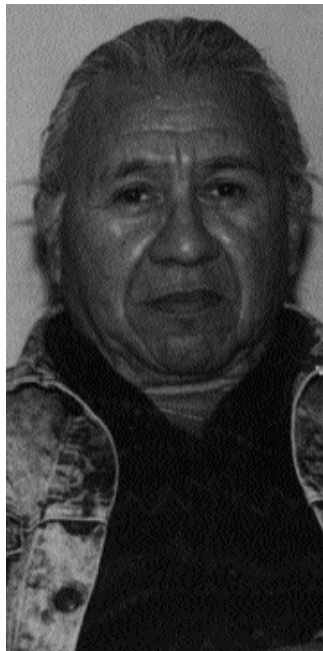


Messages from



Frank's Landing

A STORY OF SALMON,
TREATIES, AND THE
INDIAN WAY

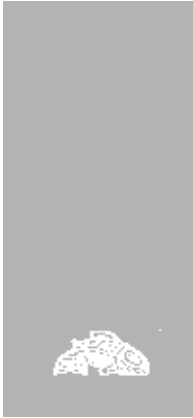
CHARLES WILKINSON

Photo essay by Hank Adams

Maps by Diane Sylvain

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INTRODUCTION: 1945

After the family dinner, Billy Frank, Jr., walked out into the chilly December air and down to the bank of the Nisqually River. The fourteen-year-old boy shoved the canoe, a carved out cross-section of a cedar log, into the water. He poled the canoe upstream from a standing position, knowing the river, unhindered by the darkness. Besides, it had to be dark. The state game wardens were cracking down on Indian fishermen. They knew that Billy fished this stretch of water.

He made his way half a mile up the river, passing under the old Pacific Highway bridge to the eddy just beyond it. During the past few days he had made his repairs to the fifty-foot cotton net stowed in the canoe. "My dad always told me to prepare for the salmon coming back. Don't get caught in a hurry. Have it done in advance. He told me about a guy cutting a net in the dark and stabbing himself in the stomach. 'Don't be like that,' he told me." Billy unwrapped the net and set it neatly, with the corks on the top keeping the apparatus afloat and the weights on the other side of the net resting on the river bottom.

With the net in place, the boy lashed the canoe to the limbs of a fallen maple tree overhanging the eddy. "It was like a tunnel under there. And the canoe looks just like a log. There's no way they could see it." His work done, he strode back to his home at Frank's Landing on the riverside trail that cut through the tangle of vine maple, ferns, and blackberry.

He knew the way by heart. "We didn't walk on the roads. All we walked were trails. Indians have always used that river trail. It went all the way up to our mountain."

He was up early the next morning, still needing the dark. He made his way back up the trail. The net had done its work, taking some steelhead and a load of chum salmon. This was the renowned late chum

run bound for Muck Creek. "I knew they'd be there because Muck Creek had just sent down the big winter freshet that gets the salmon going every year. And that downed maple hanging out over the eddy would give them shade and shelter." He would sell his catch to nearby farmers, who would like this fresh meat.

Billy laid the fish in the canoe, then folded the net and stowed it. He poled out into the current, floated under the bridge, and headed toward the gravel bar on the far side of the river. The bar was a good place to butcher the fish. He unloaded his fish and went to work, the gravel rasping his knees through the rubber hip boots. Take off the head, the fins, the tail with the sharp knife. Draw the knife up along the backbone. Make the fillets in the old way. Quick and efficient, but neat and respectful.

The two flashlights hit him

dead on, no more than fifty feet away: "YOU'RE UNDER ARREST!"

Billy jumped to his feet and scrambled frantically across the bar toward the brush, awkward in his hip boots. At the edge of the brush he stumbled and fell. The two game wardens were on him and had him by the arms.

"Leave me alone, goddam it," the struggling boy screamed out, "I fish here! I LIVE HERE!"

This incident, just before Christmas of 1945, marked the first of more than fifty arrests that Billy Frank, Jr., would endure over the course of three decades. The moment coincided with the beginning of the post-World War II boom that jump-started the economy of Seattle, Puget Sound, and the Pacific Northwest, changing forever the lands and waters and, particularly for Billy, the river that rushes through his veins. Almost incredibly, he became a principal

CHAPTER 1

MUCK CREEK



celebrated as a visionary, if we go deeper and truer we learn that he is best understood as a plainspoken bearer of traditions, a messenger, passing along messages from his father, from his grandfather, from those further back, from all Indian people, really. They are messages about ourselves, about the natural world, about societies past, about this society, and about societies to come. Some of the messages are simple and homespun: Teach your children to take pride in their workmanship when they put out their nets. Others are profound: You can't quell the fire of Indian sovereignty by arresting Indian fishermen. When examined rigorously – not out of any romanticism but only out of our own enlightened self-interest – these messages can be of great practical use to us in this and future years. Understood in this sense, there is no identifiable beginning or end

Medicine Creek
Treaty tribes reserved all lands on the reservation for fishing, and they also reserved fishing rights "at all usual and accustomed grounds and stations" outside their treaty land reservations. Fish weirs were common in larger upriver tributaries.



canoe was seen in the river."

