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THE BANFF HOT SPRINGS

by W.F. Lothian
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The existence of hot springs in Bow River Valley was known to early travellers, explorers and probably to the aboriginal Indians of the Rocky Mountains.

Sir James Hector of the Palliser Expedition commented in his journal entry for August 21, 1859, that he had observed at the side of the trail, "warm mineral springs which deposited iron and sulphur, and seemed to escape from beds of limestone". The springs also were known to Reverend John MacDougall of Morley, an early missionary to the Stoneys and other Indian tribes of Canada's north-west. MacDougall had first entered Indian territory in 1863. It was not however, until the coming of the railway to the Canadian Rockies and the influx of newcomers to the region, that general knowledge of these unique creations of nature came to public attention, setting in motion a chain of events that resulted in the establishment of Canada's first national park.

Early in November, 1883, Frank McCabe, employed on the construction of the Canadian Pacific Railway as Section foreman, and William McCardell, who had worked on construction under McCabe, made what they believed to be the original discovery of the Cave and Basin springs. In late autumn of that year McCabe and McCardell had engaged in hunting and prospecting in spare time. On the day of their discovery, fixed by McCabe as November 8, they had come up by hand-car from Padmore (Kananaskis) and crossed Bow River on a rude raft to examine the foot of "Terrace" Mountain. There they made the momentous find of the basin pool fed by a hot spring and the cave spring entry to which was gained through a hole in the roof of the cavern. A few weeks later, McCardell built a rude cabin at the springs and in the winter following he visited the site occasionally, as did his brother Tom and Frank McCabe. In the winter

following, while hunting, the trio also observed vapour rising on the hillside above the Spray River Valley. The initial attempt to reach what were believed to be hot springs was given up because of weather conditions, but William McCardell claimed he visited later what became known as upper or "hot" spring, but left no evidence of his discovery.

Although knowledge of the newly found springs became common knowledge among those engaged in railway construction, McCabe and McCardell made little attempt to protect their interest until other individuals erected shacks and made frequent use of the hot waters of both the cave and basin and the "hot" or upper spring. In October, 1884, on information supplied by McCabe, David Keefe, also a Section foreman on the railway, located the hot spring and cut a trail up the slope of the mountain above the Spray River Valley. Shacks were erected there by Theodore Sebring, George Whitman and McCabe.

Knowledge of the springs appears to have been brought initially to the attention of the Government at Ottawa when a letter dated March 20, 1885, signed on behalf of Franklin McCabe, William McCardell, Archie McNeil and C.W.N. Sansom was received by the Minister of the Interior. The letter applied for rights to mineral hot springs located some three miles southwest of Banff Station in order that they might be opened to public benefit. On March 27, 1885, Theodore Sebring wrote the Minister from Silver City, west of Banff, that he had discovered the "hot spring" and had built a house there. Sebring asked for information on how to acquire title to the springs. McCabe evidently heard of Sebring's correspondence, for on May 18th he wrote the

Minister contesting Sebring's claim and affirming his own interest by reason of prior discovery.

These communications, which were answered promptly by the Assistant Secretary of the Interior, prompted instructions for an inspection of the site of the discoveries by a field officer of the Department. On June 23, 1885 J.M. Gordon, Agent of Dominion Lands, reported on his inspection. He confirmed that there were two springs separated by a wall of rock. One spring in the open flowed into a natural basin, and the other was contained in a cave reached by climbing 40 feet up the face of the hill and descending about 45 feet through a small hole in the roof. The water in the cave was reported to have a temperature of about 90 degrees F. and was contained in a basin some 25 feet in diameter with a depth of $3\frac{1}{2}$ feet. Mr. Gordon commented on the lack of improvements by McCabe and McCardell and the difficulty of access from the railway, necessitated by a walk of 3 miles and a crossing of the Bow River by a rude raft. Gordon also enclosed a declaration completed by McCabe, reporting to have discovered the cave in the company of William McCardell on or about the 8th of November, 1883.

