



## The Controversial Sioux Amendment to the Fort Laramie Treaty of 1851

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Full Citation: Harry Anderson, "The Controversial Sioux Amendment to the Fort Laramie Treaty of 1851," *Nebraska History* 37 (1956): 201-220

Article Summary: The Fort Laramie Treaty sought to secure the Platte River road for emigrants, but even the chiefs who signed the treaty did not fully understand its provisions. As the white advance westward continued, the Sioux resisted.

### Cataloging Information:

Names: D D Mitchell, Thomas Fitzpatrick, George E Manypenny, Alfred Cummings, Alfred Vaughan, Man Afraid of His Horse, Spotted Tail, Conquering Bear (Brave Bear), Smutty Bear, Long Mandan, Struck by the Ree, Standing Medicine Cow, Red Fish, Crow Feather, Clear Blue Earth, Yellow Ears, Standing Bear, Burnt Man, Eagle Body, Smoke, Bad Wound, Medicine Eagle, Big Crow, Bear Erect

Place Names: Fort Pierre, South Dakota; Fort Laramie, Wyoming

Keywords: Sioux Amendment, Black Hills Treaty of 1868, Platte River road, annuity goods, Pierre Chouteau and Company

# THE CONTROVERSIAL SIOUX AMENDMENT TO THE FORT LARAMIE TREATY OF 1851

BY HARRY ANDERSON

**I**N September of 1851, D. D. Mitchell, Superintendent of Indian Affairs at St. Louis, and Thomas Fitzpatrick, United States Indian Agent for the Upper Platte and Arkansas Agency, concluded a treaty at Fort Laramie between the United States government and a number of tribes of Plains Indians.<sup>1</sup> The principal purpose of the treaty was to secure from the Indian tribes the use of the Platte River road for Oregon and California bound emigrants. Equally important, however, in the eyes of some of the more idealistic supporters of the proceedings was the expectation that the treaty would mark the beginning of an era of peace and friendship among the warlike Sioux and their enemies, the Crows, Shoshoni, Pawnee, and other tribes.

Under the terms of the agreement, the United States would supply the several tribes with \$50,000 worth of an-

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<sup>1</sup> The tribes which participated in the treaty negotiated at Horse Creek, near Fort Laramie, were the Sioux, Cheyenne, Arapaho, Crows, Assiniboin, Mandan, Gros Ventres, and Arikara.

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nunities for a period of fifty years. Other articles designated the territorial boundaries of each Indian tribe which was party to the treaty, provided for the punishment of depredations committed by either whites or Indians, and gave the government the right to lay out roads and establish military posts in Indian country.<sup>2</sup> When the treaty was returned to Washington and submitted to the Senate for ratification, that body refused to give its approval to the long term financial arrangements.

After considerable discussion and debate, the period of fifty years was reduced to ten, with a presidential option on renewal for five additional years. In this form the treaty was ratified by the Senate on May 24, 1852.<sup>3</sup> Proclamation of the treaty was withheld, as it was felt that the amended article should be presented to the Indians for their approval. However, the amendment was not sent to the tribes concerned until 1853.

This delay is the most probable cause for the numerous misstatements and erroneous conceptions which are found in printed references to the amendment in question. Government officials and authors have often stated that the amended document was never approved by all the tribes concerned, while Indian statements frequently reflected a distorted understanding of the effect of the Senate's amendment upon the original treaty.

Authors of books on western and Sioux history and government officials and commissioners have perpetuated the mistaken idea that the Senate's amendment was never approved by the Sioux, or that whatever approval it did secure was rendered ineffective by a failure to obtain the assent of all the signers of the original document. This idea was in circulation as early as 1866, only fifteen years after the signing of the Laramie Treaty. In the Indian Office treaty files there is a copy of the 1851 agreement, dated 1866, which bears a notation describing the Senate's

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<sup>2</sup> Contents of the treaty may be found in Charles J. Kappler (comp. and ed.), *Indian Affairs, Laws and Treaties* (Washington, 1904), II, 594-596.

<sup>3</sup> See text of amendment.

action and remarks, "this [the amendment] was to be submitted to the Indians, but they were never got [sic] together for the purpose."

Ten years later, as a result of the popular demand to open the Sioux-held Black Hills to gold seekers, the government, by means of an all-out military campaign, and extensive use of threats of starvation, forced the Sioux leaders to agree to the terms of the so-called Black Hills Treaty of 1876. The commission charged with the duty of presenting the treaty to the Sioux included former Commissioner of Indian Affairs, George W. Mannypenny, Bishop Whipple of Minnesota, and several other proponents of the then discredited Peace Policy. The report of this commission contained an historical account of the government's official relationship with the Sioux, including reference to the amendment made to the 1851 document. They wrote:

The Government agrees to pay these Indians the sum of \$50,000 for fifty years. The Senate amended the treaty by limiting the appropriation to ten years. This amendment was never submitted to the Indians. They believed that the original treaty was in force.<sup>4</sup>

Recent examination of the treaty files contained in the Indian Office records of the National Archives, however, has turned up the original documents, complete with the marks showing the approval of the leaders of every tribe that participated in the Laramie agreement.<sup>5</sup> Those portions of the documents which deal with the Sioux groups affected by the treaty are here reproduced.

