

AN ANALYSIS OF THE NEZ PERCE COMMUNICATION STRATEGIES  
IN THE COUNCIL OF WALLA WALLA--1855

by

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Submitted to the Department of Communication  
Studies and the Faculty of the Graduate School  
of the University of Kansas in partial ful-  
fillment of the requirements for the degree  
Doctor of Philosophy

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Dissertation defended: July 19, 1982

#### ACKNOWLEDGMENTS

Dr. Thomas Beisecker, Dr. Nobleza Lande, and Dr. Wil Linkugel deserve my appreciation for their extended patience and humor in the completion of this project.

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## CHAPTER 1

Among the many relationships which the United States government has entertained with the Indian nations over the past two centuries, there have been few that have had the popular attraction and attention which has been given to that with the Nez Perce Indian nation. The relationship between the United States government and the Nez Perce Indian nation has drawn the attention of popular and scholarly writers from several fields.

The great attention focused on the Nez Perce nation is due to a mystique developing out of a number of events. The first event which gave the Nez Perce special notice was their interaction with the explorers Lewis and Clark. Clark, writing in his journal in 1805, wrote of the Nez Perce:

Those people has shewn\* much greater acts of hospitality than we have witnessed from any nation or tribe since we have passed the rocky mountains. in short be it spoke to their immortal honor it is the only act which deserves the appellation of hospitallity we have witnessed in this quarter.  
(DeVoto, 1953, p. 380)

From this amicable start in relations, the Nez Perce nation and the United States government and its citizens continued to interact over the next 71 years. At this point a portion of the Nez Perce nation took up arms against the citizens of the United States and federal troops.

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\*Many of the original documents from which direct quotations are taken have errors in spelling, grammar and mechanics. Direct quotations used in this study are faithful to the original documents. The term (sic), therefore, will not appear in the text.



This armed encounter has attracted a great deal of attention for the tribe and is the most significant event of the interaction in the eyes of many. Yale historian Alvin M. Josephy (1965) illustrated the attraction and importance of the war when he wrote:

But all pale before the thundering climax of the Nez Perce Story, the valiant attempt of Chief Joseph and part of the tribe in 1877 to escape their white tormentors in a great 1,700 mile retreat, fighting and defeating American armies all the way until a last tragic battle. (p. xx)

Although Josephy indicates that events of the Nez Perce history pale in comparison with the war, there are a number of other important events in the U. S.-Nez Perce interaction. One of the most important was the treaty of 1855, which is the subject of this study.

#### The Study

This study will analyze the bargaining processes and spoken communication as recorded in the official transcripts of the Council of 1855 in the valley of Walla Walla. The purpose of the study is to determine the impact of the bargaining processes and communication on the success, or lack thereof, of the participants at the Council.

There are several reasons to study the treaty bargaining between the Nez Perce nation and other tribes and the United States government. One of the reasons is the continuing question of the United States Government observing the commitments made in treaties with the Indians. The questioning is illustrated by the demands of a group of American Indians who occupied the Bureau of Indian Affairs headquarters in Washington, D.C. in 1972. One of the demands submitted to the government during the takeover was the following:

COMMISSION TO REVIEW TREATY COMMITMENTS & VIOLATIONS:  
The president should immediately create a multi-lateral,

Indian and non-Indian Commission to review domestic treaty commitments and complaints of chronic violations and to recommend or act for corrective actions, including the imposition of mandatory sanctions or interim restraints upon violative activities, including formulation of legislation designed to protect the jeopardized Indian rights and eliminate the unending pattern of prohibitively expensive lawsuits and legal defenses--which habitually have produced indecisive and indeterminate results, only too frequently forming guidelines for more court battles, or additional challenges and attacks against Indian rights. (1972)

Another reason for studying the bargaining interactions between the Nez Perce nation and its people and the United States government and its people is the question of romance and realism, i.e., fiction and fact. Although a great deal of attention has been given to the Nez Perce question, scholars in recent years have argued that much of the previous work on the Nez Perce nation and its peoples has been erroneous or misleading. Walker (1968) argues:

Many such studies, for example, Fee (1936), Haines (1955), Howard (1881), Josephy (1965), and McWhorter (1940 and 1953), fail to interpret correctly the principal issues, personalities and events of the War. (pref.)

It is the argument of Walker that there was a "cult" (p. 32) faction among the Nez Perce during the interactions between the Nez Perce and the Whites. He argues that the cult factions were in large measure responsible for the schism among the Nez Perce people and that the schism was an impelling force in the shaping of many of the choices of the Nez Perce bands, including the sending of a delegation to St. Louis in 1831 to seek missionaries and the teaching of the Bible. Walker suggests that the Nez Perce were not seeking the teachings of the Bible for salvation purposes, as was popularly believed at the time, but that they were seeking the Bible for the power they believed resided with those who had the book. An extensive consideration of this argument will be

taken up in Chapter Three.

Historian Mark Brown is also caustic in his analysis of previous works. He states:

It is unfortunate that Indian accounts merit very little trust. What purports to be Chief Joseph's story went through an interpreter and at least one magazine editor before it appeared on the pages of the North American Review in 1879. Such devious treatment is not desirable in intelligence materials. Lucullus V. McWhorter, who collected the bulk of the Nez Perce narratives was apparently neither objective or discriminating. Although some of the material is probably accurate, too much of it shows the same weaknesses that may easily be found in similar narratives written by white people, namely faulty memories, personal bias and prejudice. In some cases these can be established beyond question by comparison with contemporary records of the highest order of reliability. This is regrettable, but it is also hard fact. (1967, p. 15)

The treaties will be analyzed with the recognition of the new findings by Walker and the understanding that some of the previous works may be suspect.

Cross-cultural filters are also an important part of this study. Edward T. Hall (1959), as well as others, has argued that each individual brings a myriad of attitudes, beliefs, and values to any given interaction. He argues that many of the attitudes, beliefs, and values brought to an interaction by an individual are the result of culture, and that in many cases the attitudes, beliefs and values are strongly held, but that the individual is hardly aware that he holds them or acts in accordance with them. As a result, the individual is affected by these cultural filters. The understanding of cultural filters is important in analyzing the actions of the individuals within the treaty bargaining for several reasons. First, it is important to recognize that the individuals participating in the interaction may have been affected by their cultural filters, and therefore have distorted the positions of the other parties to the interaction. Second, it is important to recognize cultural filters in the

current analysis. It is essential to be cognizant of the values, attitudes and beliefs which prevailed in the time period in which the treaty was negotiated when attempting to analyze the strategies of the parties. Third, the cultural filters must be recognized in regard to the materials used in the study. All of the extant material, including the transcript of the Council, is written in English, most by non-Indian writers. It must be recognized that the treaty was negotiated through interpreters. This resulted because the Nez Perce leaders and other Indian Chiefs did not speak or understand the English language. Therefore, it must be recognized that the record may be subject to inaccuracies of interpretation and the natural distortion of translating from one language to another. We shall deal more with this subject in Chapter Four.

#### Arguments of the Study

We shall argue in this study that the treaty bargaining sessions which culminated in the treaty of Walla Walla were mixed-motive situations. This position is contrary to some widely-held positions that all government-Indian negotiations were zero-sum situations, and that the Indians had no opportunities to gain from the bargaining procedures. This analysis will show that the government and Indians had opportunities for individual and joint gains and losses during the course of the negotiations.

Further, we shall argue that the communication behaviors of the parties, exhibited during the bargaining processes of search, strategy and persuasion, directly influenced the nature of the final agreement. The effect of the influence was the formalizing of an agreement, which when viewed from the perspective of the probabilities and utilities held

by the parties, was nearly optimal for all concerned. We shall deal more with this argument in our conclusions.

### The Analysis Tools

The analysis of the bargaining and communication in the Council sessions will be conducted using the Search, Strategy and Persuasion framework of bargaining developed by Cohen (1972) and the Verbal Persuasive Strategies model developed by Beisecker (1968). Cohen, working with the theory of negotiated games developed by Von Neumann and Morgenstern (1964), has developed a perspective for looking at the bargaining process as three interrelated processes of search, strategy and persuasion. Cohen argues that modifications of the theory of negotiated games by Schelling (1960) and others have inverted the original theory from one which describes a hypothetical process through which two perfectly rational and informed parties could arrive at a decision in a mixed-motive situation to one in which the assumptions define sources of variability rather than constants. He suggests that defining and analyzing bargaining as the three interrelated processes of search, strategy and persuasion--each with their own logic--allows for a more realistic understanding of the bargaining process. Cohen argues that search is to invent or discover new or forgotten alternatives which are preferable to alternatives under consideration, strategy is the attempt to manipulate events under your control to force your opponent to accept an alternative you prefer in the alternatives under consideration and persuasion is the attempt to alter your opponent's probability or value for alternatives under consideration. The development of Cohen's theory and its application to this study will be more fully explicated

when we develop the theoretical frameworks for this study in Chapter Two.

Using the same antecedent theories as Cohen, Beisecker has come to a somewhat similar position; however, the position is cast in somewhat different terms. Working from the standpoint of communication in bargaining, Beisecker argues that when the conditions of "perfectly rational and informed parties are not met at the outset of the interaction" (1970, p. 153), they must be approximated as much as possible through the interaction itself. Further, he argues that "direct verbal communication serves as the primary vehicle for such approximation." (p. 153).

Beisecker indicates in his model that the participants to the bargaining situation may communicate cooperatively or competitively, depending on the attributes of the situation. However, regardless of how the participant communicates, the communication can

. . . focus on any of four general attributes of the mixed-motive situation. . . These are (1) the identification and reassessment of the participants preferences, (2) the identification and reassessment of their interpersonal relationship, (3) the transmission and evaluation of offers, and (4) procedural mechanics involved in the negotiation process. (1970, p. 154)

The application of this framework to the treaty bargaining will be developed in Chapter Two. In addition, the communication framework will be integrated with the bargaining theory of Cohen during the course of the chapter.

#### Historical Sources

The primary focus of this study is on the spoken bargaining communication as it appears in the government transcripts of the sessions. I have chosen to use the transcript as published in Noon-Ne-Me-Poo (We

the Nez Perce). The book is the official history of the Nez Perce and includes the vital documents of the tribe's history. The transcript appearing in Noon-Ne-Me-Poo is taken from the handwritten transcripts appearing in the microfilmed records of the United States Government Indian Bureau. To assure that the transcript published by the Nez Perce was true to the original, it was compared with the transcript of LuCullus McWhorter. This comparison revealed no substantive differences.

I have relied on the works of Coan (1921 and 1922) when developing arguments in regard to the formation of United States government policy toward the Indians of the Northwest. The Coan study is based on the original documents relating to the development and execution of United States Government Indian Policy in the Northwest during the period immediately preceding the treaty of Walla Walla. The work is cited by nearly every researcher who has, during the past 60 years, studied Indian policy of this period and/or government-Indian interaction in the region. The work has not been challenged for accuracy or perspective. The work is cited extensively in the works of Josephy (1965) and Walker (1968). Although Walker raises serious question about the interpretation of Josephy, he does not quarrel with the findings of Coan, and to the contrary, relies heavily on Coan's findings to explain government-Indian interactions. For these reasons, I believe the work is adequate for this study.

#### Plan of the Study

Chapter Two of this study will consider the theoretical work of Cohen and Beisecker and will integrate the two theoretical models. Chapter Three will present the history of the Nez Perce nation and the

U. S. government policy toward the Indians of the Northwest. The purpose of this history is to set the values of the working parties at the treaty negotiations. Chapter Four will analyze the communication behaviors in the bargaining of the treaty. Chapter Five will analyze the successes and failures of the parties.



## CHAPTER TWO

This chapter presents the two models which provide the methodological framework for this study. We shall first present and discuss Cohen's trimodal theory of bargaining--search, strategy and persuasion. Secondly, we shall present and discuss Beisecker's bargaining communication model. The presentations and discussions will review the sources of the theories, outline basic tenets, and consider strengths and weaknesses of each. The chapter concludes with an integration of the two models and their relationship to the study undertaken for this thesis.

### Search, Strategy and Persuasion

Working from the perspective of modified game-theory, Cohen presents a model for a more precise understanding and evaluation of the bargaining process. Cohen argues that it is incorrect to view bargaining as a simple, single dimensional behavior and suggests that bargaining interactions should be considered as a series of interrelated activities--those of search, strategy and persuasion.

To understand how Cohen derives his theory it is necessary to review his analysis of game-theoretic bargaining literature. Cohen begins his analysis at the point where nearly all literature on this subject begins--with Von Neumann and Morgenstern's Theory of Games and Economic Behavior. Cohen argues that Von Neumann and Morgenstern's framework of game-theoretic bargaining is built on the following four assumptions:

1. There is a set of events which constitute all the possible outcomes of the interdependent choices confronting the participants.

2. Each individual assigns a fixed utility to each outcome event.

3. In some cases, notably in two person zero-sum games, probabilities can be inferred for outcomes, and hence for the choices of others from the assignment of utilities obtaining among the players. In most cases this is not possible and bargaining fixes the outcome.

4. Each individual is aware of the utility assigned to each possible outcome by every other participant. (pp. 42-43).

While indicating that this framework of zero-sum interactions is of limited value for his orientation, Cohen suggests that the concepts of events, probabilities and utilities are extremely important. He argues that game theory is built on these three elements (p. 42). Cohen defines events as "the things that can happen," and utilities as "each player's preferences among the various possible outcomes" (p. 42). He does not explicitly define probability, although a review of his position indicates that he believes probabilities are related to the chance of an event occurring. We shall consider his perspective on probabilities in more detail when reviewing his interpretation of Luce and Raiffa (1957)

Cohen argues that the terms events, probabilities and utilities are associated with the very formal assumptions of game theory. After suggesting modification of the assumptions above, Cohen attaches the term likelihood to the bargainer's estimate of an event occurring. He also attaches the term value to the bargainer's relative preferences among outcomes. He further argues that the change is a recognition of the movement away from the more formal assumptions associated with Von Neumann and Morgenstern's original presentation.

Cohen continues his analysis of previous work by turning to Luce and Raiffa. He suggests that there was little done with the theory of games until 1957, when Luce and Raiffa published their codification of game theory. Cohen argues that Luce and Raiffa make central the underlying relation of game theory to the theory of individual decision making, and is organized around the distinction between certainty, risk and uncertainty (p. 44). Luce and Raiffa have defined these terms:

(A) Certainty if each action is known to lead invariably to a specific outcome (the words prospect, stimulus, alternative, etc., are also used).

(B) Risk if each action leads to one of a set of possible specific outcomes, each outcome occurring with a known probability. The probabilities are assumed to be known to the decision maker. . .

(C) Uncertainty if either action or both has as its consequence a set of possible specific outcomes, but where the probabilities of these outcomes are completely unknown or are not even meaningful (1957, p. 13).

Cohen concludes that the work of Luce and Raiffa generates a number of possible changes in the original assumptions of the theory which lead to greater psychological realism. He says that they:

. . .emphasize the importance of distinguishing between various levels of knowledge an actor may have of the probabilities associated with events. They stress the likelihood that actors do not fully know the sets of strategies open to themselves or their opponents. They suggest that full knowledge of the utilities others have for outcomes is often probably not present. They offer the possibility that utilities may change during the course of bargaining (p. 47).

But, he argues, Luce and Raiffa do not follow up these suggestions. He explains that this is done because each of the changes would lead to "mathematical intractability or into a tangle of questions about the empirical conditions prevailing in a given situation," (p. 47) which was beyond the theory they were presenting.

Leaving the suggestions of Luce and Raiffa, Cohen turns his attention to Schelling's Strategy of Conflict. It is from Schelling that Cohen evolves the major thrust of his argument for a trimodal approach to the theory of bargaining.

The center of the Schelling influence on Cohen lies with the concept of "perceived or subjective probability" (p. 48). Cohen indicates that this particular viewpoint succeeds "in applying semi-formal game theoretic reasoning" (p. 48) to a variety of situations. He further argues that Schelling has taken a "fundamentally different look at the problems of indeterminacy of variable sum interactions in game theory. Rather than look for additional assumptions that might eliminate it, he has instead said that it corresponds to an indeterminacy in the world" ( p. 49). Cohen argues this position moves Schelling toward his proposed theory of interdependent decision, but also moves it simultaneously away from the formal power of game theory.

Cohen indicates that Schelling maintains the knowledge assumptions of game theory but is ambivalent on the fixed nature of the alternative actions or outcomes (p. 50). He argues that Schelling on one hand treats outcomes as givens, but on the other hand argues that strategic moves will alter the outcomes. Further, he cites Schelling as contending that many of the strategic moves must be "found" rather than given.

Cohen says that the use of the strategic actions of threat, promise and commitment is central to the Schelling theory of interdependent decision. Schelling gives an extensive treatment to each of these actions and their roles in gaining decisions in situations in which

there is a mixture of cooperative and conflicting elements on which the bargainers may focus.

Integrating the changes suggested by Luce and Raiffa and Schelling, Cohen argues that the original assumptions of Von Neumann and Morgenstern can now be stated as:

1. The unmanageably large size of the set of alternatives which must be considered under strict game theoretic analysis has been recognized, but careful inquiry has not been made into the consequences of this condition.

2. The fixed utility assumption has been recognized as a point of vulnerability (by Luce and Raiffa), but no effort has been made to extend the theory to cases of dynamic preferences.

3. The indeterminacy of the variable sum of more than two-person game situations is recognized by all. A great deal of effort has been made to resolve this indeterminacy by making slightly different assumptions. (Luce and Raiffa, Nash and subsequently many others including Harsanyi 1967, 1968a, 1968b.) Schelling has argued, however, that the indeterminacy of theory corresponds to an indeterminacy in the world, which strategic moves such as threats, promises, and commitments can be seen as attempting to resolve. In both Luce and Raiffa and Schelling there is increasing attention to the subjective character of the probabilities involved.

4. The unrealistic character of the knowledge assumption has been pointed out (both by Luce and Raiffa and by Schelling), but this recognition of its inadequacies has not been incorporated into new theory (pp. 56-57).

Indicating that Von Neumann and Morgenstern, Luce and Raiffa and Schelling are the major contributors to the theory of games and to the more general theory of bargaining that he is following, Cohen turns his attention to the laboratory application of game theory. He reviews the works of Rapoport, especially Fights, Games and Debates, and Thibaut and Kelley's Social Psychology of Groups. Cohen argues that the authors of these two books make substantial contributions to laboratory gaming and thus represent an important link from the

theoretical framework of game theory to the laboratory phase of bargaining research (p. 57).

Considering Rapoport's impact on the reinterpretation of game theory, Cohen centers on the questions of utilities and the role of communication in game-theoretic applications. It is Rapoport who criticises game theory for its lack of rigorous analysis when communication is a move in the game. Furthermore, Cohen stresses that Rapoport suggests that the complexity of game analysis, even on simple games, makes it a rather unwieldy tool for analysis. Although Rapoport suggests several shortcomings, and some possible changes in game theory, Cohen argues that his work does not carry the issues far beyond the theoretical positions. However, Cohen points out that Rapoport adds substantially to the advance of theory of bargaining by suggesting that the research work should be taken over by the experimental scientists, which is in agreement with Luce and Raiffa and Schelling (p. 62).

In reviewing and criticizing Thibaut and Kelley's work, Cohen argues that they recognize the possibility of unknown utilities and, thus, unknown payoffs, but in the bulk of their work tend to work with situations which hold to the classic model, where the utilities and payoffs are given. Cohen further suggests that Thibaut and Kelley's position on the actor's knowledge of the alternatives available to the other or their associated utilities is ambiguous and must be drawn from their work by implication. Cohen draws the implication that Thibaut and Kelley stay close to the full-knowledge position in some of their later research.

The final two works reviewed by Cohen are Ikle and Leites (1962)

and Walton and McKersie (1965). These are cited specifically because they frontally attack some of the classic game-theoretic assumptions, while holding to some of the basic framework. Cohen suggests that Ikle and Leites argue directly that bargaining should be based on the possibility of utility change (p. 68). Walton and McKersie, Cohen argues, also attack the fixed utilities concept during the course of the negotiations.

The discussion above indicates the need for the development of modified assumptions. Cohen now recasts the assumptions as follows:

1. At any given moment there exists for an individual a set of events which constitute the possible outcomes\* of the bargaining. The membership of this set may change over time.
2. At any given moment an individual has a value for each event currently in the set of possible outcomes. That value may change over time.
3. At any given moment an individual has some estimate of the likelihood of each event currently in the set of possible outcomes. That estimate may change over time.
4. At any given moment an individual's estimate, if he has one, of the value or likelihood for an event held by an opponent may vary in the accuracy with which it approximates the value or likelihood actually held by that opponent at that moment. This estimate may also change over time (pp. 72-73).

Before considering the three modes of search, strategy and persuasion, which Cohen says come out of the new assumptions, it is necessary to consider Cohen's justification of the new assumptions. Cohen indicates that it is his belief that there is "more to bargaining than the simple exchange of threats, commitments and promises, which

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\*(Cohen, in a footnote, indicates that he is defining possible outcomes--in assumption 1--as those outcomes which are under consideration, or have recently been under consideration. He argues that it is realistic to acknowledge that the bargainer actually considers only a small set of all possible solutions.)

are at the center of attention in a work like Schelling's" (p. 75). It is Cohen's hope that the new "assumptions will help to reveal what else there is, and to show what relationship it has to the strategic actions of which we have a somewhat better understanding" (p. 75). He says the new assumptions support his insight that "bargaining situations are indeterminate, and the conditions which create that indeterminacy are the wellsprings of the actions people may engage in to resolve it in their own favor" (p. 77). He argues that his position is more realistic with the way things are in the world, and he admits that this position moves bargaining away from the formal power of the original theory of games. He suggests that the gain in realism is worth the price in mathematical tractability (p. 75). It is out of these modified assumptions that Cohen develops the theory of search, strategy and persuasion.

It is essential at this point to present a more precise definition of the three modes proposed by Cohen. He defines his modes in the following manner:

Search. Attempt to discover or invent some new alternative, not previously under consideration (or even an old one which has somehow been dropped from consideration), which is acceptable to the opponent and preferable to the available outcomes.

Strategy. Attempt by manipulating events under your influence or control, or by talking about such manipulations, to force your opponent to accept some alternative which you prefer from the current set of possible outcomes.

