

The Newcastle Times account then says: "The horses were gotten up, guns examined, and all other necessary arrangements were made in readiness for the approaching conflict, and by the time the Indians were near the Mills ranch the Miller posse rode down into the river bed where they could have better protection. The Indians came on. John Owen and Sheriff Miller climbed up the bank and once more tried to make the red men halt and surrender, and while thus engaged an Indian about 40 yards distant raised his rifle to his arm and let fire."

"The second the echoes had died away 'Stuff was all off,' and before they knew it the remainder of the posse had climbed the bank and were rallied round their leader, Billy Miller."

According to the testimony of a majority of the whites at the Douglas hearing, when the posse mounted at the Mills ranch, they rode down to the point in the road marked "2" on the accompanying diagram. Here they saw the Indian train coming down the highway toward them. When they saw the Indians they had begun dismounting. (The Indians claim that they were going into camp for the night on the spot.) So the whites allege that they saw in the dismounting a proposition for fight, and they resolved to seek the protection of the creek bank. They rode up the creek to where the wire fence crossed it. There they dismounted, leaving their horses at "3." (See diagram.) They then crawled through the wire fence and took up a position behind the creek bank. They allege that Sheriff Miller and Mr. Owen mounted the bank. All assert that Miller shouted to the Indians three times and Owens twice. One testified that they said "halt, halt, halt." Another said the words were "surrender, surrender, surrender." Another said the words were "stop," repeated.

All the whites assert that about this time some Indians up the line to their left fired a shot. Some of them testified that they saw the Indian shoot, and that the ball struck the ground about a rod ahead of Mr. Owens. Then they admit that they all opened fire on the Indians, nearly all of whom were fleeing away.

Some testified that the Indians fired eight or ten shots. One man said they fired forty shots. Another said from eighty to one hundred shots. All testified that they saw Charley Smith and Black Kettle shoot, and there was no positive evidence that any other Indians did shoot. Both Indians and whites agree that Black Kettle shot Sheriff Miller and that Smith shot Falkenberg, the other white man who was killed.

According to the best obtainable evidence on both sides, the Indian train was scattered along up the road and only four wagons had reached the immediate scene of the conflict. All the Indians killed or wounded were in or belonged to the first four wagons except Black Kettle, who came forward from farther back in the train. The whites express the opinion that Black Kettle was the Indian who fired the opening shot, and this was probably the case, if an Indian did fire first. On the other hand, the Indians all claim that the first firing came from the whites and that the boy, Peter White Elk, fell before there was a shot fired by the Indians.

Certainly, from the position of the Indians—scattered along the highway—they were not expecting a battle and only a small part of their band were yet in the immediate scene of the conflict when it began. Hence if the Indians were expecting and had prepared for a conflict, it would seem very unlikely that one of their number would precipitate it, when their party was so scattered. The whites were in a compact mass, drawn up in line behind a natural breastwork, while the Indian train was scattered for a quarter of a mile, with women and children in the wagons to which they belonged, all along the line. All reason and common sense is against the theory that the Indians began the firing.

The sheriff's posse was no Sunday-school class. Cow boys and bartenders predominated in the make-up of the white party. Several of them were entire strangers to the original party. Sheriff Miller did not know whether they were men of coolness, judgment, and steady character. Their recommendation was that they had guns and were willing to join the party. They had no wives and babies with them. They were a compact body. They had no wagons or other property with them to lose. They had chosen their ground. As the approved statement of the Newcastle Times says, "All necessary arrangements had been made for the approaching conflict." Had the Indians made any such preparations?

Then, in the name of all that is reasonable, who fired the first shot? I leave the answer to any reasonable man—to the public—satisfied that the blame will not be placed on these poor Indians traveling along a highway with their wives and children.

The whites all testify that the shooting lasted about three minutes. All the Indians fled except Black Kettle and Smith. The twelve rear wagons turned about and went back along the road that they came. Three wagons cut off from the train by the whites fled west over a range of hills. Nobody was stopped. No one was arrested. The blood thirst had been satiated

The result of the fighting was the following Indians killed: Peter White Elk, boy, 12 years of age; Black Kettle, 63 years old; Charley Smith, half breed, 37 years old, a returned student; Clear or Roan Bear, 43 years old.

The following Indians were wounded: Last Bear, 63 years old, shot in the back, ball passing through and coming out in front of abdomen; escaped to reservation and likely to live. Mrs. Susie Smith, wife of Charley Smith, shot in the shoulder; was found next morning by the side of her husband, who was yet alive on the battle ground, but who died some time after.

Whites killed: William Miller, sheriff of Weston County, shot through the thigh and died within a half hour through the femoral artery being severed; Louis Falkenberg, wolf hunter, instantly killed by a gunshot through the neck.

The Indians retreated without further molestation from the white party. They made a wide detour to the west. Several days after nine males were captured by the Converse County authorities at Edgemont, S. Dak., and taken to the county jail at Douglas, Wyo., where they were arraigned on November 14 on the charge of murder. After hearing the testimony of the whites composing the posse they were released.