#### THE SIOUX AMENDMENTS TO THE FORT LARAMIE TREATY OF 1851

We the undersigned Chiefs, Headmen and Braves of the following named tribes, viz; Sioux of the Missouri and Sioux of the Platte, parties to the treaty concluded at Fort Laramie on the 19th day of September, one thousand eight hundred and fifty one, having had fully explained to us the

<sup>4</sup> *Report of the Commissioner of Indian Affairs for 1876*, p. 338.

<sup>5</sup> The amendment is actually three documents, one approved by the Sioux of the Platte, a second by all the tribes of the Upper Missouri except the Crows, and the third by the Crows.

amendment made to the 7th article thereof by the Senate of the United States on the 24th of May, 1852, which is in the following words, "Article 7 — Strike out the words 'fifty years'; and insert: *the term of ten years with the right to continue the same, at the discretion of the President of the United States, for a period not exceeding five years thereafter*"—do hereby accept and consent to the said amendment or modification of the treaty as aforesaid.

#### SIoux OF THE MISSOURI

In presence of,

his Zephyr X Rencontre Intr. mark	his Mah he sah X vi shis mark
John B. Sarpy Alexander Culbertson	[Smuttty Bear]
John Lowe	Pa dane a pa pi The one Struck by the Ris X
E. D. Hodgkiss	The wa Kan na gi X [Standing Medicine Cow]
C. Campbell	his O-hun-lu-ta X or Red Fish mark
	his Con-ha-wa-as-ka X or Crow Feather mark

#### SIoux OF THE PLATTE

his  
Mah toe X wha you wey (The Bear Erect [sic])  
mark

*Mah Kah toe zah zah* (dead)

his  
Nahk a X pah gi go (Yellow Ears)  
mark

his  
Mah toe X na gee (The Standing Bear)  
mark

his  
Oh hoo X lah (The burnt man)  
mark

his  
Chu e ma X va lu sa (Eagle Body)  
mark

his  
Sho X tah (Smoke)  
mark

his  
Oa X see che (The bad wound)  
mark

his  
Wam be X le wah ku (Medicine Eagle)  
mark

his  
Ta sho ke X ko ke pah (The Man afraid of his horses)  
mark

his  
Kah re X tank ka (The Big Crow)  
mark

Signed by the Sioux at Fort Laramie Sep 15th 1853 in  
presence of

B. Gratz Brown, Secretary

R. B. Garnett 1st Lieut. 6th Infy. Comd'g

H. B. Fleming 2nd Lieut. 6th Infy.

Geo M. Alexander

Geo Collier

Other authors have questioned the validity of the 1851 treaty on the grounds of incomplete approval of the amendment by the various tribes. These include Lucy E. Textor, Charles E. DeLand, and Frederick L. Paxson. Miss Textor's study appeared first, and it would seem that both DeLand and Paxson based their remarks on her work.

Miss Textor states that:

The Amendment was subsequently ratified by all save the Crows. But since the United States was dealing with the tribes jointly and not severally the failure of the Crows to sign made the ratification invalid and the amended treaty of no effect.<sup>6</sup>

DeLand's remarks are in a similar vein.<sup>7</sup>

From sources cited in Miss Textor's footnotes, it appears that her contention that the Crow tribe never was

<sup>6</sup> Lucy E. Textor, *Official Relations Between the United States and the Sioux Indians* (Palo Alto, 1896), p. 96.

<sup>7</sup> Charles E. DeLand, "The Sioux Wars," *South Dakota Historical Society Collections*, XV (1930), 41.

presented with the amendment stems from communication with the State Department and certain statements in the Statutes at Large.<sup>8</sup> Regardless of the source, however, such a contention is incorrect. The Crows did sign the amendment. The copy of the amendment brought to the tribes in 1853 does bear the marks of the chiefs of all of the tribes except the crows. For some reason, perhaps travel difficulties, or a possible change in the tribe's hunting schedule, the document never reached the Crows during the 1853 season. However, a second copy of the amendment was brought to that tribe the next year, 1854, and it was approved and signed by five of the Crow chiefs.<sup>9</sup>

Still another reason for attacking the validity of the amendment has been utilized. Citing a quotation from Paxson's *The Last American Frontier*, DeLand asserts that the treaty was not valid because "only four of the six Sioux chiefs who signed the treaty ratified the amendment."<sup>10</sup>

Paxson states that:

The Laramie treaty of 1851 had never had full force of law because the Senate had added amendments to it which all the signatory Indians had not accepted.<sup>11</sup>

In pursuing this line of argument, both Paxson and DeLand become overly technical. While their statements concerning the failure of all the original signers to approve the amendment are true enough, they follow the common error of assuming the Sioux nation to be the diplomatic equal of Great Britain or France, not recognizing it as a

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<sup>8</sup> Textor, *op. cit.*, footnote, p. 96.

