on Indian policy with:

I trust that the Government will, at an early day, take steps for the extinguishment of the Indian title in this territory, in order that our lands may be brought into market.\textsuperscript{126}

How could one man work to extinguish the Indian's title to their lands, and at the same time act as a guardian of their interests and maintain peace? The difficult, if not impossible, task was made still more challenging by the partisan politics of the era. Edgerton's final remark

\textsuperscript{125}Malone and Roeder, \textit{Montana: a History of Two Centuries}, pp. 76-77.

concerning his Indian policy illustrates the contradictions and unworkable goals inherent in the combined office of territorial governor/ex-officio superintendent of Indian Affairs.

Despite the severity of the Indian troubles facing Montana Territory and his administration, Edgerton simply neglected his role as ex-officio Superintendent of Indian Affairs. He complained to Secretary of State Seward that:

...the duties devolved upon me by virtue of my office, as Superintendent of Indian Affairs, were not defined by any instructions from the Department, and the subordinate agencies were securing supplies from other channels than through me. The Indians within my Superintendency, with an unimportant exception, held the title to the mineral and agricultural portions of the Territory, which were settled; some of them were intensely hostile, and not a soldier was in the Territory, nor had any force been ordered there, so far as I could learn, to protect the rapidly increasing and important interest there existing.\(^{127}\)

Upset with the lack of funds and staff personnel received from Washington, Edgerton was overburdened with the multitude of duties required to organize Montana’s Territorial Government. In a letter of April 4, 1866, Edgerton claimed he was overworked and complained to Secretary of the Interior James Harlan of not having a

---

\(^{127}\)Secretary of the Interior Jason Harlan to Commissioner of Indian Affairs D.N. Cooley, April 4, 1866, Letters Received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.
Territorial Secretary, of the necessity of employing a clerk for his superintendency of Indian affairs, and of being compelled to pay this clerk from his own funds. He was saddled with the burdens of his job and the added duties of the Secretary that devolved upon him.

Edgerton justified employing a clerk by citing examples of his many tasks including presiding over the legislative session being held as well as the "...difficulties with the Blackfeet ..., which rendered the services of a clerk absolutely necessary." One cannot blame him for being upset with his thankless job, as only a territorial secretary could release funds and Edgerton operated as a territorial governor for one year without one. Additionally, Edgerton bore the added expense of paying for many of Montana’s expenses from his personal funds.

Discouraged, uncompromising, and unpaid, Edgerton neglected the work associated with the Superintendent of

---

128Governor Sidney S. Edgerton to Secretary of the Interior James Harlan, March 31, 1866, Letters Received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.

129Lincoln nominated two men to the position of Montana’s Territorial Secretary, both of whom refused the position. See James McClellan Hamilton, From Wilderness to Statehood, p.282. Lincoln’s murder in April 1865, delayed the issue and his successor, Andrew Johnson, a Union Democrat, was determined that a Radical Republican would not be appointed.

Indian affairs duties; work crucial to his political success in Montana Territory. The frustrations of the two jobs created a contempt for the position of superintendent of Indian affairs. Sidney Edgerton failed to submit one of the required annual reports to the Commissioner of Indian Affairs during his tenure as Montana's ex-officio Superintendent of Indian Affairs. His actions seemed to validate the indictment levied by the Doolittle Commission against the unworkable practice of employing territorial governors as superintendents of Indian affairs and highlighted the need to separate these two offices. The Commissioners of Indian Affairs, from 1864 through 1866, complained in their annual reports of a lack of reports submitted from the Montana Superintendency. In 1864, Commissioner William P. Dole wrote, "No reports from the Governors, who are ex-officio Superintendents of Indian Affairs for these (Idaho and Montana) Territories, have yet been received."\textsuperscript{131}

The following year, Dole further vented his frustration towards his office and the ineffectiveness of Congress's Indian administration when he complained:

First among these is the neglect of many of the officers responsible to this office to forward

\textsuperscript{131}1864 House Executive Document no.1, 38th Cong., 2d sess., serial 1220. "Report of the Commissioner of Indian Affairs" p.172
their monthly, quarterly, and annual reports at the proper time, in disregard of repeated directions from the office.\textsuperscript{132}

He added, "...I do not know of any way to remedy this difficulty except by reporting to the department each case of delinquency, and relying upon it to seek a remedy by a change of officers."\textsuperscript{133} Dole singled out individuals by name, and he included Sidney Edgerton in his remarks describing Montana conditions: "...we have no report, either this year or last, from Governor Edgerton, ex-officio superintendent."\textsuperscript{134}

In 1866, Commissioner of Indian Affairs Lewis Vital Bogy, reported that:

No annual report from this superintendent has been received. The governor, and ex-officio superintendent, Ho. Sidney Edgerton, has been absent from the Territory a considerable portion of the time, and the general interests of the service have been in the hands of General Meagher, secretary and acting governor, who, at last accounts was about to leave the capital of the Territory to visit the Flathead agency.\textsuperscript{135}

Governor Edgerton handled Indian Affairs in a

\textsuperscript{132}1865 \textit{House Executive Document} no. 1, 39th Cong., 1st sess., serial 1248, "Report of the Commissioner of Indian Affairs" p. 121.

\textsuperscript{133}Ibid., p. 121.

\textsuperscript{134}Ibid., p. 199.

\textsuperscript{135}1866 \textit{House Executive Documents} no. 1, 39th Cong., 2d sess., serial 1284, "Report of the Commissioner of Indian Affairs" p. 40.
consistent manner. He simply did as little as possible. His uncompromising rigidity ill-served him, his nation, and his constituents, while he achieved little toward safeguarding the rights of Indians under his authority.

Governor Edgerton, who, assumed the duties of the Territorial Governor for Montana Territory but could not disperse money without a territorial secretary, eagerly awaited the arrival of newly appointed Territorial Secretary, Thomas Francis Meagher.¹³⁶

On August 4, 1865, President Andrew Johnson appointed Thomas Francis Meagher, a northern Democrat and a minor Union Civil War General, to Montana's Territorial Secretaryship. A dynamic personality, Meagher had been involved in the revolutionary Young Ireland movement. Captured by the British and sentenced to be drawn and quartered for treason in 1848, he cheated his fate when the sentence was later commuted to banishment in Tasmania. In 1852, he escaped from Tasmania and came to New York where he became the editor of the Irish News. During the American Civil War he commanded the famous New York Irish Brigade and led his unit into numerous encounters against Confederate forces. Reaching the rank of brigadier general, Meagher

felt constrained by the War Department's lack of support for the Irish Brigade's recruiting efforts after its ranks had been depleted after heavy fighting. Citing the War Department's unwillingness to grant him leave to recruit more volunteers into the Irish Brigade's depleted ranks and the need to recuperate from a wound he received, Meagher tendered his military resignation to Lincoln's Secretary of War Edwin M. Staunton on May 8, 1863, who accepted it a week later, on May 14th.  

