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Yellowstone National Park

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IN THE SENATE OF THE UNITED STATES.

APRIL 28, 1896.—Ordered to be printed.

Mr. WHITE, from the Committee on Territories, submitted the following

REPORT:

[To accompany S. 2540.]

The Committee on Territories, to whom was referred the bill (S. 2540) to provide compensation for a bridge and for buildings and other improvements constructed by certain persons upon public lands afterwards set apart as the Yellowstone National Park, report the same with an amendment with the recommendation that it do pass, and with the further recommendation that the bills S. 196, S. 1057, and S. 1142, providing relief separately for the beneficiaries named, be indefinitely postponed.

The allowance of the compensation provided in this bill has been frequently recommended by the Secretary of the Interior in the annual reports of that Department as well as in communications to this committee in answer to requests for information on the subject. Bills for the relief of these claimants were reported favorably by this committee at the third session of the Fifty-third Congress.

The reports of the Secretary of the Interior and extracts from the documents referred to therein are hereto appended. It appears therefrom that the persons named in the bill located upon what was then public land in Wyoming, in the years 1870 and 1871, before the movement originated which resulted in the passage of the act of March 1, 1872, whereby these lands were embraced in the territory set apart and reserved from settlement as the Yellowstone National Park, and also that the structures for which compensation is provided in the bill were erected in good faith before the reservation of these lands. The regulations established by the Interior Department for the management of the park prohibited any person from remaining therein who had not a lease or permit from the Department. Applications for such leases were made by these beneficiaries, which, however, were not granted to them, and they were finally obliged to leave the park. The structures they had erected were taken by the Government and devoted to public use, for which no compensation has been allowed.

Your committee therefore recommend that reasonable compensation, in the amounts recommended by the Secretary of the Interior, be allowed, thereby extinguishing the only remaining private interests within the limits of the park.

BARONETT'S BRIDGE.

DEPARTMENT OF THE INTERIOR,
Washington, February 6, 1896.

SIR: I am in receipt by your reference of the 9th ultimo of Senate bill No. 1057 (Fifty-fourth Congress, first session), "For the relief of C. J. Baronett, of Gardiner, Montana," with request for report thereon.

In response thereto I have the honor to transmit a copy of a letter addressed, under date of the 5th instant, to the chairman of the House Committee on the Public Lands, expressing the views of the Department as to the merits of H. R. bill 478 (Fifty-fourth Congress, first session), which is similar in its provisions to the bill accompanying your reference above mentioned.

Very respectfully,

HOKE SMITH, *Secretary.*

HON. C. K. DAVIS,
Chairman Committee on Territories, United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, February 5, 1896.

SIR: Your letter of the 7th ultimo has been received inclosing copy of H. R. bill No. 478 (Fifty-fourth Congress, first session), "For the relief of C. J. Baronett, of Gardiner, Montana," with request for such suggestions as may aid the committee in its consideration.

In response thereto I have the honor to state that a similar bill, to wit, H. R. 4195 (Fifty-third Congress, first session), was, at the instance of the Committee on the Public Lands, considered by the Department on the 22d of January, 1894, and a favorable report thereon was made by letter of that date, a copy of which, together with the inclosures therein referred to, is herewith transmitted.

I also inclose for your information a copy of the last annual report of the acting superintendent of the park, in which he recommends that the relief prayed for by Mr. Baronett be granted.

Upon further investigation of the matter I fail to find any good reason why this bill should not become a law, and I therefore commend it to your favorable consideration.

Very respectfully,

HOKE SMITH, *Secretary.*

HON. JOHN F. LACEY,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, January 22, 1894.

SIR: Your letter of the 16th instant has been received, inclosing a copy of H. R. bill 4195 "For the relief of C. J. Baronett, of Gardiner, Mont.," with request for such information in regard thereto as the Department may be able to afford.

In response thereto I have the honor to transmit herewith a copy of the petition presented to the Department September 25, 1893, by Baronett's attorney, and a report thereon made by the acting superintendent of the Yellowstone National Park, to whom the matter was referred, in which he recommends that the relief prayed for by Mr. Baronett be granted, together with a report made by the Department under date of February 27, 1892 (Senate Ex. Doc. No. 47, Fifty-second Congress, first session), in response to Senate resolution of January 15, 1891, relative to the claim of Mr. Baronett and other settlers in the park therein referred to, as well as a copy of the report of Dan C. Kingman, first lieutenant of engineers, in charge of construction of roads and bridges in the park, to the Secretary of the Interior through the Secretary of War, dated December 18, 1893, recommending among other things that an appropriation of \$5,000 be made by Congress for the purchase of the bridge constructed by Mr. Baronett in the Yellowstone Park, and have to state that I am not aware of any reason why this bill should not become a law.

In this connection it is proper to add that in the annual report of Secretary Lamar for the year 1887 reference is made to the toll bridge constructed by Mr. Baronett and its purchase recommended, and in my annual report for the fiscal year ended June 30, 1893, there will be found on page 64 a specific recommendation that relief,

such as is sought by Mr. Baronett through the bill herein referred to, be accorded him.

Copies of the annual reports above mentioned are herewith transmitted.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. BENJAMIN H. BUNN,

Chairman Committee on Claims, House of Representatives.

HEADQUARTERS DEPARTMENT OF THE PLATTE, ENGINEER OFFICE,
Omaha, Nebr., December 13, 1883.

GENERAL: I have the honor to submit the following report of operations under my direction in the Yellowstone National Park during the season of 1883:

* * * * *

In regard to future operations in the park I would respectfully recommend that the following sums be appropriated for the fiscal year ending June 30, 1885:

* * * * *

For the purchase of Baronetts Bridge over the Yellowstone River on the Clark Fork road, \$5,000.