On August 18, 1885 D.B. Woodworth, M.P. for Kings, Nova Scotia wrote the Deputy Minister of the Interior from Calgary on behalf of McCabe's application for a grant to the site of the springs. Later on August 31st, Woodworth filed with the Agent of Dominion Lands at Calgary an assignment of all the interest of McCabe and McCardell in the springs in consideration of payment of \$1,500. This assignment, which had been signed by McCabe both on his own behalf and on

behalf of McCardell, later was repudiated by both parties in a telegram sent to the Minister at Ottawa. McCabe and McCardell enlisted the legal services of J.A. Lougheed of Calgary to substantiate their claims, and McCabe signed an affidavit that he had been induced to make the assignment by misrepresentation and ignorance of its contents and that he had received no monetary or other consideration whatsoever from Woodworth.

A further claim to rights in the hot springs was made by David Keefe, who wrote to the Minister on September 9, 1885, that he was the original discoverer of the upper or "hot" spring. The Superintendent of Mines at Calgary, William Pearce, acknowledged the letter and advised him that there were no regulations under which the hot springs could be acquired as they constituted neither mineral or agricultural lands.

By this time, Departmental officers at Ottawa were giving serious consideration to the preservation of the hot springs from private development. The Deputy Minister had an exchange of correspondence with Charles Drinkwater, Secretary of the Canadian Pacific Railway Company in Montreal. The latter urged that Canada follow the course taken by the United States Government in controlling the hot springs in Arkansas. Early in September, 1885, the Surveyor General was requested to take the steps necessary to locate the four sections of land which would most completely surround the hot springs in Banff. On October 16, the Prime Minister, Sir John A. MacDonald, sent a note to A.M. Burgess, the Deputy Minister of the Interior, expressing the hope that the land in or near the hot springs had been reserved from disposal, and that any attempt at squatting would be resisted. Honourable Thomas White, Minister of the Interior,

visited Banff in October during a trip to western Canada. On October 23rd he wrote his Deputy from Calgary that he had made up his mind to reserve, by Order in Council, the sections containing and surrounding the hot springs, The Minister also requested that a recommendation to Council reserving lands described in an accompanying memorandum, be prepared at once. The memorandum to Council was forwarded and on November 28, 1885, Order in Council No. 2197 received approval, reserving from sale or settlement ten sections and portions of other sections of the lands surrounding the springs which contained an area of a little more than 10 square miles. The enacting clause of the Order in Council reads as follows:

"His Excellency by and with the advice of the Queen's Privy Council for Canada has been pleased to order, and it is hereby ordered, that whereas near the Station of Banff on the Canadian Pacific Railway, in the Provisional District of Alberta, North West Territories, there have been discovered several hot mineral springs which promise to be of great sanitary advantage to the public, and in order that proper control of the lands surrounding these springs may remain vested in the Crown, the said lands in the territory including said springs and in their immediate neighbourhood, be and they are hereby reserved from sale or settlement or squatting, namely: All of sections 13, 14, 15, 22, 23, 24, 25, 26, 27 and 28, and those portions of sections 34, 35 and 36 lying South of Bow River, all of Township 25, in Range 12, West of the 5th meridian."

This fortuitous reservation, which removed the hot springs in Banff from the possibility of private ownership and exploitation, no doubt had public approval but dashed the hopes of the claimants. J.A. Lougheed, later to become a senator and Minister of the Interior, wrote the Minister on behalf of McCabe and McCardell suggesting that the Government consider compensation for the outlay made by the discoverers in travelling and living expenses, as well as in loss of time sustained in maintaining a residence near the springs in order to protect their interest. Apparently Lougheed had interviewed the Minister on his recent trip to Western Canada and had learned that it was unlikely that title to the site of the springs would be granted by the Government to the discoverers or their representatives.

D.B. Woodworth also wrote the Minister revealing his interest in the springs which he claimed to have acquired by purchase, from McCabe and McCardell and called attention to the outlay he had made in improvements, including the installation of a ferry over Bow River and a road to the springs. In his reply of December 19th, 1885, the Minister advised Woodworth that he did not recognize any right of discovery in connection with the hot springs at Banff. He conceded, however, that he was prepared to admit that some consideration must be shown to those who claimed to have discovered the springs, and who had made any expenditures in connection with them under the impression that such expenditures gave them a possessory right to the springs. Woodworth appealed to the Prime Minister, Sir John A. MacDonald, submitting a lengthy declaration setting out his claims and requested permission to lay his case personally before the Cabinet Council. He also forwarded to the Minister of the Interior a statement

of claim in the amount of \$4,397, alleged to have been incurred in developing the Cave and Basin Springs.