On July 27, 1865, he received President Andrew Johnson's telegram appointing him to a four-year term as Territorial Secretary of Montana. His duties included recording all legal proceedings in the territorial legislature, and, more significantly,

...in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or absence...

Meagher telegraphed his acceptance two days after receiving his appointment and began his journey west. Departing in early August 1865, Meagher reached Bannock the

---


following September. Traveling to Bannock, Montana Territory's capital in 1865, was a grueling journey that involved a great deal of time and inflicted much discomfort on even the hardiest of travelers.¹³⁹

Upon his arrival, Edgerton ascertained that Territorial Secretary Meager was not bonded, and therefore could not disburse territorial funds.¹⁴⁰ This, in turn, meant that treaty annuities could neither be bought nor dispersed to the Indians. Governor Edgerton quickly introduced Meagher to the local citizens and briefed him on the state of affairs in the Territory. Edgerton then left for Washington, without securing official leave, ostensibly to alert those in the federal government of the money problems confronting Montana Territory. His departure placed the job of acting governor and ex-officio Superintendent of Indian Affairs in Montana Territory on Meagher's shoulders.¹⁴¹

When Meagher assumed the Territorial Governorship of Montana, both political parties viewed him as a potential political ally. A Union Democrat, the Democrats welcomed him as one of their own, while his war record endeared him

¹³⁹Athearn, Thomas Francis Meagher, p. 146.

¹⁴⁰Thane, ed., A Governor's Wife on the Mining Frontier, p. 60.

¹⁴¹Spence, Territorial Politics and Government in Montana, p. 34.
to the Republicans. Meagher believed that the Democratic
Party in the Territory were riddled with untrustworthy
Confederate sympathizers and aligned himself with the
Territory’s Republicans. Within a few weeks, Meagher,
always a political opportunist, reversed his political
loyalties and joined with the Democrats, the majority Party
and the one which largely comprised the Territory’s Irish
citizens.¹⁴² Both Meagher and the Territory’s Democrats
wanted statehood for Montana. Meagher’s political ambitions
led him to set his sights on becoming the State’s Senator.
Montana statehood did not sit well with the country’s
Republicans because they feared another Democratic state in
the Union.¹⁴³

During Meagher’s custodianship, confusion reigned in
the halls of Montana’s Territorial Government as the Radical
Republican Congressmen in Washington, D.C. declared both of
the Legislatures called by Meagher "null and void." Montana
Republicans started a campaign of slander and libel against
Meagher depicting him as a hopeless drunk and related ribald
stories of his boasting about the numerous conquests he made

¹⁴²Malone and Roeder, Montana: A History of Two Centuries,
p. 78.
¹⁴³Ibid., p. 80.
in the executive mansion with ladies of ill-repute.\textsuperscript{144}

The legacy of Edgerton's lackluster stewardship of the Montana Superintendency left Meagher embroiled in partisan politics. This state of affairs, however, did not deter Meagher from striving for the potential political gain and the opportunity to recover his past glories that might be garnered from successfully campaigning in an Indian war.

On October 20, 1865, Meagher requested that Major General Frank Wheaton, Commander of Montana's military district, place five hundred cavalry under Meagher's command to combat both the problem of Indian hostilities as well as to suppress an estimated 300 road agents.\textsuperscript{145} His proclivity towards military action further manifested itself in a letter to Secretary of State William Seward on December 11, 1865, in which he urged that a cavalry force of at least 1,000 was needed in Montana to quell the Sioux along the Powder River, and that this force took precedence over the need of a legislature.\textsuperscript{146}

On December 14, 1865, Meagher reiterated these sentiments when he wrote to Indian Commissioner Cooley that he expected little trouble from the tribes in his Territory

\textsuperscript{144}Spence, \textit{Territorial Politics and Government in Montana}, p. 39.

\textsuperscript{145}Athearn, \textit{Thomas Francis Meagher}, pp. 147-48.

\textsuperscript{146}Athearn, \textit{Thomas Francis Meagher}, p. 148.
with the exception of the Sioux. The Oglala Sioux, under the leadership of Red Cloud, had started their military campaigns against white encroachment on their hunting grounds along the Bozemen Trail. Meagher wrote:

As for the Sioux, and their allies and accomplices, it is my clear and positive conviction that they will never be reduced to friendly and reliable relations with the whites but by the strong and crushing hand of the military power of the nation.

I have, in my communication with the Secretary of State, taken the liberty of expressing this conviction, and on the strength of it have requested him to obtain from the War Department a competent cavalry force for this Territory. I trust that you will see fit to approve of this application which I have urged in my two-fold capacity as acting governor and superintendent of Indian Affairs, and that in the proper quarter you will give it your earnest support.147

Meagher was quick to draw sabers against those tribes like the Sioux whom he felt could not be made to follow the white man's ways. He also pleaded eloquently for those tribes he believed were worthy of "civilizing" and whom the government had neglected. A case can be made that Meagher was not someone who "...longed more for glory than for for

Indeed, in many instances his actions served as a precursor to Grant's Peace Policy. Territorial Governor Meagher, in numerous instances, acted as a man of vision in foreseeing needed Indian policy reforms in Montana Territory.

Meagher wrote to the Commissioner of Indian Affairs, Dennis N. Cooley, urging humanitarian action in behalf of the Territory's non-reservation Shoshoni and Bannock Indians. Meagher ordered a Montana political office seeker, Nathaniel Hall, to investigate their plight. Hall suggested building an agency to protect them from their pony stealing Indian neighbors. Hall concluded his report with:

> The most influential of them feel that the Great Spirit has so ordered that they must give way to the palefaces and that the only safety is in throwing themselves into the hands of the Great Chief at Washington asking that he will throw his big robe of protection over them until [sic] they fulfill the destination for which they were created.\(^4\)

Meagher agreed wholeheartedly with Hall and forwarded his finding with the following to the Commissioner of Indian Affairs:

---

\(^1\)Toole, Montana: An Uncommon Land, between PP. 126 and 127, caption with pictures of Major General George Armstrong Custer and General Thomas Francis Meagher, "Two Headstrong Generals."

\(^4\)Nathaniel Hall to Governor Thomas Francis Meagher, April 6, 1866, Letters Received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.
At the moment I write, there are eleven lodges belonging to them standing close to town (Bannock), and they contain as much misery and filth and dire want as might be exceeded only by the huts of the Terra del Fuegans.

