The
NARF LEGAL REVIEW
Native American Rights Fund
Spring 1984

CATAWBA TRIBE v. SOUTH CAROLINA
FROM AUGUSTA TO RICHMOND — ONE TRIBE'S STRUGGLE CONTINUES

Big Foot at Wounded Knee, 1972
From the Permanent collection of the Oscar Howe Art Center, Mitchell, SD.

From staff and wire reports
RICHMOND, Va. — In a 2-1 decision, a federal appeals court ruled this morning that the Catawba Indians have the right to sue to recover 144,000 acres of land in York and Lancaster counties that they claim were taken from them illegally.

Rock Hill Evening Herald, October 11, 1983

On November 10, 1763, in a Treaty at Augusta, Georgia, the Catawba Tribe agreed to cede its aboriginal territory in return for promises from the King of England that the Tribe's possession of a much smaller tract — a 144,000-acre Reservation surrounding the present city of Rock Hill, South Carolina — would be protected. In 1840 the State of South Carolina attempted to extinguish the Catawba Tribe's title to the 144,000-acre Reservation by a "treaty" in which the United States did not participate. Because the State did not honor the terms of the "treaty," and because federal law has, since 1790, unequivocally held that only Congress may extinguish Indian title to land, the Tribe's dispossession by the State of South Carolina has precipitated a political and legal struggle that has spanned almost a century and a half. It is a struggle that has been waged in the Statehouse in Columbia, in the Interior Department in Washington, and in the halls of Congress. Sadly, however, the latest rounds have been fought in the federal courthouse.

On October 11, 1983, the United States Court of Appeals for the Fourth Circuit in Richmond, Virginia, reversed a lower court ruling and held that the Catawba Tribe could pursue in the federal courts its claim to possession of the lands of its 1763 Reservation. Perhaps because the suit affects the title to land on which more than 60,000 people reside, the Court later granted the landowners' motion to rehear the case *en banc*, i.e., before all ten of the Court's active judges. That hearing has not yet been held, but there is little question that the United States Supreme Court will be asked to review the Fourth Circuit's *en banc* decision, whatever it may be.

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This high stakes, all-or-nothing court battle is the modern legacy of official refusal, over the course of more than two centuries, to heed Catawba complaints and enforce applicable laws respecting Indian lands — laws that pre-date even this Nation's existence. At least eight generations of tribal leaders have sought to obtain a settlement of the Tribe's claim that would restore at least some measure of the promise of self-sufficiency held out by the 1763 Treaty. Their appeals have, until recently, met with little success.

The Colonial Period: The Reservation Established

The Catawbas' struggle to protect their lands from white settlers began well before the Treaty between the King and the Tribe at Augusta in 1763. Prompted largely by Catawba complaints of invading whites, the Provincial Council of the Royal Colony of South Carolina in 1739 passed "An Act to Restrain the Purchasing of Lands from Indians." Because of the Catawbas' importance to the Colony of South Carolina as a buffer from hostile tribes to the West, South Carolina actively sought to protect the Tribe's lands throughout most of the eighteenth century. North Carolina, however, repeatedly ignored South Carolina's warnings and protests and refused to restrain its surveyors and settlers from entering Catawba lands, leading South Carolina in 1754 to recognize all lands within a 30-mile radius of the Catawba towns as Catawba lands. North Carolina and her settlers persisted, however, and the resulting dispute between North and South Carolina, coupled with a severe smallpox epidemic in 1759 that greatly weakened the Tribe, led to a major cession of tribal land in 1760.

> *". . . wee understand that ye Indians have made Complaints that some of or People incroach upon them. wee hope yu Adjusted that Bussiness to there Satisfaction . . . if it bee not allready done pray come to an agreement wth ye Indians to there Sattisfaction about there bounds and Lett none of or People Incroach upon you for ye future . . ."*
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> **British Lord Proprietors to the Governor and Council at Ashley River, April 10, 1677.**

In that year the King's Indian Agent met with the Catawbas and negotiated the Treaty of Pine Tree Hill, in which the Catawba Nation agreed to cede to the King its 60-mile diameter tract (2,826 square miles) in return for being permanently settled on a tract 15 miles square (225 square miles). Although the Treaty promised that the tract would be surveyed, a fort would be built for the Indians' protection, and white incursion would not be permitted, North Carolina predictably refused to abide by the Treaty and the Crown did little to fulfill its obligations.

Following the end of the French and Indian War in 1763, the Crown sought to ensure that peace would, in fact, come to the southern frontier. To this end it arranged a treaty with the five major southeastern tribes, all of which, except the Catawba, had been allied with the French. The governors of the southern colonies were directed to invite the chiefs of the Creeks, Choctaws, Cherokees, Chickasaws, and Catawbas to Augusta, and "to use every Means to quiet their Apprehensions and gain their good Opinion." To further assure the Indians of the Crown's good intentions, King George III issued the Proclamation of 1763, forbidding any purchase of Indian lands without the Crown's consent. This predecessor of the federal Indian Nonintercourse Act formed the backdrop for the negotiations in Augusta later that year.

> *"He informed the Governors his Land was spoiled, he had lost a great deal both by Scarcity of Buffalos and Deers, they have spoiled him 100 Miles every way, and never paid him, His Hunting Lands formerly extended to Pedee, Broad River etc. but now is driven quite to the Catawba Nation. If he could kill any deer he would carry the meat to his Family and the Skins to the White People but no Deer are now to be had, he wants 15. Miles on each side his Town free from any encroachments of the White People who will not suffer him to cut Trees to build withal but keep all to themselves.*
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> **Col. Ayres, Catawba Chief at Augusta, Nov. 9, 1763.**

At Augusta, the Catawbas renewed their claim to the larger 60-mile diameter tract, but were told by the governors:

> **If you stand by your former Agreement your lands shall be immediately surveyed and marked out for your use but if you do not your claim must be undecided till our Great King's Pleasure is known on the other side of the Waters.**

The next day the Catawbas and the King formally renewed the agreement reached at Pine Tree Hill three years earlier.

Despite the 1763 Treaty of Augusta, white encroachment continued. During the years that followed South Carolina became less protective of the Tribe's lands and settlers began taking long-term leases from the Indians in violation of the Treaty and the Proclamation of 1763. Renewed Catawba complaints resulted in official proclamations, but no action was taken to remove the intruders.

The Treaty of Nation Ford: Possession Lost

Following the Revolutionary War, in which the Tribe fought on the side of the Colonies, the Catawbas appealed to the Continental Congress and, on at least two occasions, directly to President Washington to ask that the 1763 Treaty be enforced and their lands protected. In 1790 the First Congress enacted the Indian Nonintercourse Act, continuing the policy of the English Crown by strictly prohibiting purchases or leases of Indian lands without the consent and participation of the government. Nonetheless, neither Congress nor the President took any steps to protect the Tribe's lands.

> *At Majr. Crawford's I was met by some of the Chiefs of the Catawba nation who seemed to be under apprehension that some attempts were making, or would be made to deprive them of part of the 40,000 Acres wch. was secured them by Treaty and wch. is bounded by this Road.*
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> **Washington diary, Feb. 27, 1791.**

Beginning in the early nineteenth century South Carolina enacted a series of laws purporting to legalize and regulate the leasing of Catawba lands to non-Indians. By the 1830's virtually the entire Reservation had been leased to non-Indians under the state system and several state commissions were appointed to negotiate a cession of the Reservation. These early commissions were unsuccessful due to tribal opposition, but at the Treaty of Nation Ford in 1840 the Tribe agreed to cede its lands in return for promises by the State to purchase a new reservation for the Tribe either close to the Cherokees in North Carolina or in an unpopulated area of South Carolina.

The State, however, failed to abide by the Treaty of Nation Ford and did not purchase a new reservation for the Tribe. Instead, in 1843, it purchased a one-square-mile tract of land located squarely in the middle of the 1763 Treaty Reservation that the Tribe had ceded almost three years earlier. It was not until 1853-54 that one of the commissioners who had negotiated the 1840 Treaty convinced the majority of the Tribe to settle on the tract.

In 1848 and again in 1854, Congress appropriated funds for the removal of the Catawba Tribe to the Indian territory west of the Mississippi, but the funds were not used, due in part to Catawba opposition and in part to inability to find a host reservation.

