

BEFORE THE INDIAN CLAIMS COMMISSION

THE SIOUX TRIBE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 74
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: July 19, 1978

ADDITIONAL FINDINGS OF FACT

Preliminary Statement

On August 19, 1976, the plaintiffs filed a motion requesting "an order that no offsets, either payments on the claim or gratuities be deducted" from any potential award in this case. The defendant filed its response in opposition to the motion on August 30, 1976.

On October 12, 1976, pursuant to an order of the Commission, oral argument was held before the full Commission on the issue whether defendant had paid any consideration for the lands it obtained from the Sioux under the 1868 treaty. On November 26, 1976, the defendant submitted additional evidence relating to the consideration question. As part of its motion for the admission of these exhibits into evidence, the defendant included a memorandum arguing that this evidence established that it was entitled to offset consideration payments against any award recovered by plaintiffs in this docket.

On January 14, 1977, again pursuant to an order of the Commission, oral argument was held before the full Commission on the issue whether the course of dealings between the defendant and the plaintiffs permits the Commission, in good conscience, to allow any gratuitous offsets against any judgment recovered by plaintiffs in this case.

The Commission incorporates into this decision by reference findings of fact 3 through 6 entered by this Commission in Docket 74-B, Sioux Nation v. United States, 33 Ind. Cl. Comm. 151, 245-259 (1974). Further, the Commission makes the following findings of fact, which are supplemental to findings of fact 36 through 60 entered herein on July 15, 1976, 38 Ind. Cl. Comm. 469, 487-530.

61. Establishment of the Powder River Road.

Early in the 1860's, gold was discovered in Montana. The major route of travel for emigrants to the Montana gold fields was from Fort Laramie up the valley of the Powder River and then westward into Montana. This route lay in the middle of the principal hunting grounds of the western Sioux. The presence of whites and the resulting disruption to the Sioux way of life led to conflict between the Indians and the whites.

In an attempt to reach a pacific settlement of the dispute between the Sioux and the whites, the United States, in 1865, entered into nine treaties with the various Sioux bands. These treaties, among other things, provided that the signatory bands would withdraw from along any overland routes existing or to be built through their territory. However, those Upper Brule, Oglala, and Hunkpapa Sioux who resided principally along the route to Montana refused to participate in these 1865 treaties.

In 1866 the United States again attempted to get the consent of the western Sioux to the road to Montana. Federal officers presented to these Sioux a proposed treaty by which the Indians would consent to a wagon road along the Powder River and to the establishment of military posts along the road. Although some Sioux agreed to the treaty, none of the principal chiefs were willing to sign it, and it was never submitted for Senate ratification. Nonetheless, the United States Army occupied the Powder River area and erected three forts along the road. The Sioux reacted to this invasion of their territory by waging war against the Army and any white emigrants attempting to use the Powder River Road.

62. Appointment of Special Indian Commission.

After the Sioux commenced hostilities against the whites, the Powder River Road became virtually impassable to white emigrants, and the Powder River forts were able to offer very little protection. In December of 1866 the Sioux inflicted a significant defeat on the Army, wiping out the entire command of Captain William Fetterman outside Fort Phil Kearny. Faced with the prospect of continued costly warfare, the United States appointed a Special Indian Commission to ascertain the causes of the war and to seek a method to end it.

63. Instructions to the Special Indian Commission, February 1867.

On February 18, 1867, the Special Indian Commission was instructed as follows with regard to its function: It was not to hold treaties, but rather to talk with the Indians to ascertain whether any tribe or portion

of a tribe was willing to go on a reservation. It was also to find an adequate reservation on the Yellowstone, Powder, and Tongue Rivers. The reservation selected was to have good soil, water, and timber, and was to be adequate for stock raising.

The Commission was informed that the Sioux were the leading tribe of the area, and that if they could be induced to accept a reservation a large section of country would be ridded of Indians.