I found the public sentiment in Newcastle strongly incensed against the Indians and very much worked up over the death of their sheriff, who was a popular official. They condemned Agent Brennan in very strong terms for having wired the Commissioner of Indian Affairs that he considered the Indians were largely blameless. I sought out some of the leading citizens of the place but found few of them willing to talk coolly of the affair. Some of the more conservative told me that Sheriff Miller did not want to go out with the party, but there was a strong pressure brought to bear and he had to defend his reputation of being a brave and fearless man.

In Converse County, or rather in Douglas, where the hearing took place, public sentiment largely favored the Indians, and there was quite a demonstration when the justice announced that the prisoners were released.

Across the borders in Nebraska I found public sentiment almost entirely with the Indians. This was the case also with the traveling men on the trains and in the hotels throughout the region. I met some of them who were in Newcastle during the excitement and they were very outspoken. It is hardly competent to repeat some of the things they told me, as I have no wish to say anything that can not be proven.

I regard Agent Brennan's conduct throughout as admirable. He went to Newcastle in the midst of the excitement and secured the release of the prisoners illegally held there. I heard many threats against him, but he went wherever his line of duty seemed to call him. The whites of the posse, with whom I was obliged to travel and stop for three days, were all drinking heavily, both on the road and at and after the hearing. Consequently I felt considerably relieved when all was over. My chief anxiety was for Agent Brennan. I was not mistreated in any way, but it was unpleasant to hear the remarks they made concerning Agent Brennan, such as, "There goes the * * * that telegraphed that lie about us," etc.

It was claimed in Newcastle that Agent Brennan had been warned that he must keep the Indians out of Wyoming. They further claimed that Smith had some time before sent a verbal defiance to the sheriff by some rancher. There were also wild rumors that the Indians had been slaughtering cattle in sport. These and many other like reports that inflamed the public mind seemed to have no foundation in fact that I could discover.

The whole affair is very deplorable, but I can not feel but what small blame should be attached to the Indians. It is probable that had Smith not refused to go with the posse to Newcastle, bloodshed might have been avoided; but discretion and tact on the part of the white posse would undoubtedly have saved all trouble and bloodshed.

I inclose the statement of Last Bear, who was wounded in the fight; also a brief statement of his wife. These I took at their home on the reservation. I also inclose a copy of the statement made by the Oglala council of Indians, who investigated the affair and prepared this statement for general circulation. I also submit the copy of the Newcastle Times from which I have quoted.

I also read statements made by Mr. Brown and other participants to Major Cheever, of the War Department, who also investigated the affair. Copies of these statements have been forwarded your office. I presume in time the evidence given at the hearing in Douglas can be obtained through the Department of Justice, if you should wish it.

In view of the inflamed state of public sentiment in Wyoming, and particularly in Newcastle and Weston County, extra precaution should in future be taken to prevent any traveling bands of Indians from entering that region. The Office will doubtless

take such steps as it may deem proper in the matter. However, I found a considerable band of Pine Ridge Indians have been working for the railroad company at Douglas prior to and all during the excitement with no molestation to speak of.

Agent Brennan paid the transportations of the nine Indians released at Douglas on the night of November 14. They had no means and it would have been unwise to have allowed them to travel home on foot through Wyoming during the present excitement. The agent should be reimbursed.

Very respectfully,

CHAS. S. McNICHOLS,
United States Special Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

Statement to the public by Pine Ridge Indians relative to late trouble in Wyoming.

The Oglala council, of Pine Ridge Reservation, with the consent of Agent Brennan, assembled to look into the cause of the killing of several of our Indians of Pine Ridge by a sheriff and posse in Wyoming, Saturday, October 31, 1903. We find, from best evidence obtainable from some of those who were shot into by said sheriff and posse, that while the Indians were traveling along the road in their wagons and on their way home to the reservation, some boys who were driving some horses ahead of the wagons were seen suddenly to turn and break for the wagons and had no more than done so than the sheriff and his posse came in sight and commenced to fire on the Indians and killed one of the boys, 12 years of age, and his horse at the first volley. It seems that four wagons of the Indians were ahead some distance from the other Indians, and the inmates of these wagons were the ones that seemed to have been killed. Black Kettle, as soon as he saw the boy and horse shot, jumped from his horse and ran to where the boy was lying. Charles Smith jumped from the wagon and ran and got behind a tree. Then White Elk got out of the wagon and ran to where his boy was shot.

The Indians did not fire until they were shot at and wounded; then they commenced to shoot. It seems that there were seventeen men among the Indians, and if they had chosen to fight they could have killed the sheriff and his whole party, but it goes to prove that they didn't want trouble, and took to their heels as soon as fired on, except the ones who were shot, who no doubt kept on firing until they were killed. We are with the Government now and want to live peaceably, but we notice in the newspapers that they claim the Indians want to go on the warpath, etc., which is not so. We know the adult Indians who were killed to be good, quiet, and peaceful Indians, and the boy who was killed we know to be innocent, or else they would not have been given passes to be absent from the reservation. Gray Bear, or Roan Bear, was one of our head of what are known as "Indian soldiers." Black Kettle was an Indian policeman for a number of years, under George Sword, who was captain of the police for about fourteen years. Charles Smith was a returned student from Carlisle Indian School, and was employed by the Government as assistant farmer a number of years just prior to being killed, was industrious, and a good citizen. Mrs. Charles Smith, who was wounded but now dead, and the boy who was killed will be a bad mark against the people of Wyoming.