> *"They were then strong and felt themselves in their own greatness, governed by their own laws, working the best spots of their lands and leasing out the poorer portions to the white men. This state of things went on til the whites got King's Bottom, the last spot of the reservation. The poor Indians then felt their distress beginning, and run from house to house for the rents of their lands, which they had leased out to the white people, which was generally paid in old horses, old cows or bed quilts and clothes, at prices that the whites set on the articles taken. This brought on a state of starvation and distress.*
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> *Under this state of things, they wandered from place to place, begging, til 1839, when they proposed a treaty with the State, and relinquished all their rights and interest of this domain to the State of South Carolina. There were many efforts made previous to this, by former Governors, to effect a treaty with the Catawba Indians, but always failed. They were then driven to it by being surrounded by white men, cheating them out of their rights, and partaking of the vices of the whites and but few of their virtues, which is a distress to me."*
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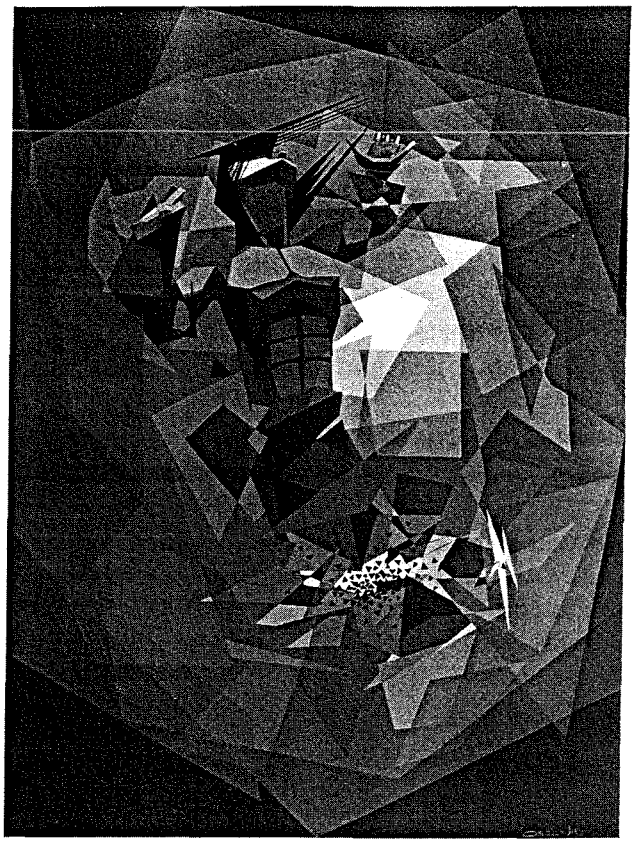
> **Report to the Governor of South Carolina on the Catawba Indians by B. S. Massey, Indian Agent. December 12, 1853.**

Early Efforts to Regain the Land

By the 1880's the Tribe had retained lawyers to investigate its claims and in 1905, represented by Washington D.C. lawyer Chester Howe, it submitted a formal request for assistance to the Bureau of Indian Affairs (BIA). Basing its claim on the Indian Nonintercourse Act, the Tribe argued that the 1840 State Treaty was void and that it was entitled to rentals from the 1763 Treaty Reservation or to a recovery of possession of the land. Relying on the theory that the Catawbas were "State Indians" and thus not subject to the protection of federal law, the BIA rejected the Tribe's request and referred it to the State.

The Tribe then petitioned the South Carolina Legislature, which referred the matter to the State Attorney General for investigation. In a 1908 opinion the Attorney General concluded that the 1840 Treaty was valid and that its terms had been fulfilled. The Tribe then renewed its request to the Interior Department, which denied it again in 1909 for the same reason.

Once again the Tribe petitioned the State and in 1910 State commission was formed to investigate the Catawbas and make recommendations to the legislature regarding



Sunflower Figure, 1970
From the Permanent collection of the Oscar Howe Art Center, Mitchell, SD.

what additional lands were needed. The Commission submitted its report to the Governor in January 1911, recommending, among other things, the purchase of an additional 1800 acres of land. The State took no action on this recommendation and newspaper accounts from 1916 reveal that at that time the Tribe was still seeking relief through lawyers and the courts.

This situation led to the establishment by the Legislature of yet another commission, appointed by the Governor, to "confer with . . . the Tribe . . . on terms of a full and final settlement of all their claims against the State." On January 11, 1921 the Commission's report was submitted to the South Carolina House of Representatives by the Governor. Like the 1910 Commission, it recommended the purchase of additional lands for the Tribe.

The Legislature took no action on the Commission's report, but the Business Men's Evangelical Club of Rock Hill took over the work of the Commission and developed a bill which would have, if enacted, provided for the purchase of farmland and a house for each Catawba family plus small per capita payments. On February 19, 1924, Governor McLeod endorsed the proposal, noting that "[a] proper and satisfactory settlement of our relationship with the Catawba Indians has long been a problem in South Carolina." Once again the Legislature failed to act.

> *"Two Washington lawyers who were conducting the case died shortly after taking charge of it. A lawyer in Hamlet met the same fate while investigating the possibilities of the suit. A R. McPhall, of Charlotte, succumbed six months after taking the case. Now comes Oscar M. Abernethy, a young lawyer with no superstition in his hard-boiled make-up, who declares he will push the matter on to the supreme court of the United States in an effort to secure justice for these "vanishing Americans," who have been the consistent friend of the whites and will have been mistreated by the people they befriended.*
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> **The Charlotte Observer, "Last Appeal for Justice for Vanishing Catawba Indians: Charlotte Lawyer to Take Case to Highest Court and to Halls of Congress." August 12, 1928.**

The following year, Catawba Chief David A. Harris appeared before the South Carolina Legislature, without counsel, and asked that his people be given farms, homes, and citizenship. The General Assembly took no action on the Chief's appeal and by the late 1920's the Catawba Tribe was again looking to the courts and the United States for relief. This effort, as well as two subsequent appeals in 1929, were unsuccessful.

The Federal Period

South Carolina's persistent refusal to deal with the 1840 Treaty issue, together with the severe poverty of the Tribe, led to increased efforts to secure federal assistance. On March 28, 1930 a subcommittee of the Senate Committee on Indian Affairs held hearings in Rock Hill to investigate the conditions of the Catawba Indians. In its 1934 session the South Carolina Assembly enacted a concurrent resolution which resolved that the Catawba Reservation and the care and maintenance of the Catawba Indians should be transferred to the Federal Government upon proper legislation being enacted by Congress. Investigation into the needs of the Catawba Indians was undertaken by the BIA and other federal agencies in 1935 in an attempt to establish a rehabilitation program in cooperation with the State of South Carolina.

These efforts at securing federal assistance through administrative action were unsuccessful. Thus in 1937 legislation was introduced that would have provided authority for the Secretary of the Interior to enter into contracts with the State for the welfare of the Catawba Tribe, provided that the State purchased lands which

"They occupy 652 acres which were allotted to them by the State of South Carolina. There are 172 souls living on that reservation. The condition of their houses is such that, I would say, not over three or four of them afford even proper shelter. They are just roughly built with no ceiling lumber on the ceiling or the sides inside, and they are mostly 1-room houses with nothing above them except a shingle roof, with holes in the roof, sometimes with a family of six or eight living in the one little room. They cook on the fireplace in that room and they all sleep in that one little room. They depend almost entirely on what they get from the State. The State has been appropriating $9,000 for their support.

The Chairman. Annually?

Mr. Flowers. Yes, sir. Well, the appropriation is $9,450. The $450 goes to the agent, and they get $9,000. Of this $9,000 there is $1,500 set aside to run the school. They they set aside so much for doctors' fees, funeral expenses, and so on, because they haven't any other way to pay a doctor or pay funeral expenses when one dies. That reduces the amount of the $9,000 appropriation considerably. Then what is left of that is apportioned pro rata among the Indians of the tribe. This last year they got $38.17, I believe, per capita. They have to depend on that almost entirely, for the reason that it is very hard for them to get work from the white people. Unfortunately, white people can't control them just like they would like to control a laborer because the Indian considers himself the equal of the white man and a white man is likely to get into trouble if he curses an Indian. Therefore a white man, rather than take that chance of getting into trouble, will seldom hire an Indian. That is an unfortunate condition, of course. Then the only other thing open to him is his farm on the 652 acres, and if there is any poorer land left in the county I wouldn't know where to go to find it. We are going to leave that to you Senators to determine when you go over there to see it. Most of them are not even able to have gardens. Now, you might say that they are indolent and won't work, but the fact is they haven't anything to work with and no place to make a garden.

Statement of Mr. Flowers, South Carolina Indian Financial Agent, before a subcommittee of the Senate Committee on Indian Affairs, March 28, 1930.

would be conveyed to the Federal Government in trust as an Indian Reservation.

During this period the State was attempting to convince the Tribe to settle its reservation claim for $250,000, to be distributed among the Tribe on a per capita basis. As the State had not informed the BIA that it desired a final settlement of the land claim as a condition to its participation in the rehabilitation program, the BIA acted quickly to forestall further action on the State's proposal until it could investigate the matter.

In February 1937 the BIA sent Administrative Assistant D'Arcy McNickle to South Carolina to investigate the "final settlement" issue. He discovered that the amount the State was discussing was $100,000 rather than $250,000 and conducted a thorough investigation of the history of the Tribe's 1763 Treaty Reservation. Noting that "the State carried out the terms of the [1840] Treaty pretty much as it pleased," McNickle made no recommendation regarding the "final settlement" question.

The 1937 legislation was not reported out of Committee because of disagreement in the Interior Department over whether the Government should "adopt any more Indians." On June 9, 1938 the Interior Department reported unfavorably on the bill, but noted that the "State did not procure for the Tribe a reservation in . . . North Carolina but reserved 652 acres of the lands they had surrendered by the treaty of 1840 . . ."

In the next Congress similar legislation was introduced and in 1939 the South Carolina Legislature adopted a concurrent resolution again requesting the federal government to provide aid for the Catawba Indians. The State's 1939 General Appropriations Bill reauthorized the State Budget Commission to negotiate and enter into an agreement "having as its objective the rehabilitation of the Catawba Indians and a final settlement with them so that the State may be relieved of their support."

On April 29, 1940 the Interior Department again submitted an unfavorable report on the Catawba legisla-

tion. With the failure of the legislative approach, the State and the BIA began anew to devise a relief program which could be implemented without legislation. This effort first centered around a program through the Farm Security Administration with the BIA providing limited technical assistance. The State of South Carolina would provide up to $75,000 for the purchase of lands, provided that the agreement between the federal agencies and the State would "provide for the extinguishment of any existing claims for support which the Indians may have against the State of South Carolina."

In 1941, however, the Interior Department formally refused to permit the rehabilitation program to be used as a means for extinguishing the Reservation claim. The State agreed and in 1943 the Secretary of the Interior approved a Memorandum of Understanding between the Tribe, the State, and the Department of the Interior. It contained no language concerning extinguishment of the Tribe's claim.

