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The Dakota Conflict Trials

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In 1862 the Sioux Nation stretched from the Big Woods of Minnesota to the Rocky Mountains. There were seven Sioux tribes, including three western tribes, collectively called the Lakota, and four eastern tribes living in Minnesota and the eastern Dakotas called the Dakota. About 7,000 members of the four Dakota tribes lived on a reservation bordering what was in 1862 the frontier, the Minnesota River in southwestern Minnesota. The Dakota Conflict (or Dakota War or Sioux Uprising) involved primarily the two southernmost Dakota tribes, the Mdewakantons and Wahpekutes. Tribes consisted of bands, each with a leader or chief. The Mdewakantons, for example, were divided into nine bands. A majority of the 4,000 members of the two northern tribes, the Sissetons and the Wahpetons, were opposed to the fighting. A large number of Sissetons and Wahpetons had been converted both to farming and Christianity, and had both moral objections and strong reasons of self-interest for keeping peace with the whites. In addition to pure-blood Indians, there were many so-called mixed-bloods, the products of relationships between Indians and settlers. A majority of mixed-bloods sided with whites or avoided participation in the Conflict altogether.

A decade before the Dakota Conflict, the Minnesota Territory, stretching from the upper Mississippi to the Missouri River, was still mostly Indian country. The conifer forest and lakes of Northern Minnesota belonged to the Ojibway (or Chippewa), while the deciduous forests and prairie of southern Minnesota was shared by the Dakota and a much smaller number of Winnebago. In 1851, however, the Dakota by treaty agreed to give up most of southern Minnesota. The land was ceded to the United States in return for two twenty-mile wide by seventy-mile long reservations along the Minnesota River and annuity payments totaling $1.4 million dollars over a fifty-year period. Seven years later, in exchange for increased annuity payments, the Dakota ceded about half of their reservation land.

The causes of the Dakota Conflict are many and complex. The treaties of 1851 and 1858 contributed to tensions by undermining the Dakota culture and the power of chieftains, concentrating malcontents, and leading to a corrupt system of Indian agents and traders. Annuity payments reduced the once proud Dakota to the status of dependents. They reduced the power of chiefs because annuity payments were made directly to individuals rather than through tribal structures. They created bitterness because licensed traders sold goods to Indians at 100% to 400% profit and frequently took "claims" for money from individual Dakota paid out of tribal funds. No effective means of legal recourse was available to wronged Dakota, leading some Dakota to talk of another option open to them: robbery and violence. The fact that the Dakota people were squeezed into a small fraction of their former lands made it easy, according to Minnesota historian William Folwell, "for malcontents to assemble frequently to growl and fret together over grievances."

Annuity payments for the Dakota were late in the summer of 1862. An August 4, 1862 confrontation between soldiers and braves at the Upper Agency at Yellow Medicine led

to a decision to distribute provisions on credit to avoid violence. At the Lower Agency at Redwood, however, things were handled differently. At an August 15, 1862 meeting attended by Dakota representatives, Indian Agent Thomas Galbraith, and representatives of the traders, the traders resisted pleas to distribute provisions held in agency warehouses to starving Dakota until the annuity payments finally arrived. Trader Andrew Myrick summarized his position in the bluntest possible manner: "So far as I am concerned, if they are hungry, let them eat grass." Unbeknownst to those gathered at the Lower Agency, the long delayed 1862 annuity payments were already on their way to the Minnesota frontier. On August 16, a keg with $71,000 worth of gold coins reached St. Paul. The next day the keg was sent to Fort Ridgely for distribution to the Dakota. It arrived a few hours too late to prevent an unprecedented outbreak of violence.

On Sunday, August 17, four Dakota from a breakaway band of young malcontents were on a hunting trip when they came across some eggs in a hen's nest along the fence line of a settler's homestead. When one of the four took the eggs, another of the group warned him that the eggs belonged to a white man. The first young man became angry, dashed the eggs to the ground, and accused the other of being afraid of white men, even though half-starved. Apparently to disprove the accusation of cowardice, the other Dakota said that to show he was not afraid of white men he would go the house and shoot the owner. He challenged the others to join him. Minutes later three white men, a white woman, and a fifteen-year old white girl lay dead.