He urged the Commissioner that these "poor creatures" be formed into an agency. "Unrecognized, unprotected, and outlawed, as it were, as they are now, they are indeed a revolting reproach to our civilization." Of course, he nominated Hall to head this proposed Agency.\textsuperscript{150}

In the same letter, he reported Blackfeet depredations in a more familiar vein:

There is, however, no hope whatever to be entertained that such outrages will cease until the presence of a military force in the Territory, judiciously distributed and posted, shall, by intimidation, coerce these intractable savages to do what no treaty, however liberal, and no amount of annuities will, in my opinion, induce them to do.\textsuperscript{151}

Meagher astutely perceived that one man could not give the attention required of Governor and Superintendent of Indian Affairs in Montana because the agencies were separated from between two and three hundred miles. In a wise move, he nominated Flathead Agent Gad Upson for the position of full-time Superintendent in Montana because of

\textsuperscript{150}1866 House Executive Document no.1, 39th Cong., 2d sess., serial 1284. p. 199.

\textsuperscript{151}Ibid., p. 199.
his wealth of experience in Indian matters. To defuse hostilities between the whites and the tribesmen, Meagher proposed that a commission be appointed which would investigate and adjudicate claims by awarding compensation to those parties suffering loss from Indian attacks.\(^{152}\)

The Federal Government ignored an opportunity to allay tensions between the two peoples, when they refused to ratify a treaty negotiated by Blackfeet Agent Gad Upson and acting Governor Thomas Francis Meagher with the Blackfeet and Gros Ventre Tribes at Fort Benton on November 16, 1865. Under the terms of the treaty, the Blackfeet agreed to cede the lands south of the Missouri River and withdraw northward, away from white settlements, in return for annuities.\(^{153}\)

Congress never ratified the "Upson" Treaty. Almost immediately after its singing, Blackfeet braves stole horses from the whites, an act which the tribesmen considered heroic. Compounding this crime, Piegan and Blood war parties killed a number of miners and traders within two months of:

\(^{152}\)Thomas Francis Meagher to William Seward, Dec 14, 1865, Letters received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.

the council meeting.\textsuperscript{154} When information of these events reached Secretary of the State William Seward, he became convinced that neither side would abide by the treaty's terms. Although the "Upson" Treaty held the promise of peace between the two peoples, Seward did not submit it to the Senate for ratification.\textsuperscript{155}

Commissioner of Indian Affairs Dennis Cooley supported the Secretary of State's decision in this matter. Cooley spoke out against the treaty because he had information that the tribesmen had "...almost immediately broken out into hostility, and thus violated their treaty stipulations."\textsuperscript{156}

Although Congress did not ratify the treaty, officials in the Indian Service acted as if it had been ratified and held the tribes accountable to its terms.

When Agent Upson died suddenly in San Francisco enroute to Washington to deliver the Blackfeet Treaty that he and Meagher had negotiated and signed on November 16, 1865, Meagher wrote President Andrew Johnson and urged him to make the Superintendent of Indian Affairs in Montana a full-time position, and to separate the office from that of the

\textsuperscript{154}Ewers, The Blackfeet, p. 240.

\textsuperscript{155}Malone and Roeder, Montana: A History of Two Centuries, p. 90.

\textsuperscript{156}1866 House Executive Documents no. 1, 39th Cong., 2d sess., serial 1284, "Report of the Commissioner of Indian Affairs" p. 13.
governor's. Meagher suggested himself for the position, noting that it would be "far more in consonance with my predilections than either the Secretaryship or Governorship."  

Meagher, known as the "acting one", was relieved of his role as acting governor with the arrival of Territorial Governor Green Clay Smith in October 1866. At the urging of the legislature, on January 3, 1867, Governor Smith, with less than three months in office, returned to Washington to persuade Congress of Montana's need for more military protection. In his absence, Meagher once again resumed his duties as acting governor and ex-officio Superintendent of Indian Affairs, and once again chaos returned.  

Sidney Edgerton's tenure from 1864 -1866 as Montana's Territorial Governor/ex-officio Superintendent of Indian Affairs can only be described as a failure. The reasons for his failure were recognized by many leaders, but Congress failed to rectify the problems. Like so many of the politicians appointed to territorial office, Edgerton viewed his position as temporary in nature and as a stepping stone to further his career. Even had that not been the case, Congress never gave Edgerton the wherewithal properly to  

---

157 Athearn, Thomas Francis Meagher, pp. 154-155.  
execute his duties. When Secretary Meagher came to Montana, Edgerton gave him the briefest of briefings and left the Territory as quickly as possible. He turned the reigns of government over to a man who, although capable of recognizing problems with the administration of Indian Affairs, was also ill-suited to hold the position.

It would be unjustifiable to hold one man accountable for this tragedy. The system that evolved through practice and legislation proved inadequate. The government's policy was to assimilate the Indian peacefully, and instead, it produced hostility and open warfare. If anything, relations with the Indians grew worse. The office of *ex-officio* superintendent failed to achieve its objectives. Edgerton, and especially his successor Meagher, recognized and suggested constructive means to improve the Territory's Indian Administration. In the absence of constructive reform, however, one man, Edgerton, neglected his office and the other, Meagher, abused it.
CHAPTER IV
GOVERNORS SMITH AND ASHLEY: 1866-1868

Montana Territory had an easy birth, but a difficult infancy. The problems that frustrated Edgerton and Meagher continued to plague their successors. Factionalism plagued the Territory’s politics. The predominately Democratic population resented the appointed Radical Republican governor Edgerton, who, overwhelmed by the office, ignored Indian affairs and had so stubbornly clung to his uncompromising political principals that he completely alienated the majority of his constituents. After briefing his newly arrived Territorial Secretary, Thomas Francis Meagher, for one week, Edgerton left Montana Territory to lobby on behalf of the Territory’s interests in Washington D.C. Meagher, an opportunistic man of fickle political loyalties, took over the office in Edgerton’s absence. His claim to the gubernatorial office was held up to such public ridicule that he was saddled with the derogatory appellation of the "Acting One."

Sidney Egerton’s approach to Indian affairs in the fledgling Territory consisted primarily of ignoring them as much as was possible. His successor, Meagher, expressed some interest in Indian affairs and recommended that
Congress create an independent Superintendent of Indian Affairs for Montana Territory. Meagher then put himself forward for the post. His designs upon the independent Superintendency should be attributed to his propensity for self-aggrandizement rather than to any great benevolent concern for the Territory's tribesmen. However, Meagher's suggestion was a step in the right direction.

This undistinguished background set the stage for Montana's last two territorial governors/ex-officio superintendents of Indian affairs. The first of these was Green Clay Smith from Kentucky. Born on July 2, 1832 in Richmond Kentucky, Smith graduated from Transylvania University's law school, Lexington, Kentucky in 1850.