Pursuant to the Memorandum, the State of South Carolina acquired 3,434 acres of farmland close to the existing 630-acre State Reservation at a cost of $70,000 and conveyed it in trust to the Secretary of the Interior. However, the 630-acre Reservation was not conveyed to the Secretary. The Tribe adopted a constitution under the Indian Reorganization Act and the BIA administered Catawba affairs out of the Cherokee Agency in North Carolina.

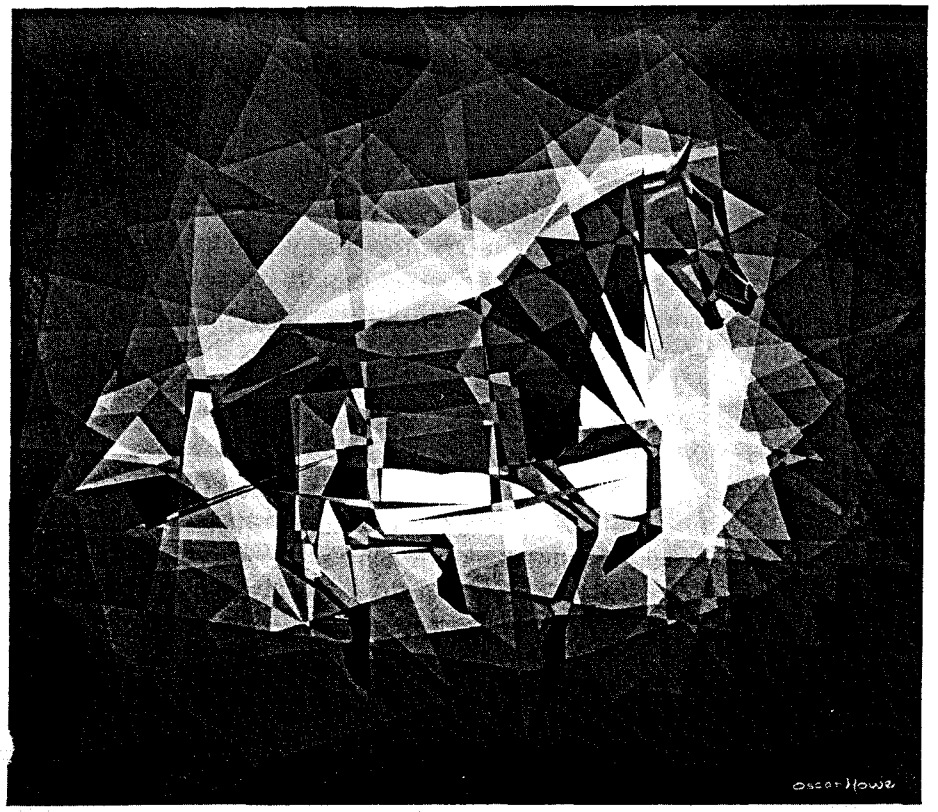
The Termination Period

The hope created by the purchase of the new lands and eligibility for federal services soon turned to frustration as federal Indian policy took an abrupt about-face. In the early 1950s Congress directed that the trust relationship between all Indian tribes and the United States should end as soon as possible.

The Bureau of Indian Affairs was directed to identify tribes that could be "terminated," and during the period from 1954 to 1962 Congress passed into law 13 termination acts. Under these acts federal restrictions on tribal lands were removed and the land was either distributed to individual members or sold with the proceeds being distributed to tribal members. Federal services were cut off and the state law was declared to apply to tribal members as it did to other citizens.

For the Catawba Tribe, the termination era meant that their new lands could not be used productively. Congress made fewer funds available to tribes generally and in the mid-1950s federal services for the entire Catawba Tribe amounted to only about $5,000 per year. Tribal members were poor and there was no federal assistance for either housing or farming operations. And because of its federally restricted status, the Reservation lands could not be mortgaged or encumbered in any way.

Under these circumstances the BIA and the State approached the Tribe in 1958 with a proposal. Federal



Cunkawakan (Dakota Horse), 1966
From the permanent collection of the University Art Galleries, University of South Dakota, Vermillion, SD.

restrictions could be removed from the land by an act of Congress and the individual members could obtain fee title to a portion of the Reservation or money from its sale.

The Tribe, unrepresented by counsel, at first told the BIA agent that its claim against the State would have to be resolved before it would agree to a distribution of the new federal Reservation. However, after BIA assurances that the long-standing claim would be unaffected by the distribution, the Tribe agreed. The BIA drafted a resolution for the Tribe consenting to division of the federal assets and, consistent with its assurances, included a provision conditioning tribal consent on leaving the treaty claim unaffected.

Following the Tribe's adoption of the resolution, and throughout the entire legislative process, there was not another mention of the claim. While the local congressmen and the BIA purported throughout the process to be acting only in accord with tribal wishes, the legislation did not expressly preserve the claim. However, the BIA, which drafted the bill, repeatedly told the Tribe and Congress that it had been drafted to conform to tribal desires as expressed in the resolution. No tribal officials appeared at the hearings on the bill nor did the Tribe submit written testimony.

Based largely on the BIA's and the sponsor's assurances of Tribal support, the bill breezed quickly through both Houses of Congress. On September 21, 1959 the Catawba Division of Assets Act became law. Pursuant to its terms, the 3,434-acre federal Reservation acquired 14 years earlier was distributed among tribal members and all federal Indian services ceased. The 640-acre State Reservation acquired in 1842 had not been included in the federal Reservation and thus was unaffected by the 1959 Act. The State of South Carolina continues to hold that tract in trust for the Tribe to this day.

Recent Settlement Efforts

In 1975, encouraged by legal victories of other Eastern Indian tribes, the Catawba Tribe requested the Native American Rights Fund to evaluate its claim. NARF

"The United States has never taken any action to fulfill its duty to help the Catawba recover the land. In fact, the Department of the Interior has twice refused, in 1906 and 1908, to take action when the Tribe's lawyers pointed out the Tribe's claims under the Non-Intercourse Act. But mere lapse of time and failure of the federal government to act cannot eradicate either the Catawba's rights to their land or the federal government's continuing duty to help them get it back. The Act of September 21, 1959, which terminated federal services to the Catawba and the applicability of federal Indian statutes similarly did not extinguish the 1840 Treaty claim or the government's duty of protection. The termination language in that 1959 statute is ***prospective*** *and does not effect pre-existing legal rights. Moreover, the Supreme Court in* ***Menominee Tribe v. U.S.****, 391 U.S. 404 (1969), and in many other Indian land cases, required clear evidence of Congressional intent before finding an abrogation of Indian rights. The legislative history of the 1959 Act shows that Congress, as well as the administering agent, believed the Act was passed for one reason — to liquidate a 3400-acre reservation and to terminate limited federal benefits both of which were created by a 1943 agreement between the Tribe, the State of South Carolina, and the Department of the Interior. In short, the 1959 Act was a means of dissolving the legal relationship set up by that 1943 agreement. In fact, Congress was unaware of the status of the 1763 treaty reservation, of the Non-Intercourse claim pertaining to it, and finally of its own duty under the Non-Intercourse Act to protect the reservation. The Tribe itself certainly did not contemplate the 1959 Act as a means of cutting off their legal claims to the 1763 reservation because they stipulated, in the petition which gave rise to the 1959 legislation, that those claims should not be affected.*

The action we hereby recommend is that the United States finally act upon its long-neglected duty under the Non-Intercourse Act to nullify the 1840 Treaty with South Carolina and restore possession of the 1763 Treaty reservation to the Catawba Tribe.

Solicitor, United States Department of the Interior to Assistant Attorney General Moorman, August 30, 1977.

attorneys conducted legal and historical research for more than a year and in 1976 concluded that the Tribe possessed a strong claim. But because of the potentially disruptive effect of a lawsuit, as well as the belief that a claim of this magnitude would ultimately be settled by Congress, the Tribe determined that it would first explore whether a satisfactory settlement of its claim could be achieved.

Hoping to establish the legal validity of the claim, the Tribe submitted a litigation request to the Department of the Interior in 1976 asking the United States to undertake legal action to recover the lands of the 1763 Treaty Reservation. The Interior Department Solicitor reviewed the request for more than one year, and in the fall of 1977 asked the Justice Department to institute litigation on the Tribe's behalf, but not before settlement options had been exhausted.

As a result, in 1977 a federal task force was formed comprised of the Assistant Attorney General for Lands and Natural Resources, the Solicitor of the Department of the Interior, and an Associate Director of the Office of Management and Budget. That same year South Carolina Governor James Edwards had directed the State's Attorney General, Dan McLeod, to represent the State in discussions with the Tribe. The South Carolina congressional delegation determined that it would follow local Congressman Ken Holland's lead, and the complex process of attempting to fashion a satisfactory settlement had begun.

In late 1977 the Tribe and Attorney General McLeod agreed in principle that the Tribe would consent to a Congressional extinguishment of its claim in return for creation of a federal Indian reservation, eligibility for federal Indian services, and a tribal development fund. While they could not agree on the amount of land to be included in the proposed reservation, the apparent commitment of the State and Federal parties to a negotiated settlement was encouraging to the Tribe.

Any hope of a speedy resolution was dashed, however, by two events in December 1977. First, the local newspaper obtained and published tribal maps that identified the specific parcels of land the Tribe and the State had been considering. As a result, threatened landowners organized and formed the Tri-County Landowners' Association. Second, the increased publicity led to much wider participation by tribal members, many of whom no longer lived on the Reservation. As a result, it was necessary for the Tribe to reconsider its settlement position in order to accommodate those members who wished to participate in a settlement on an individual, or per capita, basis.

