

By Robin Cody

The Indian will be allowed to take fish... at the usual fishing places and this promise will be kept by the Americans as long as the sun shines, as long as the mountains stand, and as long as the rivers run.

—Governor Isaac Stevens,
Walla Walla Treaty Grounds, 1855

ONE OF THE GREAT REAL ESTATE deals of American history was consummated in 1855, when Isaac Stevens—the first governor of the Washington Territory and superintendent of U.S. Indian Affairs—took title to millions of acres of prime forest and potential farmland in what are now the states of Washington, Oregon and Idaho. In return, he offered his assurances that the native Indian people would be allowed to hunt, to gather roots and berries and to harvest the salmon runs at all their usual places in the vast Columbia River drainage system.

What separates this deal from other great ones—Manhattan for the beads and trinkets, the Louisiana Purchase for three cents an acre, Alaska for \$7.2 million—is the manner of retribution. The Manhattan Indians did, after all, get their beads and trinkets, and the French and the Russians solved their short term cash-flow problems. In the Pacific Northwest, on the other hand, retribution was based upon a promise in perpetuity: a solemn pledge or a pile of dusty, old-fashioned words, depending on who does the interpreting.

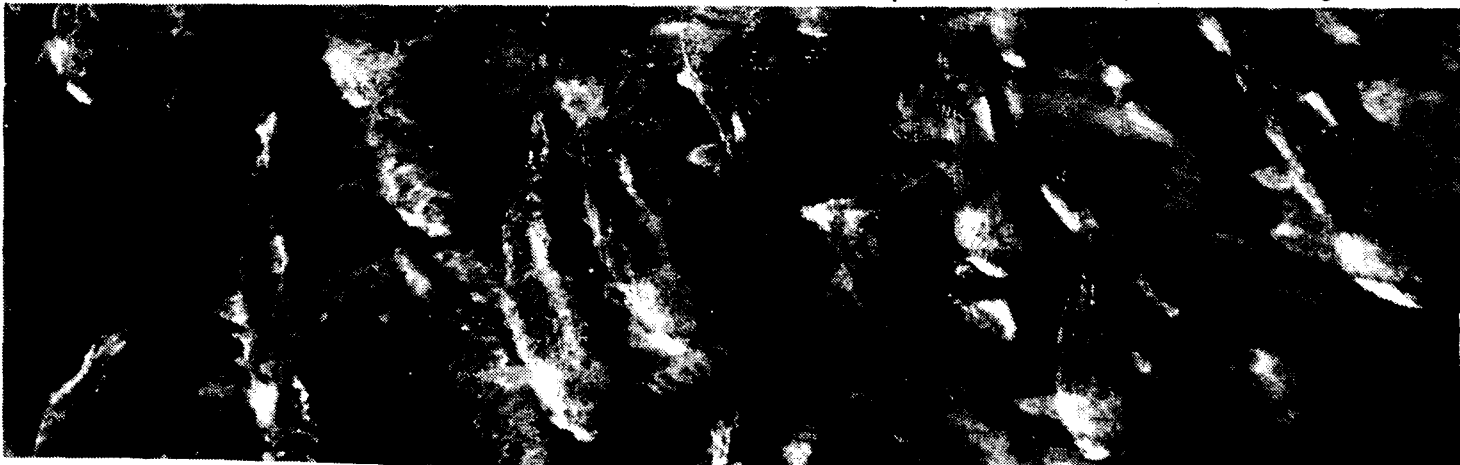
Now, 130 years into perpetuity, the battle over who gets the fish, and in what proportion, has developed into a legal and cultural conflict that pits commercial interests against the Indian fishermen.

Not even Stevens—by all accounts a visionary champion of the notion of Manifest Destiny—could have anticipated the effects of industrial and commercial development, dams, pesticides, irrigation farming, clear-cut logging and off-shore commercial harvests on what was then considered an inexhaustible supply of Columbia River salmon. The land appeared to be paradise. It must have seemed inconceivable that someday there might not be enough fish to go around.