While serving in the Kentucky legislature in 1860, he took a strong stand against secession. To underscore his commitment to the Union, he resigned his seat and enlisted in the Union Army in 1861 as a private. Smith's promotions came rapidly. By the early part of 1862, he had attained the rank of colonel, and by June of the same year he was commissioned a brigadier general. In 1863, he resigned his commission in order to serve as Representative from Kentucky in the 38th and 39th Congress. A popular congressman with an outstanding military record, Smith nearly became Lincoln's running mate in the 1864 election, but lost the nomination to Andrew Johnson, a Unionist Democrat from
Tennessee. Towards the end of the Civil War, in March 1865, Smith was brevetted Major General of the Volunteers for gallantry in the field.\textsuperscript{159}

Johnson appointed Smith as the Governor of Montana Territory on July 13, 1866. Smith accepted the position, and arrived in the Territorial Capital on October 3rd of that year.\textsuperscript{160}

Smith fit the mold of many territorial governors, at least as he fulfilled his duties as Superintendent of Indian Affairs. Indeed, he could be compared with Washington's Isaac Stevens. A popular Territorial Governor, as well as moral, sober, and a capable man of considerable talent and energy, Smith's record as \textit{ex-officio} superintendent of Indian affairs, like Steven's, remained poor. In his first address to the Territorial Legislature, delivered on November 6, 1866, the Governor announced a hard line policy against those Indians he deemed hostile. Smith, like Meagher before him, directly expressed his dislike of the Sioux, who "...had scarcely made a treaty with the government, than they leaped upon the warpath, and in conjunction with other tribes with whom we had a right to


expect peace, murdered and plundered our people."\textsuperscript{161}

He continued:

If the Government will help us, we will be glad, and heartily co-operate; but if not, we must take the matter in our own hands, and teach the red man that he cannot with impunity kill and rob. We will be just and fair to them, but they must respect our rights.\textsuperscript{162}

One element of that "right" which Smith referred to was the perceived need of the whites for "...all the agricultural land for cultivation."\textsuperscript{163}

In general, Smith paid scant attention to Indian affairs. His hard line position remained unchanged. In his second address to the Montana Territorial Legislature he lamented the conduct of some of the militia. When General Alfred Terry, under pressure from the Federal Government, mustered out the Montana Territorial Militia, many enlistees and officers stole government animals and equipment. Smith, however, still expressed "a debt of gratitude" for those who served faithfully and well. He went on to expand upon his belief in the importance of an efficient militia to defend the country against "...marauding and desperate bands of


\textsuperscript{162}Ibid., pp. 137-38.

\textsuperscript{163}Ibid., p. 137.
Indians."  This statement constituted his sole reference to Indian policy or problems in Montana Territory.

Montana's politics remained rife with bitter factionalism stemming from the problems created by Republican appointed judges and elected legislatures controlled by the Democrats. In this political morass, Governor Smith applied for an official leave of absence and spent the first half of 1867 in Washington lobbying for Montana's interests. Smith's departure meant that the reins of the Montana Territory's Government once again lay in the hands of a territorial secretary, acting as governor and ex-officio superintendent. Thomas Francis Meagher, a man who had already proven himself both ambitious and unable to bridge the Territory's partisan politics, again found himself in the governor's office.

Meagher's first tenure as acting governor in 1866 had failed to provide him an opportunity either to secure a permanent political position or to win the glory needed to

---


propel him into the spotlight of national prominence. Meagher was a different man from the year before. Frustrated that his career had reached a dead end, he had wanted to resign the Territorial Secretaryship when Governor Smith arrived, but Smith talked him into staying in the office. On April 16 1867, when Meagher was acting governor, the murder of John Bozemen and the wounding of Thomas Cover in an attack by Blackfeet Indians in the Gallitin Valley, provided Meagher with what he must have considered was his last opportunity to save himself from obscurity.\(^{167}\) Gone was Meagher the statesman of 1866 who had advocated viable changes in the administration of Indian policy. In his stead emerged "Commander" Meagher, determined to secure fame as an Indian fighter.

Meagher's Civil War experience demonstrated to him that waging an aggressive war and fighting it to a successful conclusion could provide the fame necessary to secure a political appointment. Meagher decided to portray Bozemen's murder at the hands of five Blackfeet warriors as a major Indian uprising that he, as Commander in Chief of the Montana Territorial militia, would quell.\(^{168}\)

On April 24, "Commander" Meagher held a war meeting and


\(^{168}\)Athearn, "Early Territorial Montana," p. 17.
rally in Helena. Generally, the settlers in the Territory thought the tribesmen should be punished. Montana's experience in Indian warfare up to that time had been a series of depredations, involving horse and cattle theft, as well as isolated killings. Meagher played on their demands for retribution and their disgust with the "Christian-like character of the United States troops in the West" to create a Territorial militia.\(^{169}\) Always a flamboyant speaker, Meagher called for 600 volunteers who would save the Territory from the red scourge. Although the idea of a Territorial Militia appealed to many Montanans, when it came to committing themselves to an Indian campaign, most of the settlers were too busily engaged in mining activities to play soldier. Meagher's call to arms came at the beginning of the mining season, the number of those Montanans who enlisted in Meagher's campaign proved disappointing.\(^{170}\)

Indeed, not everyone in Montana Territory agreed with Meagher as to the necessity of an Indian War over Bozemen's death. Some saw through the thinly disguised reasons for going to war. Augustus H. Chapman, Flathead Indian Agent, wrote:

Acting Governor Meagher's Indian war in Montana is the biggest humbug of the age, got up\(^{169}\)Leeson, History of Montana, p. 118.\(^{170}\)Athearn, "Early Territorial Montana," p. 18.
to advance his political interest, and to enable a lot of bummers who surround and hang onto him to make a big raid on the United States treasury...\textsuperscript{171}

In spite of poor enlistment and various criticisms, Meagher plunged on with his Indian war. On July 1, while at Fort Benton awaiting supplies and arms, Meagher fell off the deck of a riverboat and drowned. "Commander" Meagher led neither a single charge in Montana Territory nor took a single tribesmen's scalp. Despite a $2,000 reward and an extensive search, Meagher's body was never recovered from the murky depths of the Missouri River.\textsuperscript{172}

Governor Smith returned to Montana from Washington, D.C. in June, 1867. Upon Meagher's death, he took control of the newly organized militia in order to fight the Sioux and Blackfeet Indians. Writing to Commissioner of Indian Affairs upon his return to Montana Territory, Smith offered his explanation of his position as he perceived it:

I am here as Governor and \textit{ex-officio} Superintendent of Indian Affairs. My duties are two-fold -- first to secure peaceable and amicable relations with the Indians if I can, (if I have the means and which I am perfectly willing to do) but forcibly if I must which I also am willing to do, and I have the means to do the


\textsuperscript{172}Athearn, "Early Territorial Montana," p. 19.
latter.\textsuperscript{173}

This letter returned to the theme of Smith’s first address to the Territorial Legislature. Because the federal government failed to supply those means the Governor deemed necessary to the peaceful settlement of Indian affairs in his Territory, he employed the means at hand, the local militia, and attempted to force peace through the use of violence.