In 1978 the South Carolina General Assembly enacted legislation creating a commission to investigate the Catawba claim and make recommendations to the Legislature. Composed of four members of the state Legislature whose districts include the claim area, two non-Indian landowners and the President of a local bank, all appointed by Governor Edwards, it has no Indian members.

In 1979 Congressman Holland, frustrated by the parties' lack of progress and his constituents' lack of concern over the threat of litigation, introduced "settlement" legislation that did not have the support of the Tribe, the State, or the Administration. It was hoped that the bill would serve as a catalyst for intensified settlement efforts, but instead the House Interior Committee's hearings only revealed the seriousness of the obstacles to settlement. The Tri-County Landowners' Association and the State Commission urged Congress to simply extinguish the Tribe's claim to possession of its Reservation and substitute in its place a claim against the United States for money damages only — valued as of the time the Tribe lost possession in 1840. The Commission, in arriving at its proposal, had simply adopted the proposal of the Tri-County Landowners' Association without consulting the Tribe and without holding public hearings.

> ***"Chester County land, as part of the claim is deleted, giving a suspicion that the ultimate aim [of the settlement bill] is the takeover of the Catawba River Valley by the Interior Department.***
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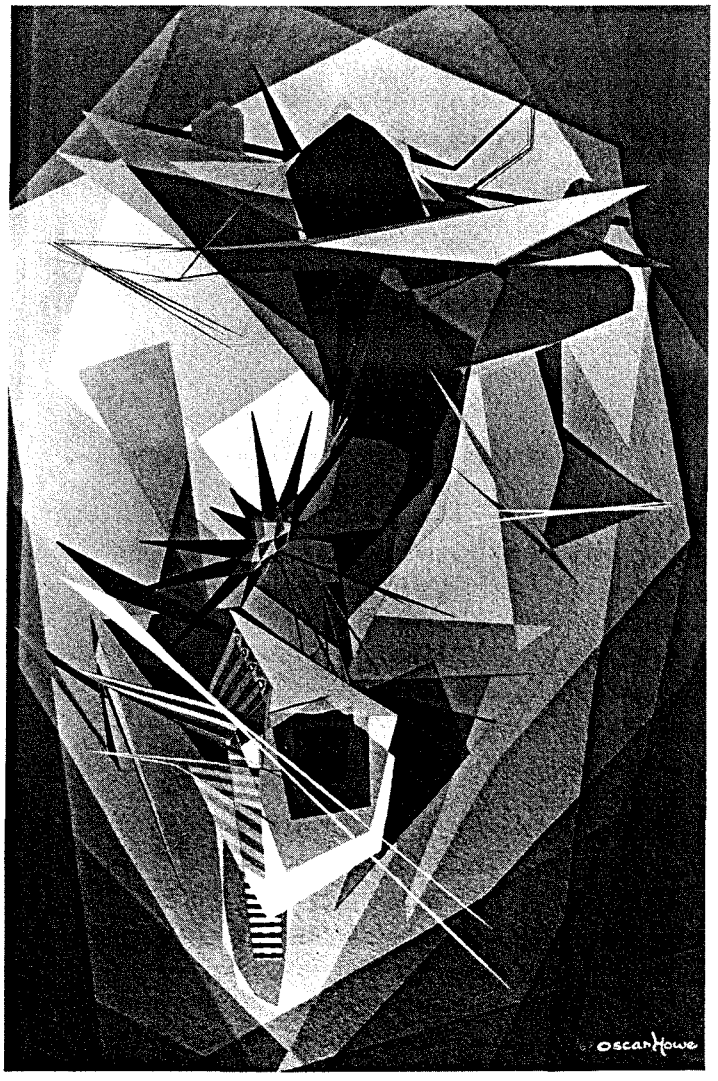
> **Testimony of Tri-County Landowner Association Member Robert Yoder before the House Interior Committee, June 12, 1979.**

The South Carolina Attorney General continued to support the modest settlement package he had endorsed earlier and believed the federal government should pay for it. The Administration favored settlement, but did not believe that the federal government should bear the cost. The Tribe proposed a new federal reservation of no less than 10,000 acres, plus federal services, a tribal development fund, and per capita payments.

The impasse continued through 1979, and in 1980, faced with decreasing interest in settlement and an approaching federal law deadline for filing the trespass damages portion of the claim, the Tribe notified the State and the Congressional delegation of its intention to file suit. Hoping to avoid litigation, Governor Richard Riley and Congressman Holland asked the Tribe to participate in one last round of negotiation.

The Tribe agreed and the State formed an informal work group comprised of representatives from the offices of the Governor, the Attorney General, the Congressman, various units of local government, and the Tri-County Landowners' Association. Lengthy negotiations continued through much of 1980, resulting in a detailed draft of settlement legislation, both State and Federal. The settlement proposal called for establishment of a federal reservation not to exceed 4,000 acres, with civil and criminal jurisdiction remaining in the State. The land was to be acquired voluntarily from willing sellers with numerous purchase and use restrictions to protect non-selling landowners in the area. The Tribe would become eligible for federal Indian services and the remainder of the settlement fund would be used for establishment of a tribal development fund and per capita payments to tribal members. An equally detailed proposal was developed setting forth a proposed State contribution of almost ten million dollars. The Tri-County Landowners' Association did not support the work group's proposal and filed a minority report.



Head Dancer, 1967
From the permanent collection of the University Art Galleries, University of South Dakota, Vermillion, SD.

Before the work group's proposal could be submitted t the State Legislature, however, it had to be approved by the State Study Commission. After holding public hearings on the proposal, the Commission refused to endorse the establishment of a federal Indian reservation, no matter how small, and rejected the proposal.

Having thus exhausted settlement possibilities, the Tribe filed suit in Federal District court seeking to recover possession of its 1763 Treaty Reservation, as well as historic trespass damages. The value of the Tribe's claim was estimated at the time of filing to be more than two billion dollars. The complaint named 79 defendants, including the State of South Carolina and a number of corporate and large private landowners, as representatives of a defendant class comprised of roughly 30,000 people who claim title to the Reservation lands.

Presumably because of conflicts of interest, all of the Federal District Court judges for the District of South Carolina disqualified themselves. As a result, Senior Judge Joseph P. Willson of the Western District of Pennsylvania was appointed to hear the case.

The State and landowners decided to defend the suit initially on the grounds that the 1959 Division of Assets Act made state law statutes of limitations apply to the Tribe claim and, in addition, destroyed whatever standing the Tribe may have had to bring the suit by extinguishing the Tribe's existence and terminating federal protection for the lands.

In June 1982 Judge Willson granted the State's motion to dismiss all the Tribe's claims by simply signing an order prepared by defendants' lawyers. The Tribe appealed the decision to the Fourth Circuit Court of Appeals in Richmond, Virginia. In October 1983 a three-judge panel of that Court agreed with the Tribe that the 1959 Act was intended only to permit distribution of the new federal reservation, and thereby return the State and the Tribe to their pre-1943 status. If the Tribe continues to prevail on the effect of the 1959 Act in future proceedings, the case will be sent back to the District Court for a full hearing on the merits of the Tribe's claim.

Until the Tribe took its claim to court in 1980, the efforts at resolving this dispute had followed a predictable pattern established more than two centuries ago. Faced with either the impending loss of their lands or, later, the abject poverty resulting from its loss, the Catawbas appealed time after time to the State of South Carolina for protection and assistance. The State, somewhat sympathetic a

continued

somewhat aware of its past failures to abide by its promises, would "investigate" by commission and formulate recommendations, but ultimately would take no action. Subsequent appeals to the Federal Government would be answered by referring the Tribe back to the State on the premise that the Catawbas were "State Indians." The 1943 Memorandum of Understanding offered temporary hope that the pattern of passing the buck between State and Federal Governments had finally come to an end, but no sooner did the United States accept responsibility than it renounced it.

The Tribe's recent settlement efforts have confirmed that the "maybe they'll just go away" mentality still prevails in Washington and Columbia. Both State and Federal officials have supported settlement but argue that the other party should bear the cost. On the local level, a relatively small group of reactionary landowners was successful in scuttling a modest settlement proposal.

It is generally agreed that underlying all parties' reluctance to support a fair settlement is the suspicion that the Tribe has no real leverage, that is, it cannot win its case in court. But for the Catawba Tribe there appear to be few options. More than two centuries of relying on the good will and promises of the State and Federal Governments has resulted only in the loss of their ancestral lands and severe poverty among tribal members. The political and legislative appeals have been unsuccessful; the courts are all that is left.

OSCAR HOWE
1915-1983

NARF wishes to pay tribute to one of the outstanding Indian artists of our time, Oscar Howe. The works of this recently deceased artist are, therefore, featured throughout this issue of *The NARF Legal Review*. It was through his creativity and innovation that the gap between traditional Indian art and contemporary art was bridged. He helped bring Native American art the much-deserved attention and respect it commands today. Howe was recognized as South Dakota's Artist Laureate and was a professor of art and artist in residence at the University of South Dakota until his retirement in 1980. In 1982, NARF featured Howe's work in the annual Visions of the Earth Art Show and his painting *Waci (He is Dancing)* appeared on NARF's 1982 Annual Report. Mr. Howe died on October 7, 1983. An Oscar Howe Memorial Scholarship Fund has been established in the Creative Arts for the College of Fine Arts, University of South Dakota, Vermillion.

Deer, 1967
From the permanent collection of the University Art Galleries, University of South Dakota, Vermillion, SD.