We, the Indians, according to the treaties of 1868 and 1876, are willing for the courts to settle this matter, and hope the Indians will get a just trial. In the above treaties the Government provides that if any white man kills an Indian he should be tried, and punished if found guilty, and we think this a good case for the Government to prosecute. We think the sheriff and his posse are guilty of murder, but because they are white men we believe they will not be tried; but if it was an Indian he would undoubtedly get the full extent of the law. It is specified in the 1868 and 1876 treaties that the Indians would have the right to hunt in any of the ceded country as long as there was game in said country. The Government must have known when making said treaties that the ceded countries would be organized into States, etc., and it was the Government's fault to set provisions in the above-named treaties unless their provisions were lived up to.

GEORGE SWORD,
JACK RED CLOUD,
Committee.

Last Bear's statement.

NOVEMBER 9, 1903.

Two white men came up to us and told us we had better pull out for home, as there were a lot of cowboys going to have a round-up and we had better get out of their way. So we drove on for two days (or made two camps). The second night 7 men came and told us they wanted us to go with them. Three of the men had stars on them. I did not belong to the main party, but had a pass. I was willing to go with them. I had a pass with William Brown, and Brown showed them the pass, and they did not say anything. They said they would come back in the morning. They stayed and eat supper with us in William Brown's tent. After the 7 men left us we broke camp and drove all night and all the next day. We crossed over a big divide and came down to a creek about sundown. We Indians were not saying anything, when all at once they fired on us.

I was in the fourth wagon from the front. Charlie Smith and his wife were in the second wagon. There were 16 men and 15 wagons in our party. We were looking for a camping place. There was a gate. A young woman, 18 years old, was ahead, and opened a gate so we could get to the creek. She rode back and told us that there was some white men at the creek who was going to shoot us. The white men came on with their guns pointed at us. They did not say a word to us and we did not say a word.

My little boy was on a horse. I told him to get off and get into the wagon with his mother and let me have the horse. Just as I got on I was shot through the back, the ball coming out in front. I then turned around and went west. I hold up my hand to the Great Father and say that I did not see any Indian shoot. Our guns were packed away in the wagons. I did not have anything to shoot with. We had no game except small game—rabbits and prairie chickens. We had some mutton; had trailed with sheep men several times, giving them bead work, blankets, etc. for mutton. In going out my wife traded a blanket at Hot Springs to a butcher for the offal of a beef; that was all the cattle meat we had on the trip; that is, that my party had.

A short time before the trouble began Charlie Smith had rode off over the hill after rabbits. [In the excitement he does not remember when Charles Smith came back, or whether he got back before the shooting began.]

Three days after we was coming down Hat Creek; there was a little town there. We went around the town, but somebody fired three shots at us.

Statement of Last Bear's wife.

After my husband got on the horse I started back. After we had gone away they told me my man had been shot. I sang a death song and started back. The Indians said it was no use for me to go on. The little boy kept crying and wanted to go get his grandfather. So we went back and found him and got him in the wagon. I was all right until I got home and since then I have been sick and trembling.

[From the Newcastle Times.]

SHERIFF W. H. MILLER AND DEPUTY KILLED BY SIOUX INDIANS SATURDAY.

While in execution of his duty as an officer, our sheriff, W. H. Miller, met his death at the hands of a band of Sioux Indians on Lightning Creek, 40 miles from Lusk, on Saturday evening. The battle was fought half an hour before sunset, and as the golden rays left the sky, so also the life passed out of one of Weston County's greatest men.

As stated in our last issue, reports were brought to Newcastle of the unlawful slaughter of antelope by several bands of Indians. Several Newcastle men, feeling very incensed over the actions of the Indians, decided to put a stop to it, and hastily organized a posse of the following men: Sheriff Miller, B. F. Hilton, R. B. Hackney, Jack Moore, Fred Howell, Jim Davis, and D. O. Johnson. In our last issue we neglected to mention the name of Jack Moore; nevertheless Jack was there and did his part.

Early Friday morning, October 23, these men set out, their hopes buoyant and an expression of do or die written on their every countenance. Unanimously they chose Mr. Miller as their leader. On Tuesday, October 27, B. F. Hilton returned to

Newcastle with five wagons and several Indians. This bunch was met on the Cheyenne River and offered little resistance. It is shown even then the Indians had the so-called bad blood in their hearts, as seen by an incident which occurred. An old buck approached Oliver Johnson and asked for a match with which to light a newly made cigarette. As Mr. Johnson was hunting for the necessary article, with a tiger's leap the Indian grasped the revolver from Johnson's belt. A tussle then ensued, with results that it still remained in the hands of its owner. Two bucks who were known to be with this band never showed up, and the supposition is that they went ahead to warn other bands.

The main posse continued and soon found the trail of a larger bunch of Indians. The trail was quite plain on account of a wheel on one of the wagons breaking. A pole was tied to the wagon in such a way that one end acted as a support, while the other dragged on the ground, causing a small furrow.