Montana’s Territorial Militia accomplished little militarily. They marched through the Galatin Valley to the Yellowstone in May. In July they fought with a party of Crows who had stolen some livestock, and killed two tribesmen. In August, Blackfeet raided stations along the Northern Overland Mailroute at Fort Benton, stealing horses and one mail bag. In the same month, a captain of one unit killed a man in his command after the man attacked him.\textsuperscript{174}

Despite this poor performance, Montana Territory, unabashedly "made a big raid on the Treasury" and submitted an enormous bill to the federal government for its services. Smith professed great embarrassment when many of the additional militia which he had organized decamped with

\textsuperscript{173}Green Clay Smith to Nathaniel G. Taylor, Commissioner of Indian Affairs, July 29, 1867, Letters received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.

horses, mules and supplies.\textsuperscript{175}

On June 20, 1867, Congress, frustrated with the inability of current Indian policy to keep peace on the frontier, authorized a commission to look into matters and recommend changes. This investigative committee, the Doolittle Commission, consisted of the Commissioner of Indian Affairs, Nathaniel Green Taylor; the Chairman of the Senate Committee on Indian Affairs, Samuel F. Tappen; and former general John Sanborn. President Andrew Johnson, whom the commission charged with appointing three military representatives, selected Lieutenant General William T. Sherman, Major General William S. Harney, and Major General Alfred Terry.\textsuperscript{176}

The cornerstone of the Peace Commission's policy centered upon the settlement of the "wild" tribes west of the Mississippi River onto reservations. They concluded a number of treaties negotiated in whirlwind fashion with the Sioux, Comanches, Kiowas, Blackfeet, and Cheyennes. These treaties established two vast reservation complexes, to be held by these tribes in perpetuity. The northernmost lay in present day South Dakota, while the southern reservation was

\textsuperscript{175}Calloway, "Governor Green Clay Smith," pp.121-22.

situated in Oklahoma. Other provisions contained in these treaties called for the distribution of annuities, the introduction of schools for Indian children, and the establishment of schools designed to teach agricultural techniques to the tribesmen. Unfortunately, the Senate’s lack of action in ratifying these treaties compelled the Cheyennes, Kiowas, and Comanches, who had already surrendered their old lands, once again to take to the warpath. As a direct consequence of the Senate’s inability or unwillingness to ratify these treaties, the West, from the Rio Grande to the Canadian Border, blazed into flames with yet more Indian wars.\textsuperscript{177}

Despite of the Senate’s inability to act, in 1868, the Doolittle Commission issued a very lengthy report which recommended a number of modifications and improvements to existing Federal Indian policy. The Doolittle Commission’s Report provided a foundation upon which President Grant based his Peace Policy of 1869. Perhaps most significant, the Commission recommended that governors of territories no longer act in the capacity of \textit{ex-officio} superintendents of Indian Affairs. The Commission also recommended that militia not be used to wage war with the Indians. It alluded to both the disastrous Sand Creek Massacre in

Colorado, as well as to the fact that "A regiment of Montana troops last September would have involved us in an almost interminable war with the Crows but for the timely intervention of the military authorities."178 The latter incident referred to Meagher and Smith's trumped up Indian war of the previous year. The Doolittle Report signaled a move on the part of the federal government toward greater centralization and tighter control over the management of Indian affairs. The days of superintendents and superintendencies grew short from this point. Montana's short experience directly contributed to this far-reaching policy change.

This new Federal activism in dealing with Indian affairs became manifest when on April 15, 1868, President Johnson appointed William J. Cullen as Special Indian Agent in Montana. Cullen's mission was to

...negotiate treaties with such of the tribes of Montana Territory as maybe advisable with a view to extinguishment of the title to the lands claimed by them, and to their locations upon suitable reservations.179

---


179Charles E. Mix, acting Commissioner of Indian Affairs, to W.T. Otto, Acting Secretary of the Interior, September 8, 1868, Letters received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.
Cullen's first hand experience with Indian affairs seemed to especially qualify him for the job of special agent. He had served as the former Commissioner for the State of Minnesota during the Sioux uprising in 1862. Commissioner Cullen received much credit for successfully handling the situation. Cullen's course of action to preserve the peace in Montana Territory, particularly with the Blackfeet who had not received their promised annuities and whose lands were being overrun with white immigrants, involved honoring the terms of the existing treaties in the same manner as the Blackfeet honored them. Because the Missouri River was running low in 1868, many whites would travel by land through Blackfeet hunting grounds, thus making the situation between whites and Indians even more explosive. Cullen believed that the best solution involved placing the Blackfeet on farms. This action would then remove the Blackfeet from the vicinity of Fort Benton "...where there is so much to excite and exasperate them."

In the typical rapid fire succession of the Peace

---

180 James M. Cavanaugh, Delegate from Montana Territory, to Nathaniel G. Taylor, Commissioner of Indian Affairs, March 11, 1868, Letters received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.

181 W.J. Cullen to N.G. Taylor, April 3, 1868, Letters received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.
Commission's Indian Treaty negotiations, Cullen managed to sign treaties with the Gros Ventre on July 13, 1868, the River Crow on July 15, 1868, and the Blackfeet on September 1, 1868. "The provisions and stipulations agreed upon" in these treaties were "substantially the same as those proposed in the Treaty of 1865, known as the Upson Treaty."\textsuperscript{182}

Efforts to establish peaceful relations with the Indians faced considerable obstacles. The Indian Service lacked a manageable chain of command, and the Indian Service, rife with corruption, was ill-served by many of those who worked within it. Although generally popular with his constituents in Montana Territory, Governor Smith had detractors within the Indian Service. Blackfeet Indian Agent George B. Wright accused the Governor of incompetence and mismanagement of funds. On June 11, 1868, Wright wrote to Commissioner of Indian Affairs N.G. Taylor and accused the Governor of using $1,800 appropriated to the Blackfeet Agency for gambling purposes.\textsuperscript{183} Wright must have been an impetuous man, because four days later he wrote to Taylor

\textsuperscript{182}Charles E. Mix, acting Commissioner of Indian Affairs, to W.T. Otto, Acting Secretary of the Interior, September 8, 1868, Letters received, Office of Indian Affairs, Montana Superintendency, Roll 488, Microcopy 234, RG 75, NA.

