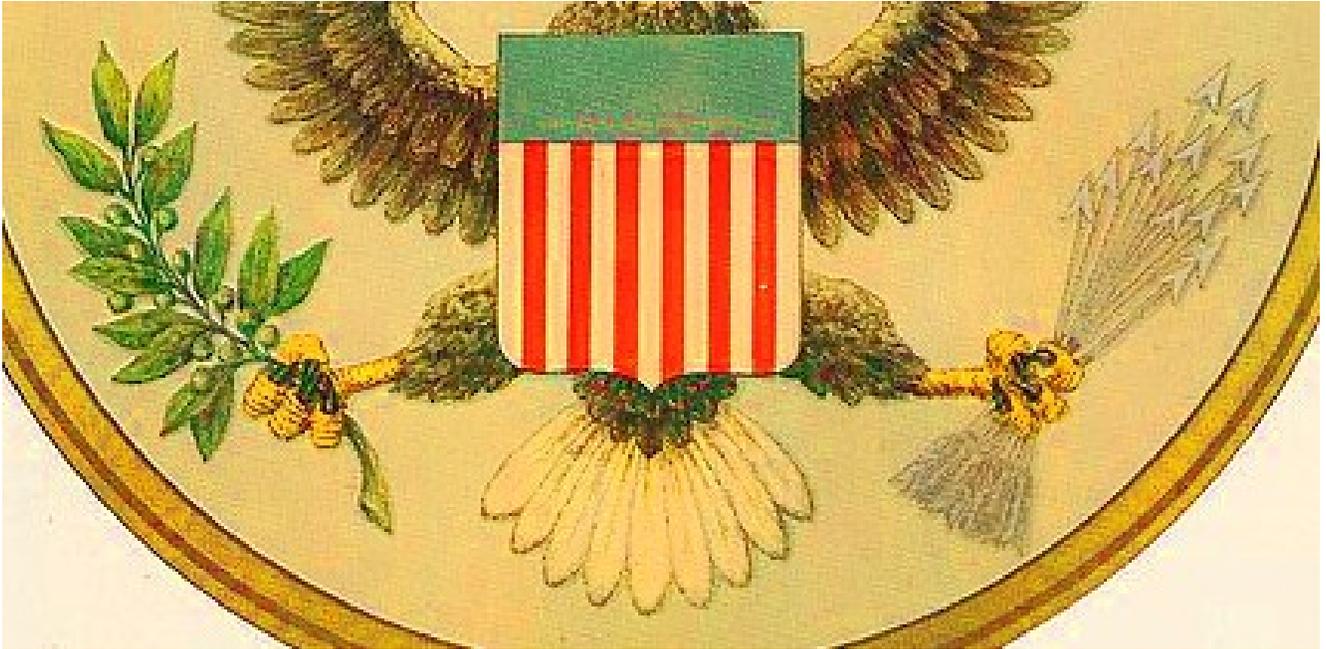


*Section 4: The Two Treaties of Fort Laramie— 1851 & 1868*

# Section 4:



*The Development of  
U.S. Water Policy*

*&*

*The Two Treaties of  
Fort Laramie*

## 1834: Fort William (Laramie) is Founded:

In 1834 Robert Campbell & William Sublette established the first "Fort Laramie" here. Officially named Fort William after pioneer, frontiersman, trapper, fur trader, explorer, & mountain man William Sublette, *an agent of the Rocky Mountain Fur Company*<sup>1</sup>, the post was rectangular, & small, measuring only 100 by 80 feet. Hewn cottonwood logs 15 feet high formed the fort's palisade.

With the beaver trade already in decline, Campbell & Sublette recognized that the future of the fur trade lay in trading with the Native population for buffalo robes. Fort William enjoyed a near monopoly on the buffalo trade in this region until a competing trading post, *Fort Platte*, was built a mile away in 1841. This rivalry spurred Fort William's owners to replace their own aging fort with a larger, adobe walled structure named Fort John.

Here, for 56 years successive waves of trappers, traders, Native Americans, missionaries, emigrants, soldiers, miners, ranchers & homesteaders came to trade & interacted.

Tribes, especially the Lakota (Sioux), traded tanned buffalo robes here for a variety of manufactured goods. Each spring caravans arrived with trade goods at the fort. In the fall, tons of buffalo hides & other furs were shipped east. Throughout the 1840's, however, the take of buffalo robes continually declined & Fort John's role changed. In 1841, the first of many westward-bound emigrants arrived at Fort John. Tens of thousands of emigrants bound for Oregon, California, & the Salt Lake Valley would stop at the fort. The traders at Fort John did a brisk seasonal business catering to the needs of emigrants.

## Fort William in 1840, by Alfred Jacob Miller:



Wyoming State Historic Preservation Office, "Fort Laramie:  
<http://www.wyohistory.org/encyclopedia/fort-laramie>

<sup>1</sup> Sabin, Edwin Legrand; Howard Simon; Marc Simmons (1995). *Kit Carson Days, 1809-1868*. University of Nebraska Press. p. 922. ISBN 978-0-8032-9238-3.

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In 1849, the U.S. Army offered to purchase Fort John as part of a plan to establish a military presence along the emigrant trails. The owners of the Fort agreed to the sale, & on June 26, the post was officially renamed Fort Laramie, & it began its tenure as a military post. The Army quickly constructed new buildings for stables, officers' & soldiers' quarters, a bakery, guardhouse, & a powder magazine to house & support the fort garrison.

As the years went by, the post continued to grow in size & importance. Fort Laramie soon became the principal military outpost on the Northern Plains. Fort Laramie also became the primary hub for transportation & communication through the central Rocky Mountain region as emigrant trails, stage lines, the Pony Express, & the transcontinental telegraph all passed through the post.

Fort Laramie played an important role hosting several treaty negotiations with the Northern Plains Indian Nations, the most famous of which were the Horse Creek Treaty of 1851 and the still controversial and contested Treaty of 1868.

Sadly, relations that began amicably between Native Americans & the Army began to change as the number of emigrants using the overland trails swelled. As conflicts grew, major military campaigns were launched from the fort against the Northern Plains tribes, who fiercely defended their homeland against further encroachment by a nation moving west.

As the Indian Wars came to a close Fort Laramie's importance diminished. The post was abandoned & sold at public auction in 1890. Over the next 48 years, it nearly succumbed to the ravages of time. Preservation of the site was secured, however, in 1938 when Fort Laramie became part of the National Park System.<sup>2</sup>

**Right:** Alfred Jacob Miller's pictures of Fort Laramie are the only ones that survive showing the fort's first configuration as a wooden stockade. Walters Art Museum.<sup>3</sup>



<http://www.wyohistory.org/encyclopedia/fort-laramie>

<sup>2</sup> National Park Service, *History & Culture*, “Fort Laramie: Crossroads of a Nation Moving West “: <https://www.nps.gov/foia/learn/historyculture/index.htm>

<sup>3</sup> Wyoming State Historic Preservation Office, “Fort Laramie: <http://www.wyohistory.org/encyclopedia/fort-laramie>

## **In 1849, The Discovery of Gold in The West led to the development of U.S. Water Policy, “The Prior Appropriations Doctrine”:**

The American colonies were originally founded by the royal families of Europe, & were subject to *English* laws at the time. English water law was relatively simple & undeveloped, having unfolded in a land where water was abundant & conflicts over its use were correspondingly rare. The navigable waters of England belonged to the Crown & were available to the public for the purposes of navigation & fishing. The Crown’s ownership prevented these what were considered *economic activities* from being monopolized by individuals, thereby reducing the potential for conflict. Rights to the use of waters *not* used for navigation were held by those who owned the banks of the streams, & were therefore known as *riparian rights*.<sup>4</sup>

Water use conflicts were so rare in England & in the original American states that a body of *water law* was not well developed in the first decades of this country’s history.

The heart of the original riparian doctrine as developed in Europe as the idea that rivers were considered the most valuable places to establish buildings, *etc.*. Rivers enhanced the value of surrounding land, as each landowner along a river was entitled to receive the benefit of free-flowing water. This came to be known as the “natural flow” interpretation of the riparian doctrine. It held that landowners were allowed to remove water from streams *only* for basic domestic purposes such as drinking, bathing, cooking, & the watering of limited numbers of livestock. Landowners were otherwise required to leave rivers in an undiminished & unpolluted condition.<sup>5</sup>

### **The “Reasonable Use Riparian Doctrine”:**

The riparian doctrine was modified during the Industrial Revolution to allow riparian landowners to make reasonable use of the waters flowing over their lands. This “reasonable use” interpretation gave each landowner the right to the use of water flowing over the land without diminution or obstruction.<sup>6</sup>

#### **The features of the reasonable use riparian doctrine were:**

1. Only riparian landowners could have rights to the use of water.
2. Owners of non-riparian lands & any others wishing to preserve free-flowing waters could not have *any* legal rights to the water.

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4 Wilkinson, C. F. 1992. *Crossing the Next Meridian: Land, Water, and the Future of the West*. Island Press, Washington, D.C.

5 MacDonald, J. B. 1990. *Riparian Doctrine*. Pages 19-22 in Wright KR, ed. *Water Rights of the Fifty States and Territories*. American Water Works Association, Denver, CO.

6 Gould, G. A. 1990. *Water Rights Systems*. Pages 6-18 in *Water Rights of the Fifty States and Territories*. K. R. Wright, ed. American Water Works Association, Denver, CO.

## How the California Gold Rush Changed Historic Water Use Patterns

Miners provided the primary impetus for changing the rules under the Spanish system allocating water in the American West, especially after gold was discovered in California in 1848.

The first gold deposits were found primarily along streams, and early miners usually established claims along the stream banks, where they could pan for gold directly.<sup>7</sup>

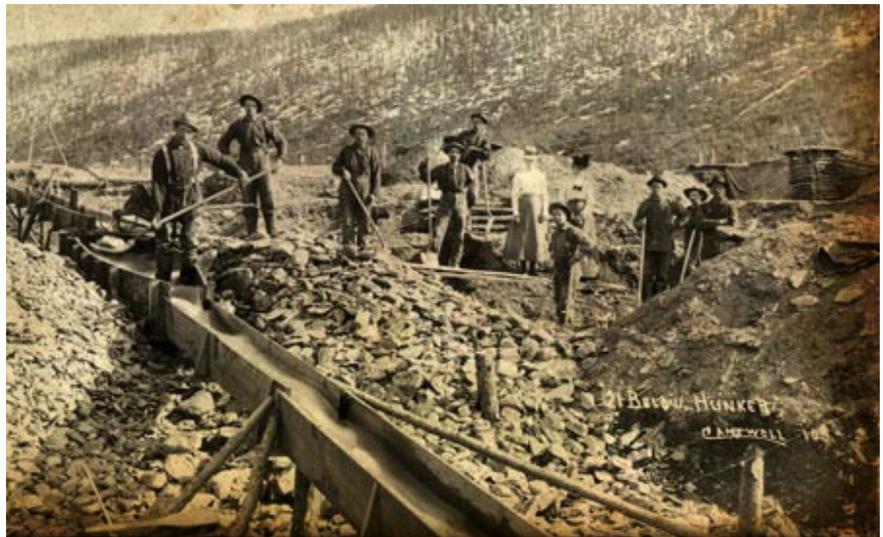
When the miners & other migrants moved to California, no government awaited them. The Gold Rush occurred near the end of the U.S.-Mexican War, after the Mexican government had been expelled, but before the region had been officially transferred to the United States.<sup>8</sup>

The miners adopted the “first come, first served” principle already in wide use on the public domain, where rights were based on occupation rather than ownership.<sup>9</sup>

The miners applied the same rules they used to govern access to mining claims. When applied to water, these rules became known as *the prior appropriation doctrine*.

The miners staked a claim to water by physically taking, or “appropriating” *what they needed*. Construction of the diversion necessary to take the water served as notice to other miners that the water was being appropriated. The first miners to appropriate water had the best right to continue using it. Subsequent appropriators were required to make do with what was left, if anything.

**Right:** The “sluices” of the Gold Rush were usually long wood boxes with “riffles” in them to catch the gold. *Photo label: “Ohio Repository, The (Canton, Ohio) May 8, 1845”*



<https://yesteryearsnews.wordpress.com/category/blue-collar/page/3/>

7 Gillilan, D. M. and T. C. Brown. 1997. *Instream Flow Protection: Seeking a Balance in Western Water Use*. Island Press, Washington, D.C.

8 Fischer, W.R. and W. H. Fischer. 1990. *Appropriation Doctrine*. Pages 23-30 in Wright KR, ed. *Water Rights of the Fifty States and Territories*. American Water Works Association. Denver, CO.

9 Gillilan, D. M. and T. C. Brown. 1997. *Instream Flow Protection: Seeking a Balance in Western Water Use*. Island Press, Washington, D.C.

## “Junior” vs. “Senior” Water Rights:

Even if located upstream from a prior user’s diversion works, a subsequent “junior” water user was required to allow enough water to pass to meet the need of the downstream “senior” appropriator.

The “use it or lose it” principle was also incorporated within the prior appropriation system, so that miners not making beneficial use of their water were forced to surrender it to those who would.<sup>10</sup>

In the absence of definitive guidance from federal or state legislatures, the task of defining uniform principles fell to the California state courts.

In 1850, California’s first legislature had adopted the common practice (or common law) as the state’s legal foundation, & this meant that the allocation of water would be governed by riparian principles. But just one year later, the legislature adopted a statute that sanctioned the use of prior appropriation.

The uncertainty of their jurisdiction & the conflicting guidance given by the state legislature made it difficult for the early courts to define a uniform set of water allocation principles. Occasionally the courts developed hybrid doctrines that merged aspects of both the competing doctrines. Over time, their rulings increasingly reflected the precepts of the prior appropriation doctrine that prevailed in the mining camps. In 1855, the California Supreme Court clearly set forth its justification for adopting priority principles to resolve water disputes on the public domain. The court reasoned that the federal government had implicitly validated the new legal system by failing to object to it. *Irwin v. Phillips* (1855) is often cited as marking the birth of the prior appropriation doctrine.<sup>11</sup>



**Left:** “man leans over a wooden sluice in California between 1890 and 1915. Rocks line the outside of the wood boards that create the sluice “Call number P-1252) is from the *Western History Department* of the Denver Public Library:  
<http://digital.denverlibrary.org/>

**Image location:**  
Wooden\_gold\_sluice\_in\_California\_between\_1890\_and\_1915..jpg

10 Anderson, T. L. and P. Snyder. 1997. *Water Markets: Priming the Invisible Pump*. Cato Institute, Washington, D.C.

11 Gillilan, D. M. and T. C. Brown. 1997. *Instream Flow Protection: Seeking a Balance in Western Water Use*. Island Press, Washington, D.C.

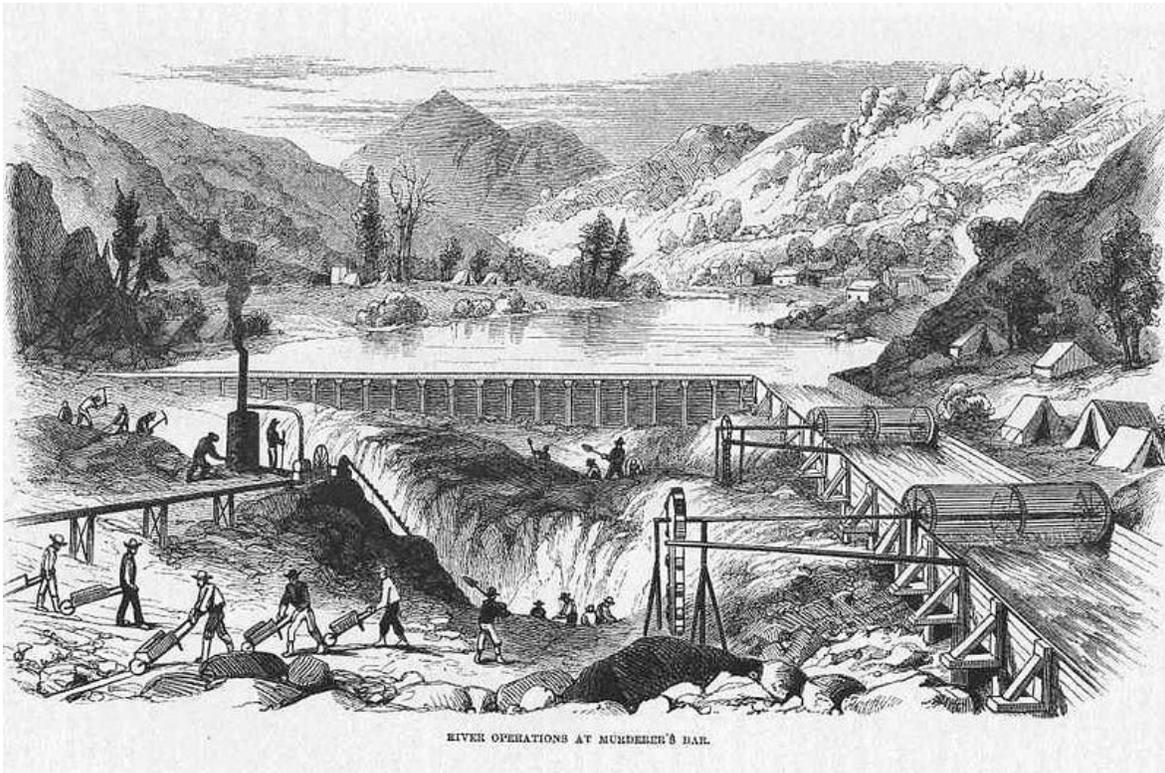
## “Diverting Water” to Claim “Senior Rights” then got *out of hand*:

By the 1860s, the use of the prior appropriation doctrine was firmly established as the mechanism by which the California courts would resolve water conflicts occurring on the public domain.

The basic features of the prior appropriation doctrine were:

1. The right to use water could be obtained by taking the water & putting it to beneficial use.
2. The right was limited to the amount of water that was beneficially used.
3. First in time was first in right.
4. The water must be used or the right was lost.<sup>12</sup>

It soon became apparent that there were a number of problems with the operation of this system. One of the greatest problems was the prevalence of claims for excessive amounts of water. These problems eventually led people to call for adoption of new administrative systems to control the allocation & distribution of water.



*Seeking gold in California river bottom", mid 1850s, Harper's Weekly Magazine, no author cited:*

\_\_\_\_\_ [https://commons.wikimedia.org/wiki/File:Gold\\_seeking\\_river\\_operations\\_California.jpg](https://commons.wikimedia.org/wiki/File:Gold_seeking_river_operations_California.jpg)

12 Wilkinson, C. F. 1992. *Crossing the Next Meridian: Land, Water, and the Future of the West*. Island Press, Washington, D.C.

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In the prior appropriation system, to ensure that water was distributed in accordance with the priorities of the rights, any water user not receiving their legal share of a river's flow could place a "call" on the river. In response to the call, agents of the state required any water users with rights junior to those of the calling water user to curtail their diversions until the senior right was satisfied.

The states of *North & South* Dakota, Nebraska, Kansas, Oklahoma, & Texas all tried to take advantage of the developmental benefits of the new prior appropriation doctrine without upsetting the expectations of citizens who based their water claims on the common law riparian doctrine.<sup>13</sup>

Constitutions or statutes of many western states emphasize the fact that appropriations will no longer be valid just because they benefit someone; rights will be granted only if proposed water uses are also consistent with the public interest.

Water for domestic & for municipal needs receives *the highest priority* in all of the states that have established preferences, the use of water for agriculture is favored over all *but domestic uses*.<sup>14</sup>

**Notice:**

All aforementioned historical documentation re: "The Prior Appropriations Doctrine" was compiled by **Women in Natural Resources, Vol. 24 No. 3, 2003-04, "Evolution of U.S. Water Policy: Emphasis on the West"** By **Daina Dravnieks Apple**, *natural resource economist with the U.S. Forest Service, Staff Assistant to the Deputy Chief for Programs, Legislation, & Communication in Washington D.C. She served as Administrator, Workplace Relations in the Pacific Southwest Region in California; in the Washington Office she served as an economist on the Policy Analysis Staff, as a strategic planner for the National Forest System, & as an Assistant Regulatory Officer. She also was the Regional Land Use Appeals Coordinator, & was on the Engineering Staff in Region 5, San Francisco. She began her Forest Service career as an economist at the Pacific Southwest Research Station, Berkeley. Apple was elected Fellow of the Society of American Foresters, & is Past Chair of the National Capital SAF. She is a member of Sigma Xi Scientific Research Society; was elected Fellow of Phi Beta Kappa, & served as President of Phi Beta Kappa Northern California Association, & served as National Secretary. She is a graduate of the University of California at Berkeley, where she earned a B.Sc. in the Political Economy of Natural Resources and an M.A. in Geography.*<sup>15</sup>

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13 Fischer, W.R. and W. H. Fischer. 1990. **Appropriation Doctrine**. Pages 23-30 in Wright KR, ed. **Water Rights of the Fifty States and Territories**. American Water Works Association. Denver, CO.

