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CHEYENNE WAY OF PEACE AND JUSTICE: THE POST LEWIS AND CLARK PERIOD TO OKLAHOMA STATEHOOD

*Lawrence H. Hart**

Justice Rudolph Hargrave, Judge Robert Henry, my colleagues on the podium, Vietnam Era veterans, members of the Kiowa Black Leggings Society, ladies and gentlemen, it is an honor to have been asked to make remarks at the beginning of the Sixteenth Sovereignty Symposium.¹

Commander John Herrington had been invited to speak, but could not be present. There is one thing I have in common with Commander Harrington — we both earned “Wings of Gold” to become Navy pilots. John Herrington and I went through the same basic and advanced training beginning in Pensacola, Florida, ending at the Naval Advanced Air Training Command, Corpus Christi, Texas. I flew my first jet in the spring of 1955, which was forty-eight years ago. I recall how thrilling it was to perform a four-point roll.

I deliberately chose to take my commission in the United States Marine Corps where I became a jet fighter pilot with the 2nd Marine Air Wing, Marine Air Group twenty-four, Marine Fighter Squadron 114. The Marine Corps considers me to be a Korean War veteran.

At the time I was in the Marines, my grandfather, John P. Hart, was a Cheyenne peace chief. Just prior to his death, he asked other chiefs on the Council of Forty Four if he could name me to take his place as one of the forty-four chiefs and one of four principal chiefs. The chiefs consented and a date was set for my special ceremony, June 15, 1958.

I was in my second tour of duty and was serving as a Flight Instructor in the Advanced Air Training Command in the Corpus Christi area. Intending to drive home from south Texas to Hammon, Oklahoma, for the ceremony to become one of the Cheyenne peace chiefs, I asked my Commanding Officer for leave. However, June was a very busy month for two reasons. First, we

* Lawrence H. Hart is the Executive Director of the Cheyenne Cultural Center, Inc. of Clinton, Oklahoma. He is one of the traditional peace chiefs of the Cheyenne Nation and occupies one of the principal chief positions. The Oklahoma Supreme Court honored Chief Hart with the Friend of the Court Medal after he presented this address at the Sixteenth Annual Sovereignty Symposium, Oklahoma City, Oklahoma, on May 27, 2003. Chief Hart lives with his wife Betty E. Hart in Clinton, Oklahoma, and they have three children and two grandchildren.

1. Justice Rudolph Hargrave is from Wewoka, Oklahoma, and represents District Eight on the Oklahoma Supreme Court. Judge Robert H. Henry is from Shawnee, Oklahoma, and was appointed to the U.S. Court of Appeals for the Tenth Circuit in 1994 by President Bill Clinton.

were training pilots because intelligence indicated that developments in Saigon, Vietnam, were requiring a need for well-trained jet pilots. Second, the federal fiscal year ended on June 30th, and my commanding officer wanted to continuously keep planes in the air and expend his fiscal allocation. In other words, the money appropriated by Congress and budgeted for base operations had to be completely spent by the end of June in order to ensure a similar allocation for the next fiscal year. Therefore, my request for annual leave was denied. I was not permitted to go home for the ceremony.

The following day, after one of my training flights with a student, I was called in to see the Commanding Officer. He informed me that he had given much thought about my request for annual leave, especially at this critical time. He indicated that he could give me two days of leave. Unfortunately, I could not accept two days because it would have taken one day to drive home and one day to drive back. However, he further stated:

I'll give you a "basket leave." The papers are filled out for your signature. I'll put your two-day leave papers in this basket and when you return I'll tear them up. Furthermore, I want you to take one of our jets and fly to the military air base nearest your home and return as soon as the ceremony is over.

Wow! I stepped back two paces and cannot recall ever saluting as sharply as I did that morning.

My flight took me to Altus Air Force base where I was met and was driven to the ceremony to become a peace chief. Part of the ceremony involved my parents giving away two horses, one of which I rode. I received my final instructions in a tipi from some great peace chiefs of that time: Chiefs Jacob Allrunner, Felix White Shield, John Heap of Birds, Henry Elk River, and Amos Hawk, among others. I then smoked with them to seal my word that I would be a peace chief in the tradition instituted by Sweet Medicine, our cultural hero. I danced with the chiefs while four traditional songs were sung. My family gave away many gifts including the two horses. All the people were fed a large feast.

Afterwards, I was driven to Altus Air Force base and flew back on a night flight to my base in south Texas. My return, which would have taken me twelve hours by car, took only fifty-five minutes in my jet fighter plane. I had plenty of fuel left as I checked in over the base and I got permission to burn down fuel. Flying south of Corpus Christi, I flew over the Gulf of Mexico at an altitude of 44,000 feet. I was about to create a sonic boom and I did not want to do it over a populated area, especially at night. I rolled my single engine, single seat, Swept Wing F-9-F Cougar over and pulled the nose down

to make a vertical dive. It did not take long to go through *Mach 1*, the speed of sound.

