

Shaking the Treaty Tree

By

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It's hard to express the personal satisfaction I feel being here at Oberlin. Given a chance to inform you about questions which may, or may not, have some standing in your minds. But if I cannot adequately express my sentiments, perhaps, as anthropologists of my era do, I can explain them.

In 1946, a veteran of the Great Depression and what Studs Terkel dubbed the "Good War," I was a freshman in the Hutchins college at the University of Chicago. Somehow, I then conceived a glorious future part for myself: I would become a college teacher and spend my life at a small liberal arts institution of quality, probably in Ohio? Daily facing assemblies much like this. I didn't make it. The closest I ever came to a reputable Ohio liberal arts college was an act of bride-theft: I lured a wife away from Antioch. Faye and I have, instead, spent more than three decades involved with that variety of mass education practiced at state institutions, an unanticipated destiny.

I waited thirty some years and retired from teaching before receiving an invitation to the school of the kind I once dreamed of. And so I am truly delighted to be here. Whether what I have to say may delight--rather, whether it will enlighten you--remains an open question. I'm told the bequest founding these Mead Swing lectures specified that the talks should have "a religious or a scientific component" to them. Because I take instructions from honored ancestors seriously, I will pause for reflection. Can I with dignity claim a scientific or a religious dimension to my thoughts this afternoon?

Let others speak to this issue. A year ago, Richard Current, historian, said of my *Being and Becoming Indian* that it was "an intelligent book about Indians." Historians often use fewer words than anthropologists and speak indirectly. Clearly, Professor Current was implying there are a good many unintelligent books about Indians. I agree with this suggestion: the shelves of our libraries whimper with the weight of such intellectually noxious volumes. But intelligent commentary is surely one component of science.

And, recently, Irving Horowitz, sociologist, wrote about my last book, *The Invented Indian*, that it was "a beacon of rationality and good academic sense." I grumbled to this fan about such hyperbole: that "beacon" metaphor is much too heavy. I doubt I shine that brightly or strongly. If analogy there must be, I'll settle for a candle held up to a few dim places. And, again, rationality seems to mark what we call science.

About the same time, Edward Bruner. Anthropologist commented that *The Invented Indian* was an excellent example of "post-modernist. Hermeneutic reflexivity." I hope that was a compliment but can't be certain, for I have no precise understanding of what he meant. However, Ed Bruner is a leading practitioner of what is now called "humanistic anthropology." If he intended that mine was a humanistic approach, I am honored, for in my experience humanists--like scientists--try their very best to be cogent, astute, and sensible.

There are others, unhappily, who take a contrary view of what I've written. Indeed, their name is legion; I'll not bother to identify or to cite them. Most of these are contributing members of what I call the New Indian Ring, dedicated defenders of a new faith, and some of what I will say might be taken as an attack on the canons of that creed. However, back to that scientific portion. Broadly speaking, I take this to mean striving to attain an ideal of applied intelligence,

rationality, and good sense. I work at approximating this standard. You may judge whether what I have to say about the Indian treaty is “scientific” enough to meet Mead Swing guidelines.

The second--the religious--component involves different issues. Speaking as an anthropologist, whatever else religion involves; it does require strong personal commitment to some orthodoxy. To be religious one must believe uncritically in the correctness of some worldview. One must be straight on the answers to the predetermined questions. And to be thoroughly religious, at least in some European and American fashions, one must express a fervent evangelical disposition.

These mentalities, and these characteristics, I think, distinguish most participants in the New Indian Ring. Like those original ones whose name was legion, these tend to be obsessively self-punitive; they spend much time crying and cutting themselves with stones (St. Mark 5:5,9). Not content with congratulating themselves on their self-immolation, they also demand sacrifices of everyone else. The New Indian Ring—one of many interest group lobbies in the United States--is engaged in an Indian variety of one of America’s national sports, as Justice Richard Nichols put it, the game of “discovering and denouncing the depravity of our ancestors.” But there are rational goals in this madness, I think.

On that basis I can hope my remarks, today, at least approximate the second, religious component of the Mead Swing lectureships. I will speak about one of those lesser orthodoxies that are often embraced with incredibly blinding passion by various groups of Americans. Altogether, this doctrine is expressed in what I call “the Indian Story.” The Indian Story, as Americans know it today, is a complex narrative account of what two imaginary creatures did to, for, and about one another many years ago. The story’s notional protagonist and antagonist in this dramatic saga are “the Whiteman” and “the Indian.” Now plotted as a tragedy, it is also a heart—rending morality tale, and hence it contains explicit instructions about what its key actors, the White Man and the Indian, should do to, for and about one another today.