The conflict – pitched battles followed by interludes where the Nisqually, who knew the terrain better, hid out in the deep woods – went on for more than eight months. Leschi, who probably never had more than 300 troops, developed a disciplined military force. Billy's dad was born a generation after the war, but Billy's grandfather, while too young to fight, remembered the time well, and the memories have been passed down to Billy with precision.

"Leschi trained his troops up on the Muck Creek prairie. My grand-father used to watch the soldiers disciplining their horses with a maneuver they called 'the wheel.'" The horsemen, about twenty in number, would line up in a straight row. Half of the horsemen – those on the right – would be facing north, the other half facing south. Then they would march their horses, always holding their line, like a long, single-bladed propeller. This training maneuver, of course, was never used in combat, but Leschi made regular and good use of it to create readiness.

Lives were lost on both sides

during the many skirmishes. The greatest tragedy took place upriver, where Ohop Creek and the Mashel River join with the Nisqually River. Several families – people who were not warriors, people who wanted to stay away from the conflict – had retreated to the area, which was near Leschi's native village.

Except for the few open prairies, it is steep, choppy country, the rugged foothills building up to Mount Rainer, thick with blackberry bushes and vine maple, good country to hide out in, but difficult

to escape in if caught by surprise. In April 1856, Captain Hamilton J. C. Maxon and his troops came upon a small Nisqually encampment near Ohop Creek and killed everyone in it. Then Maxon and his men discov-



ered a larger group of several families in a fishing camp near the confluence of the Mashel and the Nisqually rivers. Most of the people were women and children; a witness, Robert Thompson, counted only two men. Maxon ordered his soldiers to charge the defenseless Nisqually families.

They slaughtered some seventeen Nisqually and wounded many more. Billy's dad heard many accounts of Maxon's Massacre and recounted them during a taped interview.

"Those Indians at the massacre, they were . . . up on the hill looking down at the place where the Mashel runs into the Nisqually. They said the soldiers came on them and the Indians all ran down the hill and swam across the [Nisqually] and ran up the other side. And the soldiers were shooting them from the top of the hill. There was a woman carrying a baby on her back and they shot her. She and the baby fell into the river and floated down. . . . Some of the young got away - climbed up the hill on the other side of the river. I don't know how many they killed, but there were a lot of them."

The territorial authorities finally took custody of Leschi in November 1856. His nephew Sluggia, who knew of Leschi's desire for peace, had been offered a reward for Leschi's capture. Taking his people's chief by surprise, Sluggia captured him and took him to Steilacoom, where Leschi was arrested. Sluggia's

breach of family and nationhood soon was avenged by Wa He Lut, one of Leschi's most able lieutenants. Wa He Lut killed Sluggia for his treason.

Three days after Leschi's arrest, the Territory tried him for the murder of Colonel A. Benton Moses, an American soldier. Leschi's lawyers argued - in addition to the fact that he had not committed the act - that this was done in war and should not be punished in civilian courts. The first trial resulted in a hung jury. After a re-trial of one day, a jury of local non-Indians found him guilty. On appeal, Leschi spoke to the Supreme Court of the Territory through an interpreter.

"I do not know anything about your laws. I have supposed that the killing of armed men in wartime was not murder; if it was, the soldiers who killed Indians are guilty of murder too. . . ."

"I went to war because I believed that the Indian had been wronged by the white men, and I

smokehouse. The smoke comes out of the cracks in the smokehouse.

"How long he'd leave them in would depend on what he wanted. You can smoke them just a little bit and get what white people call kippered. Or you can leave them in long to cook more, smoke more. You can get jerky if you want, hard as a rock, and they'll never spoil or rot or mold. Later, you put them in water to soften.

"Down by the river with the smokehouse was the ceremonial house. The medicine people would use that and you didn't go in there. They had sweat houses by the river, too."