Persuasion. Attempt to alter your opponent's likelihoods and/or values for events so that he prefers and chooses some alternative which you prefer from the current set (p. 42).

Cohen argues that the concept of search is a direct outgrowth of the first assumption. In order for persons to be able to bring new



alternatives into the bargaining situation, it is essential that the parties have the ability to "find" them. If it is possible for persons to locate and introduce new alternatives into the consideration, then this implicitly suggests that the parties have some mode of operation to carry this out. Cohen argues that search is the reasonable choice.

Cohen further argues that the modes of persuasion and strategy follow directly from the modified assumptions two, three and four. The critical consideration here is that the assumptions suggest that the parties to the bargaining may change their utilities and/or estimates of probabilities over the course of the bargaining. Again, this suggests that the individual must have some mode of operation which allows this to occur. Cohen argues that the use of persuasion and strategy are reasonable choices for defining how parties in the bargaining are able to alter the utilities and probabilities. A more extensive consideration of the nature of each of the modes and how they interrelate is discussed in the consideration of the internal workings of each of the modes. Cohen calls these workings the "logic" of the modes.

#### The "Logic" of Search, Strategy and Persuasion

In order to understand the interrelationship of the three processes suggested for bargaining, it is necessary to explore the particular nature of each of the three proposed modes. After consideration of each of the modes independently, predictions about the nature of their interrelationship is presented.

#### Strategy

Cohen's position on strategy is similar to that of Schelling and includes the behaviors of threat, commitment and promise. The basic

purpose of the strategic action is to bind oneself to a particular position in order to leave the other party with a clear choice of alternatives, thus, hopefully, forcing the other person into a choice desirable to the actor. It is Cohen's argument that the process of strategy will bring about identification of the actor's values. He argues that the person who is willing to make a threat, promise or commitment has defined rather rigidly his preferences in the given situation. Therefore, this will give the target of the threat, commitment or promise a rather well-defined perception of the actor's abilities. If this is the case, Cohen argues, then the target will have the opportunity of seeking search or persuasive strategies which might have the effect of meeting the actor's position. This is not to say that the target will necessarily undertake any activity--only that if he should choose to do so, his action should be facilitated by his knowledge of the actor's values. Accordingly, the value revealing nature of the strategic action results in a cost to the actor. He has exposed himself to the target and may be more vulnerable to search and persuasive activities on the part of the target.

### Persuasion

In his definition of strategy and persuasion, Cohen makes the distinction between the ability to control events, and altering the other party's perceptions of the utility and probability of an event. In strategy, the actor is able to control the events which he manipulates, or talks about manipulating. In persuasion, the actor does not control the events themselves, but only is able to attempt to alter the target's perceptions of their utility, or their probability of occurring. Cohen suggests that persuasion does not reveal in as clear terms as strategy the values of the actor. An example of this difference may prove helpful.

In the case of a husband and wife considering dining out, the husband may choose a restaurant about which his wife is not overly fond. He may state, "we will go to my place, or I am staying home." In this case he has in fact threatened (used strategy) because he controls the event, i.e., he can stay home. On the other hand, he can say, "remember the fine meal we had the last time we went there?" This is persuasion because he is attempting to alter his wife's utility, while not being in a position to control the event, i.e., he cannot make his wife's decision. While both approaches suggest the husband's wish to go to a particular restaurant, the second does not suggest the rigidity of choice implicit in the first statement. Cohen suggests that this is in fact the case when using strategy and persuasion, and therefore the use of strategy more rigidly defines the actor's values than does persuasion. Accordingly, Cohen argues that the cost to the actor is somewhat less when using persuasion than when using strategy.

Cohen indicates that there are two major findings in current persuasion research which bear directly upon the approach to persuasion in the bargaining situation. The two are that:

...when efforts to persuade fail, subsequent efforts by the same persuader are less likely to succeed, and that a target's expressing a belief reduces the effectiveness of subsequent efforts. (pp. 94-95)

Cohen says a persuader becomes more attached to the position which he is supporting as he expounds the position, and the persons who is the target becomes more entrenched against the position as he continues to resist the persuasion. From this, he argues that each attempt to persuade has a declining chance of success. This assertion is left unsupported and should be tested before acceptance.

An additional point regarding persuasion and its interaction with search should be explored. Cohen suggests the persuasive argument will generally downgrade, "implicitly or explicitly, the potential value of additional search" (p. 96). A persuasive action is an attempt to get a target to accept an alternative which the actor is already in support of. In this way, persuasion is an attempt to limit the realm of alternatives under discussion in the particular situation.

### Search

In his consideration of search, Cohen argues that this mode does not have the impact on subsequent bargaining that the value revealing nature of strategy, or the likelihood-fixing nature of persuasion (p. 101). The search mode works in two ways--one negative, one positive. Negatively, search indicates that none of the alternatives under consideration are acceptable. This may be true if either strategic actions or persuasive actions are directed at a target. The actor knows that the target does not like the alternative, but the actor does not know what kind of alternatives the target will accept. Positively, the search mode brings into the interaction some alternative that is not under consideration at that time.

Cohen suggests two situational considerations which influence the utility of search. First, as the number of persons in the bargaining situation increases, so does the difficulty of finding new preferable outcomes. Second, each new alternative will be harder to find (p. 103). Cohen argues that the first consideration results from the assumption that the new alternative must be better for one party, and at least as good for the rest of the parties as the previous alternatives. The second consideration results from his assertion that each new alternative

will take more energy to generate because the easy alternatives will be found early and the more difficult alternatives must be discovered at greater cost of mental energy. These considerations have not been tested, but they would seem worthy of exploration.

In a last argument, Cohen supports the position that there will be exceptions, such as an excellent alternative being overlooked in the original bargaining procedures, but being found with relative ease in a review. However, he indicates that the pattern he sees search taking is one in which each alternative requires more energy, and thus search will become less frequent as the interaction is extended. His assumption here is that the energy needed for search will increase faster than the energy demands for persuasion. This assertion is also worthy of testing.

Having indicated the basic logic of each of the modes, the question of their applicability to the study of bargaining and communication must be bridged.

#### Limitations of the Recast

From a communication standpoint, the most obvious shortcoming of the model presented by Cohen is that it is a theory of bargaining--not a theory of communication. Cohen suggests three modes of action, but does not explicitly indicate how the modes are manifested, with the exception of persuasion, which he says is usually a communication function. It would seem that communication is an essential part of each of the modes in that some form of communication is necessary if the parties to the bargaining are going to know that search has occurred, that strategy is being employed, or that persuasion is being attempted. The emphasis on bargaining theory tends to limit the consideration of communication in the bargaining process.

Cohen's recast of the game-theoretic assumptions suggests how bargaining should be viewed, but there is little in the study to indicate what specific communication behaviors one would expect from the parties during the course of their interactions. Although he is not concerned with specific communication behaviors, we have argued earlier that communication is an implied process for the functioning of the three modes of action. It would seem, therefore, that there is a need to find a communication model which can operate under the revised game theory assumptions, but yet emphasize the role of the communication processes. For that purpose, this study makes use of the works of Beisecker (1968 and 1970).

#### Beisecker's Model

Beisecker, also working from the standpoint of the theory of games, has formulated a model for analyzing the role of communication in dyadic interpersonal mixed-motive interactions. Although he begins with the same base as Cohen--the theory of negotiated games--he does not follow the same path. He, like others reviewed by Cohen, holds to a more rigid set of assumptions than are presented in the modifications leading to search, strategy and persuasion. Despite working with the more classical assumptions, Beisecker seems to accept the idea that many of the strong assumptions in regard to knowledge and utilities may not be present at the outset of the mixed-motive interaction. He states:

The theory of negotiated games describes a hypothetical process through which two perfectly rational and informed parties can arrive at a decision in mixed-motive situations. When these conditions are not present at the outset of an interaction, they must be approximated as much as possible through the course of the interaction itself. Direct verbal communication can serve as the primary vehicle for such approximation (1970, p. 153).

Working with the more rigid assumptions for utilities and

preferences, Beisecker presents a model for analysis of communication which would seem to be applicable to situations where the modified assumptions are accepted. Beisecker argues that communication, whether used cooperatively or competitively, can focus on four general attributes of a mixed-motive interaction. They are:

. . . (1) the identification and reassessment of the participants' preferences, (2) the identification and reassessment of their interpersonal relationships, (3) the transmission and evaluation of offers, and (4) procedural mechanics involved in the negotiation process (1970, p. 154).

Beisecker defines cooperative communication by function, stating:

Cooperative communication essentially serves as a vehicle through which individuals attempt to discover and increase areas of common interest regarding the issue. Communication can identify previously unnoticed alternatives, test and reaffirm or modify evaluative criteria for alternatives, and structure more consistently their own preferences and the preferences of the other. Walton and McKersie suggest that such communication be labeled "problem solving" communication (1970, p. 154).

The definition would indicate that Beisecker sees cooperative communication as serving many of the same functions as Cohen's concept of search.

Dealing with competitive communication, Beisecker indicates:

Competitive communication serves as a vehicle through which one individual attempts to distort the other's perceptions of the situation in order to obtain an advantage. Strategies for accomplishing this are numerous, including misrepresenting the alternatives available and their relative desirability, refusing to admit the addition of alternatives or alternate criteria for the evaluation of alternatives, insisting on the other's dependence on the condition of agreement and on personal independence of such a need, demanding a given solution and committing oneself to the demand, and so forth. Walton and McKersie also discuss this form of communication, suggesting that its overall goal is to "estimate and alter the other's perceptions of the payoffs which will result from his alternate bargaining strategies" (1970, p. 154).

Thus, it would seem that competitive communication, in Beisecker's terms, is very similar to Cohen's concepts of persuasion and strategy.

Beisecker suggests that direct verbal communication should be viewed as an "intervening variable in mixed-motive interactions." He states that a person's choice of communication strategies may "provide additional sources of influence on the decision reached" (1970, p. 154).

Before leaving the consideration of the Beisecker model, it should be pointed out that Beisecker does not deal directly with the idea of changing preferences during the course of the interaction, and does not deal directly with the question of persuasion in his study. However, the passages cited directly above indicate that he believes communication can influence parties to a bargaining interaction. It would seem, then, that the preferences can also be influenced during the course of the interaction.

#### Beisecker, Cohen and the Study

The analysis of the two models leads to the conclusion that Beisecker and Cohen are looking at the same human behavior--mixed-motive bargaining, and, they are approaching it from the general context of the assumptions of the theory of games. Cohen is proposing a general theoretic framework of the interrelated processes which may take place in bargaining. Although he suggests the interrelated processes of search, strategy and persuasion, as well as some ways in which they might be expected to interrelate, Cohen has not provided a theory of how persons will communicate these behaviors in the proposed trimodal approach to the theory of bargaining. Beisecker has proposed a model for analyzing the communication behaviors in mixed-motive interactions. This model, although using slightly different assumptions from game theory than the assumptions of Cohen, would seem to be appropriate for the study of bargaining under the trimodal theory of search, strategy and persuasion.



Put into another semantic framework, it may be argued that Cohen is suggesting the modes which people may use during mixed-motive bargaining and Beisecker is suggesting a model of how communication may be used to carry out the modes of action in mixed-motive bargaining. Thus, the two models provide a basis for looking at the way the bargaining might be expected to unfold, and also the communication strategies which might be used during the course of the interaction. If the treaty bargaining between the Nez Perce Indian nation and the United States government can be considered mixed-motive bargaining, it would seem that the two models would present an appropriate set of tools to analyze the communication in the bargaining processes.

The underlying assumptions which Beisecker and Cohen begin with are those of game theory. Cohen has developed modifications of the formal assumptions of game theory, and Beisecker seems to be sensitive to the conditions leading to the modifications. Although Cohen is making some modifications in the original assumptions, it is important to recognize that he maintains the basic components of the theory. These components are utilities or values, probabilities or likelihoods, and events. These are the building blocks of the theory and are maintained in the modifications. The modifications, it will be remembered, suggest that parties to the bargaining do not have full knowledge of the events, utilities and probabilities, and that the events, utilities and probabilities are not fixed over the time of the bargaining, as is proposed in the original assumptions. Thus, it can be argued that the modified assumptions do not change the basic components which are the bases for decisions in bargaining, but do change the expectation of how people are going to act in response to their perceptions of these components in the

bargaining situation under the modified assumptions that leads Cohen to propose his trimodal model of bargaining behavior. Beisecker also anchors his model in the recognition of the components when he indicates that one of the major aspects which communication can focus upon in the bargaining situation is "the identification and reassessment of individual's preferences."

If both Cohen and Beisecker maintain the concepts of events, probabilities and utilities in their theories, then it can be argued that an analysis using their models must be concerned with the questions of events, probabilities and utilities. In order to establish the parties' estimates of the events, utilities and probabilities, it is, in turn, necessary to explore the nature of the parties to the bargaining. This exploration is done, for this study, through an analysis of the culture of each of the parties and the history of the parties and their interactions with each other. The knowledge that is gained through this analysis allows understanding of the parties and their positions at the outset of the bargaining, and helps to explain the actions of the parties during the course of the bargaining. The analysis of the culture and history of the Nez Perce nation and the United States government is presented in Chapter Three.

When considering the actual bargaining sessions, the procedure that must be followed is to analyze the transcripts of the treaty negotiations to determine the nature of the communication behaviors exhibited by each of the parties to the bargaining. The first portion of the analysis will utilize the Beisecker model, exploring the focus of the communication. The model will allow the analysis to center upon the spoken communication used by the participants. That communication must

be the focus of the first portion of the analysis follows from the argument that the behaviors suggested by Cohen are not manifest until they are communicated. The second portion of the analysis will utilize the Cohen model. From the knowledge of the communication behaviors gained through the first step of the analysis, it is possible to impute modes of action to the parties to the bargaining. This knowledge of the modes of action allows for understanding of what modes of action tend to trigger other modes of action within the course of the bargaining and, thus, allows an examination of Cohen's prediction of how the three modes interrelate with each other.

#### Summary

We have seen that Cohen has analyzed the basic assumptions which have been used to develop the theory of games. Cohen has suggested a number of modifications to the original assumptions. He argues that the change in the assumptions reflects a series of criticisms and suggestions of a number of studies. He further argues that the modifications of the assumptions make the theory of games, as modified, a more realistic model of bargaining. Growing out of the modified assumptions, Cohen presents a new theory of three interrelated processes of bargaining--search, strategy and persuasion. The theory presents a model of consideration of bargaining, but does not describe the communication roles which might be expected in the bargaining process. Beisecker has presented a model for analyzing communication in bargaining. The theories of Cohen and Beisecker were integrated and represent a methodological model for analyzing the communication in the bargaining between the United States government and the Nez Perce Indians.

## CHAPTER THREE

This chapter provides an analysis of the value structures and knowledge held by the parties prior to the 1855 council negotiations. We shall argue that the value structures and knowledge held by the parties to the negotiations had a significant impact on their perceptions of events, utilities or values, and probabilities or likelihoods. Further, we shall examine the impact of culture on the parties' values, structures and knowledge through histories of the Nez Perce Indians and United States Government Indian policy. The chapter concludes with an assessment of the values, and knowledge and/or information held by the negotiators at the outset of the 1855 negotiations.

### Value Structures, Knowledge and the Game Theoretic Mode

We argued earlier that the building blocks of the game-theoretic models are events, utilities or values, and probabilities or likelihoods, and that these building blocks are maintained under the modified assumptions of Cohen and the Beisecker model. We will further argue that an understanding of actors' values is essential for analyzing communication behaviors when using the game-theoretic models. Additionally, we will argue that values and knowledge can be derived only through an understanding of the cultural milieu of the actors.

To illustrate the argument, we will review the modified assumptions suggested by Cohen, indicate the relationship with the building blocks

and show how values and knowledge functions may affect actor behavior under the modified assumptions.

Cohen's first assumption is:

At any given moment there exists for an individual a set of events which constitute the possible outcomes of the bargaining. The membership of this set may change over time.

This assumption reflects the building block "event." Cohen argues that actors consider only a relatively small set of all the possible outcomes that might be available. We shall argue that the set of possible outcomes actually under consideration by any actor at any given moment is the result of the actor's knowledge. That is, the outcomes which compose the actor's set of possible outcomes is based on the actor's understanding of or information about the particular bargaining situation. As Cohen and Beisecker indicate, the set of possible outcomes may change over time as the individual searches for other outcomes or is presented with additional outcomes by other parties to the negotiations.

Cohen's second modified assumption is:

At any given moment an individual has a value for each event currently in the set of possible outcomes. That value may change over time.

This assumption deals specifically with the building block of utilities or values. Central to the question of how the actor views the possible outcomes under consideration is the value the individual places on an outcome. For example, few Americans today would accept the negotiation outcome which would require them to accept a loaf of bread for their watch. However, this is precisely the negotiation outcome accepted by many American soldiers while being held prisoners of war during World War II. Other examples, such as the question of cannibalism for survivors of mountain plane crashes, might be used, but the important

inference to be drawn here is that the value an individual places on a specific outcome is based on that individual's value structure at that time, and that the value may change over time and situation.

Cohen's third modified assumption is:

At any given moment an individual has some estimate of the likelihood of each event currently in the set of possible outcomes. That estimate may change over time.

This modified assumption is directly concerned with the nature of probabilities or utilities. We would argue that the individual's estimate of probability or likelihood is heavily influenced by his or her knowledge. That is, an individual's perception of the probability of an outcome occurring is based upon their knowledge of the situation. In certain cases the individual may, as a result of their knowledge, perceive that the outcome is one of certainty, risk or uncertainty. The individual's assessment, however, is made on the basis of their knowledge of the situation. As indicated in the modified assumption, an individual's estimate of the probability may change over time. This change may result from the individual receiving new knowledge or the re-evaluation of old knowledge as a result of successful persuasion or strategy on the part of the other actor or actors involved in the bargaining.

Cohen's final modified assumption is:

At any given moment an individual's estimate, if he has one, of the value or likelihood for an event held by an opponent may vary in the accuracy with which it approximates the value or likelihood actually held by that opponent at that moment. This estimate may change over time.

The concern here is not with the individual's values or likelihoods, but with the individual's estimate of the other actor or actor's values or likelihoods. In the context of mixed-motive bargaining it is essential to understand the nature of the other actor's values. For example, if one

is seriously interested in purchasing a new Cadillac he or she will not offer the dealer \$1,000 because the individual would know that this would not be consistent with the dealer's values. On the other hand, one might offer \$10,000 (an amount less than the sticker price) if he or she thought the dealer would accept this amount. While Cohen allows for the possibility that an individual may not have an estimate of the other actor's value or probability for a particular event, it would seem that most individuals would develop these estimates for most events. Further, we would argue that the accuracy of the estimate, how well it approximates the other actor's value or likelihood, will largely be a product of the individual's understanding, i.e., knowledge, of the other actor or actors. It would seem that the better we understand the other actor or actors, the better equipped we will be to make estimates of how they will act in response to a given situation. This is the argument that leads us to an analysis of the parties in the treaty bargaining. By understanding the culture of the actors we will be better able to understand their values and motivations and therefore be in a better position to understand and evaluate the particular search, strategy and persuasion behaviors of the parties to the bargaining.

#### Culture, History and Values and Knowledge

An understanding of individuals and societies is best achieved through the analysis of the cultural history. This perspective is supported by Berkhofer (1965) in his introduction to Salvation and the Savage, when he writes:

With the concept of culture part of today's culture, the modern analyst should be able to understand the past in terms of the actors' conception of their situation. While the historian can judge the resulting behavior of these actions according to his own beliefs, such an evaluation

frequently distorts the reading of past evidence. Only an analysis of the contact situation in terms of participants' beliefs will meet the canons of historical accuracy. (Intro i-ii)

Berkhoffer extends his argument to indicate that it is not enough to simply understand the culture of each of the actors, but that it is essential to understand the impact of two cultures interacting. As we shall see, the impact of the White contact had a profound influence on the position of the Nez Perce by the time of the treaty negotiations of 1855. In dealing with the history of the parties to the bargaining, we will analyze the actors, especially in the case of the Nez Perce, with the understanding that contact with the White culture plays an important part in shaping the culture and values of the actors involved.

Before turning to the analysis of the bargainers' cultural history, we reiterate the necessity for understanding culture in order to understand action of the actors. Berkhoffer considers the irony that some authors believe exists between classic American principals and the actual treatment of the Indians, and argues that

. . .an even greater irony is the failure of these writers to see that earlier Americans acted as they did for the same reason that the Indians reacted as they did. Both groups behaved according to their own cultural systems.  
(p. xvii)

Recognizing the interaction between culture, values and action, we now turn our attention to the cultural milieu of the Nez Perce.

#### The Nez Perce Culture

We will analyze the culture of the Nez Perce nation using Walker's Conflict and Schism in Nez Perce Acculturation as the primary source of information. This work contains reference to most of the earlier works on the Nez Perce nation and adds significant new insights into probable



causes of the Nez Perce actions. Walker's work covers the acculturation process from the formative first interactions with Euro-American culture through the 1960's. Significant to this study is his treatment of the first contact period.

#### Social Organization of the Nez Perce

The Nez Perce social system existing prior to direct contact with Euro-Americans was relatively simple and heavily influenced by the bio-physical environment. Spinden (1908) contends that the climate and terrain of the Nez Perce homelands were severe and that the lands "offered little inducement to the development of primitive agriculture" (p. 176). However, he indicates that there were "natural gardens of edible roots, game was fairly abundant, and at certain seasons of the year fish were plentiful" (p. 176), and that the Nez Perce were dependent upon these supplies of food. This relationship to the land would explain, at least partially, why the Nez Perce held a high value for the land. The lands which the Nez Perce claimed control of were held communally; the only private property recognized by the Nez Perce were tools and game killed by individual members of the tribe (p. 245). As we shall see in Chapter 4, the government was attempting to break the lands into individual parcels, which, of course, contradicted the Nez Perce tradition. However, we shall also see that nearly all of the lands which the Nez Perce claimed as their homelands were included in the reservations established in the Council. As a result, the Nez Perce were faced with a different form of land allotment, but they did keep nearly all of the lands which they depended upon for food. This may partially explain why the Nez Perce were willing to accept the reservations, even though communal ownership

was abolished. Ethnological studies indicate the tribe consisted of a number of villages which ranged in population from ten to seventy-five (Walker, 1968m ii). A Presbyterian missionary, Asa Bowen Smith, observes that a census conducted in 1840 found village populations from 10 to 235 (Drury, 1958, p. 183). Walker, however, thinks that the large number was not a single village, but likely a multivillage band.