There are many who characterize this narrative as mythic. I’m hesitant to do so. At the peak of the Industrial Age, if memory serves me, it was Jose Ortega Gasset who said, “Today there are no myths, only politics.” In the post-Industrial Information Age—with its sensational proliferation of fanciful images--it is appropriate to bend this aphorism around. Let’s say: “Today there are no politics, only myths.”

As used by many, the word “myth” denotes deliberately contrived political falsehoods used, in Max Weber’s words, “not as plowshares to loosen the soil of contemplative thought” but as weapons against enemies. Such a characterization comes close to the Indian Story, at least in some of its calculated effects of deliberate disinformation, though not close enough for my liking. But the Indian Story surely is used to gain influence and resources by those seeking--what is that new fad word--“empowerment.”

I prefer to reach back to Jeremy Bentham, and more recently to one of the earliest critics of the Information Age, Walter Lippman, and to see the Indian Story as a work of cultural fiction. As such, this standardized narrative has cultural, political, economic, legal, and other important sides to it. Bentham was concerned with those cultural fictions contrived by jurists. These were, he wrote, willful falsehoods, “mystifications” used by despots, an anti-democratic means of stealing legislative power. Lippman, interested in the manipulation of public opinion, saw these fictions as cover-stories contrived by power-holders to conceal or obscure the real nature of events.

Viewed as a major work of fiction, the Indian Story is a fabrication of pseudo-events and relationships, counterfeits of the past and present that suit someone’s or some group’s purposes in their dealings with themselves and with others. As a human invention, the Indian Story has its own cultural biography. The earliest stirrings of the currently popular version, which Edward Bruner calls the “dominant Indian narrative,” date not much earlier than 1965. It didn’t exist when I started my anthropological career in the late 1950s.

This recent version, however, has ancient prototypes, found in some of the earliest documents of European thought. Homer’s Iliad and the Europa of Ephorus, are examples. Thus the invented Indian who appears as an adversary in the current story is to Americans as the Scythian was to Classical Greek thinkers, or the New World Savage to the Baron Lahontan and

Jean-Jacques Rousseau. He is the Naturvolker. This Natural Man is now—in the currently popular edition--despoiled of his innocence, his closeness to nature, his genuine and meaningful culture, his egalitarianism, his ecological sainthood. Yet, curiously, this invented Indian is regularly used as a “role model” for everyone else, those who have fallen from grace.

Taken as a whole the Indian Story, in its many tellings and retellings, is assembled out of an inventory of well used parts, following one or another of a few pat formulas. These ingredients consist of a limited array of allowable key words, standardized villain and hero figures, organizing themes or motifs, conventional plots, and starkly polarized contrasts. I am certain most of you have been made familiar with these during your lifetimes, since retellings of the Indian story are conveyed to us repeatedly in a variety of genres by all available means of communication: print, live dramatizations, oral tradition, rumor, in college texts and classrooms, electronic, visual, verbal, and non-verbal, etc.

Let me be concrete just long enough to be certain I am communicating. How many of you have heard Chief Seattle’s famous speech declaimed and believed it? How many have become convinced the Iroquois gave us the model for the U.S. Constitution? How many think they have seen the Indian reasserting his traditional culture in Pow Wows? How many know of someone who has worshiped at the feet of Rolling Thunder or one of his shammanic associates? How many have witnessed the Indian defending his Treaty Rights in a CNN transmitted media event? How many have noted the repeated use, when the Indian is the reference point, of such code words and phrases as: genocide or cultural genocide, Trail of Tears, fraudulent treaty, neocolonialism, heritage, cultural pluralism, oppression, assimilation, and the like? Have any of you looked just beneath the surface of such performances to note the unadorned diametric contrasts at work there: Victimizer/Victim, Guilt/Innocence, Alien/Indigene, Power/Justice, Dominance/Subordination?