* * * * *

Baronett's Bridge, for the purchase of which an appropriation is asked, is situated on the Clarks Fork road, and furnishes a crossing over the Yellowstone River. It, or a predecessor, is said to have been built prior to the establishment of the national park. It is situated at a narrow part of the river, and has two spans of unequal length. The middle pier of crib work rests on a rock that juts out from the left bank of the river. The framework consists of unbraced queen-post trusses. The bridge is of hewed lumber, and covered with poles. The dimensions are about as follows: Total length, 94 feet; west span, 34 feet; east span, 60 feet; depth of trusses, 10 feet; width of bridge, 10 feet; height above water at low stage, 17 feet. The approaches are side-hill cuttings, in earth on the west bank, and on the east in rock. They are narrow and difficult. The owners have a gate keeper in charge of the bridge, and heavy tolls are collected. I do not think it should be allowed in the national park, and it is for this reason alone that I recommend its purchase by the Government.

* * * * *

Respectfully submitted.

DAN C. KINGMAN,
First Lieutenant of Engineers,
In Charge of Improvement Yellowstone National Park.

The CHIEF OF ENGINEERS, UNITED STATES ARMY,
Washington, D. C.

[From Annual Report of Secretary of the Interior, 1893.]

The Department concurs in the recommendation of the acting superintendent that an appropriation of \$5,000 be made for the purchase of a toll bridge, known as Baronett's Bridge, constructed across the Yellowstone River on the wagon road between Mammoth Hot Springs and Cooke City; also, that an appropriation of \$3,000 be made to reimburse one J. C. McCartney for certain buildings and improvements erected and made by him on public land afterwards embraced in the Yellowstone National Park, said buildings having been taken and used by the United States.

[From Annual Report of Secretary of the Interior, 1895.]

All proprietary rights within the park, except those of one Baronett, on account of the bridge built by him over the Yellowstone River, and Messrs. McCartney and McGuirk, the latter for improvements made within the park, have been extinguished, and the suggestion is made that these claims be adjusted by Congress and paid, thereby removing from the park limits the last vestige of proprietary interests.

[From annual report of Capt. George S. Anderson, United States Army, acting superintendent Yellowstone National Park, 1895.]

PROPRIETARY RIGHTS IN THE PARK.

There are still three claims of private citizens for locations and improvements made within the park limits before the act of dedication. These claims have all been made the subject of special legislation introduced in Congress, but have not so far become laws.

The claim of Mr. J. C. Baronett is for a bridge built by him in 1871 over the Yellowstone River. The amount of the claim is \$5,000. I do not regard this figure as excessive, and I recommend that the passage of this act receive your approval.

Mr. James C. McCartney has also a claim for \$3,000 for improvements made at this point. It is reasonable and just, and I recommend it to your favorable consideration.

Mr. Matthew McGuirk has a claim for \$4,000. I do not believe his improvements were extensive enough to warrant the entire amount of this claim. I have considered the value of these improvements in a special report heretofore made to you. If his claim were reduced to a suitable amount, I would recommend that it receive your approval.

If these bills should pass and the parties receive a proper remuneration for their improvements, it would remove from the park limits the last vestige of proprietary interest.

SIR: The petition of C. J. Baronett would respectfully represent that he did, in the year 1870, at great cost, erect and construct on the upper Yellowstone River, in Wyoming Territory, a bridge across said river to enable the miners to go to and come from the Clark Fork mines, in Wyoming Territory; that said bridge was absolutely necessary for that purpose; that without it mining could have been carried on only a very short time each year; that the bridge and other buildings cost your petitioner over \$4,000; that from the time last mentioned said bridge was known and recognized, maintained and kept, as a toll bridge until 1877; that the travel was meager and principally by prospectors and miners who generally were without money and unable to pay any toll whatever.

That the income of said bridge was not sufficient to keep the same in repair. That during the Nez Perce Indian war the said bridge was of great service to the Army, General Howard crossing his command over the river on said bridge. The Indians having crossed a short time before and set fire to and burned a portion of the bridge, General Howard ordered one of the dwelling houses to be torn down and used to repair the bridge that the troops might cross. That your petitioner kept the said bridge in repair until 1880, at which time he deemed it in an unsafe condition, and rebuilt the upper part anew, putting in new stringers and floor braces, iron, etc., at a cost of over \$2,000. That said bridge is and has been useful to the officers and employees of the national park, officers of the Army, tourists, miners, and generally useful to the public, and an absolute necessity. It is safe, strong, and in good condition. Your petitioner further says that he has not taken toll sufficient to pay the interest on the first cost of the bridge. That he built the same before the national park was known or created, with the view of ultimately being reimbursed by and through the collection of tolls.

He would therefore respectfully ask and submit, first, that the honorable Secretary grant him a permit or license to keep and maintain said bridge as a "toll bridge," for a sufficient length of time to repay him for the amount already expended; and, should this be deemed impracticable, then your petitioner would ask that a fair compensation be allowed him for the said bridge, such as would be equitable and just under the circumstances.

C. J. BARONETT.

Hon. S. J. KIRKWOOD,
Secretary of the Interior.

I am personally cognizant of the facts hereinbefore stated (except as to the cost of the bridge), and recommend the same to your careful and favorable consideration.

P. W. NORRIS,
Superintendent of National Park.

BOZEMAN, MONT., October 6, 1881.

[Senate Report No. 925, Fifty-third Congress, third session.]

The Committee on Territories, to whom was referred the bill (S. 957) for the relief of C. J. Baronett, of Gardiner, Mont., report the same with the recommendation that it do pass.