<sup>9</sup> The Crow amendment appears to have been unknown to the State Department and the compilers of the Statutes at Large. It arrived at the Bureau of Indian affairs on July 6, 1855, along with a communication from Agent Alfred Vaughan regarding certain discrepancies in the agency's accounts. The Crow chiefs signed on September 18, 1854.

<sup>10</sup> DeLand, *op. cit.*, p. 41. DeLand is mistaken in saying four Sioux chiefs signed both the treaty and the amendment. Actually only three did. See also footnote 11.

<sup>11</sup> Frederick L. Paxson, *The Last American Frontier* (New York, 1910), pp. 271, 272. Miss Textor noted this in a footnote (*op. cit.*, p. 96) where she writes, "Only four of the six Sioux chiefs who signed the treaty signed the amendment. Possibly this would have impaired its validity for them, even supposing it had been valid in all other respects."

wild Indian tribe with an entirely different structure of governmental process and function. The United States was guilty of this same error throughout the history of its Indian relations and thus must accept the major responsibility for the failure of its Indian policy.

Technically the failure of three of the chiefs to sign the amendment may have weakened the treaty, but actually the procedure followed in obtaining the ratification made it stronger than the rest of the document as far as the Sioux were concerned. Those chiefs whose marks are found on the amendment were far more influential, and represented a greater portion of the Sioux nation, than did the three original signers who were omitted.

Misconceptions regarding the 1851 treaty and its amendment were also quick to arise in the minds of the Sioux. This was particularly true with regard to the length of time the treaty was to be in force. On May 24, 1868, at a council between members of a United States government commission and the Oglala Sioux at Fort Laramie, the venerable Oglala chief, Man Afraid of His Horse, made the following remark:

I recollect the treaty of Horse Creek; General Mitchell made it in 1851. He bound the Government for 50 years to pay us annuities and they have not done so. They only did so for ten years. I recollect the treaty very well.<sup>12</sup>

Spotted Tail, the noted Brule chief, made a similar remark in 1876 when speaking of the treaty made on Horse Creek. According to Spotted Tail, it was the general understanding among the Sioux that the treaty "was to last for fifty years."<sup>13</sup> Anyone taking the trouble to read transcripts of other councils with the Sioux in later years will

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<sup>12</sup> Ms. record of the proceedings of the United States Peace Commission for 1867 and 1868, Treaty Files, Office of Indian Affairs, National Archives, II, 101. The phraseology is that of the interpreter.

<sup>13</sup> At Spotted Tail Agency, Nebraska, September 22, 1876. Report and proceedings of the United States Peace Commission for 1876 in *Sen. Exec. Doc. No. 9, 44th Cong., 2nd Sess.*, p. 38.



come across many indications that their knowledge of the treaty's provisions was imperfect at best.<sup>14</sup>

In evaluating these statements by the Sioux headmen, one is faced with the choice of three possibilities. The first is that the Sioux were deliberately ignoring the amendment reducing the treaty's duration from fifty to fifteen years; secondly, they had completely forgotten the contents of the amendment; and thirdly, the chiefs had been misled when they signed the amendment, and were never told of its true contents by the agents, interpreters, and traders when they "touched the pen."<sup>15</sup>

In the final analysis, it is difficult to escape the conclusion that not one, but all three of the above factors were responsible for the Sioux' attitude. The amendment was presented to the headmen, both on the Missouri and on the Platte, during a time of crisis, and it took considerable talk and persuasion to get the chiefs to sign. In view of the situation, it is fairly certain that the government agents soft-pedalled the contents of the amendment as much as was possible.

However, it is very unlikely that, as Man Afraid of His Horse claimed, the Sioux were completely unaware of the fact that some reduction had been made in the treaty's duration. Man Afraid was present when Agent Fitzpatrick brought the amendment to Fort Laramie and was among the chiefs who signed. Fitzpatrick was an expert at Indian diplomacy and although he may not have told the Sioux the complete, and rather harsh, truth regarding the document, he was not the type of individual to misinterpret the contents of the amendment completely.<sup>16</sup> It is to his everlasting credit that Fitzpatrick was able to get the chiefs to sign at all, at the same time putting a stop, temporarily at

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<sup>14</sup> For example, see *Sen. Exec. Doc. No. 51*, 51st Cong., 1st Sess., pp. 61, 81, 107, 167. This is the record of councils kept by the Crook Land Commission in 1889.

<sup>15</sup> "Each chief put his hand on the pen while one of the whites signed his name. This was sometimes termed 'taking hold of the stick.'" (George E. Hyde, *Red Cloud's Folk* [Norman, 1937], p. 86).

<sup>16</sup> For additional information regarding Fitzpatrick, see his biography, *Broken Hand, The Life Story of Thomas Fitzpatrick* by L. R. Hafen and W. J. Ghent (Denver, 1931).

least, to the hostile intentions in many of the camps. Although informed of the terms of the amendment, in later years the Sioux seemingly chose not to remember anything at all regarding it.

