THE TRIAL OF THOMAS BUILDS-THE-FIRE

Someone must have been telling lies about Joseph K., for without having done anything wrong he was arrested one fine morning.—Franz Kafka

THOMAS BUILDS-THE-FIRE WAITED ALONE in the Spokane tribal holding cell while BIA officials discussed his future, the immediate present, and of course, his past.

"Builds-the-Fire has a history of this kind of behavior," a man in a BIA suit said to the others. "A storytelling fetish accompanied by an extreme need to tell the truth. Dangerous."

Thomas was in the holding cell because he had once held the reservation postmaster hostage for eight hours with the idea of a gun and had also threatened to make significant changes in the tribal vision. But that crisis was resolved years ago as Thomas surrendered voluntarily and agreed to remain silent. In fact, Thomas had not spoken in nearly twenty years. All his stories remained internal; he would not even send letters or Christmas cards.

But recently Thomas had begun to make small noises, form syllables that contained more emotion and meaning than entire sentences constructed by the BIA. A noise that sounded something like *rain* had given Esther courage enough to leave her husband, tribal chairman David WalksAlong, who had been tribal police chief at the time of Thomas Builds-the-Fire's original crime.

WalksAlong walked along with BIA policy so willingly that he took to calling his wife *a savage in polyester pants*. She packed her bags the day after she listened to Thomas speak; Thomas was arrested the day after Esther left.

Now Thomas sat quietly in his cell, counting cockroaches and silverfish. He couldn't sleep, he didn't feel like eating. Often he closed his eyes and stories came to him quickly, but he would not speak. He nodded and laughed if the story was funny; cried a little when the stories were sad; pounded his fists against his mattress when the stories angered him.

"Well, the traveling judge is coming in tomorrow," one guy in a BIA suit said to the others. "What charges should we bring him up on?"

"Inciting a riot? Kidnapping? Extortion? Maybe murder?" another guy in a BIA suit asked, and the others laughed.

"Well," they all agreed. "It has to be a felony charge. We don't need his kind around here anymore."

Later that night, Thomas lay awake and counted stars through the bars in his window. He was guilty, he knew that. All that was variable on any reservation was how the convicted would be punished.

The following report is adapted from the *original court transcript*.

"Mr. Builds-the-Fire," the judge said to Thomas. "Before we begin this trial, the court must be certain that you understand the charges against you."

Thomas, who wore his best ribbon shirt and decided to represent himself, stood and spoke a complete sentence for the first time in two decades. "Your Honor," he said. "I don't believe that the exact nature of any charges against me have been revealed, let alone detailed."

There was a hush in the crowd, followed by exclamations of joy, sadness, etc. Eve Ford, the former reservation postmaster held hostage by Thomas years earlier, sat quietly in the back row and thought to herself, *He hasn't done anything wrong*.

"Well, Mr. Builds-the-Fire," the judge said. "I can only infer by your sudden willingness to communicate that you do in fact understand the purpose of this trial."

“That’s not true.”

“Are you accusing this court of dishonesty, Mr. Builds-the-Fire?”

Thomas sat down, to regain his silence for a few moments.

“Well, Mr. Builds-the-Fire, we’re going to dispense with opening remarks and proceed to testimony. Are you ready to call your first witness?”

“Yes, I am, Your Honor. I call myself as first and only witness to all the crimes I’m accused of and, additionally, to bring attention to all the mitigating circumstances.”

“Whatever,” the judge said. “Raise your right hand and promise me you’ll tell the whole truth and nothing but the truth.”

“Honesty is all I have left,” Thomas said.

Thomas Builds-the-Fire sat in the witness stand, closed his eyes, and spoke this story aloud:

“It all started on September 8, 1858. I was a young pony, strong and quick in every movement. I remember this. Still, there was so much to fear on that day when Colonel George Wright took me and 799 of my brothers captive. Imagine, 800 beautiful ponies stolen at once. It was the worst kind of war crime. But Colonel Wright thought we were too many to transport, that we were all dangerous. In fact, I still carry his letter of that day which justified the coming slaughter”:

Dear Sir:

As I reported in my communication of yesterday the capture of 800 horses on the 8th instant, I have now to add that this large band of horses composed the entire wealth of the Spokane chief Til-co-ax. This man has ever been hostile; for the last two years he has been constantly sending his young men into the Walla Walla valley, and stealing horses and cattle from the settlers and from the government. He boldly acknowledged these facts when he met Colonel Steptoe, in May last.