The Indians that Lewis and Clark encountered along the Columbia River were small, independent bands—more like families than tribes—of gentle people in an abundant land. They had no evident need to organize themselves, as the Plains Indians had, into larger “nations” for subsistence and protection.

Salmon were these Indians’ subsistence, their religion, their currency, their source of wonder and faith in the recurring abundance of nature. Then, as now, the life cycle of the salmon was incorporated into the river Indians’ ceremonies marking birth, death, creation of the earth and the taking of names.

Not many Columbia River Indians remain. Maybe 150 or so, counting kids and old folks, actually live on the river and sur-



vive off the fish. In the early years of the American Northwest, many of these mild people succumbed to invader-carried disease or alcohol or violence. Those who survived have either integrated—not particularly successfully, as a group—into the mix of American culture or have been herded onto reservations. None of the reservations is within 50 miles of the Columbia, so the river-based means of livelihood for these people has been effectively destroyed.

Today the reservations of the four main Indian groups—Warm Springs, Yakima, Umatilla and Nez Perce—are refuges where

the dispirited make do with government compensation checks. Mineral and timber rights continue to provide support for those who live on the reservations and conduct themselves like “good Indians.” But to the few who continue to live independently, on the Columbia River, what really matters is their right to fish.

These, in the eye of the law, are the “bad Indians”—renegades, poachers, trespassers. They regard the U.S. as a hostile nation and consider the representatives of state fish and game departments as agents of an occupying force.

David SoHappy is one of these “renegades.” Now 52 and wrinkled by time and the river, he lives year round at Cooks Landing, Wash., which is a rocky, wind-whipped promontory on the Columbia River. Determined to live, as he puts it,

“in the old ways,” SoHappy has been a fisherman since age five, like his father before him. Although he doesn’t get rich at fishing, he claims to support 19 dependents and is proud of the fact that his clan has never been on welfare.

About fishing out of season, he says: “This is my river, always has been. If I don’t fish, I’d be giving up my treaty rights.”

To Wayne Lewis, chief law enforcement officer of the Northwest region of the National Marine Fisheries Service, the issue is just as simple. “These people are crimi-

nals,” says Lewis. “They’re breaking the law. That’s all there is to it.”

The conflict between law enforcement officers and Indian fishermen is nothing new in the Northwest. As treaty rights, over the years, were reconsidered, reinterpreted and chipped away, the Indian was left with nothing much resembling the original “promise in perpetuity.” A landmark decision in U.S. courts in 1974 protected the Indians’ access to half the in-river salmon runs. This decision—known on the Columbia as the Boldt decision—was regarded by non-Indians as a victory for the Indian people.

But the once-great salmon runs of the Columbia are disappearing. Today the Indian fishermen have good reason to think of the Boldt decision as a huge trick perpetuated by U.S. Commerce at the expense of the natives. Half of nothing, if it comes

to that, is still nothing.

Nobody familiar with the Columbia River fishery would claim that Indians are the cause of declining salmon runs. Indians have been catching and trading fish since the first hungry white caravan arrived from the East to begin recording time for them. Built into their ancient religion and mythology are the supposedly modern conservationist notions of restraint in harvest and celebration of the species’ fittest, who evade the nets and proceed on to spawning, death and regeneration. The salmon is friend and teacher, not just a commodity.

But now that the salmon runs have been decimated by the effects of dams, industrialization and huge off-shore commercial harvests of fish, the U.S. government, aligned with these same commercial interests, needs someone to blame. And who better to blame than these renegade Indians who are out there breaking the law by taking some fish?

In the summer of 1982, undercover agents of the National Marine Fisheries Service (NMFS) of the U.S. Department of Commerce culminated a 14-month investigation—using wire taps, body microphones, aerial reconnaissance photography and river patrols—of illegal fish sales on the Columbia. Although Commerce’s NMFS has law enforcement responsibilities throughout the Columbia River drainage system and out to 200 miles off shore, it chose to zero in on the 147-mile stretch of upper Columbia River between Bonneville and McNary Dams, where only Indians fish. And they caught only Indians.