The committee has carefully examined the subject and herewith submits a report of Capt. George S. Anderson to the Secretary of the Interior, and also reports of the Secretary of the Interior made to the chairman of this committee and to the chairman of the Committee on Claims of the House of Representatives, which documents fully justify the favorable recommendation of the bill.

DEPARTMENT OF THE INTERIOR,
OFFICE OF SUPERINTENDENT YELLOWSTONE NATIONAL PARK,
Mammoth Hot Springs, Wyo., October 27, 1893.

SIR: I return you herewith the application of Mr. C. J. Baronett, through his counsel, Mr. E. M. Dawson, for compensation for improvements made by him within the park prior to its declaration in 1872. On May 1, 1891, I made a report in detail on these improvements, and I presume the report is on file in your office. Since that time I have become more familiar with Mr. Baronett's improvements, and I realize that my estimate was too small. His first bridge was burned by the Nez Perces in 1877. The present one is on the same site and on the same pier and abutments. I made an examination of it about three weeks ago, and I conclude that at the time the first one was built it must have cost \$2,500, or even more. The house, corral, and other buildings, and the work on the approaches must have cost him nearly as much more.

It is a shame that a toll bridge should be allowed to remain within the park, and surely Mr. Baronett's claim should be extinguished and he be required to vacate the premises. I recommend that the \$5,000 asked for be allowed him, but in view of the very limited appropriations for road work in the park, I suggest that this be made a separate item in the bill, or the subject of a special act, as in Mr. McCartney's case. At the present time Mr. Baronett's bridge is in a very dilapidated condition, and I doubt if it withstands the high water of next spring. Should it go down he will not be able to replace it, and travel by the Cook City road will be cut off for months.

Yours, very respectfully,

GEO. S. ANDERSON,
Captain, Sixth Cavalry, Acting Superintendent Yellowstone National Park.

THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,
Washington, January 29, 1894.

SIR: I am in receipt, by your reference of the 18th instant, of Senate bill 957, "For the relief of C. J. Baronett, of Gardiner, Mont.," Fifty-third Congress, first session, with a request for a report thereon.

In response thereto I have the honor to transmit herewith a copy of a letter addressed, under date of the 22d instant, to the chairman of the House Committee on Claims, expressing the views of the Department as to the merits of H. R. 4195, which is similar in its provisions to the bill accompanying your reference hereinbefore referred to.

Very respectfully,

HOKE SMITH, *Secretary.*

HON. CHARLES J. FAULKNER,

Chairman Committee on Territories, United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, January 22, 1894.

SIR: Your letter of the 16th instant has been received, inclosing a copy of H. R. 4195 "For the relief of C. J. Baronett, of Gardiner, Montana," with request for such information in regard thereto as the Department may be able to afford.

In response thereto I have the honor to transmit herewith a copy of the petition presented to the Department September 25, 1893, by Baronett's attorney, and a report thereon made by the acting superintendent of the Yellowstone National Park, to whom the matter was referred, in which he recommends that the relief prayed for by Mr. Baronett be granted, together with a report made by the Department under date of February 27, 1892 (Senate Ex. Doc. No. 847, Fifty-second Congress, first session), in response to Senate resolution of January 15, 1891, relative to the claim of Mr. Baronett and other settlers in the park therein referred to, as well as a copy of the

report of Dan C. Kingman, first lieutenant of engineers, in charge of construction of roads and bridges in the park to the Secretary of the Interior, through the Secretary of War, dated December 18, 1893, recommending among other things that an appropriation of \$5,000 be made by Congress for the purchase of the bridge constructed by Mr. Baronett in the Yellowstone Park, and have to state that I am not aware of any reason why this bill should not become a law.

In this connection it is proper to add that in the annual report of Secretary Lamar for the year 1887 reference is made to the toll bridge constructed by Mr. Baronett and its purchase recommended, and in my annual report for the fiscal year ending June 30, 1893, there will be found on page 64 a specific recommendation that relief such as is sought by Mr. Baronett through the bill herein referred to be accorded him.

Copies of the annual reports above mentioned are herewith transmitted.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. BENJAMIN H. BUNN,

Chairman Committee on Claims, House of Representatives.

MCCARTNEY'S BUILDINGS.

DEPARTMENT OF THE INTERIOR,

Washington, February 6, 1896.

SIR: I am in receipt by your reference of the 9th ultimo of Senate bill No. 1142 (Fifty-fourth Congress, first session), "For the relief of James C. McCartney, of Gardiner, Montana," with request for report thereon.

In response thereto I have the honor to transmit a copy of a letter addressed, under date of the 5th instant, to the chairman of the House Committee on the Public Lands, expressing the views of the Department as to the merits of House bill No. 477 (Fifty-fourth Congress, first session), which is similar in its provisions to the bill accompanying your reference above mentioned.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. C. K. DAVIS,

Chairman Committee on Territories, United States Senate.

DEPARTMENT OF THE INTERIOR,

OFFICE OF SUPERINTENDENT YELLOWSTONE NATIONAL PARK,

Mammoth Hot Springs, Wyo., October 27, 1893.

SIR: I return you herewith the bill (H. R. 957) for the relief of Mr. James C. McCartney with the following report:

On May 1, 1891, I rendered a report on all claims within the park at the date it was declared. This report is probably now on file in your office. In it I have carefully gone over the claims of Mr. McCartney, and conclude that "his estimate of \$3,000 does not seem to be excessive." I still adhere to this opinion. The claim is just and right, and should be paid. I recommend that the bill receive your approval.

Yours, very respectfully,

GEO. S. ANDERSON,

Captain Sixth Cavalry, Acting Superintendent Yellowstone National Park.

The SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR,

Washington, January 22, 1894.