Taken as a whole the Indian Story is dynamite. It blows away reasonable questions. It is a sensationally compelling morality tale, one which is extremely factious: it actively promotes divisiveness and adversarial relationships. It is, in addition, an us/them allegory which invokes profound, irrational guilt feelings, and consequently deep desires to make restitution. The story is also factitious--it is designed and used to serve someone’s ends. Finally, it is, as I have remarked, supremely fictitious. But like all compelling historical or contemporary-scene fictions, the retellings have some grains of truth sown through them to make them reasonably plausible.

There seems to be an insatiable American appetite for recitations of the Indian Story, perhaps because in it many find their own worst suspicions confirmed, or their morbid fantasies sated. Believability is increased by the sheer volume and variety of the retellings; but so, too, are convictions about paranormal and extraterrestrial phenomena first reported in the National Enquirer. At any rate, the story is made most compelling, I think, by the considerable talent and skill of the tricksters who cultivate and market it. These authors, actors, artists, impresarios, teachers, promoters, and public relations specialists--academic or civilian--who produce and promote the Indian Story are particularly skilled when operating in the orrectic mode on the minds of their audiences.

Orectic is a word I’ve borrowed from Rodney Needham. Only an Oxford don could dig up and hurl such an obscure oath. He used it, I think as a polite academic curse, in an essay where he helped expose, and finally admitted that he had been suckered by, one of the best known contributors to the Indian Story, Carlos Castaneda. Professor Needham was saying that Castaneda was a master of the crude art of manipulating the reptilian portion of your brain. That’s what peddlers of the Indian Story aim for, to make chills run up and down your spine.

Taking the Indian Story as a whole is too much for me in this forum. Time, your good patience and energy, the lateness of the hour, hunger-pains, and my throat will not allow. Accepting what I’ve offered so far as necessary introduction and background, I’ll concentrate on one salient element of the Story, the part that involves the so-called Indian Treaty. It’s here where I’ll take out my candle, hold it up, and see if I can illuminate a few murky places. Mine is an exercise in demystification. I’ll try not to cause any involuntary shivers. But, previous experience making me apprehensive, I suspect that if there are any true believers in the audience, my thoughts may make a few stomachs churn.

What Americans know about the “Indian treaty” can be summarized briefly. My precis is based on the pronouncements of numerous jurists, some historians, a few anthropologists, many attorneys, elite Indians themselves, and other members or allies of the New Indian Ring. This part of the “Indian Story” runs as follows:

From the beginning onward all Whites recognized that the Indian lived in sovereign nations, each owning its own territory. So from the start, in dealings with these sovereign ties White leaders negotiated treaties as they did with other nations. These treaties had the exactly same nature, and still have the same standing, as treaties negotiated between, say, the United States and Japan.

But there was a great difference in how the Whiteman and the Indian viewed these treaties. For the Whiteman, they were little more than a scrap of paper, an instrument of temporary expediency which could later be discarded, ignored, or abrogated unilaterally. For the Indian an entirely different view prevailed. In his mind the treaty was a sacred pact, unalterable by any mortal, perpetual in its assurances, a solemn promise that the Whiteman would forever preserve and protect the Indian on the remnants of his sacred homelands, for so long as the grass grows and the waters flow.

In the past quarter-century, a few good Whitemen have come to their ethical senses in a Great Awakening. Wise judges, idealistic attorneys, selfless academics, and courageous, determined Indian leaders have shown that these consecrated documents, negotiated and sanctified so long ago, stipulated that the Indian could forever live by his own traditional ways, governing himself, separate and isolated from mainstream America, with his own special key to the vaults of the federal treasury, and with his own unique claim to a cherished place in the hearts and minds of Americans. The Indian Treaty, in short, is the highest law of the land, and governs all relationships between the Whiteman and the Indian.

If this sounds like caricature, it’s not of my making. All I’ve done is to stick together the words of some of those “good Whitemen” to make a connected account.

As a novice anthropologist I first became aware of the importance to Indians of what are called treaties on the Klamath reservation in Oregon. Later, working among the Southern Ute in Colorado, I again had these old agreements called to my attention. However, I paid little attention to them at the time. I was researching specialized problems in contemporary communities in what we anthropologists call the ethnographic mode. Neither the Klamath nor the Ute had negotiated more than one or two treaties, and these had long been superseded by other Acts of Congress. And this was before the great rush of treaty-related litigation began, before more than a few parts of the Indian Story had been manufactured.