NARF LEGAL DEVELOPMENTS

REHEARING DENIED IN ARIZONA AND MONTANA WATER CASES

The Ninth Circuit Court of Appeals has declined to consider further issues involving the adequacy of the state courts to adjudicate Indian water rights and their jurisdiction to adjudicate Indian rights in light of State jurisdiction over Indian property rights. These issues were left open by the Supreme Court in their adverse decision in June in **Arizona, et al. v. San Carlos Apache Tribe, et al.,** consolidated cases involving the rights of five Arizona tribes and six Montana tribes. In that decision, reported on in the Summer issue of the **NARF Legal Review,** the Supreme Court held that the federal courts should defer to the State courts in adjudicating the Tribes' water right. After the Supreme Court's decision, the tribal parties requested that the issued left open by the Supreme Court be addressed by the Ninth Circuit. The Ninth Circuit said, however, that the remaining issues were more appropriately addressed first to the state courts. However, the Ninth Circuit directed that the federal cases be stayed rather than dismissed pending the outcome of the state proceedings. The court indicated that a stay would be preferable so that the federal forum would be readily available in the event that the circumstances change. NARF represents the Northern Cheyenne Tribe and the Fort McDowell Indian Community in the cases.

DEPARTMENT OF LABOR INDIAN FIELD OFFICES ALLOWED TO CLOSE

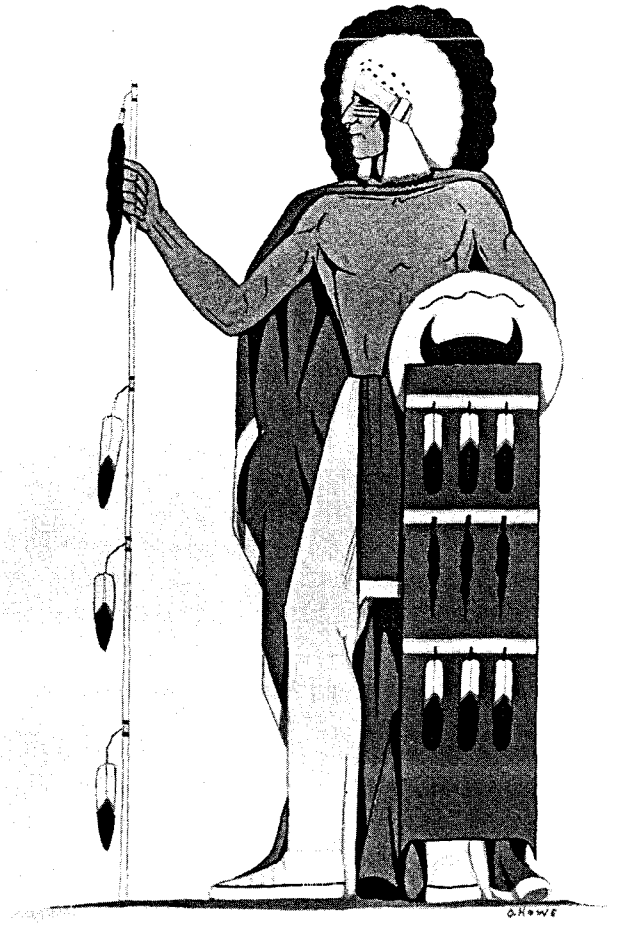
In September of 1983, NARF obtained a temporary restraining order (**Northern Cheyenne v. Donovan**) prohibiting the closing of three Indian outstation field offices which provide technical assistance to 77 tribes who operate programs under the Comprehensive Employment and Training Act (CETA) and now the Job Training Partnership Act (JTPA). (This development was reported in the Fall issue of the **NARF Legal Review**). However, the federal district court for the District of Columbia on October 24, 1983, denied a preliminary injunction in the case. Denial of the preliminary injunction means that the offices were allowed to close. Essentially the court ruled that consultation with tribes was not required in order to close the offices and no irreparable injury was shown. However, a permanent injunction is still being pursued on behalf of NARF's clients, the Northern Cheyenne, Osage, Colville, Hopi, Colorado River, and Papago Tribes. A motion to dismiss is pending but discovery and possibly trial is expected before any ruling on the merits. The offices are located in San Francisco, Seattle, and Denver.

D-Q UNIVERSITY SUCCESSFUL IN DISTRICT COURT

The U.S. district court in California recently ruled that D-Q University could have its day in court to refute allegations by the federal government that it breached conditions under which it received land from the federal government. D-Q University is dedicated to the continued progress of indigenous communities through education and sanctioned by the Saboba Indian Reservation, Chemeheuvi Indian Tribe and California Indian Education Association. D-QU has provided a unique education environment, offering Associate of Arts or Science degrees in such areas as Community Development, Native American Arts, and Indigenous Studies among others.

The case, *United States v. D-QU*, was filed by the federal government seeking recovery of the land on which D-Q University is located because of the alleged breach of conditions. The government had sought a summary ruling to recover the land, but the case will now go to trial.

In the early 1970's, the federal government granted the University a 643-acre tract of land and buildings under the provisions of the federal surplus property laws. Later, the government claimed that D-QU had breached its contract and served notice that it was exercising its powers under the deed and escrow agreement to revert title to the land. NARF represented D-QU through the summary judgment proceedings. Further proceedings will be handled on a *pro bono* basis by Morrison and Forester, a San Francisco law firm. In a companion case filed by the San Francisco firm and also recently decided, the Department of Education was forced to release financial aid funds to D-QU students.



The Warrior #7, 1946
From the permanent collection of the Oscar Howe Art Center, Mitchell, SD.

IMMUNITY OF BLACKFEET TRIBE UPHELD

The Blackfeet Tribe and tribal officials were held to be immune from suit in an action (**Kennerly v. U.S.**) brought by a tribal member challenging the BIA's withdrawal of money from his "Individual Indian Money" account to pay a debt to the Tribe. The federal government was also sued in the action, and the court held that the federal defendants are required to provide a due process hearing to a tribal member before withdrawing money from his account to pay a tribal debt. The case was sent back to the district court for a determination of potential damages against the federal government.

KLAMATH TRIBE'S WATER RIGHTS UPHELD

The Ninth Circuit Court of Appeals on November 15, 1983 affirmed the right of the Klamath Tribe to sufficient water to maintain their treaty rights to hunt and fish on their terminated reservation. The case has particular significance because: 1) the court approved the procedure used in the adjudication where the existence of the Indian water rights are determined by the federal court and the quantification of the rights will be determined by the state court; 2) the court upheld water rights for a terminated tribe; 3) water rights were upheld for hunting and fishing purposes; and 4) the court upheld a priority date of time immemorial for the Tribe's water rights. Several petitions for rehearing are pending before the Ninth Circuit.

SAN JUAN SOUTHERN PAIUTES POTENTIALLY ALLOWED TO MAKE CLAIM IN DISPUTED LAND AREA

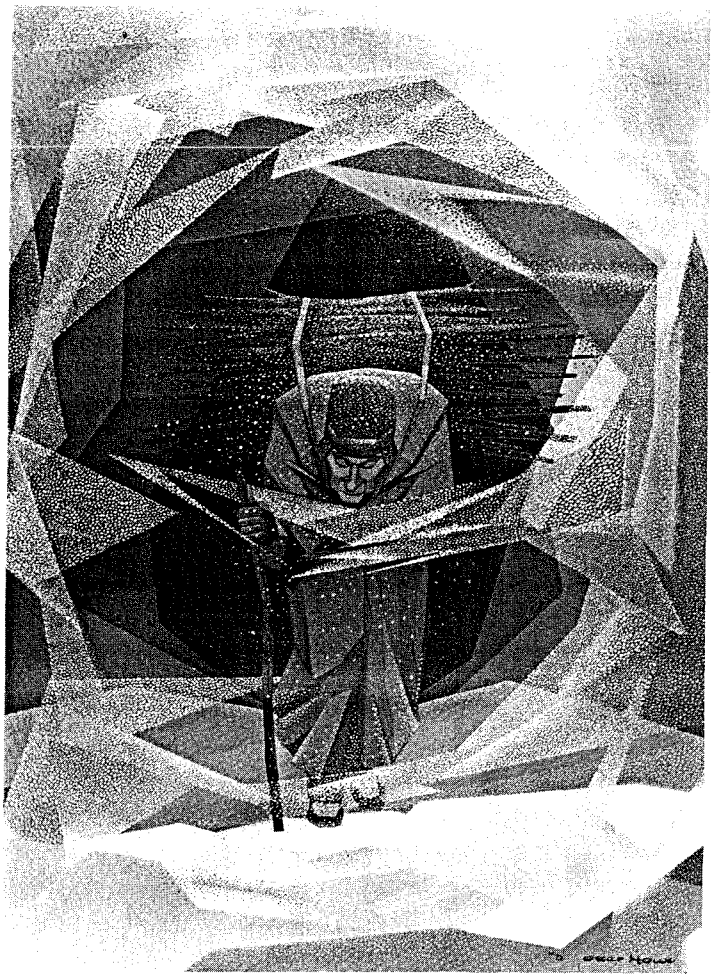
In another recent decision by the Ninth Circuit Court of Appeals, the San Juan Southern Paiute Tribe will be allowed to intervene in an eight-year-old quiet title action between the Navajos and Hopis, provided that they show that they are a tribe within the meaning of a 1974 Act. The suit between the Navajos and the Hopis was authorized by Act of Congress in 1974 to determine the rights and interests of Indian tribes to the area set aside by the Act of June 14, 1934. The San Juan Southern Paiutes claim land in the 1934 area, and the court's decision allows them to continue to pursue their claim.

NORTHERN CHEYENNE TRIBE ADOPTS BUSINESS DEVELOPMENT ORDINANCE

NARF recently assisted the Northern Cheyenne Tribe of Montana in developing an ordinance to establish a tribal business development office. The purpose of the office is to provide for a tribal administrative arm charged with the responsibility of recommending and implementing tribal structures and codes to control orderly business development on the reservation. The ordinance establishing the office was adopted by the Northern Cheyenne Tribe in December of 1983.