SIR: Your letter of the 26th of September, 1893, has been received, inclosing a copy of H. R. No. 957 "For the relief of James C. McCartney, of Gardiner, Montana," with request for an expression of my views as to the propriety of passing the same.

In response thereto I have the honor to transmit herewith a copy of a report made by the acting superintendent of the Yellowstone National Park, to whom the matter was referred for consideration, in which he recommends that the relief prayed for by Mr. McCartney be granted, together with a copy of a report made by the Department under date of February 27, 1892 (Senate Ex. Doc. No. 47, Fifty-second Congress, first session), in response to Senate resolution of January 15, 1891, relative to the

claim of Mr. McCartney and other settlers in the park therein referred to, and have to state that I am not aware of any reasons why this bill should not become a law.

In this connection it is proper to add that in my annual report for the fiscal year ending June 30, 1893 (copy of which is herewith inclosed), there will be found on page 64 a specific recommendation that the relief sought by Mr. McCartney through the bill herein referred be accorded him.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. THOMAS C. McRAE,

Chairman House Committee on the Public Lands.

DEPARTMENT OF THE INTERIOR,

Washington, February 5, 1896.

SIR: Your letter of the 7th ultimo has been received, inclosing copy of House bill No. 477 (Fifty-fourth Congress, first session), "For the relief of James C. McCartney, of Gardiner, Montana," with request for such suggestions as may aid the committee in its consideration.

In response thereto I have the honor to state that a similar bill, to wit, H. R. 957 (Fifty-third Congress, first session), was, at the instance of the Committee on the Public Lands, considered by the Department on the 22d of January, 1894, and favorable report thereon was made by letter of that date, a copy of which, together with the inclosures therein referred to, is herewith transmitted.

I also inclose herewith for your information a copy of the last annual report of the acting superintendent of the park, in which he recommends that Mr. McCartney's claim, and others of a similar character, be favorably disposed of.

Upon further investigation of the matter I fail to find any good reason why this bill should not become a law, and I therefore commend it to your favorable consideration.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. JOHN F. LACEY,

Chairman Committee on the Public Lands, House of Representatives.

DECLARATION OF J. C. M'CARTNEY.

To all whom these presents may concern:

Know ye, that I, James C. McCartney, of the county of Big Horn in the Territory of Montana, do hereby declare and publish as a legal notice to all the world that I have a valid right to the occupation and enjoyment and possession of all and singular that tract and parcel of land, not exceeding 160 acres, situate, lying, and being in the valley of the Yellowstone River, in said Territory, bounded and described as follows: Commencing at a point on Warm Spring Creek, 4 miles from its confluence with the Yellowstone River and at a warm spring flowing from beneath a rock, thence southwesterly 1 mile, thence southeasterly 80 rods, thence by a line parallel to the first line 1 mile, thence to the place of beginning, together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my hand and seal on the 5th day of July, A. D. 1871.

[SEAL.]

J. C. McCARTNEY.

Filed for record on the 5th day of July, A. D. 1871, at 5 o'clock p. m.

R. H. CRAWFORD, *Recorder.*

STATE OF MONTANA, *County of Gallatin, ss:*

John S. Mendenhall, being first duly sworn, says that he is a resident and has resided in what is now the county of Gallatin, State of Montana, which county borders upon said Yellowstone Park, ever since long prior to the year 1891, and during all of that time he has been well acquainted with the James C. McCartney mentioned in the foregoing claim, and whose affidavit is attached thereto; that he knows said McCartney to be a good citizen whose statements are worthy of belief; that he has heard said affidavit read and knows the contents thereof, and that the facts therein stated as to the erection of the said buildings are true, and that according to the best of his judgment, and from his knowledge of the country and cost of the erection of buildings in those days, that the said buildings must have cost said McCartney at least \$3,000, and that he has frequently seen all of said improvements.

JOHN S. MENDENHALL.

Subscribed and sworn to before me this 15th day of May, A. D. 1891.

L. A. LUCE, *Notary Public.*

TERRITORY OF MONTANA, *County of Gallatin*:

I, Madison M. Black, county clerk and recorder in and for said county and Territory, hereby certify that the foregoing is a true and correct copy of declaration of J. C. McCartney, filed and recorded in the county recorder's office on the 5th day of July, A. D. 1871, in Vol. H of Records, page 309.

In testimony whereof I hereunto set my hand and affix the county seal at my office in Bozeman City, this 23d day of March, A. D. 1881.

MADISON M. BLACK,
County Clerk and Recorder.

STATE OF MONTANA, *County of Gallatin, ss*:

Madison M. Black, being first duly sworn, says that he has resided in what is now the county of Gallatin, State of Montana, ever since the year A. D. 1871, and since that time has been well acquainted with the said James C. McCartney, and knows him to be a worthy citizen, whose statements are entitled to belief; that he knows the land described in said McCartney's claim and affidavit foregoing; that he had seen the improvements mentioned by said McCartney in his said claim and affidavit, upon said land; that considering the cost of getting out such building material and the erection of such buildings in those days when said buildings were erected, they must have cost, in the opinion of the affiant, somewhere about \$3,000, a little more or less; that the affiant is the same Madison M. Black whose name is signed to the certified copy attached to these papers.

MADISON M. BLACK.

Subscribed and sworn to before me this 15th day of April, A. D. 1891.

L. A. LUCE, *Notary Public.*

UNITED STATES OF AMERICA.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 12, 1896.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed papers are true copies of the originals on file in this Department.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed, the day and year first above written.

[SEAL.]

WM. H. SIMS,
Acting Secretary of the Interior.