14 Wilkinson, C. F. 1992. **Crossing the Next Meridian: Land, Water, and the Future of the West**. Island Press, Washington, D.C.

15 **Full Article, "Evolution of U.S. Water Policy: Emphasis on the West":**  
<http://www.webpages.uidaho.edu/winr/applewater.htm>

### **The Use of *Water Cannons*:**

Prior to implementation of environmental regulations, Edward Matteson discovered easier access to gold by using jets of highly pressurized water to erode hillsides while diverting the sediment runoff through sluice boxes or to holding ponds. Edward Matteson discovered easier access to gold by using jets of highly pressurized water to erode hillsides while diverting the sediment runoff through sluice boxes or to holding ponds. Matteson honed his technique in 1853 at locations in & around Nevada City, California, & the hillsides throughout western Nevada County were soon exposed to large scale industrial-sized monitors capable which *pulverized* hillsides.

### **Hydraulic Mining, French Corral, ca1866:**



*Photo from Library of Congress, as recorded by the “Mining History Association”, Nevada City, California: <http://www.mininghistoryassociation.org/NevadaCity.htm>*

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During the 1860s, when hydraulic mining was at its apex in the Sierra Nevada foothills, entire hillsides were decimated & washed through gigantic sluices.

The North Bloomfield Mining & Gravel Company<sup>16</sup>, established in 1866, is the embodiment of the hydraulic mining era, as no other operation matched its scale, expense or productivity.

The company was owned by 30 different venture capitalists from San Francisco, led by a consortium of railroad barons.<sup>17</sup>

**Hydraulic mining used high pressure hoses to funnel water through the nozzle of a monitor to wash rocks & gold-bearing gravel away:**



*SOURCE: The Union, "Hydraulic mining leads to historic environmental decision" by Mathew Renda: <http://www.theunion.com/news/local-news/hydraulic-mining-leads-to-historic-environmental-decision/>*

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16 Malakoff Diggins State Historic Park, about the "North Bloomfield Gravel Mining Company":

<http://malakoffdigginsstatepark.org/history/north-bloomfield-gravel-mining-company/>

17 The Union, "Hydraulic mining leads to historic environmental decision" by Mathew Renda:

<http://www.theunion.com/news/local-news/hydraulic-mining-leads-to-historic-environmental-decision/>

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The operation consisted of a nearly 8,000-foot-long drainage tunnel at the current site of the Malakoff Diggins State Historic Park & seven large monitors capable of dislodging 50,000 tons of gravel daily during the peak of operation.

After the gravel was sifted for gold, much of the leftover sediment was dispensed down the Yuba River where it accumulated rapidly downstream.



*"Photographic Print of Gold Mining in Nevada County, California, 1888", posted by Yoel Rider: [https://guide.alibaba.com/shop/photographic-print-of-gold-mining-in-nevada-county-california-1888\\_52941691.html](https://guide.alibaba.com/shop/photographic-print-of-gold-mining-in-nevada-county-california-1888_52941691.html)*

All that debris had to go somewhere & almost immediately, with the invention of hydraulic mining, came the effects of the removal of many layers of ancient gravel beds laid down millions of years ago. People down below the diggings, in the valleys and all the way to San Francisco Bay, felt the impact of the mountain's destruction.

As hydraulic mining continued to add enormous sediment loads to downstream locations throughout the Sacramento Valley, habitations along the river began to experience increasingly devastating flooding problems, & navigation of rivers became increasingly treacherous for steamboats & other watercraft.

Farmers also began experiencing the detrimental effects from the large-scale sediment deposits traveling downstream.<sup>18</sup>

Eventually, **outraged citizens** of Marysville met & formed the *Anti-Debris Association* & **gathered information to be used in lawsuits against** hydraulic mining **companies**. The legislature debated the mining debris question & finally passed legislation authorizing the creation of a *State Engineering Office* with authority to examine the water problem, particularly as it related to matters of irrigation & debris. **They attributed *negligence* on the part of the hydraulic miners.** **The group presented factual evidence to support its claims,** & the miners threatened to boycott valley businesses.

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<sup>18</sup> **The Union, "Hydraulic mining leads to historic environmental decision" by Mathew Renda:**  
<http://www.theunion.com/news/local-news/hydraulic-mining-leads-to-historic-environmental-decision/>

## 1884: “The Sawyer Decision”—

### Woodruff vs. North Bloomfield Gravel Mining Company<sup>19</sup>

In the fall of 1882, Edward Woodruff of Marysville filed suit in the United States Ninth Circuit Court in San Francisco seeking a perpetual injunction against the North Bloomfield and other mines on the Yuba River, & on the morning of June 18, 1883, at 5:00 a.m. disaster struck when the English Dam gave way. This was a wood & stone structure built in 1859 on the Middle Yuba River, & was more than 130’ high. Capacity was 650,000,000 cubic feet, & it was *full* at the time the dam broke. Water poured down the channel of the Middle Yuba River & swept away everything in its path. It took an hour & a half for the dam to drain dry. By 3:00 p.m. levees broke near Marysville, causing a flood that deposited *thousand of tons of sediment into the Feather River*. The dam was inspected just days before & no problems were detected. It has been theorized that *sabotage* was the cause of the break.

On January 7, 1884, after two years of litigation in the case of Woodruff vs. North Bloomfield Gravel Mining Company & over 2,000 witnesses with 20,000 pages of written testimony taken during the trial, Judge Lorenzo Sawyer’s decision (“The Sawyer Decision”) was handed down. The decision prohibited the discharge of debris in the Sierra Nevada regions. It imposed strict laws regarding any debris sent downstream & it did close *all loop-holes*. In essence, the ruling stated that “all tailings must stop”.<sup>20</sup>

Sawyer, who was a federal judge (appointed by President Ulysses S. Grant) at the time, is roundly credited for handing down the first environmental decision from a judge in the history of the United States of America. The decision abruptly brought the hydraulic mining era to a close.

**Right:** Malakoff Diggings & several other sites easily spotted throughout western Nevada County, remain as a testament to the environmental devastation the form of mining wrought as early settlers sought their riches.<sup>21</sup>



Malakov Diggings State Park photo gallery:  
[http://www.parks.ca.gov/ImageGallery/?page\\_id=494](http://www.parks.ca.gov/ImageGallery/?page_id=494)

<sup>19</sup> v.18, no.14-48, WOODRUFF V. NORTH BLOOMFIELD GRAVEL MINING CO. AND OTHERS. Circuit Court, D. California. January 7, 1884, 1. PUBLIC AND PRIVATE NUISANCE FROM MINING DEBRIS: <https://law.resource.org/pub/us/case/reporter/F/0018/0018.f.0753.pdf>

<sup>20</sup> Malakoff Diggings State Historic Park, “The Sawyer Decision: Legal Action Taken To Stop Hydraulic Mining!” <http://malakoffdiggingsstatepark.org/history/north-bloomfield-gravel-mining-company/sawyer-decision/>

<sup>21</sup> The Union, “Hydraulic mining leads to historic environmental decision” by Mathew Renda: <http://www.theunion.com/news/local-news/hydraulic-mining-leads-to-historic-environmental-decision/>

## In Addition to Sparking U.S. Water Policy, The Gold Rush *also* led U.S. Officials to Negotiate *Passage* Through The Black Hills

The U.S. government considered the west a “permanent Indian frontier”— an inhospitable land inhabited by “Indians” who were known for *raiding* trespassing settlers. The discovery of gold in California in 1849 at Sutter's Mill, *however*, created a high demand for settlers to travel west.



Posted to "The Way West" by Jean, used: <https://www.pinterest.com/OlympedeGouges/the-way-west/>  
Map by NYSTROM Maps & Globes: [http://www.nystromeducation.com/c/nys-mapsandglobes.webs@s@oH\\_pHyffGMnqg](http://www.nystromeducation.com/c/nys-mapsandglobes.webs@s@oH_pHyffGMnqg)

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In the early 1850s, overland travelers *en route* to gold fields via the Platte River Road set off a series of confrontations between gold & *land* seeking European settlers, & native tribes *concerned* about the masses encroaching on their already *pushed-back* homelands.<sup>22</sup>



“Simply Marvelous Horse World- The Wonderful World of Horses, article:  
“Right Out Of History: Wagon Trains Celebrate Minnesota  
150th Anniversary”:

<https://simplymarvelous.wordpress.com/2008/05/07/right-out-of-history-wagon-trains-celebrate-minnesota-150th-anniversary/>

Travelers were frightened by the turmoil & commotion caused by tribal raids, & thereby demanded government protection.

**Right:** Frederic Remington’s painting called “The Emigrants”, painted 1903.



Preserved on “Museum of Fine Arts”, 1000 museums webpage:  
[https://www.1000museums.com/art\\_works/frederic-remington-the-emigrants](https://www.1000museums.com/art_works/frederic-remington-the-emigrants)

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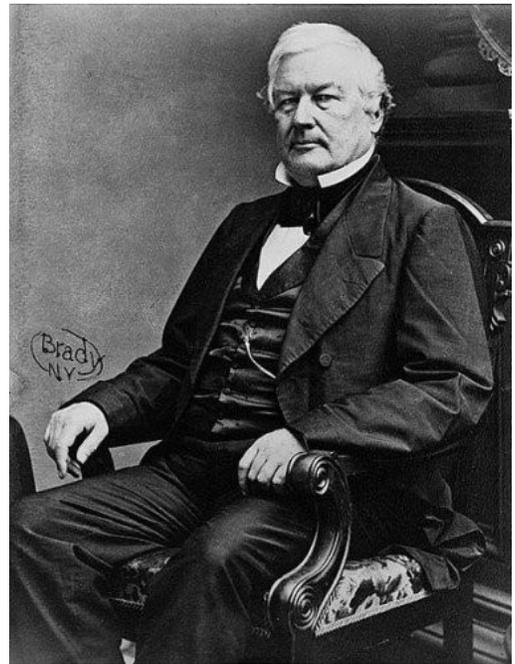
22 Official Portal for North Dakota State Government, *The History & Culture of The Standing Rock Oyate*: <http://www.ndstudies.org/resources/IndianStudies/standingrock/migration.html>

## A Treaty to Be Negotiated:

As a result, in 1851, under 13<sup>th</sup> U.S. President & the last President of the Whig Party, Millard Fillmore (First Unitarian Church), the federal government brought many of the Plains tribes together at Fort Laramie, including Lakota & Dakota bands, to establish *not only* peace between interwarring tribes, but *also* between the tribes & settlers.

### Whig Party:

In 1834 political opponents of President Andrew Jackson organized a new party to contest pro-slavery Jacksonian Democrats. Guided by their most prominent leader, Henry Clay, they called themselves Whigs—the name of an earlier English anti-monarchist, anti-Catholic party—the better to stigmatize the seventh president as ‘King Andrew’. They were immediately derided by the Jacksonian Democrats as a party devoted to the interests of wealth & aristocracy, a charge they were never able to completely shake. Whigs were seen as champions of banks, business, corporations, economic growth, the positive liberal state, humanitarian reform, & morality in politics, & also as *opponents* of expansionism, executive tyranny, states’ rights, labor, & voting rights.



Miller Center, University of Virginia:  
<http://millercenter.org/president/fillmore>

The party was founded by individuals united only in their antagonism to Jackson’s war on the Second Bank of the United States, & his high-handed measures in waging that war & ignoring Supreme Court decisions, the Constitution, & Indian rights embodied in treaties.

In Congress, Whigs supported the Second Bank of the United States, a high tariff, distribution of land revenues to the states, relief legislation to mitigate the effects of the great depression that followed the financial panics of 1837 & 1839, & federal reapportionment of House seats (a ‘reform’ likely to enlarge Whig representation in Congress). Studies of voting patterns in the states reveal Whig support of banks, limited liability for corporations, prison reform, educational reform, abolition of capital punishment, & temperance (abstaining from alcohol). They were considered a moralist, *anti-war party*, who attracted persons unhappy with brutal treatment of blacks & Native Americans. In 1852, as slavery’s expansion became the great issue of American politics, Whigs suffered a drastic decline in popularity, & by 1854 they were no longer able to hold the support of ‘cotton Whigs’. who found a more congenial political home in the Democratic party, or of ‘conscience Whigs’ who formed the new *Republican party*.<sup>23</sup>

**“May God save the country, for it is evident *the people will not.*”**

– *Millard Fillmore*

<sup>23</sup> History.com, “Whig Party”: <http://www.history.com/topics/whig-party>

## **1851: “*The Treaty of Fort Laramie with Sioux, etc.*” aka “*The Horse Creek Treaty*”**

In the autumn of 1850, St. Louis newspapers announced a conference to negotiate rights of passage through American Indian lands for westward-bound emigrants. Fur traders, Indian agents, mountain men, missionaries & former U.S. Superintendent of Indian Affairs Thomas Harvey had been pushing this idea since 1846, when the swelling number of emigrants led to increasing complaints from the tribes. Harvey lobbied for a “general council,” arguing that “a trifling compensation for this right of way” would “secure [the Indians’] friendship.”

That year, Congress had authorized a conference for all the prairie tribes west & south of the Missouri River, & north of Texas. Its stated purpose was to benefit the tribes, promising them ample compensation for depredations against them & also an annuity—“an annual present, in goods, from their Great Father.”

The government encouraged the tribes to attend with all their women & children, explaining that a large force of soldiers would be on hand to ensure their safety. The government would “divide & subdivide the country;” this would be “for the permanent good of the Indians;” to “extinguish. . .the bloody wars which have raged from time immemorable.” The conference was set to begin Sept. 1, 1851 at Fort Laramie.

Conference co-commissioner David Mitchell left St. Louis July 24, & on August 30 he reached Fort Laramie, where thousands of Sioux, Arapaho & Cheyenne people waited. The Comanche, Kiowa, and Apache—tribes of the southern plains—had refused to come. The Shoshone, however, had come in force from their homelands in the northern Great Basin & along the Continental Divide. They, however, had not been invited.

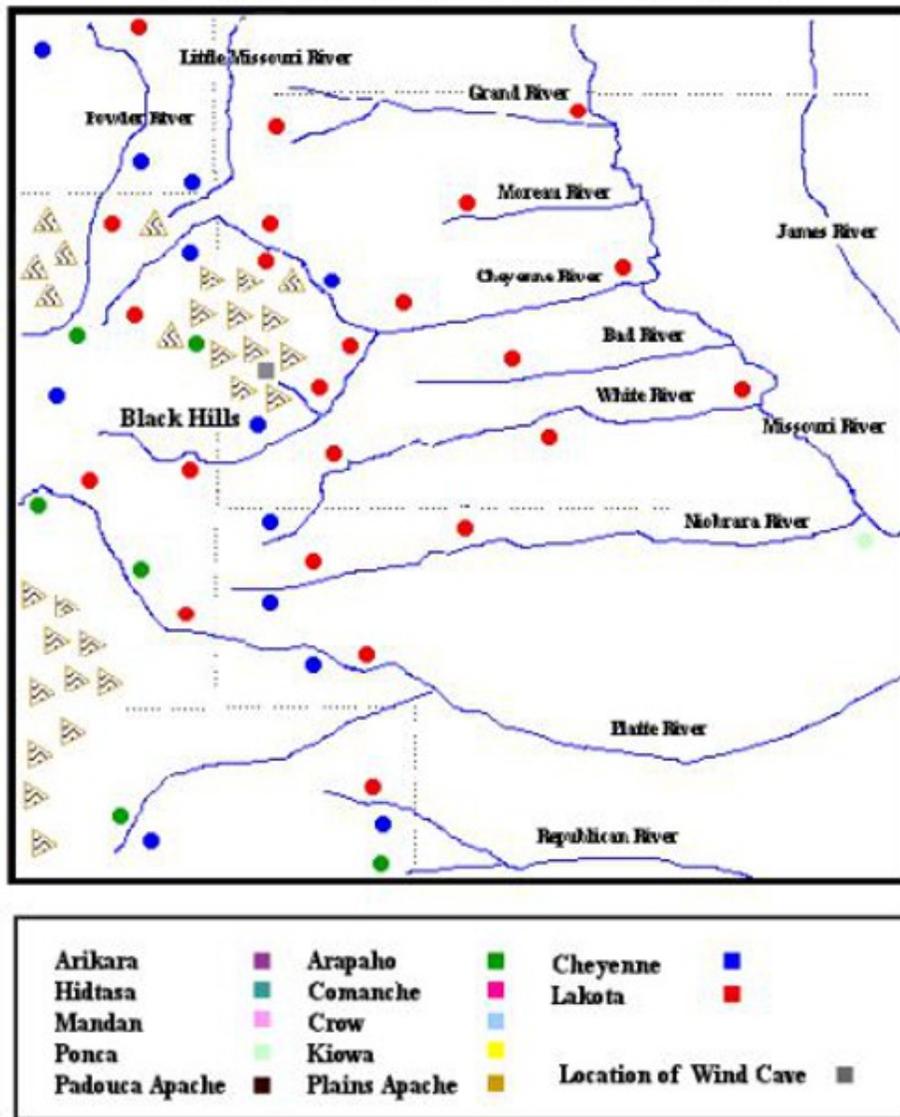
After consulting with the assembled tribes, the commissioners decided to move the conference about 30 miles east, to the mouth of Horse Creek on the North Platte River, just east of the present Wyoming-Nebraska border. Arriving there on September 5, Mitchell assigned the Platte’s north bank to tribal encampments and Horse Creek’s west side to the traders and interpreters. The east side of Horse Creek would be the meeting grounds. The council would open on Monday, September 8.

After smoking the peace pipe, Mitchell opened the council. “We do not come to you as traders,” he said. “We do not want your land, horses, robes, nor anything you have; but we come to advise with you, & to make a treaty with you for your own good.” He then promised the tribes compensation for 50 years, in part for allowing “the right of free passage for [the Great Father’s] White Children” over the increasingly popular emigrant trails.

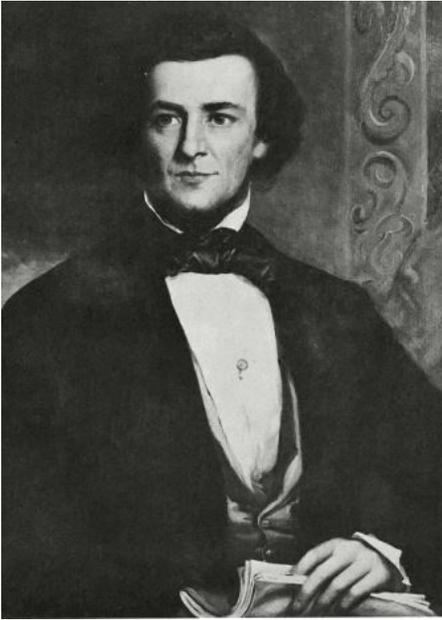
The government wanted to establish tribal territories so that the tribes’ Great Father could “punish the guilty and reward the good” for any future depredations. These divisions, Mitchell assured the tribes, were “not intended to take any of your lands away...or to destroy your rights to hunt, or fish, or pass over the country, as heretofore.” Instead, he explained that the boundaries would bring peace, & he emphasized again that the tribes would be well compensated.