The Indians were five days ahead of the posse, who always kept a faithful vigilance and were prepared for any emergency. On the Cheyenne River they picked up a man by the name of Frank Zerbes, who stayed with them from then on. On Friday noon, just a week from the time they left Newcastle, they came upon the bunch they had been following. Apparently there were two bunches combined, as there seemed to be two leaders, one named William Brown and the other Charley Smith, or Eagle Feather. It was high noon at this time, and Mrs. Brown, Chief Brown's wife, prepared a dinner—nothing fancy, but all that could be expected. After dinner plans were made to stay until the bucks came in, as most of them were out hunting. The first to arrive was Smith. On his saddle, strapped securely, was a dead antelope. Smith was a half-breed and was highly educated, having been a graduate of the Carlisle Indian School. He spoke the English language very fluently. For more than three years he had openly defied Sheriff Miller and had several times sent word that he couldn't be arrested.

When all the braves were assembled Mr. Miller read the warrant and requested them to submit peacefully. Smith then spoke up that he would not go to Newcastle; that he knew Miller's duty, and had a thorough understanding of the law. Mr. Miller explained that as the warrants were put in his hands by the proper authorities he must serve them. Preparations for moving camp were begun, and the posse thought the Indians had yielded, when, on starting out, great was the surprise of the whites—instead of following them the Indians turned in an exactly opposite direction. Every means, except hostile, were resorted to by the whites to head off the Indians and to reason with them, but to no avail. The Indians moved in such a formation the whites were surrounded. Even a few Indians got off their horses with guns in their hands. One of them got down on the ground and pawed it with his hands, throwing the dirt into the air like an angry bull. John Owens explained the next day that this was a sign whereby the Indian had bad blood in his heart and wanted to fight. The situation was taken in carefully and it was seen at a glance that it would be more than folly to attempt to make a stand with only seven men against such odds.

An opportunity for escaping was seen and taken advantage of, and ere another Custer massacre could be repeated our men were galloping across the plains after reinforcements. They rode to the Fiddleback ranch, 20 miles from where they had met the Indians. Here they were joined by two cowboys, Stephen Franklin and Charles Harvey. A consultation was held here and the cowboys, who knew the country well—yea, even better than Sioux Indians—said they would come down Lightning Creek. The posse staid over night here, and on Saturday morning Jack Moore and Frank Zerbes were dispatched to watch the Indians and were to meet the posse at Jake Mills's ranch on Lightning Creek. On the way there the main posse picked up four more men—Lew Faulkenberg, at Oleson's; John Owens, the noted Indian fighter, was found on his ranch repairing some wire fence, and the last addition to the party was a couple of men with pack horses. Their names were George Fountain and H. Coon. They were of Wessington, S. Dak., and were bound for the Black Hills. This made the number thirteen, as the two cowboys had also joined. The posse and reinforcements then started for the meeting place and arrived there in the afternoon. As nobody was around and there being plenty to eat they took possession, and in a short time they were seated at the table allaying their hunger.

It was along about 4 o'clock that Zerbes and Moore came riding in and announced the Indians were coming only a mile and a half behind them. The horses were got up, guns examined, and all other necessary arrangements were made in readiness for the approaching conflict, and by this time the Indians were near the Mills ranch. The Miller posse rode down into the river bed where they could have better protection. The Indians came on. John Owens and Sheriff Miller climbed up the bank and once more they tried to make the red men halt and surrender, and while thus engaged an Indian about 40 yards distant raised his rifle to his arm and let fire.

The second the echoes had died away "stuff was all off" and before they knew it the remainder of the posse had climbed the bank and were rallied around their leader, Billy Miller. Faulkenberg fell at the first volley, shot through the neck, nearly severing his head. The fight raged on and in full view of the enemy were our men. There stood Sheriff Miller with a grim countenance. Like a Custer he held his ground. What matter were the odds two to one in the enemy's favor; what matter were the bullets flying all around. He knew the peril and risk, and was only doing his duty as an officer, when, lo! a bullet struck him high up in the left hip, severing the femoral artery and breaking the bone.

Now that the leader had been shot, more true and faster flew the bullets from the rifles of the whites and faster dropped the Indians, until they could stand it no longer, and then broke and fled. As soon as Billy was seen to fall, Oliver Johnson ran to his assistance and succeeded in getting him to the house, with the help of a few others, where Mr. Miller died a half hour later, just as the sun was sinking in the west. While Mr. Miller was being taken off the field, John Owens stood alone and held the fort. Black Kettle, the one who started the fight, is supposed to be the Indian that sent the leaden missile into our sheriff, but he is also dead. The fight, as far as any can tell, lasted for about three minutes.

Smith was taken for dead and laid on the field all night. He was shot through both legs, and during the night he took off his belt and wrapped it around them to stop the flow of blood. Sunday morning several men went down to the battlefield, and great was their surprise to find four squaws who had come back to bury their dead. They had a fire and close to it laid Smith and alive. The squaws reported five Indians had been wounded. Four bucks were killed, and on the arrival of the coroner from Converse County were examined and buried. Smith was taken into the house and attention paid him.

Sunday morning Jim Davis and R. B. Hackney started for Newcastle with the two corpses, and arrived here that night at 1.30 a. m. Smith's wish that he would not be moved until Monday morning was complied with on account of his wife's illness. She had been shot in the left shoulder and was also very low with pneumonia. Sunday night came and Smith died at 8.20. The squaws were sent to Lusk. On Monday morning the remainder of the posse started to town with the captured Indian horses and arrived here Wednesday evening.