The band level of the system includes a number of villages located along the same creek or river. Walker suggests that multibands, formed by bands in a specific geographic region, were organized for large group tasks such as buffalo hunting parties which went to the plains, and for offensive and defensive warfare. However, Walker believes there is no evidence to indicate that there was any permanent political grouping above the band level. Therefore, the concept of a single tribe would seem to be alien to the makeup of the Nez Perce people prior to the contact with the Euro-Americans.

Leadership of the village was, in most cases, in the hands of the eldest able male. Walker suggests the term headman is the most appropriate for this position and the term chief for persons holding multivillage or multiband leadership. According to Walker, the headman position was semi-hereditary, but also based on ability. The power of the headman was generally derived from the respect of the village, was relatively limited, and extended as long as the governed kept him in respect. At the band and multiband level, the chief was given extensive powers for the duration of the activity undertaken. Spinden (1908) suggests that the Nez Perce multibands had two types of chiefs, war and peace (p. 242). Walker (1968) argues that recent evidence would suggest that this is somewhat of a misinterpretation.

Instead there appears to have been two ways to achieve chiefly status. There were "mush" and "war" chiefs or headmen as the case might be. The "mush" leader, probably Spinden's peace chief, gained his position through timely distributions of economic goods which gave him a reputation as a generous man. He sponsored feasts and tutelary spirit dances and ingratiated himself with as many people as possible through gifts.

The question of whether there was a "tribe" and whether there was one chief over the tribe becomes critical as we analyze the interactions with the Euro-Americans. The distinction between the "mush" chief or headman and the "war" chief or headman is also important. We shall see that the "mush" system was used by chiefs appointed by the United States government to develop prestige and gain followers. The "mush" chief concept also helps to explain why the Nez Perce were so interested in Christian religion when they believed it would provide economic goods and why they rejected it when it did not provide economic goods. This phenomenon will be discussed later.

#### First Contact

It is unknown when Nez Perce people first encountered White people. However, a number of events are critical to the development of the Nez Perce-Euro-American interactions and resulting changes. The first event was the arrival of the horse sometime between 1700 and 1730 (Josephy, 1965, pp. 28-29). With the arrival of the horse, the Nez Perce attained greater mobility, and they were known to have gone to the plains to hunt buffalo as early as 1750.

With these extensive travels, it is likely that the Nez Perce encountered White people or gained indirect knowledge of them from visits on the plains. Walker (1965) and others suggest that the Nez Perce were also affected by other indirect influences, including epidemics (p.32).

The Prophet Dance, Walker suggests, resulted from indirect influences.

Using almost entirely documentary materials, Spier (1935) claims to have demonstrated the "aboriginal" existence of a cult movement in the Plateau which he calls the Prophet Dance. Typically, the Prophet Dance involved a dance, usually circular, and an inspired leader who made prophecies obtained in visions. Whole settlements participated in the ceremony, and a great emphasis was placed on a creator spirit or god who reigned above the other spirits. (p. 31)

This, of course, is a radical departure from the tutelary spirit found in the aboriginal period.

Walker, in his own research, found reference to a tul<sup>o</sup>m cult (p. 33). Walker describes the major features of the cult as:

1. The prediction of the coming of a strange new people who would cause great change.
2. Belief in a book which would provide valuable knowledge.
3. Belief in a creator and subdeities such as angels.
4. Observance of a moral code in which charitable actions were emphasized.
5. Belief in a hereafter, entrance to which was determined largely by the morality of actions in this world.
6. Emphasis on dreams, trances, and visits to the land of the dead as sources of revelation.
7. Probably a ritual emphasis on a number seven.
8. Observation of the sabbath.
9. Probably a ritual emphasis on cleanliness.
10. Use of a large pole with flags on it in worship services.
11. Emphasis on songs and dances as forms of worship.
12. A new religious leaders status (priest) specifically distinguished from that of the shaman.
13. Worship ceremonies specifically distinguished from the older tutelary spirit dance. The new emphasis was on talapo<sup>o</sup>sa, "worship" of a single creator God rather than on acquisition and demonstration of tutelary spirit power. (p.34)

Walker thinks it is possible that the cult may have appeared after direct contact with the Euro-Americans, but the evidence suggests that the cult was active prior to direct contact. One can readily see that the cult tenets are similar to the basic teachings of Christianity. If cult beliefs were widely accepted among the Nez Perce, this would explain the friendly reception given Lewis and Clark in 1805, and also

would explain the intense interest expressed in Christian missionaries and the early acceptance of their teachings. Moreover, it would explain the generally favorable attitude to American government policy during the course of Nez Perce-government interactions.

Following the visit of Lewis and Clark, the Nez Perce were nearly in constant contact with White people, some Americans and some British. The first major influences of the contact came through the fur traders. The Hudson's Bay Company operated posts at Vancouver and traders were known to have been living in Nez Perce villages as early as 1811. The fur traders had an economic impact on the Nez Perce as they traded cloth and other goods for furs; and they also had a social impact as the Nez Perce observed the religious ceremonies at the trading posts.

The Nez Perce expressed definite interest in the Christian religion when they sent two of their children to the Red River Mission School in Canada in 1830. That the Nez Perce sent children to the school stemmed from the return of Spokane Garry (Josephy, pp. 85-89). Garry and another Spokane had spent four years at the mission school and had returned to their homes in the summer of 1829, having learned the English language and having received training in the Bible. Josephy argues that the preaching of Garry in the winter of 1829-30 made the Nez Perce envious of the new power and influence, and they were more than willing to send their children when given the opportunity in the summer of 1830. One of the two who returned to their homes in 1833 apparently did not attain any substantial influence with his people after his return (pp. 89-90), but the other, Ellis, became the first "head chief" of the Nez Perce in 1842.

Continued Nez Perce interest in the Christian religion is

evidenced by the 1831 pilgrimage to St. Louis by four members of the tribe to seek "the book" (pp. 96-98). The arrival of the party at St. Louis set off a frenzied response in the American Christian Missionary community.

The first missionary to reach the Nez Perce homeland was Samuel Parker who arrived there in December, 1835. The first permanent missionary to Nez Perce was Henry Harmon Spalding, arriving at Lapwai (now in Idaho) in late November, 1836. Spalding had been accompanied on the trip west by Marcus Whitman, another Prebyterian missionary. Whitman chose to set up his mission among the Cayuse. Josephy suggests the Nez Perce were distressed because the White men were going to share the knowledge of the White men's power with the Cayuse (p. 154). This is in agreement with our earlier assessment that the Nez Perce saw the Christian religion as a source of economic and political power, and, as we shall see later, helps to explain the cooperation of some Nez Perce during the treaty negotiations.

#### The Mission Period

Spalding continued his mission among the Nez Perce for a period of nearly 11 years, departing after the Cayuse killed Marcus Whitman and his family in 1847. The relative success and the problems of Spalding are important to an understanding of the Nez Perce attitudes at the outset of the 1855 proceedings.

It would seem that Spalding's misunderstanding of Indian values and beliefs were standing in the way of his effective mission work. Josephy (1965) contends:

His inability to communicate as well as he wished was overshadowed by an even more serious deficiency, his lack

of understanding of the Indians' cultural background and habits of thinking. He was more aware than the Whitmans were that such a gap existed between the missionary families and the Indians, but he had no interest in trying to bridge the gulf on the Indian's terms and was intolerant of native beliefs and practices that he did not understand or of which he failed to approve. His well meant dedication to uplifting of the Nez Perce was often harmed by his sudden outbursts of anger at the Indians who seem to disobey or ignore his directions. (p. 161)

Although Spalding had difficulty in dealing with the Nez Perce, he did attract a few converts to the Christian viewpoint. More importantly, these converts were the headmen and chiefs of the villages (Drury, 1958, p. 337).

The question of why the missionaries achieved so little success when the Nez Perce had shown such great original interest in Christianity is important. The answer would seem to lie in the missionaries' misinterpretation of the functions and significance of the Christian religion to the Nez Perce. Both perceptions result from differing cultures.

From the Nez Perce viewpoint, having the "book," the Bible, was to have the power of God, therefore, supernatural power over the environment, resulting in the economic and social success they desired. As Asa Bowen Smith, a Presbyterian missionary who spent two years (1839-41) among the Nez Perce indicates their striving for economic good with this statement:

They have manifest(ed) a great desire for missionaries, but there is no doubt that much of their desire had been the hope of temporal gain. Some of this people had come in contact with Americans in the mountains from when they had received more for their beaver than they had from the H.B.C. (Hudson's Bay Company) and this had raised in them a hope of gain from the missionaries. It has been said that they were ready to help missionaries and supply their wants. It is true that they are when they

receive a plenty of blankets, shirts, ammunition, etc., for it but not very generally without. If we do not pay them well for everything they do for us, we very soon are called by them a "Stingy chief." (p. 107)

Although the missionaries failed to provide many of the economic advantages the Nez Perce leaders desired, the missionaries were an unwitting ally in changing the system to give the headmen and chiefs the social power they wanted. This was achieved through the giving of "the laws," which set up the concept of American laws and the concept of one chief and one tribe. The laws were the result of an 1842 Council with Dr. Elijah White, sub-agent for Indian Affairs in Oregon. Although the United States had not taken claim to the Nez Perce country, White acted\* as if he were the ultimate authority and issued a set of "laws" to an assembled body of 22 headmen of the Nez Perce and Cayuse tribes (Allen, 1850, p. 181). The laws were

1. Whoever wilfully takes life shall be hanged.
2. Whoever burns a dwelling house shall be hung.
3. Whoever burns an outbuilding shall be imprisoned six months, receive fifty lashes, and pay all damages.
4. Whoever carelessly burns a house, or any property, shall pay damages.
5. If anyone enter a dwelling, without the permission of the occupant, the chiefs shall punish him as they think proper. Public rooms excepted.
6. If any one steals he shall pay back twofold; and if it be the value of a beaver skin or less, he shall receive twenty-five lashes; and if the value is over a beaver skin he shall pay back twofold and receive fifty lashes.
7. If any one takes a horse, and ride it, without permission, or takes any article and uses it, without liberty, he shall

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\*It must be understood that White, although appointed by the United States government, was on very questionable legal ground. The land mass on which Oregon was located was still being claimed by the United States and Great Britain. The matter was not resolved until the United States-Canada border was established at the 49th parallel in the compromise of 1846. The situation that triggered White's appearance in the Nez Perce country was an unidentified Indian entering the bedroom of Narcissa Whitman, wife of Marcus Whitman, while Marcus was travelling to Boston. Mrs. Whitman scared off the intruder, but was moved to the safety of Fort Walla Walla. After she left, the mission was burned.



- pay for the use of it, and receive from twenty to fifty lashes, as the chief shall direct.
8. If anyone enters a field, and injures the crops, or throw down the fence, so that cattle or horses go in and damage, he shall pay all damages, and receive twenty-five lashes for every offense.
  9. Those only may keep dogs who travel or live among the game; if a dog kills a lamb, calf, or any domestic animal, the owner shall pay the damage and kill the dog.
  10. If an Indian raises a gun or other weapon against a white man, it shall be reported to the chiefs, and they shall punish him. If a white person does the same to an Indian it shall be reported to Dr. White, and he shall redress it.
  11. If an Indian breaks these laws, he shall be punished by his chiefs; if a white man breaks them, he shall be reported to the agent, and be punished in this instance. (pp. 189-190)

After giving the laws, White directed the headmen to select a "high chief of the tribe, and acknowledge him as such by universal consent" (Josephy, 1965, p. 230). After some difficulty, but at the insistence of Dr. White, the assembled headmen finally chose Ellis, the boy who had been sent to the Red River School. Although he was the grandson of Hohots Ilpilp, the oldest and one of the most respected of the headmen at the Council, Ellis violated most of the Nez Perce customs of leadership. He was probably under thirty years of age, and he was not noted for his leadership in hunting or warfare. The only claim was the semi-hereditary nature of leadership, and that was only for the village level. The most probable reason that he was chosen, as Josephy (1965) argues, was that he had Christian education and that he could read and write the English language (p. 231).\*

Although Lawyer was jealous of the position given to Ellis, he accepted

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\*Josephy states on p. 88 that all of the young men who went to the Red River School in 1830 were 12 to 17 years of age. Yet, he gives the age of (Ellis) at 32 in 1842. Obviously, there appears to be an inconsistency of facts, but this should not overshadow the understanding that Ellis was comparatively young--that he did not have the age that would normally be expected for a leader of the Nez Perce bands.

the system, and on Ellis ' death in the buffalo country in 1847, Lawyer became "chief" of the Nez Perce and was the leader of the Nez Perce in the 1855 negotiations.

There is little evidence to indicate that the Nez Perce did not widely accept the laws. However, the Cayuse did not like the laws or the manner in which they were given. They began to react against the laws and the council almost immediately, leading to unrest. Narcissa Whitman outlined the root of the problem in a letter to her husband:

[The reason] is the Kayuses do not wish to be forced to adopt the laws. They say the laws in themselves are good, they do not object to them--but do not wish to be compelled to adopt them (enforce them). This arises from what was said at the meeting to this effect: We advise you to adopt these laws, but if you do not we will put you in a way to do it. They took exception to such language as this. Call it threatening them--and are jealous and complain of Ellis--the High Chief and the Nez Perces for so soon and readily entering into new measures of the Americans. (p. 235)

The Cayuse continued their opposition and their opposition culminated in 1847 when a portion of the tribe killed missionary Marcus Whitman, his family and a number of other Whites. These killings caused Spalding to halt his work among the Nez Perce.\*

From the time of the Whitman murders until the treaty bargaining of 1855, little missionary activity took place in the region. The headmen of the Nez Perce, especially Lawyer, continued to maintain friendly relations with the Whites. He served as intermediary and sent men to help in the capture of the Cayuse who were responsible for the murders of the Whitmans. Under the influence of Lawyer, the

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\* For additional detail, see Josephy (1965), pp. 248-257.

Nez Perce continued to practice the tenets of the Christian religion, and they adopted many of the agricultural techniques and practices taught by Spalding. As a result they prospered economically and gained additional prestige among the various bands. However, there is evidence to indicate that the Nez Perce were wary of the plans of the Whites in regard to their lands. Josephy indicates the nature of the relationship with this statement about the 1851 visit of Anson Dart, Oregon Superintendent of Indian Affairs:

. . .(Dart) then went on to Lapwai, where some four hundred Nez Perce leaders and warriors, including Joseph and a group from the Wallowa, came riding in with a proud show of strength, beating drums, whooping, firing their guns, and, finally putting on a huge war dance. When the Nez Perce learned that Dart had no idea of proposing that they give up any of their lands, their defensiveness vanished and they convinced him that they intended to remain friendly to the Americans. (p. 290)

Thus, as we move toward the 1855 treaty negotiations we can see that an influential segment of the Nez Perce people, especially headmen and chiefs, were influenced by a distorted view of the Christian religion, and that the general feeling toward the Whites was one of friendship, but with a substantial amount of uncertainty about the events to come. This uncertainty was not unwarranted when we look at how the United States Indian policy for the Northwest was developed.

#### United States Indian Policy in the Northwest

United States government policy toward the Indians of the Northwest, which includes the Nez Perce, was a product of American history and the events of the time. From the beginning of the White-Indian contact the policy had not been one of integration, but one of segregation. The major legislative act establishing a precedent for

the policies which were to be used in the Northwest were the Indian Trade and Intercourse Acts of 1834. Prucha (1962) argues that the act was formulated on the following principles.

1. Protection of the Indian right to their lands by setting boundaries for the Indian Country, restricting Whites from entering the areas except under certain controls, and removing illegal intruders.
2. Control of the disposition of Indian lands by denying the right of private individuals or local government to acquire land from the Indians by purchase or by another means.
3. Regulation of the Indian trade by determining the conditions under which individuals might engage in the trade, prohibiting certain classes of traders, and actually entering into trade itself.
4. Control of the liquor traffic by regulating the flow of intoxicating liquor into the Indian Country and then prohibiting it all together.
5. Provision for the punishment of crimes committed by members of one race against the other and compensation for damages suffered by one group at the hands of the other, in order to remove the occasions for private retaliation which led to frontier hostilities.
6. Promotion of civilization and education among the Indians in hope that they might be absorbed into the general stream of American society. (p. 2)

These principles were evident in the thinking of the 1850's statement by Michigan Agent Henry Rowe Schoolcraft:

Whatever defects may, in the eyes of the most ardent philanthropists, have at any time marked our system of Indian policy, nothing should, for a moment, divert the government or people, in their appropriate spheres, from offering to these wandering and benighted branches of the human race, however often rejected by them, the gifts of education, agriculture and the gospel. There is one boon, beside which their ignorance and instability, and want of business and legal foresight, requires, in their present and future state-- it is protection. (Schoolcraft in Pearce (1965), p. 241)

There is little question that the ultimate consideration of government policy was to provide lands for the Whites where they could expect relatively peaceful conditions. As the policies indicate, one of the ways to achieve this was to "Christianize"

the Indians and have them adopt an agriculturally based, rather than a hunter-gatherer based subsistence. In this way the Indians could be placed in restricted areas and the remainder of the land would be open for White settlement.

Underlying the policy of separation is an understanding that White-Indian integration nearly always led to conflict, and while the separation policy could be supported as a means of protecting the Indians, it was also a method whereby Whites could be protected.

As we consider the specific policies of the Oregon territory\* it is essential to understand that official government policy was not supported by all Americans--especially those on the frontier. The position is well illustrated by Prucha (1965) when he writes:

Behind the laws on the statute books there were deep running and divergent currents of thought about the character of the Indians and his rights. One of these currents was represented by official government policy; it found expression in the laws passed by Congress, which in large part followed the recommendations and reports of the presidents, the secretaries of war, and other executive officials in the directive and regulations issued by the War Department and in the decisions of the courts. The other was the frontiersmen's position, a popular attitude of hostility toward the red man, which spurred the ruthless drive against the Indians and made it impossible for the government to carry out its policy with anything like complete effect. (p. 3)

In the case of Oregon this is important for three reasons:

1) Oregon was nearly 3,000 miles from the power which resided in Washington, D. C.; 2) the Oregon Territory was under dispute between Great Britain and the United States until 1846, and as a result the

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\*The territory which composed the Oregon Territory in 1848 included all of the lands now included in the states of Oregon, Washington and Idaho. Washington Territory was established out of the Oregon Territory in 1853. Idaho did not become a state until 1890.

territory was not established until 1848, and the territorial government until 1849; and 3) several thousand White settlers were in the territory developing farms, homes and villages by the time the government and its legal authority were established.

The Nez Perce-White contact was somewhat limited because of their remoteness, and the lesser desirability of their lands for agricultural purposes. As a result, the first governmental interactions with the Indians were held with the coastal tribes. These interactions were to reflect the general policy toward all Indians in the Oregon Territory.

#### The Oregon Territory Indian Policy

Following the establishment of the Oregon Territory, the American Indian policy was in a state of flux. One year after the territory was established by Congress, the Commissioners of Indian Affairs office was transferred from the War Department to the Interior Department. Responsibility for Indian Affairs in Oregon moved from office to office in quick succession.

From 1848 to 1853 several treaties were negotiated with the coastal tribes; however, none of the treaties were approved by the Senate, because policy was not clearly established and many of the western senators supported removal of the Indians, while the treaties allowed the Indians to remain on portions of the lands to which they claimed title.\* It was not until the appointment of Joel Palmer in 1853 that a coherent policy was developed.

With the appointment of Palmer, a new day in Indian-White relations

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\*For a thorough discussion of this period, see Coan, 1921 and 1922)

was about to dawn for the Oregon and Washington\* territories. Palmer, who had arrived in Oregon in 1845, understood the nature of the situation. This understanding is illustrated by his report to the Commissioners of Indian Affairs in June, 1853, outlining the conditions of the Indians of the Willamette Valley. He argued that the conditions were the result of

. . .the nonratification of treaties, which had been made with them; the belief among the Indians that the treaties would not be ratified until they had wasted away; the settling of the lands which the Indians claimed under the treaties; the decrease in the supply of roots and game due to the increasing settlements; and the pauperization of the Indians by unprincipled Whites. (Coan, 1922, pp. 1-2)

In a report to the Commissioner on June 23, 1853, Palmer argued that the Dart policy of reservations which allowed the Indians to mingle with the Whites would lead to the extermination of the Indians. Palmer suggested, however, that the reservation system be adopted, but that certain safeguards were essential to protect the Indians. These safeguards were

. . .a home remote from the settlements; laws guarding them from degraded Whites; laws governing the Indians in their relations with one another; and the aid of schools, missionaries, and instruction in agriculture. (p. 4)

Thus, Palmer returned to the classic American position that the Indians needed to be protected, and that they needed to be "civilized." The new policy for Oregon was, in effect, guided by the old policy of the 1834 Indian Trade and Intercourse Acts.

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\*Congress created Washington Territory on March 2, 1853, and included the northern portion of the old Oregon Territory. Washington Territory boundaries were the 46th parallel on the south, the 49th parallel on the north, the main ridge of the Rocky Mountains on the east and the Pacific Ocean on the west. As a result of these boundaries, the lands normally considered the Nez Perce homelands now fell in Oregon and Washington Territories.

Palmer received the support of the Commissioner, who following receipt of Palmer's 1853 report, urged Congress to authorize the speedy making of treaties with the Indians of the Oregon and Washington territories, including those east of the Cascades. The action was necessary, according to the Commissioner because

. . .the lands of the Indians were being taken by whites; because the government had encouraged the settlement of the region; because the prosperity of the country was delayed by the uncertainty of peace; because an extensive outbreak was probable unless the Indians were pacified; because hostilities were caused by the absence of treaties; and because it is desirable that there be peace with the Indians along the route of the railroad projects. (p. 6)

On July 31, 1854, Congress authorized the making of treaties and appropriated \$68,000 for the expenses of the treaty-making sessions and the first installment of annuities in Oregon and \$45,000 for Washington. Although the Congress authorized the treaties and the funds for consumating them, they did not determine what policy was to be followed, and thus Palmer and I. I. Stevens, territorial governor for Washington, had substantial freedom. Coan argues, therefore, the fact that the Indian policy adopted for Washington was the same as Oregon was not due to government policy, but due to the fact that Palmer and Stevens were of the same mind on how to handle Indian affairs (p.9).