*Section 4: The Two Treaties of Fort Laramie— 1851 & 1868*

In the 1850s, there were many reports specifically identifying the whereabouts and numbers of Lakotas, Cheyennes, and Arapahos. The principal sources of information for this era include the Annual Reports of the Commissioner of Indian Affairs and Henry Schoolcraft's Historical and Statistical Information Respecting the History, Condition and Prospects of the Indian Tribes of the United States (1851-57:3:629-631). There are also Lt. G. K. Warren's 1855 map (in McDermott 1952:14-15) and reports from the Harney Expeditions (Warren 1875). Finally, Ferdinand Hayden's work On the Ethnography and Philology of the Indian Tribes of the Missouri Valley (1862), was based on material he collected on his many different visits to the region.<sup>24</sup>



24 Paragraph & map was compiled by the National Park Service, "Wind River Cave, History & Culture: Chapter Five TREATIES AND BROKEN PROMISES: 1851 to 1877 ", page 90-91: <https://www.nps.gov/wica/learn/historyculture/upload/-7e-5-Chapter-Five-Treaties-and-Broken-Promises-Pp-84-132.pdf>



Colonel David D. Mitchell,  
participant in the Fort Laramie  
Treaty Conference of 1851. (Courtesy  
of the Missouri Historical Society)

**Opening Ceremony**— Commissioner Mitchell said he was present on important business, & wanted everything done in good faith, then proclaimed they would smoke the pipe of peace, allowing only those whose hearts were free from deceit to touch the pipe. A large red pipestone calumet (ceremonial pipe) with a three foot stem ornamented with bright colored beads & hair was produced. The proper mixture of tobacco and kinnikinnick, which was the inner bark of red willow, was made up & put in the bowl. The interpreter of the Sioux then lit the pipe & handed it to Colonel Mitchell, who took a few puffs & passed it to Major Fitzpatrick. In turn he passed it on to the Sioux chiefs, & by them to the chiefs next in the circle. The natives smoked with great ceremony. The most common form was to point the pipe to the four corners of the compass, then up to the Great Spirit and down to the bad. To show the utmost degree of sincerity & truthfulness most of the smokers added an additional gesture for the particular occasion. This was done by drawing the right hand slowly along the stem from the bowl to the throat, which was symbolic of supreme good faith & the assurance of deep solemnity & reassurance.<sup>25</sup>

**“Too Many Indians, Not Enough Chiefs”**— Mitchell then asked each tribe to designate a single chief, along with one or two tribal members to be fêted (decorated) in Washington, D.C.— a longstanding government practice with tribal representatives. He encouraged the tribes to take the next two days to “think, talk and smoke over” the proposals.

**Peace Between Long-Warring Tribes, & The U.S Government**— That afternoon, the Cheyenne offered reparations for the dead Shoshone by “cover[ing] the bodies”—a ceremony of apology. After offering a feast & gifts to their former enemies the Shoshone, the Cheyenne returned the scalps of the fallen & swore they had not danced a scalp dance to celebrate the taking of the Shoshone scalps. The brothers of the Shoshone victims accepted the scalps, embraced the Cheyenne & distributed the Cheyenne gifts among the Shoshones. After more speeches from both sides, the Cheyenne & Shoshone joined together in song and dance.

That night, the Mandan, Hidatsa, Arikara & Assiniboine tribes arrived from the upper Missouri River. The arrival on September 10 of a contingent of the Crow tribe from what’s now Montana swelled the number of natives gathered to an estimated 10,000.

*Terra Blue*, a Brulé Sioux, explained that, despite the tribe’s good intentions, the Sioux, the largest of the Plains tribes, could not appoint a single chief. That was simply not the way their politics worked.

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25 Nebraska State Historical Society, article “The Great Indian Treaty Council of 1851” by Burton S. Hill, page 98: [http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1966Indian\\_Treaty\\_1851.pdf](http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1966Indian_Treaty_1851.pdf)

*Section 4: The Two Treaties of Fort Laramie— 1851 & 1868*

**Separate Lands for Separate Tribes**— The hard work of defining tribal territories began on Friday, September 12, despite the fact that questions of compensation & tribal chiefs & representatives remained unsettled. Since no one knew the region *or the tribes* better than the renown beloved Jesuit Priest Pierre-Jean De Smet, & also mountain man James Bridger: Mitchell instructed them, *with the assistance of the traders*, to create a map that respected traditional homelands.

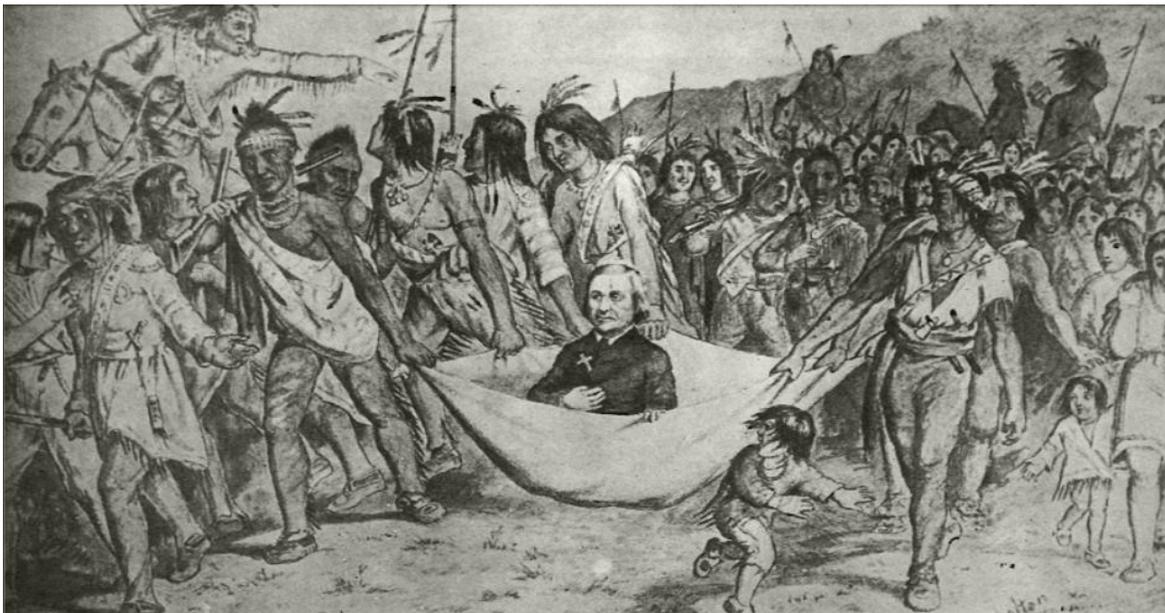
On Saturday, the commissioners presented their map to the tribes. The Oglala Sioux complained that their hunting grounds should extend south of the Platte, which the map designated as Cheyenne and Arapaho territory. Mitchell explained again that any tribe could venture into any region, as long as their intentions were peaceful. Although the Sioux remained skeptical, the tribes finally agreed to the newly defined territories.

Missouri River trader Alexander Culbertson made sure that lands north and west of the Crow territory tribe was designated for the Blackfeet, even though the Blackfeet were not present.

**Baptisms**— On Sunday, De Smet celebrated the Feast of the Exaltation of the Cross in front of a great crowd of Indians, mixed-bloods & whites. Afterwards, he baptized the willing. Ultimately, De Smet recorded baptisms of 239 Oglala; 305 Arapaho; 253 Cheyenne; 280 Brulé and Osage Sioux; 56 “in the camp of Painted Bear.”

Nearly all were children. He also baptized 61 mixed-bloods. In return, the Sioux named him Watankanga Waokia, “The Man Who Shows His Love for the Great Spirit.”

**Tribally Renown *Father Pierre De Smet* being carried in for the Opening Ceremony:**



*From Nebraska State Historical Society, article “The Great Indian Treaty Council of 1851” by Burton S. Hill: [http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1966Indian\\_Treaty\\_1851.pdf](http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1966Indian_Treaty_1851.pdf)*

### A New Chief for the Sioux:

By Monday, the Oglala, Brulé, Miniconjou & other bands of Sioux still had not named a single leader for the entire tribe. Frustrated, Mitchell announced he would choose for them. He selected the Brulé warrior **Conquering Bear**, described in the *Missouri Republican* as **“connected with a large and powerful family, running into several of the bands, & although no chief ... a brave of the highest reputation.”**

With trepidation, because the idea of a single leader was so contrary to tribal tradition, & because he himself was not yet considered a leader even among the Brulés, Conquering Bear accepted. **“I will try to do right to the whites, and hope they will do so to my people,”** he said, according to the newspaper.

### The Treaty Signed:

Finally, on September 17, twenty-one chiefs representing the Sioux, Cheyenne, Arapaho, Crow, Mandan, Hidatsa, Arikara & Assiniboine signed the Horse Creek Treaty. They agreed to the government’s right to “form roads and establish military posts” in Indian territory; terms for maintaining peace & for assigning reparations for losses on either side; indemnity for any prior destruction caused by the emigrants; \$50,000 to each tribe for those damages; & \$50,000 in annual payments per tribe for 50 years.

### Mixed Bloods & Gifts:

The traders, most of whom had married Indian women, sought a mixed-blood allotment. De Smet called this “the sole means of preserving union among all those wandering & scattered families, which become every year more & more numerous.”

Editor Chambers noted: “The white man who has taken a squaw for a wife, however honestly & virtuously they may have lived, is, with his wife, for ever debarred admission into society. He has shut himself out, & must reap the consequences which his own course has entailed upon him.”

The proponents suggested lands for the mixed-bloods near present-day Denver, but this was Cheyenne & Arapaho territory & they objected. Never legally recognized, many mixed-bloods did become dispossessed.

### Gifts Presented:

Mitchell presented *each* chief with a military uniform & gilt sword before distributing the rest of the trinkets. Each band, “glad or satisfied, but always quiet,” accepted their gifts & dispersed. The remarkable 1851 Horse Creek Treaty Council was over.<sup>26</sup>

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<sup>26</sup> Wyoming State Historical Society, “Separate lands for separate tribes: The Horse Creek Treaty of 1851” by Lesley Wischmann: <http://www.wyohistory.org/essays/horse-creek-treaty>

**1851: “The Treaty of Fort Laramie with Sioux, etc.”  
aka “The Horse Creek Treaty”, *transcript*:**

Excerpted articles of the treaty made & concluded at Fort Laramie, *on tribal grounds*, between D. D. Mitchell, *superintendent of Indian affairs*, & Thomas Fitzpatrick, *Indian agent*, commissioners specially appointed & authorized by the 13<sup>th</sup> President of the United States, *Millard Fillmore*, & the chiefs, headmen, & braves of the following Indian nations, residing *south of the Missouri River, east of the Rocky Mountains, & north of the lines of Texas & New Mexico*: the Sioux or *Dahcotahs*, Cheyennes, Arrapahoes, Crows. Assinaboines, Gros-Ventre Mandans, & Arrickaras, on September 17<sup>th</sup>, 1851.

**ARTICLE 1.**

**The aforesaid nations, *parties to this treaty*. having assembled for the purpose of establishing & confirming peaceful relations amongst themselves, do hereby covenant & agree to abstain in future from all hostilities whatever against each other, to maintain good faith & friendship in all their mutual intercourse (international *or* interstate trade aka “commerce”), & to make an effective & lasting peace.**

**ARTICLE 2.**

**The aforesaid nations do hereby recognize the right of the United States Government to establish roads, military, & other posts, within their respective territories.**

**ARTICLE 3.**

**In consideration of the rights & privileges acknowledged in the preceding article, the United States bind themselves to protect the aforesaid Indian nations against the commission of all depredations by the people of the said United States, after the ratification of this treaty.**

**ARTICLE 4.**

The aforesaid Indian nations do hereby agree & bind themselves to make restitution or satisfaction for any wrongs committed, *after the ratification of this treaty*, by any band or individual of their people, on the people of the United States, whilst lawfully residing in or passing through their respective territories.

**ARTICLE 5.** (*description of agreed boundaries*)

The aforesaid Indian nations do hereby recognize & acknowledge the following tracts of country, included within the metes & boundaries hereinafter designated, as their respective territories:

**The territory of the Sioux or Dahcotah Nation**, commencing the mouth of the *White Earth River*, on the Missouri River: thence in a southwesterly direction to the forks of the Platte River: thence up the north fork of the Platte River to a point known as the Red Bute, or *where the road leaves the river*; thence along the range of mountains known as the Black Hills, to the head-waters of Heart River; thence down Heart River to its mouth; & thence **down the Missouri River to the place of beginning.**

The territory of the Gros Ventre, *Mandans*, & *Arrickaras Nations*, commencing at the mouth of Heart River; thence up the Missouri River to the mouth of the Yellowstone River; thence up the Yellowstone River to the mouth of Powder River in a southeasterly direction, to the head-waters of the Little Missouri River; thence along the Black Hills to the head of Heart River, and thence down Heart River to the place of beginning.

The territory of the Assinaboin Nation, commencing at the mouth of Yellowstone River; thence up the Missouri River to the mouth of the Muscle-shell River; thence from the mouth of the Muscle-shell River in a southeasterly direction until it strikes the head-waters of Big Dry Creek; thence down that creek to where it empties into the Yellowstone River, nearly opposite the mouth of Powder River, and thence down the Yellowstone River to the place of beginning.

The territory of the Blackfoot Nation, commencing at the mouth of Muscle-shell River; thence up the Missouri River to its source; thence along the main range of the Rocky Mountains, in a southerly direction, to the head-waters of the northern source of the Yellowstone River; thence down the Yellowstone River to the mouth of Twenty-five Yard Creek; thence across to the head-waters of the Muscle-shell River, and thence down the Muscle-shell River to the place of beginning.

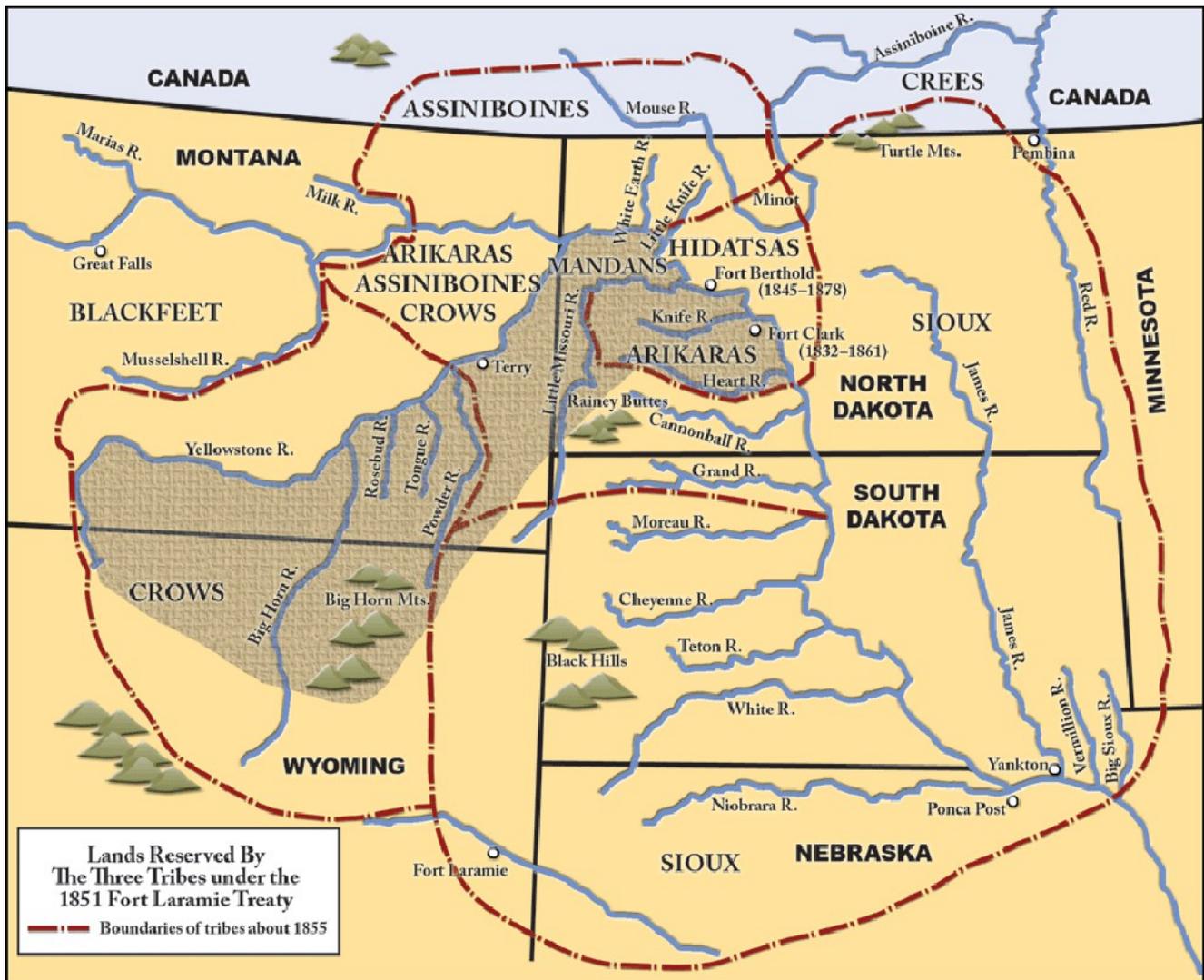
The territory of the Crow Nation, commencing at the mouth of Powder River on the Yellowstone; thence up Powder River to its source; thence along the main range of the Black Hills and Wind River Mountains to the head-waters of the Yellowstone River; thence down the Yellowstone River to the mouth of Twenty-five Yard Creek; thence to the head waters of the Muscle-shell River; thence down the Muscle-shell River to its mouth; thence to the head-waters of Big Dry Creek, and thence to its mouth.

The territory of the Cheyennes and Arrapahoes, commencing at the Red Bute, or the place where the road leaves the north fork of the Platte River; thence up the north fork of the Platte River to its source; thence along the main range of the Rocky Mountains to the head-waters of the Arkansas River; thence down the Arkansas River to the crossing of the Santa Fé road; thence in a northwesterly direction to the forks of the Platte River, and thence up the Platte River to the place of beginning.

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It is, however, understood that, in making this recognition and acknowledgement, the aforesaid Indian nations do not hereby abandon or prejudice any rights or claims they may have to other lands; & further, that they do not surrender the privilege of hunting, fishing, or passing over any of the tracts of country heretofore described.

Map of 1851 Agreed Treaty Boundaries



SOURCE: "History & Culture of the Mandan, Hidatsa, & Sahnish", Official Portal of The North Dakota State Government website:

[http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/historical\\_laws.html](http://www.ndstudies.org/resources/IndianStudies/threeaffiliated/historical_laws.html)

**ARTICLE 6.**

The parties to the second part of this treaty having selected principals or head-chiefs for their respective nations, through whom all national business will hereafter be conducted, do hereby bind themselves to sustain said chiefs and their successors during good behavior.

**ARTICLE 7.**

In consideration of the treaty stipulations, and for the damages which have or may occur by reason thereof to the Indian nations, parties hereto, and for their maintenance and the improvement of their moral and social customs, the United States bind themselves to deliver to the said Indian nations the sum of fifty thousand dollars per annum for 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, in provisions, merchandise, domestic animals, and agricultural implements, in such proportions as may be deemed best adapted to their condition by the President of the United States, to be distributed in proportion to the population of the aforesaid Indian nations.

**ARTICLE 8.**

It is understood and agreed that should any of the Indian nations, parties to this treaty, violate any of the provisions thereof, the United States may withhold the whole or a portion of the annuities mentioned in the preceding article from the nation so offending, until, in the opinion of the President of the United States, proper satisfaction shall have been made.

\*\*\*\*\*

In testimony whereof the said D. D. Mitchell and Thomas Fitzpatrick commissioners as aforesaid, and the chiefs, headmen, and braves, parties hereto, have set their hands and affixed their marks, on the day and at the place first above written.

**Commissioners.**

*D. D. Mitchell*

*Thomas Fitzpatrick*

**Cheyennes:**

*Wah-ha-nis-satta, his x mark.*

*Voist-ti-toe-vetz, his x mark.*

*Nahk-ko-me-ien, his x mark.*

*Koh-kah-y-wh-cum-est, his x mark.*

**Sioux:**

*Mah-toe-wha-you-whey, his x mark.*

*Mah-kah-toe-zah-zah, his x mark.*

*Bel-o-ton-kah-tan-ga, his x mark.*

*Nah-ka-pah-gi-gi, his x mark.*

*Mak-toe-sah-bi-chis, his x mark.*

*Meh-wha-tah-ni-hans-kah, his x mark.*

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**Arrapahoes:**

*Bè-ah-té-a-qui-sah, his x mark.*

*Neb-ni-bah-seh-it, his x mark.*

*Beh-kah-jay-beth-sah-es, his x mark.*

**Assinaboines:**

*Mah-toe-wit-ko, his x mark.*

*Toe-tah-ki-eh-nan, his x mark.*

*Mandans and Gros Ventres:*

*Nochk-pit-shi-toe-pish, his x mark.*

*She-oh-mant-ho, his x mark.*

**Crows:**

*Arra-tu-ri-sash, his x mark.*

*Doh-chepit-seh-chi-es, his x mark.*

**Arickarees:**

*Koun-hei-ti-shan, his x mark.*

*Bi-atch-tah-wetch, his x mark.*

**In the presence of—**

*A. B. Chambers, secretary.*

*S. Cooper, colonel, U. S. Army.*

*R. H. Chilton, captain, First Drags.*

*Thomas Duncan, captain, Mounted Riflemen.*

*Thos. G. Rhett, brevet captain R. M. R.*

*W. L. Elliott, first lieutenant R. M. R.*

*C. Campbell, interpreter for Sioux.*

*John S. Smith, interpreter for Cheyennes.*

*Robert Meldrum, interpreter for the Crows.*

*H. Culbertson, interpreter for Assiniboines and Gros Ventres.*

*Francois L'Etalie, interpreter for Arick arees.*

*John Pizelle, interpreter for the Arrapahoes.*

*B. Gratz Brown.*

*Robert Campbell.*

*Edmond F. Chouteau.*

This treaty as signed was ratified by the Senate with an amendment changing the annuity in Article 7 from fifty to ten years, subject to acceptance by the tribes. Assent of all tribes except the Crows was procured (see Upper Platte C., 570, 1853, Indian Office) and in subsequent agreements this treaty has been recognized as in force (see post p. 776).