A telegram which caused much excitement was received in Newcastle on Sunday, and read as follows: "Courier brings news that your sheriff was shot on Lightning Creek last evening, while trying to arrest Indians. One man and three Indians killed." The telegram was sent from Lusk. The courier it has reference to was Stephen Franklin, who had left immediately after the battle for Lusk. From the time the message was received until the last occurrence men with grave faces, talking over the situation, could be seen in bunches on the street conversing of the situation.

Too late for the east-bound passenger train, a special was made up here for the purpose of conveying Mrs. Miller to Crawford on Sunday night. Doctor Horton accompanied her. Their plans were to take the Elkhorn train in the morning for Lusk, as according to the telegram there was still hope, and it was thought that Mr. Miller was only wounded and would be taken to Lusk. However, the dead bodies arrived here Sunday night at 1.30. Before their arrival it was thought that Mr. Miller might be brought overland and only in a wounded state, so Tom Lamb and H. Nichols secured a team and, with a full medical supply prepared for any emergency, they set out expecting to meet Doctor Horton on his way to town, but in some way they passed each other in the darkness. Mrs. Miller was wired and returned on Monday.

The uneasiness regarding the original posse increased daily, as nothing had been heard of their whereabouts; so on Monday night a party of the following men set out to find what was the matter: Messrs. Howell, sr., Howell, jr., Alden, Wills, Bohan, and Martin. Oliver Johnson returned Tuesday, while the rest of the posse returned Wednesday afternoon.

A message received on Monday from Douglas authorities said Indians were in vicinity of Edgemont, and to raise a posse of men from here and capture them. The following men were organized into a posse under Lee Mathers: Messrs. Benedict, Hoyleman, Mullen, Howell, Coates, Jackson, and Cole, who departed for Ardmore on Monday night. A message was received Tuesday night stating that nine bucks and eleven squaws had been captured by this posse. They were taken to Douglas on Wednesday night, where they will be prosecuted for murder, as they had confessed their guilt as being in the party who murdered Mr. Miller.

The funeral services of W. H. Miller were held at the Episcopal Church on Wednesday morning. To show due respect the schools were closed and a proclamation was issued by Mayor Kinney, requesting all business houses to be closed between

10 and 12. The pallbearers were representatives of two lodges and were, Redmen, Coffey, Dow, and Fakler; Knights of Pythias; Patton, Upton, and Musser. Space this week is insufficient to give the complete life of Mr. Miller, but we hope to do him full justice next issue.

Low Faulkenberg was a wolf hunter, and arrangements had been made to bury him here, but on Tuesday a telegram was received from the Bank of Douglas, stating they would pay all the burial expenses, so on Tuesday the corpse was shipped to that place.

[From Douglas Budget, Wyoming, November 18, 1903.]

INDIANS DISCHARGED—THE HEARING IN THE CASE OF THE REDSKINS CAUGHT NEAR
EDGEMONT RESULTS IN THEIR RELEASE.

The hearing in the case of the nine Sioux Indians arrested near Edgemont, and believed to have been in the battle on Lightning Creek in which Miller and Falkenburg were killed, was held here on Saturday, and resulted in their release. Only one of them was identified as having been present when the trouble occurred, and only one witness could swear that he had fired a shot, the others declaring that when they saw him he was running away from the scene of the trouble. It being plainly apparent that there was no charge against the eight men, and that there was no possibility of a conviction in case the ninth was held for trial, Justice Daniels very wisely ordered their discharge, and they left on Monday in charge of the agent. Nine witnesses were examined, all of whom were in the sheriff's posse at the time of the battle.

The fact was clearly established that the first shot was fired by an Indian named Black Kettle, who was himself killed at the first volley fired by the whites. It was also shown that the Indians resisted arrest on the previous day, and while they were getting out of the country as fast as they could to avoid arrest, yet some of them were anticipating trouble and had made up their minds to fight rather than be taken to Newcastle to answer to the charge of killing game unlawfully. It was shown that Sheriff Miller did everything possible to avoid bloodshed.

One good result of this unfortunate occurrence will be the prevention of further killing of game by these wandering wards of the Government, Agent Brennan declaring that he will put a stop to the practice for all time, or so long as they are under his charge.

United States Attorney Burke, of Cheyenne, appeared in behalf of the Government. Col. J. R. Brennan, agent at Pine Ridge; Reverend Cleveland, an Episcopal minister, who has been stationed there for years; an interpreter from the agency, and Special Agent Nichols, of the Interior Department at Washington, were present during the hearing. County Attorney Mecum conducted the prosecution.

WAR DEPARTMENT,
Washington, November 16, 1903.

SIR: In connection with Department letter on the subject, of the 7th instant, I have the honor to inclose herewith, for your information, copy of a letter just received from Maj. B. H. Cheever, Sixth U. S. Cavalry, inclosing a statement of William Brown, an Indian, in the matter of the recent encounter between Indians and a sheriff's posse, Newcastle, Wyo., together with a list of Indians supposed to have participated in the fight that ensued.