Stevens was given responsibility for Indian affairs because as Governor he was ex-officio superintendent of Indian affairs. Stevens also was the leader of the survey team that was mapping the route of the Great Northern Railroad. As he moved west with the survey team in 1853, he met with several of the tribes with which he was to work. His major problem was the intrusion of Whites into the Washington Territory. The Whites were moving into the territory and settling on land which the Indians had not yet sold. This caused Indian-White tensions to remain



high during the period. The settlers were within the 1850 Donation Act passed by Congress, which allowed the settler title to land without regard to Indian claims. Thus, Stevens' first concern was to gain title to the land through treaty with the Indians. The 1854 Congressional action provided him with the powers and resources to complete the work.

Although Palmer had begun making treaties with a few small tribes before the Act of 1854, the Act set in force a major program to deal with all of the tribes and set forth a unified Indian Affairs program. Because the Nez Perce homelands, along with those of the Cayuse, Walla Walla, Spokane, Yakimas and a number of lesser bands included areas in Washington and Oregon, Palmer and Stevens met jointly with these tribes. The treaty, which will be analyzed in the following chapter is commonly referred to as the Treaty of Walla Walla. Before directing attention to the treaty bargaining, it is useful to review the values and knowledge held by the negotiators at the outset of the sessions.

#### Values and Knowledge of the Parties

From the data examined earlier, one can argue that there was a good deal of White-Indian interaction prior to the treaty bargaining and that both parties had substantial information about the other's values. The amount of information and the accuracy of that information is not totally certain. For example, Stevens, upon being appointed Governor, was told by the Commissioner of Indian Affairs that the information in the hands of the Bureau, relative to the Indians of the Northwest, was of little value and that he (Stevens) should seek all the information he could from the tribes as he met with them (p. 11). However, the available evidence allows for the development of a rather comprehensive assessment of the values and knowledge held by the parties.

Although there were other Indian groups which were parties to the bargaining of the 1855 treaty, we will limit our analysis to the Nez Perce and indicate divergent values and knowledge of other parties when the analysis requires.

#### The Nez Perce Values and Knowledge

Central to the value structures of the Nez Perce was their relationship with the land. Traditionally a hunter-gatherer society, the Nez Perce who did not accept modern agricultural practices espoused by the missionaries were directly dependent on the land for their subsistence. For those Nez Perce who had accepted the agricultural practices, the land was somewhat less important in that they did not need the free access to the natural room and grazing fields for their subsistence. However, all of the Nez Perce were to a lesser or greater degree dependent upon the land for their livelihood--the only question was how much and which land did they need.

Another Nez Perce value to consider is the Christian religion. We have argued that the Nez Perce leaders sought the Christian religion as a source of economic and political power which could be used to maintain their role within their tribe and other tribes in the region. While this purpose might be considered a distortion of Christianity in current thinking, it does not change the fact that the leaders believed the Christian religion would give them power. If we can accept this argument, then it is plausible to argue that the leaders wished to maintain good relations with the Whites who were the source of the teachings.

Although one might add more segments to the Nez Perce value structure, the above would seem to encompass the critical elements as

they entered into the 1855 negotiations. Therefore, we now turn our attention to the knowledge which the Nez Perce may have had at the outset of the negotiations.

The Nez Perce were likely aware of the desire of the Whites to take their lands. This knowledge came from three sources. The first was the continuing stream of settlers which were entering the territory; the second was the treaties which had been negotiated with the tribes of the coastal region; and the third was the tribes east of the Rocky Mountains. The Nez Perce watched many of the settlers cross over the mountains into Oregon and thus were aware of the migration. Evidence indicates that tribes exchanged information during various travels and rendezvous, so it is doubtful that the Nez Perce were not aware of the program of Palmer and Stevens--a program of land buying and reservations.

#### Projected Impact on Nez Perce Communication

We have argued earlier that the values and knowledge held by individuals will be reflected in their communication behaviors even if they are not explicitly aware of their values and knowledge at a given moment. This leads us to the question of what impact the values and knowledge of the Nez Perce would have on their communication in the Council sessions. Because the Nez Perce valued their lands so highly, we would expect them to develop a strategy of communication that would allow them to maintain the greatest land mass possible. In this regard, we would expect them to oppose government offers which would seek to restrict their holdings. We would also expect them to make demands for greater land holdings. However, we would expect that the Nez Perce communication would also be somewhat conciliatory, in that the Nez Perce knew of the government's superior military power and the

Nez Perce desire to keep good relations with those of the Christian faith.

#### Knowledge of the Other Indians

The major concern of this study is with the behavior of the Nez Perce during the Council, but it is important to illustrate the knowledge which the other tribes probably had at the opening of the bargaining. We will argue that the other tribes knew that the government wanted their lands, that they knew how the government was attempting to take other lands in the region, that they knew how the government had kept previous treaty commitments, and that they were ambivalent concerning their ability to resist the continued encroachment of the Whites onto their lands if the treaty was not negotiated.

No doubt the other tribes, mainly the Yakimas, Walla Wallas, Cayuse and Umatillas, knew that the government wanted their lands for settlement and that this was the purpose of the Council. Coan (1921) indicated that the government had been holding councils with the Indians since 1846, attempting to establish land title in the region. In 1851 Indian Agent Anson Dart had met with the Shoshonis and the Nez Perce and the subject of moving the coastal tribes to the interior was broached. Both tribes rejected the idea, and Dart returned to the coast and negotiated 13 treaties which allowed the coastal tribes to remain on portions of the lands they originally held. These treaties, however, were not approved by the Senate in 1853, and it is believed that they were rejected because they ran counter the policy of removal supported by Oregon Senator Thurston (pp. 58-65). Josephy (1965) also argues that Kamiakin was busy during

the summer of 1854 keeping other tribes apprised of the activities of the government negotiators as they met with the tribes of the coastal region (p. 313). The record indicates that the government negotiated treaties with three minor tribes along the coast on March 8, 1855, and these treaties called for the ceding of lands to the government (Coan, 1921, p. 66). Although the evidence is not directly stated, we believe that the Indians also had an understanding of government policy from their trips to the plains for rendezvous and buffalo hunting and in their relationship with Jim Simonds, a Delaware Indian known as "Delaware Jim." He lived with the Nez Perce from about 1849 until the beginning of the Council (Jospehy, 1965, p. 321). Inasmuch as he had come from the East Coast, it is doubtful that he would not have known about the treatment of the Indians in that region.

Whether the other Indians believed they could prevent the further intrusion of Whites into their country is not totally certain. In 1849 the Cayuse met with Joseph Lane, then Indian Agent for Oregon, and were told to "surrender those guilty of the Whitman Massacre, or be exterminated" (Coan, 1921, p. 50). The Cauyse did turn in those responsible in 1850, and Coan (1921) suggests that this was due to a greater American military presence (p. 51). However, in 1854 there were a number of incidents where the Indians had responded to attacks on them, and several Whites were killed. Coan (1922) suggests that the Indian responses were due to the failure of the government to punish the guilty parties and "the failure of the military department to inspire the Indians with sufficient fear of the Americans, to prevent attacks (p. 3). From the evidence, it would seem that the Indians understood the power of the American military establishment, but also they believed they could defend themselves against White intrusion and abuse.

### The Impact on Other Indians' Communication

Based upon what we believe to be the knowledge held by the other tribes at the outset of the Council, we would expect the other tribes to develop a strategy that would attempt to prevent the sale of their lands. We would also expect the tribes to be somewhat forceful in their demands, in that they may have believed they could, if united, stop the encroachment of the Whites. Also, we would expect that the tribes would question the veracity of the offers and the procedures, inasmuch as other treaties had not been approved, and when they were approved many of the commitments had not been met, especially in the case of the Eastern tribes. We shall test these assertions in the following chapter.

### Relationships Between the Tribes

Another element which may have had an impact on the outcome of the negotiations was the relationships between the various tribes at the Council. The evidence would indicate that the tribes were not united. Josephy (1965) argues that Kamiakin was leading the forces which would attempt war against the Whites, but that the chiefs who were influenced by Christianity were generally opposed to war talk (p. 313). Notable among the chiefs influenced by Christianity were Lawyer, Stickus of the Cayuse and Spokane Garry, even though his tribe was not directly affected by the Council.

The transcript of the proceedings also indicates that Lawyer refused to meet with the other chiefs prior to the opening of the Council. The specific incident will be discussed in detail in Chapter Four. Our analysis will show that Lawyer continued to be supportive of the government during the course of the Council, and that Stevens used Lawyer's acceptance of the treaty as a weapon against the

other tribes as he attempted to force them to accept the government offer.

From the evidence we have gathered, it would seem that the bulk of the other tribes were generally opposed to the treaty, but the Nez Perce seemed willing to accept the offers. As we have noted, Stevens believed that the continued support of the Nez Perce was instrumental in making the treaty possible. Although we believe there is some merit in Stevens position, we shall argue, in Chapter Four, that it was not the Nez Perce support, alone, that made the consummation of the treaty possible, and that the other tribes accepted the offer of the third reservation even after the Nez Perce under Looking Glass wavered in their support.

We can only speculate what would have happened if all of the tribes had been united against the treaty. Our instincts are that the treaty would have been much harder to achieve, if at all.

#### Palmer and Stevens' Values and Knowledge

Central to the value structure here was the opening of the lands for White settlement. We may look upon this aspect of the structure as being non-negotiable. That is, a good deal of territory was going to be opened for settlement by the Whites.

Closely related to the opening of the land was the position that the territory should be tranquil so that the Whites would not be afraid to move into the territory, and that those in the territory would be free to prosper and develop the area. To assure this, it was held that the title to the Indian lands must be extinguished and the Indians placed on reservations where there would be limited and regulated

Indian-White contact. This policy grew out of the belief that unlimited and unregulated contact would result in the Indians suffering at the hands of the Whites and that this would inevitably lead to conflict.

Although Palmer and Stevens supported the policy that the Indians should be protected through the reservation system, it seems apparent that their overriding value was to open the land to Whites, and that if necessary military action would be taken to carry out this value.

Perhaps the most important piece of knowledge in the hands of the negotiators was their belief that they held the ultimate military power to enforce their will. The trade-offs they were making were to prevent bloodshed, if possible, while still gaining their objective of opening the territory for settlement. Throughout the course of the negotiations Palmer and Stevens acted from a position of ultimate authority.

The evidence indicates that the government negotiators were only partially sensitive to the Nez Perce relation to the land. While understanding the need for crop and grazing lands, they were not totally sensitive to the need for free movement to gather roots and other foods. Obviously, Palmer and Stevens were operating from the perspective of European agriculture, rather than from the perspective of the hunter-gatherer perspective.

A final piece of information which the negotiators well understood was the continuing migration of the Whites, especially into the Oregon and Washington territories. They knew this flood was going to continue and that the possibilities for hostilities would grow with the increasing competition for the finite lands.



### The Impact of Government Knowledge and Values

We have indicated that we believe the values and knowledge of the Nez Perce leaders would have an impact on their communication behaviors in Council. We believe this will also be true of the government negotiators. While the government negotiators were not as personally affected by the outcome of the Council as the Indian leaders, they did operate with a set of knowledge and values. Because of the government's high utility for opening large areas of land for White settlement, we would expect their communication strategies to focus on the development of treaties which forced the Indians to relinquish title to large areas of land. However, because of the government's concern for a tranquil setting for settlement, we would also expect the government negotiators to emphasize a peaceful settlement of the issue in their communication strategies. Also, the belief on the part of the government negotiators that they were in a position of ultimate power would lead us to predict that their communication behaviors would be based on a power relationship.

We shall test these predictions as we analyze the Council in the next chapter.

## CHAPTER FOUR

This chapter provides an analysis of the negotiations between the United States Government and the Nez Perce and other Indian tribes at the Treaty Council of Walla Walla, Washington Territory from May 29 through June 11, 1855. We shall first analyze the bias and quality of the Council transcript. Second, we shall review what we believe to have been the negotiating parties' perceptions of events, probabilities and utilities. Third, we shall analyze the transcript using the perspective of the Beisecker model to analyze the communication strategies and the perspective of the Cohen model of search, strategy and persuasion to analyze how the negotiations unfolded. Fourth, the chapter concludes with an analysis of the relative successes of the participants.

### The Council Record

For this analysis, the Slickpoo and Walker (1974, pp. 87-141) transcript of the Proceedings of the Council held at Camp Stevens, Walla Walla Valley, will be used. The Slickpoo transcript is taken from a microfilm of the original handwritten transcript in the archives of the Office of the Indian Bureau. The shortcomings to this transcript shall be reviewed below.

A major consideration is that the record is the White record. Therefore, we would anticipate that it would be ethnocentric and any deliberate changes in the record would likely have been made to place

the White negotiators in a positive light. Unfortunately, this is the only extant transcript of the Council bargaining sessions. A record of the proceedings was kept by Timothy, one of the Nez Perce Chiefs, but that record was burned following his death in 1890 (Drury, 1979, p. 102).

The transcript was prepared in the field from shorthand notes (p. 102) by James Doty, Secretary for the Washington Territory and William McCoy, Secretary for the Oregon Territory. Each secretary under the direction of their respective governors, was to keep a verbatim record. However, only one jointly prepared transcript was sent to the Commissioner of Indian Affairs. The transcript was signed by both governors. Obviously, this allows for the possibility of editing on the part of either or both secretaries and either or both governors. Because the original transcript was taken in shorthand, there is a possibility that the notes were not accurately transcribed. However, these types of errors are probably minimal since the official record for June 7 closely parallels a contemporary record of that day kept by Kip (1899, pp. 18-22). Kip's record of the statements of the governors is nearly identical to the official version.

The most damaging problem of the transcript is the record of the interpreters at the Council. The transcript lists four persons--Wm. Craig, N. Raymond, Leafoher, and John Flette--as interpreters in the list of officials for the Council. In the minutes of the proceedings only Craig, of the original four is named. However, McDauphin, Delaware Jim, Pembrom, Olney and John Whitford are added (McWhorter, p. 23). The Stevens record does not totally agree with the official record. It indicates William Craig, N. Raymond, Matthew Danpher and John Flette were named as the interpreters and officers of the Council (Stevens, 1900, pp. 32-33). The only disagreement here is in the case of Danpher

and Leafoher. Inasmuch as the two names have similar endings, this may be a case of poor transcription. Stevens also indicates that additional interpreters were named. They were A. D. Pambrun, John Whitford, James Coxie and Patrick McKenzie (pp. 32-33). The only total agreement is on John Whitford, but it is likely that Pembrom and Pembrun are the same person.

Although there is considerable discrepancy in the names of the persons appointed as interpreters, the records are in agreement in showing that each of the major tribal groups had at least one person who could speak their language. They are William Craig for the Nez Perce, A. D. Pambrun for the Cayuse and John Whitford for the Walla Walla and Yakimas. William Craig was a trapper who had been living in the Nez Perce country since 1829 and was trusted by most of the Nez Perce. He served as the interpreter for the Nez Perce and continued to live among the Nez Perce following the Council. A. D. Pambrun was a resident of Fort Walla Walla (Josephy, 1965, p. 308). John Whitford was appointed to the group of interpreters following a meeting between the governors and Peopeo Moxmox of the Walla Walla at which Moxmox is quoted as saying, "I want more than one interpreter at the Council, that we may know they translate truly" (McWhorter, p. 26). The statement by Peopeo Moxmox would indicate that the Indians were aware of the problems of interpretation and that the additional interpreters appointed by the governors would suggest that the Indians probably got a reasonably accurate interpretation.

The actual procedure for interpretation used was outlined by Kip in his journal:

As he (Stevens) finished each sentence, the interpreter repeated it to two of the Indians who announced it in a loud voice to the rest--one in the Nez Perce and the other

in the Walla Walla language. This process necessarily causes the business to move slowly (Kip, 1897, p. 15).

Another significant problem in using the official transcript is that not all of the bargaining is included in the transcript. This results not from any fault of the transcription or record keeping, but from the fact that Stevens and Palmer held meetings (considered unofficial) with the various Indian leaders outside the official Council (Stevens, 1900, p. 53, and Kip, 1899, p. 27). During our discussion of the Council proceedings we will interject, where possible, information pertaining to the outside meetings and indicate their effect on the Council.

Although we recognize the problems of White bias, possible transcription problems, possible editing, inconsistency in names of the interpreters and communication outside of the Council sessions, we still believe that the transcript is adequate for this study. We must remember that the purpose of this study is to examine the processes through which the decisions of the Council were reached. To the extent that the record is inadequate, incomplete, or incorrect, the ultimate conclusions of fact will be inadequate. However, the analysis of the process may not be affected. And, if we can analyze and understand the processes we have substantially fulfilled our goal.

#### The Council Organized

We now turn our attention to the organization of the Council. The Council, as we have indicated earlier, was an outgrowth of the United States Government Indian policy which called for the extinguishing of Indian land titles through purchase and the movement of the tribes to reservations.

During late 1854 and early 1855 Governor Stevens instructed his

secretary, James Doty, to meet with the various tribes east of the Cascades to arrange a council. Doty completed his work in early 1855, and Stevens then informed Governor Palmer. Governor Palmer was brought into the treaty process because the Nez Perce, Walla Wallas and Cayuse had lands in both Washington and Oregon, so both governors had to agree to make the treaties. The site in the Walla Walla Valley was chosen because it was the traditional council ground of the Indian tribes of the area (Drury, 1979, p. 91).

Preparations were made for the Council by the joint offices of the governors and included gifts for the Indians after the treaty was signed and a supply of food which was to be offered to the Indians during the Council. May 20 was set as the opening day of the Council, but the officers did not arrive until May 21. The Nez Perce arrived at the Council grounds on May 23, the Cayuse on May 25, and the Walla Wallas and Yakimas on May 27 (McWhorter, p. 19). It was estimated that there were 5,000 Indians present, of which 2,500 were believed to be Nez Perce. The Cayuse, Walla Wallas and Yakimas constituted the largest numbers of the remaining Indians, with a few minor tribes represented. The official record estimates the total population of the Yakimas to be 2,000 (p. 13), the Walla Wallas to be 800 and the Cayuse, including the Umatilla bands, to be 800 (p. 18).

Although there were many Indians at the Council, the deliberations were left to the major chiefs. Peopeo Moxmox of the Walla Wallas demanded, prior to the opening of the Council, that he, along with Young Chief of the Cayuse, Kamiakin of the Yakimas and Lawyer of the Nez Perce do all of the talking for the Indians (Josephy, 1965, p. 317). This request was generally respected, except for minor comments.

Both were signs of less than friendly attitudes. Stevens indicated, however, that Peopeo Moxmox had been generally well disposed to the Whites, despite the fact that his son had been killed by Whites in California some years earlier. Stevens believed that Peopeo Moxmox was still bitter about the incident (p. 36). Young Chief, a brother-in-law of Peopeo Moxmox, met with Stevens upon arrival, but dismounted his horse "with evident reluctance, and shook hands in a very cold manner" (p. 38). Stevens was led to further suspect the three tribes when Fathers Chirouse of the Walla Walla and Pandosy of the Yakima Missions arrived and said the Indians were generally well disposed toward the Whites, with the exception of Kamiakin (p. 37). It was also reported that the Cayuse, Walla Wallas and Yakimas attempted to persuade the Nez Perce to reject the provisions, but failed in this attempt. Rumors floated that the three tribes were combining to resist the treaty and that the opening of the Council would be the signal to start an outbreak (p. 38).

On May 28, the day prior to the opening of the Council, Stevens and Palmer met with Lawyer in his tent, he being unable to walk because an old gunshot wound had broken open. Lawyer explained a map of the Nez Perce country, and during this explanation several lesser Nez Perce chiefs entered and reported that the Cayuse wanted the Nez Perce to meet with the Cayuse and Peopeo Moxmox. Lawyer rebuffed them, reading from a book which he said he had been given by Chief Ellis. Part of the passage allegedly read by Lawyer said:

Whenever the Great Cheif of the Americans shall come into your country to give you laws, accept them! The Walla Wallas heart is a Walla Wallas; a Cayuse heart is a Cayuses; so is a Yakimas heart a Yakimas; a Nez Perces heart is a Nez Perces heart; but they have all received the White law. They are all

going straight, yes! While the Nez Perces are going straight, why should they turn aside to follow others who are going straight. (McWhorter, p. 24)

Lawyer concluded, saying, "Ellis' advice is to accept the White law.

I have read it to you to show my heart" (p. 24).

Stevens prepared for the opening of the Council with the belief that he had the support of the Nez Perce and their leader, Lawyer, while being viewed with suspicion and anger by the other major tribes and their leaders.

#### Events, Probabilities and Utilities

We have argued that events, probabilities and utilities form the building blocks of the game theory orientation. Under Cohen's modified assumptions of the theory, events are those possible outcomes that an individual is considering at a given moment. The possible outcomes under consideration may change over time. Probability is the individual's estimate of the event occurring and utility is the value an individual has for each of the possible outcomes under consideration. An individual may change his or her estimate of probability and/or utility for an outcome over time. Also, an individual may or may not have an estimate of the events, probabilities or utilities held by the other parties to the bargaining, but if he or she does, the accuracy of that estimate will vary in proportion to how much information the individual has about the other parties (Cohen, 1972, pp. 72-73). We have argued from the same perspective in Chapter Three that the more accurately we can understand the parties' perceptions of events, probabilities and utilities, the more able we are to understand the actions taken by the parties. It is from this perspective that we will review what we believe to be the estimates of events, probabilities



and utilities held by the government and the Indian tribes at the outset of the negotiations.