Retributive justice has now overtaken him; the blow has been severe but well merited. I found myself embarrassed with these 800 horses. I could not hazard the experiment of moving with such a number of animals (many of them very wild) along with my large train; should a stampede take place, we might not only lose our captured animals, but many of our own. Under those circumstances, I determined to kill them all, save a few in service in the quartermaster’s department and to replace broken-down animals. I deeply regretted killing these poor creatures, but a dire necessity drove me to it. This work of slaughter has been going on since 10 o’clock” of yesterday, and will not be completed before this evening, and I shall march for the Coeur d’Alene Mission tomorrow.

Very respectfully, your obedient servant,

G. WRIGHT, Colonel 9th Infantry, Commanding.

“Somehow I was lucky enough to be spared while hundreds of my brothers and sisters fell together. It was a nightmare to witness. They were rounded into a corral and then lassoed, one by one, and dragged out to be shot in the head. This lasted for hours, and all that dark night mothers cried for their dead children. The next day, the survivors were rounded into a single mass and slaughtered by continuous rifle fire.”

Thomas opened his eyes and found that most of the Indians in the courtroom wept and wanted to admit defeat. He then closed his eyes and continued the story:

“But I was not going to submit without a struggle. I would continue the war. At first I was passive, let one man saddle me

and ride for a while. He laughed at the illusion of my weakness. But I suddenly rose up and bucked him off and broke his arm. Another man tried to ride me, but I threw him and so many others, until I was lathered with sweat and blood from their spurs and rifle butts. It was glorious. Finally they gave up, quit, and led me to the back of the train. They could not break me. Some may have wanted to kill me for my arrogance, but others respected my anger, my refusal to admit defeat. I lived that day, even escaped Colonel Wright, and galloped into other histories."

Thomas opened his eyes and saw that the Indians in the courtroom sat up straight, combed their braids gracefully, smiled with Indian abandon.

"Mr. Builds-the-Fire," the judge asked. "Is that the extent of your testimony?"

"Your Honor, if I may continue, there is much more I need to say. There are so many more stories to tell."

The judge looked at Thomas Builds-the-Fire for an instant, decided to let him continue.

Thomas closed his eyes, and a new story was raised from the ash of older stories:

"My name was Qualchan and I had been fighting for our people, for our land. It was horrendous, hiding in the dirt at the very mouth of the Spokane River where my fellow warrior, Moses, found me after he escaped from Colonel Wright's camp. *Qualchan*, he said to me. *You must stay away from Wright's camp. He means to hang you*. But Wright had taken my father hostage and threatened to hang him if I did not come in. Wright promised he would treat me fairly. I believed him and went to the colonel's camp and was immediately placed in chains. It was then I saw the hangman's noose and made the fight to escape. My wife also fought beside me with a knife and wounded many soldiers before she was subdued. After I was beaten down, they dragged me to the noose and I was hanged with six other Indians, including Epseal, who had never raised a hand in anger to any white or Indian."

Thomas opened his eyes and swallowed air hard. He could barely breathe and the courtroom grew distant and vague.

"Mr. Builds-the-Fire," the judge asked and brought Thomas back to attention. "What point are you trying to make with this story?"

"Well," Thomas said. "The City of Spokane is now building a golf course named after me, Qualchan, located in that valley where I was hanged."

The courtroom burst into motion and emotion. The judge hammered his gavel against his bench. The bailiff had to restrain Eve Ford, who had made a sudden leap of faith across the room toward Thomas.

"Thomas," she yelled. "We're all listening."

The bailiff had his hands full as Eve slugged him twice and then pushed him to the ground. Eve stomped on the bailiff's big belly until two tribal policemen tackled her, handcuffed her, and led her away.

"Thomas," she yelled. "We hear you."

The judge was red-faced with anger; he almost looked Indian. He pounded his gavel until it broke.

"Order in the court," he shouted. "Order in the fucking court."

The tribal policemen grew in number. Many were Indians that the others had never seen before. The policemen swelled in size and forced the others out of the courtroom. After the court was cleared and order restored, the judge pulled his replacement gavel from beneath his robe and continued the trial.

"Now," the judge said. "We can go about the administration of justice."

“Is that real justice or the idea of justice?” Thomas asked him, and the judge flew back into anger.