### Thomas Fitzpatrick:

An immigrant from Ireland, he became known as "Broken Hand," or "White Hair," to the native people of the Rocky Mountains: the first from an exploding rifle having badly damaged his left hand; the second from his hair having turned suddenly white during ten days of a harrowing escape from a band of Indians.

In 1846, because of his knowledge of the area, & the respect & high regard in which this *long-time* renown fur trader was held, Colonel Thomas Fitzpatrick was appointed *Indian Agent* of all the tribes on the headwaters of the Arkansas, Platte, & Kansas Rivers. As agent, he treated the native people under his jurisdiction with a fairness, impartiality & degree of integrity that set him permanently apart in the minds & memories of the indigenous inhabitants. Decades after his death in 1854, he was remembered with respect by the people of the high plains. His call to council had a potent effect on tribal leaders in 1851.<sup>27</sup> He died in 1854, & is buried in the Congressional Cemetery in Washington, DC.<sup>28</sup>



### Friday Fitzpatrick, his adopted Arapaho son:

His Arapaho name was "Man Who Sits Thinking" (aka "Black Spot", "White Crow", "Thunder", & "Sits Brooding"), but he became known as Friday. In 1831, he was found wandering the prairies by Fitzpatrick on a Friday, hence his name. The mountain man took the boy back to St. Louis with him & sent him to school for two years, where he stayed an additional five years before returning to his people & the Arapaho way of life.

As a result of his education, Friday was the main interpreter for councils & meetings between English-speakers & the tribes from 1850 until his death. He brought back useful knowledge to the Arapaho elders, & proved that you can go to school but not lose the Arapaho way.<sup>29</sup>

27 "TALES OF OLD FORT LARAMIE" by Robert L. Munkres, *The National Tombstone Epitaph*, November, 1981: <http://www.muskingum.edu/~rmunkres/military/Laramie/Tales.html>

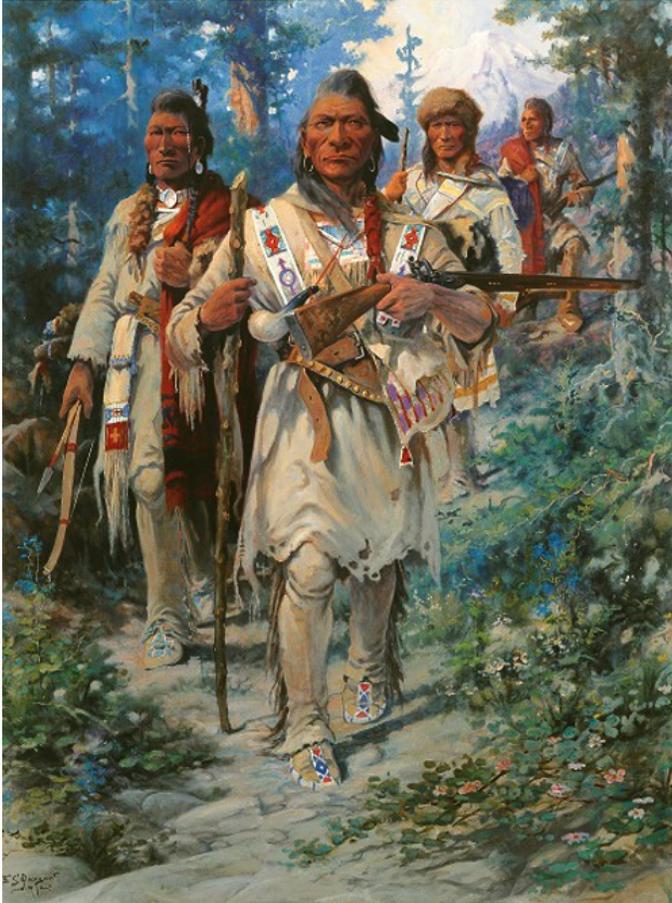
28 Test & drawing: Hafen, ", *Broken Hand - The Life Story of Thomas Fitzpatrick, Chief of the Mountain Men*, The Old West Publishing Co, Denver, Colorado, 1931: <http://triggernometry.us/viewtopic.php?t=1379>

29 Information and photograph of Friday in 1869 from *Arapaho Legends*, "Friday, the Arapaho Interpreter" by Jackie Dorothy of the Northern Arapaho Long Legs tribe: <http://www.arapaholegends.com/friday-the-arapaho-interpreter/>

*Section 4: The Two Treaties of Fort Laramie— 1851 & 1868*

Section 4: The Two Treaties of Fort Laramie— 1851 & 1868

## Friar Pierre De Smet

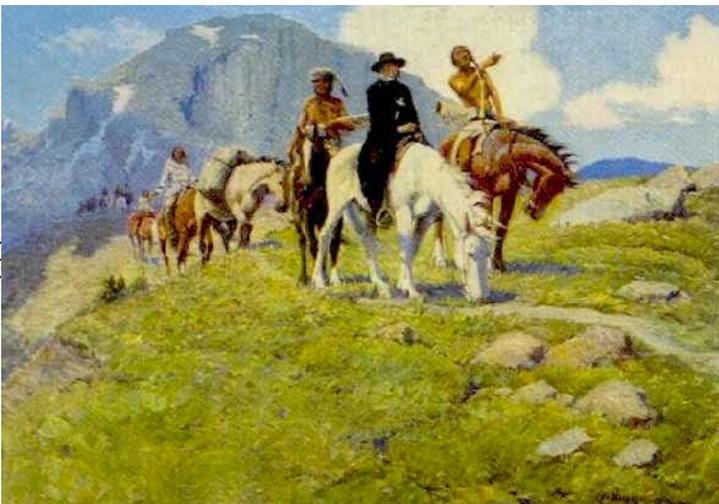


Montana, "Art in the House Lobby": oil on canvas,  
"After the Whiteman's Book Edgar S. Paxson, 1912:  
<https://mhs.mt.gov/education/Capitol/Art/House-Lobby>

Fr. Pierre De Smet was a Jesuit priest from Belgium— one of the best known missionaries in the world, who traveled more than 260,000 miles in his missionary journeys.

He emigrated to the United States in 1821 through a desire for missionary labours, & entered the Jesuit novitiate at Whitmarsh, Maryland. In 1823, however, at the suggestion of the United States Government a new Jesuit establishment was determined on & located at Florissant near St. Louis, Missouri, for "work among the Indians". De Smet was among the pioneers & thus became one of the founders of the Missouri Province of the Society of Jesus.<sup>30</sup>

His first missionary tour among Native Americans was in 1838 when he founded St. Joseph's Mission at Council Bluffs, Iowa for the Pottawatomies, who had been forcibly removed from their homeland in Indiana in 1838 as part of the "Trail of Death". At this time also he visited various Sioux tribes to arrange peace between them & the Pottawatomies, the first of his peace missions. What may be called his life work did not begin, however, until 1840 when he set out for the Flathead country in the Far North-west. As early as 1831, some Rocky Mountain Indians, influenced by Iroquois descendants of converts of one hundred & fifty years before, had made a trip to St. Louis, seeking "Black Robe" (Jesuit



(cfr. Catholic Encyclopedia):

Section 4: The Two Treaties of Fort Laramie— 1851 & 1868

Priests).

He was the only single person the American Indians truly trusted. They called him "the white man whose tongues does not lie", although he was most commonly & endearingly known among the tribes as "Black Robe". It was the friendships he developed while traversing the country which helped to bring together all the tribes for the 1851 treaty ceremony in order to try to secure lasting peace. He was also known for actively speaking out against the violence & abuses against Native American people.



De Smet with "converts", from *The Life of Father De Smet*,  
Father E. Laveille, S.J.:

<http://www.cfnews.org/page88/files/7f4c125e374ad95e8c6acd5c3defa054-358.html>

recorded that De Smet asked the Flathead Chief *Big Face*, "Have you no sins to repent of since your last baptism?".

"Sins?" Big Face replied, astounded. "How could I commit sins when it is my duty to teach others to live well?"

He was born 30 Jan., 1801 at Termonde (Dendermonde), Belgium, & died at St. Louis, Missouri, U.S.A., 23 May, 1873.

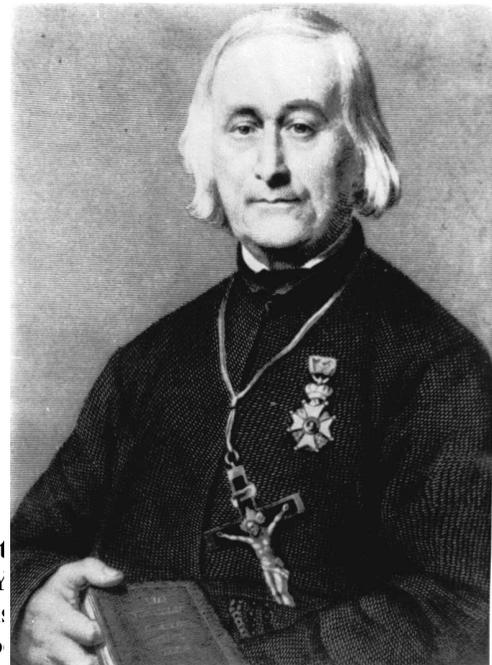
31 **Holy Roman Catholic Church Vs Vatican Council II, "Fr. De Smet Mission and some amazing miraculous accounts", posted FRIDAY "The Life of Father De Smet, S.J. Apostle of the Rocky Mountain:**  
<https://catholic2007.blogspot.com/2015/09/fr-de-smet-sj-apostle-of-ro>

32 **Article "Native History: Father De Smet Talks Peace With Sitting**  
<http://indiancountrytodaymedianetwork.com/2014/06/19/native-histor-155353>

He traveled eight times back to Europe to raise funds & beg supplies for the "Indians" as they were still called at the time, & endured incredible hardships in summer & winter, on foot or whatever transport was available, while going without food or water for several days.<sup>31</sup>

For decades he worked & lived among various tribes, establishing missions, battling "liquor traffic", & helping secure peace treaties between rivaling tribes, he wrote in his personal journal, which later was compiled into the four-volume collection, *Life, Letters and Travels of Father Pierre-Jean De Smet*.<sup>32</sup>

It is



"Father DeSmet. SHSND B0610", from  
State Historical Society of North Dakota:  
<http://www.history.nd.gov/nhdinnd/turninpoints/FatherDeSmet.html>

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Fr. De Smet on "Lizette" with Indian escort From "St. Mary's in the Rocky Mountains" Courtesy Gonzaga University



Fr. De Smet with Flathead tribe in Montana, author unknown: [ork.com/2014/06/19/native-history-father-de-smet-talks-peace-sitting-bull-155353](http://www.ork.com/2014/06/19/native-history-father-de-smet-talks-peace-sitting-bull-155353)

There is little need to mention the historic disdain between Catholics & Protestants had for each other during this time—ever since Martin Luther tacked the “95 Theses”<sup>33</sup> which publicly contested several of the church practices as *complete malarkey* onto the Roman Catholic church door in Wittenberg, Germany on October 31<sup>st</sup>, 1517 A.D.. Within many of De Smet's writings, much the same is observed. **“Time passes; already the sectaries of various shades (various sects of Christianity) are preparing to penetrate more deeply into the desert, & will wrest from those degraded & unhappy tribes their last hope— that of knowing and practicing the sole & true faith.”**

In a short time native people became involved in the same sectarian controversy that had deluged all Europe in blood. The priests told the tribes that if they followed the teachings of the Protestants they would go to hell, & the Protestants extended the same cheering information in regard to Catholicism.<sup>34</sup>

33 The 95 Theses *transcript*: <http://www.luther.de/en/95thesen.html>

34 “Murder of the Missionaries”: <https://www.accessgenealogy.com/native/murder-missionaries.htm>

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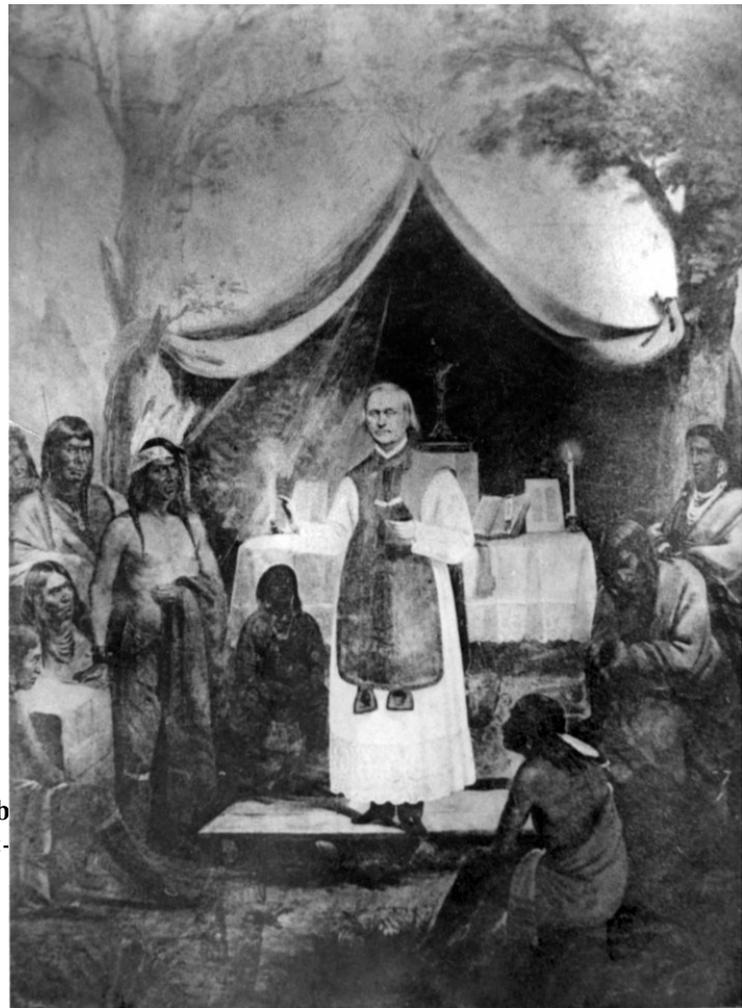
**Below:** Salish family seated in front of their tepee. They are part of a "Jesuit reduction," a system created by the Jesuit Order during the 17th & 18th centuries in South America in order to Christianize, tax, institute into labor, & offer provisions for indigenous people more efficiently via having them move their lodges to the immediate vicinity of the mission chapel. St. Mary's chapel at *Bitterroot, Wyoming, founded by De Smet*, is at background left:



Archives and Special Collections, Maureen and Mike Mansfield Library, The University of Montana

From *St. Mary's Rediviva*: <http://www.lewis-clark.org/article/3151>

Free of the prejudices many of the white Anglo-Saxon Protestant Americans harbored towards Indians, De Smet was seen as a fair broker. In the vein of **“what might have been,”** Esolen poignantly observes: **“Had America followed his lead, great good would have come of it and many evils—war, the theft of Indian lands, perfidy, mutual hatred, and the moral collapse that awaits a defeated people under patronage—might never have been.”**<sup>35</sup>

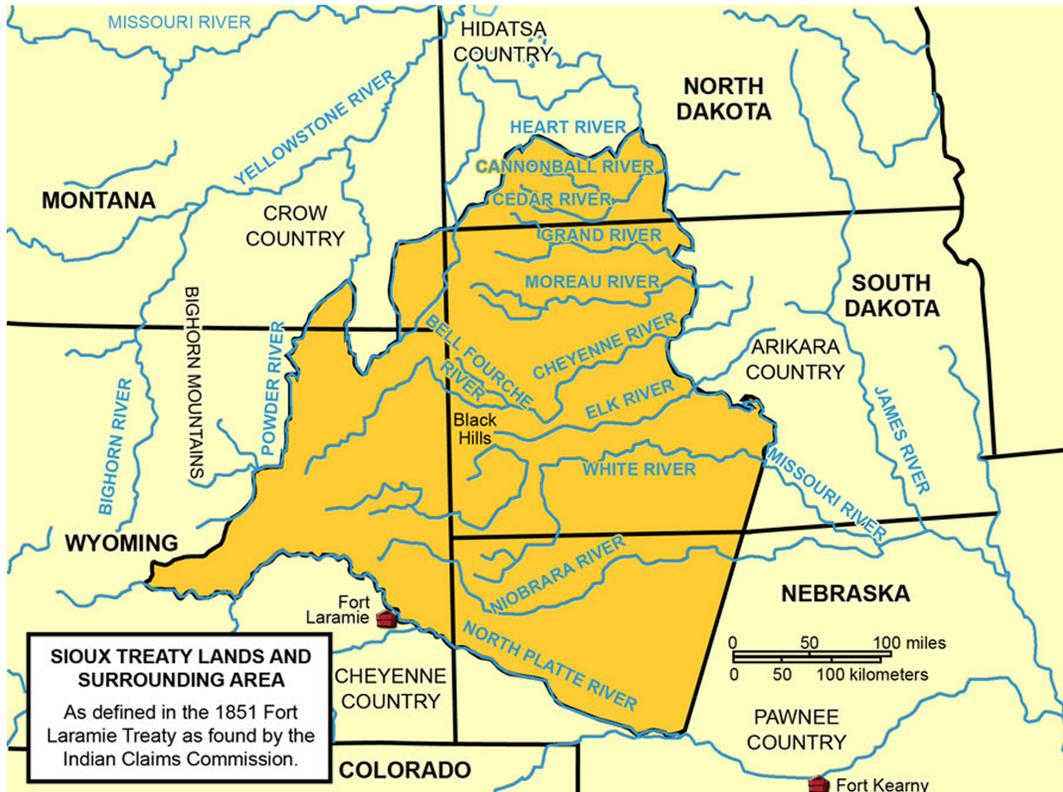


FATHER DE SMET AMONG THE SIOUX INDIANS.

<sup>35</sup> “St. Louis Expels De Smet from Campus” b  
<http://www.crisismagazine.com/2015/st->

## Map of Designated *Sioux* Territory, Treaty of 1851:

This treaty was the first effort to define the territory of the Great Sioux Nation of Lakotas, Dakotas, & Nakotas. The treaty council was attended by thousands of Sioux men and their families as well as soldiers and officers of the U.S. Army, representatives of the United States government, and interpreters. The Treaty of 1851 did not establish a reservation, but began the process of defining territory in which the Sioux could live & hunt. The treaty was supposed to reduce warfare among the Indian tribes of the northern Great Plains.<sup>36</sup>



Much of this territory was shared with Cheyennes *and* Arapahos who became falsely & exclusively identified with territories between the North Fork of the Platte River in eastern Wyoming & the Arkansas River in Colorado<sup>37</sup>. Even though both these populations still lived in & used the Black Hills (*the Cheyennes much more so than the Arapahos*) this was not taken into consideration when treaty negotiators carved out areas of tribal habitation according to European derived notions of exclusive occupancy. This area thus became *exclusively* assigned to the Lakota.

36 Lesson 4: Alliances And Conflicts, Topic 2: Sitting Bull's People, SECTION 3: THE TREATIES OF FORT LARAMIE, 1851 & 1868: <http://ndstudies.gov/gr8/content/unit-iii-waves-development-1861-1920/lesson-4-alliances-and-conflicts/topic-2-sitting-bulls-people/section-3-treaties-fort-laramie-1851-1868>

37 Shakespeare 1971:72; Weist 1977:47; Price, C. 1996: 1-36

### **Traditional Lifeways Interrupted:**

Judging by some of the speeches of tribal leaders contained in the Fort Laramie Treaty Journal, including one given by Black Hawk<sup>38</sup>, the Lakotas were fully aware that they shared much of their territory with the Cheyennes & Arapahos because they had taken & defended it together as allied parties. In fact, it was common practice for tribal nations who fought together to share use rights to the territories they jointly acquired & defended. Imposing territorial boundaries by tribal identification was not the way in which local populations distributed themselves across geographic space<sup>39</sup>. At this point in history, the territorial boundaries drawn on the 1851 treaty map were largely meaningless as local tribes continued to move across the landscape in complex ways that encouraged the sharing of jointly held territories<sup>40</sup>.