#### The United States Position

The event holding the highest utility for the U.S. negotiators was the successful negotiation of a treaty that would allow for the peaceful settlement of the Washington and Oregon Territories by sizeable numbers of Whites. They recognized that the migration of Whites into Oregon and Washington would continue, even if a treaty was not negotiated. This, they believed, would cause continued strife, and the ultimate result would be an outbreak of violence. If violence did occur, the migration would be slowed until peace was restored. Although Stevens and Palmer were certain that the United States was militarily strong enough to put down any Indian military action, they recognized that that possibility would have an economic cost, as well as loss of life and slowing of settlement. Therefore, Stevens and Palmer hoped to negotiate for a sizeable portion of the Indian land holdings and an agreement that the Indians would reside on reservations. If Stevens and Palmer were successful, the Indians would give up title to the land, and move to reservations, and there would be limited White-Indian interaction, there would be peace, and the settlement of the territories would be expedited.

Although there is little question that Stevens and Palmer saw themselves in a relatively superior position in the bargaining, it should be noted that they were aware of the possibility that they might not be able to successfully negotiate a treaty on their terms (Stevens, 1900, p. 60). As we shall see, they were forced to revise the terms of their offers in order to get the desired goal.

### The Nez Perce Position

The Nez Perce entered the negotiations with a high utility for the protection of their lands. As we have indicated earlier, the Nez Perce objected when Anson Dart suggested moving the coastal tribes onto Nez Perce territory. The Nez Perce did not feel the pressure of the White immigration and settlement that was being experienced by the other tribes because their lands were remote and not generally suited to agriculture. In essence, the Nez Perce could keep the bulk of their lands and gain the advantages of supplies, schools and other improvements, as well as the protection of living on a reservation restricted to Whites if they entered into a treaty that maintained most of their lands.

Another item of high utility for the Nez Perce was friendship and good relations with the Whites. The specific cause of this position--acceptance of the Christian religion, the promise of better economic goods, or an internal power struggle--is debatable. This does not, however, negate the fact that the Nez Perce, and especially Lawyer, took great care to exhibit a spirit of friendship and cooperation. The depth of this friendship will be explored during the course of the analysis.

### The Position of the Other Indians

The Walla Wallas, the Cayuse and the Yakimas were the three other major tribes present at the Council. Although similar to the Nez Perce in their hunter-gatherer form of life, the three tribes took substantially different positions than the Nez Perce.

For these tribes, like the Nez Perce, the land was essential to their existence, and since it was in the interest of the tribes to

maintain their land holdings, the tribes were generally opposed to the sale of the land. These tribes seemed to understand that the loss of the land would cause them to make massive changes in their lifestyle. As a result, the tribes were actively working to prevent the success of the Council, thereby slowing the White migration into the territory. The evidence indicates that the tribes were aware of the government policy of land acquisition and also that the tribes were actively working to prevent this from occurring (Josephy, 1965, p. 313).

The tribes had been in constant contact in 1854 and 1855 keeping each other informed of the activities of the government agents. The leader of the tribes was Kamiakin, chief of the Yakimas. The record indicates that Kamiakin was working with Young Chief and Peopeo Moxmox to form an alliance of the three tribes so that they could prevent the government from taking their lands in the same manner in which the lands of the coastal tribes had been taken (p. 312). There is speculation that Kamiakin, Peopeo Moxmox and Young Chief plotted to kill all the Whites at the Council and start an outbreak that would drive all Whites from the area (Kip, 1897, p. 25, Stevens, 1900, p. 60). The Walla Wallas, the Cayuse, and the Yakimas placed a high utility on preventing any treaty that would cause the loss of their lands. The evidence further indicates that they were willing to engage in armed conflict to prevent this loss.\* Obviously, then, the goodwill of the government was of little utility to these tribes.

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\*The tribes began open conflict with the government in late October, 1855. This conflict resulted when Whites began moving onto Indian lands that were given up in the 1855 Council. According to the treaty, the lands were not to be given up and the Indians to move onto reservations until the treaty was ratified and the Indians had been paid for their lands. The treaty was not ratified by the Senate until 1859 and the payments did not begin until 1860.

Some have argued that the only reason that an outbreak did not occur during the Council was that on June 2, Lawyer moved his tent next to that of Stevens to prevent an attack on the Whites by the Walla Wallas, Cayuse and Yakimas. Others have argued that Lawyer was a coward who was rejected by his people and that he moved his tent to prevent his own people from taking hostile action against him (Drury, 1979, pp. 111-115). There were only 47 soldiers on the Council grounds so it is doubtful that the second explanation is credible. The first explanation is, however, probably too dramatic. The Kip diary does not report Lawyer's moving his lodge and it is doubtful that an event of that magnitude would have escaped an individual who otherwise kept a rather detailed record. But, the diary does indicate that Nez Perce opposition to open conflict prevented the other tribes from taking any hostile action (Kip, 1897, p. 25).

Thus, as the Walla Wallas, Cayuse and Yakimas prepared for the opening of the Council we would argue that their highest utility was keeping their lands, and that they preferred no treaty to a treaty that would take their lands. We also believe that these tribes understood the government policy of land acquisition and were bitterly opposed. Finally, we believe that these three tribes were of the opinion that the Indians, if unified, were strong enough to drive the Whites from the area. This also indicates that the tribes were aware that if they were not united with the Nez Perce, and, as long as the Nez Perce refused to join them, the probability of successfully routing the Whites from the area was relatively small.

### The Treaty Analysis

We now turn our attention to the transcript of the bargaining sessions. We will review the negotiations on a day-to-day basis.

#### Day 1, Tuesday, May 29, 1855

The Council was scheduled to open at noon and finally got underway officially shortly after 2 p.m. with the traditional smoking of pipes. The major portion of the activities involved the swearing in of interpreters and a brief opening statement by Stevens. The session lasted about two hours as rain began to fall about 4 p.m.

Communication between the parties centered on procedural questions. The manner in which these procedural questions were handled illustrates competitive patterns of interpersonal relationships.

Stevens, knowing that most of the Indians distrusted him, attempted to establish himself as an honest man who was not about to use the translation process to mislead. He gave elaborate attention to the idea that he was only proposing the interpreters; that the Indians could have additional interpreters; that the interpreters would "truly interpret" (Slickpoo and Walker, 1974, p. 88), and that "when you (the Indians) cannot understand what we say to you, stop us and we will repeat it" (p. 87).

He also attempted to establish himself as the dominant force in the negotiations. He took charge of the procedures of the session and in his opening statement said, "My Children" (p. 87). Stevens further attempted to establish a dependent role for the Indians by offering the Walla Walla, Cayuse and Yakima oxen for slaughter and telling them that they were his guests, as he had been a guest of many of their chiefs in times past.

Young Chief of the Cayuse did not rise to the bait, but instead asserted the independence of the Indians when he responded, "We have plenty of cattle, they are close to our camp. We have already killed three and have plenty of provisions" (p. 88). Stevens repeated the offer and Young Chief responded, "We do not throw away your offer. If we want any we will come to you" (p. 88). Stevens then made the same offer to the Yakimas, and Young Chief responded that "Kamiakin is supplied at our camp" (p. 88). Young Chief was obviously attempting to establish a position of independence from Stevens by refusing the provisions. By speaking for the Yakimas he was, in effect, telling Stevens that the Cayuse and the Yakimas were united--a position of power.

Young Chief further exerted his independence at the end of the session when he told Stevens, "We will talk slowly not all in one day. No snow falls at this season of the year. There will be time for you to go anywhere you wish" (p. 87). He was telling Stevens that he was not about to be rushed into any agreement, and that if there was to be an agreement, it would be consummated in due time, and that Stevens was not in control of that time. Following the session Peopeo Moxmox and Kamiakin dined with the governors, but the content of their discussion is unknown. Young Chief declined an invitation to join them at dinner (Stevens, 1900, p. 42).

Day 2, Wednesday, May 30, 1855

On the second day of the Council, the government negotiators attempted persuasion and strategy as well as continuing to stress their interpersonal relationship with the Indians. The Indians listened for slightly less than three hours, but did not make a response. When the session is analyzed from the perspective of search, strategy

and persuasion, we see there is no search for additional events. However, there is a good deal of persuasion attempted and the first strategic moves are made by the government.

Throughout the course of Stevens' presentation of what the government wanted the Indians to accept, he attempted to persuade them that this was for their benefit. In this way he attempted to alter the values which the Indians held for selling their lands and moving onto the reservations.

The first strategic move made by Stevens was his assertion that Indians were destroyed and chased from their lands when Indians and Whites lived together, and how this had not happened when the Cherokees moved onto the reservations. Stevens was saying that the government could protect the Indians if they would be willing to live on reservations. If they were not, there was certain to be trouble and that the Indians would suffer. By bringing the argument into the discussion, Stevens was attempting to manipulate an event under his control (protection of the Indians from "bad white men"), in order that the Indians would be inclined to accept the proposal. The only thing missing in Stevens' statements was a direct threat that he would allow the Indians to be destroyed if they did not accept the reservation system.

Another strategic action was Stevens' statement that the government wanted the Indians to live on reservations and to sell the remainder of their lands. Stevens was also involved in strategic actions when he told the Indians that the government wanted them to have mills, shops, and education. Although Stevens talked about these items in terms of "we want these things for you" (p. 90), he did not make

specific offers. However, the statements were made to make the Indians believe that these things would accrue to them if an agreement was reached. In essence, Stevens was making the general commitment that the Indians would receive protection, education, shops, mills and payment for their lands if they entered into a treaty.

Cohen argues that strategic actions are the most position defining of the negotiating behaviors. This case supports the position as the strategic actions taken by Stevens clearly defined the position of the government.

Cohen has also argued that persuasive actions are normally taken before strategic attempts because persuasive actions are less value revealing. Stevens' attempts to persuade the Indians of the benefits of education, shops, mills and the reservation system came before he entered these events into the discussion. The action follows the pattern suggested by Cohen. Stevens anticipated the hostility and attempted to reduce it before making his strategic move.

Palmer and Stevens were concerned with the interpersonal relationship between the negotiators and the Indians and between the President and the Indians. The communication, with little exception, is on a competitive basis.

Competitive communication behavior is evident in Stevens' argument about the Indians needing protection from the Whites. During the long and many times distorted history of White-Indian relations from the time of the settlement of New England, Stevens blamed the conflicts on "bad white men," (Slickpoo and Walker, 1974, p. 90) without indicating who they were, except to say they were not government people, using Lewis and Clark as examples of White government people who had not caused



trouble. Because the trouble was caused by "bad white men" (p. 90), Stevens told the Indians, it was important that a treaty be made to protect them from these men. Stevens told the Indians that they would face the same problems the Eastern tribes had faced if they did not reach an agreement, and, therefore, the Indians were highly dependent upon the outcome of this Council.

Palmer worked briefly in the cooperative mode in his opening statement, as he indicated that Stevens and he believed that the Indians were capable of good judgment and mature thought. He said, "You are men able to judge between good and bad; and when my brother speaks to you, you can judge whether it be good or bad" (Slickpoo and Walker, 1974, p. 89). Stevens followed this same cooperative mode when he opened his speech by saying, "You are men. You have families: You have the means to live" (p. 89).

Although Stevens opened with the cooperative statement, he did not remain consistent, and returned to the competitive mode when he attempted to express the President's concern for the Indians. He said:

Why did he send my brother and myself here this day, to say this to you? Because you are his children; his red children are as dear to him as his white children; his red children are men, they have hearts, they have sense; they feel kindness they resent injury; We want no injuries to resent (p. 90).

Although Stevens was telling the Indians they were men of ability and maturity, with whom the Whites did not wish to have conflict, he leaves little doubt that they were to be subservient to the President. In other words, the President was the father, and in this capacity the Indians would have to bend to the wishes of the government. This position may not have been obvious to the Indians at this point, but it would seem certain that Stevens was of this mind.

Competition is also evident in the manner in which the transmission of the offers was handled. Stevens did not make a tentative proposal of how the situation might be resolved, but simply told the Indians how the government wanted it to be. He said:

This brings us now to the question. What shall we do at this council? We want you and ourselves to agree upon tracts of land where you will live; in those tracts of land we want each man who will work to have his own land, his own horses, his own cattle, and his own home for himself and his children (p. 92).

Stevens quickly followed this with his desire to have an agent on each of the tracts to "protect you from bad white men" (p. 92), and to have schools and professional tradesmen to help the Indians learn the trades necessary to be self-sufficient. He then told the Indians the other part of the deal when he said:

Now we want you to agree to such a state of things; You to have your tract with all these things; the rest to be the Great Father's for his white children (p. 92).

There is no indication that the government was willing to entertain any other possible solutions.

Stevens was working in the competitive mode in the process of preference identification and reassessment. Stevens spoke only of the preferences of the government, and did not mention any of the Indian preferences. He magnified the advantage that was to accrue to the Indians. He magnified the advantage that was to accrue to the Indians. He indicated to the Indians that they would not only receive the protection from the "bad white men," but also Stevens said:

Besides all these things, these shops, these mills and these schools which I have mentioned; we must pay you for the land which you give to the Great Father; these schools and mills and shops, are only a portion of the payment. We want besides to agree with you for a fair sum to be given for your lands, to be paid through a terms of years as are your schools and your shops (pp. 92-93).

Only demands for immediate acceptance of the reservation system were missing from a totally competitive stance. After making his presentation, Stevens, perhaps sensing opposition from the Indians, said:

Now these payments are something you will have to think much about. Whatever is done is done with your free consent; I have more to say about these payments, about the agent, and about your doing better, as I think you will if we can agree (p. 93).

Palmer followed Stevens' lead in not pressing for an immediate response, indicating:

. . .it is not expected we can come together with one day's talk; nor do we expect you can understand with what has been said all that we want. You will not make up your mind until you hear all we have to say (p. 93).

And, then he added, ". . .sometimes when people have a matter to settle they commence way off; but as they understand each other they come together" (p. 93).

Day 3, Thursday, May 31, 1855

The third day of the Council found the government negotiators spending most of their speeches reiterating and expanding the government position outlined the day before. The thrust of Stevens and Palmer's speeches was to persuade the Indians that the programs suggested were in their best interests. Stevens opened the Council session at 11:30 a.m., spoke for about two hours and then turned the proceedings over to Palmer. Palmer finished about 3:30 p.m. The Indians did not respond.

When we look at the speeches we see that the major portions were directed toward persuasion, and that only a minor portion was spent in strategy and no time spent in search. The failure of the Indians to respond is likely the cause that no search was undertaken. The strategic actions were Stevens' assertion that the government would carry out its

part of the bargain, if an agreement was reached, and would provide the supplies and services called for in the proposed treaty, and Palmer speaking about the threat of Indians and Whites living together.

The persuasion of Stevens and Palmer was directed toward change in the Indians' value for the government's proposal. It would seem that Stevens and Palmer were aware that the Indians were opposed to the reservation system, and as a result they attempted to alter that value.

The communication behaviors of Palmer and Stevens are competitive preference identification and reassessment. Throughout the courses of their speeches we see them speak only of alternatives preferable to their position, magnify the preference among alternatives to favor themselves, indicate a high degree of position rigidity and attempt to bias the Indians' perceptions of the government proposal. In addition they worked to persuade the Indians that the government proposal was the only event that had value.

Stevens opened the session with a reiteration of the government proposals. In talking about the proposals, Stevens said that it was the government desire to have the women learn to weave, spin, make clothes and other things, "like white people" (p. 94) and he added that the government would also provide additional clothing, a point he had not mentioned in the initial speech.

After once more arguing for the values of the animal husbandry-farming form of lifestyle, Stevens began a new persuasive argument. He attempted to alleviate the Indian fears of change by indicating that change was not always for the worse, and that, in fact, the Indians had benefitted from the changes brought by earlier contact with the Whites. He said:

The horse carries you wither you wish to go, yourself, your wife, your children; and your packs, and he works in your field; your cattle furnish you with a portion of your food; your cows furnish you with milk and you already know how to make butter; we trust that you will make butter and cheese, and that your women will all have churns. Formerly you raised no wheat, no potatoes, now you have both grain and vegetables. Is not this a great change? A change which you all have seen. Has it not been for your good (p. 94)?

Stevens said the acceptance of reservations would not prevent the Indians from going to the plains to hunt buffalo, or to travel elsewhere to gather roots and berries. To the contrary, Stevens suggested that if the Indians and the government could reach an agreement, another Council would be held at which the Blackfeet, enemies of most of the tribes at the Council, would be present. At this second Council, the government would work out an agreement so that the Blackfeet would no longer attack hunting parties or steal horses. In support of this argument, Stevens said that James Doty, secretary of the Council, had spent a year with the Blackfeet and found that most of them were good people who desired to have peace with the western tribes. Stevens asserted that the Blackfeet wanted to make the change, and that the government had agreed to help them, provided that they did not molest the other tribes.

While Stevens was stressing the positive alternatives which might occur if an agreement might be reached, Palmer took a drastically different attack, stressing the problems which had resulted when Whites and Indians had failed to reach agreements about reservations. In effect, Stevens was holding out the carrot, while Palmer was wielding the threat.

Palmer followed Stevens' historical perspective of White-Indian relations to develop three lines of argumentation. During this recounting, Palmer stressed that, (1) there had always been conflict, and eventually war, when the Whites and Indians had lived indiscriminately together,

(2) that the Whites came in small numbers at the start but soon became as "numerous as the leaves on the trees" (p. 100), and (3) that when the Indians did not listen to the counsel of the government treaty makers the Indians ultimately suffered. Each of the arguments was designed to gain Indian acceptance of the reservation program suggested by Stevens, by reducing the attractiveness (value) of alternatives under consideration.

Although Palmer presented a simplified perspective, he may have been aware that the Indians did not accept all that he had said. He spoke of the Indians who had not prospered on reservations, "All who have settled upon these tracts have not done well, for they are lazy and have foolishly thrown away what has been done for them" (p. 101). It is doubtful the Indians missed the message, those who go to the reservation prosper if they are smart and ambitious, those who do not bargain end up dead.

Palmer attempted to build the credibility of the government when he returned to the concept of the "bad white men" in his final remarks. He argued that the Whites counseling the Indians not to accept the treaty and reservations were doing so in order to cheat the Indians. He argued that the Whites would marry an Indian woman to gain control over a herd of horses and when this was achieved they would leave the woman and her children. He added that rustlers had stolen horses, and that it was only through the actions of the government that they had been returned.

Day 4, Friday, June 1, 1855

The Indians may have understood that they were being offered only one alternative, and this may be the reason that they asked that

the Council not meet on Friday, June 1. The exact reason for the delay is not known, but it has been speculated that the Indians wanted to discuss alternative plans of action. The official record indicates that Young Chief sent a message to the negotiators on Thursday evening asking for the day off so that his people could "make a great Feast and have a general holiday" (p. 101). The request was accepted by the negotiators.

Although the Indians may have asked for the break to consider other alternatives, the major chiefs dined with Stevens and Palmer on Thursday night and Friday.

Day 5, Saturday, June 2, 1855

The Council reconvened about noon. After an opening statement by Palmer, the negotiators asked for a response, and for the first time the Indians did. Palmer's statement was a general reiteration of the government offer and the corresponding arguments in favor of the offer, while the Indian response was a general questioning of the intent and honesty of the negotiators.

During the session the government negotiators did not search for new alternatives, but rather attempted to use strategy to gain their goals. On the other hand, a limited Indian response indicated that they may have been in the process of searching for an alternative more acceptable than the reservation system. The strategic move of the government negotiators was to talk about their inability to stop the Whites from immigrating to the area, but offering the Indians the promise that they could protect the reservations, if the Indians chose to accept them under the proposed treaty.

The Indian response was value-defining in that it indicated to the government negotiators that they placed a high value on the land and were not immediately ready to make the trade for goods and services. The negative tone of their response strongly indicates that the Indians did not like the government offer and that they wanted some other unspecified alternative.

Palmer began where he had left off on Thursday, when he argued that it had been only 50 years since the first Whites, Lewis and Clark, had appeared and already there were sizeable numbers of Whites in the areas to the west and that the Whites would continue to come. He said:

You may ask why do they come? Can you stop the waters of the Columbia river from flowing on its course. Can you prevent the wind from blowing? Can you prevent the rain from falling? You are answered No! Like the grasshoppers on the plains; some years there will be more come than others, you cannot stop them. Our cheif cannot stop them, we cannot stop them . . .  
(p. 102)

Palmer was pressing for agreement, arguing from a position that weakness is strength. He was saying that he and the government were powerless to stop the immigration of the Whites, and, thus, the only option open to the Indians was to accept the reservations proposed by the government. One might ask the question, "if the government cannot stop the Whites from coming when the Indians are off the reservations, how can they keep the Whites from coming when the Indians are on the reservation?" It would seem that this is a basic discrepancy of the government position and illustrates rather clearly that the government position was rather rigid--the Indians must move to the reservations. The fact that this action illustrates the government's position clearly is in agreement with Cohen's position that strategic actions are more position-defining than persuasion.



Palmer also pressed for agreement when he discounted the Indian alternative of no treaty. Palmer said "And now while there is room to select for you a home where there are no white men living let us do so" (p. 102). Palmer assured the Indians that the government had protected other tribes that had entered into reservation-creating treaties and that the government would keep its end of the bargain.

Stevens asked the Indians to respond. The initial response came from Five Crows, a Cayuse, who responded, "we are tired," and then continued briefly, asking, "do you speak true when you call me brother?" (p. 103), and then indicated that he believed in only one God, the same God as Palmer and Stevens.

Peopeo Moxmox, the Walla Walla chief, followed and was belligerent in tone and direct in his questioning of the negotiators. He said that it seemed that everything was prearranged and that there was no time for thought about the treaty. He asked the negotiators if they were really honest when he said, "We have not seen in a true light the object of your speeches; as if there was a post set between us. . ." (p. 104). "You have spoken in a round about way; speak straight" (p. 104), he said. Moxmox also objected to the trading of the land for goods, saying, "Goods and the Earth are not equal; goods are for using on Earth. I do not know where they have given lands for goods" (p. 104). Obviously, he was indicating that his value for the land was far above that of the goods and services that had been promised. Peopeo Moxmox added that he needed time to "think, quietly, slowly" (p. 104), and then also questioned the integrity of the government negotiators when he said:

You have spoken in a manner partly tending to Evil. Speak

plain to us. I am a poor Indian, show me charity; if there was a cheif among the Nez Perces or Cayuses, if they saw evil done they would put a stop to it and all would be quiet; Such Cheifs I hope Gov. Stevens and Gen'l Palmer are. I should feel very much ashamed if the Americans should do anything wrong. (pp. 104-105)

What occurred later this Saturday night, as indicated previously, is uncertain. Whether Lawyer came to the Stevens camp and offered to protect the Whites from an Indian conspiracy or whether he came for his own protection, will never be known with certainty. It is likely, however, that Lawyer did meet with Stevens and probably indicated that the Indians were not generally well disposed to the progress of the negotiations. He probably told Stevens that the Nez Perce were still friendly to the Whites, but they were being pressured by other groups to reject the proposals under consideration. It may also have been that Lawyer was seeking support for his position as the leader of the Nez Perce. Support for this speculation comes from the opening of the Monday session, where Stevens called upon Lawyer to speak and Lawyer responded with a non-committal response, asking for fair treatment of "a poor people." The truth may never be known.