Under the terms of the treaty as signed at Fort Laramie in 1851, the annuity goods were to be delivered to the several tribes beginning with the summer of the next year, 1852. Even though the treaty did not take its final form until the passage of the amendment in May of that year, the Indian Bureau wisely did not require approval of the amendment prior to the first delivery. Pierre Chouteau and Company of St. Louis supplied \$8,000 worth of goods for the Sioux tribes on the Upper Missouri at Fort Pierre in November 1852. The Chouteau Company also delivered the annuities to the other Upper Missouri tribes and apparently to the Oglala and Brule Sioux and the Cheyenne and Arapaho on the Platte.<sup>17</sup>

The late date of the Senate's action in amending the treaty prevented the document from being sent to the tribes concerned during the 1852 season. In fact, copies of the amendment had not been prepared by late April of the following year.<sup>18</sup> Part of this delay can be attributed to the changeover in administrations between the election and inauguration of Franklin Pierce as President. George E. Mannypenny was named by Pierce to the post of Commissioner of Indian Affairs, and on April 26, 1853, Alfred Cummings was appointed to succeed D. D. Mitchell as Central Superintendent in St. Louis.<sup>19</sup>

It was not until April 30 that Mannypenny sent Cum-

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<sup>17</sup> Letter, D. D. Mitchell to Luke Lea, Commissioner of Indian Affairs, September 28, 1852; letter, Pierre Chouteau and Company to Mitchell, August 27, 1852. Letters cited are to be found in Letters Received, Central Superintendency, Indian Office Records, National Archives. The annuity goods were available for distribution in November of 1852, but since relatively few of the bands wintered near Fort Pierre, the delivery was not completed until June of the following year.

<sup>18</sup> Letter, G. W. Mannypenny, Commissioner of Indian Affairs, to Mitchell, April 23, 1853, Record Copy of Letters Sent, Indian Office Records, NA.

<sup>19</sup> Letter, Mannypenny to Alfred Cummings, April 26, 1853, Record Copy of Letters Sent, Indian Office Records, NA.

mings copies of the treaty amendment, along with instructions governing the delivery of the annuity goods to the Upper Missouri tribes. Congress, in passing the Appropriations Act of March 3, 1853, had stipulated that the annuities could not be delivered until the various tribal leaders gave their approval to the Senate's changes. Because of difficulties encountered in steamboat transportation on the Upper Missouri, the goods contracted for in St. Louis and New York were delivered as early as possible to points convenient for distribution to the various tribes. The Sioux annuities were put off at Fort Pierre; those for the Mandan, Arikara, and Gros Ventres at Fort Clark; and the Assiniboin and Crow articles at Fort Union. The annuities were shipped from St. Louis at the same time as the copies of the amendment went upriver, but under no circumstances were the tribes to receive the goods until their chiefs approved the document. It is interesting to note that Commissioner Mannypenny suggested, but did not require, that whenever possible the original signers of the treaty should be requested to approve the amendment.<sup>20</sup>

That copy of the amendment intended for circulation among the Cheyenne, Arapaho, and Sioux of the Platte was not sent from Washington until May 5. The instructions given to Agent Fitzpatrick were similar to those sent Superintendent Cummings for the use of the Upper Missouri agent, Alfred Vaughan. No annuities were to be delivered until the amendment was approved. In addition, Fitzpatrick was authorized to purchase a supply of presents in St. Louis with which to facilitate the negotiation of a treaty similar to the Fort Laramie document with the Kiowa, Comanche, and other tribes on the Arkansas River.<sup>21</sup>

Commissioner Mannypenny had instructed the Sioux agents to try to secure the assent of as many of the chiefs who signed the original treaty as was possible. Examination of the amendment reveals that of the six Sioux head-

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<sup>20</sup> Letter, Mannypenny to Cummings, April 30, 1853, Record Copy of Letters Sent, Indian Office Records, NA.

<sup>21</sup> Letter, Mannypenny to Thomas Fitzpatrick, May 5, 1853; letter, Mannypenny to Cummings, May 5, 1853. Letters cited are to be found in Record Copy of Letters Sent, Indian Office Records, NA.

men who touched the pen in 1851, three had their names on the amendment. Of the remaining three, one is known to have died by the summer of 1853, while in all likelihood the other two were out hunting with their bands and did not attend the councils at which the amendment was approved.

It is difficult, at this late date, to understand what method was used to single out the chiefs who signed the treaty for the Sioux at Fort Laramie. The agreement was supposedly between the United States government and all of the Sioux tribes residing on the Upper Missouri and Platte rivers, yet only three of these nine groups had the names of their chiefs on the document.<sup>22</sup> Four of the chiefs who signed were Brule Sioux, including *Mato why o way* (Conquering Bear or Brave Bear),<sup>23</sup> who had earlier been selected by Superintendent Mitchell to be head chief of all the Sioux bands. This position of head chief was contrary to normal Sioux political practice, and as events of the next few years proved, it failed to accomplish the purpose intended.