64. Letter from the Commissioner of Indian Affairs to the Secretary of Interior, February 1867.

On February 4, 1867, the Commissioner of Indian Affairs, L. V. Bogey, wrote to the Secretary of Interior concerning the Powder River Road. He stated that the tribes along the Powder River had good cause to complain about the 1866 treaties. He continued that it would be unreasonable to expect the Sioux to abandon their best hunting ground while hunting was their sole means of livelihood. Some other means of support could be provided for the Sioux on a reservation. Bogey recommended the types of material assistance which would enable the Sioux to become self sufficient.

65. Proposal of Government Policy Towards Indians, February 1867.

On February 11, 1867, Commissioner of Indian Affairs L. V. Bogey wrote to Secretary of Interior Browning. He stated that the hunting grounds of the Indians had been invaded and that an inevitable clash between whites and Indians had resulted. There were but two ways to solve the problem: to destroy the Indians, or to move them out of the

way of white settlement. The first solution would cost millions of dollars and thousands of lives, and would hold up the settlement of the territories. Bogey suggested instead that the Indians be moved onto reservations where, within a few years, they would become self sufficient.

66. Letter on the Powder River Road from Sanborn to Commissioner of Indian Affairs, March 1867.

On March 17, 1867, Special Indian Commissioner Sanborn wrote to the Commissioner of Indian Affairs. He stated that the Government had two options concerning the Powder River Road. The road could either be held open by military force or abandoned. In Sanborn's opinion, the former option would result in taking Sioux land by conquest rather than by treaty. Sanborn observed that the Sioux were waging a desperate struggle to protect their game and their possession of the Powder River area.

67. Meeting of the Special Indian Commission with Brules and Oglalas, April 1867.

On April 20, 1867, the Special Indian Commission met with the Brule and Oglala bands. General Parker spoke on behalf of the United States. He requested that the Indians consider what area they wanted for a permanent home. He told them that the Commission did not come to treat for lands or for new roads. The Government did not ask the Sioux to move from their present location in the country. Parker then said, "We do not come with presents, to keep you friendly. Your Great Grandfather wants to know first, how many of you are friendly and will promise to remain so. If you keep your promise, he will then make your hearts glad, by large presents of goods and provisions." Pl. Ex. 363, p. 33.

68. Council at Fort Laramie, May 1867.

On May 16, 1867, the Special Indian Commission held a council with the Sioux at Fort Laramie. The Sioux were informed that when the war was over the Americans wanted the Indians to designate some country as a permanent home, and to take up agriculture. They were promised that the United States could provide them with whatever help they needed to become farmers.

69. Letter from Commissioner Buford to Secretary of War Concerning Recommendation of Special Indian Commission, June 1867.

On June 6, 1867, Special Indian Commissioner Buford wrote to Secretary of War Stanton. He stated that in its final report the Special Indian Commission would recommend that all country north of Nebraska and west of the Missouri out to the Musselshell be set aside as Indian territory, with no white military or civilian presence to be permitted. Buford further stated that the Powder River Road to Montana was unnecessary. Alternate routes to Montana existed.

70. Recommendations of Special Indian Commission, June 1867.

In its report of June 6, 1867, the Special Indian Commission gave its view on the wars with the plains Indians. It stated that to carry on a successful war against these Indians would require about twenty-five

thousand men and a period of five to ten years. Such an expedition would cost three or four hundred million dollars, an expense which the Commission suggested was needless and which the country could not afford.

The Commission recommended the establishment of a reservation. There was sufficient game in the area to satisfy the needs of the Indians for some years, and as the game diminished the Indians would naturally resort to agricultural and pastoral pursuits for sustenance. In about three generations the Indians, if protected by the Government, would reach a civilized state. The Commission further recommended that material assistance be supplied to the Indians to assist their civilization.

71. Report of Commissioner Sanborn Concerning the Powder River Road, July 1867.

On July 8, 1867, Special Indian Commissioner Sanborn reported to the Secretary of Interior. He stated that the attempt by the United States to establish the Powder River Road without the consent of the Sioux was a violation of law and the direct cause of the current hostilities. Further, the forts along the Powder River, although very expensive to build and maintain, did not provide protection to emigrants. The cost of opening the Powder River Road had already exceeded 20 million dollars. Sanborn recommended that the closing of the road be seriously considered.

