

FOR THE GOOD OF THE TRIBE:
THE LAW OF THE CROW NATION DURING THE BUFFALO DAYS

A Paper
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TABLE OF CONTENTS

INTRODUCTION.....	1
ENVIRONMENT AND THE CROW BUFFALO CULTURE.....	5
THE WAY OF THE CROW NATION.....	9
JURAL POSTULATES.....	26
CRIMES AND TORTS.....	33
TRAGEDY AND TREACHERY.....	36
BIBLIOGRAPHY.....	42

INTRODUCTION

Plenty Coups, the last chief of the Crow Indians, died March 4, 1932. He was last for the simple reason that Crow men became chiefs only by valor in war, that is, by counting coups, and the last Crow war party for earning coups occurred in 1888 (Nabokov 1967, 193). How ironic that the name of the last chief would imply an abundance of the very thing that, for the lack of, led to the end of the chiefs.

With the passing of Plenty Coups, the great chiefs who had ruled the plains and mountains of Crow Country during the buffalo days, like the buffalo itself, were gone forever. Only images of their magnificence now remain, images that can be seen by viewing the records left by those who actually saw these men. Denig, the 19th century Indian observer, saw them as "perhaps the handsomest body of Indians in North America" (Denig [1856] 1961, 154, 155). George Catlin, artist and traveler among virtually all of the tribes of the plains, said of them:

I have just been painting a number of the Crows, fine looking and noble gentlemen. They are really as handsome and well-formed a set of men as can be seen in any part of the world. There is a sort of ease and grace added to their dignity of manners, which gives them the air of gentlemen at once. I observed the other day, that most of them were over six feet high, and very many of these have cultivated their natural hair to such an almost incredible length, that it sweeps the ground as they walk; there are frequent instances of this kind amongst them, and in some cases, a foot or more of it will drag on the grass as they walk, giving exceeding

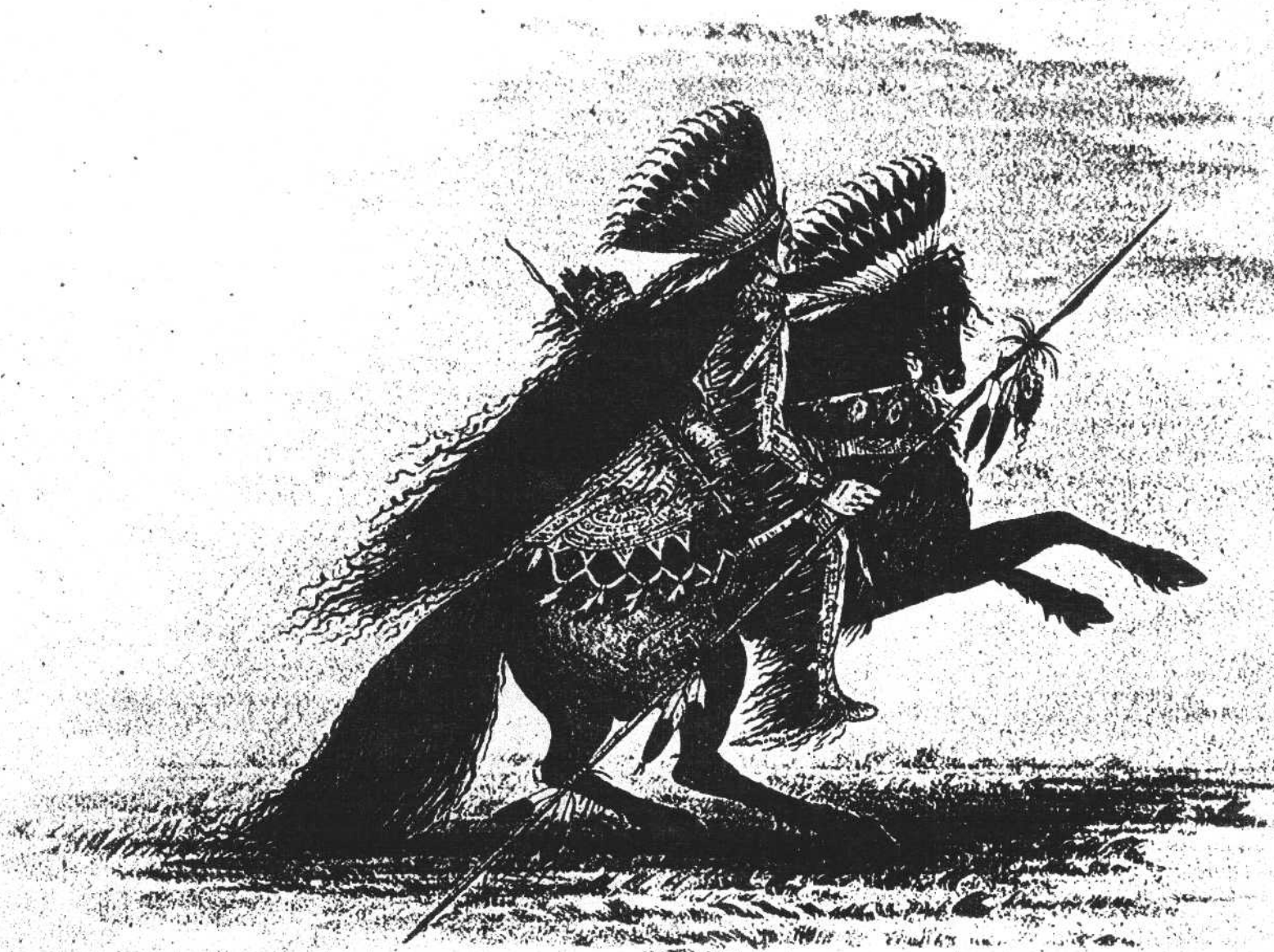
grace and beauty to their movements (Catlin 1841, 49).

He wrote this in 1832, probably as he painted a watercolor that gave the Western world its first image of the eagle feathered war bonnet, which has come to universally, and falsely, symbolize all Indians. Entitled "He-jumps-over-everyone, A Crow Warrior on Horseback," it also depicts the extremely long hair he described, as well as a war bonnet for the warrior's horse. See the reproduction on the next page.

Crows, as Catlin noted, were generally taller than other Indians, and took great pride in height, accentuating their stature by shaping their forehead locks into a pomadour. For an excellent example of this impressive fashion look at the page after next, an 1880 portrait of the great Crow chief, Medicine Crow. The pomadour was unique, and a common method of distinguishing Crows from other Indians (Lowie 1954, 53).

The first white men into Crow Country, apparently the Verendrye brothers, French explorers from Canada, in 1743, described magnificent Indians they named "le Beau Hommes," the beautiful men. Most authorities agree these were the Crow (Brown 1961, 22, 23; contra: Bearss 1970, 23-27).