\textsuperscript{183}George B. Wright to N.G Taylor, June 11, 1868, Letters Received, State Department Territorial Papers, Montana, 1864-72, Roll 401, Microcopy T254, RG 75, NA.
reversing himself. In a letter dated June 15, 1868, Wright informed Taylor that he had been misled when he accused Smith of official misconduct due to the fact that the people who had related the story to him were Smith's personal and political enemies.\textsuperscript{184}

Smith went east in the summer of 1868, and never returned to Montana. Until his successor, Benjamin Franklin Potts arrived in mid-summer 1869, Territorial Secretary James Tufts served as Acting Governor and ex-officio Superintendent of Indian Affairs. After leaving Montana Territory, Smith devoted himself to the Baptist ministry. He briefly returned to public life in 1876, when the Prohibition Party delegates unanimously nominated him to run as their presidential candidate. As a third party candidate, Smith managed to garner 9,522 popular votes.\textsuperscript{185}

James M. Ashley served next as Montana's Territorial Governor. Born on November 14, 1822, in Allegheny County, Pennsylvania, Ashley received little formal schooling. He studied law under Charles O. Tracey before gaining admission to the bar in 1849. Ashley held a number of positions including editor of the \textit{Democrat} in Portsmouth, Ohio in 1848.

\textsuperscript{184}George B. Wright to N.G Taylor, June 15, 1868, Letters Received, State Department Territorial Papers, Montana, 1864-72, Roll 401, Microcopy T254, RG 75, NA.

\textsuperscript{185}Calloway, "Governor Green Clay Smith," p. 137.
Traveling to Toledo in 1851, he engaged himself in both boat construction and in the pharmaceutical business. During these years, Ashley gave considerable assistance to runaway slaves.\footnote{Charles S. Ashley, "Governor Ashley's Biography and Messages" Contributions to the Historical Society of Montana, Vol. VI (1907) p. 148.}

In 1858, Ashley, an avid student of politics, won a seat in the House of Representatives as a Republican from Ohio. He quickly associated himself with the most radical of Republicans, or "Black Republicans", who refused to compromise their anti-slavery position. He befriended the influential Senator Charles Sumner of Massachusetts, and thus, Ashley became the Chairman of the Committee on Territories. Under his tenure the Territory of Montana was created. Congressman Ashley emerged as one of the more influential members of the Radical Reconstructionists and became a leader in the movement to impeach President Andrew Johnson.\footnote{McMullin and Walker, Biographical Dictionary of American Territorial Governors, p. 214.}

Ashley lost his bid for re-election in 1869. Shortly after Grant's inauguration, on April 27, 1869, the new president Grant nominated Ashley as Territorial Governor of Montana. The nomination was controversial, and it passed
the Senate by only one vote. Ashley arrived in the Territory in mid-summer and set up his residence in Helena, although Virginia City still remained the Territory's official capital.

Ashley's tenure began less than an auspiciously. By delaying his departure from Washington, D.C. and dallying in the Capital for a considerable length of time, he had caused some concern in official circles. The former Collector of Interior Revenue, H. Case, wrote President Ulysses S. Grant on June 25, 1869, to inform the President that Ashley had not yet departed for Montana Territory and was using his time in Washington to attend private and public meetings ostensibly for the purposes of inducing immigrants to the Territory. In reality, Case reported, these meetings were, "for electioneering purposes, tending to perpetuate strife and division in the Republican Party of the District."

Governor Ashley fit the mold of those Territorial Governors appointed to their positions solely for political

---

188See Ashley, "Governor Ashley's Biography and Messages" p. 189, and Clark C. Spence, "Spoilsman in Montana," Montana, the Magazine of Western History, Vol. XVIII, No. 2, April 1968, p. 27.

189Ashley, "Governor Ashley’s Biography and Messages" Contributions to the Historical Society of Montana, p. 191.

190H.Case to President Ulysses S. Grant, June 25, 1869, Letters Received, State Department Territorial Papers, Montana, 1864-72, Roll 401, Microcopy T254, RG 75, NA.
reasons. Strong opposition as well as support existed for Ashley among the citizens in Montana Territory. Moreover, his political support was not broadly based. His support or lack thereof followed strict, deeply drawn Republican or Democratic Party lines.  

By 1869, and the beginning of President Ulysses S. Grant’s administration, few members of government could with any assurance argue that the nation’s Indian Policy had not totally and completely failed. Grant, the nation’s number one military man, inaugurated his Peace Policy, or, as it is sometimes erroneously called, the Quaker Policy. The Peace Policy is often mistakenly confused with the Peace Commission, an entirely different Federal initiative, enacted by the Johnson Administration in 1867.

Ashley, in his sole address to Montana’s Territorial Legislature, clearly expressed his contempt for and disinterest in Montana Territory’s tribesmen in particular, and Indian affairs in general, when he stated:

> The practical working of our Indian policy from the organization of the government to this time, has been an offense against civilization. As I have but little hope of seeing a change in our Indian policy while an Indian survives, I make

---

191 Spence, "Spoilsman in Montana," p. 28.

no suggestions touching Indian affairs. In the same address, the Governor expressed his contempt for the treaty system and called on all western citizens to demand that their national government cease making treaties with the Indians, giving "the right of any tribe or band of wandering savages to make war or peace at pleasure." Although Grant appointed Ashley Territorial Governor of Montana in April 1869, Ashley never received the chance to serve as ex-officio superintendent of Indian affairs. On June 1, 1869, shortly after Ashley's appointment, Congress created an independent Indian superintendency for Montana Territory that functioned separately from and outside of, the office of the Territorial Governor. Montana's Territorial Governors never again served as ex-officio superintendents of Indian affairs.

The hypocrisy, perpetuated by Territorial Governors Edgerton, Meagher, and Smith (Ashley would likely have followed suit) when they paid lip service to Indian affairs as ex-officio superintendents of Indian Affairs had ended. With the creation of an independent superintendency, the antagonistic policy objectives of the governor and

193 Ashley, "Governor Ashley's Biography and Messages" p. 285.

194 Ibid., p. 284.

superintendent surfaced, and Ashley, as Territorial Governor, could openly and without reservation, champion the interests of the Territory’s white voters over the tribesmen.

Ashley was denied the opportunity to display his talents as Montana’s Territorial Governor. Grant, for reasons never made public, relieved Ashley of the position in December 1869. The political climate which had motivated Grant to appoint Ashley had changed, and Ashley was dismissed. There is little doubt that Grant made the correct decision in dismissing Ashley from office. Ashley’s fiery brand of Radical Republicanism burned more vehemently than Edgerton’s. His Indian policy, even though he was officially removed from making or implementing it, appeared to be even more uncaring and uninspiring than that of his predecessors. In the interim, Montana’s Territorial Secretary, Wiley S. Schribner acted as Territorial Governor until the arrival of Grant’s next appointee, Benjamin Franklin Potts, who reached Montana Territory in late August 1870. Ashley, who lived for another twenty-five years, never again held public office.