In one day, I had ridden a horse and soon after flew through the sound barrier. It was a fantastic experience thanks to my Commanding Officer, my family, the traditional Cheyenne chiefs, and our people.

When I accepted the honor of becoming a peace chief, I knew I had to give up my planned career in the Marines. In the past, peace chiefs were selected from the warrior societies and they left those societies when they became members of the Council of Forty-Four. Today, to be a peace chief is to live a life of peace and not to live the life of a warrior.

Part of my regalia this morning includes a Thomas Jefferson Peace Medal. I selected this medal to wear today because it has much to do with the theme of this year's Symposium — From Sacagawea to Space. This medal is dated 1802. In 1805, Meriwether Lewis and William Clark found my people, the Cheyenne, living in the Black Hills region, not far from our sacred mountain, Bear Butte. Lewis and Clark were given many medals by President Jefferson to present to tribal chiefs during their exploration. According to author and historian Francis Paul Prucha, many tribes readily accepted the medals, but when one was presented to a Cheyenne chief, it alarmed him for "he knew that the white people were all *medicine* and that he was afraid of the medal or any thing that white people gave to them."²

This medal comes from that period.

Twenty-one years after Lewis and Clark's initial exploration, the Cheyenne signed their first treaty with the United States. The "Friendship Treaty" was concluded in 1825 at the mouth of the Teton River, well south of the Black Hills, but still in present-day South Dakota. Wolf On A Hill was one of the Cheyenne peace chiefs who signed the "Friendship Treaty." Renowned artist George Catlin painted Chief Wolf On A Hill. In addition to giving us excellent historical images, George Catlin also gave us excellent historical records preserved in his notes.

Artist Catlin must have been particularly impressed with Chief Wolf On A Hill. He indicated that this chief stood well over six feet. In one of his notes Catlin stated, "There is no finer race of men than these in North America, and none superior in stature, excepting the Osages"³

2. FRANCIS PAUL PRUCHA, *INDIAN PEACE MEDALS IN AMERICAN HISTORY* 24 (1994).

3. 2 GEORGE CATLIN, *LETTERS AND NOTES ON THE MANNERS, CUSTOMS, AND CONDITIONS OF THE NORTH AMERICAN INDIANS* 2 (1973).

In my presentations, I often use this quotation from Catlin, and, just as often, I leave out the last part of his statement. Since my friend, Tim Tall Chief of the Osage Nation, is present I dare not shorten the quote.

Great peace chiefs like Lean Bear, White Antelope and Black Kettle signed additional treaties in 1851, 1861, 1865, and 1867. The Cheyenne peace chiefs have steadfastly maintained their nonviolent ways throughout history. On the 125th anniversary of the Bureau of Indian Affairs, the then Secretary of the Interior for Indian Affairs, Kevin Gover, made what I consider to be a great speech. He spoke of three major tragedies suffered by Native Americans: Sand Creek Massacre, the so-called Battle of the Washita, and the Battle of Wounded Knee. Of the three, two were perpetrated against the Cheyenne. In those tragedies, our greatest peace chiefs died violent deaths, and, as great peace chiefs, did not take up arms. Oklahoma author, Stan Hoig, wrote that many of these chiefs, such as White Antelope, were "a martyr for the cause of peace."⁴

These peace chiefs left us a most remarkable legacy. Their peaceful ways are well documented by authors like Stan Hoig, Father Peter Powell, George Bird Grinnell, and Donald J. Berthrong, among others.⁵

Much has been written about the Cheyenne peace chiefs but few people, except for some law students, lawyers, judges and justices, are familiar with the ways of Cheyenne justice.

My attempt to educate others on the ways of Cheyenne justice began in the fall of 2000 when my wife and I traveled to meet some First Nations' people on the southwest side of Lake Winnipeg near Chicago. On the flight from Oklahoma City to Chicago, I happened to sit across from the Honorable Robert H. Henry. During the flight, we discussed the book *The Cheyenne Way* by Karl N. Llewellyn and E. Adamson Hoebel, which was first published by the University of Oklahoma Press in 1941. Our conversation centered on "Cheyenne justice."

Judge Henry and I parted at O'Hare International Airport with a commitment to create a teaching tool using *The Cheyenne Way* as a reference. Several of us are now involved in a project we have tentatively titled "Cheyenne Justice." I serve as project director of this exciting project and the Honorable Judge Henry is project advisor.

Our team includes of legal scholars, conflict resolution specialists, and traditional Cheyenne people. Taiawagi Helton of the University of Oklahoma College of Law, Arthur G. LeFrancois and Phyllis E. Bernard of the

4. STAN HOIG, *THE PEACE CHIEFS OF THE CHEYENNES* 59 (1980).

5. See DONALD J. BERTHRONG, *THE CHEYENNE AND ARAPAHO ORDEAL* (1976).

Oklahoma City University, School of Law are three distinguished professors on the team. Sue Tate, Director of the Alternative Dispute Resolution System of the Oklahoma Supreme Court, serves on the team as does the Honorable Justice Daniel J. Boudreau of the Oklahoma Supreme Court and the Honorable Jacqueline Duncan, District Court Judge of Custer County in Oklahoma.