NMFS agents had infiltrated the Indian river communities to gain the confidence and—the subsequent trial tapes show—to sharpen the commercial instincts of Indian fishermen. Free-spending front men for a bogus corporation set up fish-buying stations at the Indian village of Celilo and at a remote farmhouse in the hills behind Cooks Landing. Undercover agents timed their arrival to coincide with the Indians’ perfectly legal ceremonial and subsistence fishing season, to be assured that many fish would be changing hands.

A government task force that included boats, planes and 13 motor vehicles raided SoHappy’s tiny collection of low shacks and fish-drying sheds at Cooks Landing on June 17, 1982. According to SoHappy and others present, the fish narcs stuck a gun in SoHappy’s face, sacked his dwellings and confiscated fishing gear, boats, papers and books. The agents found the illegal fish they were looking for and served their warrants, as they would later do at several other Indian fishing spots on the upper Columbia.

SoHappy was arrested and found guilty,

THE COLUMBIA RIVER



On the Columbia, Howard Jim (far left), Jack Schwartz (in suit), Jim Palmer (behind Schwartz) and Warner Jim and family (far right)

in federal court in Los Angeles. He is now out of jail, pending appeal of a five-year sentence. "Poaching, they got me for," says the leathery, weather-whipped but still-defiant SoHappy, in disgust. "For it to be poaching, the fish have to belong to somebody else. If the King and Queen of England own the land and a man comes in and kills an animal, that's poaching. That's where the word comes from."

SoHappy says as far as he is concerned, there is no law that can keep him off the river. "I have a right to fish in all the usual places, just like it says in the treaty."

That right is currently being challenged as never before.

The big bust of 1982 was carried out by Oregon and Washington State Police, Fish and Game Commissions, and local law enforcement officers, coordinated by NMFS regional headquarters in Seattle. The sting operation got extended, and approving coverage in the Northwest press. Seventy-five Indians were arrested during SAMSCAM, as it was called. Commerce spokesmen gushed that they could document 53 tons—\$150,000 worth—of illegally sold fish over the 14-month period of their undercover operation.

Now 53 tons is a goodly pile of fish, if it were to appear on your front lawn one morning. But spread over 14 months—including two spring salmon runs—and then divided among the 75 Indians arrested, the piles become imaginable. \$150,000, for 75 people, works out to \$2,000 apiece over two high fishing seasons. Compared to offshore commercial harvests of salmon, which often sweep up thousands of tons per day, the documented Indian take becomes miniscule.

Yet the government's sting operation was successful in bringing two headline-sized facts before the reading public: "Salmon runs disappearing," and "Big-time Indian poachers caught." The implication was that those two facts were causally related.

Non-Indian commercial fishermen, sports fishermen and the general public were whipped into a frenzy of resentment

against the Indians. The trouble with the government's case, however, is that if the accused do not plead guilty, they get their day in court. And what a bucket of bait that has turned out to be for the Commerce Department.

In the government's zeal to catch the criminals (and it did nab some serious cheaters), federal agents cast their net wide and brought in women, children and entire families. The government wound up prosecuting Indian people who never should have been brought to trial. The handful of convictions have come very slowly, even though the Indians' treaty defense is almost always dismissed in state and U.S. courts as being irrelevant. Indian communities have been unnecessarily humiliated and harassed, in the process, while the cost to taxpayers is enormous.

Howard Jim is another of the Indian "criminals" caught in the SAMSCAM net. This past February, Jim was tried on charges of having sold four spring chinook to undercover agents of the NMFS. Jim was found innocent, by an 11-to-1 verdict of an all-Caucasian jury in Wasco County, Ore. But even though he was found innocent, the effect of his arrest and trial on the Indian community was devastating.

Jim, age 65, is the last of the Columbia River Chiefs. He lives at Celilo, where the Columbia River—before the Dalles Dam was built in 1957—used to narrow and cascade over great whitewater slabs, and the Indians fished with their pole-handled hoop nets from rickety water-slick scaffolds built out over the water. These days Celilo Falls, that most famous of "usual fishing spots," lies under 40 feet of dead water behind the dam.