Showing off their beauty was a common social practice of Crow warriors. On "Saturday night" doting wives combed the long hair of their husbands and helped them into their best wear. Warriors would then strut and stroll through the camp to show off and woo other women. Sometimes wives were jealous, but more



HE-WHO-JUMPS-OVER-EVERYONE. A CROW WARRIOR ON HORSEBACK, 1832

AFTER A WATERCOLOR BY GEORGE CATLIN



often they viewed their popular man as an object for their own pride.

These beautiful men symbolize the way of the Crow people of the buffalo days. That great people, officially recognized in 1851 as the Crow Nation (11 Stat.749), created a culture and laws that reflected their deep relationship with their surroundings--most significantly their lands. As Joe Medicine Crow, Crow historian and antropologist said, of his ancestor's relationship to the land, "It was, to the Indian, life itself" (Medicine Crow 1939,12). The land gave them the buffalo, which in turn gave food, clothing, even their tipi shelter made of the hides. The land fed their horses that carried them where ever they wanted to go. So endeared were they to the land that they practiced a national ritual, performed each spring when the entire nation was camped together. At this time they ceremoniously planted, the sacred tobacco plant as a symbol of themselves, an orphaned people who were adopted by Crow Country, the land in which they had been "planted." Thus they celebrated and "cultivated" themselves as a chosen people in a promised land. (Nabokov 1988, 358).

Maintaining control of a promised land was not easy. It was especially hard for a small group of people, surrounded by many enemies on all sides, all of which, coveted Crow Country for its rich buffalo grasses, water, and the good life it provided. Defense of the land was as important as the land itself, so that for the land to be life, war also had to be life. And as war was

waged by the men--the warriors and chiefs--they became symbols of the way of the Crow Nation.

The purpose of this paper go behind those symbols, to describe the social system, and its laws, of those men of war. The paper is divided into to five parts: first, an outline of the important environmental factors that influenced the development of the culture; second, a description of its salient features necessary to understand the jural postulates underlying its legal system; third, a statement of the jural postulates forming the basis for its laws; fourth, a formulation of its laws; fifth, a short account of the events of tragedy and treachery that destroyed the Crow buffalo culture.

ENVIRONMENT AND THE CROW BUFFALO CULTURE

The Crows fashioned their culture mostly in response to their surroundings. They are believed to have originated in Minnesota. In very early times they migrated to the Dakotas, Canada, and finally to Montana where they reside today. They are distant cousins of the Sioux, but that is remote (Lowie 1956, 3). They are more closely kin to the Hidatsa, with whom they lived as one group until a split occurred, the Crows moving west to Montana and Wyoming, and the Hidatsa remaining in North Dakota. When the two groups split is not known with any certainty (Denig 1856, 138, fn. 2). For our purposes, it is safe to say that the Crows were separated well before 1700.

The Hidatsa were semi-sedentry, while the Crows were solely hunters, following their food sources, primarily the buffalo. The geography of their hunting grounds was a major influence in the development of the Crow buffalo culture. The Crows, both anciently and today, proudly call their territory "Crow Country." Although it might have extended farther at one time, the territory described for the Crow Nation in the 1851 Treaty of Fort Laramie (11 Stat.749) adequately describes their territory. It roughly included all of Montana south of the Missouri River, west of the Powder River, and east of the Crazy Mountains, together with the Big Horn Mountains and Big Horn Basin of Wyoming. In all this area contained over 38 million acres, larger than the State of

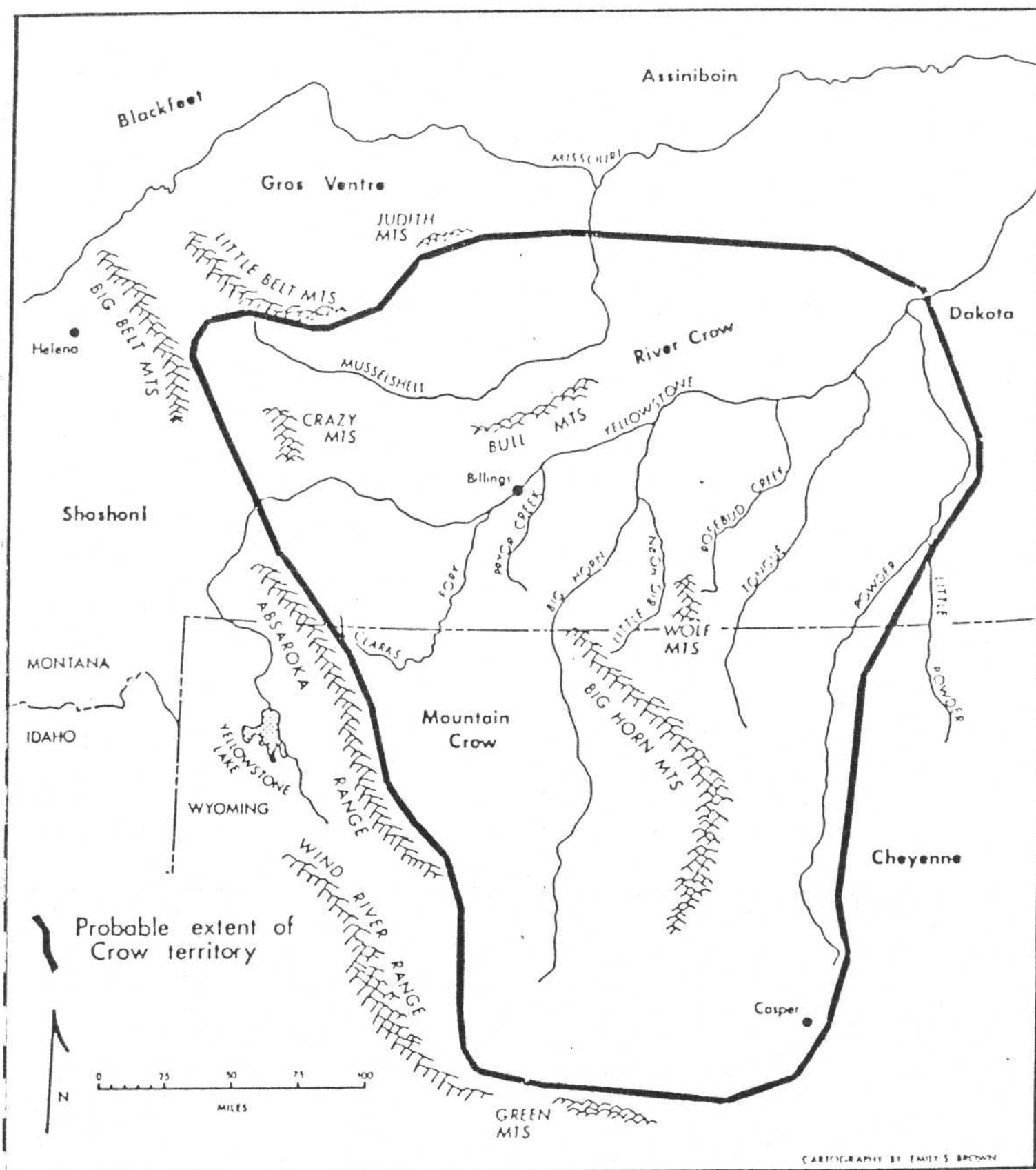
Pennsylvania or Wisconsin. A map of the area, by Voget, is reproduced on the following page (Voget 1984, 2).