The Nisqually also kept their distinctive canoes - handsome and utilitarian - down by the river. "Those things took a couple



of years to make. I know, because my dad showed me how and I've made them. You have to go to the logjams in the spring and find the right tree, one of the small cedars that washed down the

river. Then you've got to let it sit and dry in the shade, not in the sun. Then you do all the cutting and hollowing and carving.

"The residential area was on the prairie, up above the river. My dad lived in a cedar home. They took a big tree struck by lightning. The grain was straight as can be. They'd use a stone wedge and a mallet to make a crack. Then they'd split it into a perfect plank, thirty, forty, fifty feet long. You didn't even have a knot in those old-growth trees.

"We had everything back when Dad was a boy. The hunters would come back with furs and skins and



meat. The Sound was close, only eight miles downriver. Dad would take a canoe down to the mud flats at low tide for the clams, the oysters, the geoducks. He'd always say, 'When the tide goes out, our table is set.'"

Muck Creek prairie was a source of both food and majesty. "They knew how to burn the prairies without burning the woods. Today they call it controlled burns. It was magic. They'd burn it so the potatoes and

CHAPTER 2

NISQUALLY RIVER



mountain where the river is born – was a homeland so generous that it gave you everything you and your family could possibly need. It filled a person completely up. And you were part of it, not separate. You were umbilically connected to paradise. Just one paradise. You didn't go off to other duties. You couldn't. You were connected.

You learn a lot about this from Billy's dad's first experience with the white man's school. The Indian agents pressured all the parents to send their kids off to federal boarding school. When Billy's dad was six, his father reluctantly took him some forty miles on horseback, out of the Nisqually watershed, up past Tacoma, to the boarding school in Federal Way. Two weeks later, the father, upon going back up to the school to visit, was told: "Your son's not here." It turned out that the boy had just left with George LaPlate, a schoolmate from Chehalis. Billy's dad made it all the way back home on foot. It took him two days.

"Now you tell me," Billy says. "Did that little guy know this country? Hell, he'd been all over this country. They didn't go toward Canada. They knew where they were all the time. He got home to Muck Creek and his friend kept going to Chehalis. He always taught me: You never get lost. Always follow the water. The water will get bigger. Creek, stream, river, sound, ocean."

Billy's dad returned to grade school for a few years, but his life was back home. "Dad had a wagon and a horse on Muck Creek. If you had a wagon and a horse, you were rich. You could go up to Taholah and haul the fish to market in Aberdeen and Moclips, Grays Harbor. He had everything.

"One time a guy asked my dad what his Social Security number was. That didn't make any sense to my dad: he said, 'Why would I need

to condemn Indian trust lands unless Congress expressly authorizes it, which Congress had not done.

Illegal though the Pierce County condemnation was, the military did not even wait for its conclusion. As one account explains: "In the winter of 1917, the United States Army moved in trespass upon the lands of the Nisqually. Indian families were summarily ordered to leave their homes and not return until advised of permission to do so. Some families were loaded up on wagons and transported to other parts of the Nisqually River valley and left to find shelter among trees or makeshift protections against the weather."

Congress called for an investigation, which was completed in 1920. The Secretary of the Interior wrote: "I am still of the opinion that it would be unwise to obtain these lands by condemnation . . . and evict the Indians therefrom, who would no doubt object strongly to removing from their homes." The Secretaries of War and the Interior both emphasized the patriotism of the Nisqually: "[We] feel very

strongly . . . that the splendid spirit manifested by the Indians in promptly surrendering their old homes, of inestimable value to them, to aid our country should not go unnoticed. . . ." But the Nisqually of the 1910s, dispirited, disorganized, and dispossessed, had no way to fight back as they had done in the 1850s, and as they would do again in the 1960s and beyond. The land was never restored. Congress ratified the condemnation and set up a small fund for replacement land. Fort Lewis now had two-thirds of the reservation.

This removal from their



homes, in the dead of winter, shattered the lives of the Nisqually. Many fled the area to the homes of relatives at Puyallup, Chehalis, or Quinalt. Some suffered pneumonia. Josephine Pope, the wife of Billy's dad, died within a year. Later, in 1928, he married Angeline.

"All of a sudden they said to my dad, 'You don't have a place to live anymore.' That, and losing his wife, must have been a blow



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The old Nisqually Grade School was four blocks distant from young Billy Frank's home. A similar trek took him to "Nisqually" for mail and groceries. The wee wayside town and general delivery post office vanished with the construction of Interstate-5 in 1968.

to the young man that he was. But he wasn't going to give up. He was a steady, quiet guy. He didn't look for trouble. I tell Willie this. You go around trouble. Go around it.