Day 6, Sunday, June 3, 1855

No Council was held.

Day 7, Monday, June 4, 1855

During this session the Indians responded at length for the first time and for the first time the government negotiators indicated the location and size of the reservations they wanted. Nearly all of the behavior is competitive. The government negotiators were forced into detailing the reservations by Indian questions about the motives of the negotiators. The exception was Lawyer, the lead speaker for the Indians

who was cooperative. However, he seemed uncertain of what position he wished to take and gave a rather incoherent presentation.

The detailing of the reservations is obviously value-defining. It told the Indians specifically what the government had in mind, and what the government wanted of them. Persuasive attempts of Stevens to sell the particular system to the Indians is also value-defining, in that it gave the Indians the belief that this is what the government was truly supporting. By outlining all of the particular advantages, better use of money, more protection, etc., Stevens was attempting to convince the Indians that this program was in their best interests, now and in the years ahead.

Lawyer did not accept the government position, nor did he speak in opposition, but rather asked that the negotiators have pity on the Indians as they were a poor people with a poor land. He said, "You see the marks of our country, one stream runs one way another runs another way, it is all rock" (p. 106). Without approving or disapproving of the events of the Council, Lawyer ended his remarks by indicating that others wished to speak. It would seem that Lawyer did not want to be the first to say that he favored the reservations, but, on the other hand, he did not want to place himself in opposition to the concepts outlined by the government negotiators.

The Commissioners sought to get the response of others and those who responded questioned the integrity of the proceedings. Kamiakin said, ". . .perhaps you have spoken straight" (p. 106), and Stickus said, "I would wish that the President was here so that we might all listen to him" (p. 107). Peopeo Moxmox, who was invited to speak early in the session but refused, later in the afternoon responded at some length,

questioning the negotiators' failure to indicate the specific lands they were seeking. He said, "I do not know for what lands they (the interpreters) have spoken. If they had mentioned the lands that (they) had spoken of then I should have understood them" (p. 107).

Eagle-From-The-Light, a Nez Perce chief, spoke about the problems that he had with White people and also questioned the motives of the government negotiators. Eagle-From-The-Light indicated that he had seen his brother hanged by Whites for no apparent reason and that his father had gone East at the request of Henry Harmon Spalding and that his father was killed and the body never returned. He also objected to the work of Spalding, indicating that Spalding seemed to be "two in one" (p. 109), a preacher and trader. Although the tone of his speech was antagonistic and questioning, Eagle-From-The-Light ended on a positive note, saying, ". . .it is the tale I had to tell you, and now I am going to hunt friendship and good advice. We will come straight here--slowly perhaps,--but we will come straight" (p. 109).

Evidently sensing the antagonism and questioning, Stevens was forced into a strategic move--outlining the reservations and the tribes he wanted on them. The minutes of the Council indicate the reservations outlined by Stevens.

For the principal tribes present, we have thought of two Reservations. One Reservation in the Nes Perses country and one in the Yakama country. The Reservation in the Nes Perses country, to extend from the Blue mountains to the spurs of the Bitter Root, and from the Palouse river to part way up the Grande Ronde and Salmon River.

On this Reservation we wish to place the Spokanes, the Cayuses, the Walla Wallas, as well as the Nes Perses, and also the Umatillas. That will be something for them to think about to see whether they can agree to it.

The Yakama Reservation to extend from the Attannun river--to include the valley of the Pisco river--and from the Yakama river to the Cascade Mountains. On this Reservation we wish to place the Colvilles, O-Kin-a-kunes,

Palouse, Pesquouse, Klitatats, and the bands on the north side of the river below the Walla Walla as far as the Kuthlapoodle river, near the Cowlitz. All these as well as the Yakamas on that Reservation.

There is a third Reservation East of Mt. Jefferson which will be explained to you by Gen'l Palmer; there it is proposed to place the bands below the Umatillas. (pp. 109-110)

After seven days in Council the government had finally given the Indians the specifics of what they expected.

After outlining the reservation boundaries, Stevens indicated to the Indians that he wanted them to consider the proposal and respond, as he said:

We want you to think about this and see if you like it. You may think the Reservations are not good. If not you will say so. The Cayuses, the Walla Walla, the Umatillas, may prefer the Yakamas to the Nes Perces Reservation, and they may not like either. (p. 109)

Although it would seem that Stevens was telling the Indians that they had some options as to which reservation they might be placed upon, a cooperative behavior, the statement would also seem to indicate Stevens was demanding that the Indians would be placed on some reservation, a competitive behavior.

Stevens then began to sell the Indians on the benefits of the particular plan. He argued that the location of the reservations was just off the wagon route to the sea, and that this would allow the government to keep the Whites away from the Indians, but at the same time the Indians would be able to drive their horses to market. He asserted that the reservations were large enough so that each family could have a farm, and that there was winter grazing lands for all. In addition, there were good salmon rivers, and there was some game and adequate roots and berries.

Sensitive to the problem of having several tribes on the same

reservation, Stevens argued that this would allow the government to make better use of resources, including being served by a single agent. He indicated that more could be done with the same means, but then stopped and indicated that he would have more to say about that at the next session. Stevens then again returned to the argument that the Indians needed to be protected from unsavory White people, as he finished his speech. He keyed into Eagle-From-The-Light's objection to Spalding when he said;

We can better protect you from bad white men there. We can better prevent the trader and the preacher all in one man going there. We can better prevent bad men telling you to dance, and cheating you with lies. We can better stop the thief who comes to steal your horses. Your horses will be saved to you and there will be no thieves to throw into hell-fire. (p. 110)

The Indians did not respond, and the Council adjourned for the day.

Day 8, Tuesday, June 5, 1855

During the eighth day the government negotiators spelled out the detailed boundaries of the proposed reservation, the amounts of money to be expended, the conditions under which it was to be expended and then spent an extended amount of time attempting to persuade the Indians that the reservations and conditions were in their best interests. Only a single Indian leader responded. That was Stickus, a Cayuse, who had been generally friendly to the Whites, but who was now expressing opposition to the offer.

As we analyze the behaviors, we see that the participants were operating in the competitive framework. The government negotiators identified only alternatives that were favorable to their position, stressed the importance of reaching agreement on their terms, made only one offer and pressed for its acceptance, and indicated control over the

negotiation process. Stickus' response indicates an implicit rejection of the government offer and little ground for commonality or compromise.

By talking about what the government was willing to give, the negotiators were attempting to force the tribes into agreement through strategic action. This is best illustrated by the offer of specific amounts of money and housing for the chiefs and sub-chiefs. By indicating the specific sums, the government negotiators were telling the chiefs and sub-chiefs what they would receive if this treaty was negotiated and thus were attempting to alter the chiefs' values for the proposed treaty. By putting forth the specific details of the offers, the reservation locations, and indicating which tribes were to be on each of the reservations, the government negotiators clearly outlined their preferences. This is in agreement with Cohen's position that strategic actions are the most position defining.

Stevens opened the Council session detailing the government position. He reiterated the location of the reservations, but this time used a map to provide the specific details of the reservation under consideration by the government.\* He told the Indians that there would be a place on the reservations for each tribe and that each tribe would have a blacksmith, a school and a farmer. The Nez Perce, because they had larger numbers would be given two of each. He indicated that the agent for the reservation would live in a central place and that there would be a central agricultural and industrial school for all of the tribes. In addition there was to be a tinner and tin shop and a wagon

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(\*NOTE: The exact boundaries have been under dispute since the treaty. Several court cases have heard, and the courts have made awards to the Nez Perce. For a full discussion of the issue, see Josephy, 1965, pp. 334-336.)

maker and wheelright for each reservation. There was also to be two sawmills and two flour mills each.

Stevens attempted to alter the chiefs' views of the treaty when he told them that the government was prepared to spend \$100,000 to move the Indians onto the reservation and to build homes for the chiefs and sub-chiefs, break the land, and to reimburse Indians for the improvements that they had made on lands that would be given up. In addition the government proposed to pay \$250,000 over 20 years.

Stevens added another strategic event when he said the government was willing to pay each of the head chiefs a salary of \$500 per year for a period of 20 years. Also, the government would build a house for each of the head chiefs. Stevens told the chiefs that each year's money was to be spent through the agent so that the money could be most effectively used. Stevens said;

We can furnish you with nearly twice as many goods with the same amount of money as you can get from the Traders. We shall buy the things you want in New York and San Francisco at cheap rates and good articles. The expense of getting them to you will not come out of your money; it will cost you nothing. You now pay Eight or Nine dollars for a blanket at Fort Walla Walla, we shall furnish you two such blankets for less than that sum, say from six to seven dollars. At fort Walla Walla a flannel shirt cost three dollars. You pay for the calico shirt at Walla Walla one and a half and two dollars. We can furnish calico shirts for fifty cents a piece. If we furnish the goods therefore, you will get three blankets, three flannel shirts and three calico shirts for the same money you now pay for one blanket, one flannel shirt, one calico shirt and have to make a long journey for them besides.  
(p. 113)

Stevens attempted to gain the additional favor with the chiefs by indicating that the decision of how the money was to be spent would rest with them.

Stevens said the reservations were large and included the best



fisheries on the Snake and Grande Ronde rivers and the prize camush grounds of the Nez Perce. He told the Indians that they would have the right to hunt and collect berries outside the reservation on lands that were not taken by Whites and that the Indians would have the use of the highways to take cattle and other items to trade with the Whites. Also, they would have common fishing rights with the Whites. Stevens attempted to alter the Indians' view of the treaty by re-entering the implicit threat that they were destroyed when Whites and Indians lived together when he said:

You will see that you will be better taken care of all on one reservation; each tribe having its own place, than if the Spokanes were on one Reservation with the whites all around them, the Nes Perces and Umatillas on one Reservation with the whites all around them. (p. 112)

Stevens indicated that he was treating these Indians better than those on the coast. He said,

They (the coastal tribes) number more than all the tribes here present. They have all agreed, should the President decide to go on one Reservation. That Reservation is only about one-fiftieth part as large as this. . . (p. 112)

Stevens ended his speech saying, "I have tried to talk plain and to speak straight out" (p. 113), and then returned the proceedings to Palmer.

Palmer pushed for acceptance as he told the Indians that Stevens had said as much as he could and that "it is for you to say whether you will receive it or throw it away" (p. 114). He referred to an earlier remark by Young Chief that the negotiators on both sides needed to consider not only themselves, but future generations. Palmer told the Indians that ". . .it is the duty of a parent to provide for his children" (p. 114), in urging them to accept the proposal. He continued, invoking the spirit of God when he said, ". . .I say it is good; That I would not deceive you; The Great Spirit who knows the heart of all men knows that I desire to promote your good" (p. 114).

Palmer outlined the procedures that would be followed if the Indians agreed to a treaty. He said that the treaty would have to go to Washington and be approved before the money could be spent, and that this procedure would take at least two years. Palmer was being honest with the Indians, he was telling them the procedure as it was going to happen, but the explanation also indicates Palmer assumed he was in a dominant position in procedural matters, a competitive behavior. The Indians, in effect, were told to negotiate the treaty and if the leaders in Washington accepted it, it was binding on all. If the leaders in Washington decided they did not like the treaty, it was null and void.

Palmer told the Indians they were to have the right of free travel outside of the reservation, and explained the nature of the railroad and the telegraph and also indicated that the government expected the right of construction on Indian lands. During this explanation, Palmer gave a detailed account of how the telegraph and railroad functioned and inadvertently indicated his questioning of the ability of the Indians when he said, "You may not understand them now, but when you know as much as the white man you will" (p. 115). It would seem that Palmer felt he was dealing with someone of less intellect than his own, and it is doubtful that the Indians would have missed the insult--intended or unintended.

Palmer continued to push for acceptance of the treaty. He said,

Now I want you all to talk among yourselves and think about what has been said to you, and I want you to think of it like men. When you think of it if you say that what we have said is good and that you receive it, you can express it to us and we can soon write out the Treaty. (p. 116)

Perhaps feeling some questioning on the part of the Indians, Palmer did not press further, but instead suggested that the Indians take time to

consider the offer and if they did not understand they should "come and inquire and we will explain" (p. 116). Palmer finished his speech saying,

If any of you wish to speak we will listen to you.  
Or if you can make up your minds so as to give us an  
answer this evening come and do so and we will be ready  
to receive it. (p. 116)

Stickus, the normally friendly Cayuse leader, was quick to reply.

My friends I wish to show you my mind, interpret right  
for me. How is it I have been troubled in mind? If your  
mothers were here in this country who gave you birth and  
suckled you, and while you were sucking some person came  
and took away your mother and left you alone and sold your  
mother, how would you feel then? This our mother this  
country as if we drew our living from her.

My friends all of this you have taken. Had I two  
rivers I would be content to leave the one and live on  
the other.

I name three places for myself, The Grande Ronde, the  
Touchet towards the mountains and the Tucannon. (p. 116)

Stickus had clearly indicated the Indian position that the land was the essential of their lives. It was the same relationship of a child to its mother. Without the land the Indians could not feed themselves, and their very form of life and livelihood was threatened.

With Stickus' response we see the first evidence of search of alternatives. Stickus was obviously opposed to the treaty as proposed. His statement that he wished to have the three locations of the Grande Ronde, Touchet and Tucannon indicates that he was searching for alternatives. Although the response indicates search, it also is position defining in that it indicates the specific territory he wanted. His argument about the Indians' relationship to the land was an attempt to show the government negotiators that the land was highly valued. In indicating this high value for the land, Stickus was implicitly telling the negotiators that the Indians would not give up the land for little value, if they would give it up at all.

Governor Stevens took note of Stickus' response and quickly ended the day's session, but not before urging the Indians to meet early in the morning so that they could "see if we cannot agree before night" (p. 117).

Day 9, Thursday, June 6, 1855

The Indians chose to not meet on Wednesday, but rather met among themselves to consider the government offer.

There is some evidence to indicate that the Indians were becoming more hostile to the government proposals. Kip (1897) wrote of his experience on Tuesday evening:

There is evidently a more hostile feeling towards the whites getting up among some of the tribes, of which we had tonight a very unmistakable proof. The Cayuse, we have know, have never been friendly, but hitherto they have disguised their feeling. Tonight, as Lieut. Gracie and I attempted, as usual to enter their camp, they showed a decided opposition; we were motioned back, and the young warriors threw themselves in our way to obstruct our advance. To yield to this, however, or show any signs of being intimidated, would have been ruinous with the Indians, so were obliged to carry out our original intentions. We placed our horses abreast, riding round the Indians, where it was possible, and at other times forcing our way through, believing that they would not dare to resort to actual violence. If, however, this hostile feeling at the Council increases, how long will it be before we have an actual outbreak. (p. 18)

Kip went to the Cayuse camp on Wednesday night and following he wrote:

There was no attempt to exclude us, though if savage and scowling looks could have killed, we should both have ended our mortal careers this evening in this valley of Walla Walla. (p. 18)

It would seem that the Indians were generally displeased with the proposals, with the exception of the Nez Perce who were losing little of their lands and who were perhaps gaining the upper hand on other tribes by having them located on their lands.

However, it would seem that the Indians were not ready to start a war until the negotiations were complete.

Josephy (1965) argues that Lawyer met with Stevens at night and negotiated additional benefits befitting a head chief and that later he worked with other chiefs of the Nez Perce to gain support for the government proposal (pp. 325-326). Josephy does not document his argument, but on Thursday, June 7, Lawyer did support the government position.

Day 10, Thursday, June 7, 1855

Following a day of negotiating among themselves, the Indians responded for the first time and with the exception of the Nez Perce the response was negative. The Indians did not want the reservations as proposed for them by Palmer and Stevens. For their part, Palmer and Stevens attempted to answer objections.

It becomes obvious as we look at the day's activities that the government and Indians were in the competitive framework. The government consistently pushed for acceptance of the proposal, and did little to indicate flexibility. In addition, they again attempted to show the Indians they they were highly dependent on the treaty, i.e., if the treaty was not signed the Whites would come and the Indians could not protect themselves. For the Indians' part, they consistently, with the exception of the Nez Perce, rejected the need for an agreement, and refused to suggest alternatives that might lead to a common ground and agreement.

Stevens opened the session about noon and asked for the Indian response. Lawyer was the first to speak and gave a meandering speech in which he gave Nez Perce approval for the terms of the agreement.

Lawyer also attempted to placate the other Indians. It is obvious that Lawyer knew that the other Indians did not approve of his position and he carefully outlined a defense for accepting the government offer. He traced the coming of the Whites to the new world and in doing so told of a story about Columbus and the attempt of Columbus to show leaders how to balance an egg on end. Lawyer said that the leaders could not do, but once Columbus had shown them, the leaders were able to do so. What Lawyer was attempting to show with the analogy was that once Columbus had found the new world, others quickly followed. The analogy, implicitly, indicated that once the Whites had found their way into the Oregon territory, other were sure to follow. Lawyer also indicated he understood that when the Indians and Whites lived together it was not long before there was bloodshed, and that the Indians were the ones who normally suffered. He illustrated his position with reference to the flight of Delaware Jim, when he said:

These children that he (Columbus) had placed in this country among the red people, from them the blood ran on both sides; that is when the laws come into this country to those poor people: There were a great many white people came back to that place; that is the reason the red people travelled off further and from that they kept still travelling on further as the white people came up to them and this man's (Delaware Jim) people are from the same people. . . (Slickpoo and Walker, 1974. p. 117)

Although the passage indicates one of the reasons that Lawyer was willing to accept the government offer, it also indicates that he understood what had been occurring on the Eastern side of the mountains. If he knew this, he probably also understood, at least in a general way, how the government had kept its treaty promises with other tribes.

Lawyer stressed his reverence for the laws that had been brought to the country by Dr. White. He invoked the memory of Ellis when he said:

Ellis our Cheif spoke straight for the white people, the President has sent you here to us poor people. Yes! The President has studied this and sent you here for our good. (p. 118)

Lawyer also stressed the history of friendship between the Whites and the Nez Perce since the time of the arrival of Lewis and Clark.

Although Lawyer was generally cordial to the government negotiators during the course of the speech, near the end there was a note of questioning about the intent of the negotiators. He said:

The governor has said the President has sent him to take care of his children: it was you that had spoken thus my brothers (Gov. Stevens and Gen. Palmer) I want the President to see what I a poor man has said. I have your talk here (pointing to his note book) and although a poor man I can look at it from time to time. (p. 118)

There was some doubt, but then Lawyer told the negotiators where he thought would be a good location for a mechanic station or ranch. He had obviously accepted the proposition.

Stevens seized the opportunity to exploit the division among the Indians and pressed for agreement, saying, "We have the heart of Nez Perce through their Cheif, their hearts and our hearts are one" (p. 119). While Lawyer and the Commissioners were together, the remainder of the Indian leadership was not.

Essentially the Indians, with the exception of the Nez Perce, were playing a "no-play" game, that is they wanted the Council to end with no action being taken. The Indians' strategy was one of bargaining from the position that weakness is strength. They outlined with clarity their belief that the land was a gift from God, of which they were the trustees, and essentially they did not have the

power to sell or trade. If they were to sell or trade the land they would feel the wrath of God. Therefore, they were a poor people who were not in a position to accede to the demands of the government negotiators.

Young Chief, head chief of the Cayuse, followed Lawyer and told the Commissioners that he was "blind" (p. 119), and did not see the offer very well, even though Lawyer had seen clearly. He said the reason he did not see the offer well was that he had not yet seen the offer. He said, "If I had the money in my hand then I would see..." (p. 119). The distrust was obvious. He continued, talking about the Indian relationship to the earth. He said:

I wonder if this ground has anything to say: I wonder if the ground is listening to what is said. I wonder if the ground would come to life and what is on it: Though I hear what this earth says, the earth says, God has placed me here. The Earth says, that God tells me to take care of the Indians on this earth; the Earth says to the Indians that stop on the Earth feed them right. (p. 119)

As he finished the argument he said, "God said. You Indians who take care of a certain portion of the country should not trade it off unless you get a fair price" (p. 119). The earth may have had a holy relationship to some Indians, but, at least in Young Chief's view, it did have a price. Young Chief ended his speech contrasting his position with that of Lawyer. He told the Commissioners,

I walk as it were in the dark and cannot therefore take hold of what I do not see. Lawyer sees and he takes hold. When I come to understand your proposition then I shall take hold. (p. 119)

Five Crows, another Cayuse chief, told the Commissioners that his heart was the same as Young Chief. Palmer then asked Peopeo Moxmox to speak for the Walla Walla. He told the Commissioners that he felt they had treated the Indians as children, offering them food



and giving them no more respect than a feather. He then suggested to the Commissioners that the Council be ended and that the tribes and government meet at another time. He said:

If you were to separate as we are now and appoint some other time we shall have no bad minds. Stop the whites from coming up here till after this talk, not to bring their axes with them. . . (p. 120)

He was telling the Commissioners that he was opposed to the proposal, but then he added a conciliatory note, indicating that he did not want the President to think he was saying or meaning "anything bad" (p. 120). He said that it was alright for the Whites to travel through his country "providing they do not build houses on our land" (p. 120). He told the Commissioners that he thought Lawyer had given up his lands, but that he wanted another meeting to discuss the proposal. "It is not only by one meeting that we can come to a decision" (p. 120), he said. He told the Commissioners he would meet with the next day and "towards evening I shall go home" (p. 120).