It was only in 1962, when I began a still incomplete series of ethnohistorical studies of the Prairie Potawatomi and their numerous allies that I became immersed in historical studies of old negotiations and agreements between Indians and the United States and the consequences of same. I had become interested in Potawatomi history for entirely theoretical reasons, and treaties, so-called, were a large part of the political—economic dimension of that history. Moreover, the elderly leaders I knew best were forever rummaging around in their trunks, ferreting out much fingered photostats or tattered print copies of old documents, and waving them in my face. I could not ignore them. I had to learn about treaties.

An in-depth historical study of Potawatomi treaty dealings was not a simple task, I found. This was so because the ancestors of these Indians had negotiated some forty-seven such contracts with American officials, and another half-dozen with British agents, far more than any other American Indian society. Together, these compacts with Americans amount to about thirteen per cent of the 374 that had been negotiated by congressionally approved American agents, checked by the Department of War or Interior, handed over to the United States Senate, there ratified by formal Act of Congress, and finally proclaimed by the President. By social science standards, that’s a pretty good size sample of any universe. It was also, I found, a reasonably representative sample. This is so because the Potawatomi negotiated several of the

first American treaties—here in Ohio, before there was a United States, and one of the last such, ninety years later in Kansas, in 1867.

In addition, the kinds of business transacted by the Potawatomi in these negotiations were of all sorts. Many involved land sales. Some established, others disestablished reservations. Several early compacts created the first political relationships between the United States and this society, and, subsequently, following wars, there were agreements to keep the peace. A few terminated political relations with one or another Potawatomi group; one, the last, reinstated such a connection and restored legal Indian status to one band. Furthermore, these agreements are full of stipulations about how much Americans were obliged to pay and what services would be delivered: to whom, when, where, and for how long. And they were equally varied in the obligations approved by Potawatomi leaders for themselves and their kinfolk.

In addition, other research interests and involvements took me into detailed studies of more than one hundred additional treaties, mainly involving the Indian societies of the Northeast Woodlands, from the Minnesota Chippewa to the Iroquois of New York, including all of those negotiated with Ohio's indigenous peoples. These scholarly interests, I found, had an unanticipated practical value in a political-legal arena. So in a half-dozen instances I found myself called into federal or state courts to testify on behalf of one or another plaintiff or defendant group. There, following the peculiar customs of the jurisprudential tribe, I was properly certified as an "expert."

I mention the latter not because I think such courtroom certification of expertise has much weight: I was never much impressed by the standards set for expert witnesses in American courts. One definition of expert witness is: someone with a briefcase more than fifty miles from home. Here, today, I qualify on both these counts. At any rate, these excursions into forensic ethnohistory did give me reason for closer examination of even more treaties. And in these courtrooms I was given an opportunity repeatedly to observe the use and abuse of the past in a procedure called "law-office history," as modern Indians, their counsel, and their adversaries, set about shaking the treaty tree.

I regret saying that I was never able actually to observe a treaty negotiation, the last of them having been hammered out some years before my time. However, as anthropologist I was able on several occasions as participant observer to witness treaty-like events. The process of bringing about the termination of the Klamath Tribe in the 1950s was one of these, and the processes of promoting the restoration of tribal status to the terminated Menominee in the 1970s was another. With this as my candle-stand, I'll hold up my small light to that partial narrative about the Indian Treaty I've just recited. What I am going to do is to apply a few cruel tactics and some brutal facts.

From the time when I first started examining the history of treaty dealings, as scholars do, I went looking for the literature on the subject. Surprisingly, I found very little, and not much more has appeared in print since. There are a few scholarly books and maybe a half-dozen essays about the Indian Treaty. There are several compilations of the printed documents themselves. Various legal tomes, invariably written by counsel representing only one of the adversaries--and hence suspect because of imbalance and bias—pronounce in doctrinal fashion what the Indian treaty really is. In histories of particular tribes, the events surrounding one or more treaty negotiations are usually discussed. And there are a couple of multi-volume collections of "treaties" with indigenous peoples worldwide. But of systematic, penetrating social science type analysis of the Indian treaty as a significant, recurrent human event I found practically nothing.

In reading this literature one striking omission caught my attention. None of the authors, nearly all of whom took a partisan stance, bothered to define what they were talking about, the Indian treaty. None laid out the semantic range of the word "treaty" in English usage. The meaning of "Indian treaty" was taken as a given. Asking questions about this, I discovered, would violate an unspoken taboo.