The location of Crow Country almost mandated a war society (Stafford 1971, 2, 15; Medicine Crow 1939, 55; Curtis 1909, 39, 40). The Crows were surrounded by enemies, and had few natural barriers to protect them. To the north and west were the Blackfeet; to the west the Sioux; to the south, the Cheyenne, and Arapahoe; to the west the Shoshone, Flathead and Nez Perse. James Mooney, Bureau of American Ethnology, estimated the populations of these tribes in 1780 as follows (Lowie 1954, 10,11):

Blackfeet:	15,000
Cheyenne	3,400
Arapaho	3,000
Crow	4,000
Sioux	25,000
Shoshone	1,500
Nez Perce	4,000

Hence, the Crows, a nation of 4,000, had 51,900 enemies. How they were able to defend themselves and their territory against such overwhelming odds, is a question only answered by analysis of their ingenious society, viewed as if it were an army.

A second factor of geographical influence on the culture was the bountiful food sources of Crow Country, principally buffalo. Denig noted in 1856, having studied most of the tribes of the West, that the "portion of their [Crows] country lying east of



Map 1. Historic Crow Homeland

the mountains is perhaps the best game country in the world" (Denig 1856, 139). As Plenty Coups, said: "Our country is the most beautiful of all. Its rivers and plains, its mountains and timber lands, where there was always plenty of meat and berries, attracted other tribes, and they wished to possess it for their own" Linderman 1930, 47, 48).

A third factor was the horse. It came to the Crows via the Spaniards, Southwest Indians, and Shonshone traders about 1735 (Frey 1987, 12). It is well known how it enabled Indians to become hunters, primarily of the buffalo. It also facilitated the long movements necessary from one grazing area to another. It provided a means of transporting the large tipi the Crows, developed as a lodge for their families. The horse not only replaced the dog as "man's best friend," but it quickly became, like the land and the buffalo, part of life itself. The Crows became the richest nation in horses of any Indians of the plains (Denig 1856, 144). The horse became their medium of exchange (Medicine Crow 1939, 18). The culture developed a part of its war psychology around acquisition of horses. The mark of a real man, and the only way to become a chief, or have any status in the tribe, was to achieve one of four well defined coups, one of which was to capture a picketed horse in an enemy camp and return it to the Crow Camp. At the camp, the horse would be given to clan members and others. The warrior would be the camp hero, thus "re-charging" his courage for his next war party, when he would again risk his life for the welfare of those of the camp.

A fourth factor also arises from the number of Crow, as compared to their enemies, and as noted above. The only way such a small tribe could defend itself against the larger tribes all around it, was to develop a unified, trained, fearsome military force. There was no room for division of opinion; factionalism would be fatal. The modern state of Israel is an example, a small state, which has survived threatened destruction from virtually all its neighbors, only because it developed a superior and respected military force. The Crows had a need to do the same thing. They adapted their religious, social, economic, and political practices into a unified and integrated whole that produced highly motivated militaristic chiefs and warriors (Lowie 1954, 202).

These four factors, the location of Crow Country surrounded by enemies, the quality and quantity of food sources, the acquired need for the horse, and the development of military leadership, molded a group of self-seeking individualists, families and matrilineal clans, a few bands loosely organized as a tribe, into a unified body of people willing to give of themselves for the preservation of their territory, and for their way of life. They thus became a nation, the Crow Nation, and as any nation, a people with their own peculiar way--their own law.

THE WAY OF THE CROW NATION

The way of the Crow can be understood by examining their government, religious practices, clans, social societies, ceremonies, and their way of marriage. For purposes of description and analysis, these topics will be articulated separately. This, however, is not descriptive of the culture, as each facet was an integral part of each of the others.

Government Asside from the government of families and clans, Crow government was simple. It was the government of the camp, that is, of the group of people, no matter what number, camped together at a given time for the purpose of communal defense, welfare and socialality. The size of the camp varied according to the availibility of buffalo, water, and grass for horses in the area of encampment. During times of sarcity, camps were small; in times of plenty, they were large. Of course, a large camp was preferred because of its superior defense capability. But, availibility of resources prevented practice of the ideal. Nevertheless, at least once a year, when the grass was green, and the buffalo fat and plentiful, and the time was right for the planting of the sacred tobacco, the whole nation would camp together (Nabokov 1988, 407-410; Old Horn 1989, interview).

But, most often there were at least three camps, one for each of the bands, the river Crow, the Mountain Crow, and an off-shoot of the Mountain band call the Kicked-in-their-bellies.

These three, and at one time a fourth called the Beaver-dries-its-fur, were formed primarily to protect Crow lands, "the sacred mountains" (Big Horns) according to Dale Old Horn (Idid.). Each camp, regardless of size, had certain governing officers with very limited power. The first was the camp chief. He acted in consultation with other chiefs who sat in council with him from time to time. Any medicine men or weather prophets might also sit in council. At council, the head chief could decide where and when to move to the next campsite, and when and how to conduct the communal buffalo hunt. He also chose from the organized societies of warriors, which society would serve as the "Ones who resist" or camp police for the season. The camp police functioned somewhat under the direction of the camp chief, but often acted solely from preception of their role and according to circumstance. They were a major enforcer of law, but not the only one by any means, as will be made more clear hereafter. If smaller camps joined to make a bigger camp, or if the bands all came together, the new camp was led by the chief of highest rank. The chief of highest rank in the nation, and the camp chief, should the whole nation camp together, was the chief recognized by popular consensus as the chief who had attained the highest status among his peers according to a well defined system for evaluating performance of warriors in the field of battle. He was called "Owner of the Camp" (Old Horn 1989, interview; Wildschut 1975, 34). Thus, there existed a sort of hierarchy, of

leaders with very limited power, with the owner of the camp at the top, and a descension to camp chief, chief, pipe carrier (leaders of war parties), and warriors at the bottom (Ibid.).

This system for acendency was based upon four recognized feats of valor called "coups." They were, probably in order of their importance, first, leadership of a successful raid upon the enemy, second, capturing a horse picketed in a hostile camp, third, being first to touch the enemy in a given battle, and fourth, snatching a foeman's bow or gun. Only when a warrior achieved at least one of each of the four coups was he recognized as a chief. No man, no matter how smart, or otherwise outstanding among his people, could rise in status, except by his prowess in the field of battle.