SUPREME COURT DECLINES REVIEW IN WALKER RIVER RIGHT-OF-WAY CASE

In 1976, the Southern Pacific Railroad was found to be in trespass on the Walker River Indian Reservation in Nevada (**U.S. and Walker River Paiute Tribe v. So. Pacific**). The case was put on hold while a related case (**Southern Pacific v. Watt**) tested the necessity of obtaining tribal consent for a right-of-way across the reservation. Southern Pacific Railway contended that tribal consent was unnecessary and appealed the matter all the way to the Supreme Court. On November 7, 1983 the Supreme Court declined to disturb a Ninth Circuit Court of Appeals decision holding that tribal consent is a prerequisite to obtaining a railroad right-of-way. Southern Pacific filed a petition for rehearing of the Supreme Court's decision which was also denied on January 9, 1984. The Tribe will now go back to the district court for a determination of past damages and ejectment of the railroad.



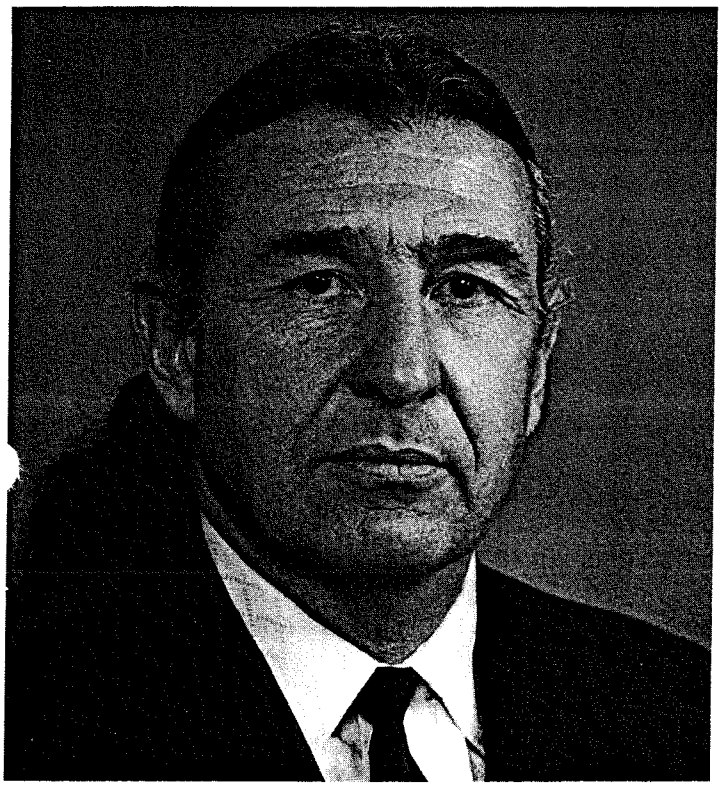
Wood Gatherer, 1972
From the Permanent collection of the Oscar Howe Art Center, Mitchell, SD

BIA RESCINDS WATER RATE INCREASE

NARF represents the Walker River Paiute Tribe in Nevada in an administrative appeal before the Bureau of Indian Affairs seeking cancellation of a 500% rate increase for water used by the Tribe from the Walker River Irrigation Project. The rate increase had been ordered by the Bureau of Indian Affairs' Area Director. NARF's appeal was based on the BIA's failure to fix the rate according to BIA guidelines which require that the rate be based on the financial ability of the Indian water users to pay operation and maintenance (O & M) costs. Instead the BIA had set the rate based on the difference between appropriated funds and the full O & M rate. In a recent administrative decision, the BIA agreed that proper guidelines were not followed, and directed that the rate be redetermined according to proper guidelines.

THE NATIONAL SUPPORT COMMITTEE

The Native American Rights Fund is pleased to introduce four members of our National Support Committee (NSC). The NSC was established in 1980 and now has a membership of 20 nationally and internationally known people in the arts, politics, literature, and other areas of public service. Members provide invaluable assistance to NARF in its fund raising and public information efforts. Their support is of increasing importance to NARF in its work to build a stable base of support for the future.

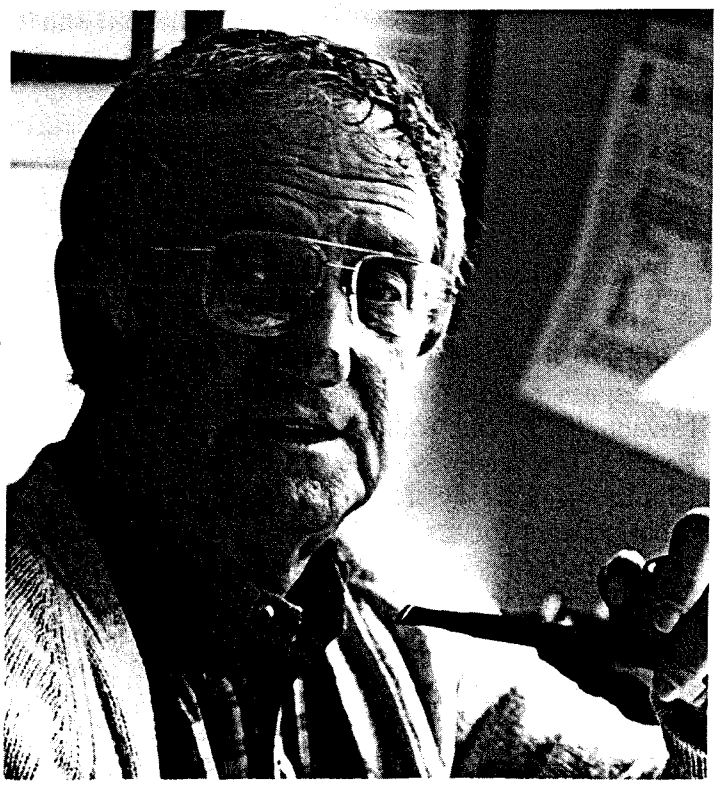


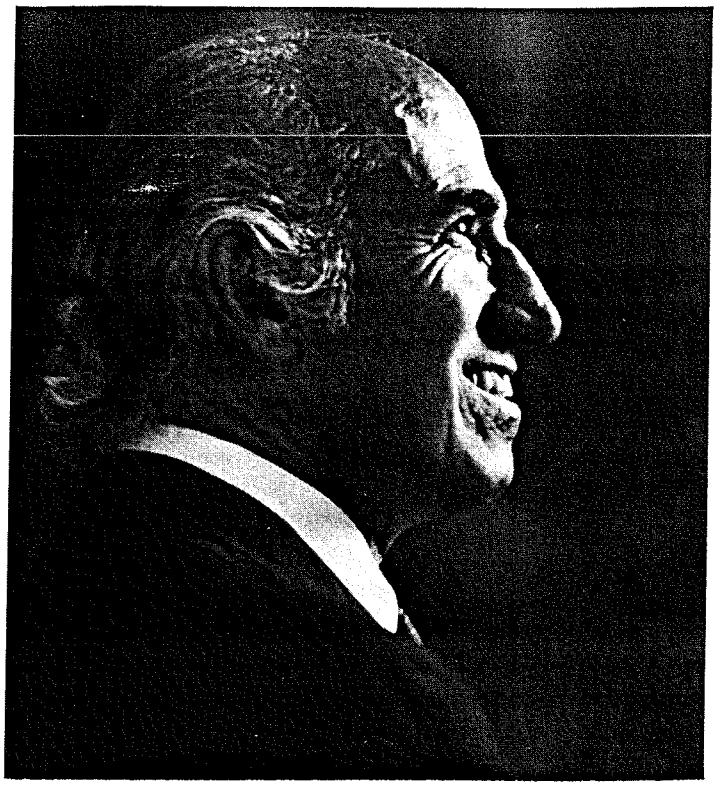
BEN NIGHTHORSE CAMPBELL

NARF is pleased to announce that Ben Nighthorse Campbell has recently joined our National Support Committee. Nighthorse is Northern Cheyenne and even though he was born in California, his reputation spans much of the Southwest. Most recently, Nighthorse won in his bid for election to the Colorado state legislature. By defeating a candidate that everyone had thought was unbeatable, Nighthorse became the second Indian to ever gain election to the Colorado House of Representatives. He has also won a Pan American gold medal in judo, is nationally and internationally acclaimed for his jewelry designs in silver, gold, and turquoise, and has trained a grand champion quarter horse. It is understandable why he is often called "Colorado's Renaissance Man."

SY GOMBERG

Sy Gomberg has been a member of the National Support Committee since 1981. Mr. Gomberg has enjoyed a varied and prolific career as a screenwriter for major motion pictures and as a writer-producer for television. As a screenwriter, Gomberg's films have included "Summer Stock" starring Judy Garland and Gene Kelly, "Toast of New Orleans" starring Mario Lanza and David Niven, and "Three Warriors" in which most of the cast was Indian. For television, Gomberg created and produced "The Law and Mr. Jones" starring James Whitmore. He continues to consult, write, and produce numerous other films for network and public television as well as the screen. Sy Gomberg was the recipient of the Box Office Blue Ribbon Award and the Motion Picture Council Award, as well as being nominated for an Academy Award, a Writer's Guild Award, and an Emmy.