That's the first harsh course I'll take. I'll remind you that in English usage the word "treaty" has two distinct though related meanings. The first of these is very general: any agreement or arrangement decided on by two or more parties. Synonyms for "treaty" in this sense are

contract, transaction, covenant, deed, deal, bargain, indenture, and the like. In our world, today, the captains of New York's police precincts sometimes negotiate what they call "treaties" with street gangs and neighborhood ethnic organizations. Certainly, the "treaties" negotiated between, say, Great Britain and the Ojibwa fit this general meaning. At minimum, these were agreements between two parties arranging some of their affairs, presumably to their mutual satisfaction.

However, attorneys representing modern Indians, theorists of Indian law, the federal courts, elite Indian leaders, and others of the New Indian Ring promoting contemporary native interests are not content with using treaty in this garden-variety, if obsolescent, sense. They vehemently insist that such compacts with Indians meet the second, centuries-old definition of "treaty," that one found and used in the practice of international law.

I think it the business of scholars--scientist or humanist--to view such claims with a degree of decent skepticism. Fortunately, the nature of an international treaty is rigorously defined and agreed on. That's the second cruel thing I will do, to hold up each of the defining criteria of international treaty against the hard facts of the alleged Indian treaties. For example, what do we know about the political-legal status of who negotiated with whom about what?

International treaties are, at root, formal, written contracts agreed on by two or more political authorities, political entities constituted as sovereign nation-states that are internationally recognized juristic persons.

It happens that hundreds of so-called Indian treaties are published in compilations because they were written down and preserved, no more. No questions are raised about the jural-political status of the parties involved, but under international law this is critical.

Some examples are needed so you will understand what I am saying. The historical document touted in a supposedly scholarly essay as the first known North American Indian treaty dates to 1613. On inspection, this turns out to be a written commercial agreement about peaceful trade between a ship's captain representing a private Dutch firm and some Hudson River Indians. Leave aside, momentarily, the jural status of these Hudson River Indians. The ship's captain and his employers were not an internationally recognized juristic person, a sovereign nation. This was not a treaty in the second, international sense.

Hundreds of other so-called Indian treaties are precisely of this nature. They were negotiated at the insistence of private European parties who were convinced that there was magic in written documents. These are bills-of-sale, leases, peace covenants, trade agreements, and pacts of other kinds--not treaties as defined under international law.

I'll go a step further. In published compilations of Indian treaties there are hundreds of other written agreements set down before 1776, between authorities of one or another of Britain's Atlantic seaboard colonies and various groups of Indians--in Pennsylvania or Carolina, for example. Were these treaties in the international sense? How could they have been? These were agreements pressed on Indians by political dependencies, the colonies, which were not then internationally recognized sovereign nations.

One more step, onto really hazardous ground. Let's look at the other side of the bargaining table. What was the status--the legal, political, sociological nature--of the Indian groups involved in these dealings? In 1833 the United States negotiated a major treaty with an entity its representatives called "The United Nations of Ottawa, Chippewa, and Potawatomi." That "United Nation" had been invented by American authorities earlier in the year. Similarly, in 1837, the United States concocted a Chippewa nation including independent bands in Michigan, Wisconsin, and Minnesota and negotiated a treaty with it. Did the Chippewa leaders at the time think they were representing a united Chippewa nation? They did not. Each of them spoke, haggled, and protested on behalf of his own village and kinfolk.

There are a few dozen ratified American Indian treaties where there are serious questions about the legitimacy of the Indian representatives with whom American agents negotiated. These are the small minority of such contracts that can, with some accuracy, be called fraudulent, on the grounds that the Indian leaders signing them were selected by Americans because of their submissiveness. Under international law, if it can be shown that the negotiators for one side were not legitimately appointed and representative, then the validity of the whole agreement is

thrown into question. Not so under the rules of federal procedure in the United States for Indian treaty rights cases. Here an entirely different rule prevails. The act of ratification by the United States Senate automatically makes an Indian treaty valid, irrespective of who approved it and how its terms were obtained.

This fact points to another criterion where solemnly negotiated and duly sanctioned agreements with Indians do not meet the standard of international treaties. None of these have any standing in international law. The Sioux, seeking relief, may not take their complaints about losing the Black Hills to the Hague or before the United Nations, nor can any other Indian organization. Borrowing the 1830 phrases of Chief Justice John Marshall, the United States negotiated these agreements with dependent, domestic peoples and called them treaties--in the older, generic sense of the word. Indians were not dealt with sovereignties, but as subordinate clients.