Early in February, 1886, Deputy Minister Burgess wired Mr. Lougheed at Calgary to inquire if he had any papers to submit to the Department on behalf of his clients, McCabe and McCardell. Lougheed replied that his clients were in the mountains and some delay might occur in taking affidavits. Lougheed also advised the Deputy Minister that several months prior to the assignment of interest in the springs by McCabe to Woodworth on behalf of himself and McCardell but without McCardell's consent --- McCabe and McCardell had made a bona fide assignment of one-half their interest in their discoverer's claim to William Hall and James Grierson. This assignment had been registered with the Registrar of Lands at Calgary. Lougheed subsequently submitted a lengthy deposition sworn to by McCardell in which the latter repudiated the existence of any authority by which McCabe might have assigned McCardell's interest in the springs to Woodworth.

Before he had obtained from McCabe an assignment of interest in the hot springs, Woodworth had shown great interest in their possibilities. After meeting McCabe, he negotiated an oral agreement whereby he would share an interest in the springs with McCabe, McCardell, Hall, Grierson, and one R.R. Fitch, whom we had employed as an agent. Fitch took up residence near the springs and with McCabe's assistance ran lines for a road from the railway line to Bow River. After obtaining from McCabe what he believed to be the rights of McCabe and McCardell, Woodworth embarked on a program of improvements supervised by Fitch,

which included the purchase of a building for relocation at the springs for use as an hotel. He also obtained a franchise from the Territorial Government to operate a ferry over Bow River, purchased steel cables for the ferry installation, and authorized Fitch to employ additional men to build a passable road from the river crossing to the springs.

McCabe's activities in arranging partnerships and signing of McCardell's interest in the springs had occurred during the latter's absence from Banff while he was employed in British Columbia. After McCardell's return to Banff, Woodworth arranged an interview with him at Woodworth's cabin, presumably for the purpose of having McCardell acknowledge that McCabe actually had authority to sign McCardell's name to the assignment. During the interview, Woodworth's agent Fitch, was secreted, unknown to McCardell, behind a curtain in the cabin. Subsequent reports of the interview are conflicting in that McCardell denied ever having given McCabe written authority to dispose of the springs. On the other hand Fitch claimed in a sworn statement that McCardell admitted that he had given McCabe a letter.

In April 1886, William Pearce, D.L.S., Superintendent of Mines at Winnipeg, received instructions from the Minister to make a thorough investigation on the ground of all claims to lands in the vicinity of the hot springs at Banff. Advance notice of the investigation was published in the Calgary Herald and the inquiry was held at Banff on July 8 and 9, 1886. Altogether 14 witnesses were heard and claims of other individuals for compensation or recognition were considered. J.A. Lougheed, who represented McCabe and McCardell and D.B. Woodworth, M.P., took an active part in the proceedings.

Before witnesses were heard, Commissioner Pearce read to those present a synopsis of all letters and affidavits on file in the Department of the Interior up to February, 1886. He also read all correspondence and affidavits which subsequently had been filed. Some of the highlights extracted from the sworn evidence of witnesses at the inquiry and from the Commissioner's report will be found in the following paragraphs.

Franklin McCabe, a native of Nova Scotia, was the first witness called. He stated that he had been employed as a section foreman with the Canadian Pacific Railway and during spare time, in company with William McCardell, he had engaged in hunting and exploring in the vicinity of Banff. After crossing Bow River on a rude raft in November 1883, they had discovered the Cave and Basin springs. McCabe confirmed that McCardell had erected a shack near the mouth of the cave after the discovery. McCabe also admitted entering into an agreement with William Hall and James Grierson, prior to completing an assignment of the interest of himself and McCardell to D.B. Woodworth, M.P. McCabe stated he had received from McCardell a letter authorizing him to "do the best he could with the springs" but admitted that he had no power of attorney from McCardell. McCabe also claimed that although the assignment acknowledged receipt of \$1,500, he had never received one cent in payment from Woodworth. Under questioning, he admitted that he had not visited the upper or "hot" spring before March 1885.