Very respectfully,

ROBERT SHAW OLIVER,
Assistant Secretary of War.

THE SECRETARY OF THE INTERIOR.

Statement of William Brown, member of band of Indians engaged in fight with sheriff's posse in Wyoming, made to Maj. B. A. Cheever, Sixth Cavalry.

NOVEMBER 6, 1903.

Was given pass by agent September 30 to go off reservation to gather herbs and roots, and took advantage of same October 6. Only three in my party. Was on the way home from Wyoming when I met Charlie Smith and his party, about ten days ago. All were coming home together, and met on Little Thunder Creek. Killed prairie

dogs, chickens, and rabbits. Did not kill any large game. Traded moccasins off with sheep men for sheep. Got deer meat also from sheep men. Did not have any beef. White people came into camp, but I was away, day before the fight (last Friday, week ago). When I got back I found my people getting ready to pull out, and asked one of the whites, and he said he would be back in the morning and arrest us. Did not serve any warrant or serve any paper. Did not hear of sheriff asking for our arms. I was told that a sheriff was in our camp to arrest us all, and said "We want you to go to town with us. We (whites) did not see you kill any deer, but you must go to town with us." I wanted to surrender, but the Indians were breaking camp and getting ready to pull out.

Finally, whites said they would go away and come back in the morning. Indians then pulled out for reservation. Charlie Smith and his party refused to surrender to the sheriff, and would not give up their guns. Said they had not killed any game and had done nothing wrong, and that they would return to the reservation. Left camp after sundown for reservation. Went 4 or 5 miles that evening, and went into camp again. Sheriff's party ate supper with Indians in our camp. I was away, but my wife told me so. (Whites told Agent Brennan this also.) Broke camp on Saturday morning soon after sunup. Had marched to Warren Creek, about 15 miles. We stopped then at noon. Stopped about one hour, and then pulled out again. Marched until 4 p. m. Most all of party were in wagons. Some four Indians were on horseback. No advance party out, or flankers, and were not anticipating any trouble. Three wagons in rear. All at once the front wagon came to halt. (Wooded country in bend of road.) Wagons were stretched out about three-fourths of a mile. Sheriff's party came out in front and dismounted and began firing into Indians.

Am positive first shots were fired by sheriff's posse. Indians did not fire from rear first, as claimed by whites. I did not see Indians return fire, but at once turned my team around and started back out of the fight as fast as I could go. I was in my wagon and did not fire a shot, but got away. As near as I could see all the Indians tried to get away the best they could with their families. Did not see Charlie Smith in the fight. Smith and his wife were driving in a wagon. Had my wife and children with me, and got away as soon as possible. We cut the horses loose and left the wagon there. I got my buggy and put all my children and wife in it and started for the reservation. The Indians left all their wagons and goods on the road. We kept on traveling all night. We were going to camp at Hat Creek, South Dakota, but saw some white men coming, who fired upon us, and so we pulled out again and did not stop until we got to Horsehead Creek, near the town of Oelrichs. Four of party altogether home. Last Bear came back with me, is here wounded. Black Feather and Chief Eagle and their wives also came with me. Are on the reservation now. Chief Eagle has gone back with one of the agency officials to get families, wagons, etc.

NOVEMBER 7, 1903.

Black Feather's statement exactly the same as above. He was with William Brown's party.

B. H. CHEEVER,
Major Sixth Cavalry.

List of Indians supposed to have been in fight with sheriff and posse, from Newcastle, Wyo., at Lightning Creek, about 35 miles north of Lusk.

Charles Smith, killed, and wife, wounded; Black Kettle and wife, killed; Clear or Gray Bear and wife, killed; Peter White Elk, killed.

Charging Wolf and wife, David Broken Nose and wife, Paint and wife, White Elk and wife, Jesse Little War Bonnet, Iron Shield and wife, High Dog and wife, Fool Heart and wife, He Crow and wife, Good Eagle and wife all under arrest at Edgemont. Misinformed in information given in first telegram.

Last Bear and wife, Chief Eagle and wife, William Brown and wife, Black Feather and wife returned to reservation.

NOVEMBER 7, 1903.

One man wounded; returned to reservation. Who? Black Feather.

B. H. CHEEVER,
Major Sixth Cavalry.

PINE RIDGE AGENCY, S. DAK.,

November 21, 1903.

Sir: Congressman Martin asked me to furnish him with a statement of the late Indian trouble in Wyoming. In compliance with his request, I send him by to-day's mail a brief account of the matter. Inclosed please find a copy of letter to Mr. Martin.

Very respectfully,

JOHN R. BRENNAN,
United States Indian Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

PINE RIDGE AGENCY, S. DAK.,

November 21, 1903.

MY DEAR MARTIN: On my return from the "Indian war" in Wyoming, I found your letter of the 12th instant. Broken Horn has been furnished with a copy of the proceedings of the council held with you here on September 21 and 22, 1903.