This was the system for leadership succession and the hierarchy of leadership. It applied to war parties as well. Any warrior could organize a war party at his will. But the number who would follow him into battle was dependent on who valued his credentials as a leader, the strength of his medicine according to his past victories.

This simple, but effective form of government had several important features. First, it favored no family, clan, society or group. He led who succeeded. This principal prevailed in all groups within the nation. Not only would a camp chief step down, if his moves of the camp did not produce food, but leaders of war parties only led as long as their medicine proved good on the field of battle. It was rule by the successful. Crows were

empiricists.

Second, there was never any dispute over who would lead. If a brave thought he could lead the camp, all he had to do was get some one to follow. If they did, and he succeeded in protecting his group and finding food, he would continue. If not, the group would find its way back to another camp, provided their failure as a camp did not end with their death. Thus, a high degree of individualism prevailed within communal groups.

Third, opportunity for leadership, adventure, status, and wealth, were solely dependent upon one's ability as a warrior. This was a great incentive for young men, and key to the development of such great horsemen and warriors. Plenty Coups dreamed of being a warrior and worshipped them as a boy. He said, "How they inspired me, a boy aching for age and opportunity. We followed the buffalo herds over beautiful plains, fighting a battle one day sending out a war-party against the enemy the next. My heart was afire. I wished to help my people" (Linderman 1930, 50).

Fourth, this system of government was integrated into religious, familial, social, and economic systems, as well as the military system, so that a person came to feel totally sustained by, and committed to, the group. One seeking coups needed the help of his fellow warriors, his wife, clan members, medicine, and others, if he were to succeed. There was very little incentive to ever break custom or law of the camp. This system

of government helped achieve obedience to law with very little forced compliance.

If force was used, it was usually applied by the dog soldiers. The most common application was during the communal hunt or in battle when over anxious braves would attack before the signal was given (Curtis 1909, 112; Lowie 1935, 5). In such cases, the dog soldiers would beat the horse back into line, or whip its rider. They also gaurded conduct in the camp and would whip those who did not properly break camp at the call of the camp crier (Curtis 1909, 11). One interesting case was told by Le Forge, a squaw man who lived most of his life with the Crows. He and two friends mischievously drove a young buffalo into the camp one morning. It tore up several tipis. The dog soldiers banished them from the camp for one moon and confiscated their horses as restitution to the owners of the damaged tipis (Le Forge 1928, 145).

fasting Crows did not practice religion as whites do in America today. Spiritual stirrings, attempts to attain assistance in the business of life from supernatural sources, for the Crow, were totally integrated into their role as warriors. A warrior seeking help in battle might address a prayer to the "First Maker" a form of Supreme Being, at least in the sense of belief that one entity had formed the universe, and could be called upon by men, but it would not be correct to equate this practice with their religion. It would be a major mistake to say

the they believed in "God" as Christians profess to believe. Nor was the sun the center of their worship, even though it played a large role in the sun dance and other worship. The mainstay of the spiritual life of the Crow warrior, and of all Crows, was the practice of seeking the power of spirit beings through the vision quest. As Lowie described it:

When hard put to it, the Indian tried to meet divinity face to face. A direct revelation without priestly go-between was the obvious panacea for human ills, the one secure basis of earthly goods. It might come as an unsought blessing, but only by lucky fluke; hence a Crow strove for it by courting the pity of the supernaturals in the traditional way. To any major catastrophe, to any overwhelming urge, there was an automatic response: you sought a revelation (Lowie 1935, 237).

Almost every boy, as he became a man, would go into the mountains and fast for about four days. According to Dale Old Horn, this is called fasting, not to be confused with the vision quest of the Sioux (Old Horn 1989, interview). While fasting, the young man would wear very little clothing, and only a buffalo robe for protection at night. He usually would cut off the tip of a finger, then bleed, and pray until he fainted. Curtis lived among the Crows just after the turn of the century and published their report of the words of a typical prayer as follows:

I give you this, my body. May I have many horses, and and many women of good looks and industry in my lodge. May my lodge be the gathering place of many men. I am poor; give me these things that through me my people may be bold because I live. Let them use me as a shield against the enemy (Curtis 1909, 53).

And how would he get the horses? By success in war. How would he get the attention of women of good looks? By having many horses, and becoming a chief, only obtained by prowess as a warrior. How would he get people to gather to his lodge? By having many coup to count and associated stories to tell at his campfire. In short, a warrior's measure of success, even with great visions, was according to his success in battle.

If a vision was given, the seeker usually saw a personage, although the messenger might come as an animal. The supernatural adopted the seeker and bestowed his spirit, or power upon him. Usually future events were foretold. The identification of the supernatural power with an animal, less often a plant or rock, was also revealed, along with instructions as to how the seeker should make his medicine--the symbols representing the vision, the spirit, and its guiding power.

After the vision closed the young man would return to the camp and called in the elders where he would relate the vision. If they concurred that it was authentic, he would then make his medicine bundle, a leather bag with the objects he was instructed to make or assemble. This bundle he carried with him to war. At the time for battle, he would "make medicine," that is, he would get into the bag, put on the colors of paint to his face and body as he had been instructed, place the objects prescribed upon his body, sing whatever sacred song he had been given, and thereby be prepared to receive the guidance and protection promised by the

spirit.

As already stated, Crows were strict empiricists. If the warrior succeeded in battle, or if his revealed prophecy came true, his medicine was considered good. If it failed he would seek another vision. If he could not get good medicine by vision, he would eventually try to buy some from a chief who held good medicine and was willing to sell it.

The key to success in government, wealth in horses, catching a beautiful woman, and every other pursuit, came down to the power of a man's medicine, measured only by success in battle. By visions, and all the ritual and activity associated with them, the primacy of the defense of Crow Country was reinforced, in almost every activity of the warrior.

Clans Matrilineal clans provide very strong social bonds among Crows. Lowie reported the existence of thirteen active clans in 1935 (Lowie 1935, 9). Medicine Crow confirms that there are still ten fully functioning in 1989 (Medicine Crow 1989, interview). All customs practiced with the clans will not be mentioned here, but those most relevant to an understanding of Crow law in the day of the buffalo are:

1. A person can not marry within his clan.
2. A husband can not ever talk directly to his mother-in-law.
3. A man is at liberty with wives of his brother, or sisters of those wives. But he does not interact with his mother in law, or those of his own clan.

4. Children are often raised by clan members. Boys by uncles of the father's clan, and girls by grandmothers of the child's clan.

5. Persons have rights to call upon clan members for assistance.

6. Obedience to custom and law is often induced by teasing or ridicule by one's teasing clan, the clan of a person's father. A person teased must accept the taunt graciously.