---

196 Ashley, "Governor Ashley’s Biography and Messages" p. 194.

By 1869, as part and policy of President Johnson's Peace Committee, military personnel had replaced most of the civilian agents, whom the government summarily suspended.

Johnson gave way to Grant on March 4, 1869. In his inaugural address, Grant stated: "The proper treatment of the original inhabitants of this land - the Indians - is one deserving of careful study. I will favor any course towards them which tends to their civilization and ultimate citizenship."198 In keeping with these sentiments expressed in his inaugural address, the following year, President Ulysses S. Grant reversed Johnson's policy of using military personnel as Indian agents. Under Grant, civilians associated with religious bodies, most noticeably the Society of Friends, or Quakers, replaced the military men. Common practice, however, continued to allow the temporary appointment of military officers as Indian agents, particularly hostile areas.199

The reforms of Grant's Peace Policy concentrated on the selection of superintendents and agents hoping the churches would provide honest men. In his Annual Report for 1870, Secretary of the Interior Columbus Delano looked back over


199Hill, The Office of Indian Affairs, p.3.
the previous year since the inauguration of Grant's Peace policy, and wrote the following:

The tribes in Nebraska and Kansas, and some of those most recently placed upon the reservations in the Indian Territory, were placed under the control of members of the Society of Friends; the others were given in charge of military personnel, who were waiting orders under the laws for the reduction of the army.²⁰⁰

The Secretary went on to explain that "changes were made because it was believed that the public opinion of the country demanded a radical re-organization of this branch of the service."²⁰¹ According to Secretary Delano, the selection of the officers to hold position in the Indian service, "...was made partly for economic reasons, as they were on pay though not on duty, and the salaries of many civil officers could thus be saved, and partly because it was believed they furnished a corps of public servants whose integrity and faithfulness could be relied upon, and in whom the public was prepared to have confidence."²⁰²

The Grant administration turned to religious organizations in an attempt to eliminate corruption and patronage while stressing civil, as opposed to military


²⁰¹Ibid.

²⁰²Ibid.
relations with the Indian.

The Friends (Quakers) were appointed not because they were believed to have any monopoly of honesty or good will towards the Indians, but because their selection would of itself be understood by the country to indicate the policy adopted, namely, the sincere cultivation of peaceful relations with the tribes, and the choice of agents who did not, for personal profit, seek the service, but were sought for it because they were at least deemed fit for its duties...²⁰³

A major impetus behind Grant’s Peace Policy lay in the need to defuse the public’s cries of corruption and mismanagement in the handling by the government of Indian Affairs.

Grant’s Peace Policy featured two main elements. In addition to appointing members of religious orders as Indian Agents, Congress authorized a commission of philanthropic citizens, outside of the government, who would advise the government in matters concerning Indian policy. More important, these civilian advisors were authorized by executive order to "...inspect all the accounts and records of the Bureau, to be present at the purchases of Indian goods and advise them to the conduct of the same, and to visit and inspect the tribes in their reservations and examine the business of all the agencies."²⁰⁴ These two elements of the Peace Policy were designed, by substituting new officers selected by a different criteria and organizing

²⁰³Ibid.

²⁰⁴Ibid. pp. x-xi.
an official body to perform inspections, to reform the Indian Bureau, and, at the same time, to prevent any more Indian uprisings. Grant's program also intended to end the partisan political natures of superintendents. Ironically for a president whose own administration suffered from cronyism and corruption, Grant tried to eliminate these vices from the Indian Service.

By 1867, it had become clear that the Indian Service as well as Indian policy needed reform. By 1868, the wounds of the Civil War, if not healed, were less now, and the nation, trying to put the conflict behind it, had the energy and resources to look west and implement the reforms. Many adhered to the "safety valve" theory, which held that regardless of the adversity, a man could move out west and start anew. Therefore, the west had to be made safe for immigrants starting new lives. In order to open the lands for settlement, the title to Indian lands had to be secured and extended. In addition, the Indians had to be aculturalized to make the land safe. The Doolittle Commission recognized that having territorial governors serve as ex-officio superintendents of Indian affairs created problems and thus impeded the settlement of the West. It therefore recommended that the two positions be separated. Grant recognized the inability of warfare to subdue the "wild" tribes and inaugurated his "Peace Policy", 
which placed those affiliated with religious orders as heads of Indian agencies, and played down the role of federal troops in implementing Indian policy. As radical as the reforms enacted in the Indian Bureau appeared, relations between Indians and whites had changed little.
With Major Alfred Sully’s appointment as Superintendent of Indian Affairs on June 1, 1869, the territorial governor was freed from his responsibility as *ex-officio* superintendent of Indian affairs. However, many of the same problems were carried over, and Indian-American relations did not improve. Indeed, they worsened. By the time Congress appointed Sully, the Montana Superintendency, under the territorial governor as *ex-officio* superintendent of Indian affairs, had so exacerbated Indian relations through neglect, that it was too late to improve them. This led to a major restructuring of the administration of Indian affairs. Congress abolished the Montana Superintendency, and thereafter Indian agents reported directly to the Commissioner of Indian Affairs in Washington D.C.

The territorial governors’ role as *ex-officio* superintendents of Indian affairs has been largely ignored by historians mainly because the territorial governors ignored the role themselves. Sidney Edgerton did not submit one annual report to the Commissioner of Indian Affairs, even though submission was required and Edgerton was paid to
Edgerton cannot be singled out as the only culprit. Governors Thomas Francis Meagher and Green Clay Smith were more than ready to take to the field against marauding Indians. Were they willing to organize a militia to protect the Indians rights from transgressing whites? Of course not. To do so would have been impossible. Edgerton at least recognized white transgressions against the Indians as one of the main problems in keeping peace with the Indians, Yet even he would have been powerless to enact a policy to protect Indian rights.

And what of the qualifications of these men to hold office as *ex-officio* superintendents of Indian affairs? Edgerton, Meagher and Smith never saw an Indian until they reached Montana. These men were completely ignorant of their charges. Appointed by the President to their position usually as a reward for political favors, appointees to the territorial governorship viewed their positions as temporary and as stepping stones to a more favored or lucrative political position, usually to the United States Senate. The quickest way to these better positions was to push white immigration to secure the requisite number of voters for statehood. The surest method to entice immigration involved securing title to the Indian lands that could then be opened up to white settlement.
Congress with its niggardly appropriations to the territories can be blamed for a great many problems with Indian/American relations. After placing the tribesmen on reservations, we have seen how the slowness or inability to deliver promised annuity goods enraged the Indians, who took to stealing horses and cattle in order to survive. As these depredations continued against white property, isolated killing occurred and settlers called for military action. Coloradans and Montanans formed their own militia to extract revenge on Indians, with disastrous results for the relations between Indians and whites.