The SECRETARY OF THE INTERIOR, *Washington, D. C.*:

I have the honor to respectfully ask your attention to the following application for a lease, viz: For 2 acres of ground situated at or near the Mammoth Hot Springs, in the National Park, which I located in the year 1871, before the setting off of the national park, by building thereon and making my filings on the same, and which ground is now claimed as a portion of the park. I have had continual possession of the property since my filings were placed on record, and no lease exists on the same ground now. I would therefore ask that you grant me a lease of the said 2 acres for a term of ten years.

I am, your obedient servant,

JAMES C. MCCARTNEY.

MAMMOTH HOT SPRINGS, *National Park, January 15, 1884.*

DEPARTMENT OF THE INTERIOR,
YELLOWSTONE NATIONAL PARK, OFFICE OF SUPERINTENDENT,
Mammoth Hot Springs, Wyo., March 21, 1884.

SIR: In reference to the inclosed application of J. C. McCartney for lease of 2 acres of ground at the Mammoth Hot Springs, I would respectfully say that in my judgment his application is not sufficiently specific, in that he does not say what use he desires to put the ground to, and he further fails to designate the location, so I can decide which of his two houses here he desires to occupy. It is true that McCartney made a settlement here in an early day, and made improvements. He has two houses here now, in one of which, by his consent, I have quartered two of my assistants; in the other Mr. Henderson and family reside and have since the middle of last June. The post-office is there kept. These houses are two or three hundred yards apart, and could not well be both included within 2 acres of ground. There is another

question which ought to be considered in granting privileges in the park, especially at this particular point. This claim of McCartney contains all of the available water for household use anyway convenient to these headquarters; besides, in my judgment, these grounds will be required by the Government on which to erect the building they already sadly need.

I have the honor to be, very respectfully, your obedient servant,

P. H. CONGER, *Superintendent.*

The SECRETARY OF THE INTERIOR.

Hon. JOHN W. NOBLE, *Secretary:*

James C. McCartney, of Gardiner, in the county of Park and State of Montana, hereby presents his claim against the United States for the value of the improvements erected by him in the years 1871 and 1872, upon a tract of land containing 160 acres upon which McCartney settled in July, A. D. 1871, which land is within the boundaries of what is known as Yellowstone National Park, created by the act of Congress approved March 1, 1872 (17 Statutes at Large); said improvements having been taken, occupied, and used by the Government, and being then of the value of \$3,000, consisting of one dwelling house constructed of logs, one story high, having one room, said building being 30 feet long by 20 feet wide; and another hewed log dwelling, well constructed, one story high, containing four rooms, said building being 35 feet long and 25 feet wide; and also one log barn (logs squared) 30 feet long by 15 wide; and also another building 30 feet long by 25 feet wide, one story high, constructed of squared logs, 20 feet long by, 16 feet wide, all of said buildings being then properly finished.

J. C. McCARTNEY, *Claimant.*

MAY 15, 1891.

STATE OF MONTANA, *County of Gallatin, ss:*

James C. McCartney, being first duly sworn, says that he is the claimant mentioned in the foregoing claim; that he is a native citizen of the United States of America, having been born in the State of New York; that he is 56 years of age; that he came to what is now the State of Montana in the year 1866, and has resided therein ever since, except as herein otherwise stated; that on or about the 1st day of July, A. D. 1871, he went upon the tract of land in said complaint mentioned and hereinafter more particularly described, and settled thereon intending to acquire title thereto from the United States under the homestead act; that he has never had the benefit of the homestead laws of the United States except as to his claim to said land; that he surveyed and staked and marked the boundaries of his said claim; that at the time he settled thereon that country was known in Montana as the "Big Horn" country; that on the 5th day of July, A. D. 1871, after making said survey, he filed in the office of the recorder of the county of Gallatin, in the Territory of Montana, a declaration of his claim, he supposing at that time that the said land was in the Territory of Montana, a certified copy of which declaration is hereto attached and made a part of this affidavit; that afterwards, about the month of August, A. D. 1871, having ascertained that it was likely that said land was in the Territory of Wyoming, he filed a similar declaration of said claim in the office of the recorder of Uinta County, Territory of Wyoming; that immediately after surveying said claim as aforesaid he commenced the construction and erection of the buildings mentioned in said claim and prosecuted the work diligently until the said buildings were erected; that all of said buildings were erected as aforesaid by him in good faith, without any objection on the part of the Government, or notice that the Government intended to claim or take the same; that in those days labor was expensive, and building materials were particularly costly in that section of country; that the said buildings cost affiant at least \$3,000; that after the said park was set off by the act of Congress above referred to the Government of the United States took possession of all of said buildings and has ever since used the same as its officers and agents desired; that in the year 1881 the Government tore down and took away four of said buildings, and left the building containing four rooms standing, which is now still used and occupied by the Government; that this affiant has never received any compensation whatever for any of said property, and was deprived of all thereof and put out of possession of the same by the agents of the United States.

J. C. McCARTNEY.

Subscribed and sworn to before me this 15th day of May, A. D. 1891.

L. A. LUCE, *Notary Public.*

MCGUIRK'S BUILDINGS.

DEPARTMENT OF THE INTERIOR,
Washington, February 11, 1896.

SIR: I am in receipt, by your reference of the 9th ultimo, of Senate bill No. 196 (Fifty-fourth Congress, first session), "For the relief of Matthew McGuirk, of Los Angeles, California," with request for report thereon. In response thereto I have the honor to state that a similar bill, to wit, Senate No. 1380 (Fifty-third Congress, second session), was, at the instance of the Committee on Territories, considered by the Department on the 15th of February, 1891, and favorable report, subject to certain amendments therein specified, was made by letter of that date, a copy of which, together with the inclosures therein mentioned, is herewith transmitted.