As Raymond DeMallie (2001a:795) points out, **“The treaty set in motion the process of limiting tribal lands.” Given what we now know of tribal movement in & occupation of areas west of the Missouri River & north of Arkansas, the tribal territories established by the Fort Laramie Treaty are grievously inconsistent with the historic record. This is true not only from the perspective of tribal oral traditions but also in relationship to the observations & writings of European Americans who traveled this region before 1851.**<sup>41</sup>

The year 1851 marked a major turning point for the Lakota *and* their Cheyenne & Arapaho allies. It was the end of a time when tribal population growth soared, when their territorial holdings multiplied, & when their economic opportunities were plentiful<sup>42</sup>. It was the dawn of a new era, when these & other tribes began to feel even greater pressure from the scores of emigrants entering their lands.<sup>43</sup> The arrival of miners & settlers brought epidemic disease, which had especially devastating impacts on the bands whose territories bordered the overland trails<sup>44</sup>. This was a time when the major food source of local tribes, the bison, declined, & when the U.S. government began to play a role in provisioning tribes with food rations<sup>45</sup>. In short, it was a period of profound transition when the very fabric of tribal livelihoods was being eroded by the loss of their food base, freedom of movement, & the lands that defined and sustained their way of life.<sup>46</sup>

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38 Horr 1974:55-56

39 Lazarus 1991:16- 19; Albers 1993:112-122

40 Albers and Kay 1987:80- 82

41 This paragraph was compiled by the National Park Service, “Chapter Five TREATIES AND BROKEN PROMISES: 1851 to 1877 “, page 90: <https://www.nps.gov/wica/learn/historyculture/upload/-7e-5-Chapter-Five-Treaties-and-Broken-Promises-Pp-84-132.pdf>

42 Bray 1994

43 Price, C. 1996:27-28; Isenberg 2000:111-113

44 Hyde 1937:63, 67; Denig in Ewers 1961:19- 22; Bettelyoun and Waggoner 1988:44-48

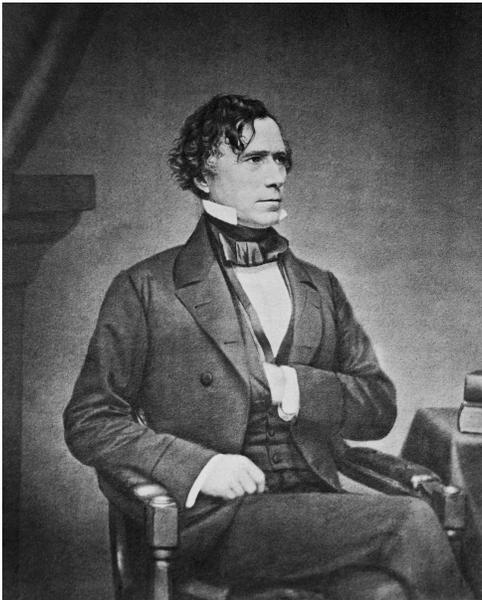
45 Swagerty 1988:76, 83; Pickering 1994:62; Price, C. 1996: 28- 30

46 This paragraph was compiled by the National Park Service, “Chapter Five TREATIES AND BROKEN PROMISES: 1851 to 1877 “ page 86: <https://www.nps.gov/wica/learn/historyculture/upload/-7e-5-Chapter-Five-Treaties-and-Broken-Promises-Pp-84-132.pdf>

## The Treaty Violations *Begin*

Ultimately, many people did not know the treaty even existed, & both intertribal raiding & raiding of caravans continued. The U.S. regarded raids as a breach of treaty, even though the government was unable to compel its own countrymen to respect the boundaries either. Travelers continuously passed through defined native territories, but no major incidents occurred until the numbers of travelers increased.<sup>47</sup>

### Pro-Slavery Franklin Pierce becomes President: The Compromise of 1850, & The Kansas-Nebraska Act:



Franklin Pierce, Fourteenth President of the United States - Credit: Library of Congress, Prints and Photographs Division, LC-BH8201-5118 DLC

Franklin Pierce & his father were fervent supporters of Andrew Jackson, “the hero of the War of 1812” & administrator of the “Indian Removal Act” whose *modest origins & country manners* inspired affection from farmers & the working class. Pierce graduated from Bowdoin College in 1824, & was admitted to the bar in 1827.<sup>48</sup> Both he & his father rejoiced when “Old Hickory” was elected President in 1828. Jacksonian Democrats were the rising party in 1832, the same election that gave Old Hickory his second term, at which time Franklin Pierce—still not thirty years old—was elected to the United States House of Representatives, where he voted the Democratic party line on nearly all issues.<sup>49</sup> He was dubbed “Young Hickory” in an allusion to Jackson’s famous nickname, “Old Hickory”.<sup>50</sup>

### California Petitions to Become a *Free State*:

California had grown *tremendously* with the '49 Gold Rush, & only recently had it petitioned Congress to enter the Union as a *free state* (non-slavery). Ever since the Missouri Compromise of 1820, wherein Missouri petitioned Congress to enter the union as a *slave state*, the balance between *slave states & free states* had been maintained; any proposal which threatened this balance would almost certainly not win approval. After all, not only did the nation’s capital at the time allow slavery, *it was home to the largest slave market in North America!*

On January 29, 1850, the 70-year-old Whig Senator Henry Clay presented a

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47 **The History & Culture of the Standing Rock Oyate, “The 1851 Fort Laramie Treaty”:**

<http://www.ndstudies.org/resources/IndianStudies/standingrock/1851treaty.html>

48 **History.com, “Franklin Pierce”:** <http://www.history.com/topics/us-presidents/franklin-pierce>

49 **Miller Center, University of Virginia, “Franklin Pierce: Life Before the Presidency”:**

<http://millercenter.org/president/biography/pierce-life-before-the-presidency>

50 **History.com, “Franklin Pierce”:** <http://www.history.com/topics/us-presidents/franklin-pierce>

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compromise. For eight months members of Congress, led by Clay, Daniel Webster, *Senator from Massachusetts*, & John C. Calhoun, *senator from South Carolina*, debated the compromise. With the help of Stephen Douglas, a young Democrat from Illinois, a series of bills that would make up the compromise, which sought to diffuse a four year political confrontation between slave & free states.

### **The Compromise of 1850:**

According to the compromise, Texas would relinquish the land in dispute but, in compensation, be given 10 million dollars— money it would use to pay off its debt to Mexico. Also, the territories of New Mexico, Nevada, Arizona, & Utah would be organized without mention of slavery: the decision would be made by the territories' inhabitants later, when they applied for statehood. Regarding *Washington*, the slave trade would be abolished in the District of Columbia, although slavery would still be permitted. Finally, California would be admitted as a free state. To pacify slave-state politicians, who would have objected to the imbalance created by adding another free state,

### **The Infamous *Fugitive Slave Act* was passed:**

Of all the bills that made up the Compromise of 1850, the Fugitive Slave Act was the most controversial. It *required* citizens to assist in the recovery of fugitive slaves. It denied a fugitive's right to a jury trial. (*Cases would instead be handled by special commissioners -- commissioners who would be paid \$5 if an alleged fugitive were released and \$10 if he or she were sent away with the claimant*). The act called for changes in filing for a claim, making the process easier for slaveowners. Also, according to the act, there would be more federal officials responsible for enforcing the law.

For slaves attempting to build lives in the North, the new law was disaster. During the next ten years, an estimated 20,000 blacks fled to Canada. For Harriet Jacobs, a fugitive living in New York, passage of the law was "the beginning of a reign of terror to the colored population". She stayed put, even after learning that slave catchers were hired to track her down. Anthony Burns, a fugitive living in Boston, was one of many who were captured & returned to slavery. Free blacks, too, were captured & sent to the South. With no legal right to plead their cases, they were completely defenseless.

Passage of the Fugitive Slave Act made abolitionists all the more resolved to put an end to slavery. The Underground Railroad became more active, reaching its peak between 1850 & 1860. The act also brought the subject of slavery before the nation. Many who had previously been ambivalent about slavery now took a definitive stance against the institution.

The Compromise of 1850 accomplished what it set out to do— it kept the nation united— but it also placed a strong rift between the nation's citizens over the issue of slavery via violating the *very core* of what the nation was supposed to be founded on— that “all men are created equal, & endowed by the Creator with certain unalienable rights”.

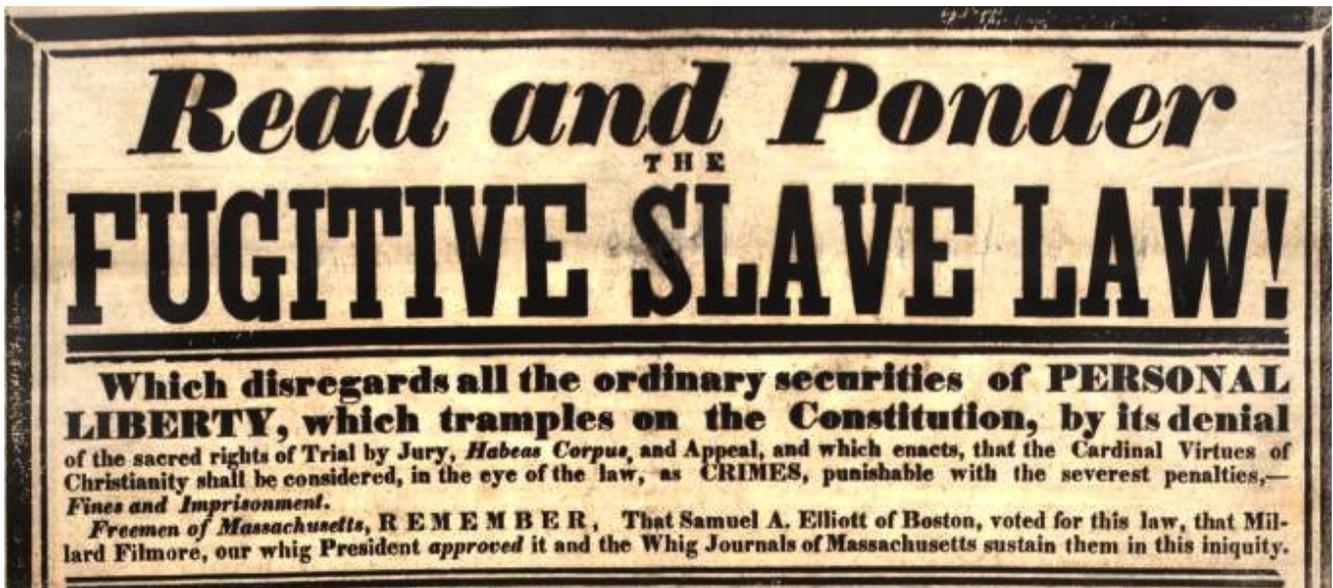
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During Pierce's administration (1853-1857), settlement was encouraged in the northwest region of the country, however tensions increased over the issue of slavery & its extension into new territories.<sup>51</sup>

Northern anti-slave organizations encouraged its members to emigrate to Kansas. The New England Emigrant Aid Society, alone, sent 2,000 settlers to Kansas. Most were well armed and spoiling for a fight. Southerners responded in kind, (although in much smaller numbers) & sent their own armed settlers.

When it was time to vote for the first territorial legislature, Southerners poured in from Missouri & voted early & often. The supporters of slavery triumphed in this election & set up a territorial government in Shawnee Mission. The free soilers (those who opposed slavery in Kansas) were outraged by this fraud & set up their own government in Topeka.

As tension mounted, a group of pro-slavery raiders burned part of the free soil town of Lawrence, thus, provoking a civil war in Kansas. In May 1856, John Brown led a band of followers who hacked to pieces a group of five proslavers, in what became known as the "Pottawatomie Massacre".<sup>52</sup>



PBS Learning Media, "Mercy Street | Fugitive Slave Act 1850":

<http://www.pbslearningmedia.org/resource/ms16.socst.us.cw.fugitive/mercy-street-fugitive-slave-act-1850/>

51 PBS: "The Compromise of 1850 and the Fugitive Slave Act:

<http://www.pbs.org/wgbh/aia/part4/4p2951.html>

52 History Central, "Bleeding Kansas": <http://www.historycentral.com/CivilWar/Causes/Bleeding.html>

**CAUTION!!**  
**COLORED PEOPLE**  
**OF BOSTON, ONE & ALL,**  
You are hereby respectfully CAUTIONED and advised, to avoid conversing with the **Watchmen and Police Officers of Boston,**  
For since the recent **ORDER OF THE MAYOR & ALDERMEN,** they are empowered to act as  
**KIDNAPPERS**  
AND  
**Slave Catchers,**  
And they have already been actually employed in **KIDNAPPING, CATCHING, AND KEEPING SLAVES.** Therefore, if you value your **LIBERTY,** and the *Welfare of the Fugitives* among you, *Shun* them in every possible manner, as so many **HOUNDS** on the track of the most unfortunate of your race.  
**Keep a Sharp Look Out for KIDNAPPERS, and have TOP EYE open.**  
**APRIL 24, 1851.**

[https://commons.wikimedia.org/wiki/File:Slave\\_kidnap\\_post\\_1851\\_boston.jpg](https://commons.wikimedia.org/wiki/File:Slave_kidnap_post_1851_boston.jpg)

**\$200 Reward!**

Ranaway from the subscriber, living in Saline county, on the 4th inst., two Negromen, named Jim and Jack—each aged about 25 years.

**Jim**  
is dish-faced; has sore eyes and bad teeth; is of a light black or brown color; speaks quick, is about 5 feet 7 inches high; had on when last seen, blue cotton pants, white shirt, white fullered coat and new custom-made boots.

**Jack**  
had on the same kind of clothing with shoes, has a very small foot, wears perhaps a No. 6 shoe, and has heavy tacks in the heels; is about the same height and color of Jim. They are doubtless aiming for K. T.

**A reward of \$100 each will be given if taken outside of the State, or \$50 each if taken in the State, outside of Saline county.**

**C. D. WILLIAMS,**  
Spring Garden, P. O., Pettis county, Missouri.  
Harrisonville, Mo., June 7th, 1860.



Kansas Historical Society, article "One man chose to break the law by cutting this shackle from an enslaved person's ankle":

<https://www.kshs.org/kansapedia/slave-shackle/18726>

## **The Underground Railroad Begins:**



## **Harriet Tubman Quotes:**

**“As I lay so sick on my bed, from Christmas till March, I was always praying for poor ole master. 'Pears like I didn't do nothing but pray for ole master. 'Oh, Lord, convert ole master;' 'Oh, dear Lord, change dat man's heart, and make him a Christian.'”**

**“I've heard 'Uncle Tom's Cabin' read, and I tell you Mrs. Stowe's pen hasn't begun to paint what slavery is as I have seen it at the far South. I've seen de real thing, and I don't want to see it on no stage or in no theater.”**

**“Quakers almost as good as colored. They call themselves friends and you can trust them every time.”**

**“I think there's many a slaveholder'll get to Heaven. They don't know better. They acts up to the light they have.”**

**“Every great dream begins with a dreamer. Always remember, you have within you the strength, the patience, and the passion to reach for the stars to change the world.”**

**“Now I've been free, I know what a dreadful condition slavery is. I have seen hundreds of escaped slaves, but I never saw one who was willing to go back and be a slave.”**

**“Most of those coming from the mainland are very destitute, almost naked. I am trying to find places for those able to work, and provide for them as best I can, so as to lighten the burden on the Government as much as possible, while at the same time they learn to respect themselves by earning their own living.”<sup>53</sup>**

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53 [https://www.brainyquote.com/quotes/authors/h/harriet\\_tubman.html](https://www.brainyquote.com/quotes/authors/h/harriet_tubman.html)

## The Kansas-Nebraska Act, 1854:

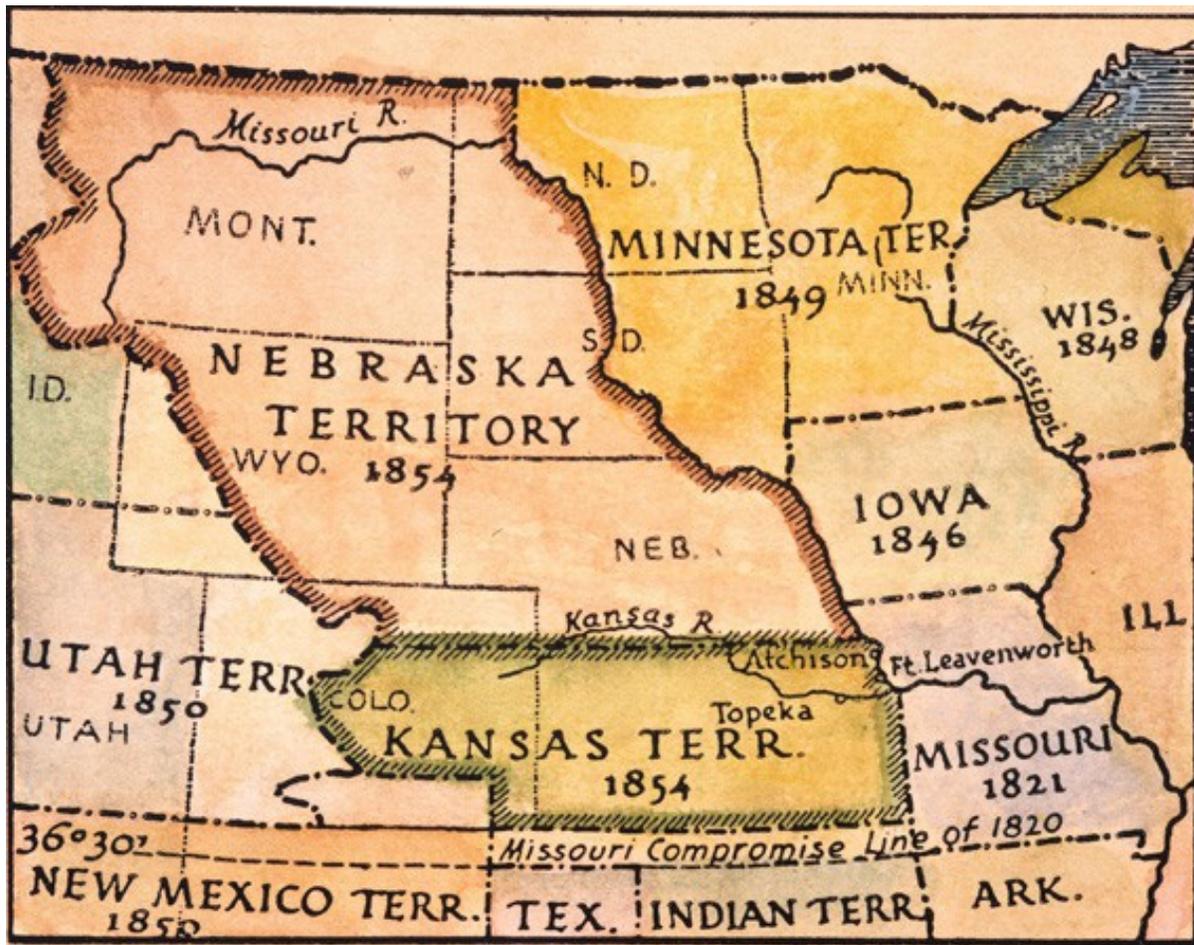
The Kansas-Nebraska Act, which Pierce signed May 30<sup>th</sup>, 1854, enraged antislavery northerners & brought about the emergence of the new Republican Party. Kansas-Nebraska Act was an 1854 bill that mandated “popular sovereignty”—allowing settlers of a territory to decide whether slavery would be allowed within a new state’s borders. Proposed by Stephen A. Douglas—Abraham Lincoln’s opponent in the influential Lincoln-Douglas debates—the bill overturned the Missouri Compromise’s use of latitude as the boundary between slave & free territory. The conflicts that arose between pro-slavery and anti-slavery settlers in the aftermath of the act’s passage led to the period of violence known as Bleeding Kansas, and helped paved the way for the American Civil War (1861-65)

### Transcript:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That all that part of the territory of the United States included within the following limits**, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit: **beginning at a point in the Missouri River** where the fortieth parallel of north latitude crosses the same; then west on said parallel to the east boundary of the Territory of Utah, the summit of the Rocky Mountains; thence on said summit northwest to the forty-ninth parallel of north latitude; thence east on said parallel to the western boundary of the territory of Minnesota; thence **southward on said boundary to the Missouri River; thence down the main channel of said river to the place of beginning, be,** and the same is hereby, **created into a temporary government by the name of the Territory Nebraska**; and **when admitted as a State or States, the said Territory or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of the admission**: Provided, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such tin as Congress shall deem convenient and proper, or from attaching a portion of said Territory to any other State or Territory of the United States: *Provided further*, That **nothing in this act contained shall construed to impair the rights of person or property now pertaining the Indians in said Territory' so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial line or jurisdiction of any State or Territory; but all such territory shall excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska.** or to affect the authority of the government of the United States make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed.*

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**SEC. 2.** *And Be it further enacted,* That the executive power and authority in and over said Territory of Nebraska shall be vested in a Governor who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the aid Territory, and shall take care that the laws be faithfully executed.



