

Carlos Frank: Native Religion VS: Game Law

In October 1975, Carlos Frank, an Athabaskan from Minto, was arrested for transporting a cow moose shot out of season.

Frank did not transport just any moose. The moose was brought to the village for use in a funeral potlatch honoring Delnor Charlie, who had recently passed away.

State District Court Judge Monroe Clayton found Frank guilty, a ruling upheld by State Superior Court. The Alaska Supreme Court must now decide if the Frank conviction should stand. If the high court affirms the decision, it will mean the State's argument has won the day. In his opening statement at Frank's trial, Assistant District Attorney Richard Ray questioned the religious and cultural nature of Frank's action and explained why it should not exempt him from prosecution under regular State game laws:

"It is the State's position that inasmuch as there is no fundamental right to go out and shoot a moose, that the burden upon the State is much less and a compelling State interest. We feel that the reasonableness of the regulations is what is required, and...we intend to introduce the testimony of Dr. Harbo (Chairman of the Board of Game) to testify as to the reasonableness of this regulation in light of the status of the moose population in the Interior of Alaska."

The State ultimately conceded the existence of an Athabaskan religion and the importance of moose in religious practices such as the funeral potlatch. But the State maintains that dried or frozen meat is adequate.

"We help each other with whatever we can get a hold of, to make each other happy. Not just because we're religious, just because we love each other."

Frank's attorneys contend that freedom of right to free exercise of religion, guaranteed under the Federal and State constitutions, has priority over game management regulations established for the benefit of the public. They do not assert a fundamental right to kill a moose. They maintain Frank's right to transport an otherwise illegal moose in the exercise of a religious practice or ceremony that is protected from public and governmental interference by the Federal Bill of Rights and the Alaska Constitution. The importance of the



case is demonstrated by the willingness of Doyon, Ltd., regional Native corporation for the Interior, to pay Frank's legal fees.

It is a complicated case at best. Although both sides have defended their positions with several arguments, the key to the Frank case is whether or not the Athabaskan funeral potlatch is a religious practice, and if so, whether the use of fresh moose is essential to that practice.

In order to establish the fact Athabaskan life and religion are ultimately tied to the use of game animals, Frank's attorneys called upon anthropologist Dr. Richard Nelson:

"I would say that religion and game are indispensable; that there is no way to discuss intelligently subsistence among people who I am familiar with without that also being a discussion of religion. Perhaps I can illustrate in a few ways. Among the Atha-

baskans you don't follow the rules, if you violate the huutlanee, then you will offend the spirits of the animals, and by doing so, bring bad luck onto yourself."

Having established the importance of game, Nelson confirmed that the potlatch is a religious practice:

"There is no way at all of getting around the fact that the potlatch is fundamentally a religious institution, which exists basically as an institution to deal with death."

The spiritual and economic value of game, particularly moose, to the Athabaskan people, provides the best explanation of the importance of moose in religious events and practices. The practice of a funeral potlatch is unquestionably religious; the legal question is, does the religious practice require fresh moose meat in order to fulfill the requirements of the religion.

Just what is the purpose of the potlatch? A funeral potlatch has several purposes. Foremost is the desire to honor the deceased, to commune with the spirit and to enable it to pass from this world. The potlatch is also a way to console the friends and family and a way of demonstrating that the person's death is a loss to the entire community.

During a potlatch, events in the dead person's life are remembered aloud, songs of consolation and advice are sung. And traditionally, food, Native food, moose meat, is burned to sustain the spirit of the deceased. The living are feeding the spirit the food that he knew during his life. And moose is the predominant game food of

the Athabascans.

Several Athabaskan people at Frank's trial testified emphatically that to use non-Native food would dishonor the spirit and make it uneasy. Furthermore, fresh moose meat is the most desirable, because it was the most desirable to the person during his life.

If the purpose of the religious event, the potlatch, is to ease the passage of the departed to another world, and that ease can best be achieved with the use of Native foods, it would seem the religion depends upon the use of game, the use of fresh moose. This position is maintained by Frank's attorneys in support of their claim that Frank's freedom to practice his religion has a higher priority than the State's desire to regulate game animals for public use.

Despite borrowed technology and infusion of Western values, Native communities in Alaska continue to be held together by identifiable cultural traditions. Community ties remain strong not only because villages are small and closely tied by kinship and common experiences, but because this closeness has guarded traditional values from demolition by a dominant society while Natives seek to have these values and rights recognized by the dominant society.

The Carlos Frank case is a quest for that kind of recognition. Frank's trial provided a forum for some of the most eloquent testimony ever presented in defense of traditional Native lifestyles. Foremost among the Athabaskan speakers was Chief Peter John of Minto. Speaking to the importance of the funeral potlatch to his people, John said:

"This has been handed down from generation to

generation and it's very important to the people that lost his loved one. The Native people try to hold it up as much as we can to make the family feel that they are not the only ones that lost a loved one. The whole village lost a loved one.

"There's potlatch all the time when somebody pass away. That's very important to the Native people. I don't care if that person is poor or rich, the thing that the Native people treasure with the heart is the potlatch for the person that pass away."

Carlos Frank, despite the State's original contention that he was insincere in his participation in the potlatch, wished to honor his friend Delnor Charlie by helping procure the traditional food, moose meat, for the traditional potlatch. Frank shared what he had to offer—the use of his truck to transport the moose to Minto. Other people brought other food; still others prepared it.

The tradition of community sharing pervades village activities in Alaska. Peter John explained it this way:

"If we gonna make each other happy, we have to do something for each other. And if we gonna make somebody happy, how you gonna do it? When Christmas roll around, you gonna have Christmas tree, you gonna put packages under that tree for the ones you love, so they can be happy with you. Okay. Native people is the same way. We help each other with whatever we can get a hold of, to make each other happy. Not just because we're religious, just because we love each other."



During a 1971 potlatch, these Minto people gathered to make songs for two people who had passed away. The songs are done in Athabaskan.