I'll look at a few more of those features of the Indian Story which obfuscate the sociocultural nature of these agreements with Indian communities. The story says that all European powers recognized that Indians lived in sovereign nations and negotiated treaties with them. Not so. Imperial Russia and the Russian American Company defined the Aleuts, the Nootka, and the Haida as something less than serfs and regally commanded them to do this or that. The Czar did not authorize any of his agents to negotiate treaties with his Aleut or Haida subjects.

Imperial France and Spain were not far behind. If we look open-eyed at the so-called French treaties with North American Indians, what we find, for example, is a record of a French flag planting ceremony: "I take possession of these lands by right of discovery in the name of Louis King of France, and to inform you savages that you are now subjects of my King." These are not negotiated treaties, not negotiated agreements of any kind. The fact that they were transactions involving Europeans and Indians preserved in writing cannot make them so.

Similarly, from the Indian side of these transactions, the activities that have been called treaties include exchanges as diverse as demands for tribute from traders, to Iroquois condolence rites and Algonquian calumet rituals. These all involve several groups of people involved in intersocietal events of one kind or another, but they are not international treaties.

Indeed, if we look at the history of events where a European party was involved with Indians in a compact the Europeans called "a treaty," the chronological and geographical ranges are very limited, and the nation-states involved few. Treaty-making with Indians was an exclusively North American political-economic phenomenon. The era began in the early 1760s after the British conquest of New France, following a major Indian rebellion, Pontiac's War. It ended, in the United States, in 1871, while in Canada it continues to this day. Indian treaty-making has been an exclusively English-speaking person's usage and practice. Why this is so is an important question that I have no time for, now.

Claiming that for Indians these treaty agreements were sacred is a very recent embellishment of the Indian Story. In the past few years, representatives of the New Indian Ring have, increasingly, started to use the adjective sacred to sanctify Indian claims of many kinds. Thus we have started hearing of places sacred to the Indian, of sacred artifacts, of sacred ideas, of sacred practices, and so on. The Indian Story, in its successive retellings, is subject to constant revision, elaboration, and hoopla. I think the effusive use of the word sacred, or some analog such as holy man, applied to almost anything modern Indians do or want is an example of this--rhetorical--flamboyance.

I first saw the word sacred attached to modern Indian understanding of the treaty just two years ago. This pioneer usage was in the printed version of a speech by a distinguished anthropologist colleague, whom I greatly esteem. Since, in all the attention I had given Indian treaties over the years, I had no hint that any Indians I knew about had ever claimed their treaties belonged in the realm of the supernatural, my attention was caught. So at the first opportunity I cornered my colleague and pestered him with three mean questions. What line of thinking had led to this characterization? What did he mean by sacred? Where was the evidence? The reply was suggestive, but unsatisfactory to me. "It seemed like a good line at the time," was the gist of what I was told. May I note that this is a perfectly fine standard--for fiction writing, or advertising, or public relations ballyhoo.

So I can't buy this supernaturalistic construction that has been tagged onto Indian thinking about the Treaty, neither the ornamentation proper nor its rationale. Why I can't will lead me to a conclusion, a metaphor of my own, and the end of my talk.

Fifty some years ago, writing about Bali, Gregory Bateson commented about the contemporary manipulation and use of memories of past events, Significant events occur in the past, he noted, and memories of them center on some relic. In my discourse, today, the event was one or another of the 374 actual transactions involving American authorities and Indian leaders between 1778 and 1867 that are called Indian treaty sessions. The relic is the written document, itself. More importantly, all these diverse transactions have become compressed into a collective representation under the rubric, "the Treaty," itself a significant theme in the Indian Story of our time.

Memory of these events, Bateson goes on, centers on the relic--the preserved treaty document and memories about it. This relic, Bateson remarks, becomes a powerful influence across time. Perpetuating memories of the relic--the Indian treaty--is a way of continuing the social effects of past events. In this manner, Bateson concludes, people invest real authority in the past, which is used for the business of governing the present. Certainly, the Indian treaty is being used today to govern the present, much to the satisfaction of most--not all--Indians, much to the consternation of many other citizens and local units of government in this nation who must pay the costs and suffer the consequences. However, we have to take into account the warning Gregory Bateson appended to his discussion, often memories of the past do not suit our present purposes, and so we amend them, deleting the parts now threatening or useless, adding new elements or editing and embellishing older ones. It is much amended--fictionalized, retrospectively falsified--memories of the past that are used to govern the present.