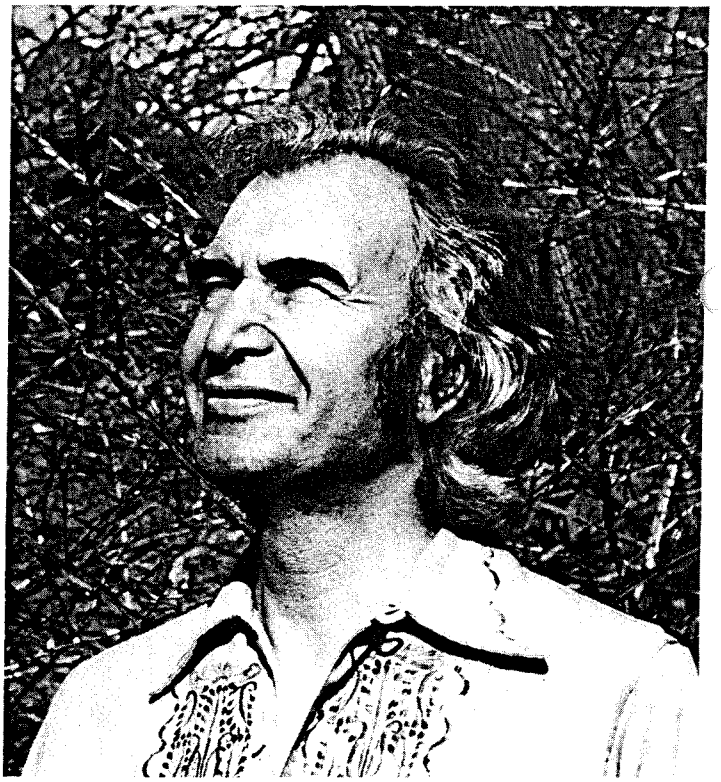


Dave Brubeck

The musician and composer, Dave Brubeck, has also recently joined NARF's National Support Committee. Best known for his jazz quartet and distinctive piano style, Brubeck has recorded more than 90 albums and written many of the recognized jazz standards of today. He brought jazz to a wider audience by appearing with Leonard Bernstein, tne New York Philharmonic, at college campuses around the country, and at events such as Montreux and the Monterey Jazz Festival. The recipient of numerous honorary doctorates and a Duke Ellington fellow at Yale University, Brubeck is a towering figure in the world of jazz today. After inscribing his personal signature on the rhythms of jazz for more than 40 years, Dave Brubeck continues to tour and perform with his quartet internationally.

DR. JONAS SALK

Dr. Jonas Salk has been a member of NARF's National Support Committee since 1982. He is the Founding Director and a Resident Fellow at the Salk Institute for Biological Studies in San Diego, California. Dr. Salk's research led to the development of the Salk polio vaccine in the 1950's. He is a member of and advisor to the World Health Organization, a recipient of the Presidential Medal of Freedom, the Truman Commendation Award, and the Mellon Institute Award. Dr. Salk has written over 100 scientific papers and several books including, *Man Unfolding, The Survival of the Wisest,* and *Anatomy of Reality: Merging of Intuition and Reason.* Currently, Dr. Salk is involved in research programs in immunology with emphasis on advancing the knowledge of multiple sclerosis and cancer. He is also involved in writing additional works from his perspective as a physician-biologist.



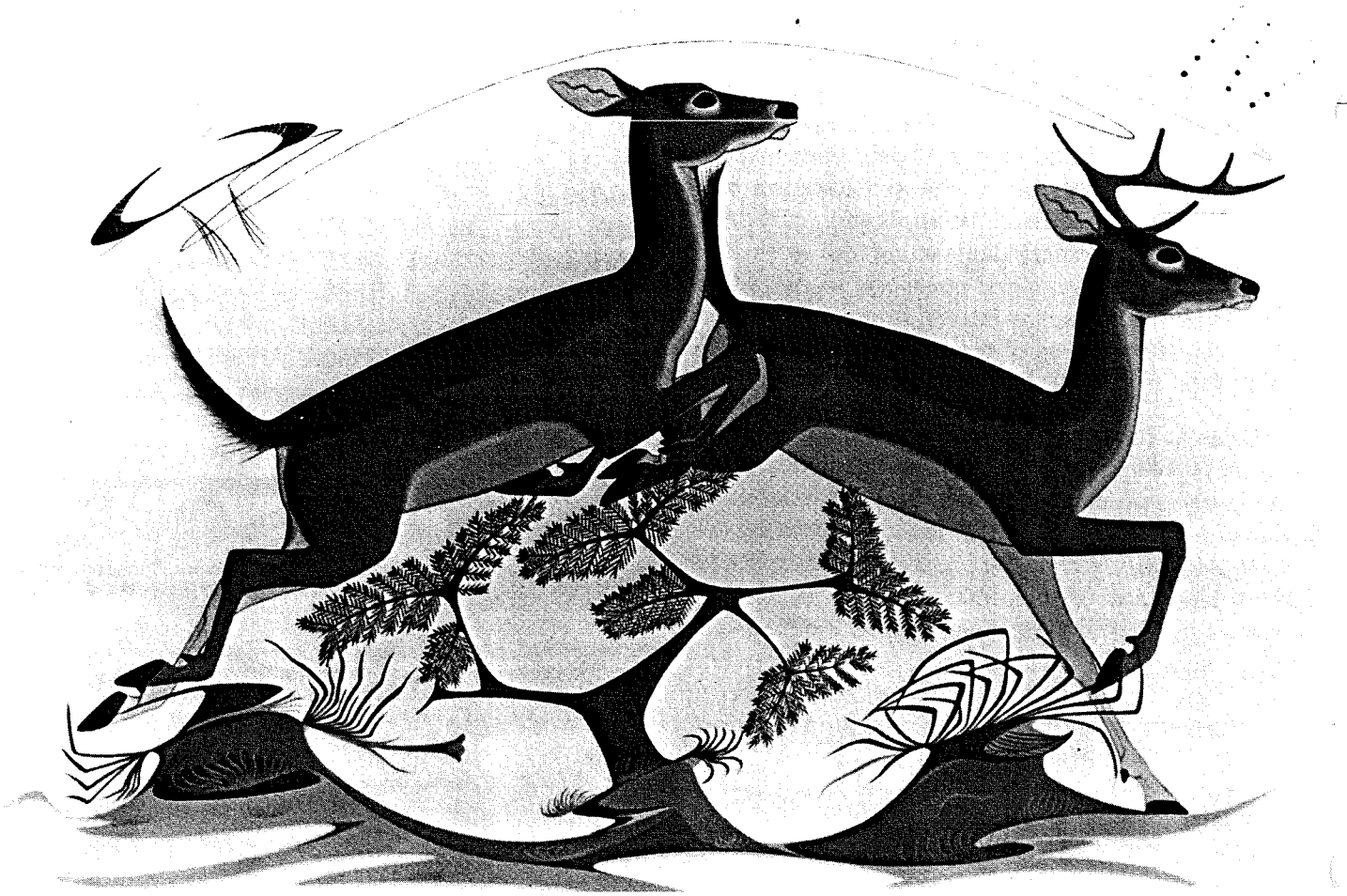
Native American Rights Fund

The Native American Rights Fund is a nonprofit organization specializing in the protection of Indian rights. The priorities of NARF are: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law.

Our work on behalf of thousands of America's Indians throughout the country is supported in large part by your generous contributions. Your participation makes a big difference in our ability to continue to meet the ever-increasing needs of impoverished Indian tribes, groups, and individuals. The support needed to sustain our nationwide program requires your continued help.

Requests for legal assistance, contributions, or other inquiries regarding NARF's services may be addressed to NARF's main office, 1506 Broadway, Boulder, Colorado 80302. Telephone (303) 447-8760.

Sioux Seed Player, 1974
From the permanent collection of the University Art Galleries, University of South Dakota, Vermillion, SD.



Two Deer, c. 1955
Owned by the Pierre Public Schools, Pierre, SD.

NARF PUBLICATIONS AND RESOURCES

The National Indian Law Library

The National Indian Law Library (NILL) is a resource center and clearinghouse for Indian law materials. Founded in 1972, NILL fulfills the needs not only of NARF but of people throughout the country who are involved in Indian law. NILL's services to its constituents throughout the country comprise a major segment of meeting NARF's commitment to the development of Indian law.

The NILL Catalogue

NILL disseminates information on its holdings primarily through its National Indian Law Library Catalogue: An Index to Indian Legal Materials and Resources. The NILL Catalogue lists all of NILL's holdings and includes a subject index, an author-title table, a plaintiff-defendant table, and a numerical listing. It is supplemented periodically and is designed for those who want to know what is available in any particular area of Indian law (1,000+ pgs. Price: $75).

Bibliography on Indian Economic Development

Designed to provide aids for the development of essential legal tools for the protection and regulation of commercial activities on Indian reservations. Assembled by Anita Remerowski formerly of NARF and Ed Fagan of Karl Funke and Associates, this bibliography provides a listing of articles, books, memoranda, tribal codes, and other materials on Indian economic development. An update is in progress. (60 pgs. Price: $10)

Indian Claims Commission Decisions

This 43-volume set reports all of the Indian Claims Commission decisions. An index through volume 38 is also available, with an update through volume 43 in process. The index contains subject, tribal, and docket number listings. (43 volumes. Price: $820) (Index price: $25)

Indian Rights Manuals

A Manual For Protecting Indian Natural Resources. Designed for lawyers who represent Indian tribes or tribal members in natural resource protection matters, the focus of this manual is on the protection of fish, game, water, timber, minerals, grazing lands, and archeological and religious sites. Part I discusses the application of federal and common law to protect Indian natural resources. Part II consists of practive pointers: questions to ask when analyzing resource protection issues; strategy considerations; and the effective use of law advocates in resource protection (151 pgs. Price: $25).

A Manual On Tribal Regulatory Systems. Focusing on the unique problems faced by Indian tribes in designing civil regulatory ordinances which comport with federal and tribal law, this manual provides an introduction to the law of civil regulation and a checklist of general considerations in developing and implementing tribal regulatory schemes. It highlights those laws, legal principles, and unsettled issues which should be considered by tribes and their attorneys in developing civil ordinances, irrespective of the particular subject matter to be regulated (110 pgs. Price: $25).