An interesting feature of McCabe's evidence was the revelation that the inclusion of the names of Archie McNeil and C.W.H. Samson with those of McCabe and McCardell in the letter of March 20, 1885 received by the Minister

of the Interior was unauthorized. McCabe testified that he had drafted a letter to the Minister on behalf of himself and McCardell petitioning for a grant to the Hot Springs southwest of Banff and had given it to McNeil, a carpenter in Calgary, for rewriting and mailing. Apparently McNeil considered the opportunity one not to be overlooked, and for good measure he had added the name of a friend who was quite unknown to McCabe.

William McCardell, the next witness, gave his place of birth as Stratford, Ontario. He had been engaged on the construction of the railway with several contractors in the autumn of 1883 and had accepted employment under McCabe on section work. He corroborated McCabe's testimony that they had discovered the Cave and Basin Springs in November, 1883, when prospecting, and that later he had constructed a shack near the springs. McCardell also stated that on information received from McCabe and his brother Thomas, he had entered the Spray River Valley in December 1883 or January 1884, and had climbed the slopes of the mountain to the upper or "hot" spring. The location of this spring had been identified by vapour visible from the valley below.

McCardell explained that neither he nor McCabe had attempted to secure the springs as a mining claim following discovery owing to their inability to meet the cost of a suitable survey. He confirmed that McCabe had entered into a partnership agreement with Hall and Grierson without his written consent or signature and that McCabe also had signed his name to an assignment of interest to D.B. Woodworth without his written authority. He conceded however, that in one of his letters to McCabe he had advised him to "do the best he could to develop the springs".

William George Hall gave evidence that he had been employed as a train master out of Calgary in 1883 and during the summers of 1884 and 1885 was a conductor on a passenger train between Medicine Hat and Laggan. He had learned of the existence of the springs from McCabe in 1884. In August 1885, he had met Woodworth to whom he had volunteered information about the hot springs. Hall confirmed that a partnership agreement was entered into with McCabe and Grierson in May, 1885, and that he had registered the agreement in the Land Titles Office at Calgary. Hall also testified that Woodworth had been responsible for his discharge from the railway company's employ. During a trip to Ottawa in June 1885, Hall had interviewed the Deputy Minister of the Interior on behalf of McCabe and McCardell as their agent.

Joseph Healy, an American citizen born in Ireland, gave evidence that he first saw the Bow Valley in 1863, that he was in the vicinity of Banff in 1874, and had discovered the hot spring that drained into the Spray River in July of that year. He also claimed to have discovered the Cave and Basin springs the same year or the year after. Healy clarified his status at the inquiry by admitting that although he had reported his discoveries to acquaintances, he had never taken any steps to obtain official recognition of them and was not seeking compensation. He also disclaimed any knowledge of Younge's residence in the vicinity of the springs in 1875.

David Keefe, a native of New York State and an American citizen, related that he had been employed as a section foreman on the construction of the Railway since 1884. Keefe also had operated a boarding house in the C.P.R. Section ✓

House. He had learned of the existence of the hot springs at Banff from Frank McCabe in July, 1884, and after constructing a raft across the Bow River had visited the Cave and Basin Springs in the company of others. Keefe explained he had discovered the upper hot springs by following the overflow up the mountain on October 18, 1884. Later, he had blazed a road to the hot spring and installed a ferry over the Bow River. He confirmed that George Whitman had erected the first building at the upper hot springs and that Sebring and McCabe had built what might be termed shacks. Keefe also made the point that while others had withheld information about their discoveries, he had broadly advertised the springs and the benefits which might be derived from their use.

Theodore Sebring, a native of Ohio, and an American citizen, stated that he had operated a boarding house at Silver City west of Banff from 1883 to 1885. He had learned of the existence of the hot spring from Keefe late in 1884. He had visited the Cave and Basin and the "hot" springs in February 1885 and had erected a shack at the upper hot spring. Sebring admitted that although he had staked a claim at the upper spring and had endeavoured to obtain title, he had never claimed to be one of the original discoverers.

Commissioner Pearce reviewed the interest of Willard B. Younge, a native of Ohio, who, in letters had claimed he had ascended the Bow River Valley in November, 1875, in the course of trapping and prospecting. Younge claimed to have discovered the hot spring in 1875, erected a shack in the vicinity in which he lived during the following winter, and made other improvements on the land. He had planned to file a homestead claim to land in the vicinity of the Spring in 1885, but found the area had been reserved from disposal. The existence, in

1884, of the building or shack he had erected near the cave was confirmed by McCabe at the inquiry in 1886.