Conquering Bear's appointment as head chief may be one explanation for the inclusion of three more Brules on the list of signers; evidently the government felt that they, as immediate followers of Conquering Bear, would best represent men of authority according to civilized standards

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<sup>22</sup> Seven of the tribes are classified as Teton Sioux: the Oglala, Brules, Miniconjou, Sans Arcs, Two Kettles, Blackfeet, and Hunkpapa. The other two were the Yanktonai and Yankton Sioux who at that time roamed in the regions immediately east of the Missouri.

<sup>23</sup> There are a number of translations of this chief's name, *Mah toe why o way* or *Mato wa yuhe*. See Mari Sandoz, *Crazy Horse* (New York, 1955), pp. 12, 13 (Conquering Bear); Stanley Vestal, *New Sources of Indian History* (Norman, 1934), p. 203 (Stirring Bear, Bear that Digs, Bear that Scatters); Hyde, *op. cit.* pp. 66, 67 (Brave Bear); L. R. Hafen and F. M. Young, *Fort Laramie and the Pageant of the West* (Glendale, 1938), pp. 223-229. The latter reference, plus contemporary government publications and communications refer to him simply as "The Bear Chief." On the treaty amendment his name is recorded as the Bear Erect. However, Rufus B. Sage, who was in the Brule country in 1835 and who knew the chief quite well, called him Brave Bear (*Rocky Mountain Life* [Boston, 1857], pp. 88, 89). This would appear to be the name he was known by among the fur traders. The winter count kept by Baptiste Good, a Brule Sioux, also calls this chief Brave Bear.

of politics and diplomacy. It may also be that this emphasis on Brule leadership was a result of the acknowledgement of that tribe's position of authority by the Sioux themselves. George E. Hyde has suggested that the Brules may have been an elder or parent group among the Teton, citing several significant clues toward establishing this fact, but not being able to assemble definite proof.<sup>24</sup>

This, however, offers no explanation for the selection of the two remaining signers, Smutty Bear and Long Mandan, chiefs of the Yankton and Two Kettle Sioux respectively. It appears that the fur traders were primarily responsible for the prominence afforded the Yankton in 1851, and again in 1853 when the amendment was brought from Washington for approval. The traders had been requested by the government to play a major role in bringing delegations to Fort Laramie.

Conditions on the Upper Missouri during the early 1850's, however, made this task a bit difficult. Portions of the northern Teton, particularly the Hunkpapa and most of the Blackfeet, were extremely hostile and strongly opposed to any negotiations with the government.<sup>25</sup> The traders themselves had difficulty even carrying on their normal traffic in buffalo robes with these people. Other groups, such as the Miniconjou and Sans Arcs, regularly traveled westward from the Missouri, meeting camps of Oglala and Brules from the Platte near the Black Hills. There they no doubt heard from these bands, and also from the runners sent out by Agent Fitzpatrick, of the impending Fort Laramie council, and decided on their own to attend. Although they were of relatively insignificant importance, the Yankton and Two Kettles, since they were peaceful and co-operative tribes, remained the only source from which the

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<sup>24</sup> See Hyde, *op. cit.*, pp. 58, 175. Also a letter from Hyde to this writer, October 3, 1955. The solution to this problem undoubtedly lies in that dark and cloudy portion of Sioux history before the Teton left their old home in Minnesota to go westward across the Missouri.

<sup>25</sup> The Hunkpapa attended the council, but they and their chiefs could not be depended upon to observe the treaty's provisions, particularly those recognizing the rights to peaceful existence and territorial occupancy of their hereditary enemies, the Crows.

traders could draw a dependable supply of delegates with which to impress the government. No doubt the patriotism of the traders and their desire to be of assistance to the authorities were considerably influenced by the prospect of obtaining a generous supply of the funds allotted by the government for transporting delegates to the council. Once they arrived at Fort Laramie, the traders then made certain their chiefs took part in the signing.<sup>26</sup>

Unfortunately there is no information on the amendment itself to indicate when and where the Upper Missouri Sioux were presented with the document. The apparent difference in the handwriting used to attach the chiefs' names does, however, make it appear that it was done at two different times. The first three names, Smutty Bear, Struck by the Ree, and Standing Medicine Cow,<sup>27</sup> were all written by the same hand. The first two were the most famous of the Yankton headmen, while Standing Medicine Cow was a lesser chief of the same tribe. Of the three, Smutty Bear was the only one who had signed at Fort Laramie in 1851. Nevertheless, the traders felt it was necessary to keep up their pretense regarding the importance of the Yankton, and therefore secured the approval of all three of their headmen.

As the amendment was to be presented to the Indians prior to the delivery of their annuity goods, it is very possible that the signing of the Yankton chiefs took place at that tribe's trading center. This was a small establishment attached to the main American Fur Company post at Fort

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<sup>26</sup> Conquering Bear was also a trader's chief, having some years earlier served the American Fur Company by stealing horses and shooting up a camp of rival traders in the Brule winter camps on the White River. (Hyde, *op. cit.*, p. 67).