72. Indian Commission Warning on Indian Policy, July 1867.

On July 12, 1867, the Special Indian Commission reported to the Secretary of Interior. The Secretary was warned that, if the present policy of disregarding Indian rights was continued, a gigantic Indian

war would result of indefinite duration and costing hundreds of millions of dollars. The Commission stated that it would cost considerably less to recognize the rights of the Indians and enter into a fair treaty.

73. Commissioner of Indian Affairs Recommends Civilization of Sioux.

In a letter dated July 12, 1867, to Secretary of Interior Otto, Commissioner of Indian Affairs Taylor stated that the only way that the Indians could be saved was to move them onto large reservations. All nongovernmental whites were to be barred. On the reservations the Indians would be instructed in the ways of civilization.

74. The Indian Peace Commission.

By the Act of July 20, 1867, 15 Stat. 17, the Congress authorized the President to appoint a Commission with the power to meet with the Indians then waging war against the United States; to ascertain the causes for their acts of hostility; and to enter into treaties with these Indians which would remove the causes of their complaint, establish security along the railroad line to the Pacific and other thoroughfares of travel to the west, and ensure civilization for the Indians and peace and safety for the whites.

The Commissioners were also instructed to examine and select a district or districts of country to serve as a permanent reservation for all the Indians residing east of the Rocky Mountains.

75. Objectives of the Indian Peace Commission.

In its subsequent report to the President, dated January 7, 1868, the Indian Peace Commission stated the objectives of its mission. It was to

enter into treaties with the hostile Indians which would 1- remove the causes of war, 2- secure the frontier settlements and the safe building of railroads, and 3- inaugurate a plan for the civilization of the Indians.

76. Statement of General Auger Concerning Expenses of War With the Sioux, August 1867.

On August 16, 1867, General Auger made a statement to the Indian Peace Commission. He stated that from the military standpoint the Powder River Road was objectionable. The Indians would fight to the death to retain the Powder River country, and the cost in time, money, and lives to defeat them militarily would far exceed the cost of a peaceful solution.

77. Meeting of the Indian Peace Commission with the Minneconjou, Blackfeet, Two Kettles, and Sans Arcs at Fort Sully, August 1867.

The Indian Peace Commission met with the Minneconjou, Blackfeet, Two Kettles, and Sans Arc bands of Sioux on August 31, 1867, at Fort Sully. Speaking on behalf of the United States, General Sanborn informed the Sioux that the purpose of the Peace Commission was to examine Indian country to determine whether it was suitable for a reservation, and to hear any complaints by the Indians.

Two Lances, a Two Kettle, replied to the Commission that his people did not want to give up any of their land. They did not wish to be confined to any one place. Two Lances added that the Sioux still objected to the Yankton land sale of 1858.

The Commissioners were also informed that there were some Sioux who were willing to abandon hunting and adopt agriculture. These Indians wanted the tools with which to become farmers.

Senator Henderson, concluding the conference, told the Sioux that they were retaining too much land and that they would never prosper until they abandoned hunting and took up agriculture. He promised that they would receive large amounts of assistance from the Government if they agreed to become farmers.

78. Meeting of the Indian Peace Commission with the Brules and Oglalas at North Platte, September 1867.

On September 19, 1867, the Indian Peace Commission met with the Brule and Ogalala bands of Sioux at North Platte. Spotted Tail, a Brule, stated that the major complaint of the Sioux concerned the Powder River Road. He said that the road drove away the game upon which the Sioux subsisted. Only if the Powder River Road were closed to whites would peace between the Sioux and the United States be restored.

Spotted Tail also told the Commissioners that the Sioux wished to continue hunting on all their lands both north and south of the Platte. He added that the Brule could not become farmers until all the game was gone from their lands. Several other Sioux expressed sentiments similar to that of Spotted Tail.