The trouble between a few of our Indians and citizens of Wyoming was a very deplorable affair and is very much to be regretted. The killing of the sheriff, his deputy, and four Indians should not have occurred, and would not had the officers and posse used reasonable judgment. The facts in the case, as near as can be judged at this time, are about as follows:

There were two small parties of Indians from this reservation. One party was known as the Smith party, the other as the Brown party, some 35 persons in all, men, women, and children, mostly old people. They were absent on passes to visit the Black Hills and vicinity for the purpose of gathering berries, roots, and herbs. The two parties drifted over into Wyoming, and a few days before the trouble accidentally met and camped together in Converse County, Wyo.; had agreed to come back together to the reservation. On the afternoon of October 30 Sheriff Miller and posse, of Weston County, came to their camp; told Smith, the leader of one of the parties, that he had a warrant for their arrest for violation of the game laws of Wyoming; told them they must go with him to Newcastle. Smith replied to the sheriff that they did not live in Newcastle; that they had not violated any of the laws, and refused to go. The sheriff talked to Brown. Brown said he and his party were willing to go if Smith would go. The sheriff and posse ate supper with the Brown party, Mrs. Brown preparing supper for them. After supper the Indians broke camp, hitched up, and started on the road toward the reservation. The sheriff's party at the same time saddled up and traveled along the same road with the Indians for a short distance until they came to forks in the road, one road leading in the direction of Newcastle and the other toward the agency.

The Indians took the road to the agency. Here the sheriff tried to have the Indians go on the Newcastle road, but instead Smith, who was in the lead, beckoned or motioned with his hand for the Indians to keep on the road toward the agency, which they did. The sheriff and his party took the road to Newcastle. The Indians traveled some 25 miles that night; went into camp; hitched up next morning, the 31st, and traveled until noon; had dinner, hitched up, and traveled until about 4 o'clock p. m., having traveled some 45 miles on the 31st, or, in all, some 70 miles in the direction of the reservation from the time they had met the sheriff's party on the previous evening.

At 4 o'clock on the 31st they were travelling down what is known as Lightning Creek, in Converse County, and about 25 or 30 miles north and east of Lusk, Wyo. The two parties of Indians were together. They had 15 wagons, their wives and children with them, and were moving along the road down Lightning Creek, wagons strung out about a half a mile. They had a bunch of ponies, driven by an 11-year-old boy, in front of the wagons. They came to a wire fence in the road, and an Indian girl opened the gate in the wire fence to let the wagons through. Two or three wagons and the loose ponies had passed through the gate. Here the Indians discovered a party of armed men, 13 in number. Here is where the trouble occurred.

The story of just what happened at this time, how the fight started, who fired the first shot, the killing of the sheriff, his deputy and four Indians, as told by the sheriff's posse and the Indians is altogether different. The sheriff's party say that they were just outside the wire fence and near the road the Indians were traveling on, that when the Indians were within a hundred yards of them they saw that the Indians had discovered them and began to get out of their wagons and prepare to fight. The sheriff and party then left their position, went down into a dry creek bottom sheltered by a bank 6 feet high and to a point 50 yards from the front wagons. They

then say that the sheriff and party stepped up on the bank of the creek and on a level with the Indians and told the Indians to halt and surrender, and that after this command was given one or two shots were fired from the back end of the Indian train. Then the posse began to fire and the firing became general. The ten witnesses, sheriff's posse, that testified against the nine Indians tried at Douglas for murder, and acquitted, all swore that the firing lasted from three to five minutes and no longer; at the end of this time, according to their testimony, the Indians had all fled, leaving the most of their wagons and effects on the road. Sheriff and deputy killed. Four Indians killed and two wounded. One of these wounded was a woman, Smith's wife. They say the sheriff was shot in the thigh in front, pretty well up, and that the ball came out in back part of the hip, pretty high, about the hip pocket. This is very improbable, as the Indians were on higher ground than were the sheriff and his men. If he was shot in the front part of the thigh, the ball would not come out high up on hip behind.

Now, the Indians' story of the trouble, from the time they discovered the armed party, is different. I have questioned nearly all of them very closely on this matter and they all, practically, give the same version of the affair. They say they were traveling along the road down Lightning Creek. They were mostly all in their wagons with their families. Were not anticipating any trouble whatever. Had their guns (those who had guns) put away under their bedding and tents. They came to the gate in the wire fence. The girl opened the gate, and two or three wagons passed through. A boy was driving ponies in front. The boy discovered the armed party, turned his pony around, ran back to the wagons and shouted, "Look out! white men with guns going to shoot." About that time they were fired upon by the whites. The boy and pony were killed at the first volley. The top of the boy's head was blown off. They say that there could not have possibly been more than two or three of their party who returned the fire, probably Black Kettle and Smith, as they were in the front wagons. They say that when the firing began they all tried to get away the best they could, taking their wives and children with them, leaving wagons and other effects behind.

There were four Indians killed: The boy mentioned above, 11 years old; Black Kettle, 58 years old; Charles Smith, 38 years old; Clear, 52 years old. The two wounded were Mrs. Smith, wife of Charles Smith, shot in back of shoulder, ball coming out in front, and Last Bear, an old man, 60 years old, shot in back, ball coming out in front, will probably die.