The ways of the clan system reinforce a person's identity as a part of the culture, strengthening his motivation to behave for the good of the whole, thus balancing the great deal of freedom he has to seek individual satisfactions, against the need for unity necessary for the common defense.

War Societies Other organizations that bonded men socially for the military duty were the war societies (Lowie 1935, 172). At one time there as many eight such societies. They provided a fraternal order among the warriors. Each club, as they are sometimes called, had its distinctive clothing trimmings, songs, and dances. Most often members came from the same clan. Members were recruited. As mentioned above, each spring the camp chief would choose one of the societies to act as the dog soldiers for the season. With that exception they had no governmental function, except as they contributed to the war psychology.

Ceremonies A number of ceremonies also figured prominently in the life of the Crow. Again, their function was

to provide social bonding, identity, motivation. Brief descriptions of the principal ones will suffice for present purposes.

The sun dance is best known. As Lowie said, "[e]ssentially, the Crow Sun Dance was a prayer for vengeance. A man overcome with sorrow at the killing of a kinsman resorted to this as the most effective, if most arduous, means of getting a vision by which he might revenge himself upon the offending tribe" (Lowie 1935, 297; Curtis 1909, 67; Medicine Crow 1939, 92). Although this ceremony was seldom practiced, maybe once in three years, it was by far the grandest of the Crow ceremonies. Like the vision quest, the object was to obtain a vision, in this instance for the specific purpose of obtaining of view of how to lead a successful raid upon those who killed kinsmen of the participant.

The ceremony usually takes place over a period of six days, during which time the participant, known as the whistler, spends a great deal of his time without food or water, suspended with skewers piercing his flesh. All this time he would blow a whistler, praying for his vision, as he gazed at a sacred doll hung from the top of a pole.

The whole camp was involved. War captains sought auxiliary visions, and the counting of coups heightened the entire camp's concentration on revenge. This was ceremony to prepare individuals and the nation for war. At some point in time the whistler would faint from exhaustion, and during unconsciousness would receive the vision that would point the way to obtain the

revenge sought against the enemy.

The sweat lodge figured into most other ceremonies. It was used any time a warrior sought purification, preparatory to some sort of communion with the spirits, some prayer, or ceremony. It was practiced in a rounded lodge in which red hot rocks were placed. Participants closed all openings while in prayer. They poured water onto the rocks creating a steam bath effect. Those inside received both spiritual and physical purification during the ceremony (Curtis 1909, 54).

Other ceremonies were practiced, but one of greatest significance was the sacred tobacco planting ceremony. As mentioned above, this ceremony celebrated the relationship of the Crow people with the land, identity and nationhood. Nabokov gives elaborate details as to how the ceremony was performed (Nabokov 1988, 253). The belief was that the planting and harvesting of the sacred plant would insure the continued existence of the Nation (Lowie 1935, 274; Curtis 1909, 61).

Marriage Military life influenced marriage. Men were gone for long periods of time. Fortunes were uncertain, death could come at any time. Men seemed to need a great deal of recognition or status to fulfill the military role. As was mentioned at the beginning, they often dressed in their best and went through the camp looking for the attention of women, and this was often accepted by wives. Fidelity in marriage was expected, and the chastity of women was even eulogized in the sun

dance ceremony, but license on the part of both sexes seemed to be quite normal. If a man caught his wife in the act, he would beat her or her paramour, take horses, and possibly turn her out, a sort of divorce. She could do likewise, if he was unfaithful. Often when men came home from a war party they would find the lodge empty, or would be told that their wife had gone to the lodge of another man. The role of the male at such times was to act as if nothing had happened, to accept it. He would be ridiculed if he chased after his wife.

Marriages were usually monogamous. But men did take others, especially the wife of a fallen brother.

Wives were often purchased from their parents, especially beautiful girls. Men had to have horses to "buy" women. They need fine clothes, and status. All these things came only one way, by success in battle. Thus the war psychology was reinforced by marriage practices.

Probably the most peculiar practice, was the yearly wife capturing activity of the war societies. A member of the society, who was having an affair with another man's wife, would say that he wanted this woman. He and the members of the society would then surround the woman's lodge, the man would go in and take her. They would ride off together on a war party with the society, and the scorned husband would lose his unfaithful wife. Medicine Crow points out that this seemingly cruel practice had its value. Broken marriages were ended quickly, and efficiently; "Wives were made faithful, and the faithful wife was accorded

honor and respect. Thus to be faithful was the ideal" (Medicine Crow 1939, 40).

Women As would be expected, because men conducted war, they ruled the house. Women prepared all the food, clothes, and prepared all hides, both for trade, clothes, and tipis. They picked berries and dug for roots. The women were generally content. Pretty-shield, a woman of the buffalo days shared her life with her biographer as follows:

"War, killing meat, and bringing it into camp, horse-stealing, and taking care of horses, gave our men plenty of hard work; and they had to be in shape to fight at any time, day or night. We women had our children to care for, meat to cook, and to dry, robes to dress, skins to tan, clothes, lodges, and moccasins to make. Besides these things we not only pitched the lodges, but took them down and packed the horses and travois, when we moved camp; yes, and we gathered the wood for our fires, too. We were busy, especially when we were going to move. I loved to move even after I was a married woman with children to take care of. Moving made me happy (Linderman 1932, 134).

Although not the equal of men, women had a good deal of freedom, and could assume men's roles (Lowie 1935, 60). They owned their own property, including the lodge and horses. They were known to be medicine "men" and warriors (Linderman 1932, 9; Beckwourth 1856, 201, 202; LeForge 1928, 188). Again, Pretty shield reveals the heart of a Crow woman, not only toward the days of the buffalo, but toward those that followed:

"When the buffalo went away the hearts of my people fell to the ground, and they could not lift them up again. After this nothing happened. There was little singing

anywhere. Besides, you know that part of my life as well as I do. You saw what happened to us when the buffalo went away....The happiest days of my life were spent following the buffalo herds over our beautiful country. My mother and father and Goes-ahead, my man, were all kind, and we were happy. then when my children came I believed I had everything that was good on this world. There were always so many, many buffalo, plenty of good fat meat for everybody.

Since my man, Goes-ahead went away twelve snows ago my heart has been falling down. I am old now, and alone, with so many grandchildren to watch...

I do not hate anybody, not even the white man...I have never let myself hate the white man, because I knew that this would only make things worse for me. But he changed everything for us, did many bad deeds before we got used to him...

White cowboys met a deaf and dumb Crow boy on the plains, and because he could not answer their questions, could not even hear what they said, they roped him and dragged him to death" (Linderman 1932, 248, 249).