General Sherman replied to the Sioux. He stated that the question of the Powder River Road was negotiable, but only if the Indians ceased their hostilities. He proposed that the Sioux accept a reservation on

the Missouri, from which all whites would be excluded, for the purpose of becoming farmers. If they did so, the Government would supply whatever assistance they might need. Sherman warned the Indians that if they continued to wage war on the whites they would eventually all be killed.

79. Attitude of the Warring Sioux, Fall 1867.

H. M. Matthews, special agent for the Indian Peace Commission, wrote to N. G. Taylor, Commissioner of Indian Affairs, on February 8, 1868. He stated that in the fall of 1867 he had met with the hostile Sioux. They had expressed their willingness to attend a peace treaty in the spring, but stated that peace could be attained only when the whites abandoned the Powder River Road and the forts along it. The Sioux believed that the presence of the whites in their country had decreased the game. Unless the Powder River country was abandoned and left solely to the Indians there could be no peace. If the Government agreed, however, a strong and lasting peace could be obtained, and the Sioux would make no claim to country south of the Platte, or interfere with the Union Pacific Railroad.

80. Letter from A. White of Indian Peace Commission to Secretary of Interior Browning, October 1867.

On October 2, 1867, A. White, a member of the Indian Peace Commission, wrote to Secretary of Interior Browning. He stated that the proposition to establish the Sioux on a reservation was not acceptable to all the Indians. Some Sioux insisted on remaining hunters until all game was gone from their lands.

81. Attitude of Red Cloud on War With the United States.

On January 7, 1868, the Indian Peace Commission reported to the President of the United States. The report indicated that Red Cloud, the leader of the warring Sioux, had not attended the Fort Laramie council held in November 1867. Red Cloud's failure to attend was attributed to his lack of trust in the Commission, his belief that the whites were bent on his destruction, and the lateness of the season. Red Cloud did send a message indicating that the war was being waged only to protect the Powder River country. He stated that peace would come when the Army withdrew its forts from the Powder River Road.

82. Proposals of the Indian Peace Commission, January 1868.

In its report of January 7, 1868, the Indian Peace Commission recommended the establishment of a permanent reservation for all the Indians east of the Rocky Mountains. Once the Indians were on the reservation, agriculture and industry should be introduced among them; schools should be provided with children required to attend; farmers, mechanics, millers, and engineers should be provided to instruct them. Annuities should consist only of domestic animals, agricultural implements, clothing, and necessary subsistence in the early years. Money annuities should be abolished forever. It was suggested that in a few years the Indians would become self sufficient and the provisions could be discontinued.

The Commission recognized that the older Indians would refuse to be confined to a reservation, and that to try to force them on would result in renewed warfare. However, it was expected that the inevitable decrease

in game would eventually lead them to go to the reservation, which the younger Indians would have, in the meantime, developed.

83. Indian Peace Commission Policy on Treaty.

In 1870 General Sanborn wrote to V. Colher, Secretary of the Board of Indian Commissioners. Sanborn related that it had been the desire of the Indian Peace Commission to congregate all the Sioux on an agricultural reservation at the earliest possible time, and at the least cost to the Government. However, the Oglalas, Upper Brule, and Minneconjou bands refused to sign any treaty that would force them to move onto a reservation while they could still live by hunting.

The Commission had been split on how to handle this situation. Some wished to continue the war to force the Indians onto the reservation. However, the commanders of the Department of the Platte and the Department of Dakota indicated that it would require at least 40,000 troops to subdue the hostile Sioux. General Sherman stated that the condition of the southern states and the financial position of the country made such an undertaking inexpedient. The Peace Commission finally agreed to seek peace on the best terms available to the United States.

84. Council with Spotted Tail, April 1868.

On April 4, 1868, the Indian Peace Commission met with Spotted Tail, the Brule. General Sanborn reiterated that the Peace Commission had come to make peace with the Sioux and to set apart a tract of land as a permanent home for the Sioux. Sanborn added that the Government agreed to abandon the Powder River Road in exchange for peace.