I also inclose herewith for your information a copy of the last annual report of the acting superintendent of the park, in which he recommends that Mr. McGuirk's claim and others of a similar character be favorably disposed of, together with copies of affidavits recently filed with the Department by Mr. McGuirk in regard to the improvements made by him in the park, and value thereof.

Upon further investigation of the matter I fail to find any good reason why this bill should not become a law, if it is amended as suggested in Department letter of January 22, 1891.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. C. K. DAVIS,

Chairman of Committee on Territories, United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, February 15, 1894.

SIR: I am in receipt, by your reference of the 18th ultimo, of Senate bill No. 1380, "For the relief of Matthew McGuirk, of Los Angeles, California," Fifty-third Congress, second session, with request for report thereon.

In response thereto I transmit herewith a copy of a report made by the acting superintendent of the Yellowstone National Park, to whom the matter was referred for consideration, in which he states that the compensation of \$4,000, as fixed therein, is excessive, that \$1,000 would be ample compensation for the improvements made by him in the park, and suggests that the bill be so amended as to provide for the payment of \$1,000 instead of \$4,000.

I also transmit herewith a copy of a report made by the Department under date of February 27, 1892 (Senate Ex. Doc. No. 47, Fifty-second Congress, first session), in response to Senate resolution of January 15, 1891, relative to the claim of Mr. McGuirk and other settlers in the park therein referred to, and have the honor to state that if the bill is amended as suggested by the acting superintendent of the park I have no objections to interpose to its passage.

Very respectfully,

HOKE SMITH, *Secretary.*

Hon. CHARLES J. FAULKNER,

Chairman Committee on Territories, United States Senate.

BOZEMAN, April 27, 1873.

DEAR SIR: The object of this epistle is to lay before you for consideration my claim to a certain property located in what is now known as the national park. I went there and located before there was any talk of locating such park, and did not know there ever would be, which you will see by the record and testimony of the parties concerned and witnessed and testified to before the county clerk. The reason of it not being done sooner was that I was shut in from all communication by the storms of 1872 and could not get out for four months. This property is known as McGuirk's Medical Springs, situated 1½ miles from the Mammoth Hot Springs. Your petitioner, acknowledging the power invested in you by Congress, asks at your hands a lease of said premises, as designated, which our Delegate, Clagget, informs me is the only title I could expect.

I have invested my all in improving said property, and it would be a serious loss if I do not get it; and as a loyal American citizen I have a right to expect it.

I have the honor, sir, to remain yours, most respectfully,

M. MCGUIRK.

Hon. COLUMBUS DELANO.

To all to whom it may concern:

Know ye that I, Mathew McGuirk, of Wyoming Territory, do make and publish this as a legal notice to all the world that I have a valid right to the occupation, possession, and enjoyment of the following-described tract, piece, or parcel of land, situate, lying, and being in said Wyoming Territory and described as follows, to wit: Not to exceed 160 acres, about 3 miles south of the mouth of Gardiner River, beginning at a stake on the bank of Gardiner River, just below the mouth of the branch, brook, or stream formed by the water from the hot springs, claimed by Henry R. Horr and James McCartney, thence southward up Gardiner River 320 rods, thence westward 80 rods, thence northward 320 rods, thence eastward 80 rods to the place of beginning; together with all the privileges and appurtenances thereunto belonging or in anywise appertaining, and that I claim settlement and improvement thereon on the 11th day of November, 1871.

In the witness of which I hereunto set my hand and seal this March 9, 1872.

MATHEW MCGUIRK.

TERRITORY OF MONTANA, *County of Gallatin*:

On the 9th day of March, 1872, personally appeared before me, Arch Graham, county clerk within and for said county, Mathew McGuirk, who is known to me to be the person whose name is signed to the foregoing instrument of writing, and acknowledged the same to be his free and voluntary act and deed for the uses and purposes therein mentioned.

In witness whereof I hereunto sign my name and affix my official seal at Bozeman, Mont., the day and year last aforesaid.

ARCH GRAHAM, *County Clerk*.

TERRITORY OF MONTANA, *County of Gallatin*:

We, Henry R. Horr and James Pencil, do solemnly swear that we are personally and well acquainted with Mathew McGuirk, whose name is subscribed to the foregoing declaration of settlement and occupation of the land therein described; that we were with him on the 11th day of November, 1871, when he settled and improved the same, and that he did make such settlement and improvement; that he has resided on said lands continuously since that date and still continues to reside thereon, and that he signed the foregoing declaration aforesaid in our presence. So help me God.

HENRY R. HARR.
JAMES PENCIL.

Subscribed and sworn to before me, Arch Graham, county clerk within and for Gallatin County, Mont.

Witness my hand and seal this 9th day of March, 1872.

ARCH GRAHAM, *County Clerk*.

STATE OF MONTANA, *County of Park, ss*:

Zadok H. Daniel, being first duly sworn, deposes and says that he is well acquainted with Mathew McGuirk, and knows of his own personal knowledge that said Mathew McGuirk located 160 acres of land under the preemption law in the year of 1871 on what was then unsurveyed land, and there were springs upon said land that were called and known as "McGuirk's Medical Springs," said lands and springs being situated on what is now known as the Yellowstone National Park, near Mammoth Hot Springs; that said McGuirk had improvements thereon as follows, to wit, dwelling house, outhouses, stable, irrigating ditches, and bath pools.

ZADOK H. DANIEL.

Subscribed and sworn to before me this 13th day of May, A. D. 1891.

ORLANDO EMMONS,
Clerk of District Court of Park County, Mont.

