



Left to right: Russell Means, Dennis Banks, attorney William Kunstler

The forgotten trial

—From Page 1

By Jerry Belcher
Examiner News Staff

ST. PAUL — It is called "The Wounded Knee trial" and it may very well be one of the most important trials of the decade.

What happens in the elegant high-ceilinged Court Room No. 3 of the Federal Building here may shape the future of hundreds of thousands of American Indians, from the Oglala Lakota living in a hovel in South Dakota to the displaced Hoopa lumberjack renting a scruffy flat in San Francisco's Mission District.

It may also affect the lives and attitudes of millions of other Americans regardless of status or ethnic background.

Yet the trial is being neglected, if not entirely ignored, by the media of America.

And the trial, with its promise of dramatic future fireworks, may end in a dreary fizzle next week. Because of a little "dirty trick."

Technically it is not the Wounded Knee trial but the people of the United States of America versus Dennis Banks and Russell Means.

Banks, 42, a Chippewa, and Means, 34, an Oglala Sioux (Lakota), are leaders of the American Indian Movement.

Each is charged with 10 federal felony counts, ranging from assault on a federal officer to larceny to conspiracy. If convicted they could be sentenced to a maximum of 80 years in prison and

—Turn to Page 22, Col. 1

\$80,000 in fines.

The charges arose from the occupation of Wounded Knee, a remote hamlet on the Pine Ridge Indian Reservation in South Dakota, by as many as 700 Indians between Feb. 27 and May 8, 1973. Two Indians were killed during those 71 days, 14 others wounded. One FBI agent and one U.S. marshal were wounded. The marshal is paralyzed from the waist down.

The trial began here last Jan. 9, and a jury of nine women and three men was seated. One man is of Mexican descent, there are no Indians, no blacks, no Asians on the jury. Half the jurors are under 30.

Since testimony began early this month, the prosecution, with Assistant U.S. Attorney Richard Hurd carrying the chief burden, has been laying the groundwork for its case against Banks and Means.

Twenty-seven witnesses have been on the stand. What has been established through them is what most literate Americans and many Europeans (who are intensely interested in the case) already knew:

That there were heavy exchanges of gunfire between federal lawmen and the In-

dians, that roadblocks were erected by both sides, that

Molotov cocktails and military-armored personnel carriers were much in evidence, that Banks and Means were two of the leaders inside Wounded Knee.

The only testimony that relates directly to either of the two AIM leaders came from the Rev. Paul Manhart, who said Means once tied him up in the village Catholic church.

If any image has been strained so far, it is the FBI's. U.S. District Judge Fred Nichol, usually easy-going almost to the point of permissiveness, showed that his temper can flare when he encounters slipshod or irregular investigative work.

He chewed out the FBI when it failed to present a certain document in evidence, then got more angry when a photocopy was brought to court and it was discovered that it had been altered.

"I think," he said, "the FBI has deteriorated . . . deteriorated badly."

There have been a few other interesting sidelights in the case.

An Albany, Minn., man was arrested on suspicion of jury tampering after he allegedly mailed to jurors copies of a pamphlet entitled "Renegades," a John Birch Society denunciation of AIM and the occupation of Wounded Knee.

Then last Friday, prosecutor Hurd was put in the awkward position of sitting in the witness stand himself and impeaching one of his own witnesses.

Rancher William Leavitt, 29, who lived near Wounded Knee, had denied earlier that he had ever mentioned the possibility that a flyer might drop dynamite on the village.

Hurd voluntarily took the stand and under questioning by defense attorney William Kunstler (best known member of the defense legal team) flatly contradicted Leavitt, a self-professed "inactive member" of the John Birch Society and active member of a South Dakota "protective association."

Hurd testified that on

March 12, 1973, near Wounded Knee, Leavitt told him that "they" (Leavitt and neighbors) had somebody who had the capacity to fly over Wounded Knee and drop dynamite." Hurd said he warned Leavitt against such an action, and took it seriously enough to report the incident to the FBI.

The defense has not yet had its rounds and won't for a long time—the prosecution plans to call as many as 125 more witnesses—nor has the defense yet got the 1868 "Fort Laramie Treaty" between the Sioux and the U.S. government before the jury.

Banks and Means consider the treaty the key to their acquittal—and to a major turnaround in U.S. policy toward the American Indian.

Banks and Means, both of whom wear traditional long braids and feathers in court and out, claim that the 1868 treaty is co-equal to the U.S. Constitution and as such is part of the law of the land.

And, they say, under that treaty no FBI agent, no U.S. marshal, had any jurisdiction over the Pine Ridge reservation or Wounded Knee.

Tomorrow a hearing will begin on the charge by defense attorney Mark Lane that the telephone line into Wounded Knee was illegally tapped under orders from a U.S. marshal.

Prosecutor Hurd said out of court that he intends to prove that there was no illegal tap, that the supposed "tap" was merely an extension phone installed in order for government officials to communicate and negotiate with the Indians.

Judge Nichol has said that if it is proven the phone was illegally tapped, the likelihood is that all charges will be dropped not only against Banks and Means, but against 126 other Indians being tried in Sioux Falls, S.D. as well.