85. Preliminary Council with the Sioux, April 1868.

On April 13, 1868, the Indian Peace Commission held a preliminary session with the Sioux. Baptiste expressed the position of the Sioux. He stated that he wanted all the soldiers removed from his country. He continued that his people would agree to become farmers only when the game was gone. Now the game was still plentiful and most of the Indians wished to remain outside of the proposed reservation.

86. Council with the Brule at Fort Laramie, April 1868.

At the council with the Brule at Fort Laramie on April 28, 1868, General Sanborn proposed a treaty. Under the treaty the Indians would agree to remain at peace with the whites. The Government would agree to protect the Indians and to keep whites out of a part of the Sioux country. The Government would further agree to supply the Sioux with clothing and other goods while they continued hunting; and with cattle, horses, cows, and agricultural implements if they agreed to settle down and live like white men. Under the treaty the Sioux could continue to roam and hunt so long as they remained peaceful, and so long as the game remained. When the game was gone, the Sioux would have the reservation as a means to support themselves.

Sanborn went on to inform the Sioux that if they continued to fight they would eventually be overrun and destroyed by the whites. He warned them that this was their last chance for peace.

General Harney spoke to the Indians next. He stated that the whites were not negotiating out of fear, but out of concern for the Sioux. He warned that if the Army really commenced war against the Sioux the Indians would be quickly destroyed.

Iron Shell was the first to reply for the Sioux. He stated that the Indians wanted the Army forts removed from their country. He believed that this would leave the Sioux with sufficient room to live. When the whites left, the game would return and the Indians would have food to eat. He said that their god had placed the Sioux on earth to live by hunting game.

The next Brule to speak was Long Face. He reiterated the Sioux desire that the forts be removed. He believed that there would then be plenty of game for the Indians.

White Crane spoke for the Sioux the following day. He stated that the Indians wanted their game restored and that this could only happen if the whites left their land. He stated further that he was not brought up to plow or raise crops from the ground. According to White Crane the war was caused by the Powder River Road and the forts. If they were removed, peace would follow.

White Bull then spoke. He said that the warriors would not accept any treaty goods from the United States. He added that the only thing the Sioux were opposed to was the Powder River Road. They did not want white people in the Powder River area and were glad that the Government intended to give the country north of the Platte to the Sioux.

American Horse spoke next. He wanted the whites to realize that the goods the Indians were receiving were presents and not annuities. He did not want any treaty goods from the United States.

The chiefs and headmen of the Brules agreed to and signed the treaty on April 29, 1868.

87. Council with the Oglala and Minneconjou at Fort Laramie, May 1868.

On May 24, 1868, the Indian Peace Commission met with the Oglalas and Minneconjous at Fort Laramie. General Sanborn proposed a treaty of peace. Under the treaty the United States would agree to withdraw from and close the Powder River Road, to exclude all whites from the proposed reservation, and to concede to the Sioux the right to hunt wherever game could be found. For those Sioux who desired to abandon the chase and commence farming, the United States would provide cattle, sheep, clothing, tools, schools, doctors, and instructors. Sanborn stated, "For all of this, we ask of you peace only, and the surrender of such lands as no longer afford you any game." Pl. Ex. 6, p. 86.

Sanborn went on to tell the Sioux that these were the best terms they could expect. He warned them that if they did not accept the treaty the war would continue until the Sioux were destroyed.

The chiefs and headmen of the Oglalas agreed to and signed the treaty May 25, 1868. The Minneconjous signed on May 25 and May 26.

On May 28, 1868, before the Fort Laramie treaty council adjourned, One Horn spoke for the Oglalas. One Horn stated that the Indian country belonged to the Sioux and that they would never cede it. Although they came to Laramie to trade, they liked to return to their lands.

One Horn pointed out that the Indians had never invaded white country. Rather the whites had invaded Indian country. He did not understand why the Sioux were being blamed for defending their own country.

One Horn stated that he wished the military posts removed from Sioux country. When the soldiers left, he said, the game would return.