Palmer asked Kamiakin to speak, and he said he had nothing to say. Palmer also asked if Young Chief or Peopeo Moxmox spoke for the Umatillas. He got no response to the inquiry, but Owhi, a chief of the Yakimas responded. It was Owhi who gave the most eloquent and articulate statement of the Indian relationship to the land. He said:

Is the earth before the day or the day before the earth God was before the earth, the heavens were clear and good and all things in the heavens were good. God looked one way then the other and named our land for us to take care of. God made the other. We did not make the other, we did not make it, he made it to last forever. It is the earth that is our parent or it is God is our elder brother. This leads the Indians to ask where does this talk come from that you have been giving us. god made earth and it listens to him to know what he would decide. The almighty made us and gave us breath; we are talking together and God hears all that we say today. God looks down upon his children today as if we were all in one body. He is

going to make one body of us; we Indians present have listened to your talk as if it came from God. God named this land to us that is the reason I am afraid to say anything about this land. I am afraid of the laws of the Almighty, this is the reason I am afraid to speak of the land. I am afraid of the Almighty, that is the reason of my heart's being sad: this is the reason I cannot give you an answer. I am afraid of the Almighty. Shall I steal this land and sell it? (pp. 120-121)

Owhi also indicated that he could not give a direct answer because many of the Yakimas who would be affected were not in Council.

The government negotiators used persuasion as they attempted to answer the Indian objections. They asserted that God would not be angry with them if they sold the land, that the price of the land was more than it was worth, and that the Indians would be adequately taken care of on the reservation.

Palmer was direct and abrupt, countering most of the specifics of the Indian argument. It was generally caustic in tone, perhaps indicating Palmer's frustration with the slow progress of the Council and the general opposition of the Indians.

Responding to Young Chief and Peopeo Moxmox, Palmer asked,

Can we bring these saw mills and these grist mills here on our backs to show these people? Can we bring these blacksmith shops, the wagons and tools on our back to show them at this time? Can we cause farms of wheat and of corn to spring up in a day that they may see it? Can we build these school houses and these dwellings in a day? Can we bring all the money that these things will cost that you may see it. It would be more than all the horses of any of these men could carry. (p. 121)

But at this point Palmer turned more conciliatory, saying, "We come first to see you and make a bargain. . . but whatever we agree to give you you will get" (p. 121).

Palmer told the Indians that they were accepting bad counsel from those who were telling them not to accept the proposal. He said he and Stevens had come to offer a fair proposal, but that they

(the Indians) had refused to "receive the light" (p. 121). He attempted to lessen the Indians' value for the land, indicating that he loved the land of his birth, but had travelled a great distance to the Council, while the Indians were being asked to move only a short distance to the new reservation. He added that much of the land was parched plain, and then rhetorically asked why the government was willing to pay so much for this poor land. "It is because our Cheif has told us to take care of his red people" (p. 122). Palmer also reiterated the argument that there was bloodshed when the Whites and Indians lived together and suggested that the President had sent Stevens and himself to make the treaties before too many Whites were in the territory.

Palmer concluded in his competitive stance by pressing for an agreement on the following day. He indicated that the Commissioners and the Nez Perce were in agreement and that the agreement would be perfected the following day. He added that he would feel sorry for the others if they accepted bad counsel and did not share in the benefits of the treaty. It is obvious that Palmer was using the proposed treaty with the Nez Perce as a strategic weapon to get agreement from all the tribes. Palmer made one last persuasive attempt to rally support,

We want to help you to put food into your lodges and homes. We want to help you to get clothes and blankets to cover you from the storm; we want to help you to get arms and ammunition to kill game: we want to open your eyes and give you light that you may see. We want to make you a good people. (p. 122)

Camaspello, an aged chief of the Umatilla band, said he was opposed to the proposal because the land being offered was mountainous. He added that he had worked dilligently to build his garden and home,

as he had been taught by the missionaries, and then he asked, "Will God think nothing of the Labor I have bestowed on my garden?" (p. 123).

Howlish Wompoon, a chief of the Cayuse, was bitter in his denunciation of the proposal and the Commissioners. He told them that he had listened without impression and that he did not understand the speeches. He said he knew the Nez Perce had given up their lands and that the Commissioners wanted the other tribes to go there. Then he bitterly added, "Your words since you came here have been crooked" (p. 123).

Palmer responded to Camaspello, but ignored the remarks of Howlish Wompoon. He reiterated the original offer that any person who vacated improved property had the choice of having the same improvements provided on the reservation or they would be paid in cash. He added that the Commissioners were not asking the Indians to move where they would serve and he added, ". . .if there is not good land enough in the reservation to make them farms we will make it larger" (p. 123). For the first time, Palmer was indicating that there was some flexibility in the government proposals and evidence of a search process for an acceptable alternative.

While Palmer was offering some flexibility, Stevens did not take the same position. He told the Council that Palmer and he had talked straight and asked, "Have all of you talked straight" (p. 123). He added that Lawyer and his people had and "their business will be done tomorrow" (pp. 123-124). He then launched into an attack on the other chiefs, asking them where their hearts were. When he got to Kamiakin he said,

And Kam-a-sh-kan the great chief of the Yakamas has not spoken at all. His people have had no voice here today. He

is not ashamed to speak--he is not afraid to speak--then speak out. (p. 124)

It was an obvious taunt to force Kamiakin to respond in some way. It also, it would seem, indicated that Stevens was frustrated by Kamiakin's refusal to speak. When Stevens responded to Owhi's statement that he could not speak because many of his people were not present, Stevens became belligerent, saying, "Owhi says his people are not here. Why did he promise to come here to hear our talk" (p. 124). He finished his tirade telling the Indians that he expected to hear from the Indians and "the papers we will have drawn up tonight. You can see them tomorrow. The Nez Perce must not be put off any longer, their business must be dispatched" (p. 124).

Palmer followed Stevens and attempted to establish a more pleasant mood for the Council when he quoted Peopeo Moxmox as saying that they had met as friends and that they should not say anything that was bad. Peopeo Moxmox was quoted as saying,

We have been friends a long time. I hope we shall always remain friends, and as brothers. When we part we will part as friends. Then let us act as friends and as wise men. (p. 124)

Palmer's efforts seemed to pay off as Five Crows, a Cayuse chief, called for some positive action. He said;

Listen to me you Cheifs. We have been as one people with the Nez Perces heretofore; this day we are divided. We the Cayuses, Walla Wallas, and Kam-a-ah-kans people and others will think over the matter tonight and give you an answer tomorrow. P. 124)

With that the Council session ended for the day with pleasantries being expressed by Palmer and Stevens.

Day 11, Friday, June 8, 1855

It appeared that an agreement would be reached during this session

as the government negotiators presented a new proposal calling for a separate reservation for the Cayuse, Walla Wallas and Umatilla bands. The Indians responded positively to this proposal, but then Looking Glass, an aged chief of the Nez Perce, was reported returning from the buffalo country and the session ended without official acceptance.

As we look at the actions of the negotiators during this session we see that the emphasis is on search and strategy and only limited time is spent on persuasion. Also, we see for the first time the cooperative mode of interaction. The government offer of the third reservation was a strategic act. That is, the government talked about manipulating an event under its control.

The reservation was to be located on the headwaters of the Umatilla River, which was at the base of the Blue Mountains. It is uncertain exactly how and when the Commissioners decided the scope of the reservations. The official record does not make notation of the new offer until it was presented in Council on Friday afternoon. However, Stevens indicates that "conferences were had with the cusant chiefs separately, the proposition of a reservation in their own country was broached, and the whole ground of the treaties again gone over and fully discussed" (Stevens, 1900, p. 53). Palmer and Stevens may have met with the chiefs individually on Thursday night, or it may have been Friday morning, as the Council, according to Kip, did not begin until 3 p.m. (Kip, 1897, p. 23) Also, Peopeo Moxmox said that he had talked with Palmer in the morning, when he discussed the offer later in Council. In any event, the deal had been partially struck during the unofficial negotiations.

It is obvious that the government negotiators went through the search process prior to entering the new proposal into the negotiations.

In effect, the negotiators realized that they were not going to get a treaty if they maintained the original proposal. As a result, they searched for alternatives that would give them their ultimate goal--peace in the area and open lands for settlement by Whites. The additional reservation was an alternative invented by the government negotiators which was acceptable to the Indians and preferable to the other available outcome--no treaty. The evidence suggests that the search process was triggered by the rejection of the original proposal. As long as the government negotiators did not get a direct response from the Indians they continued to press for acceptance of the original proposal. When the Indians finally responded, and when it was totally negative--with the exception of the Nez Perce--the Commissioners began to search for some new alternative. It would seem, therefore, that the rejection of offers is necessary to create search. Also, in this case, it would seem that the rejection must be understood and accepted by the parties making the offer. It may also be argued that the intensity and certainty of the rejection may help to trigger the search process more rapidly.

There was limited use of persuasion. Stevens stressed the amount of money that was going to be paid to the Yakimas for their land, indicating that the offer was a good one. Therefore, he was attempting to alter the Yakima's perception of the proposal. It should be noted here that the creation of the third reservation did not affect the Yakimas directly, inasmuch as they had been promised a reservation of their own in the original proposal. However, the creation of the additional reservation precluded the possibility of any other tribes being placed with them.

During this session we also see the government negotiators and the Indians acting in the cooperative mode for the first time. There

is an accurate assessment of the alternatives identified and the preferences among the alternatives and the self-perceived importance of the issues. In addition, there was a general de-emphasis on the importance of the interpersonal relationships, additional offers were transmitted, and there was some tentativeness to their presentation. Specifically, the Indians were willing to tell the government how they felt about specific areas for reservations and they honestly indicated their preferences for the location of homes and farms, thus indicating accurate assessment among alternatives open to them. For the government's part, the willingness to transmit a new offer indicates less rigidity of position. The same lessening of rigidity is shown in the offer to have the Yakimas negotiate a fair price for their lands. The dropping of the threat that Indians suffered when integrated with Whites is also a cooperative strategy.

The key to ending the stalemate was the decision by the Commissioners that an additional reservation would have to be developed. The offer was an admission that the government negotiators could not attain their first preferred alternative. Analogously, the Indian decision to accept the new offer indicates that they had decided that they could not attain their first preferred alternative--no reservation and no influx of Whites into the area. Therefore, we can look at the agreement as the saddle point, the point where each side could accept the agreement.

Stevens opened the Council saying, "My friends, judging from your faces, I think you see your way clear," and then went on to say, "We expect that Young Chief, that Pee-pee-mox-mox and Kam-a-ah-kan will speak now, and we hope that with them the business may be concluded" (Slickpoo and Walker, 1974, p. 123). A change in Indian attitude was



evident in the first response by Young Chief. He said, "We have been tiring one another for a long time" (p. 125), and then went on to tell the Commissioners that the reason the Indians had objected was that they did not understand and the reason they did not understand was ". . .that you selected this country for us to live in without our having any voice in the matter" (p. 125). He continued on in a conciliatory tone, indicating that he would show "lands that I will give you, we will then take good care of each other" (p. 125). He added, "we will see when you make another offer whether we can agree to it. Wait, we may come to an agreement when we see your offer. . ." (p. 125). As he concluded he said, "I think the land where my forefathers are buried should be mine; that is the place I am speaking for" (p. 125). Young Chief was aware that another offer was coming.

Palmer immediately unfolded the government's new proposition. He said, "We have thought of your words," and continued, "We desired first to have you go all to one place, but to show you that we wish to do you good I will make you another proposition" ( p. 126). He then detailed the reservation and other services that were to be provided by the government in return for the Indians moving onto the reservations. The proposal was similar to the earlier proposals in that it included the sawmills and flour mills, schools, a hospital and payments to the Chiefs. Palmer also attempted to "sweeten the pot" for Peopeo Moxmox, indicating that he would receive a \$500 payment, three yoke of oxen, a wagon and two plows. Palmer said these additional gifts were to be given because Peopeo Moxmox was the only chief who would have to move from the land he currently occupied.

After outlining the provisions, Palmer pushed for the acceptance of the new proposal. He said,

I have offered you more than your country is worth-- more than you know how to count. How long will it take you to decide? If you say it is good the papers can be arranged tonight, tomorrow they can be signed; we would then give you these goods and you could go home with a good heart. (p. 127)

Peopeo Moxmox spoke briefly, indicating that he had accepted the offer, and that the deal had been struck in the earlier negotiations. He said,

I have already spoken all that I have to say--I and Gen. Palmer this morning. They have already written all that we have said. I spoke this morning about having a little house, a place to sell my cattle on the other side of the Columbia where my cattle range for a trading post when the Americans pass. (p. 127)

Palmer responded, indicating that he had agreed to all of the provisions.

Everything seemed to be moving toward agreement, but then, as Kip put it, "suddenly a new explosive element dropped into this little political caldron" (Kip, 1897, p. 23). A runner came into Council indicating that Looking Glass was coming to Council after a long trip into the buffalo country. Looking Glass was considered the war chief of the Nez Perce, according to Kip (p. 23). The official record does not indicate the same excitement as Kip, but rather shows Stevens acknowledging the approaching arrival of Looking Glass and moving on.

Stevens pressed for acceptance and asked Skloom, one of the Yakima chiefs, to respond. Skloom questioned the price of the land to be given up by the Indians. He indicated that some land had been sold by Whites for \$800 per mile but that other lands were sold for \$40 per mile. He concluded, "My friends, I have understood what you have said; when you give me what is just for my land you shall have it" (Slickpoo and Walker, 1974, p. 128). Stevens replied that the amount to be paid to the Yakimas would be a good price. He indicated that some lands had

been sold for \$800 per mile but that price had not been in the Yakima's country. Stevens then urged Skloom, Kamiakin and Owhi to make their own proposal and indicate where they wanted their homes to be built. With the approach of Looking Glass the session ended.

When Looking Glass arrived at the Council he soon made his displeasure known. He objected to the sale of the Nez Perce lands. He said,

My people, what have you done? While I was gone,  
you have sold my country. I have come home, and there  
is not left me a place on which to pitch my lodge. Go  
home to your lodges. I will talk to you. (Stevens, 1900,  
p. 54)

Stevens reported that he consulted with Lawyer following the session and he (Lawyer) indicated that Looking Glass would calm down and accept the treaty in a day or two. At the same time, Stevens reported (p. 55) that Lawyer told him that the return of Looking Glass would preclude reducing the size of the Nez Perce reservation, which would be reduced because it was originally scheduled to be the home of the Cayuses, Walla Walla and Umatillas, and they now had their own reservation. Although Stevens records this (p. 55), the official record does not indicate that this was taken up in Council. In any case, the final reservation was the same as originally offered. There has been speculation that Lawyer and Looking Glass might have been involved in a conspiracy to force the government to leave the Nez Perce reservation in its original size. This speculation is disputed by Josephy (1965, p. 329). The fact that Looking Glass had been in the buffalo country for nearly three years makes it unlikely that the Lawyer-Looking Glass conspiracy theory has any merit.

Day 12, Saturday, June 9. 1855

What had taken nearly two weeks to put together now seemed to

be coming apart. With the return of Looking Glass, the authority of Lawyer as the head chief of the Nez Perce was in question, and with it, the Nez Perce support for the proposed treaty. Looking Glass continued to oppose the treaty and offered his own suggestions for the territory to be included in the reservations and gained the support of the Cayuse. As a result, the signing of the treaty had to be put off until Monday.

During this twelfth day of bargaining we see that the Commissioners spend the bulk of their time defending themselves from Looking Glass' questions and reiterating government commitments. In addition, they pressed for an end to the Council, which, of course, required the signing of the treaties. In the case of Looking Glass we see a good deal of search and strategy activity, as well as a concerted effort to change the procedures of the bargaining.

The Commissioners outlined positions that had already been agreed upon and restated details of the treaties and assured the Indians that the commitments included would be carried out. There was very little persuasive action on the part of the Commissioners. Although they were attempting to get Looking Glass to accept the treaty, they did not push the values of the treaty to him, but simply indicated that it had been agreed to by others. An exception was Palmer's explanation of the reasons for hurrying to get the treaty signed. He used the example of gaining peace with the Blackfeet to convince Looking Glass that there was value in the work that was underway.

Looking Glass searched for additional alternatives and took the strategic action of suggesting additional territories for the reservations. He was not accepting the initial offer, but with changes in the reservation boundaries, the treaty would be acceptable. The lines

proposed by Looking Glass outlined the territories the various tribes claimed as their homelands. He was asking the government to buy his homeland and then return it to him in the form of the reservation, including all of the promised improvements and services. The point was not missed by Palmer.

Perhaps the most interesting aspect of the day's bargaining was the battle for control of the procedures. From the perspective of Beisecker's model, we can see that the Council returned to a highly competitive mode with the arguments between Looking Glass and the Commissioners. Central to the procedure battle was Looking Glass' argument that the President should first agree with the particular treaty and then the Indians would have the right to accept or reject it. The Commissioners had been arguing throughout the Council that the procedure would be that the Indians sign the treaty, and then if the President approved, it would be executed. When Looking Glass suggested the reversal in procedure, Stevens said it "cannot be any other way" (Slickpoo and Walker, 1974, p. 132). Stevens and Looking Glass understood that the party that had the last chance to accept or reject the treaty had the upper hand. The winner in this case would seem to be the Commissioners as they were not forced to accede to Looking Glass' demand for the new procedure. Other evidence of the competitive mode were continued demands of the Commissioners to have the treaty signed as it had been agreed upon and the outright rejection of Looking Glass' new reservation lines.

Stevens opened the Council by announcing that the Commissioners and the Yakimas had reached an agreement. With the announcement Stevens indicated what was included in each treaty document and told the Council that the provisions, except for the amount of payment, were the same for

each of the three reservations. He said that the original sum of \$350,000 that had been proposed for the reservation that included all of the Nez Perce, Walla Walla, Cayuse and Umatillas had been split because of the change in proposals. The Nez Perce were to now receive \$200,000 and the Walla Walla, Cayuse and Umatillas were to receive \$150,000. Stevens indicated that the Yakimas were about the same number as the Nez Perce, and therefore would receive the same amount as the Nez Perce-- \$200,000.

Stevens outlined the items that were contained in the treaty, indicating that all of the treaties had the same components. These components were:

1. The names of the Indians who signed the treaty.
2. The description of the lands originally held by the Indians.
3. The reservations onto which the Indians would move.
4. The timetable for movement onto the reservation-- the Indians would have two to three years, as the President and Congress had to approve the treaty.
5. The Indian right to gather berries and roots, fish and kill game was assured.
6. The payment schedule, including the salaries, houses and acreages for the Chiefs.

Then Stevens added three additional provisions that had not previously been mentioned in Council. These provisions may have been discussed when he met with the chiefs in private, as no objection was voiced.

These provisions were:

1. If any Indian got into debt, the payment could not be taken to satisfy the debt.
2. The Indians promised to be friendly to each other and to the Whites.
3. The Indians were not to drink whiskey and were to do all they could to prevent others from drinking it. The penalty for this would be that the annuities would not be paid.

These provisions were consistent with the government policy of protecting the Indians, even though we would certainly label them as

paternalistic.

Stevens asked if anyone would like to have the treaties read, and with this Looking Glass responded. He challenged the Commissioners, arguing that they had no right to disrupt the lives of his people and that he was the leader of the Nez Perce people. He stressed the Indian relationship to the land, and the role of the lands as a gift from God. He told the Commissioners that he had not gone to the President's land to tramp on it and that "I do not expect anyone to tramp on mine" (p. 130). He followed with a parallel argument when he questioned, "Why do you want to separate my children and scatter them all over the country? I do not go into your country and scatter your children in every direction" (p. 130). Then he asserted his leadership,

It is for me to speak for these people my children, that is what I say. The Big Chief speaks to his children and I also speak to my children and tell them what to do; and that is what we are talking about; you see where the sun is. I never go where the Whites are and mix with them and talk with them. I am already named from above, by the Supreme Being, my heart is with the country, I live upon and head, that is the reason my heart tells me to say where my children shall go. (p. 130)

He continued to spar with the Commissioners, asking how long the agent would stay and if the agent would keep the Whites out. The Commissioners assured him that the agent would stay in the country, "as long as there are people" (p. 130), and that the agent would keep the Whites out.

What occurred next is uncertain, but succeeding events would indicate that Looking Glass took a strategic action, drawing the line on the maps that called for the Nez Perce reservation to be all of the lands that the Nez Perce originally claimed as their homelands. Looking Glass asked the Commissioners, if the agent would keep the Whites out? Palmer said, "certainly" (P. 130), but this did not placate Looking Glass as he

responded:

It is not for nothing I am speaking to my chiefs, it is to talk straight, it is just as if I were to see the President and talk to him it would be straight, that is just what I want, that you talk straight from the President. Look at my talk. I am going to talk straight. When I hear your talk it goes to my heart. I am not like those people (pointing about) who hang their heads and say nothing. We will have a short talk, not a long one. (pp. 130-132)

The official record indicates that there was silence for several minutes, and then Young Chief spoke, supporting Looking Glass, saying "That is the reason I told the Governor to let it be till another time, till we know what the Looking Glass would say" (1974, p. 132). Stevens indicated that the Commissioners would wait to hear from Looking Glass. He soon was speaking again, and this time, in what seemed to be a show of support for Young Chief, he outlined a new and bigger reservation in the Cayuse country, and then asked what was the time frame for building the mills on the reservations. Stevens replied that the mills would be built "the year they move on, when the President approved the treaty" (p. 132).

Looking Glass then attempted to change the procedures, telling Stevens,

You said you would send this talk to the President and if he says yes, then it is right. Yes and I will listen what the President says and if he says yes, then we will talk. (p. 132)

Looking Glass was telling the Commissioners that he wanted the procedure reversed. Stevens repeated that everything agreed to in Council would be sent to the President and argued that some type of agreement had to be reached before anything could go to the President, and then he said, "I ask Looking Glass to look upon it and see that it cannot be any other way" (p. 132). Looking Glass dropped the argument.



Palmer attempted to support Stevens, indicating that the Yakimas, Walla Wallas, Cayuse and Umatillas had accepted the treaty. He charged, "If we change the line to where he says, we would have to stay here two or three more days to arrange the paper" (p. 133). Then he pressed for acceptance, rebuking the Indians, "Shall we say one thing today and another thing tomorrow?" (p. 133). Palmer indicated that the lines shown the day before should be followed, and no more time wasted. Evidently there was a miscommunication as Looking Glass replied, "Yes! Let it be so" (p. 133).