Successor to the great Chief Tommy Thompson at Celilo, Jim is the man chosen by his people to make the laws and to preside over the religious ceremonies in his own culture. The spectacle of Howard Jim this February in the Wasco County courthouse, in his long dark braids, holding an eagle feather in his right hand, and trying to make sense of legal jargon, was an excruciating

humiliation to his people. Jim neither reads nor writes in English, though he does speak the language fairly well. Never has he lived on a reservation or been on welfare, and he is too proud to accept Social Security payments from what he, like David SoHappy, considers a foreign government.

Right after his arrest, nearly two years before his trial, Jim lost his job peeling posts in Umatilla County because a court clerk told him he could not leave Wasco County. The Indian patriarch then endured two years of unemployed waiting, and three days of trial and public humiliation—all for an alleged four fish which, it turns out, he never intended for commercial sale at all. The fish—Jim claimed, and the jury believed—were to be used in the Longhouse funeral of Jim's mother.

Jim's arrest and trial was simply another

Declining salmon run pits fishing rights of River Indians against commercial interests and their government enforcers.

setback in what has been a historical progression for him. When he was growing up, the U.S. appropriated the family's ranch near Roosevelt, on the Washington side of the river, because the Navy needed a bombing range during World War II. He moved to Celilo with his wife's relatives in 1957, just as the new reservoir behind The Dalles Dam covered up the great falls. Then a new interstate highway cut directly through the historic village, forcing removal of dwellings across the highway from the new flat river.

The river Indians' range of response over the years has run from cheerful concession

to dismayed resignation. If Jim and his people were warriors, this historical progression might properly be called tragic. But gentle and accepting as they are, it more closely resembles pathos.

SAMSCAM trials continue. The most recent threat against the river Indians, however, is an attempt by the Bureau of Indian Affairs (BIA) to evict the few Indians remaining on the River who have erected dwellings at any of the five "In-Lieu Sites" above Bonneville Dam.

"In-Lieu Sites," such as Cooks Landing, where David SoHappy and his family live, are nothing more than Army Corps of Engineer-sculpted access points—landings, boat docks, where Indian people can reach the river. BIA spokesman Stan Speaks says these sites were never intended to have permanent residences or structures on them. The Indians living there claim the sites were built in lieu of their former places of fishing and residence, submerged since 1938 behind Bonneville dam.

SoHappy says the government promised 38 such sites but built only five. His understanding was that the U.S. was supposed to construct residences there, and never did, for displaced Indians.

SoHappy and other Indian fishermen have announced their intention to stick it out, to defy the government eviction notices. The specter of a dangerous confrontation on the river this winter looks more and more real with each passing month. To Jack Schwartz, the Portland lawyer who has dedicated his young career and sacrificed a lawyerly income toward defense of David SoHappy, Howard Jim and the other SAMSCAM victims, the eviction notices fit a pattern.

"Ethnocide," Schwartz says. "I doubt if even the white river cops say to themselves: 'Let's get rid of this ancient culture.' But each cog in the criminal justice machine, through ignorance, bias, laziness and a lack of guts, has combined to achieve an ethnocidal result."

Schwartz, 32 and Brooklyn-born, is a feisty, rapier-sharp veteran of the civil strife of the late '60s. He was in on the Yippie occupation of the New York State Capitol at Albany and later worked with William Kunstler during the Sioux Indian uprisings and trials at Wounded Knee.

"This is one of the last indigenous American communities in the lower 48," Schwartz continues. "These people live free of corporate paychecks and government jobs. Women, men and children are being dragged from court to court, where they face years in prison for living by federal treaty law."

Schwartz is livid. Why can't people see the historical context? The fate of the Indians reminds him of what his family went through. As Jews in Russia and Europe, their religious practices were limited, their economic rights were abolished and finally their culture was destroyed.

"If the government can just eliminate the last of these indigenous river people," Schwartz says, "there won't be any more questions about those treaties."

Over the years, the rush of American civilization has all but buried the original treaty language. Not that the words are too old to apply. The Golden Rule and the Bill of Rights are older, of course; the Gettysburg Address roughly contemporary.