Probably the greatest reflection upon the Crow way for women comes from the practice that war parties had of capturing women and children of enemy tribes and adopting them in as their own wives. These captured women were not known to try escape and return to their own people (Denig 1856, 148). Apparently the way of the Crow was preferred by women over that in other tribes.

A Paradox In view of the foregoing descriptions of various aspects of Crow life proving the primacy of war in this culture, it seems logical that the character of the people would be desposed to cruelty, torture, murder and other violent conduct commonly associated with acts of war. But, we find the contrary. Denig reported that Crows had "strongly marked national features,

differing in some respects greatly from any others. Their general character was always peaceable toward Whites. They are not ever very bloodthirsty toward their enemies, except in case of immediate revenge for loss of some their people. One excellent trait in their character is that, if possible, in battle they take the women and children prisoners, instead of dashing their brains out as the rest of the tribes do. They and their friends and brethren (the Gros Ventres) are the only nations we know of who exhibit this mark of humanity" (Denig 1856, 148).

The Crows made numerous alliances and peace pacts to maintain their country and way of life, (Weist 1977, 34-54) but according to Denig, they were never the first to break the peace (Denig 1856, 152).

Denig also reported that that there was only one known case of murder in 12 years. In fact all the literature only documents three cases of murder (Lowie 1935, 10, 11; Denig 1856, 150). The punishment in one case was death at the hand of the brother of the victim. But, in the second case gifts of horses, conciliation between the families, and passing of the peace pipe to the parties from the chief ended the matter, although the murderer was thereafter shunned by the tribe. The third case ended in a similar way. The defendant left the camp and lived with the Snake Indians for 12 years. When he returned, his life was threatened, but not taken, by members of the clan of the victim. The defendant left camp again and never returned. These cases, and Denig's report show great reluctance on the part of

the Crows to take life.

Is there a paradox between this war culture, and the peaceable, gentle nature of its members? Or, can the two be reconciled or understood together? The answer comes with understanding of the Crow view of war itself. They did not see war as the deadly business of conquest of new territory and peoples as Western cultures practice. They were not imperialists or colonists. To be sure, they sought to protect their beloved "Crow Country." They also sought booty, primarily horses. But war, to them was also a very exciting dangerous sport, a deadly game. They thrilled at the excitement, and loved to return home to the adornment of wives and sweethearts. There would be coups to count at the campfire, recognition, leadership positions, endearment to their way of life. Killing the enemy was not a coveted coup, but to endanger one's own life by merely touching the enemy was a most sought feat. Likewise, stealing horses could be done by capturing those that were outside a enemy village; but to gain a coup, a man had go into the enemy camp and snatch the horse from underneath their nose. There were elements of Crow war, more like sport, and recreation.

Reconciliation of the paradox comes by understanding the Crow personality. They were fun loving, sportive, adventuresome, yet fiercely protective of their land and resources. They enjoyed and revered life. They maintained a balance between humanity and necessity, between individualism and altruism,

between war and peace.

This attitude has carried over into the perspective Crows seem to exhibit in sports today. While they compete with great intensity, they often smile, laugh, and tease their fellow players right at the most crucial part of a game, thus appearing to take the game less "seriously" than their white counterparts.

JURAL POSTULATES OF THE CROW NATION

With this understanding of the salient features of the Crow culture of the buffalo days, it is possible to spell out axiomatic assumptions, or self-evident truths Crows held about the nature of their world. These will be stated according to the methods E. Adamson Hoebel developed for defining the laws of a society from investigation of its ideological rules, behavioral patterns, and "instances of hitch, dispute, grievance, trouble," and as set forth in his work entitled, The Law of Primitive Man: A Study of Comparative Legal Dynamics (Hoebel 1954, 13; Strickland 1975, 21). Postulates will be posed that state "the broadly generalized propositions held by the members of the Crow "society as to the nature of things and as to what is qualitatively desirable and undesirable" (Ibid.). The jural postulates inducted from the literature that describes the Crow way of life during the buffalo days (Beckwourth 1856; Catlin 1841; Curtis 1909; Denig 1856; Irving 1836, 1837; Larpenteur 1898; LeForge 1928; Larocque 1805; Linderman 1930, 1932; Lowie 1935, 1954; Medicine Crow 1939; Nabokov 1988; Old Horn 1989; Pease 1989; Sims 1903, 1904) are as follows:

1. The land, Crow Country, is vital to the life of the individual and the tribe. Constant warfare is necessary to preserve it for the Crow way of life.

Corollary: War is essential to individual self-expression of the male.

3. The individual has very few restraints upon his actions, but when necessary, he must act for the good of the tribe.

2. Supernatural powers or spirits reside in objects, plants and animals. The spirits can appear to a man in a vision and give him their powers. With these powers he can earn military, political, social, economic, and familial status.

3. The well being of the individual and of the tribe is related to numbers of horses owned.

4. Tribal chiefs are chosen by empirical measure of a man's success as a leader. He leads only as long as the group prospers; bad fortune diminishes his achievements and calls for a new leader.

5. Marriage is not permitted with a member of one's clan. Other clan rules are important.

6. Sexual fidelity in marriage is the ideal, but infidelity is condoned.

7. The law is enforced primarily by affecting a person's recognized status in the tribe. Capital punishment is discouraged.

8. Women ordinarily care for the lodge, cook, prepare hides, but are free to seek visions, even go to war, if they desire; they hold their own property and enjoy great freedom.

The Crow law takes for its underlying assumptions these postulates. Like Timberlake, the early observer of traditional Cherokee society, who concluded "there is no law nor subjection amongst" the Cherokee (Strickland 1975, 10), Denig, as a Crow observer in 1856, also erred by concluding the Crow were "a savage nation, living without any law and but little domestic regulation of any kind" (Denig 1856, 150). However, in fairness to Denig, he may have had another definition of law in mind when

he made his statement, for he finishes by marveling that Crows "should be able to settle all their individual quarrels with each other without bloodshed, while yearly brawls and murders take place among the rest of the tribes" (Ibid.). Such a statement obviously recognizes that a very effective system for maintaining order was in place. He merely failed to see the system as laws by the Hoebel definition, social norms, the neglect or infraction of which "is regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting" (Hoebel 1954, 28). This paper, using the Hoebel method, will articulate that effective system, as if it were a more formal legal system.

But, before describing the Crow law itself, something should be said about the judicial function, law enforcement, and methods of punishment in Crow society.

As stated above, the chiefs held very little governmental power. Apparently none of them, including the owner of the camp, held judicial power (Lowie 1935, 5). They seem to have acted as advisors and mediators, but not decision makers, during times of disputes or deviation (Medicine Crow 1939).

The chiefs, or elders of the clans also functioned as advisors or mediators in a very important way. If a crime was committed they would intervene between the parties, reminding them of the first motto of conduct for Crows, "Keep your heart good, for the good of the tribe" (LeForge 1928, 182). Internal

discord would weaken defenses against external foes. Thus a real atomosphere of conciliation, forgiveness, and restitution was cultivated in dispute situations.