Harvey Pratt and Gordon Yellowman, Sr. are two Cheyenne peace chiefs on the team. Two Cheyenne women, Connie Hart Yellowman, a historian and member of the Oklahoma Bar and Joyce M. Twins, a Cheyenne language teacher, also serve on the team.

All of us are working with the help of facilitator Karen Hill, President of Training Professionals, Inc. of Norman, Oklahoma. Presently, our plans include developing a traveling exhibit that, we hope, will be given a venue at the Sovereignty Symposium in 2004.

Our exhibit will include historical examples of Cheyenne Justice and how it relates to dispute resolution in the twenty-first century. One of the contemporaries of Chief Wolf On A Hill was Chief High Back Wolf. Chief High Back Wolf was a peace chief and violated his vow to live a life of peace by engaging himself in a quarrel. He was killed during this incident. Had he lived, he would likely have faced banishment, but broken relationships would have been restored.

Another chief and a colleague took a band of Northern Cheyenne and fled north to Powder River Country in September of 1878. Chiefs Dull Knife and Little Wolf were successful in having a reservation established for the Northern Cheyenne via Executive Order, but the price was high. Many Cheyenne men, women and children were killed. Today Chief Dull Knife is honored. The Northern Cheyenne call themselves the "Morning Star People," which is one of the names of Dull Knife.

Little Wolf is not as honored by the Cheyenne as Dull Knife. After another man molested Little Wolf's wife on four different occasions over a period of time Little Wolf killed him. Under Cheyenne justice, Little Wolf was banished. He was later restored through a ceremony. This episode is one of the cases documented in *The Cheyenne Way*.⁶

It often took several years of banishment before relationships were restored. In the end, a special ceremony, such as the Cheyenne Sun Dance, was performed and restorative justice was realized.

6. KARL N. LLEWELLYN & E. ADAMSON HOEBEL, *THE CHEYENNE WAY* 83-88 (1941); see also 1 PETER J. POWELL, *SWEET MEDICINE* 93 (1969).

The Cheyenne Way is recommended reading in many law schools and conflict resolution classes across the nation.

Many legal scholars are amazed that the Cheyenne chiefs practiced restorative justice. It is thought to be new. However, Llewellyn and Hoebel documented several cases when they did field work among the Cheyenne chiefs. Cheyenne chiefs practiced restorative justice long before the advent of English and United States courts, and certainly well before today's Tribal courts.

Each team member has submitted five cases from *The Cheyenne Way* that s/he deems worthy for citation in the exhibit. The process has been exciting! We will select a final list of five cases for the traveling exhibit.

What we have discovered in our research is the absence of capital punishment in Cheyenne justice. We have marveled that a fetus was considered a person. We have found it astonishing that in the most severe crimes, banishment followed by restoration was the norm. It is exciting to discover that a non-literate people practiced restorative justice.

Howard Zehr, acclaimed as the grandfather of restorative justice, has suggested a good working definition of restorative justice. He states, "Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible."⁷

Howard Zehr happens to be a good friend of mine. Few people know that he was called to Denver, Colorado, by Timothy McVeigh's legal defense team to discuss restorative justice.

Howard Zehr was also involved with some families of victims of the Oklahoma City bombing. Several of them hosted families of victims of the bombing in Nairobi. Some Oklahoma families went to Nairobi in an exchange program arranged by Howard Zehr and one of his students from Nairobi.

Howard is also a good photographer. In 1993, I asked him to photograph the repatriation of eighteen Cheyenne remains from the National Museum of Natural History of the Smithsonian Institution. He, like others, is tremendously impressed that the Cheyenne peace chiefs practiced restorative justice. Dr. Zehr bases restorative justice on Old Testament literature and he is internationally known for his research. He has asked for our exhibit to travel to the Summer Institute on Conflict Transformation where many international students come to study.

7. HOWARD ZEHR, *THE LITTLE BOOK OF RESTORATIVE JUSTICE* 37 (2002).

Judge Henry, upon the team's completion of the project to develop an exhibit on Cheyenne justice, we will have a good teaching tool. The envisioning we did on that flight to Chicago is rapidly becoming a reality. I am most pleased for your advice on the project.

Lewis and Clark, with Sacagawea, were on a most remarkable journey two hundred years ago. It is a journey we are commemorating as a nation and it is a focus of this year's Symposium. It surely was a journey filled with astonishment.

There is another important journey. It is that of recorded case law that has made a journey from a non-literate people to educate today's law students, lawyers, judges and justices, as well as many other life-long learners. That journey has also been most remarkable, and, like Lewis and Clark's journey, it is filled with astonishment.

Thanks to the "god" of Contract Law, Karl N. Llewellyn, and to the brilliant insight of a renowned anthropologist, E. Adamson Hoebel, we will be able to learn more about peace ways and restorative justice practiced by Native Americans.

Hi na ha ni. That is all.

Hi ho. Thank you.