STATE OF MONTANA, *County of Park, ss*:

Fellows D. Pease, being first duly sworn, deposes and says that he is well acquainted with Mathew McGuirk, and knows of his own personal knowledge that said Mathew McGuirk located 160 acres of land under the preemption law in the year of 1871 on what was then unsurveyed land, and there were springs upon said land that were called and known as "McGuirk's Medical Springs," said land and

springs being situated on what is now known as the Yellowstone National Park, near Mammoth Hot Springs; that said McGuirk had improvements thereon, as follows, to wit: Dwelling house, outhouses, stable, irrigating ditches, and bath pools.

FELLOWS D. PEASE.

Subscribed and sworn to before me this 13th day of May, A. D. 1891.

ORLANDO EMMONS,

Clerk of the District Court of Park County, Mont.,

By JAS. A. BAILEY,

Deputy Clerk.

STATE OF MONTANA, *County of Park, ss:*

Chas. W. Hoffman, being first duly sworn, deposes and says that he is well acquainted with Mathew McGuirk, and knows of his own personal knowledge that said Mathew McGuirk located 160 acres of land under the preemption law in the year 1871 on what was then unsurveyed land, and there were springs upon said land that were called and known as "McGuirk's Medical Springs," said land and springs being situated on what is now known as the Yellowstone National Park, near Mammoth Hot Springs; that said McGuirk had improvements thereon as follows, to wit, dwelling house, outhouses, stable, irrigating ditches, and bath pools.

CHAS. W. HOFFMAN.

Subscribed and sworn to before me this 15th day of May, A. D. 1891.

JOHN MCLEOD,

Clerk of District Court of Gallatin County, Mont.

Mathew McGuirk, being duly sworn, deposes and says:

That in August, 1871, he settled upon 160 acres of unsurveyed land, situated near the Mammoth Hot Springs and within what is now known as the Yellowstone Park, and upon which the springs commonly known as McGuirk's Medical Springs arise; that in November, 1871, he commenced to improve the said land by building a dwelling house, outhouses, stable, and bath pools, constructing irrigating ditches, cultivating a garden, clearing the Gardiner River, in order to make it passable for logs used in improving the said land, all of which was done prior to March 1, 1872, the total value of the said improvements being at least \$4,000.

Affiant further swears that in the year 1874 he was removed from the said land by Superintendent Norris, who was at that time in charge of the national park, and that his improvements were used and occupied by the Government employees in the park up to the year 1890; and further affiant saith not.

MATHEW MCGUIRK.

Subscribed and sworn to before me this 18th day of May, 1891.

F. L. REECE, *Notary Public.*

STATE OF CALIFORNIA, *County of Los Angeles, ss:*

I, Mathew McGuirk, of Los Angeles, Cal., but formerly of Bozeman, Mont., a citizen and resident of the United States, being first duly sworn, depose and say: That on or about August 10, 1871, I located and filed on one quarter section of public land, unsurveyed, but now embraced in the Yellowstone National Park, and on or about the 8th or 10th of the same year I moved my effects onto the said location and commenced to build a house, but previous to November I had to do a good deal of work on the road to make it passable for any kind of vehicles, in one particular place known now as Yankee Jim's Canyon; it was dangerous even for pack animals.

So my time between August and November was taken up in this way.

I went to work in earnest in November; the weather was very cold up to December, snow was deep, the Gardner River was choked up with ice and brush, which I had to clear before I could run any logs down; it was about three-fourths of a mile.

I had two men employed and part of the time three, G. Huston, now deceased, and Fenly Johnson, and a man named Woody; later on James Pencil and Harry Horr helped me, as also were witnesses before the county clerk of Gallatin County when I filed for recording said location.

In those days provisions were high and the only way to get them in was by pack animals, and it was not safe at any time.

Indians were on the warpath (the Sioux and Crows were always at war), also the Blackfeet bloods and Peigans. I have known them to steal horses from under the guns of Fort Ellis, 3 miles from the city of Bozeman, and from the time Bozeman was killed, in 1867, up to 1875, when Jim Hughes was killed, many other prospectors fell victims to the scalping knife.

So we had to be very cautious in traveling. There was only one house or camping place between Bozeman and my place. It was 70 miles to Boetler's ranch on the Yellowstone. It was about half way. We considered ourselves safe when we got there, so our provisions cost us dear when we got home. Game was plenty, and we did not have much flour much of the time, but had to put up with meat straight. My improvements, on or about March 1, consisted of a log house and stables. My house was very substantial and comfortable, with a good fireplace and stone chimney. The house was about 24 by 16 feet, with doors and glass windows. The bathing pools were dug out of the cement formation, with tent covering. A garden was a quarter of an acre. I dug up with spade. I also put in a dam to protect the bath houses from Gardner River in the spring freshets. I can not now remember a good many little incidental expenses; but from my memory alone, as my dates and memoranda are destroyed long ago, I considered my improvements worth the additional patches of hay land and irrigating ditches at least \$4,000.

My houses were used by the employees of the park and were in good condition up to the year 1888 or 1889, when they were torn down by Captain Harris, then superintendent of the park. When the present superintendent took charge there was nothing to show that there was ever much labor or money expended on them.

The garden had gone to rack, the fences burned, the bathing pools destroyed by the action of the Gardner River, so Captain Anderson, the present superintendent, put my claim down from \$4,000 to \$1,000 in his report, which I think is a mistake. All of which I now submit to the judgment of a higher court.

Dated this 30th day of March, 1894.

MATHEW MCGUIRK.

Sworn and subscribed to before me this 30th day of March, 1894.

[SEAL OF NOTARY.]

RICHARD D. LIST,

Notary Public, Los Angeles County, Cal.