88. Conference Between the Sioux and Father DeSmet, June 1868.

In June 1868 the Sioux met with Father DeSmet. Black Moon stated his views on the treaty negotiations. He said that the whites were ruining Sioux country. He wanted no remuneration for any roads. He would never sell any part of his country.

Sitting Bull then announced that he wished it known that he had no intention of selling any of his country to the whites.

89. Treaty Council at Fort Rice, July 1868.

The Indian Peace Commission met with the northern bands of Sioux at Fort Rice on July 2, 1868. General Sanborn told the Sioux that although they had been waging war against the whites for three years, the United States had merely been fighting a defensive war. During this period the Army was engaged more in protecting the Sioux from the whites than in fighting the Sioux. He warned, however, that unless the Sioux agreed to peace the President would be forced to unleash the Army against them.

Sanborn then informed the Sioux that the Commission had come out to hear the complaints of the Indians, to agree upon a plan whereby the Indians could stay at peace, and to set apart a permanent home for the

Indians. Sanborn stated that terms of peace had already been reached with the southern tribes and with the Brules, Oglalas, and Minneconjous. He proposed that the remaining Dakotas also sign the peace treaty.

Under the treaty, Sanborn explained, the Sioux would bind themselves to remain at peace with the whites. They would also agree to make redress for any deprivations carried out by Indians. The Government, in turn, would agree to make redress for all injuries done by whites. The Government would further promise to exclude all whites from the reservation, to remove all military posts from the Powder River country, and to hold the western country as unceded Indian territory until the Sioux agreed to cede it by treaty. All Sioux who decided to abandon the chase and to settle down permanently could "do so in the country from which the whites are excluded West of the Missouri River, and not elsewhere." Def. Ex. 0-20, Part II, p. 123. All those who wished to continue hunting could do so at any time so long as they remained peaceful and the game lasted. To those Sioux who decided to settle the Government would agree to provide goods and services to help them live well. To those who continued to hunt the Government would also give presents.

The Commissioners gave their personal pledge to the Sioux to try to get the Yankton Reservation and the Yanktonais hunting grounds on the James River in the Dakota Territory included in the reservation, but stated that they did not know if this was possible.

Sanborn promised that the Government would support all Indians who could not subsist by the hunt or by agriculture. All the Government desired of the Sioux was "to remain at peace, to settle down and commence farming into the country designated for your home when you abandon hunting and surrender such lands as no longer afford you any game." Def. Ex. 0-20, Part II, pp. 123-124.

Several Indians replied to General Sanborn. Man That Goes in the Middle, a Hunkpapa, told Sanborn that his people did not intend to accept any goods from the whites. Two Bears, a lower Yanktonais, stated that although he wanted peace, he was unwilling to sell any of his land to the whites. Later, Two Bears spoke again stating that he did not understand the terms of the treaty.

General Sanborn explained the terms of the treaty again. He stated that the reservation would be for the Indians who desired to take up farming, although hunting could also be done there. The land between the reservation and the mountains would be set aside as hunting country. The whites would be kept out of this land which would belong to the Indians.

Sanborn added that the Government understood "when you tell us that you don't want to receive any presents, that you don't wish to be thought as selling your land. We are not going to give you these goods in exchange for any land -- We give them to you to help you along." Def. Ex. 0-20, Part II, p. 137. Sanborn concluded that Indian land would be of no use to the whites until all the game was gone.

90. General Sanborn's Representation to the Sioux at Fort Rice.

In a communication from Fort Sully, Dakota Territory, dated February 3, 1872, it was reiterated that at Fort Rice General Sanborn had told the Sioux that in agreeing to settle within the Great Sioux Reservation they were not relinquishing their right to any territory at that time hunted on by the Sioux.

91. Red Cloud Signs the 1868 Treaty.

On November 20, 1868, Major William McE. Dye wrote to General G. D. Ruggles, describing the signing of the 1868 treaty by Red Cloud. Red Cloud did not want the treaty provisions concerning farming and the reservation read to him, as the Sioux's present home was teeming with game and he did not intend to go to a new country. He thought it was wrong that the Government would try to induce the Sioux to give up hunting and move onto a reservation.