However, the appointment of a professional, independent superintendent of Indian affairs in Montana Territory did not appreciably change matters. Alfred Sully recognized a common problem. Writing in his annual report to the commissioner of Indian Affairs, he stated:

...no appropriation(s have been) made for these (Blackfeet) Indians last year, and in consequence there is nothing coming to them this year - not even their usual very small amount of annuity goods.²⁰⁵

When faced with starvation on a reservation, the Indians, took to raiding livestock. On August 17, 1869, members of the Piegan Tribe, part of the Blackfeet

Confederacy, had killed rancher/trader Malcolm Clark and his son. Although there were extenuating circumstances behind the murder, (Clark, a brash man with an abusive personality had humiliated one of the Indians) Montanans demanded the guilty parties be punished. Officials of the Indian Bureau made the effort to induce friendly Blackfeet chiefs to turn over the guilty parties. When the chiefs were unable to comply, retaliation became inevitable.\textsuperscript{206}

The resulting "Piegan Massacre" led by Colonel Eugene M. Baker ranks with the "Sand Creek Massacre" of Colorado's John Chivington. Under orders to "strike them hard," Baker and troops of the Second Cavalry from Fort Shaw and Fort Ellis, fell on Chief Heavy Runner's camps in the freezing dawn on January 23, 1870. Heavy Runner was killed waving a piece of paper given to him by an Indian agent stating he was not a "hostile."\textsuperscript{207} Baker's official report on the incident, dated February 18, 1870, curiously failed to break down the one hundred and seventy-three Indians killed by age or sex.\textsuperscript{208} Lieutenant William B. Pease, Blackfeet Indian Agent from June 11, 1869 - September 9, 1870, as part of a

\textsuperscript{206}Wilson, "The U.S. Army and the Piegan," pp. 47-49.

\textsuperscript{207}Ibid., pp. 50-51.

standard report, broke down the casualties as follows: "173 killed - 33 men, of which 15 were young or fighting men; 90 women; and 55 children."\(^{209}\)

Baker and the Second Cavalry were hailed as heroes in Montana. Indeed, the Piegan, decimated by war and smallpox, resigned themselves to life on the reservation from that moment forward. The reaction in the East was quite different, and this tragic incident on the Marias River in a remote part of a remote territory, had profound effects. In accordance with Section 18 of the Army Appropriation Act of July 15, 1870, Congress ended the policy of offering army officers to serve as Indian agents or superintendents. As a consequence, Major General Alfred Sully was replaced by Mr. Jasper A. Viall on September 9, 1870. Congress reversed the policy of putting military men in charge of Indian Bureau facilities. The Indian Department Appropriation Act of March 3, 1871 reversed the policy of treating the Indians as sovereign nations. This cleared the way for the Federal Government to take charge of the Indians as wards of the state and to provide for their welfare, not as members of a foreign state, but rather as part of the general population and as potential citizens.\(^{210}\)


\(^{210}\)Ibid., pp. 55-56.
The experience of Montana’s territorial governors as ex-officio superintendents of Indian affairs provides an insight into the problem of territorial governors serving as superintendents of Indian affairs. The contradiction in duties between the two offices made it impossible adequately to fulfill the obligations of either. Territorial governors themselves were aware of the contradiction. Investigating bodies pointed out the difficulties as well. This explains why even conscientious territorial governors failed to meet their responsibilities as superintendent of Indian affairs.

In part, the inactivity of Montana’s Territorial Governors in Indian affairs may have reflected the time at which Montana became a Territory. The Doolittle Commission’s report criticizing the practice of having territorial governors serve as Indian superintendents came less than four years after the establishment of the Montana Territory. The following year, President Johnson’s policy had replaced most of the civilian Indian agents with military men. Montana’s Territorial Governors foresaw their eventual removal from Indian affairs.

This change represented part of a larger shift away from local control of Indian affairs and toward a centralized policy made by the federal government. Even when Grant replaced military Indian agents with people affiliated with religious organizations, the control of
Indian affairs remained with the national government. Once again, this occurred just after Montana was organized as a territory. Therefore, even as they took up the job of *ex-officio* superintendent of Indian affairs, Montana’s territorial governors knew that their authority in that area was being taken over by the federal government.

The problems, however, ran deeper than changes in administrative policy could ever solve. Even the reforms of the Grant administration failed to address the basic problem. The tragedy of United States-Indian relations transcended any adjustment in administrative practice.
BIBLIOGRAPHY

MANUSCRIPTS


Records of the Montana Superintendency, letters received by the Office of Indian Affairs, 1824-1880, Record group 75, National Archives, Washington, D.C.

Records of the State Department, letters received by the State Department Territorial Papers, Montana, 1864-72, Record group 75, National Archives, Washington, D.C.

GOVERNMENT DOCUMENTS


1854 Senate Executive Document no. 1, 33d Cong., 1st sess., serial 746.

1855 Senate Executive Document no. 1, 34th Cong., 1st sess., serial 810.

1857 Senate Executive Document no. 11, 35th Cong., 1st sess., serial 919.

1858 House Executive Document no. 2, 35th Cong., 2d sess., serial 997.

1862 House Executive Document no. 1, 37th Cong., 3d sess., serial 1157.


1864 House Executive Document no. 1, 38th Cong., 2d sess., serial 1220.

1865 House Executive Document no. 1, 39th Cong., 1st sess.,
1866 House Executive Document no. 1, 39th Cong., 2d sess., serial 1284.


1868 House Executive Document no. 1, 40th Cong., 3d sess., serial 1366.

1869 House Executive Document no. 1, 41st Cong., 2d sess., serial 1414.

1869 House Executive Document no. 1, 41st Cong., 2d sess., serial 1419.


United States, Statutes at Large, vol. 1, (July 4, 1776—March 2, 1799) "An Act for establishing Trading Houses with the Indian Tribes" 18 April 1796.


War Department Annual Report, 33d Cong., 1st sess., part II.

The Congressional Globe, 40th Cong., 2d sess., no. 176.

ARTICLES


BOOKS


_________. Tecumseh and the Quest for Indian Leadership. (Boston: Little, Brown & Company, 1984)


Foley, Michael F. An Historical Analysis of the Administration of the Blackfeet Indian Reservation by the United States: 1855-1950’s. Indian Claims Commission, Docket Number 279-D. Unpublished material.


McClintock, Walter. Old Indian Trails. Cambridge, MA: The
Riverside Press, 1923.


Weist, Katherine M. and Susan R. Sharrock. *An Annotated Bibliography of Northern Plains Ethnohistory.* Contributions to Anthropology, No. 8. Missoula, MT: Department of Anthropology, University of Montana