Big Eagle, a Dakota Chief, recounted what happened after the young men reached Chief Shakopee's camp late on the night of August 17:

> *The tale told by the young men created the greatest excitement. Everybody was waked up and heard it. Shakopee took the young men to Little Crow's house (two miles above the agency), and he sat up in bed and listened to their story. He said war was now declared. Blood had been shed, the payment would be stopped, and the whites would take a dreadful vengeance because women had been killed. Wabasha, Wacouta, myself and others still talked for peace, but nobody would listen to us, and soon the cry was "Kill the whites and kill all these cut-hairs who will not join us." A council was held and war was declared. Parties formed and dashed away in the darkness to kill settlers. The women began to run bullets and the men to clean their guns....*
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> *At this time my village was up on Crow creek, near Little Crow's. I did not have a very large band -- not more than thirty or forty fighting men. Most of them were not for the war at first, but nearly all got into it at last. A great many members of the other bands were like my men; they took no part in the first movements, but afterward did. The next morning, when the force started down to attack the agency, I went along.... The killing was nearly all done when I got there. Little Crow was on the ground directing operations. I saw all the dead bodies at the agency. Mr. Andrew Myrick, a trader, with an Indian wife, had refused some hungry Indians*

credit a short time before when they asked him for provisions. He said to them; "Go and eat grass." Now he was lying on the ground dead, with his mouth stuffed full of grass, and the Indians were saying tauntingly: "Myrick is eating grass himself." When I returned to my village that day I found that many of my band had changed their minds about the war, and wanted to go into it. All the other villagers were the same way.

Events moved quickly. Forty-four Americans were killed and another ten captured in the first full day of fighting in and around the Lower Agency at Redwood. Nearly two hundred additional whites died over the next few days as Dakota massacred farm families and attacked Fort Ridgely and the town of New Ulm. Panicking settlers fled eastward from twenty-three counties, leaving the southwestern Minnesota frontier largely depopulated except for the barricaded fortifications at Fort Ridgely and New Ulm. On August 23, a second Dakota attack on New Ulm left most of the town burned to the ground, and 2,000 refugees, mostly women, children, and wounded men, set off in wagons and on foot for Mankato, thirty miles away. On August 26, three days after Governor Alexander Ramsey appointed Colonel Henry Sibley, a former governor, to command American forces that would attempt to suppress the uprising, Sibley advanced from the east with 1,400 soldiers toward Fort Ridgely. The next day, Sibley and his men succeeded in lifting the Dakota siege at Fort Ridgely, and the second phase of the Dakota Conflict-- an organized American military effort to defeat and punish the Sioux-- began.

The Dakota offensive continued to achieve success through early September. At dawn on September 2 at Birch Coulee Creek, Dakota warriors attacked a 170-man party of soldiers sent out to bury the bodies of settlers, killing twenty soldiers and ninety horses. Other Dakota attacks were made at Acton, Hutchinson, and Fort Abercrombie. Little Crow is generally acknowledged to have been the leader of the warring Dakota, but Chiefs Mankato, Big Eagle, Shakopee and others played significant leadership roles.

By mid-September, the initiative had shifted to the American forces. On September 23, in the decisive Battle of Wood Lake, 700 to 1,200 Dakota warriors were forced to withdraw after suffering heavy casualties. Meanwhile, divisions among Dakota on the war increased. To the north, chiefs of the Upper Agency Sisseton and Wahpeton continued to oppose the fighting. Chiefs Red Iron and Standing Buffalo threatened to fire upon any of Little Crow's followers that entered their territory. During the Wood Lake Battle, "friendlies" (Dakota opposed to the war) were able to seize control of white captives and bring them into their own camp. In late September, the friendlies released 269 white prisoners to the control of Colonel Sibley. Penned in to the north and south, facing severe food shortages and declining morale, many Dakota warriors chose to surrender. Together with those taken captive, the ranks of Dakota prisoners soon swelled to 1,250. A decision had to be made soon what to do with them.

On September 28, 1862, Colonel Sibley appointed a five-member military commission to "try summarily" Dakota and mixed-bloods for "murder and other outrages" committed against Americans. Whether Sibley had authority to appoint such a commission is a matter of substantial dispute. The commission was convened immediately, meeting in La

Bathe's log kitchen near Camp Release. Sixteen trials were conducted the first day, convicting and sentencing to death ten prisoners and acquitting another six. Over the six weeks that followed, the military court would try a total of 393 cases, convicting 323 and sentencing 303 to death by hanging. Reverend Stephen Riggs, a man who spoke Dakota and was not unsympathetic to their plight, reportedly served as a virtual grand jury, gathering evidence and witnesses.