STATE OF CALIFORNIA, *County of Los Angeles, ss:*

C. M. Jefferis, a citizen and resident of the United States, formerly of Helena, Mont., now of Los Angeles, State of California, being first duly sworn, deposes and says he is acquainted with Mathew McGuirk since 1865, and knows of his locating on certain public lands on the Yellowstone, now embraced in the Yellowstone National Park, known as McGuirk's Medical Springs. I stopped at his place in the winter of 1871, treating for rheumatism; got relieved in a short time. The said McGuirk was then building a log house. I helped him to sharpen drills and make wedges to split rock to build a chimney, as we had both worked at that business in Helena years previous. He, McGuirk, had a man named George Huston, also a man named Johnson and a man named Woody, clearing Gardner River so as to run logs, also making roads to haul fencing to fence in garden. I have seen him work in the water nearly waist deep in the coldest weather; when in danger of freezing would jump into the hot spring and get thawed out.

McGuirk was always a law-abiding citizen. He had spent all his money on that place, and when dispossessed out of the park, came to Helena and worked at his trade and trained and owned some good horses, and was successful and always on the square, and a good citizen. In those days everything was very high. The nearest trading point was Bozeman, 70 miles distant. Often had to live on meat straight; flour and potatoes were a luxury. In addition to this, a man took his life in his hand when he made a trip. As is well known, the hills and woods were full of Indians, and there was many a scalp taken on the trail leading to Bozeman. It was never safe to travel daytime, but lay up and travel nights. The last man killed on the trail was Jim Hughes, as late as 1875.

I have served as sheriff of Lewis and Clarke County, Mont., for eight years, and have known McGuirk to hold office in the legislature as doorkeeper and sergeant-at-arms. He always performed his duties impartially and honorably. I think he is justly entitled to what he claims, and I really believe it has cost him every dollar of it before being dispossessed.

Dated this 29th day of March, 1894.

C. M. JEFFERIS.

Sworn and subscribed to before me this 30th day of March, 1894.

RICHARD D. LIST,

Notary Public in and for Los Angeles County and State of California.

STATE OF CALIFORNIA, *County of Los Angeles*:

Miles Mahan, a citizen of the United States and resident of Butte, Mont., formerly, but now of Los Angeles, Cal., being first duly sworn, deposes and says he has known Mathew McGuirk for the last twenty-four years, and in 1871, when the Indians made the raid in the Gallatin Valley, he lost a valuable horse, worth then about \$500, which broke him up considerably, being always a lover of a good horse.

That same year, a little later, he went over on the Yellowstone and took some land by filing on same; on same land were some hot springs, which are named after him, and I have known several parties to be cured of rheumatism and neuralgia.

He valued his property, after his buildings were completed, at \$10,000. In February, 1872, when I was there, he was hauling logs out of the river with a yoke of cattle; also had a mule and a cart, hauling fencing and rock to fix around his bathing places.

As there was nothing but trails it must have cost him considerable to make roads to get in and out. He had to take the cart apart to get in where he lived, which is about 5 or 6 miles from the town of Gardiner and about 1 mile from Mammoth Hot Springs.

I think he is justly entitled to what he claims; it must have cost him upward of \$4,000, taking all things into consideration, as he could have made double that amount working at his trade, as he was a first-class blacksmith.

He had a very comfortable log house with a good fireplace and a good stone chimney which he split out of rock. The roof was of split cedar poles plastered with three coats of mud from one of his springs; when dried was perfectly waterproof. I was there ten years later, saw that it did not leak a drop, nor was there a sign of smoke on the roofing.

The Government employees were there living in it. I understand it was ordered to be torn down by Captain Harris, then superintendent of the park. He had a garden of about one-fourth of an acre, which was dug up by spade, as a plow could not be got to work at that time. He also had a ditch leading from a warm spring for irrigating.

So, taking all things into consideration—clearing the river, making roads, buildings, bathing pools, etc.—it has cost him more than he asks for it.

Dated this 29th day of March, 1894.

MILES MAHAN.

Sworn and subscribed to before me this 30th day of March, 1894.

[NOTARY'S SEAL.]

RICHARD D. LIST,

Notary Public in and for Los Angeles County and State of California.

STATE OF CALIFORNIA, *County of Los Angeles, ss*:

Nelson Story, formerly of Bozeman, Mont., and now of Los Angeles, Cal., a resident and citizen of the United States, being first duly sworn, deposes and says: I have known Mathew McGuirk since 1868, and know personally that said Mathew McGuirk since that time has been a good, law-abiding citizen and know that he did locate and file on land on the Yellowstone, now embraced in the Yellowstone National Park. I was at his place in the year 1872 in company with Major Bruno, at that time one of the Indian peace commissioners, also Colonel Vial, then superintendent of Indian affairs for Montana.

Said McGuirk had a good log house and stable and nice, comfortable bathing pools with tent covering, also a garden and irrigating ditches leading from a warm spring. Also had built roads and had improvements on Gardiner River which in my opinion, must have cost him somewhere about \$3,000 or \$4,000; and he often had to take chances from the marauding Blackfeet and Sioux, who were at war at that time with the Crows.

I have known horses to be driven off by those Indians in 1871 and 1872 within gunshot of Fort Ellis, and their owners barely escaped with their lives. It was never safe to travel until after Jim Hughes was killed in 1875, so that a man was taking chances for his life anywhere on the upper Yellowstone, in those days.

So, I think in justice to said McGuirk, now after 22 years, he should be compensated for his loss.

Dated this 30th day of March, 1894.

NELSON STORY.

Sworn and subscribed to before me this 30th day of March, 1894.

[SEAL OF NOTARY.]

RICHARD D. LIST,

Notary Public in and for Los Angeles County, Cal.