<sup>27</sup> The name of this chief is not correctly written on the amendment and is difficult to interpret. On the amendment it is simply *wa Kan-na gi* which would be "medicine standing," *najin* meaning "standing," while *wakan* has been translated as being either "sacred," "holy," or "medicine." The latter refers to the custom of obtaining spiritual help or guidance from different objects which the Sioux considered holy, or to have some mystical power. This was known as "medicine"—i.e., a medicine bundle. In 1867 this chief was part of a delegation to Washington and his name was then written *Pta wakon Naghi*. The clearest translation of this man's name probably would be "The Sacred Cow Which is Standing."

Pierre, known as the Yankton Trading House. It was located a short distance north of Crow Creek, a stream which enters the Missouri from the east in the present Buffalo County, South Dakota. Not a regular "post" like Fort Pierre, this station was maintained for the convenience of the Yankton, saving them the trouble of going all the way to Fort Pierre to exchange their buffalo robes for trade goods.<sup>28</sup>

The remaining two names on the Upper Missouri portion of the amendment were two of the leading and most influential men of the Northern Teton. Red Fish was a Miniconjou chief who, although somewhat advanced in years, still occupied a position of authority in his tribe through powerful family connections. Two of his sons, Lone Horn and Lame Deer, were then men of considerable stature in the all-important warrior societies of the Miniconjou, and would within the next few years assume leadership over a large segment of the tribe. Lone Horn was appointed head chief of the Miniconjou by General W. S. Harney in 1856, with Lame Deer as his first subchief.<sup>29</sup>

Crow Feather was a name borne by the leading chiefs of the Sans Arcs Sioux throughout the nineteenth century. The Sioux winter counts mention that a chief by this name led the Sans Arcs as early as 1815. This was probably the same individual who signed the Atkinson-O'Fallon treaty of 1825 for the Saone group of Teton. As it was common

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<sup>28</sup> Thaddeus Culbertson visited the Yankton House in 1850, finding some two hundred lodges encamped nearby. (Thaddeus Culbertson, *Journal of an Expedition to the Mauvais Terres and the Upper Missouri in 1850*, edited by John Francis McDermott, Bureau of American Ethnology, Bulletin 147 [Washington, 1952], pp. 51-53). Culbertson states that the trading house was located on the north bank of Crow Creek. On the basis of local historical and archeological evidence, he appears to be mistaken. There is no evidence of the existence of a post on the north bank of Crow Creek, but on the first stream north of Crow Creek, called Wolf or Elm Creek, there can be seen today the ruins of a considerable post. This must have been the Yankton House.

<sup>29</sup> See the explanation for the entry in the Sioux winter counts for 1860-1861 found in volume IV of the *Annual Reports of the Bureau of American Ethnology*, p. 123. The minutes of General Harney's council at Fort Pierre, together with a list of the chiefs he appointed may be found in *House Exec. Doc. No. 130, 34th Cong., 1st Sess.*

custom among the Sioux to hand a name down from father to son, the Crow Feather who affixed his mark to the amendment in 1853 was no doubt a son of the Atkinson signer. In 1856, when certain of the Sioux chiefs received appointments from General Harney, Crow Feather was recognized by the military as being the leading chief of the Sans Arcs. He died sometime during the early spring of 1859.<sup>30</sup>

As was the case with the Yankton chiefs, no information is recorded which would date the signing of Red Fish and Crow Feather. It is almost a certainty that it was done at Fort Pierre, as that post was the center of the Sioux trade on the Upper Missouri, particularly for the Miniconjou and Sans Arcs. Major Alfred Vaughan, agent for the Upper Missouri Agency, reported on September 20, 1853 that the annuities under the Fort Laramie treaty had been delivered.<sup>31</sup> Such delivery could not have been made under Commissioner Mannypenny's orders without the amendment having first been signed. Final delivery of the treaty goods for the previous year was made at Fort Pierre on June 1, but, at that date, the 1853 annuities were still being transported up the Missouri by steamer from St. Louis. The receipt for the goods signed by the chiefs reveals that both Red Fish and Crow Feather were present at Fort Pierre in June.<sup>32</sup> Long Mandan, one of the original signers at Fort Laramie, was also present, but did not spend the summer at or near the fort as some of the other chiefs did, and was not present at the council when the amendment was approved.

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<sup>30</sup> Crow Feather's death was reported in a notation on a letter from Agent B. S. Schoonover of the Upper Missouri Agency to A. M. Robinson, Superintendent of Indian Affairs in St. Louis, January 26, 1859, Upper Missouri File, Indian Office Records, NA. A son of this chief, also named Crow Feather, was a leader and spokesman for the friendly Sans Arcs during the hectic years of the early 1870's when that tribe first took up residence at and near the Cheyenne River Agency on the Missouri.

<sup>31</sup> *Report of the Commissioner of Indian Affairs for 1853*, p. 358.

<sup>32</sup> The receipt for the goods received from Charles Galpin, a fur trade official serving as acting agent at Fort Pierre, was sent by Mitchell to Mannypenny on December 5, 1853. (Central Superintendency Files, Indian Office Records, NA).