Commissioner Pearce also reviewed the claim of J.R. Grant of Brussels, Ontario, who had filed an affidavit. Grant claimed to have discovered the springs or some of them in September, 1883, and had taken away a bottle of water for analysis. However, on his way back to Eastern Canada his trunk was damaged and the water was lost.

Mr. Pearce commented that Departmental Regulations prescribed no rights to mineral springs by reason of discovery. He explained that the utility of such springs was dependent wholly on their location, quantity and development. As Younge had not contributed to the development of the springs in the slightest, his claim for compensation was disallowed. Mr. Pearce also disallowed the claims of Grant and Sebring, stressing that Sebring was not a discoverer nor was his shack an improvement.

In reviewing the case of David Keefe, Commissioner Pearce commented that the claimant had done more to bring the springs to public attention and render them them accessible than had any other individual. He also pointed out that Keefe's activities in publicizing the springs were not without ulterior interest, as he maintained a boarding house in the C.P.R. Section House at Banff, which until recently, had been the only place in the vicinity of the springs at which meals and lodging could be obtained.

Although D.B. Woodworth attended the inquiry and subjected a number of the witnesses to cross-examination, he called no witnesses on his own behalf and declined to take the witness stand. In fact, he left the inquiry in a huff before it was adjourned, after having advised the Commissioner that he considered some of the evidence given was prejudicial to his status as a "public man" and should not have been admitted.

On behalf of his clients, Mr. Lougheed described the assignment from McCabe and McCardell to Woodworth as invalid. He explained that McCabe had assigned McCardell's interest without authority and not under seal. Moreover, he contended that the contract was nullified by reason of non-payment by Woodworth of the consideration of \$1,500 mentioned therein. A further argument cited was that by their very nature, the springs were not subject to the provisions of either the Dominion Lands Act or the Mining Regulations and consequently, an interest in the springs could not legally be assigned. Mr. Lougheed also characterized R.R. Fitch, whose evidence on behalf of Woodworth had been taken in Ottawa by Mr. Pearce, as a man utterly unworthy of belief.

In concluding his formal report of the inquiry which reviewed all depositions, affidavits and evidence taken, Commissioner Pearce recommended that compensation be paid by the Government of Canada as follows:

To David Keefe, the sum of \$100 in recognition of the time spent in making improvements and in facilitating the visits of interested persons to the springs.

To Franklin McCabe and William McCardell, the sum of \$675 in recognition of expenditures made for improvements and for time spent at the springs in protecting their interest.

To D.B. Woodworth, M.P., the sum of \$1,000 in recognition of certain expenditures incurred in anticipation of acquiring certain rights to the Cave and Basin Springs from McCabe and McCardell, including outlays on the construction of an access road, the purchase of a building to be erected in the vicinity of the springs for hotel purposes, and for personal expenses.

These recommendations were subsequently approved by the Minister and, under authority of the Governor in Council, payment was made to the parties concerned.

Although the report of Commissioner Pearce reviewed all claims and recommended compensation for some of the principals, it did not confer on any individual the distinction of having been the original discoverer of the hot springs. This deficiency may be attributed to a statement made by the Minister, Honourable Thomas White, in a letter addressed to D.B. Woodworth, M.P., in which he stated in part: "I cannot recognize any right of discovery in connection with the springs...". It seems clear, however, from documented evidence that Willard Younge had visited the site of the Cave and Basin Springs and had built a shack nearby in 1875 which he had occupied during the following winter. Joseph Healy's evidence that he had discovered both the Cave and Basin in the Upper Hot Spring between 1874 and 1876 was unsupported by witnesses or documents. The opportunity for fame as a discoverer was lost to J.R. Grant when a sample bottle of water which he claimed was taken from the hot springs was broken in transit to Eastern Canada.

To McCabe, McCardell and Keefe, in spite of their late arrival on the scene, must be given due credit for their individual and collective discoveries in 1883 and 1884. Their determined, if somewhat tardy efforts to secure title to a remarkable phenomena of nature focussed public attention on the magnificent scenic region surrounding the Hot Springs. In awarding them compensation, the Government of the day not only reimbursed them for out-of-pocket expenditures, but also tacitly recognized their activities which led to the reservation of the hot springs as public property and their inclusion in Canada's first National Park.

W.F. Lothian

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