This is illustrated by a murder case reported by Lowie (Lowie 1935, 5). A member of the Whistling Water Clan recaptured a horse stolen by Sioux. While returning with the horse, his companion, a member of the Sor-lip Clan, coveted the horse and killed the Whistling Water for it. When the clansmen of the Sor-lips learned of the foul deed, they brought many horses loaded with gifts to the greiving father of the victim. The chief of the Sor-lips offered the sacred peace-pipe to head of the Whistling Waters, who after counseling with his clansmen, accepted out of deference to the pipe. The murder's deed, according to Lowie, was forgiven, although LeForge reports that thereafter nobody would associate with him (LeForge 1928, 145, 146).

This method of mediation, restitution, ostracism, and conciliation, facilitated by the clan organizations, was a very effectual way to quickly resolve disputes and maintain internal unity necessary to martial war forces. Its importance can not be over stated.

Other than individual imposition of sanctions, the principal judicary of the Crow was the dog soldiers, or camp police, which has been briefly described above. They had authority to whip any person who violated rules of the communal hunts (Lowie 1935, 5),

damaged the camp (LeForge 1928, 145,146), or drank liquor, a practice the Crows avoided from the time of the first trappers appeared in 1807 until dispondency overtook them after the buffalo disappeared (Ibid., 203; Larpenteur 1898, vol. 1, p. 45).

The dog soldiers also meted out the punishment as has already been outlined. In domestic situations, the parties involved acted, or a clansman might, with approval of those in camp, take the necessary sanctions. A good example is reported by LeForge (LeForge 1928, 203). He had two wives for awhile. They got along, but their mothers did not. The mother of one wife came one day and took her daughter back to her own lodge, along with exactly half of Leforge's lodge and everything in it. All that remained was half the poles a ripped covering, and pieces of other articles. Later the brother of the departed wife came to Leforge and said, "this is is very bad." The next day he gave Leforge six horses and all was well.

This is also a good example supporting Denig's correct observation of self-regulation among the Crow. Again, this is consistant with the needs of a war society. Internal harmony is essential for a small group maintaining prime territory against larger groups surrounding it.

The jural postulates on war also exhibit themselves in the area of punishment. Lives were precious to this small military force. Their adoption of captive women and children attests to their preceived need to maintain numbers. Two of the three reported murder cases verify compensation, conciliation, and

acceptance of the peace pipe as the means of resolution of murder cases. For this reason it is postulated that capital punishment was not practiced as the norm. Medicine Crow concured when he said, "In spite of the threats to take the murder's life, the usual settlement was restitution. Armed vengeance was never successfully resorted to, as the keeper of the peace-pipe would intercede and ask the parties to smoke the sacred pipe and invite peace. "The peace-pipe was never refused as it was taboo to refuse it when offered" (Medicine Crow 1939, 63). Beckwourth went so far as to say that it would mean instant death to any person who refused to take the pipe and thereby be reconciled with his neighbor (Beckwourth 1856, 175). When Dale Old Horn was asked what would happen if a person refused the pipe, he could not answer, except to say that it just was not done (Old Horn 1989, interview). What a great society that could develop a ritual--the offering of the calumet--as a fail-safe method of reconciling feuding parties.

The extreme punishment was banishment from the tribe. As reported above, this was inflicted on Leforge for a month, and on one murderer for life. It was most effective. If for a period, the condemned had to fare for himself in a hostile wilderness, his life was endangered. He was ostracized from a society from which he was quite dependent, inspite of the appearance of independence in daily pursuits.

Alligned with ostracism was ridicule. This was regularly

practiced by the "teasing clans." All sought status with the group, making teasing very effective as a means of controlling behavior.

Finally, the law was enforced by economic sanctions, principally by confiscation of a person's horses. Horses were the medium of exchange, the symbol of status, the mode of transportation, and the means of getting food, shelter, and clothing. To lose a horse was to jeopardize life. Here again, was effective law enforcement, sanctions that kept a person motivated to contribute to the defense of the nation as required by the way of the Crow.

CRIMES AND TORTS

Medicine Crow points out that crimes were adjusted between the parties and their clans, even in the case of murder; no formal judiciary was involved (Medicine Crow 1939, 63). The only exception to this would be offenses committed in time of war or during the communal hunt. Such circumstances demanded immediate whippings or other sanction, by the dog soldiers to maintain order at such critical times.

This system recognized no difference between crimes and torts; both called for restitution, reconciliation, and correction. In this sense crime was identical with tort, as Medicine Crow noted (Ibid., 62, 63).

The major crimes and torts, and the law pertaining to them, according to 37 cases gleaned from the literature listed above, were as follows.

Murder. Murder was the most serious crime. The judiciary, punishment, and enforcing agency has already been explained. The only additional information necessary it ought to be noted that the method of trial or determination of fact appears to have been confrontation, dialogue, and mediation between the parties involved and any clansmen or elders involved. Use of the peace pipe was important. No cases of fact dispute are reported. It is assumed that parties were generally truthful, and that communal living made for many witnesses.

Theft Theft was handled like property damage, as described

above. If possible the article was taken back by its owner. If this could not be done, horses or other property was forfeited (Medicine Crow 1939, 63, 64). If a person had no property, that of his family could be taken (Denig 1856, 150).

Adultery Adultery, inspite of a high incidence of infidelity, and the practice of wife-capturing, was considered a serious offense (Medicine Crow 1939, 64). The injured spouse had the privilege of flogging both the domestic offender and the paramour. Confiscation of property of the paramour was also condoned. Condemnation, probably in the form of teasing, also followed.

Slander It is interesting to note that Medicine Crow lists slander as major offense (Medicine Crow 1939, 63, 64). "The inividual Crow would not stand up for a moment against an adverse public or even private opinion of him. To belong to the tribe was the ideal, and a man would not risk expulsion;" Those offended often vowed to kill, and had to be approached with the sacred pipe to prevent injury. A great deal of conciliation had to occur to get the matter to a point where it might be forgotten. Here, again, the tribal need for unity is demonstrated, as well as the need each individual felt to be accepted by the group. An offense against his status was in deed grave.

Clan Offenses. As has already been mentioned, there were many clan offenses. An offense was adjusted by the parties

involved. Leforge tells how this often occurred. He was guilty, even though unknowingly, of making a congenial flirtation to his brother-in-law's wife, who was disguised under a blanket in the dark. When his adoptive mother learned of the incident the next day she came to Leforge's lodge and said only, "Where is that pretty shirt you have?" She then dug it out, took it, left the lodge, and gave it to the brother-in-law's wife. Leforge lamented that he hated to loose that shirt, but glad to do anything to square things with his in laws.

These were the principal laws of the Crow Nation. They were few, but effective, and harmonious with the underlying beliefs and social objectives of the nation. Whenever the call of the camp crier came from the chief to move camp, all would gladly obey the law. First of a line miles long would be the camp chief with his robes, bonnet, and badges of his many coups. Then the rest would follow in single file, stretching along the creek banks, over the hills, and beneath the peaks of the Big Horn Mountains. The scouts, called wolves, would be out miles in advance, and to the rear, on knolls or high points, looking for the enemy that threatened their sacred country and beloved people. The warriors held close to them their bow, gun, and medicine bundle, ready to defend, and enjoy the sport, the religion, the profession, and the government of war.

TRAGEDY AND TREACHERY

This Crow way lasted until the the four factors that produced it vanished, that is, until the buffalo, the horse, the land, and the chiefs were gone. There is a tragic and treacherous story that goes with the end of the Crow Nation as it was during the buffalo days. It is a story that lies outside the scope of this paper. But a very brief outline will tie the Crow past to the present.

As already mentioned, the Crows never warred with the whites. Commencing in 1825, they made treaties with the United States for protection from their enemies, as part of their alliance strategy (Weist 1977. They made two more treaties with the United States, one in 1851 and one in 1868. In each they were promised a territory free from their enemies and from white men. Thus, the defense of the Crow Nation was turned over to the United States, to the white man. The fox was asked to guard the hen house. War, as the Crows knew it, not against whites, but against their traditional Indian foes, was ended. The tragedy of this decision was not immediately apparent, for even though technically confined to a reservation beginning from 1868, the Crow way of life continued. Then commencing in 1881, the treachery of the white man suddenly made the tragedy apparent as a rapid succession of events brought the end of the Crow way of the buffalo days.

The Northern Pacific Railroad was completed to Billings,

was enough. But greed has no bounds. Armed with with an idea in their minds that God had "destined" their superior race to turn Crow Country into the "garden of eden," whites then turned on the Crows themselves. The paradise whites would make had no place for Crow savages. It seemed logical that they too ought to go the way the buffalo and horse had gone. The implication, inspite of the law and stated policy, was genocide (Strickland 1986). The Yellowstone Journal a newspaper of the cow town, Miles City, where the cattle herds ended the trail from Texas, proclaimed that, "Perhaps, however the best settlement of the whole Indian problem would be Secretary Schurz's propostion to convert them into settlers forcing them to enter upon and cultivate the land on the same footing with whites. That would finish them" (Western Historical Publishing Co. 1907, 336). And again, speaking of Crows: "There is evident determination among ranchers and stockmen to take the law in their own hands should trouble wax greater, and extermination at the hands of these hardy pioneers will be about what these hostiles will get" (Ibid.).

The battle of the Little Big Horn in 1876, gave whites the perfect opportunity to establish a policy almost as effective as actual genocide. America was outraged over the death of Custer and all his men. Something had to be done about the "Indian problem." Immediately new forts were built in all of the northern plains, to insure that "hostiles" stayed on their respective reservations. One such fort was Fort Custer, at the

mouth of the Little Horn, in Crow Country. It proved effective in warding off Sioux, Cheyenne and the Piegan, but it also confined the Crow. Two Leggings led the last war party against Sioux who had refused to stay on their reservation. This was early summer 1888 (Nabokov 1967, 193). But it was a raid unlike any of the past; times had changed. Raids were forbidden by the agent. Two Leggings and his friend, Pretty Old Man, met beyond Fort Custer on ration day. Then, on their horses they rode north to Pine Ridge, tracked down the party of Sioux and took one scalp. After the encounter, they got cold and held up in a section house of the railroad near Ballintine, Montana.

The Sioux never came back to Crow Country, and Crows were not allowed to leave the reservation. Thus, the whites ended Crow wars.

As alluded to at the beginning, this raised a serious problem for Crow government. After the last war party, how could warriors earn coups? And without war, how would the Crows "elect" their leaders? The Crow Nation, at least as it then existed, became terminally ill the day after Two Legging's last raid. Two Leggings knew it, when he concluded his accounting for the last raid by saying, "Nothing happened after that. We just lived. There were no more war parties, no capturing of horses from the Piegans and Sioux, no buffalo to hunt. There is nothing more to tell." And he refused to say any more (Ibid., 197). And Plenty Coups ended dictation of his biography by saying, "But

when the buffalo went away the hearts of our people fell to the ground, and they could not lift them up again. After this nothing happened" (Linderman 1930, 311).

As stated at the beginning, Plenty Coups was the last chief to die, March 4, 1932. On that day, the buffalo were gone, the horses were gone, the land was in the hands of the greedy whites, and the last chief was dead. The Crow Nation had no way to choose new leaders. No more coups were counted.

As Plenty Coups observed, the people's hearts fell to the ground, and so far they have not been able to fully lift them up again.

Consequently, the Nation today, has an enemy more threatening than the white racist ranchers that control Crow lands with an oppressive fist. That enemy is factionalism, contention, dis-unity, moral degradation, and alcoholism, the results of a century without the sweet unity and social cohesion of the Crow war society, under the chiefs and warriors.

Those racist ranchers must have been very happy to read in their local rag, the Big Horn County News, for October 18, 1989, as follows:

"Violence truncated the October Crow Tribal Council meeting Saturday afternoon and sent Crow factions into different arenas as the struggle for control of the tribe and its \$30 million in assets continues.

'It's a black day for the Crow Tribe--yes, it's a black day for the Crow Tribe,' said Joe Medicine Crow, tribal historian and internationally famous anthropologist as he watched fellow Crows fight with one another inside Ivan

Hoops Memorial Hall.

The retired Medicine Crow had found himself what he hoped was a safe haven as individual fights, fleeing people, and onlookers turned the Council proceedings to chaos.

* * *

Business Manager Howe wasn't as lucky. He was beaten and treated at the nearby Crow Agency Hospital. About ten people were eventually treated for injuries.

Yes, it was a black day October 18, 1989. Black without the buffalo, the horse, the land, or a chief. But, most black because the Crows, without war, without their war leaders, lack unity and direction. Individualists and feuding clans no longer have that ancient reason to sacrifice their wants for the needs of their nation. Without war, there is only factionalism and dissension, which has now lead to violence within their nation. The Crow Nation has yet to recover from the tragedy and treachery whereby the promising white man took the nation that was. But, the land, resources, and the people still exist. They only need to find a substitute for war--maybe a political war for control of their beloved Crow Country. Something is needed to renew some of the old ways, or at least their beneficial effects, so that when the peace-pipe is passed in these times of feuds and violence, the great Crow people of the Crow Nation will not dare refuse it, but will again be one, as they were in the days of the buffalo.

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