Considerable excitement prevailed at Fort Pierre when the amendment was presented and the annuities brought forward for distribution. By 1853 the Hunkpapa and Blackfeet had grown increasingly warlike, having recently flogged a group of traders, destroyed their equipment, and killed the horses, while the party was on its way to the site of the Indian winter camps to erect a trading house.<sup>33</sup> Their hostile spirit had spread to the other tribes, and was aggravated by the actions of what Major Vaughan called "some worthless renegade whitemen and halfbreeds." These individuals, the agent complained, were informing the younger chiefs and warriors that the government, by giving the tribes the annuities, would eventually lay claim to the Sioux lands.<sup>34</sup>

Agent Vaughan, a Virginian only recently appointed to his position, wisely left the negotiations to Alexander Culbertson, John B. Sarpy, Colin Campbell, and several other leading traders. These men had been on the Upper Missouri for a great many years, and were well versed in the ways of Indian diplomacy. They talked at great length with the older chiefs, using the annuities as a lever, and finally persuaded Red Fish and Crow Feather to sign the amendment and accept the goods.<sup>35</sup>

Vaughan's counterpart, Thomas Fitzpatrick, agent for the tribes on the Upper Platte and Arkansas rivers, left St. Louis during the summer of 1853 to attend to the affairs of his agency. By August 2 he had concluded a treaty similar to the Fort Laramie document of 1851 with the Comanche, Kiowa, and Prairie Apache at Fort Atkinson on the Arkansas River. Continuing northward, he joined large portions of the Cheyenne and Arapaho tribes on the South Platte, near the old trading post of Fort St. Vrain. These tribes had assembled there to receive the supply of annuity goods promised them under the 1851 treaty. Fitzpatrick met with the two nations in full council, presented

<sup>33</sup> Edwin T. Denig, "Of The Sioux," edited by John C. Ewers, *Bulletin of the Missouri Historical Society*, VII (January, 1951), 205.

<sup>34</sup> However worthless these men may have been, their warning proved to be only too true within the next twenty-five years.

<sup>35</sup> *Report of the Commissioner of Indian Affairs for 1853*, p. 352.

the Senate's amendment to them, and secured the assent of the recognized tribal chiefs and several influential warriors.<sup>36</sup>

Arriving on September 10 at Fort Laramie, the location selected by the Sioux for the delivery of their annuities, Fitzpatrick found the Oglala and Brules in full attendance, and in a nasty mood. Earlier in the summer a camp of wild Miniconjou had arrived from the Cheyenne River region to the north to visit the Platte bands. A warrior from the Miniconjou camp had attempted to gain passage across the Platte from a soldier in a skiff, and upon being refused, had fired upon the boat. Troops sent from Fort Laramie to arrest the Indian became involved in a short skirmish in the Sioux village in which three or four Indians were killed.

The agent found that demands for vengeance were being circulated throughout the camps by relatives of the dead Indians. When Fitzpatrick called a council of the chiefs to present the amendment, he had hardly begun his explanations when the headmen interrupted with bitter complaints against the action of the troops which, the chiefs said, was certain to lead to open hostilities. Several of the chiefs wanted nothing further to do with the government or its treaties. Fitzpatrick reminded the Sioux of the annuities stored within the fort, and as had been the case with the Upper Missouri leaders, the opposition was eventually overcome and the agent was able to secure the marks of the chiefs on the treaty amendment.<sup>37</sup>

Ten chiefs signed the document for the Platte River Sioux, the first five being Brules and the remainder Oglala. An eleventh name appears on the amendment among the signers, but has no "X" mark to indicate a signature, and bears the notation "dead" next to the name. This Indian, Mah Kah toe zah zah or Clear Blue Earth, was the second

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<sup>36</sup> Thomas Fitzpatrick to the Commissioner of Indian Affairs, November 19, 1853, pp. 25-28. This is Fitzpatrick's annual report, and is now deposited in the Treaty Files, Indian Office Records, NA. It was also printed in the Commissioner's Annual Report for 1853.

<sup>37</sup> *Ibid.*, pp. 28-30; Hyde, *op. cit.*, pp. 70-72; Hafen and Young, *op. cit.*, pp. 209-211.

signer for the Sioux at Fort Laramie two years previously. Edwin T. Denig writes that Clear Blue Earth had been for many years a leading chief of the Brules. He had apparently died sometime between the signing of the treaty and the presentation of the amendment.<sup>38</sup>

Conquering Bear, Mitchell's appointee as head chief, is the first on the list of signers for the Brules along with Yellow Ears who also signed in 1851. The other Brule headmen were Standing Bear, the Burnt Man and Eagle Body. Standing Bear is one of the chiefs recognized by General Harney in 1856 when the military attempted to recognize the Sioux governmental setup,<sup>39</sup> while Eagle Body is reported as being the chief of the Brule Orphan band in 1859.<sup>40</sup> No contemporary material has been found which would further identify the Indian called the Burnt Man.

The five signers for the Oglala (Smoke, Bad Wound, Man Afraid of His Horse, Medicine Eagle, and Big Crow) represented all of the important divisions of that tribe. Old Smoke was the recognized leader of that portion of the Oglala which bore his name, the Smoke people.<sup>41</sup> His own personal following was to become famous as the "Bad Faces" and produced two of the better known names in Sioux war annals, Red Cloud and Crazy Horse.