But Isaac Stevens' pledge turned out to be inconvenient. It was inconvenient, especially, for the U.S. Commerce Department as it moved into the age of cheap hydroelectric power and great ocean-going canneries. Now the government—conveniently forgetting how the salmon runs came to be depleted in the first place—continues to prosecute and harass those few Indians left who catch, trade and worship the salmon, their ancient migratory friend and teacher.

Both—the Columbia River Indians and the salmon—are threatened to go the way of the Great Plains buffalo.

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Tax-exempt donations are welcomed by the Columbia River Indian Defense Project, P.O. Box 14044, Portland, OR 97214.

EDITORIAL

World Court gives pluralism within Nicaragua a big boost

Last week the World Court, which is the judicial arm of the United Nations, agreed to hear Nicaragua's claim that the United States is an aggressor country. The Court decided that it had jurisdiction in the matter by a vote of 15 to 1 — with only the American member of the Court dissenting. He then joined the majority in a unanimous vote against the U.S. contention that the Court should not hear the case even if it had jurisdiction.

The Court also extended its restraining order of last May that called on the United States to halt any attempts to blockade or mine Nicaraguan ports and to refrain from jeopardizing Nicaragua's political independence by any military or paramilitary activities.

The Court's decision struck a blow against Reagan administration policy and can only accelerate its difficulties in justifying its policy of attempting to overthrow the government of Nicaragua by force and violence. With typical hypocrisy, chief White House spokesman Larry Speakes complained that the Court's ruling "will be harmful to the Contadora negotiations and will, accordingly, hinder rather than help achieve peace in Central America."

Yet only one week earlier, Mexico's foreign minister had criticized the administration for itself attempting to frustrate the Contadora group's peace efforts. The Contadora nations — Mexico, Colombia, Venezuela and Panama — were particularly upset by a National Security Council document boasting about having "effectively blocked" the signing of the peace treaty they had drafted and Nicaragua had accepted.

But truth has never been a strong point

of the Reagan administration, and its disingenuousness is nowhere clearer than in its crocodile tears about the Sandinistas betraying their revolution and its justification of intervention on the basis of the claim that Nicaragua is a major source of arms for the rebels in El Salvador and a threat to the security of all its neighbors. Now that these excuses for intervention must be used as a defense before the World Court, even administration officials admit there's not much to them. As the *New York Times* reported, administration officials now say that they will have "much more difficulty making a convincing argument on the merits of the case itself than on the jurisdictional issue," because their assertion that Nicaragua is sponsoring guerilla attacks on El Salvador "would be difficult to prove in court."

Of course, the administration is actually trying to overthrow the Sandinista regime because it has chosen to assert genuine independence from U.S.-based corporate and financial interests, not because it threatens its neighbors. Indeed, it is not Nicaragua that threatens its neighbors, but just the opposite. As the *Los Angeles Times* reported November 23, it is the *contras* — the formerly CIA-supplied Nicaraguan counter-revolutionaries — who are being supplied by Nicaragua's neighbors. As the *Times* put it, "The rebel army fighting Nicaragua's leftist government, its CIA funds cut off by Congress, is surviving through covert aid from the armed forces of El Salvador and Honduras and private donations from sympathizers in the United States." Two officers of the *contra* Nicaraguan Democratic Force told the *Times* that their main source of

supply since May has been "the armies of Honduras and El Salvador."

Unfortunately, the administration's ability to manipulate American public opinion — with the aid of the commercial media — is such that these facts, though occasionally reported, remain generally unknown. The same is true of the shabbiness of administration claims about Cuban and Soviet aid to the Sandinistas. The recent false alarm about Soviet MiG fighters being shipped



We do not believe that the Sandinistas have betrayed their own revolution, but even if they had, even if they attempted to be a carbon copy of Cuba, that would be their business, and it would be a giant step forward from the Somoza dictatorship — just as Castro's Cuba, with all its restrictions and dependency on the Soviet Union, is a giant step past Fulgencio Batista's Cuba.