"So he walked around looking for land. He lived in a tent down by the mouth of the river for a couple of years. Finally, in 1919, he decided on six acres along the river. It was owned by a farmer, Wint Bennett, and he sold it to my dad. That place became known as Frank's Landing.

"How do you have the patience to deal with these people? You've been crapped on time and time

again, how do you do it? His patience was in his bringing up, in the carving of the canoes, living near that river with all that water going by him, the salmon coming back every year, coming back every year."

"That river was my life. You understand it right from when you were a little boy. The winter floods, the spring floods, the low summer water. We lived right on the bank, right near the edge of tidewater. At Frank's Landing you know exactly when the tide



comes in and when it goes out.

"And there was a relationship between your life as a little boy and the salmon. You knew that every year the salmon came back. Spring salmon, summer salmon, fall salmon, then the winter run of chum salmon up to Muck Creek. Then the cycle would start over again.

"We lived in that river all summer. Every day, fishing, swimming. We had an old wooden bridge. The Old Road, we called it. It's not there anymore – it got torn down after World War II. But back then, we'd dive off it.

ing to produce military aircraft during the Cold War and expanding to include commercial planes by the 1950s. Electronics and aerospace industries moved in, and



international trade flourished. The suburbs mushroomed in response to people's appreciation for the region's clean air and outdoor lifestyle. In eastern Washington, a burgeoning demand plus good growing conditions in the Yakima and Wenatchee valleys and elsewhere led to irrigated bumper crops of apples, pears, and other specialty fruits and vegetables. Washington as a state grew from 2.3 million people at the close of World War II to nearly 6 million at the end of the century. The Puget Sound area expanded three-fold, shooting from 1 million in 1945 to 3.3 million in the late 1990s.

The non-Indian salmon take rose sharply in the years after the war. Forty-six Puget Sound commercial gillnetters fished for sockeye in 1945; the number leaped to 322 in 1953, to 637

in 1957; there were 121 seiners in 1945, 452 in 1961. Salmon and the aerobic steelhead were pursued avidly for recreation by newcomers flooding into the Northwest. Washington put a daily two-fish limit on sport fishing for salmon, but an annual commercial license, with no daily limit, cost \$15. As a result, sport fishermen regularly purported to take up commercial fishing.

Population pressures brought wholesale habitat destruction. The short, steep rivers running from the Cascades to Puget Sound created outstanding opportunities for generating electricity to fuel industrial and residential development; the City of Tacoma seized one of these opportunities with its generating facilities on the upper Nisqually River. The hydroelectric projects of Tacoma and the City of Centralia, to which we will return, pounded the salmon runs on the Nisqually.

At the same time, fueled by the baby boom, the housing industry cranked up and the nation looked to the Northwest for timber. The Forest Service enthusiastically

CHAPTER 3

GEORGE HUGO BOLDT



After six fishermen were jailed for contempt, a resistance organization was formed in 1964. Canoeing on the Nisqually, SAIA founders Janet McCloud (bow), Don Matheson, and Al Bridges (navigator) prepare to lead a Frank's Landing "fish-in" (1966).

ing electrical lines in British Columbia, Montana, Idaho, Washington, and down to Oregon.

But during the runs, Frank's Landing was hyperactive, white hot. The surveillance was continuous. There were scores of raids, many of them – preserved both in front-page photographs and a great amount of film footage – ugly, heartrending brawls. In time, the banks of the Nisqually merged with the schoolhouse steps of Little Rock, the bridge at Selma, and the back of the bus in Montgomery.

The game wardens – a dozen to more than fifty – would descend the banks in a stone-faced scramble toward a few Nisqually men in a canoe or skiff unloading salmon from a gillnet. Usually the Nisqually would give passive resistance – dead weight – and five officers or more would drag the men up the rugged banks toward the waiting vehicles. The dragging often got rough, with much pushing and shoving, many arms twisted way up the back, and numerous cold-cock punches. The billy clubs made their thuds. Sometimes the Indian men struck back. Sometimes Indian people on the banks threw stones and sticks at the intruders. The stench of tear gas hung in the air.

The Nisqually women got involved too. Film footage shows Maiselle Bridges and Billy's wife, Norma, clinging desperately to the nets as the officers dragged them forcefully up the rocky river bank. As with all the blood struggles of minority people for freedom the world over, a sorrow, a poignancy shared the air with the tear gas. Yes, all the young, clean-cut, crew-cut officers charged down the banks toward their duty, fixed on fulfilling their oaths to enforce the law – good law, so they believed. And yes, for some of them, their eyes remained cold during the ensuing brawls. But in other young eyes, one could see the questioning, the sadness. Why does it have to be this way? Is this right?

