

Jury given fishermen's case early

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 Unexpected moves by both state and defense attorneys in the Indian fishing trial has placed the case in the hands of the jury earlier than was anticipated.

The trial of Lawrence Joe and Raymond Boome, who have been charged with violating state fishing regulations by fishing with a set net in the Skagit River, is being heard in Skagit Superior Court.

Yesterday the state completed

its case against the two members of the Upper Skagit Tribe, and the first of the two surprise maneuvers occurred. Defense attorney Malcolm McLeod, Seattle, called just four witnesses in the Indians' defense. He had indicated earlier that approximately 35 would be placed on the stand.

REQUEST DENIED

McLeod, known for his dogged determination that the Point Elliott Treaty of 1855 be interpreted in favor of Indians, asked the court to dismiss the charges against his clients on the basis of fishing rights granted them by the Treaty, but it was denied.

McLeod had Carl Boome, chief of the Upper Skagit Tribe, take the stand and testify that tribal members had always fished the Skagit from the Conway Bridge to the Diablo Dam. Attempting to offset the state's contention that it must regulate Indian fishing, the elder Boome said the Indians have always practiced conservation measures to insure perpetuation of the fish.

Each of the two defendants took the stand briefly to testify in his own behalf. Joe estimated he had take 650 fish from the river for food.

FINAL WITNESS

Raymond Boome, the other defendant, said that the Gilligan Creek location where he was fishing with a set net when game protectors arrested him, is an usual and accustomed fishing place for Indians. Taken in its broadest interpretation the Treaty states that Indians may fish in their usual and accustomed fishing grounds.

The defense's final witness late yesterday afternoon was John Jones, the 84-year-old tribal fisherman who attracted public attention with his set net fishing. Jones said the tribe's legal counsel had advised them on their fishing rights, and that the location they were fishing was an usual and accustomed place for Indian fishermen.

SECOND SURPRISE

This morning the second surprise came. The state waived its right to rebuttal after the defense had finished presenting its witnesses, so steps were begun to instruct the jury on what it must consider in considering the evidence. While the jury waited in its closed room, the two batteries of attorneys argued with the court on which instructions would be read. Each side had prepared instructions and Judge A. H. Ward had selected from each set those instructions that he thought best fitted the circumstances.

Before noon the jury was back in its box and the accepted instructions were read.

With the completion of final arguments from attorneys, the jury retired to weigh the evidence against Joe and Boome. A verdict is anticipated later in the afternoon.

Whatever their decision, it is likely that it will be appealed to the State Supreme Court since neither the Indians nor the State Game Department has been inclined to give an inch on the question of Indian fishing rights. An earlier Skagit Superior Court opinion rendered by Judge Charles F. Stafford in the case of Indian Joe McCoy is under appeal to the State Supreme Court now. In that case the decision was found in McCoy's favor.