All the Indians I have talked to who were in this party will all testify on oath on above lines, and that they were fired into first by the sheriff's party. They will also testify that they did not know it was the sheriff's party, who had been to their camp the day before, that stopped them in Lightning Canyon; that there was nothing said by the armed party to indicate that it was the sheriff and his party or that they had a warrant for their arrest. When a thorough investigation is held, I am of the opinion it will be shown that the Indians were not to blame for the trouble on Lightning Creek. The only mistake made by the Indians was that they did not go with the sheriff the first day, when he went to their camp. But they claim that the matter was not explained to them by either Smith or Brown, who could talk some English, and who talked with the sheriff. Outside of Smith and Brown and wife, none of the other Indians could talk or understand English. They all say that if they had understood the matter and just what the sheriff wanted they would have gone with him to Newcastle, some 60 miles away and out of their road.

The nine Indians arrested several days after the fight and charged with the murder of Sheriff Miller and deputy were tried at Douglas on the 14th instant and acquitted. While we did not deny or claim that these nine Indians were not in the party that had the trouble with the sheriff, yet there was not one iota of evidence produced by the nine or ten witnesses who testified against them, all of whom belonged to the sheriff's posse, to in any way implicate these nine Indians with the murder as charged.

I arrived on the ground as soon as possible after the trouble. Found, after a hurried investigation and inquiry, that reports of the trouble had been very much exaggerated by the people in that section of Wyoming. From the best information I could gather at that time I was convinced that a mistake had been made by the officers and that the killing of the Indians, sheriff, and deputy was not altogether the fault of the Indians, as was claimed by the whites. I took this ground and so declared myself, both in communications to the Department and to the governor of Wyoming. I demanded the release of the nine men arrested on the ground that they were innocent. The governor refused to order their release, stating in reply to my telegram that his information (received at Cheyenne) was different and better than mine (received by me on the ground). The stand I took in the matter

aroused the wrath of some of the citizens of that part of Wyoming where the trouble occurred, and especially of those who composed the sheriff's posse. Was told that one or two of the good citizens of Newcastle said I ought to be shot for taking the side of the Indians in this matter. I did what I could at the time to straighten the matter out as speedily as possible and get what few Indians there were in that section of the country away from there and back on the reservation. They were being hunted over and through the country as though they were coyotes or wolves. Men and women testify that while trying to make their escape on second and third day after the fight that they were shot at several times.

I see by the papers that Congressman Mondell has filed a protest in the Indian Office against the management of the Indian agency at Pine Ridge. He says, "Bad management was solely the cause of the recent Indian killing in Wyoming." If Mr. Mondell had said that bad management on the part of the officials of Wyoming was the cause of the recent Indian killing in Wyoming, he probably would have come nearer to striking the nail on the head. Indians on all the reservations, so far as I know, are granted permits to go outside of their reservation from time to time, and visit their brethren at other reservations. This is an established custom and is recognized by the Department. Agents at all the agencies are authorized to grant passes to a limited number of Indians under their charge, to visit away from the reservation. When I granted passes to these two small parties for a visit outside of the reservation I was acting within the law and custom. The permits were not given for the purpose of hunting. It is a fact, I think, that if an Indian wishes to go away from his reservation without a permit from the commissioner or agent, there is no law to prevent him from doing so. Mondell's friends claim that he is going to have laws passed prohibiting Dakota Indians from leaving their reservations for any purpose, prohibiting them from traveling through the great State of Wyoming, and if caught in the State, to be shot on the spot. This, of course, is all wind. Yet it would be well for yourself, Congressman Burke, Senator Kitttridge, and Senator Gamble to keep an eye on Mr. Mondell and see that he does not give our Dakota Indians any the worst of it.

Indians from Mondell's State visit this reservation in large numbers every year; you yourself met quite a number of them here at the time you held a council with the Indians. They were from the Shoshone Reservation. They visit, hunt, and kill game to their heart's content, and are treated royally by our Indians and whites in this section of the country. They are not treated like a lot of criminals or a pack of wolves.

I am not losing any sleep over Mr. Mondell's protest, if he has filed one, against my management of the agency. In so far as the management relates to this matter, I think when the investigation now being held by the Department officers is completed and submitted the matter will be shown in a light that will not reflect much credit on Mr. Mondell's constituents, those who were mixed up in the affair. I do not wish to mix my friends in Congress from this State up in this matter in any way or cause them any trouble—that is, in so far as it effects my actions as agent.

The information given here is offered for your guidance in case any unjust legislation against our Dakota Indians is attempted by the Wyoming contingent. The affair has caused me lots of trouble here on the agency. It is one continual round of explaining why and how it was that their friends were killed to our Indians here. Will have to keep on explaining to them for the next year. Under the circumstances, the Indians are behaving very well over the matter.

With kind regards from Mrs. Brennan and self to Mrs. Martin, I am

Very truly, yours,

JOHN R. BRENNAN,
United States Indian Agent.

Hon. E. W. MARTIN,
Washington, D. C.

ROSEBUD, S. DAK., November 24, 1903.

Sir: I inclose copies of the passes given by Agent Brennan, of Pine Ridge, to the two bands of Indians who were in the fight at Converse Creek. It will be noted that, as stated in my report, the Smith party had not left the reservation when the posse was being organized.

These papers may be filed as inclosures to my report of the 16th instant.

Very respectfully,

CHAR. S. McNICHOLS, Special Agent.

The COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.