From "Gale Encyclopedia of U.S. History: War, 2008; U.S. History in Context", Oak Park & River Forest High School's website: <http://ic.galegroup.com/ic/uhic/ImagesDetailsPage/ImagesDetailsWindow?total=10&query=OQE+Kansas->

[Nebraska+Act&prodId=UHIC&windowstate=normal&mode=view&limiter=AC+y&displayGroupName=Images&u=oak30216&currPage=1&displayGroups=&source=&zid=20d19da690d71b25797ca35a5d8cc127&p=UHIC%3AWHIC&action=e&catId=&view=docDisplay&documentId=GALE%7CPC3048587094](http://ic.galegroup.com/ic/uhic/ImagesDetailsPage/ImagesDetailsWindow?total=10&query=OQE+Kansas-Nebraska+Act&prodId=UHIC&windowstate=normal&mode=view&limiter=AC+y&displayGroupName=Images&u=oak30216&currPage=1&displayGroups=&source=&zid=20d19da690d71b25797ca35a5d8cc127&p=UHIC%3AWHIC&action=e&catId=&view=docDisplay&documentId=GALE%7CPC3048587094)

**SEC. 3.** *And Be it further enacted,* That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his executive department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress, and in or case of the death, removal, resignation, or absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

**SEC 4.** *And be it further enacted,* That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of twenty-six members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of qualified voters: *Provided,* That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district or county, or counties for which they may be elected, respectively. Previous to the first election, the Governor shall cause a census, or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such persons and in such mode as the Governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the Governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the Council, shall be declared by the Governor to be duly elected to the Council; and the persons having the highest number of legal votes for the House of Representatives, shall be declared by the Governor to be duly elected members of said house: *Provided,* That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election;

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and the persons thus elected to the Legislative Assembly shall meet at such place and on such day as the Governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

**SEC. 5.** *And be it further enacted*, That **every free white male inhabitant above the age of twenty-one years who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election**, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: And provided further, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory, by reason of being on service therein.

**SEC. 6.** *And Be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the Council and House of Representatives of the said Territory shall, before it become a law, be presented to the Governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Assembly, by adjournment, prevents its return, in which case it shall not be a law.

**SEC. 7.** *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Nebraska. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council,

appoint all officers not herein otherwise provided for; and in the first instance the Governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the Legislative Assembly; and shall lay off the necessary districts for members of the Council and House of Representatives, and all other officers.

**SEC. 8.** *And be it further enacted,* That no member of the Legislative Assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly; and no person holding a commission or appointment under the United States, except Postmasters, shall be a member of the Legislative Assembly, or hold any office under the government of said Territory.

**SEC. 9.** *And be it further enacted,* That the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace. The Supreme Court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successor shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the Supreme Court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided,* That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and districts courts, respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may, be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district courts to the Supreme Court, under such regulations as may be prescribed by law; but in no case removed to the Supreme Court shall trial by jury be allowed in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said Supreme Court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writs of error, or appeals shall be allowed and decided by the said Supreme Court, without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also

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be allowed to the Supreme Court of the United States, from the decision of the said Supreme Court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of habeas corpus, involving the question of personal freedom: *Provided*, that nothing herein contained shall be construed to apply to or affect the provisions to the " act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the " act to amend and supplementary to the aforesaid act," approved September eighteen, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and Laws of the United States as is vested in the Circuit and District Courts of the United States; and the said Supreme and District Courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws, and writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Utah Territory now receive for similar services.

**SEC. 10.** *And Be it further enacted*, That the provisions of an act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelve, seventeen hundred and ninety-three, and the provisions of the act entitled " An act to amend, and supplementary to, the aforesaid act," approved September eighteen, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of said Territory of Nebraska.

**SEC. 11.** *And be it further enacted*, That there shall be appointed an Attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary I as the Attorney of the United States for the present Territory of Utah. There shall also be a Marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees, as the Marshal of the District Court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

**SEC. 12.** *And be it further enacted*, That the Governor, Secretary, Chief Justice, and Associate Justices, Attorney and Marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The Governor and a Secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the District Judge or some Justice of the Peace in the limits of said Territory, duly

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authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice, or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said Secretary among the Executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said Governor or Secretary, or some Judge or Justice of the Peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the Secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of two thousand five hundred dollars. The Chief Justice and Associate Justices shall each receive an annual salary of two thousand dollars. The Secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the Legislative Assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant-at-arms, and doorkeeper, may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the Legislative Assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislature annually, unless, on an extraordinary occasion, the Governor shall think proper to call the legislature together. There shall be appropriated, annually, the usual sum, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the Executive Department; and there shall also be appropriated, annually, a sufficient sum, to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses; and the Governor and Secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said Legislative Assembly for objects not specially authorized by the acts of Congress, making the appropriations, nor beyond the sums thus appropriated for such objects.

**SEC. 13.** *And be it further enacted*, That the Legislative Assembly of the Territory of Nebraska shall hold its first session at such time and place in said Territory as the Governor thereof shall

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appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the Governor and Legislative Assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said Governor and Legislative Assembly.

**SEC. 14.** *And be it further enacted,* That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives, but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections the times, places, and manner of holding the elections, shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected; and a certificate thereof shall be given accordingly. That the Constitution, and all Laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slaves in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the Compromise Measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form an regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided,* That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

**SEC. 15.** *And Be it further enacted,* That there shall hereafter be appropriated, as has been customary for the Territorial governments, sufficient amount, to be expended under the direction of the said Governor of the Territory of Nebraska, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable public buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons, and under such regulations as shall be prescribed by law.

**SEC. 16.** *And be it further enacted,* That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, section; numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

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**SEC. 17.** *And be it further enacted,* That, until otherwise provided by law, the Governor of said Territory may define the Judicial Districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said Judicial Districts by proclamation, to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such Judicial Districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

**SEC. 18.** *And be it further enacted,* That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Nebraska, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

**SEC. 19.** *And be it further enacted,* That all that part of the Territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit, beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude, thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their Constitution may prescribe at the time of their admission: *Provided,* That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided* further, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Kansas, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Kansas, or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed.

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**SEC. 20.** *And be it further enacted,* That the executive power and authority in and over said Territory of Kansas shall be vested in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said Territory, and shall be commander-in-chief of the militia thereof. He may grant pardons and respites for offences against the laws of said Territory, and reprieves for offences against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

**SEC. 21.** *And be it further enacted,* That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for five years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his Executive Department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, to be deposited in the libraries of Congress; and, in case of the death, removal, resignation, or absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

**SEC. 22.** *And be it further enacted,* That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of thirteen members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of twenty-six members possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of qualified voters: *Provided,* That the whole number shall never exceed thirty-nine. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and Representatives, giving to each section of the Territory representation in the ratio of its qualified voters as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district or county, or counties, for which they may be elected, respectively. Previous to the first election, the Governor shall cause a census, or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory, to be taken by such persons and in such mode as the Governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such

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time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the Governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said Council Districts for members of the Council, shall be declared by the Governor to be duly elected to the Council; and the persons having the highest number of legal votes for the House of Representatives, shall be declared by the Governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election; and the persons thus elected to the Legislative Assembly shall meet at such place and on such day as the Governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

**SEC. 23.** *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall be an actual resident of said Territory, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And*, provided further, That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote or hold office in said Territory by reason of being on service therein.

**SEC. 24.** *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the Council and House of Representatives of the said Territory shall, before it become a law, be presented to the Governor of the Territory; if he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which, it shall likewise be reconsidered,

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and, if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house, respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Assembly, by adjournment, prevent its return, in which case it shall not be a law.

**SEC. 25.** *And be it further enacted,* That all township, district, and; county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Kansas. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for; and, in the first instance, the Governor alone may appoint all said officers, who shall hold their offices until the end of the first session of the Legislative Assembly; and shall lay off the necessary districts for members of the Council and House of Representatives, and all other officers.

**SEC. 26.** *And be it further enacted,* That no member of the Legislative Assembly shall hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the Legislative Assembly, or shall hold any office under the government of said Territory.

**SEC. 27.** *And be it further enacted,* That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The Supreme Court shall consist of chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the Supreme Court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided,* That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Said District Court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the Supreme Court, under such regulations as may be prescribed by law; but in no case removed to the Supreme Court shall trial by jury be allowed

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in said court. The Supreme Court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; except only that in all cases involving title to slaves, the said writ of error or appeals shall be allowed and decided by said supreme court, without regard to the value of the matter, property, or title in controversy; and except also that a writ of error or appeal shall also be allowed to the Supreme Court of the United States, from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writ of habeas corpus, involving the question of personal freedom: *Provided*, That nothing herein contained shall be construed to apply to or affect the provisions of the "act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, - seventeen hundred and ninety-three, and the act to amend and supplementary to the aforesaid act," approved September eighteenth, eighteen hundred and fifty; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the Circuit and District Courts of the United States; and the said supreme and district courts of the said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are granted by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as may be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws, and writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said clerk shall receive the same fees in all such cases, which the clerks of the district courts of Utah Territory now receive for similar services.

**SEC. 28.** *And be it further enacted*, That the provisions of the act entitled "An act respecting fugitives from justice, and persons escaping from, the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend, and supplementary to, the aforesaid act," approved September eighteenth, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of the said Territory of Kansas.

**SEC. 29.** *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as the Attorney of the United States for the present Territory of Utah. There shall also be a marshal for the Territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts where exercising their jurisdiction as

Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the Marshal of the District Court of the United States for the present Territory of Utah, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

**SEC. 30.** *And be it further enacted,* That the Governor, Secretary, Chief Justice, and Associate Justices, Attorney, and Marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The Governor and Secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge or some justice of the peace in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said Governor or Secretary, or some Judge or Justice of the Peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the Secretary, to be by him recorded as aforesaid; and, afterwards, the like oath or affirmation shall be taken, certified, and recorded, in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of two thousand five hundred dollars. The Chief Justice and Associate Justices shall receive As an annual salary of two thousand dollars. The Secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the Legislative Assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles' travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route; and an additional allowance of three dollars shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, a sergeant at-arms, and door-keeper, may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day, during the session of the Legislative Assembly; but no to other officers shall be paid by the United States: Provided, That there shall be but one session of the Legislature annually, unless, on an extraordinary occasion, the Governor shall think proper to call the Legislature together. There shall be appropriated, annually, the usual sum, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the Executive Department and there shall also be appropriated, annually, a sufficient sum, to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the

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laws, and other incidental expenses; and the Governor and Secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the secretary of the Treasury of the United States, and shall, semi-annually, account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said Legislative Assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

**SEC. 31.** *And be it further enacted,* That the seat of government of said Territory is hereby located temporarily at Fort Leavenworth; and that such portions of the public buildings as may not be actually used and needed for military purposes, may be occupied and used, under the direction of the Governor and Legislative Assembly, for such public purposes as may be required under the provisions of this act.

**SEC. 32.** *And be it further enacted,* That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other Territories of the United States to the said House of Representatives, but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the Compromise Measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided,* That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

**SEC. 33.** *And be it further enacted;* That there shall hereafter be appropriated, as has been customary for the territorial governments, a sufficient amount, to be expended under the direction of the said Governor of the Territory of Kansas, not exceeding the sums heretofore appropriated for similar objects, for the erection of suitable public buildings at the seat of government, and for the purchase of a library, to be kept at the seat of government for the use

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of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

**SEC. 34.** *And be it further enacted,* That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

**SEC. 35.** *And be it further enacted,* That, until otherwise provided by law, the Governor of said Territory may define the Judicial Districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts; and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts as to them shall seem proper and convenient.

**SEC. 36.** *And be it further enacted,* That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Kansas, who, by virtue of the provisions of any law now existing, or which may be enacted during the present Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security, at such time and place, and in such manner as the Secretary of the Treasury may prescribe.

**SEC. 37.** *And be it further enacted,* That all treaties, laws, and other, engagements made by the government of the United States with the Indian tribes inhabiting the territories embraced within this act, shall be faithfully and rigidly observed, notwithstanding any thing contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of superintendent.

Approved, May 30, 1854.<sup>54</sup>

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<sup>54</sup> **Transcript of Kansas-Nebraska Act (1854):** <https://www.ourdocuments.gov/doc.php?flash=true&doc=28&page=transcript>

## The So-Called “Grattan Massacre”, 1854

The “Grattan Massacre” was the opening engagement of what *later* became known as the *First Sioux War*. The massacre occurred *east* of Fort Laramie in the ; the location of the infamous “first treaty violation against the Sioux” occurred in present-day *Goshen County, Wyoming* on August 19, 1854.

**Scenario:** A small detachment of soldiers entered a large Sioux encampment to arrest a man accused of taking a migrant's cow, although such matters by treaty were *supposed* to be handled by the US Indian Agent. *This* treaty violation occurred under the 14<sup>th</sup> *President of the United States, Franklin Pierce*, a northern Democrat who saw the abolitionist movement as a fundamental threat to the unity of the nation; yep- *you guessed it- a confederate*. After one of the soldiers shot & killed Chief Conquering Bear, the Brulé Lakotas returned fire & killed a total of 29 soldiers: Lieutenant John Grattan, & also a civilian interpreter. The “massacre” as it was slandered by local presses, is considered an early, significant event in what became later glorified as the “Plains Indian Wars”.

In the late summer of 1854, about 4,000 Brulé & Oglala were camped near Fort Laramie in accordance with the terms of the Treaty of 1851. On August 17, a cow belonging to a Mormon traveling on the nearby Oregon Trail strayed & was killed by a visiting Miniconjou named High Forehead. Lt. Hugh Fleming, the senior officer of the small garrison, consulted with the chief, Conquering Bear, to discuss the loss of livestock. Lt. Fleming was evidently unaware, or chose to ignore, that such matters were, by the terms of the Treaty of 1851, to be handled by the local Indian Agent, in this case John Whitfield, who was due to arrive within days with annuities with which restitution could be made.

Aware that the matter did not really concern the military, Conquering Bear attempted to negotiate, offering a horse from his personal herd. Grattan said that the Sioux should arrest the guilty party & turn him over. Conquering Bear refused, & shortly after Grattan began walking back to his column, a soldier fired his gun, shooting a Sioux warrior.

A commander at Laramie later recalled, "There is no doubt that Lt. Grattan left this post with a desire to have a fight with the Indians, & that he had determined to take the man at all hazards."<sup>55</sup> The Lakota warriors started shooting arrows while leaders tried to take control. Conquering Bear was mortally wounded & died nine days later near the Niobrara River. The warriors also killed Grattan, 11 of his men, & the interpreter. A group of some 18 soldiers retreated on foot trying to reach some rocks for defense, but they were cut off and killed by warriors led by Red Cloud who was then a rising War chief within the Lakota. One soldier survived the massacre but later died of his wounds. The 28 killed soldiers are buried at Fort McPherson, Nebraska, while Lt. Grattan is buried in Fort Leavenworth, Kansas.

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<sup>55</sup> George Emory Fay, *Military Engagements Between United States Troops and Plains Indians: Report of the Secretary of War on the inquiry into the Sand Creek Massacre*, Museum of Anthropology, University of Northern Colorado, 1980, pp. 20, 43, 45

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The enraged warriors "rampaged throughout the night, swearing to attack other whites."<sup>56</sup> They rode against Fort Laramie the next morning but withdrew, instead looting the trading post. On the third day after the US attack, the Brule & Oglala abandoned the camp on the North Platte River & returned to their hunting grounds.

The local media called the event the "Grattan Massacre." Accounts generally ignored the US soldiers' instigation of the event by shooting Conquering Bear in the back, & Grattan's violation of the treaty provisions. When news of the fight reached the War Department, officials started planning retaliation to punish the Sioux. Secretary of War Jefferson Davis characterized the incident as "the result of a deliberately formed plan."

Col. William S. Harney was recalled from Paris in April 1855 & sent to Fort Kearny, where he assembled a command of 600 troops, who set out on August 24, 1855 to find & exact retribution on the Sioux. Harney was quoted as saying, "By God, I'm for battle—no peace."

Harney engaged them in the Battle of Ash Hollow (also known as the Battle of Bluewater Creek) on September 3, 1855, in which U.S. soldiers killed a number of Brulé Lakota in present-day Garden County, Nebraska. The village of 230 persons was caught between an assault by the infantry & a blocking force by the cavalry.

Harney returned to Fort Laramie with 70 prisoners. Harney ordered the tribes to send representatives to a treaty council at Fort Pierre in March 1856, where a treaty was signed on terms dictated by the War Department. However Twiss tried to undermine the treaty & Harney had him removed from office without possessing the legal authority to do so. Commissioner of Indian Affairs George W. Manypenny then successfully lobbied the Senate to reject the treaty & Twiss was reinstated. Nevertheless, the specter Harney left *remained*." A number of events which occurred in 1861 directly impacted both the Dakota *and* Lakota who would *later* to become part of what is today known as the Standing Rock Reservation. In 1861 *when Dakota Territory was established*, the Yanktonai & Hunkpatina occupied much of the area east of the Missouri River, & in 1861, *when gold was discovered at the headwater of the Missouri River*, this had *an immediate impact* on the Lakota living on the west side of the river bank.<sup>57</sup>



Chief Conquering Bear, 1899, SOURCE: RootsWeb, An Ancestry.com Community, "Tiyospaye, Person Page 83", originally sourced from Western History/Genealogy Department, Denver Public Library. : <http://freepages.genealogy.rootsweb.ancestry.com/~mikestevens/2010-p/p83.htm>

56 Griske, Michael (2005). *The Diaries of John Hunton*. Heritage Books. pp. 62, 63. ISBN 0-7884-3804-2.

57 Jacobson, Clair. 1991. *The UnCivil War at Whitestone Hill*. LaCrosse, WI: Pine Tree Publishing. ISBN-

## **Oct. 16<sup>th</sup>: Lincoln Speaks Out Against Slavery:**

An obscure lawyer and Congressional hopeful from the state of Illinois named Abraham Lincoln delivers a speech regarding the Kansas-Nebraska Act, which Congress had passed five months earlier. In his speech, the future president denounced the act and outlined his views on slavery, which he called “immoral.”

He denounced members of the Democratic Party for backing a law that “assumes there can be moral right in the enslaving of one man by another.” He believed that the law went against the founding American principle that “all men are created equal.” Lincoln was an abolitionist at heart, but he realized that the outlawing of slavery in states where it already existed might lead to civil war. Instead, he advocated outlawing the spread of slavery to new states. He hoped this plan would preserve the Union and slowly eliminate slavery by confining it to the South, where, he believed, “it would surely die a slow death.”

Lincoln and his fellow abolitionists were dismayed when Kansans voted a pro-slavery candidate into Congress in November. As Lincoln’s political career picked up momentum over the next several years, he continually referred to the Kansas-Nebraska Act and the seeming inevitability that Kansas should become a slave state as “a violence...it was conceived in violence, passed in violence, is maintained in violence, and is being executed in violence.”

Lincoln continued to actively campaign against slavery in Kansas and helped to raise money to support anti-slavery candidates in that state. Meanwhile he continued his law practice and ran for the U.S. Senate in 1859. Although he lost to Democrat Stephen Douglas, Lincoln began to make a name for himself in national politics and earned increasing support from the North and abolitionists across the nation. It was this constituency that helped him win the presidency in 1860.<sup>58</sup>

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13: 978-0578018065

58 **History.com, THIS DAY IN HISTORY: “Lincoln Speaks Out Against Slavery”:**  
<http://www.history.com/this-day-in-history/lincoln-speaks-out-against-slavery>

### **Free-Soilers v. Border Rufians:**

By the mid-1850s a storm was gathering on the western border of slaveholding Missouri that separated U.S. states from unorganized territory. By 1853, land-hungry settlers were pushing well beyond Missouri's western border into this swath of land, spurring congress to organize it into the Nebraska territory. This raised the issue of whether that territory would be free soil or slave-holding.