“Defense testimony is over,” he said. “Mr. Builds-the-Fire, you will now be cross-examined.”

Thomas watched the prosecuting attorney approach the witness stand.

“Mr. Builds-the-Fire,” he said. “Where were you on May 16, 1858?”

“I was in the vicinity of Rosalia, Washington, along with 799 other warriors, ready to battle with Colonel Steptoe and his soldiers.”

“And could you explain exactly what happened there that day?”

Thomas closed his eyes and told this story:

“My name was Wild Coyote and I was just sixteen years old and was frightened because this was to be my first battle. But we were confident because Steptoe’s soldiers were so small and weak. They tried to negotiate a peace, but our war chiefs would not settle for anything short of blood. You must understand these were days of violence and continual lies from the white man. Steptoe said he wanted peace between whites and Indians, but he had cannons and had lied before, so we refused to believe him this time. Instead, we attacked at dawn and killed many of their soldiers and lost only a few warriors. The soldiers made a stand on a hilltop and we surrounded them, amazed at their tears and cries. But you must understand they were also very brave. The soldiers fought well, but there were too many Indians for them on that day. Night fell and we retreated a little as we always do during dark. Somehow the surviving soldiers escaped during the night, and many of us were happy for them. They had fought so well that they deserved to live another day.”

Thomas opened his eyes and found the prosecuting attorney’s long nose just inches from his own.

“Mr. Builds-the-Fire, how many soldiers did you kill that day?”

Thomas closed his eyes and told another story:

“I killed one soldier right out with an arrow to the chest. He fell off his horse and didn’t move again. I shot another soldier and he fell off his horse, too, and I ran over to him to take his scalp but he pulled his revolver and shot me through the shoulder. I still have the scar. It hurt so much that I left the soldier and went away to die. I really thought I was going to die, and I suppose the soldier probably died later. So I went and lay down in this tall grass and watched the sky. It was beautiful and I was ready to die. It had been a good fight. I lay there for part of the day and most of the night until one of my friends picked me up and said the soldiers had escaped. My friend tied himself to me and we rode away with the others. That is what happened.”

Thomas opened his eyes and faced the prosecuting attorney.

“Mr. Builds-the-Fire, you do admit, willingly, that you murdered two soldiers in cold blood and with premeditation?”

“Yes, I killed those soldiers, but they were good men. I did it with sad heart and hand. There was no way I could ever smile or laugh again. I’m not sorry we had to fight, but I am sorry those men had to die.”

“Mr. Builds-the-Fire, please answer the question. Did you or did you not murder those two soldiers in cold blood and with premeditation?”

“I did.”

Article from the Spokesman-Review, October 7, 19—.

Builds-the-Fire to Smolder in Prison

WELLPINIT, WASHINGTON—

Thomas Builds-the-Fire, the self-proclaimed visionary of the Spokane Tribe, was sentenced today to two concurrent life terms in the Walla Walla State Penitentiary. His many supporters battled with police for over eight hours following the verdict.

U.S. District Judge James Wright asked, "Do you have anything you want to say now, Mr. Builds-the-Fire?"

Builds-the-Fire simply shook his head no and was led away by prison officials.

Wright told Builds-the-Fire that the new federal sentencing guidelines "require the imposition of a life sentence for racially motivated murder." There is no possibility for parole, said U.S. Prosecuting Attorney, Adolph D. Jim, an enrolled member of the Yakima Indian Nation.

"The only appeal I have is for justice," Builds-the-Fire reportedly said as he was transported away from this story and into the next.

Thomas Builds-the-Fire sat quietly as the bus traveled down the highway toward Walla Walla State Penitentiary. There were six other prisoners: four African men, one Chicano, and a white man from the smallest town in the state.

"I know who you are," the Chicano said to Thomas. "You're that Indian guy did all the talking."

"Yeah," one of the African men said. "You're that storyteller. Tell us some stories, chief, give us the scoop."

Thomas looked at these five men who shared his skin color, at the white man who shared this bus which was going to deliver them into a new kind of reservation, barrio, ghetto, logging-town tin shack. He then looked out the window, through the steel grates on the windows, at the freedom just outside the glass. He saw wheat fields, bodies of water, and bodies of dark-skinned workers pulling fruit from trees and sweat from thin air.

Thomas closed his eyes and told this story.