It has been said, perhaps apocryphally, that when the Sandinistas took power they went to Fidel Castro and asked him what to do next. Castro replied that the only advice he could give was: avoid our mistakes. There is, of course, no way of knowing what Castro meant if he did say that, but there were two serious flaws in the Cuban revolution from a socialist point of view. First, Cuba became almost totally dependent on the Soviet Union for survival, and, therefore, beholden to it. Given the overt

By an almost unanimous vote, the United Nations' judicial arm has agreed to hear Nicaragua's request that it declare the U.S. to be guilty of aggression.

into Nicaragua is but the latest example. But just as there are no MiGs being shipped to Nicaragua, neither is there a heavy infusion of modern Soviet arms.

The State Department itself quietly recognized this in a June report entitled *Soviet Attitudes Towards, Aid to, and Contacts with Central American Revolutionaries*. "All too many claims proved open to question," the study declared. Soviet military equipment in Nicaragua is characterized as "unobtrusive" and "outdated," and "the limited amounts of truly modern equipment acquired by the Sandinistas...came from Western Europe, not the Eastern bloc." The report concluded that "the scope and nature of the Kremlin's infusion are far short of justifying the president's exaggerated alarms."

It is in the light of all this that administration officials told the *New York Times* that sooner or later they would face "a very tough decision" — either defy an order by the World Court and face international opprobrium as a lawless nation, or abandon its policy in Nicaragua. If the administration goes to Court, "We're going to lose on the merits," one mid-level administration official told the *Times*, "anybody who doubts that is nuts."

Meanwhile, under warlike conditions, the Sandinistas are trying to consolidate their revolution, stabilize their situation and get on with the process of establishing a new society. Under the best of circumstances this would be a difficult process, given a long history of colonial subservience to the United States and oppression under the Somoza dictatorship.

With no tradition of modern democracy, with a large majority of the population — the primary beneficiaries of the revolution — lacking any experience of participation in politics and with no examples of successful democratic socialist revolutions to follow, it would be absurd to expect the Sandinistas to live up to the laudable but mostly abstract democratic ideals of American leftist pundits. But despite that, many liberals and neoliberals have fallen — or jumped — into the Reagan administration trap of being more concerned about the success or purity of the revolution than about Nicaragua's right to determine and develop its own future in its own way.

hostility to the revolution on the part of the Eisenhower and Kennedy administrations, Cuba had little choice in the matter — it was, after all, the first nation in the area to establish genuine independence from American capital. There was nowhere else to turn for survival of the revolution. Yet, of course, survival also meant serious compromises.

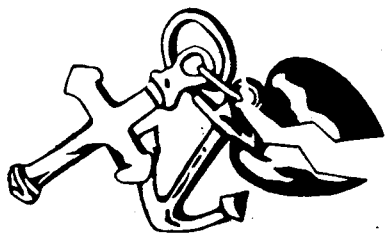
Second, and in part a result of the first, Cuba became a one-party state and even within that one party there has been no room for independent tendencies to develop publicly. Pluralism was deinstitutionalized. The issue is really not the lack of elections, which under any circumstances would have been, and still would be, won overwhelmingly by Castro and his supporters. But it is a free press, independent unions, etc.

Nicaragua has, so far, been able to avoid these two mistakes to a remarkable degree, given the unrelenting and insidious pressures put upon it by the Reagan administration. Cuba's existence and the revival of the Socialist International have made it possible for Nicaragua to survive without a compromising dependency on the Soviet Union. And those who stand for pluralism within the revolution have been able to win out among the Sandinistas, whether for principled or pragmatic reasons. One difference between Cuba and Nicaragua that helps guarantee the survival of pluralism is the much greater importance of the Church in Nicaragua — and its division between liberationists and traditionalists.

But Nicaragua has been forced into a state of war by Reagan, and in a state of war every country easily abandons democratic practices — one need only remember the United States in World War I to understand that. The real threat to revolutionary pluralism is now American pressure and American-sponsored subversion.

The World Court has dealt that subversion a heavy blow. If the United States does not withdraw from the Court it will have to reduce substantially its level of hostility toward Nicaragua, and the prospects for the flowering of pluralism within the revolution will be enhanced. Those who claim to have that as their goal should, therefore, direct their energies toward inducing the Reagan administration to submit to the World Court.

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