“Bourbon Dave” Atchison represented the conservative, southern rights (read: pro-slavery) faction of the Democratic Party, a position that made him the enemy of his one-time fellow Missouri senator, and fellow Democrat, the anti-slavery Thomas Hart Benton. But Atchison, like Ted Cruz today, wasn't afraid to alienate fellow party-members to serve conservative interests. The bawdy and profane “Bourbon Dave” vowed to see Nebraska “sink in Hell” before having it become free soil. Using his position as president pro tem of the Senate, Atchison demanded major political concessions in exchange for southern support of a free-soil Nebraska.

“Bourbon Dave” wrestled with fellow Democrat Stephen Douglas, the squat, hard-drinking, pugnacious Illinois senator. To please his caustic southern colleague, Douglas agreed to repeal the old Missouri Compromise of 1820, which barred slavery from the territory above the 36' 30 line and split the territory into two sections, resulting in the Kansas-Nebraska Act of 1854. Atchison was Hell-bent on making at least one of those territories into a new slave-state, so he supported Douglas' concept of “Popular Sovereignty,” in which settlers of the territories would decide for themselves whether slavery would be permitted in their lands. “Bourbon Dave,” representing slave-holding Missouri, hoped that pro-slavery settlers would flood into Kansas, making it a new southern slave state.

He was severely disappointed in that regard: by mid-1854, rifle-armed Free-Soil advocates known as “Jayhawkers” began pouring into Kansas to claim it for freedom. An outraged Atchison responded by calling on all pro-slavery Missourians — the “Border Ruffians” — to invade Kansas and claim it for slavery instead. The resulting outbreak of violence between Border Ruffians and Jayhawks became known as “Bleeding Kansas,” and “Bourbon Dave” helped open its political arteries.

In an apocalyptic 1856 speech to a group of Border Ruffians, Atchison, possibly aided by booze, rebuffed traditional political resolution to the Kansas problem, and instead called on his Ruffian army to wage war against the Free Soil settlers:

“Yess, ruffians, draw your revolvers & bowie knives, & cool them in the heart's blood of all those damned dogs, that dare defend that damned breathing hole of hell. Tear down their boasted Free State Hotel, and if those Hellish lying free-soilers have left no port holes in it, with your unerring cannon make some, Yes, riddle it till it shall fall to the ground.

Yes, I know you will, the South has always proved itself ready for honorable fight, & you, who are noble sons of noble sires, I know you will never fail, but will burn, sack &

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destroy, until every vantage of these Northern Abolitionists is wiped out.”



*Rough and ready pro-slavery Border Ruffians invading Kansas at “Bourbon Dave’s” urging.*

In this speech, “Bourbon Dave” encapsulated the essence of Border Ruffianism: when conservative, southern, pro-slavery forces failed to achieve their goals in Congress or at the ballot box, they resorted to non-traditional, even extra-legal methods in the name of a reactionary right-wing political ideology. These methods included violence, and the resulting violence of Bleeding Kansas raged on for eight years before the bloodshed between pro and anti-slavery forces finally exploded nationally into the Civil War.

In 1856 “Bourbon Dave” proudly proclaimed, “This is the day I am a border ruffian!” to assume the leadership of slaveholders who felt ignored by a federal government that refused to recognize their human property in the territories.<sup>59</sup>

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<sup>59</sup> **That Devil History: “TED CRUZ, 'BOURBON DAVE' AND THE LEGACY OF BORDER RUFFIANISM”**, Oct. 18, 2013 by Jarret R: <http://thatdevilhistory.com/index.php/2013/10/18/ted-cruz-bourbon-dave-and-the-legacy-of-border-ruffianism/>

## 1860, *Boarding Schools*

The boarding school experience for Indian children began in 1860 when the Bureau of Indian Affairs established the first Indian boarding school on the Yakima Indian Reservation in the state of Washington. These schools were part of a plan devised by well-intentioned, eastern reformers Herbert Welsh and Henry Pancoast, who also helped establish organizations such as the Board of Indian Commissioners, the Boston Indian Citizenship Association and the Women's National Indian Association.

The goal of these reformers was to use education as a tool to “assimilate” Indian tribes into the mainstream of the “American way of life,” a Protestant ideology of the mid-19th century. Indian people would be taught the importance of private property, material wealth and monogamous nuclear families. The reformers assumed that it was necessary to “civilize” Indian people, make them accept white men's beliefs and value systems.

*By the 1880s, the U.S. operated 60 schools for 6,200 Indian students, including reservation day schools and reservation boarding schools. The reservation day school had the advantage of being relatively inexpensive and caused the least opposition from parents. The reservation boarding school spent half a day teaching English and academics and half a day on industrial training. Regimentation was the order of the day and students spent endless hours marching to and from classes, meals and dormitories. Order, discipline and self-restraint were all prized values of white society.*

The boarding schools hoped to produce students that were economically self-sufficient by teaching work skills and instilling values and beliefs of possessive individualism, meaning you care about yourself and what you as a person own. This opposed the basic Indian belief of communal ownership, which held that the land was for all people.

At the better boarding schools, students could attain a reasonable degree of English literacy in a relatively short period. At other schools, the method of teaching — an object card such as CAT shown to students, then written, pronounced and traced — failed to produce a comprehension of those words that had no equivalent in their Native tongue.

The Indian boarding schools taught history with a definite white bias. Columbus Day was heralded as a banner day in history and a beneficent development in their own race's fortune, as only after discovery did Indians enter the stream of history. Thanksgiving was a holiday to celebrate “good” Indians having aided the brave Pilgrim Fathers. New Year's was a reminder of how white people kept track of time and George Washington's birthday served as a reminder of the Great White Father. On Memorial Day, some students at off-reservation schools were made to decorate the graves of soldiers sent to kill their fathers.

Half of each school day was spent on industrial training. Girls learned to cook, clean, sew, care for poultry and do laundry for the entire institution. Boys learned industrial skills such as blacksmithing, shoemaking or performed manual labor such as farming. Since the schools were required to be as self-sufficient as possible, students did the majority of the work.

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By 1900, economic practicality became the goal and school curriculum slanted even further toward industrial training while academics languished.

The Carlisle school developed a “placing out system,” placing Indian students in the mainstream community for summer or a year at a time where they could learn skills other than farming. While monitored carefully at Carlisle, other outing programs were often exploitive. At the Phoenix Indian School, girls became the major source of domestic labor for white families, boys were placed in seasonal harvest or other jobs unwanted by white or immigrant laborers and the students were unsupervised, learning very little from their outing experiences.

The Carlisle and Phoenix schools also had football teams, and Phoenix had a band that performed at summer parades and festivals. These activities were meant to support the idea that Indian people were capable of competing with whites.

Conversion to Christianity was also deemed essential to the cause. Indian boarding schools were expected to develop a curriculum of religious instruction, placing emphasis on the Ten Commandments, the Beatitudes and Psalms. Implanting ideas of sin and a sense of guilt were part of Sunday schools. Christianity governed gender relations at the schools and most schools invested their energy in keeping the sexes apart, in some cases endangering the lives of the students by locking girls in their dormitories at night — meaning they could not get out, even in the case of fire. There were, however, ritualized social activities such as dances and promenades.

Discipline within the Indian boarding schools was severe and generally consisted of confinement, deprivation of privileges, threat of corporal punishment or restriction of diet. In addition to coping with the severe discipline, Indian students were ravaged by disease at boarding schools. Tuberculosis and trachoma (“sore eyes”) were the greatest threats. In December of 1899, measles broke out at the Phoenix Indian School, reaching epidemic proportions by January. In its wake, 325 cases of measles, 60 cases of pneumonia, and 9 deaths were recorded in a 10-day period.

Naturally, Indian people resisted the schools in various ways. Sometimes entire villages refused to enroll their children in white men’s schools. Indian agents on the reservations normally resorted to withholding rations or sending in agency police to enforce the school policy. In some cases, police were sent onto the reservations to seize children from their parents, whether willing or not. The police would continue to take children until the school was filled, so sometimes orphans were offered up or families would negotiate a family quota. Navajo police officers avoided taking “prime” children and would take children assumed to be less intelligent, those not well cared for or those physically impaired.

Indian parents also banded together to withdraw their children en masse, encouraging runaways and undermining the schools’ influence during summer and school breaks. An 1893 court ruling increased pressure to keep Indian children in Boarding schools. It was not until 1978 with the passing of the Indian Child Welfare Act that Native American parents gained the legal right to deny their children’s placement in off-reservation schools.

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Some Native American parents saw boarding school education for what it was intended to be — the total destruction of Indian culture. Others objected to specific aspects of the education system, the manner of discipline and the drilling. Still others were concerned for their children's health and associated the schools with death. Resentment of the boarding schools was most severe because the schools broke the most sacred and fundamental of all human ties, the parent-child bond.<sup>60</sup>

**Pacific Railway Act, 1862**

**Albert Pike Southern General 1862 New Ulm minnesota**

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<sup>60</sup> American Indian Relief Council, Northern Plains Reservation Aid, History & Culture, *Boarding Schools*: [http://www.nrcprograms.org/site/PageServer?pagename=airc\\_hist\\_boardingschools](http://www.nrcprograms.org/site/PageServer?pagename=airc_hist_boardingschools)

## **U.S.-Dakota War, 1862, aka “The Minnesota Indian War”**

Between 1805 & 1858, treaties made between the U.S. government & the Dakota nation reduced Dakota lands, & *significantly* altered Minnesota’s physical, cultural, & political landscape. These treaties had significant impact on the lives of the Dakota people *and* European-Americans flooding into Minnesota during the first half of the 1800s; many historians agree that major factors in the lead-up to the U.S.-Dakota War of 1862 lie in those treaties. **In 1851 the treaties of Traverse des Sioux & Mendota (in which the largest amount of land was ceded by the Dakota) established that the Dakota would be paid by the U.S. government for the land they ceded in yearly installments called “annuities.” Provisions in the treaties stated that portions of the money paid to the Dakota would go to fund trade shops (such as blacksmiths), purchase agricultural tools & supplies, as well as to pay off debts claimed by traders. Many Dakota claimed these debts had been inflated or were falsified, & were opposed to the traders being paid directly by the U.S. government. As a result resentment grew within many Dakota communities towards the traders *and* the U.S. government.**

**In addition, U.S. government policies toward the acculturation of native people helped create divisions within the Dakota community at large. Dakota individuals who cut their hair & adopted European American agricultural methods received supplies, tools, & housing at the expense of the U.S. Government. Many Dakota who maintained their traditional life-ways *resented* what was perceived as preferential treatment of one group over another by the U.S. Government.**

***The Santee, located on an ever-shrinking homeland in Minnesota, were dissatisfied with federal policies, & when they received no redress of their grievances, some men precipitated a confrontation in 1862; they raided settlements, attacked a military installation, & ultimately caused 40,000 settlers to flee. Federal response to the trouble was quick, & all “Indians” in the area were considered potentially dangerous, so many who had no connection to the troubles were then punished under President Abraham Lincoln. Fearful of retribution, many Santees fled into Dakota Territory & Canada. Settlers on the Dakota frontier, fearful of trouble, demanded government protection. Generals Henry Sibley & Alfred Sully were assigned to round up “hostiles” in the Dakotas. Though they found no “hostiles”, they instead found several hunting bands. Despite the apparent peace in the Dakotas, wild rumors of dangerous Indians continued, & the military became under great political pressure to keep up its campaign.***<sup>61</sup>

**By the summer of 1862 the situation for many Dakota families had become desperate; annuity payments were late due to the U.S. government’s priority in**

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<sup>61</sup> Jacobson, Clair. 1991. *The UnCivil War at Whitestone Hill*. LaCrosse, WI: Pine Tree Publishing. ISBN-13: 978-0578018065

financing the Civil War. Some traders & officials at the Indian Agencies refused to extend credit for food & supplies until the Dakota had cash to pay their debts, & crop failures & poor hunting had left many Dakota families hungry. Due to these & other factors, tensions within Minnesota's Dakota community reached a breaking point.

On Aug. 17, 1862 four Dakota men killed five people living at the farms of Robinson Jones & Howard Baker in Acton Township. When word of the killings spread to the Lower Sioux Reservation, a group of Dakota men argued that it was time to go to war with Minnesota's European-American population to reclaim their ancestral land. Without consensus from the Dakota community at large, these men went directly to Taoyateduta, "His Scarlet Nation" (Little Crow), an influential Dakota leader, to convince him to lead a military effort. After intense debate, Taoyateduta reluctantly agreed, even though he feared the war would end disastrously for their nation. "You will die like rabbits when the hungry wolves hunt them in the Hard Moon," he is quoted as having said, but added "Taoyateduta is not a coward: he will die with you."

The following day a group of Dakota under the command of Taoyateduta attacked the Lower Sioux Agency, *killing many of civilians*. Over the next several weeks, groups of Dakota soldiers attacked European American communities throughout the Minnesota River Valley, *including New Ulm*, as well as launching attacks on U.S. military posts. The war lasted nearly six weeks, during which more than 600 civilians & U.S. soldiers, *as well as an estimated 75-100 Dakota*, lost their lives.

The war fractured Minnesota's Dakota community. It was fought primarily by a relatively small group of Dakota, & there was not universal support for the war within the Dakota community at large. Throughout the war, many Dakota as well as individuals of both Dakota & European ancestry (*often referred to as "mixed-bloods" during that period*) protected prisoners & worked to secure their release to U.S. soldiers. For a tense period of time it seemed as though a civil war might erupt between the Dakota on both reservations over the war.

Fort Snelling played an important role in the war. Soldiers were organized at the fort under Col. Henry H. Sibley for a military response to the Dakota. After the Battle of Wood Lake (Sept. 23), *the last major battle of the war in Minnesota*, many Dakota left the state, while others surrendered to U.S. military forces at Camp Release (near present-day Montevideo). Col. Sibley established a military commission to try Dakota men suspected of killing or assaulting civilians, & by the end of the process 303 men were convicted & sentenced to death. However, upon further review of the evidence, the number was reduced to 39 by President Abraham Lincoln, who wanted to distinguish between Dakota men who had only fought in battles, & those accused of killing & assaulting civilians. Just prior to the execution, a man named Tatemina (Round

Wind) was reprieved (*canceled or postponed*) because his conviction had been based on questionable testimony. **The remaining 38 men were hanged simultaneously in Mankato on Dec. 26 in the largest mass execution in U.S. history.**

The rest of the approximately 1,600 Dakota & "mixed-bloods" who surrendered at Camp Release (*mostly women, children & the elderly*) were removed to Fort Snelling where they spent the winter of 1862-63 in a stockaded concentration camp, below the fort (located in the present-day Fort Snelling State Park) to await their exile to western reservations. According to reports in local newspapers & Dakota oral histories, some of the prisoners endured assaults & violence at the hands of soldiers & local civilians. "Amid all this sickness & these great tribulations," remembered Tiwakan (Gabriel Renville), a "mixed-blood" man who was held in the stockade along with his family, "it seemed doubtful at night whether a person would be alive in the morning."

**Many detainees sold personal possessions in order to purchase food to supplement the military-issue rations they were given. Some of the "mixed-blood" families owned land vouchers (called scrip) that had been granted them in treaties with the U.S. government. These vouchers granted each head-of-household up to 640 acres of any unsurveyed, non-federal land in exchange for giving up claim to land in Minnesota. Many sold these vouchers to local businessmen at deflated prices in order to have cash in hand to provide for their families while in the stockade. Businessmen, such as Franklin Steele, profited by purchasing these vouchers & later selling them to land developers for large profits.**

It is estimated that 130 - 300 people died within the camp over that winter, mostly due to disease. Those remaining were taken by steamboat to the Crow Creek reservation in May 1863. By summer of 1863 the vast majority of Dakota had left Minnesota, heading into the western territories, or *north* into Canada. As a result of the war, approximately 6,000 Dakota & "mixed-blood" people were displaced from their Minnesota homes. Today, Dakota communities remain spread throughout Minnesota, Nebraska, North & South Dakota, Montana, & Canada.

**After the war, many Dakota were captured & imprisoned by the U.S. military, among them Sakpedan (Little Six) & Wakanozhazhan (Medicine Bottle). The two men fled to Canada after the war, but were kidnapped & delivered to U.S. authorities by British agents in Jan. 1864. Both men were subsequently imprisoned at Fort Snelling. They were charged & convicted by a military commission for their participation in the war, & were sentenced to death. Their execution took place at Fort Snelling on Nov. 11, 1865 in the presence of the fort's garrison & numerous civilians.** A local newspaper reported that as they climbed the scaffold, a steam train whistle blew in the distance, prompting Sakpedan to say, "As the white man comes in, the Indian goes out."

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During the summer of 1863, newly-promoted Brig. Gen. Sibley, *along with Brig. Gen. Alfred Sully*, mounted a joint military operation, called the “Punitive Expedition”, against those Dakota who had left Minnesota & headed west. Sibley’s troops pushed past Devil’s Lake & toward the Missouri River, fighting three major battles against combined Dakota & Lakota forces: *Dead Buffalo Lake (July 26); Stony Lake (July 28); & Whitestone Hill (Sept. 3)*.



*Little Six & Medicine Bottle, photo source:  
[http://www.historicfortsnelling.org/history/  
us-dakota-war](http://www.historicfortsnelling.org/history/us-dakota-war)*

## **The Battle of Whitestone Hill, 1863**

Two military expeditions entered Dakota Territory during the summer of 1863. One column of soldiers *from Minnesota* was led by General Henry H. Sibley. The *other* expedition, *commanded by General Alfred Sully*, followed the Missouri River north from Iowa. Sully's campaign culminated in *the Battle of Whitestone Hill*.

**In early September 1863, General Sully discovered a large hunting camp of Yanktonai at Whitestone Hill. These people had *nothing to do with the Minnesota problems & were not posing a threat to homesteaders in Dakota Territory* (for one—they knew there would be retribution if they tried to defend themselves against encroachment). The Yanktonai people at Whitestone Hill were preparing food for the winter months ahead. Sully's troops *never determined who these people were, & on September 3, 1863, 650 soldiers attacked the Yanktonai, killing at least 300, including many women & children.* Twenty soldiers were killed, many caught in army crossfire. **The Yanktonai who were able fled the area, abandoning all their household goods & stores of food.** The scene of the battlefield & Indian camp the next day was recorded by F.E. Caldwell, a soldier with the Second Nebraska Cavalry:**

**“Tepees, some standing, some torn down, some squaws that were dead, some that were wounded & still alive, young children of all ages from young infants to eight or ten years old, who had lost their parents, dead soldiers, dead Indians, dead horses, hundreds of dogs howling for their masters. Some of the dogs were packed with small poles fastened to a collar & dragging behind them. On the poles was a platform (*travois*) on which all kinds of articles were fastened on— in one instance a young baby.**

**Sully ordered all the property destroyed, *tepees, buffalo skins, & all their things, including tons & tons of dried buffalo meat & tallow.* It was gathered in wagons, piled in a hollow & burned, & the melted tallow ran down the valley into a stream. Hatchets, camp kettles, & all things that would sink were thrown into a small lake.”**

Sully's men were congratulated by the U.S. for their distinguished conduct, & the native peoples' side of the story never came out publicly except by their own people. In November 1863, **Sam Brown, a 19-year-old interpreter at Crow Creek, presented the Indian side of Sully's battle at Whitestone Hill in a letter to his father:**

**“I hope you will not believe all that is said of 'Sully's Successful Expedition' against the Sioux. I don't think he ought to brag of it at all, because it was, what no decent man would have done. He pitched into their camp & just *slaughtered them*, worse a great deal than what the Indians did in 1862. He killed very few men & no hostile ones prisoners... & now he returns saying that we need fear no more, for he has 'wiped out all hostile Indians from Dakota.' If he had killed men instead of women & children, then it would have been a success, & the worse of it, they had no hostile intention whatever. The *Nebraska Second* pitched into them *without orders*, while the *Iowa Sixth* were shaking hands with them on the other side. They even shot their own men.”**



Photo source link:  
<http://www.revolvy.com/main/index.php?s=Alfred%20Sully&uid=1575>

**"I believe I can safely say I gave them one of the most severe punishments that the Indians have ever received."**

– **General Alfred Sully, *early American war criminal***<sup>62</sup>

**Note:** General Sully's indiscriminate, uncalculated slaughters *are* considered international war crimes by today's standards under Australia, Military Court at Rabaul, *Ohashi case* (cited in Vol. II, Ch. 32, § 2957); United States, Military Commission at Shanghai, *Sawada case* (*ibid.*, § 2961); United States, Military Tribunal at Nuremberg, *Altstötter (The Justice Trial) case* (*ibid.*, § 2964); see also ICC Statute, Article 8(2)(a)(vi) and (c)(iv), as his actions *abrogated* the “right to fair trial” (5<sup>th</sup> Amendment) of all victims, targeting *entire populations* instead of seeking justice against individuals.