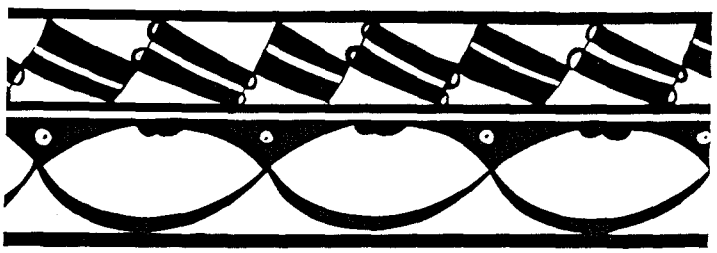
A Self-Help Manual For Indian Economic Development. This manual is designed to help Indian tribes and organizations on approaches to economic development which can ensure participation, control, ownership, and benefits to Indians. Emphasizing the differences between tribal economic development and private business development, the manual discusses the task of developing reservation economies from the Indian perspective. It focuses on some of the major issues that need to be resolved in economic development and identifies options available to tribes. The manual begins with a general economic development perspective for Indian reservations: how to identify opportunities, and how to organize the internal tribal structure to best plan and pursue economic development of the reservation. Other chapters deal with more specific issues that relate to the development of businesses undertaken by tribal government, tribal members, and by these groups with outsiders (Approx. 300 pgs. Price $35).

Handbook of Federal Indian Education Laws. This handbook discusses provisions of major federal Indian education programs in terms of the legislative history, historic problems in implementation, and current issues in this radically-changing field (130 pgs. Price: $15).

Films and Reports

"Indian Rights, Indian Law." This is a film documentary, produced by the Ford Foundation, focusing on NARF, its staff, and certain NARF casework. The hour-long film is rented from: Association Films, Ford Foundation Film, 866 Third Ave., New York, New York 10022 (212-935-4210). (16mm, FF110 -$50.00).

ANNUAL REPORT. This is NARF's major report on its program and activities. The Annual Report is distributed to foundations, major contributors, certain federal and state agencies, tribal clients, Native American organizations, and to others upon request.



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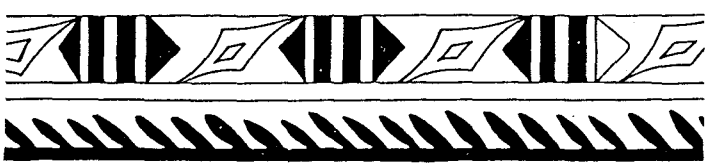
TAX STATUS. The Native American Rights Fund is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code, and contributions to NARF are tax deductible. The Internal Revenue Service has ruled that NARF is not a "private foundation" as defined in Section 509(a) of the Internal Revenue Code.

MAIN OFFICE: Native American Rights Fund, 1506 Broadway, Boulder, Colorado 80302 (303-447-8760).
D.C. Office: Native American Rights Fund, 1712 N. Street, N.W., Washington, D.C. 20036 (202-785-4166).



OF GIFTS AND GIVING

Otu'han

Otu'han, a Lakota word meaning "giveaway," describes the age-old Sioux custom of giving gifts in the names of those they wish to honor. The Native American Rights Fund has developed the Otu'han memorial and tribute program to encourage our donors to continue this Indian tradition by recognizing and honoring friends and loved ones through gifts to NARF.

We have received recent contributions in memory of:

- *Irene Richardson* — from Ray Richardson
- *Tom W. Echohawk* — from Lucille A. Echohawk
- *E. Harold Sokolove* — from L. Lavaun Abbott & Barry Roseman
- *Joel Scott Frankel* — from Dolores J. Arond

Besides the above-mentioned memorials a contribution in memory of *Benjamin F. Freeland* was made in the form of a beautiful piece of artwork to the Native American Rights Fund.

The amount of gifts to NARF from donors who have chosen to honor a friend or relative on special occasions has greatly increased. A number of gifts were made to NARF during the holiday season in honor of family members. Several recent gifts have been made to honor friends or relatives on their birthdays. Others have made gifts to NARF simply to pay tribute to a loved one.

For further information on the Otu'han program contact Marilyn Pourier or return the newsletter coupon to NARF, specifying your interest in the program.

Planned Giving Program

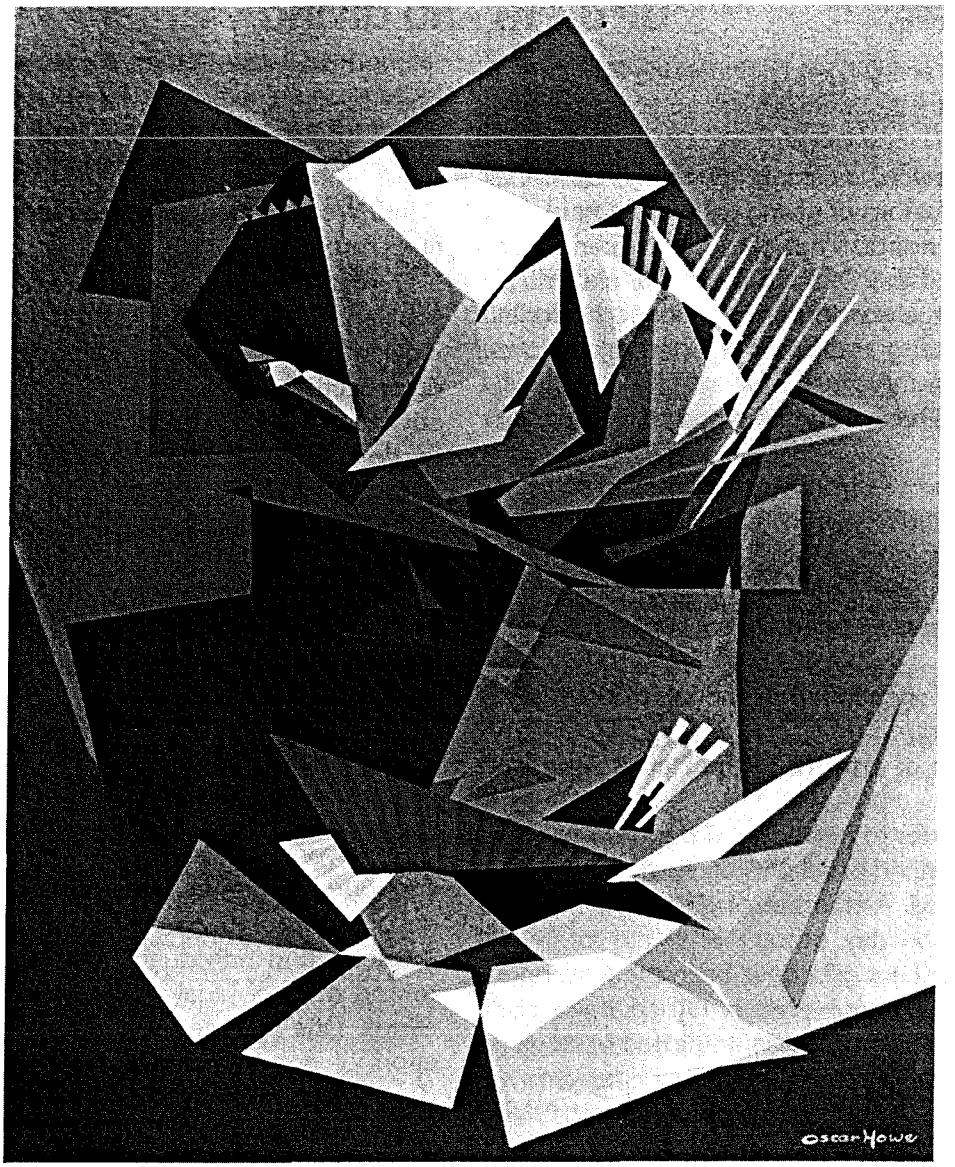
NARF recently developed the planned giving program to provide information to our friends and supporters about various aspects of financial and estate planning. Our intent is also to offer information on creative, alternative ways to make substantial gifts to the Native American Rights Fund. We have been concentrating on making contributions through wills.

During the month of December NARF received a substantial amount of contributions through gifts of stocks from our donors. Oftentimes a gift of stocks or other securities to charitable institutions like NARF is more advantageous tax-wise to the donor. If you have questions on donating stocks or securities to NARF, or would like information on other giving plans contact Marilyn Pourier. Call 303/447-8760 or write Marilyn Pourier, c/o NARF, 1506 Broadway, Boulder, Colorado 80302. All inquiries are in strict confidence and under no obligation. The enclosed coupon can also be used to request additional information about wills and bequests.

INDIVIDUAL CONTRIBUTIONS TO THE NATIVE AMERICAN RIGHTS FUND

The work of the Native American Rights Fund is supported by grants and contributions from private foundations, corporations, religious institutions, tribes, federal agencies, and individuals. However, increasingly, NARF is relying on individual donors to financially support our efforts. Due in large part to the increased and sustained effort of donors during 1983, NARF recently made a decision to continue our attorney staffing at current levels rather than cut back to reduce our 1984 budget. This means we can continue our comprehensive efforts on behalf of so many Native Americans nationwide.

Your continued and increased generous support is the key to our ability to meet the needs of America's Indians. Send your tax-deductible contribution today along with the enclosed coupon. Donors contributing $25 or more will automatically receive the quarterly NARF LEGAL REVIEW at no extra charge.



Dancer (Celebration of Nature), 1970

From the permanent collection of the University Art Galleries, University of South Dakota, Vermillion, SD.

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