Bad Wound and Man Afraid of His Horse were both leaders of the "Bear People," or the Bull Bear faction of the Oglala. In 1856 Harney had appointed Bad Wound as head chief of the tribe. He was the recognized leader of the Southern Oglala roaming on the Republican and Solomon Forks with Spotted Tail's Brules in 1864, and was the

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<sup>38</sup> Denig, *op. cit.*, p. 197.

<sup>39</sup> The details on Harney's operations in Sioux country are contained in the *Reports of the Secretary of War for 1855 and 1856*.

<sup>40</sup> F. V. Hayden, *Contributions to the Ethnography and Philology of the Indian Tribes of the Missouri Valley* (Philadelphia, 1862), pp. 375, 376.

<sup>41</sup> Smoke's following originally came from the Brules and the northern Teton bands known as the Saone that joined the Oglala led by Bull Bear and moved to the Platte in 1834. By 1841 the enmity between Smoke and Bull Bear led to the latter's death and the division of the Oglala into two rival factions. (Hyde, *op. cit.*, pp. 40, 53-55).

fifth signer for the Oglala on May 25, 1868.<sup>42</sup> Accounts of the Grattan "massacre" in 1854 reveal that Man Afraid of His Horse was then considered by the Oglala to be their leading chief. Although by his appointment of Bad Wound as head chief Harney ignored this fact, Man Afraid remained as the actual leader of the Oglala for many years. It was he who led nearly all of the tribe except Red Cloud's Bad Faces into Fort Laramie in May 1868 to sign the treaty which ended the Powder River war. Man Afraid's band was known as the Hunkpatila, "The camp at the end of the horn," the position of honor in the Oglala camping circle. However, during the early years of the reservation period, Red Cloud's Bad Face camp replaced it as the number one Oglala group, and it was then called Payabsa, or "pushed aside."<sup>43</sup>

Medicine Eagle, the third signer for the Oglala, was a chief in Man Afraid's camp in later years. He also signed the 1868 treaty at Fort Laramie.<sup>44</sup> The name of Big Crow can be found recorded several times in the Oglala winter counts. According to that tribal history, he gave a great feast in the winter of 1846-1847, and went north on the warpath against the Crows and was killed in 1859-1860. Francis Parkman, during his stay among the Sioux, spent some time in the lodge of a prominent Oglala named Big Crow.<sup>45</sup> Parkman's host and the signer of the treaty amendment were most likely one and the same.

Unfortunately, the Sioux treaty of 1851, in its original form, or as amended by the Senate, proved to be all but a total failure. Nearly all of its goals, except that of providing a safe route westward for the emigrant trains, were unobtainable. The reason for this was not the length of

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<sup>42</sup> Hyde, *op. cit.* pp. 85, 106. For the Oglala signers of the treaty of 1868, see *Statutes at Large, Treaties and Proclamations of the United States of America*, edited by George P. Sanger (Boston, 1869), XV, 641, 642. Hereafter abbreviated *Stats.*

<sup>43</sup> Hafen and Young, *op. cit.*, p. 224; Hyde, *op. cit.*, pp. 68, 73, 312, 313. It was during the reservation period that the old chief's son also became a leader of the Oglala, and the distinction was then made between Old and Young Man Afraid Of His Horse.

<sup>44</sup> XV *Stats.*, 641.

<sup>45</sup> Francis Parkman, *Journals*, edited by Mason Wade (New York, 1947), II, 456-460.

time involved, for had it been intended to last for one hundred years, the treaty as it was written could not have brought peace to the Plains. It was simply impossible to keep the Sioux from following their hereditary practice of warring on the Crows, Shoshoni, and Pawnee, and vice versa. In spite of the efforts of a few traders, missionaries like Father DeSmet, and some of the signatory chiefs, many of the Sioux bands, particularly those on the Upper Missouri, wanted no part of the treaty in any form.<sup>46</sup>

By no means can the blame for the treaty's failure be placed entirely with the Indians. The provisions which called for a peaceful settlement of any disputes involving whites and Indians proved far too complicated for the adventurous element among the military stationed in the Sioux country. In 1854, when the stray Mormon cow was butchered and eaten by some of the Platte River bands, the officers at Fort Laramie ignored the article calling for restitution from the annuity funds. Instead they sent a punitive force to the Sioux village. What resulted was the misnamed Grattan "massacre," the death of Conquering Bear, and General Harney's destruction of a Brule village at Ash Hollow in 1855.

The Sioux were the largest and best known of the tribes treated with at Fort Laramie. They constituted the principal threat to the safety of emigrants traveling the Oregon and California trails, and were the key to any peace among the Indians of the High Plains. It was also the Sioux who were to bear the brunt of the white advance westward into Indian country during the next thirty years. This resistance, highlighted by the military campaigns of the 1860's and 1870's and the peace treaties concluded during those periods, had its beginnings in the years immediately following the peace council at Fort Laramie.

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<sup>46</sup> Hyde, *op. cit.*, pp. 65-66.