The trials were quick affairs, getting quicker as they progressed. The commission heard nearly forty cases on November 3, the last day it met. The commission believed that mere participation in a battle justified a death sentence, so in the many cases, perhaps two-thirds of the total, where the prisoner admitted firing shots it proceeded to a guilty verdict in a matter of a few minutes. Somewhat more deliberation was required for trials in which the charge was the murder or rape of settlers, because admissions were much rarer in these cases. After the defendant gave whatever response he cared to make to the charge, prosecution witnesses were called. Where prosecution witnesses contradicted the testimony of the defendant, the commission almost invariably found the prisoner to be guilty. The best witnesses for the prosecution turned out to be some of the accused. A mixed-blood named Godfrey, or Otakle, who was the first prisoner tried, gave evidence in fifty-five cases and was described by Recorder Isaac Heard as "the greatest institution of the commission." With his "melodious voice" and "remarkable memory" he seemed to Heard "specifically designed as an instrument of justice."

Critics have challenged the fairness of the trials. In addition to raising concerns about the sufficiency of the evidence supporting convictions and the rapidity of trials, critics have charged commission members of harboring prejudice against the defendants. the critics may have a point. The commission members, though men of integrity, were also military men whose troops had recently been under attack by the very men whose cases they were judging. Critics of the trials also have argued that the commission was wrong to treat the defendants as common criminals rather than as the legitimate belligerents of a sovereign power. Finally, they have suggested that the trials should have been conducted in state courts using normal rules of criminal procedure rather than by military commission.

Colonel Sibley may well have viewed summary trials by a commission as necessary to avoid vigilante justice by angry mobs of Minnesotans. As it was, the 303 condemned prisoners were attacked in New Ulm on November 9 as they being transported to Mankato to await their execution. Another planned attack of the prison camp by several hundred armed local citizens on December 4 was foiled by soldiers guarding the Dakota prisoners.

The final decision on whether to go ahead with the planned mass execution of the 303 Dakota and mixed-bloods rested with President Lincoln. General John Pope, having been sent to Minnesota after his defeat at Bull Run, campaigned by telegraph for the speedy execution of all the condemned. Virtually all of the editorial writers, politicians, and citizens of Minnesota agreed with Pope. One of the few who did not was Henry Whipple, the Episcopal Bishop of Minnesota. Whipple traveled to Washington to meet with Lincoln and discuss the causes of the Dakota Conflict. By Lincoln's own account,

the visit impressed him deeply and he pledged to reform Indian affairs. Lincoln knew well that the lust for Dakota blood could not be ignored; to prevent any executions from going forward might well have condemned all 303 to death at mob hands. Lincoln asked two clerks to go through the commission's trial records and identify those prisoners convicted of raping women or children. They found only two. Lincoln then asked his clerks to search the records a second time and identify those convicted of participating in the massacres of settlers. This time the clerks came up with the thirty-nine names included in Lincoln's handwritten order of execution written on December 6, 1862.

In Mankato, at ten o'clock on December 26, thirty-eight (one person was reprieved between the date of Lincoln's order and the execution) prisoners wearing white muslin coverings and singing Dakota death songs were led to gallows in a circular scaffold and took the places assigned to them on the platform. Ropes were placed around each of the thirty-eight necks. At the signal of three drumbeats, a single blow from an ax cut the rope that held the platform and the prisoners (except for one whose rope had broke, and who consequently had to be restrung) fell to their deaths. A loud cheer went up from the thousands of spectators gathered to witness the event. The bodies were buried in a mass grave on the edge of town. Soon area doctors, including one named Mayo, arrived to collect cadavers for their medical research.

In April, 1863, Congress enacted a law providing for the forcible removal from Minnesota of all Sioux. Most Dakota, after suffering through a harsh Minnesota winter at a Fort Snelling encampment, moved to South Dakota. Prisoners previously held at Mankato were transported on the steamboat "Favorite" down the Mississippi to Camp McClellan, near Davenport, Iowa.

On March 22, 1866, President Andrew Johnson ordered the release of the 177 surviving prisoners. They were moved to the Santee Reservation near Niobrara, Nebraska.

Little Crow was not among the Dakota tried by the military commission. He, along with 150 or so of his followers, fled to present-day North Dakota and Canada. In June 1863, Little Crow returned to Minnesota on a horse-stealing foray. On July 3, a farmer shot Little Crow while the Dakota chief picked berries with his son near Hutchinson. The farmer received a $500 reward from the state.

The Sioux Wars went on for many years. A military expedition carried the fighting into the Dakota Territory in 1863 and 1864. As the frontier moved westward, new fighting erupted. Finally, in 1890 at Wounded Knee, the generation of warfare that began at Acton, Minnesota in August of 1862 came to an end.

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