Looking Glass continued to oppose the action, telling the Commissioners that he had expanded the lines of the reservations because the people had many horses and cattle and needed the extra space. He then told them that if they would accept the new lines, he would agree to the proposal. Stevens and Looking Glass continued to argue over the proposal and then Stevens attempted to push the Council to an end, asking for the Indians to sign. Looking Glass responded as if the agreement included the new lines of the reservation. "I said yes to the line I marked myself, not to your line" and Stevens said, "I will say to Looking Glass, we cannot agree" (P. 134).

Palmer once more came to Stevens' support, saying, "I would say to the Looking Glass, what use is it to purchase his country and give it all back again?" (p. 134). Then, perhaps frustrated by the failure to sway Looking Glass, Palmer said, "We do not come here to talk like boys. . . shall we like boys say yes today and no tomorrow?" (p. 134), and then he stressed that Peopeo Moxmox, Young Chief and the Nez Perce had agreed to the original lines. Young Chief fired back, "The President is your Chief and you do what he tells you. That is the reason the Looking Glass marked

out the line he wanted: He is the head chief" (p. 135). Looking Glass added that he did not see what the hurry was to reach a decision.

Palmer once more attempted to persuade Looking Glass by indicating that he and Stevens had other people to see, including the Blackfeet so that there would be peace in the buffalo country. Here, Palmer was pointing directly to the benefits for Looking Glass. Looking Glass had had his horses stolen on his most recent trip to the buffalo country and had to spend a good deal of time and kill at least two Blackfeet in order to get them back.

In one last effort to get the treaties signed, Palmer changed his tactics. Palmer took the position of bargaining from weakness. He told the Council,

If we were to say yes to his line our Cheif would say No! But if we shall say the line we have marked we believe our Cheif will say yes. Which will you do, take that line or have it all thrown away? Let us act like wise men and not part without doing good for each other.  
(p. 136)

Thus, Palmer was telling the Indians that he could not agree to the new lines proposed by Looking Glass because the President would not approve.

Looking Glass then said he would say no more today, and Stevens evidently felt that it would be fruitless to argue any longer. He indicated that the treaties for the Yakimas, the Walla Wallas, the Cayuse and the Umatillas were ready and they could be signed that night if the chiefs wished. With that he called the next session for Monday morning. As the week ended, progress had been made in developing a treaty, but the outcome was uncertain as Looking Glass led the opposition.

Following the close of the official session on Saturday, June 9, Peopeo Moxmox of the Walla Wallas and Kamiakin of the Yakimas led the chiefs of their respective tribes in signing the treaties that affected

them. The treaties were signed as the Nez Perce and Cayuse continued to discuss the issue among themselves.

Stevens wrote in his diary that Lawyer came to him later in the evening, and that Lawyer had berated him for not sustaining him as head chief of the Nez Perce. Stevens (1900) reported that Lawyer said,

When he (Looking Glass) said, "I, the head cheif, have just got back: I will talk; the boys talked yesterday," you might have replied, "the Lawyer and not you, is the head cheif. The whole Nez Perce tribe have said in council Lawyer was the head cheif. Your faith is pledged. You have agreed to the treaty. I call upon you to sign it." Had this course been taken the treaty would have been signed. (p. 56)

Stevens responded to Lawyer, who had left the Council session during one of Looking Glass' speeches, that he (Stevens) believed Looking Glass' speeches were the "outpourings of an angry and excited old man, whose heart would become all right if left to himself for a time" (p. 56). And then Stevens indicated that he believed that Lawyer's departure was a signal that "nothing more can be done today" (p. 56). Finally, Stevens told Lawyer that it was his job to intervene if that was necessary, but that Stevens would sustain Lawyer as the head chief of the Nez Perce. He told Lawyer,

Your authority will be sustained and your people will be called upon to keep their word. You will be sustained. The Looking Glass will not be allowed to speak as head cheif. You, and you alone will be recognized. Should Looking Glass persist, the appeal will be made to your people. They must sign the treaty agreed to by them through you as head cheif, or the council will be broken up and you will return home, your faith broken, your hopes for the future gone. (p. 57)

With that assurance Lawyer left and returned to his camp where the Nez Perce were holding a council among themselves. Stevens reported that the Nez Perce determined "that the position of Looking Glass was to be second to that of Lawyer" (p. 57).

Day 13, Sunday, June 10, 1855

No Council session was held as the Commissioners observed Sunday, as did a number of the Nez Perce bands.

Day 14, Monday, June 11, 1855

It is unclear what occurred between Lawyer's visit on Saturday night and the opening of the Council session on Monday. But, when the Council session opened Looking Glass had dropped his opposition and sat next to Lawyer. Perhaps as plausible an explanation as any can be found in the observation of Kip (1899). He wrote in his diary,

. . .he asked the chiefs to come forward and sign the papers. This they all did without the least opposition. What he has been doing with Looking Glass since last Saturday, we cannot imagine, but we suppose savage nature in the wilderness is the same as civilized nature was in England in Walpole's day, and "every man has his price." (p. 26)

Extant documents do not indicate that Looking Glass was given special inducements to sign, but the opposition was gone and the treaties were signed by the Nez Perce and the Cayuse. Lawyer signed first for the Nez Perce, followed by Looking Glass and the other head men of the bands.

There was no bargaining during the final day of the Council. Stevens called for the signing. The Indians signed and then the Commissioners spoke of their appreciation and a few of the Indians made brief remarks of acceptance and goodwill. Notably, Lawyer and Looking Glass did not speak.

Thus, the Council adjourned sine die.

## CHAPTER FIVE

This chapter provides an analysis of the success and failures of the parties to the negotiations. We shall base the analysis on the final documents negotiated, even though we know the agreements were not carried out. We shall not consider whether the agreements should or could have been carried out.

We shall analyze the successes and failure of each of the parties to the negotiation and then consider the implications of the results. The criteria for success in bargaining will be the achievement of the event or events for which a party held high utility. That is to say that any party gaining security for an event of high utility has achieved a relative amount of success in the bargaining process.

### The Government Negotiators

The government negotiators were relatively successful in this Council, despite the fact that they were forced into conceding an additional reservation for the Walla Walla, Cayuse and Umatilla bands. As we indicated earlier, the event of highest utility for the government negotiators was the signing of a treaty that would open large areas for White settlement and at the same time maintain peace with the Indians so that the settlement would not be interrupted by war and threats of war. The negotiated treaties gave the United States government title to 60,000 square miles of territory that had

previously been under Indian control (Slickpoo and Walker, 1974, p. 143). Under the treaty, the Nez Perce had agreed to go onto a reservation of about 5,000 square miles; the Walla Walla, Cayuse and Umatilla bands, a reservation of about 800 square miles; and the Yakimas and other tribes, a reservation of about 1,900 square miles.

If there was a failure on the part of the government negotiators, it was their failure to get the Walla Walla, Cayuse and Umatilla bands to move onto the reservation in the Nez Perce country. This outcome, of course, was the government's first offer.

The key to the success of the government negotiators would seem to have been a combination of search and strategy. The search was for the third reservation for the Walla Walla, Cayuse and Umatilla band. The commitment was their willingness to enter the reservation into the negotiations. Stevens and Palmer spent the first eight days of the Council attempting to get the Indians to accept the offer of two reservations. Despite the commitments of mills, teachers and supplies, and other persuasive attempts, the Indians did not accept the offer of the two reservations, and after talking among themselves on the ninth day, they returned to Council on the tenth day and vehemently rejected the proposals for the two reservations. Following that rejection the government negotiators searched for the additional reservation and when it was offered the Indians accepted.

Once the third reservation was entered into the negotiations, there was no attempt by the government negotiators to use additional strategy or persuasion. To the contrary, the government negotiators simply entered the offer into the negotiations, and did not attempt to exaggerate the benefits of the offer, a practice of competitive

behavior which the negotiators had attempted when introducing earlier offers.

Further evidence of the importance of the third reservation comes from the behavior of the Indians following the return of Looking Glass. If, as Stevens has argued, the key to gaining a treaty was the support of the Nez Perce, the negotiations should have been disrupted when the Nez Perce became splintered on Looking Glass' return. Despite the fact that the Nez Perce support seemed in doubt, the other tribes continued to live up to their verbal agreement to accept the treaty with the third reservation. It would seem, therefore, that the third reservation, not Nez Perce approval, was the key to the acceptance by the other tribes.

Another strategic effort of the government negotiators--the threat that the Indians would be wiped out if White-Indian interaction was not controlled--may have had an impact on the negotiations. Slickpoo and Walker (1974) argue that:

In spite of the statements made by the Indian leaders, they really signed the treaties because they were told that their lands would be overrun by white settlers if they refused the treaty proposals. Their past experience with missionaries, traders, and settlers made them believe that this was a real possibility. (pp. 142-143)

The argument, however, is left unsupported by documentation.

There is no extant evidence to indicate that the Indians were affected by the government negotiators' attempts at persuasion. Although Stevens and Palmer made extended arguments about the value of the mills, education and other services, there is no evidence to indicate that this had any measurable impact on the Indians. As we have indicated earlier, the negotiators spent the first eight

days attempting to establish the value of their offer, but these offers were rejected by the Indians, with the exception of the Nez Perce.

From the evidence cited above, it would seem that the critical event leading to the government success was their willingness to search for an additional alternative--the third reservation.

#### The Nez Perce

The Nez Perce situation is somewhat more complicated than the government situation, but the evidence indicates that the Nez Perce were very successful in Council. However, this success may not have been of their own making. It would seem that the Nez Perce people and Lawyer, their leader, may have had different utilities. The bulk of the Nez Perce people held a high utility for the land, and this position is well illustrated in the Council speeches of Looking Glass on his return from the buffalo grounds. Lawyer, on the other hand, may have been more interested in retaining his position as head chief of the Nez Perce. We shall develop these arguments below.

In the final treaty the Nez Perce received a reservation of about 5,000 square miles, and the territory included most of the lands to which the Nez Perce had laid claim to prior to the Council. To this extent, one could argue that the Nez Perce were successful in the Council. However, as we analyze the proceedings, we see that the final outcome was largely the result of the rejection of the initial offers by the Walla Walla, Cayuse and Umatilla. It will be remembered that the initial government offer placed these tribes on a joint reservation with the Nez Perce in the Nez Perce



country. It was only after the vehement rejection of that offer by the Walla Walla, Cayuse and Umatillas that the third reservation was proposed. Lawyer, as leader of the Nez Perce, did not object to the initial offer and even offered to accept it. If the other tribes had not objected and all of the tribes had been placed on the single reservation, the Nez Perce would have fared significantly less well in Council.

Although Lawyer seemed to be a dupe of the government negotiators through much of the negotiations, he did make one significant strategic move which assured the Nez Perce the large area included in the final treaty. After the government negotiators had offered the separate reservation for the Walla Walla, Cayuse and Umatillas, Stevens told Lawyer that the government would now have to reduce the size of the original reservation suggested for the Nez Perce country. Lawyer responded by telling Stevens that Looking Glass would not accept a reduction and that the entire deal would come apart if the government attempted to reduce the size of the reservation. The government apparently did not wish to risk the possibility of not getting the treaty with the Nez Perce and left the original offer intact. As we have indicated earlier, there are some historians who have argued that Looking Glass and Lawyer may have been in conspiracy here, but historians now discount this theory.

Walker (1968) argues that Lawyer was an "acculturational opportunist" (p. 45), and used the Council to assure his position within the tribe. There is evidence to support this position in the work of Stevens (1900) where he indicates that Lawyer left the Council when Looking Glass began to speak and also that Lawyer came to his (Stevens)

tent later in the evening demanding that he (Lawyer) be recognized as the leader of the Nez Perce by the government negotiators (pp. 55-56). As a result of these arguments, some historians have branded Lawyer as a traitor to his people.

There is, however, a second argument, which places Lawyer in a somewhat more positive light. This argument follows the line suggested earlier in this chapter by Slickpoo and Walker, and that is that Lawyer understood what happened when Indian-White interactions were left uncontrolled--the Indians suffered and died. It is likely that Lawyer had heard and understood these arguments, as he made reference to this in his speech on Thursday, June 7. If Lawyer truly believed that the Nez Perce would be destroyed if they did not have a treaty, then it may be argued that he showed great wisdom in working toward a treaty. However, his willingness to accept the Walla Walla, Cayuse and Umatillas on the same reservation casts doubt on his motives and/or his strategic wisdom.

Although it may be argued that Lawyer's performance in Council was ambiguous, it cannot be denied that the Nez Perce fared well in the final outcome. They maintained nearly all of the lands they had laid claim to and had received promises of money, services and protection from intrusion by the Whites. The key to this success would not seem to lie with the Nez Perce actions, but with the Walla Walla, Cayuse and Umatilla rejection of a joint reservation.

#### The Other Tribes

Perhaps the most successful of the bargainers at the Council were the leaders of the Walla Walla, Cayuse and Umatillas, especially

Peopeo Moxmox, Young Chief and Owhi. It was their rejection of the government's proposal of a joint reservation for them in the Nez Perce country that triggered the search for the additional reservation.

In their speeches rejecting the government's original offer they spelled out their utilities, indicating that the highest value was for lands in their home country. In doing so, they provided the government with the option that would allow for a successful negotiation. When the government considered their objection and came forth with an offer that included a reservation in their home country, the Walla Wallas, Cayuse and Umatillas accepted. Although these tribes gave up substantial portions of lands they claimed prior to the Council, the reservation in their home country was of substantially greater value than a shared reservation in the Nez Perce country.

The key to the success of the Walla Wallas, Umatillas and Cayuse was their strategic move of rejecting the offer of the government. Their unified rejection, strongly issued in Council, convinced the government negotiators that they could not reach agreement on the terms originally offered. As a result, the government negotiators returned with the additional reservation and dissolved the deadlock. This change was beneficial to the Walla Wallas, Cayuse and Umatillas, and also the Nez Perce.

As we look at the completed treaty it would seem that each party to the negotiations was relatively successful. That is, they gained some of the events which they held in highest utility. Obviously, the Indians would have preferred to have been left alone, However, this goal was unrealistic and unattainable in light of American policy of that period. We might argue that the policy supporting

settlement of the area was wrong, but as long as that was the policy, the Whites were going to continue to encroach on the Indian lands.

#### Implications

Our analysis of the bargaining in the Council sessions indicates that this was truly a mixed-motive situation. That is, each of the parties to the bargaining had the opportunity to gain and lose from the outcome of the interaction.

This runs counter to many popular perceptions that the treaty bargaining sessions were shams in which the government negotiators simply told the Indians that certain agreements were going to be reached or the Indians were going to be exterminated. The manner in which the government negotiators controlled the conduct of the Council leaves little doubt that they felt that they were bargaining from a position of superiority. However, our analysis shows that the Indians did not allow this perceived position of power to control events. The Indians did reject the original offers, and did force concessions from the government negotiators. In addition, Looking Glass attempted to gain control of the bargaining procedures when he tried to force Stevens to take the treaty to the President for his signature before having it submitted to the Indians for their approval. Stevens rejected that move, but the action on Looking Glass' part would indicate that the Indians understood the nature of the bargaining process and the advantage that was present with having the last option to sign. Obviously, the Indians were not totally powerless, uninformed parties to the negotiations.

The implication of this would be that the negotiated treaty

is a valid instrument for defining the relationship between the government and the various tribes which were parties to the treaties. Therefore, the questions concerning the relationship of the United States government to the tribes should not be couched in terms of the validity of the treaty and the treaty making process, but, rather the questions should be couched in terms of whether the provisions of the treaties were carried out by the signatory parties. We know, of course, that the provisions were not honored in total by any of the parties.

#### Suggestions for Further Study

The continuing questions about government-Indian relationships based on treaties signed over the past two hundred years provides a wealth of territory for additional study. It would seem that the additional study of treaty bargaining sessions would give light to the processes by which the agreements were reached. If we can analyze the processes in terms of the value structures present at the time of the negotiations we may be able to better understand why and how the particular agreements were reached.

It would also seem that the analysis that we have conducted here could also be applied to current bargaining situations. One of the frustrations of this study has been the absence of extant records to indicate what kind of thinking was going on in the minds of the Indian negotiators. A fruitful extension of this form of analysis would seem to be situations where the researcher can gain access to the attitudes of all parties as the negotiations are continuing. In this way the questions of utility could be answered more precisely. Also, questions related to perceived power relationships could be explored.

The research could be studies of on-going negotiations in the field, or in the experimental laboratories.

#### Final Note

We have seen that the Council at Walla Walla was a mixed-motive situation and that the models of Cohen and Beisecker were effective tools for analyzing the actions within the Council. We saw that the parties bargained to an agreement that gave partial success to all. The treaty was probably the best agreement the parties could have reached under the constraints of the situation. It could have served as the basis for a reasonable working relationship had the provisions of the treaty been carried out by all parties. The fact that the parties did not abide by the provisions of the agreement does not, however, downgrade the quality of the agreement. Any agreement can work only if the parties to it are willing to abide by its provisions.

We see that the Cohen and Beisecker models have served as effective modes for analysis of the processes by which the treaties were negotiated. The effectiveness of the tools in this analysis would indicate that they may be used as models for analyzing other mixed-motive bargaining situations. The strength of the Cohen model is its ability to explain the actions within the bargaining process. We have seen in this analysis that search, strategy and persuasion were essential ingredients in the bargaining process which led to the treaties. This analysis indicated that the model was largely correct in indicating the relationship between the bargaining processes. This is, persuasion is usually the first step, followed by strategy, and search comes only after persuasion and strategy have failed to produce an acceptable agreement.

The strength of the Beisecker model is that it conceptualizes the specific communication behaviors and strategies that are used in the search, strategy and persuasion modes of the bargaining process. Although Cohen's model adequately indicates how one might expect the bargaining process to unfold, it does not indicate how each of these procedures are manifest. Beisecker's model of cooperative and competitive behaviors provides the tool to analyze the specific communication actions of the actors in the bargaining process.

## BIBLIOGRAPHY

- Allen, A. J. Ten Years in Oregon. Ithica, N.Y.: Andrus, Gauntlett & Co., 1850.
- Beisecker, T. The Use of Persuasive Strategies in Dyadic Interaction (Doctoral Dissertation, University of Wisconsin-Madison, 1968). Dissertation Abstracts International, 1968, 29, 4576, (University Microfilms No. 68-15, 967).
- Beisecker, T. Verbal Persuasive Strategies in Mixed-Motive Interactions. The Quarterly Journal of Speech, 1970, 56, 149-160.
- Berkhoffer, R., Jr. Salvation and the Savage. Lexington: University of Kentucky Press, 1965.
- Brown, M. The Flight of the Nez Perce. New York: G. P. Putnam's Sons, 1967.
- Coan, C. F. The First Stage of Federal Indian Relations in the Pacific Northwest, 1849-1852. Oregon Historical Quarterly, 1921, 22, 46-89.
- Coan, C. F. The Adoption of the Reservation Policy in Pacific Northwest. Oregon Historical Quarterly, 1922, 23, 1-38.
- Cohen, M. D. Search, Strategy and Persuasion in Bargaining. (Doctoral Dissertation, University of California, Irvine, 1972). Dissertation Abstracts International, 1972, 33, 6446. (University Microfilms No. 73-11, 646).
- DeVoto, B., ed. The Journals of Lewis and Clark. Boston: Houghton Mifflin Co., 1953.
- Drury, C. M., ed. The Diaries and Letters of Henry H. Spalding and Asa Bowen Smith Relating to the Nez Perce Mission, 1838-1842. Glendale, Calif.: Arthur H. Clarke Co., 1958.
- Drury, C. M. Chief Lawyer of the Nez Perce Indians. Glendale, Calif.: Arthur H. Clarke Co., 1979.
- Duetsch, M., and Krauss, R. Theories in Social Psychology. New York: Basic Books, 1965.
- Fischer, C. S. The Effects of Threat in an Incomplete Information Game. Sociometry, 1969, 32, 361-398.
- Hall, E. T. The Silent Language. Greenwich, Conn.: Fawcett Publications, Inc., 1959.
- Ikle, F. C., and Leites, N. Political Negotiation as a Process of Modifying Utilities. Journal of Conflict Resolution, 1962, 6, 19-28.



- Josephy, A. The Nez Perce Indians and the Opening of the Northwest. New Haven: Yale University Press, 1965.
- Kip, L. The Indian Council at Walla Walla, in Sources of the History of Oregon. Eugene: Star Printing Co., 1897.
- Luce, R. D., and Raiffa, H. Games and Decisions. New York: John Wiley and Sons, 1957.
- McWhorter, L. V. L. V. McWhorter Manuscript Collection, Washington State University Library, Pullman, 201, No. 48.
- Pearce, R. Savagism and Civilization. Baltimore: Johns Hopkins Press, 1965.
- Prucha, P. American Indian Policy in the Formative Years. Lincoln: University of Nebraska Press, 1962.
- Rappoport, A. Fights, Games and Debates. Ann Arbor: University of Michigan Press, 1960.
- Schelling, T. Strategy of Conflict. New York: Oxford University Press, 1963. Original publication, 1960.
- Sioux City, Iowa, Journal, July 27, 1980.
- Slickpoo, A. P., Sr., and Walker, D., Jr. Noon Nee-Me Poo (We, the Nez Perces). Lapwai, Idaho: Nez Perce Tribe of Idaho, 1974.
- Spinden, H. J. The Nez Perce Indians. American Anthropological Association Memoirs, 1908, 2, 165-274.
- Stevens, H. The Life of Isaac Ingalls Stevens. 2 vols. Boston: Houghton Mifflin & Co., 1900.
- Trail of Broken Treaties Demands. Washington, D. C.: Mimeographed, 1972.
- Thibaut, J., and Kelley, H. H. The Social Psychology of Groups. New York: John Wiley and Sons, 1959.
- Von Neumann, J., and Morgenstern, O. Theory of Games and Economic Behavior. New York: John Wiley and Sons, 1964. Printing the third edition of 1953.
- Walker, D., Jr. Conflict and Schism in Nez Perce Acculturation. Pullman: Washington State University Press, 1968.
- Walton, R., and McKersie, R. A Behavioral Theory of Labor Negotiation. New York: McGraw-Hill, 1965.