

# Butlers Acquitted!

THE POLICE MAY HAVE HYPNOTIZED a couple of key witnesses in the murder trial of American Indian Movement warriors Dino and Gary Butler, but, for once, they weren't able to cast a spell over the jury.

After more than four years behind bars, the Butlers were finally acquitted October 19th, 1985 in Portland, Oregon in a trial with distinct native Indian cultural and religious overtones. They had been accused of the 1981 killing of a white grave-robber in Newport, Oregon, who had carried on a lucrative business by digging up the ancient graves of the Siletz Indian people of Oregon and removing religious artifacts for sale to private collectors. Despite repeated complaints by the Siletz, and despite the fact that such activities would be considered blasphemy and repugnant if carried out against Christian burial places, the police never lifted a finger to stop the illegal trafficking.

The FBI were zealous to see the Butlers convicted on account of their political activism, which in Dino's case dated back to the July 26, 1975 shoot-out between invading FBI agents, members of the American Indian Movement and residents of the Oglala Sioux nation in South Dakota. An Indian man, Joe Stuntz, and two FBI agents were killed in that fire. When Dino and fellow defendant Bob Robideau were acquitted—on the grounds of self-defense—with the murder charges stemming from that shoot-out, the FBI told Dino that they were out to get him, no matter how long it took.

Seeing their opportunity in this case, the FBI took outrageous steps to see the Butlers convicted. They were responsible for having two eyewitnesses hypnotized, repeatedly showing them pictures of Dino and Gary, so that they would be able to recognize the defendants in court. The FBI also brought one of the witnesses to Vancouver to view a police line-up where the only suspects in prison uniform were the Butlers.

The defense, arguing that the use of hypnosis tainted the evidence, sought a pre-trial motion in the Newport courtroom to have this evidence ruled inadmissible. The Newport judge thought otherwise, but when the defense got a change of venue (due to extensive pre-trial publicity) to Port-



Darelle "Dino" Butler (left), Gary Butler (not shown), and Robert Van Pelt (center) at their trial.

land, they were able to convince the new judge that this evidence was completely unacceptable. In his Sept. 10th ruling, the Portland judge ordered that only the pre-hypnosis testimony of the two witnesses which had been made two days after the murder of the grave-robber would be accepted by the court.

In this testimony, the murderers were described as being 'tall' persons. This led to a dramatic courtroom scene, when the prosecutor, attempting to save his case—for the Butlers, while they are heavily built, are certainly not tall—sought to convince the jury of Dino and Gary's guilt during his examination of the grave-robber's son by, first, picking up the two revolvers allegedly used in the murder, waving them in the air, and exclaiming, "How tall am I now? How tall am I now?" He then picked up the knife from the evidence table and shouted, "How tall do I look now?" The prosecutor finished his dramatic presentation, worthy of the Perry Mason show, with the question, "When I'm on top of your father,

beating the piss out of him, how tall do I look?"

Three days after throwing out the evidence obtained by the FBI through hypnosis, the judge released a third accused, Robert Van Pelt, due to the lack of admissible evidence against him. Robert had turned himself in on April 30, 1985 when he heard that he was wanted on the same charges that faced his Siletz cousins. Their trials were consolidated on July 23rd. This decision was based on the experience of the trials that followed the Pine Ridge fire. As Dino wrote in a letter to the Leonard Peltier Support Group, "In July 1976 Bob Robideau and I were acquitted of two murder charges that two years later Leonard Peltier was convicted of and sentenced to two consecutive life sentences. Our indictments were identical.

"There is no doubt in my mind that if Leonard Peltier had stood trial with Bob Robideau and me in Cedar Rapids, Iowa, he would have been acquitted right along with us. We did not want to make the same mistake here in Oregon. That is why Robert turned himself in and why his trial was consolidated with ours. We are innocent just as Leonard is innocent." Robert's release on Sept. 13th vindicated this position.

In his closing statement to the jury, the prosecutor asked for them not "to make a fool of him" by acquitting the defendants. His plea obviously fell on deaf ears, for they did acquit Dino and Gary. The Butlers returned to their families on the Siletz reservation.

After the verdict, Gary's wife Ishbel Butler said, "We feel justice had been partially served, but Lincoln County [where the trial was held] can never give them back the four years and all the things they went through."

The legal proceedings following the 1981 murder were interrupted by an extended stay by the two cousins in Canada. It wasn't a holiday though. They were on their way to visit friends in Vancouver in connection with

defense work for Leonard Peltier, then serving time in the infamous Marion Penitentiary, when a police car started tailing them.

The Butlers stopped to ask them what they wanted, but when the cops drew their guns, the two cousins decided they didn't want to stick around to see what was on their minds.

Result: four year sentences for discharging a firearm and dangerous driving.

## Hungerstrikes

For the next four years, they staged a series of hunger strikes and other actions, in cooperation with the native brotherhoods in each prison in which they were stashed, to win the right for native people to hold pipe ceremonies, sweat lodges and other traditional sacred rituals behind bars. The authorities resisted, in the knowledge that cultural and spiritual rights are often a forerunner of political rights.

By the end of the four years, assisted by effective lobbying all the way to the House of Commons by Opposition politicians, lawyers and (Christian) religious leaders, the right to practice traditional religion had been established, at least for the time being.

But it wasn't only in the prisons that the Butlers fought. They also used the courts as a forum to win native rights. After their conviction, they appealed on the grounds that the jury-selection process was racist: court officials admitted, in an unguarded moment, that they systematically excluded native people because they were allegedly "unreliable."

They won the appeal, which in effect was a rebuke to the Chief Justice of the British Columbia Supreme Court, who had presided at their first trial. He had also refused to allow them to bring their sacred pipe bundle into the

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## ON THE ROAD:

Just when you thought you'd never see another issue, here we are with #18, packed with all the good stories you've come to expect. We continue in this issue with the special insert of *Resistance*, a practice begun with #17. We did get a healthy response from our readers concerning the inclusion of this underground paper, most of which was in favour. The OR collective considered the many issues involved with including *Resistance*—financial, ideological, and practical—and we decided to go ahead with its inclusion. In fact, our next issue will be an attempt at amalgamating the two papers.

This will be achieved through a change in both papers. For *Open Road* this means expanding our Blast section to cover the guerrilla struggle

in greater detail, including the reprinting of selected communiques; for *Resistance*, this means writing more stories about groups and events in the struggle, and reprinting fewer direct statements from the clandestine organizations, especially those of M-L persuasion.

Along with our decision to amalgamate, we will be making a concerted effort to come out more frequently and regularly. This means that we are more than ever in need of your editorial, graphic and financial contributions. So drop us a line today.

The Open Road collective

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