This is what has been happening to the historical relic that is my subject, "the Indian Treaty." No word in Indian Affairs now carries more emotional freight than this one. Modern Indian leaders and their allies regularly claim, in the strongest and most incontrovertible terms, that all the special rights and perquisites enjoyed by Indian, and all the categorical aids delivered to them, are based on explicit stipulations in "the treaty." They are not, and they cannot be.

I'll take a sharper look at that effort to supernaturalize "the Treaty." Without question "the Treaty" has overwhelming symbolic importance to modern Indians, however generously Indian is now defined. It is also of enormous political-economic importance to them and those dependent on their largess. The idea of Treaty--the contemporary meanings given the relic--comes up constantly in many different contexts. This idea is loaded with high emotion and Indians are greatly aroused by it. There are many restrictions surrounding what can be said or done about "the Treaty"; and Indians constantly speak of how terribly important "the Treaty" is. All this indicates that "the Treaty" is, unmistakably, what Sherry Ortner calls a key symbol.

But is "the Treaty" a sacred symbol, as my colleague wrote. I think not. Sacred symbols are objects of reverence that call for all--or-none allegiance to a whole package of undifferentiated ideas and sentiments. What Indians and their allies say and do about "the Treaty" is not like this.

I remember those elderly people hauling out their copies of the relic, waving them in my face, pointing to them and asserting--"It's in the Treaty." Attorneys representing Indians in the courtroom do precisely the same thing, if in a somewhat more refined fashion. "The Treaty" is used in this and other ways, as a vehicle for sorting out ideas, feelings, resources, and people. They help people order their experience, and they point the way for meaningful social action. The key to understanding this symbol so important to Indians is not to paste ersatz spiritual fluff on it, but to watch what Indians do with it.

How is "the Treaty" used to make sense of modern Indian experience? It provides a strategy for action, a standard for correct and successful living in modern America. "The Treaty" is used to sort out Us and Them. It dictates who has a priority claim to the land and its resources and who not. It specified who owes whom what. It is a means of exacting legal tribute from them. It is a rally point for leaders promising large future benefits, it is used to block reform or change--

modest or radical--in social and political relationships. It anchors the here-and-now to the bygone and, following Bateson's suggestion, "the Treaty" is skillfully used to govern the present.

Sherry Ortner calls this variety of symbolic action a "key scenario." It happens that I have spent much time looking at the development and use of that scenario both in the past and present. On several occasions I have had a minor walk-on part in actual performances of the script--in federal courtrooms. There, unable to do participant observation, I had to be what John Messenger calls an observant participant. I suggest that this vitally important symbol, "the Treaty," is a conveniently revised memory-relic, converted into a strategy for action in a modern political arena.

There is a key which, I think, will help unlock understanding of the place and behavior of Indians today, in these United States. Turning the key will let a skeleton out of the closet. They--modern Indians--are a special interest group, one of many. Their leaders and allies, organized in what I've called "the New Indian Ring," operate as an interest group lobby. The name of the game played by modern Indians is pressure group politics. In this context, the Indian Treaty is a vital symbol, a key scenario, used to gain leverage in the political arena. It is of particular importance to them, since they are too few to constitute a significant voting block. The "Indian Treaty," a salient part of the larger Indian Story, then, is staged as public relations fiction. I suggest it is the responsibility of all educated citizens to protect themselves against any interest group's hype.

I'll wrap this up with a metaphorical excursion of my own. The Indian Treaty might be seen as a great tree, perennially bearing bumper crops of ripe fruits. The trick, so far as modern Indians and their advocates are concerned, is to shake that tree so that most of the crop falls on their side of the fence. In anthropological lingo, it's a particularly smart subsistence strategy that makes good sense in a complex, multi--ethnic society. But pressure group politics is an old sport, and Indians are not the only ones that play it. By no means are they the only interest group seeking windfalls and entitlements in today's America. They are, however, the only one that has "the Treaty" to flaunt at the rest of us.

I thank you for your patience and attention.

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