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<sup>62</sup> Minnesota Historical Society, *General Alfred Sully*: <http://www.usdakotawar.org/history/alfred-h-sully>

## **The Battle of Killdeer Mountains, 1864**

In 1864 Sibley remained in Minnesota while a second expedition was launched. **Sully commanded the operation & defeated a large, combined group of Dakota, Lakota & Yanktonai at the Battle of Tahchakuty, or Killdeer Mountain (July 28). Eventually, the U.S. military forcibly removed many Dakota to reservations in North & South Dakota.**

Sully & his troops wintered in the newly constructed Fort Rice while plans were being launched to force the natives to cede large areas of their territory. **In July 1864, Sully set out for the Killdeer Mountains where Yanktonai, Sihasapa, Hunkpapa, & other Dakota were in a large hunting camp. On July 23, 1864, Sully's troops, aided by artillery, killed about 100 native people at their camp & forced them to abandon all their food & household goods. Again, all their property was destroyed. This is known as the Battle of Killdeer Mountains. Sully chased down some of the stragglers from the battle along the Yellowstone River in the Badlands, & in August 1864, soldiers attacked some of the survivors of the Killdeer Mountains.** By fall, 1864, the commander at Fort Sully assessed the situation of the Yanktonai, Hunkpatina, & others,

**“Their severe punishment in life & property for the last two years is an excellent groundwork for a peace I believe would be lasting...”<sup>63</sup>**

**With little other recourse, under coercion, the Yanktonai signed a treaty with the U.S. government at Fort Sully in October 1865. The tribes agreed to be at peace with the U.S. & other tribes, withdraw from overland routes through their territory, & in return for these concessions the U.S. provided monetary reparation & agricultural implements.**

### **Be It Hereby Recognized:**

**The 1865 Treaty signed by tribes was signed as a direct result of the unconstitutional slaughter, war crimes, & civil rights violations by U.S. Government Official General Alfred Sully, whose actions came following several cases of trespassing upon Native American lands; though no civil action was filed at the time in regards to such treaty being signed under coercion & duress, officials acting on behalf of The United States Government violated U.S.C. Title 15 §6307b.**

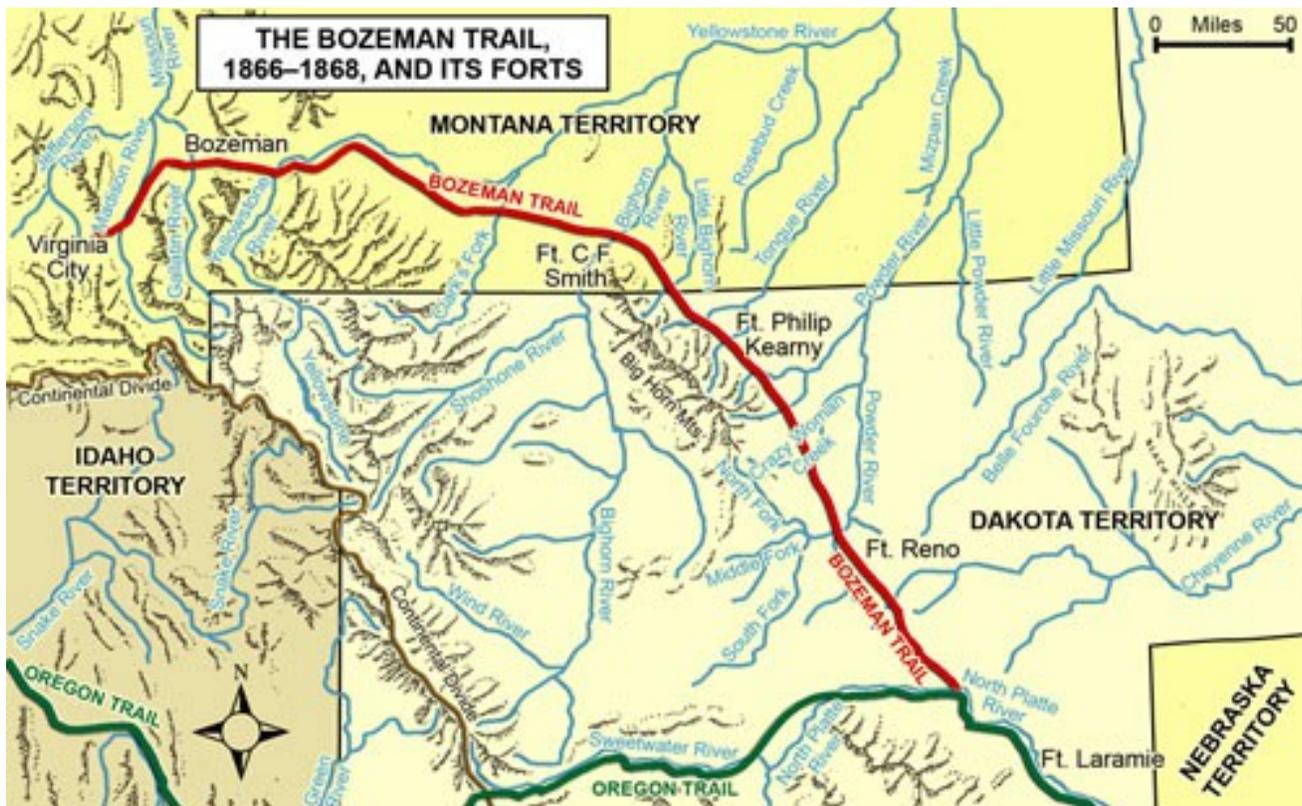
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<sup>63</sup> Jacobson, Clair. 1991. *The UnCivil War at Whitestone Hill*, pages 99-111, LaCrosse, WI: Pine Tree Publishing. ISBN-13: 978-0578018065

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In 1861 the Union was desperate for gold & silver to fund the Civil War effort. “Indian rights” were not a consideration when *the destiny of the Union* was at stake, so when gold was discovered in Montana, little was done to hold back the flood of fortune-seekers who overran Sioux treaty lands along the Bozeman Trail.

**Continued traffic through Sioux lands (*trespassing*) caused disruption in the lifeways of the people & cut through the heart of the Sioux buffalo ranges in the Powder River area. The Sioux repeatedly objected to intrusions in their territory & demanded government recognition of the 1851 Fort Laramie Treaty. Ultimately their protests fell on deaf ears. With *no peaceful solution in sight* the Sioux began to retaliate against trespass in their country.** The government’s need for gold coupled with demands for protection by travelers along the Bozeman Trail increased, so **the army moved in to protect non-Indian people, property, & rights-of-way through Dakota-Lakota territory.** Thus began the era commonly referred to as ***the Plains or Sioux Wars of 1865–1876.***



*The Bozeman Trail and its Forts, 1866–1868. (Map by Cassie Theurer, adapted from Prucha, Atlas of American Indian Affairs, 1990, page 128)*

## **1864: The Sand Creek Massacre**

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In the summer of 1867, when Congress convened the Indian Peace Commission, popular opinion in the eastern United States supported a diplomatic resolution to the so-called “Indian problem” on both the northern and southern Plains. (The negotiations on the southern Plains were not photographed.) Consisting of civilians and army generals, the commission managed to secure treaties with the region’s “hostile” tribes and convened its final meeting on October 7, 1868. By then, public sentiment had taken an aggressive turn and demanded increased military intervention in Indian matters. Overruling their more diplomatically minded colleagues, the commission’s military members – led by General William T. Sherman – used the shift in the political landscape to advantage. As a body, the commission resolved that the government “should cease to recognize the Indian tribes as ‘domestic dependent nations.’” Treaty-making, or diplomacy, was at an end, and in the coming years, military conflict characterized U.S.-Indian relations on the Plains. (Text from the exhibition website)



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The **Lakḥóta people** (pronounced [la'kʰota]; also known as **Teton**, **Thíthunwan** (“prairie dwellers”), and **Teton Sioux** (from Nadouessioux – ‘snake’ or ‘enemy’) are an indigenous people of the Great Plains of North America. They are part of a confederation of seven related Sioux tribes, the Očhéthi Šakówiŋ or seven council fires, and speak Lakota, one of the three major dialects of the Sioux language. The Lakota are the westernmost of the three Siouan language groups, occupying lands in both North and South Dakota. The seven bands or “sub-tribes” of the Lakota are:

- Sičhánǵu (Brulé, Burned Thighs)
- Oglála (“They Scatter Their Own”)
- Itázipčho (Sans Arc, Without Bows)
- Húnkpapḥa (“End Village”, Camps at the End of the Camp Circle)
- Mnikhówožu (“Plant beside the Stream”, Planters by the Water)
- Sihásapa (“Black Feet”)
- Oóhenuŋpa (Two Kettles)

Notable Lakota persons include Tháthánka Íyotake (Sitting Bull) from the Húnkpapḥa band; Touch the Clouds from the Miniconjou band; and, Thášúnke Witkó (Crazy Horse), Maḥpíya Lúta (Red Cloud), Heháka Sápa (Black Elk), Siŋté Glešká (Spotted Tail), and Billy Mills from the Oglala band. (Text from the Wikipediawebsite)

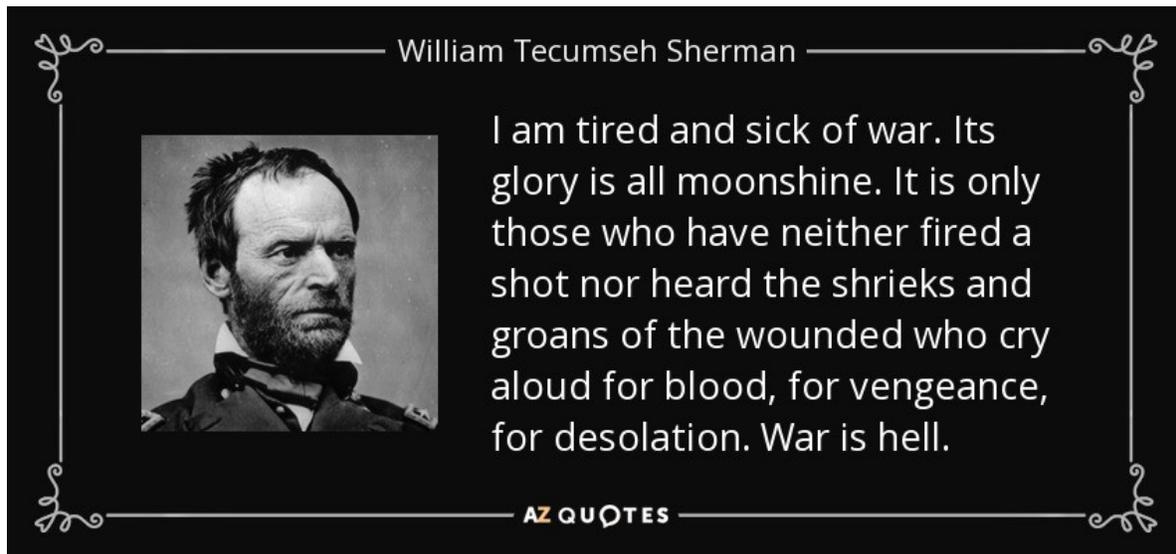
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## The *Re-Negotiated* Treaty of Fort Laramie, 1868

During the 1860s the American frontier was filled with wars between *trespassing settlers* & American Indians defending their land rights. On December 21, 1866 a supply train *traveling on Bozeman Trail* was attacked by Sioux natives who were *exhausted & infuriated* by continued treaty abuses. Soldiers under the command of Lieutenant Colonel William Fetterman at Fort Kearny then retaliated but were all killed by a small Sioux army led by Red Cloud.<sup>64</sup> **In 1867, a newly-formed congressional committee drafted a *Report on the Condition of the Indian Tribes*, which led to the establishment of an Indian Peace Commission, who sought to re-negotiate the original treaty & establish peace between settlers & native people.**

**In the spring of 1868 a conference was held at Fort Laramie resulting a *second Treaty of Fort Laramie*, wherein the U.S. recognized the Black Hills as part of the *Great Sioux Reservation*, to be set aside for their *exclusive use*— *this treaty also reduced the original treaty boundaries from the 1851 version*.** Native leaders conceded, hoping *this time* the government would honor the contract & secure the borders.<sup>65</sup> This second version of the treaty was signed by Lieutenant General Sherman, General William S. Harney, General Alfred H. Terry, General O. O. Augur, J. B. Henderson, Nathaniel G. Taylor, John G. Sanborn, & Samuel F. Tappan *on behalf of the United States*, & *by many chiefs & headmen of the Sioux*.



From *Letter to James E. Yeatman* of St. Louis, Vice-President of the Western Sanitary Commission (21 May 1865). As quoted on p. 358, & footnoted on p. 562, in *Sherman: A Soldier's Passion For Order* (2007), John F. Marszalek, Southern Illinois University Press, Chapter 15 ('Fame Tarnished').

Graphic source link: [http://www.azquotes.com/author/13493-William\\_Tecumseh\\_Sherman](http://www.azquotes.com/author/13493-William_Tecumseh_Sherman)

64 Lazarus, Edward. *Black Hills/White Justice: The Sioux Nation versus the United States, 1775 to the Present*. New York: HarperCollins, 1991. ISBN 978-0-8032-7987-2, page 38

65 National Archives, "Teaching With Documents Sioux Treaty of 1868": <https://www.archives.gov/education/lessons/sioux-treaty/>

## **Excerpts from Treaty of Fort Laramie, 1868**

### **ARTICLE I.**

From this day forward all war between the parties to this agreement shall for ever cease. **The government of the United States desires peace, & its honor is hereby pledged to keep it. The Indians desire peace, and they now pledge their honor to maintain it.**

**If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent, & forwarded to the Commissioner of Indian Affairs at Washington city, proceed at once to cause the offender to be arrested & punished according to the laws of the United States, & also reimburse the injured person for the loss sustained.**

### **ARTICLE II.**

**The United States agrees that the following district of country... [location described]... shall be set apart for the absolute & undisturbed use & occupation of the Indians** herein named, & for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; **& the United States now solemnly agrees that no persons, except those herein designated & authorized so to do, & except such officers, agents, & employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article,** or in such territory as may be added to this reservation for the use of said Indians, & henceforth they will & do hereby relinquish all claims or right in & to any portion of the United States or Territories, except such as is embraced within the limits aforesaid, & except as hereinafter provided.

### **ARTICLE XI.**

**In consideration of the advantages & benefits conferred by this treaty & the many pledges of friendship by the United States, the tribes who are parties to this agreement hereby stipulate that they will relinquish all right to occupy permanently the territory outside their reservations as herein defined, but yet reserve the right to hunt on any lands north of North Platte, & on the Republican Fork of the Smoky Hill river, so long as the buffalo may range thereon in such numbers as to justify the chase.**

**And they, the said Indians, further expressly agree:**

**1st.** That they will withdraw all opposition to the construction of the railroads now being built on the plains.

**2nd.** That they will permit the peaceful construction of any railroad not passing over their reservation as herein defined.

**3rd.** That they will not attack any persons at home, or traveling, nor molest or disturb any wagon trains, coaches, mules, or cattle belonging to the people of the United States, or to persons friendly therewith.

**4th.** They will never capture, or carry off from the settlements, white women or children.

**5th.** They will never kill or scalp white men, nor attempt to do them harm.

**6th.** They withdraw all pretense of opposition to the construction of the railroad now being built along the Platte river & westward to the Pacific ocean, & they will not in future object to the construction of railroads, wagon roads, mail stations, or other works of utility or necessity, which may be ordered or permitted by the laws of the United States. But should such roads or other works be constructed on the lands of their reservation, the government will pay the tribe whatever amount of damage may be assessed by three disinterested commissioners to be appointed by the President for that purpose, one of the said commissioners to be a chief or headman of the tribe.

**7th.** They agree to withdraw all opposition to the military posts or roads now established south of the North Platte river, or that may be established, not in violation of treaties heretofore made or hereafter to be made with any of the Indian tribes.

**ARTICLE XII.**

**No treaty for the cession of any portion or part of the reservation herein described** which may be held in common, **shall be of any validity or force as against the said Indians unless executed & signed by at least three-fourths of all the adult male Indians occupying or interested in the same**, and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his rights to any tract of land selected by him as provided in Article VI of this treaty.<sup>66</sup>

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<sup>66</sup> **Transcript of Treaty of Fort Laramie (1868):** <https://www.ourdocuments.gov/doc.php?flash=true&doc=42&page=transcript>

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**Alexander Gardner** (1821-1882)

*Bridge over the Laramie River near its Junction with the North Platte River, Fort Laramie,  
Dakota Territory*

1868

Albumen silver print

William T. Sherman Collection of Alexander Gardner Photographs, National Museum of the  
American Indian, Smithsonian Institution (P10128)



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**Alexander Gardner (1821-1882)**

*Indian Peace Commissioners in council with the Northern Cheyenne and Northern Arapaho,  
Fort Laramie, Dakota Territory*

1868

Albumen silver print

National Museum of the American Indian, Smithsonian Institution; William T. Sherman  
Collection of Alexander Gardner Photographs (P15390)



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*Preserved by Art Blart, “exhibition: ‘dark fields of the republic: alexander gardner photographs, 1859-1872’ at the national portrait gallery, washington “: <https://artblart.com/2016/03/01/exhibition-dark-fields-of-the-republic-at-the-national-portrait-gallery-washington/>*

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*Lakota chief Man Afraid of His Horses smokes a ceremonial pipe at the Fort Laramie treaty negotiations, 1868. National Anthropological Archives:  
<http://www.wyohistory.org/essays/peace-war-land-and-funeral-fort-laramie-treaty-1868>*

**United States Code Title 15 - COMMERCE AND TRADE, CHAPTER 89 - PROFESSIONAL BOXING SAFETY §6307b. *Protection from coercive contracts***

(a) General rule

(1)(A) A contract provision shall be considered to be in restraint of trade, contrary to public policy, & unenforceable against any boxer to the extent that it—

(i) is a coercive provision described in subparagraph (B) and is for a period greater than 12 months; or

(ii) is a coercive provision described in subparagraph (B) & the other boxer under contract to the promoter came under that contract pursuant to a coercive provision described in subparagraph (B).

(B) A coercive provision described in this subparagraph is a contract provision that grants any rights between a boxer & a promoter, or between promoters with respect to a boxer, if the boxer is required to grant such rights, or a boxer's promoter is required to grant such rights with respect to a boxer to another promoter, as a condition precedent to the boxer's participation in a professional boxing match against another boxer who is under contract to the promoter.

(2) This subsection shall only apply to contracts entered into after May 26, 2000.

(3) No subsequent contract provision extending any rights or compensation covered in paragraph (1) shall be enforceable against a boxer if the effective date of the contract containing such provision is earlier than 3 months before the expiration of the relevant time period set forth in paragraph (1).

(b) Promotional rights under mandatory bout contracts

No boxing service provider may require a boxer to grant any future promotional rights as a requirement of competing in a professional boxing match that is a mandatory bout under the rules of a sanctioning organization.

(c) Protection from coercive contracts with broadcasters

Subsection (a) of this section applies to any contract between a commercial broadcaster and a boxer, or granting any rights with respect to that boxer, involving a broadcast in or affecting interstate commerce, regardless of the broadcast medium. For the purpose of this subsection, any reference in subsection (a)(1)(B) of this section to “promoter” shall be considered a reference to “commercial broadcaster”.<sup>67</sup>

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<sup>67</sup> <https://www.gpo.gov/fdsys/pkg/USCODE-2004-title15/html/USCODE-2004-title15-chap89-sec6307b.htm>

**In regards to Article 1 of The Treaty of Fort Laramie of 1868,  
*the Bureau of Indian Affairs can be reached at:***

**Mailing Address:**  
Bureau of Indian Affairs  
MS-4606  
1849 C Street, N.W.  
Washington, D.C. 20240

**Telephone:** (202) 208-5116 or (800) 246-8101

**Telefax:** (202) 208-6334

**Mission Statement:**

“The Bureau of Indian Affairs’ mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes and Alaska Natives.”<sup>68</sup>

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68 Bureau of Indian Affairs *Official Website:* <http://www.bia.gov/WhoWeAre/BIA/>

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