The people at Frank's Landing learned to endure the grimness of the

When *United States v. Washington* was filed, the State of Washington reaffirmed its long-time stand that Indian treaty fishers were like any other citizens and were fully subject to state regulation. Some Washington state court cases suggested that result. In 1916, the state supreme court had written this in *State v. Towessnute*: "The premise of Indian sovereignty we reject. . . . The Indian was a child, and a dangerous child, of nature, to be both protected and restrained. . . . Neither Rome nor sagacious Britain ever dealt more liberally with their subject races than we with these savage tribes, whom it was generally tempting and always easy to destroy and whom we have so often permitted to squander vast areas of fertile land before our eyes."

Ah, history. Who was the better historian, this Washington Supreme Court judge or Leschi's hangman? But that kind of judicial declaration was red meat in the 1960s and 1970s for Washington officials caught up in their war on the tribes. Jack Metcalf, then a state senator and later a

congressman, said: "You can't have superior rights; you can't have a hereditary aristocracy . . . that has more rights than other people. That won't work in this country." Walter Neubrecht, head of the Washington Department of Game, bluntly asserted the states' rights view: "We had to bring in our full force and arrest anyone who had resisted or was interfering with us in the performance of our duties."

Powerful forces in state government, then, insisted on going to the mat. No special treaty rights. This is purely an enforcement matter. Just read the state laws.

More troubling as a legal matter was the so-called Puyallup I decision in 1968. That opinion, written by Justice William O. Douglas, had found that the state could regulate off-reservation fishing if "reasonable and necessary" to achieve "conservation" of the species. This seemed to give support to an argument the state had made all along — that it was regulating Indians to protect the species. As the tribes saw it,



Valerie Bridges (1969)

attempted to rule out Indian net fishers. Indians had always used nets, and the state could not prohibit Indian net fishing under these circumstances.

And so in Puyallup II the Supreme Court had rejected the state's sweeping conservation argument. William Rodgers, tribal lawyer and law professor, had briefed the case well. Professor Johnson's article was razor sharp and just. Justice Douglas had himself grown up in the Yakima

valley and was believed to have some sympathies for Indians. But could it also have mattered that, after Puyallup I and before Puyallup II, one Hank Adams had befriended one Cathy Douglas, the wife of the Justice? And that Cathy Douglas, herself a lawyer, had visited Frank's Landing and had, like many before her, become imbued with the rightness of the tribes' position?

Before the Boldt trial, the Washington Department of Fisheries, which had jurisdiction over all salmonids except steelhead, unleashed a thunderbolt. The agency announced that it would support the idea that

"fair share" meant a full one-third to the tribes, with one-third

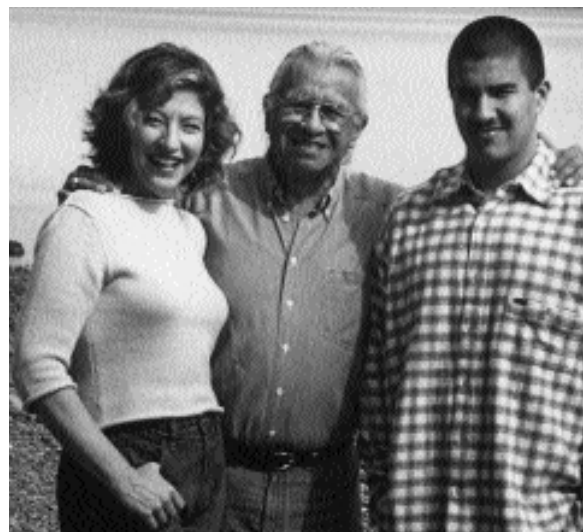
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Indian sport fishers and one-third to non-Indian commercial fishers. Yes, the morality was settling in. The fisheries department could see that the tribes had a compelling case. But the unbending Department of Game, with jurisdiction over steelhead, held firm. It always did, whether on the banks of the rivers or at the bar of the Court. No special treaty rights.

The month-long trial was held in the fall of 1973, in the federal courthouse in Tacoma. Dr.

Billy Frank met Sue Crystal when she was assigned to acquire lands for Wa He Lut Indian School's permanent site. Since the birth of their son in April 1982, Sue has continued as an attorney in high state government offices, while Billy has retained chairmanship of the Northwest Indian Fisheries Commission.



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