Two days later, after the terms concerning the extent of Sioux territory and the provisions keeping out white people were again read to him, Red Cloud finally signed the treaty. He then stated his intention to return to the Powder River. He repeated that he did not intend to abandon the chase for the lands of the reservation, and that he would not learn to farm.

92. Army Views on the Sioux Peace Treaty, November 1868.

In a letter to General Sherman, dated November 23, 1868, General William Harney described the terms of the treaty with the Sioux. Under the treaty all war was to cease. The United States was to set apart a

reservation for the exclusive use of the Sioux, and to provide them with the necessary means of subsistence and whatever other assistance was necessary to enable them to abandon their nomadic habits and adopt those of civilized life. The Sioux in turn agreed to abandon their established habits of life, settle down upon a definitely fixed reservation, and look to the Government for support and instruction.

Harney explained that it was the object of the Government policy to secure and preserve peaceful relations with the Indian tribes, to end sanguinary strife between the Indians and the whites, and to extend to the Indians the blessings of civilization and Christianity.

Harney further stated that the ratification of the treaty with the Sioux, and its faithful observance, would secure lasting peace and save millions of dollars to the Treasury and thousands of lives. Failure to ratify would cause a renewal of the hostilities which could then be ended only by the extermination of the Indians.

93. Views of the Commissioner of Indian Affairs on the Cause of the War with the Sioux.

In his 1868 annual report to the Secretary of Interior, Commissioner of Indian Affairs Taylor related the history of the Sioux war. He stated that in 1866 the military took possession of the Powder River country, within the acknowledged territory of the Sioux, and built three forts without the consent of the Sioux and in direct violation of treaty stipulations. This event triggered the war which cost millions of dollars and hundreds of lives.

94. Features of 1868 Treaties.

In his 1868 annual report, Commissioner Taylor described the major features of the treaties entered into with the Sioux, the Northern Cheyenne and Arapaho, and the Crow. These were 1- the binding of the Indians to peace, 2- the designation of reservations for the tribes, and 3- the provision of the means for their education and civilization.

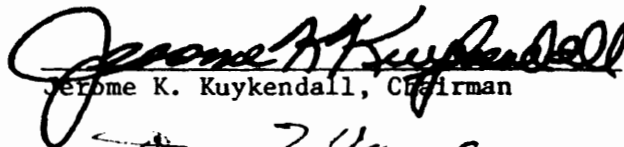
95. Council with the Crow at Fort Laramie.


On November 12, 1867, the Indian Peace Commission met with the Crow at Fort Laramie. The United States spokesman informed the Indians that the Government wanted to set aside a reservation for the Crow. The Government wanted to buy from the Crow the right to use and settle on the remainder of their lands, reserving to the Crow only the right to hunt. In return the United States would furnish the Indians many goods and services.

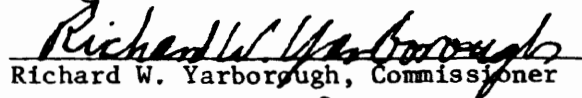
96. Council with the Shoshones and Bannocks.

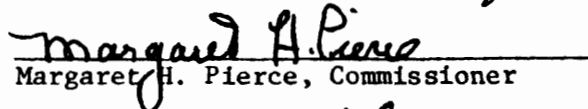
On October 6, 1868, General Auger wrote to the president of the Indian Peace Commission concerning his negotiations with the Shoshones and Bannocks. He stated that he was sent to treaty with these Indians who had been at peace with the whites for years. He had informed the Indians that the whites would continue to enter and settle the Indians' land and that this was the wish of the Great Father. He told them that the United States intended to "make the same arrangements for acquiring such title as you may have to this country as the Commission has heretofore made with the other tribes." Def. Ex. 0-20, Part II, page 165.

The Indians were to select a reservation from which whites would be barred.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner