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STRANGERS IN A STRANGE LAND: A HISTORICAL PERSPECTIVE OF THE COLUMBIAN QUINCENTENARY*

RENNARD STRICKLAND**

The title *Strangers in a Strange Land* comes from a letter which John Rollin Ridge, the first Native American to practice law in California, wrote from the gold fields back to his Uncle Stand Watie in the Indian Territory. "I was a stranger in a strange land," he began. "I knew no one, and looking at the multitude that thronged the streets, and passed each other without a friendly sign, or look of recognition even, I began to think I was in a new world, where all were strangers and none cared to know."¹

The last five hundred years—the Columbian Quincentenary—is captured for the Native American in the phrase—"a new world, where all were strangers," with Native Americans as the "strangers in a strange land [which] none cared to know." I believe from my historical studies that the so-called "Columbian Exchange" symbolizes the triumph of technology over axiology—the ascendancy of industry over humanity. This, in turn, provided the impetus for a system of justice whereby law was made the instrument of moral judgments establishing the technological and industrial achievements of the European discoverers as the standard by which all value judgments were to be made.

This was a historical *transmutation* which made the assumption that industrial and technological advancement was the instrument of moral achievement and the measure of all order or, perhaps,

* This essay is based on an address given to the Federal Bar Association, Indian Law Section, in April, 1992 at their annual meeting in Albuquerque, New Mexico.

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¹ A TRUMPET OF OUR OWN: YELLOW BIRD'S ESSAYS ON THE NORTH AMERICAN INDIAN 22, 31 (David Farmer & Rennard Strickland eds., 1981).

the ordering of all measure. In my reading of the history of the last five hundred years, what we have witnessed is the domination of an ideologically superior world view (i.e., that of the Native Americans) by a technologically advanced but spiritually bankrupt civilization (i.e., the European discoverers.)

Carl Sweezy, the great Arapaho artist, who was born on the plains in the mid-nineteenth century, recalled the dehumanizing changes forced upon his people by the Treaty of Medicine Lodge² and the Dawes Act.³ It took the Indian, he noted, a long time to understand how these white folks wished the Indian to live.

When we first sat down on the Reservation, the Agents and those who directed them in Washington expected all the Arapaho men to become farmers . . . But the Arapaho had always lived in bands, with their tipis side by side, their horses grazing together, and with hunting and feasting and worship all carried on by the group. It took years to learn to settle down on a farm and work alone and see one's neighbors only once in awhile. Neither we nor our dogs nor our ponies understood this way of white people. To us it seemed unsociable and lonely, and not the way people were meant to live.⁴

As a historian I would note—without fear of immediate contradiction—that 1492 and 1992 are remarkably similar. Like our world, with the collapse of the cold war balance of power and economic upheaval—Columbus's world was in mighty flux. The trade monopolies of the Middle Ages were coming to a close; an international economy was emerging; the infidels were driven from western Europe; the old feudal empires were collapsing and being replaced with centralized monarchies. In short, we were witnessing the death of one age and the birth of another.

As Will and Ariel Durant so clearly described, this was an epoch during which man replaced the cross with the test-tube.⁵ This was an age and a series of events which I believe drew the legal profes-

² 15 Stat. 581 (1868).

³ General Allotment (Dawes) Act, ch. 119, 24 Stat. 388 (1887) (codified as amended in scattered sections of 25 U.S.C.)

⁴ ALTHEA BASS, *THE ARAPAHO WAY: A MEMOIR OF AN INDIAN BOY* 50 (1966).

⁵ WILL & ARIEL DURANT, *THE LESSONS OF HISTORY* 37-42 (1968).

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sion into the dominant role which it now asserts in the life not only of native peoples but also of our republic.⁶ It is what Yale's controversial Fred Rodell meant when he referred to "the lawyer as modern medicine man." As Alexis de Tocqueville, that keenest of all European observers of America noted, an American lawyer "resembles the hierophants of Egypt, for like them he is the sole interpreter of an occult science."⁷ And, I believe, behind this dominance of law as occult science (and Christopher Columbus Langdell's later creation of modern legal education as a science), is the Columbian substitution of technology for ideology—or perhaps more correctly, the making of technology into ideology.⁸ More specifically, this was the creation of a jurisprudence which rationalized—and continues to rationalize—conduct toward native peoples based on their presumed backwardness, savageness, industrial and technological inferiority, and their failure to exploit natural resources. This, in my view, is at the heart of the so-called "Columbian Celebration." From the very beginning, it seems to me, this quincentenary has been about rationalizing what the Lumbee historian Rob Williams has called the "Doctrine of Discovery"—a cant of conquest.⁹ It is the task which continues to this day of using law as the judge of progressiveness—thus establishing the legality of the dominant society's value structure. The history of the last five hundred years is a continuous example of this jurisprudential task of defining the nature of the "discovered," i.e., the native people (read savage) and their rights as recognized in the culture of the "discoverer," i.e., the European (read civilized). The syllogism is relatively simple but fairly long. It works out something like this:

⁶ See generally Rennard Strickland, *The Lawyer as Modern Medicine Man*, 11 S. ILL. U. L.J. 302 (1986).

⁷ ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 277 (Francis Bowen trans., 1862, Phillips Bradley ed., 1945).

⁸ Christopher Columbus Langdell, the dean of Harvard Law School in the late 19th century, proclaimed in 1871 that the study of law was a science and that the library was a laboratory in which we dissect cases like biology experiments. See ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S*, at 52-53 (1983) (discussing Langdell's view of law as science).

⁹ See generally ROBERT A. WILLIAMS, JR., *THE AMERICAN INDIAN IN WESTERN LEGAL THOUGHT: THE DISCOURSES OF CONQUEST* (1990).

1. What they do is Savage;
2. What we do is Civilized;
3. Civilized is Good;
4. Savage is Evil;
5. The Law is Good;
6. Therefore, what We the Civilized do is the Law.

The historical legal task of the last five hundred years has been to reconcile the conquerors' sense of civilization and savagery with the formal doctrines of law. In the fifteenth and sixteenth centuries, the so-called "Age of Discovery," the American Indian was defined and interpreted against the backdrop of the Classical Age, the romance with the East and the Near East, and the birth of modern scientific curiosity. Early European reports stressed the "friendliness" of the savages but also emphasized the "exotic" nature of these New World inhabitants. Typical of the accounts of early explorers and travelers are these excerpts from the mid-to-late sixteenth century:

The people are thus naked . . . their heads, necks, arms, privy parts, feet of women and men are . . . covered with feathers. The men also have many precious stones in their faces and breasts. . . . They also eat each other even those who are slain, and hang the flesh of them in smoke. They live one hundred and fifty years.¹⁰

The Indian, initially invented by the European, was indeed a strange, exotic subspecies whose voice, one account noted, was "almost human."¹¹ There were, however, some particularly shocking aspects about the culture, for example:

[It was] [t]he custom for men and women to go all naked . . . And they marry there no wives . . . And all the land and property also is common, nothing being shut up, or kept under lock, one man being rich as another.¹²

¹⁰ HUGH HONOUR, *THE NEW GOLDEN LAND: EUROPEAN IMAGES OF AMERICA FROM THE DISCOVERIES TO THE PRESENT TIME* 12 (1975).

¹¹ *Id.* at 8.

¹² *Id.* at 12.

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Illustrative woodcuts published as early as 1509 presented a fairly accurate picture of the first model American Indian. Therein, a group of Indians is shown cowering while one of them urinates, and in the background others chop up human limbs. In yet another of these illustrations, a wild naked woman swings a tomahawk to kill a European who is peacefully chatting with other members of her tribe.¹³ I thought of that woman with her ax when I saw Jane Fonda and Ted Turner “chopping” away at the 1991 World Series.

There is little distinction in these sixteenth century accounts between the discussion of the “savage Indians” and the exotic birds and flowers of the New World. In truth, the Indian is seen as a different but equally strange variety of new fauna. He is pictured with such “strange beasties” as the iguana, the possum, the armadillo, and the turkey. In this age, considerable time was spent among the ecclesiastics and academics debating the question: Are Indians really people? The Spaniards, as evidence in this controversy, noted one particularly bizarre habit of the Indians which they described in 1565. The habit was “drinking smoke.”

It is not such a long trip from the sixteenth to the twentieth century. Let us ask ourselves one key question: What would we think the Native American was like if we reconstructed history from, for example, such popular cultural resources as the movie archives? We see on one side the noble Redman, the faithful Tonto-like companion. On the other side we see the Indian as ruthless pillager. The twentieth century did not change the sixteenth century view but instead, merely gave light and motion to longstanding images derived from deeply entrenched stereotypes. The Indian in the American Image is rooted in five hundred years of non-Indian portrayals of Native Americans—in the high art of Bodmer, Catlin, and Miller and in the popular arts like Currier and Ives prints and Ned Buntline’s dime novels. Moviemakers took advertising posters off the saloon wall and flickered them through the nickelodeon. Budweiser’s famous 1886 barroom advertising poster, *Custer’s Last Fight*, is seen again and again in the

¹³ *Id.* at 10.

climax of screen versions of the Battle of Little Big Horn.¹⁴

At the center is the five-hundred year old duality of Savage Sinner and Redskinned Redeemer. It is the Indian as exotic. The Indian as other. The Indian as strange, romantic, demonic, dangerous, and deceptive. The Indian as virile barbarian. The Indian as the devilish anti-Christ. The Indian as Tonto-figure, serving his white master in the preordained task of westward expansion. The Indian at the end of the trail, the lone basketmaker struggling to keep her people's art alive. In short: The Indian as a people of the past, in a land of the future.

Understanding the role of this historical definition is crucial, not only from the standpoint of the Native American, but of society at large. As long as the Native American remains the "Chatty Kathy" Indian Princess¹⁵ invented by white society, our Indian policy and law will continue to deal with a myth—with an Indian who never was and never will be. Too often, as Barbara Tuchman reminds us, policy is "formed by . . . long-implanted biases . . . mental baggage that has accumulated . . . since childhood."¹⁶

To illustrate my thesis about the continuing dominance of historical, stereotypic images in law, I want to look briefly at three recent decisions of the United States Supreme Court. These Indian law cases are *Duro v. Reina*,¹⁷ *Brendale v. Confederated Tribes & Bands of the Yakima Nation*,¹⁸ and *Department of Human Resources of Oregon v. Smith*.¹⁹ I believe these decisions are based upon the cant of conquest, the Columbian technological bias, as well as a dime novel, Saturday matinee image rather than the overwhelming body of historical data. In these three cases, the Court did not really bother to analyze the submitted historical materials, but dismissed the historical evidence with brief reference in each case to

¹⁴ See Rennard Strickland, *Coyote Goes Hollywood: Native American Images on Film*, NATIVE PEOPLE'S MAG., Spring 1989, at 46, 48; Rennard Strickland, *If Indians Should Stage a White Man's Play*, NATIVE PEOPLE'S MAG., Fall 1989, at 38, 41.

¹⁵ The Chatty Kathy doll was a popular children's toy which recited a pre-recorded message when her string was pulled. For a more detailed development of these ideas, see Rennard Strickland, *Inventing the Indian Doll: Observations of an Indian Lawyer About Law and Native Americans*, 5 VA. L. SCH. REP. 6 (1981).

¹⁶ BARBARA W. TUCHMAN, PRACTICING HISTORY: SELECTED ESSAYS 289 (1981).

¹⁷ 495 U.S. 676 (1990).

¹⁸ 492 U.S. 408 (1989).

¹⁹ 494 U.S. 872 (1990).

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the mythological Indian doll of their dreams.

For example in *Duro*, Bill Quinn, a lawyer-historian, with a Ph.D. from the University of Chicago, prepared detailed documentation establishing the nineteenth-century procedures of Indian courts. The Supreme Court refused to consider these practices because the Indian's laws and procedures were allegedly based on superstition and religion and not really law.²⁰ The myth of the lawless savage prevailed. Like the seventeenth- and eighteenth-century explorers, the Court was looking for black robes, powdered wigs, and blinded ladies with scales, and when they found none concluded that the savage was lawless.

In *Brendale*, Justice O'Connor determined that the tribe ought to be able to zone and regulate only that part of the reservation which retains "an Indian character"—where people can, for example, grow medicinal herbs, but not that part of the reservation which is non-Indian in character—where there are stores and modern commerce.²¹ My father was one hell of an Indian merchant and so was his father and grandfather. Alexander McGillvery of the Creeks was a millionaire trader in the eighteenth century. Talk about legalizing stereotypical images! Indians can't be merchants?

And finally, in *Smith*, Oregon was allowed to refuse unemployment insurance payments to Native American drug counselors because of their religious use of peyote.²² The dissent attacked Justice Scalia for his dismissal of all of the historical and anthropological data which establishes that the Native American Church is a culturally reinforcing, not destroying, force.²³ To Justice Scalia, the demonic Indian of the sixteenth century, smoking fire as in that explorer's imaginative account, is alive and well. The law in all three cases is decided on false images—and outdated ones at that. They are not grounded in historical reality and scholarly research, but the remembered romance of the Lone

²⁰ *Duro*, 495 U.S. at 693 ("[w]hile modern tribal courts include many familiar features of the judicial process, they are influenced by the unique customs, languages, and usages of the tribes they serve").

²¹ *Brendale*, 492 U.S. at 441-47.

²² *Smith*, 494 U.S. at 890.

²³ *Id.* at 913-15.

Ranger and Tonto.

Today, when I read the historical interpretations found in these and other recent Supreme Court decisions, I am reminded of the White Queen's remark in Lewis Carroll's *Through the Looking Glass*. "It's a poor sort of memory" she warned, "that only works backwards."²⁴

I cannot be a good little consensus historian and willingly pretend that "the Columbian Exchange" was a consensual experience. I am by training a legal historian but the lawyer in me objects to the concept of this event as a mutual or equitable exchange. In my view, Indians gave—Europeans took. One wonders about the validity of the European jurisprudential "doctrine of discovery" when it was none other than Columbus who was lost and needed to be discovered. Nevertheless, it was this "doctrine of discovery" which Chief Justice John Marshall would, in the nineteenth century, so effectively shape into a perverse landlord-tenant relationship.²⁵ Vine Deloria, Jr. has suggested this gave the Europeans the rationalization that if they were the discovering landlords, they then had only to serve notice to evict their discovered tenant Indians. And evict they did—seizing the lands they had discovered from a people who did not even know that their lands were lost.²⁶

Pardon me, but in connection with the so-called "CQ" or "CE"—the "Columbian Exchange," I have to use the "G" word, or at the very least the "H" word. The most conservative population estimates say that there were 5 million native peoples on the American continent in 1492. Others have the figure closer to 20 or 25 million. That number of living, breathing, working, loving human beings had been reduced to only 200,000 native peoples in America north of Mexico by the year 1890.²⁷

²⁴ LEWIS CARROLL. *ALICE'S ADVENTURES IN WONDERLAND & THROUGH THE LOOKING GLASS* 155 (Bantam Classic ed. 1981) (1871).

²⁵ See *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1, 17 (1831) ("Indian territory is admitted to compose a part of the United States" and tribes constitute "domestic dependent nations"); *Johnson v. McIntosh*, 21 U.S. (8 Wheat.) 543, 569-70 (1823) (same).

²⁶ VINE DELORIA, JR. & CLIFFORD M. LYTLE. *AMERICAN INDIANS*. *AMERICAN JUSTICE* 26-27 (1983).

²⁷ See generally DAVID E. STANNORD. *AMERICAN HOLOCAUST: COLUMBUS AND THE CONQUEST OF THE NEW WORLD* (1992); RUSSELL THORNTON. *AMERICAN INDIAN HOLOCAUST AND SURVIVAL: A POPULATION HISTORY SINCE 1492*, at 42-43 [hereinafter THORNTON. *INDIAN HOLO-*

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The *G* word is genocide. The *H* word is holocaust. I know we are not supposed to use those words in connection with the CQ or CE. I know that in polite academic society it is considered appropriate to take our 'itchy fingers off the trigger of moral outrage.' We cannot move on to the question of the future until we have drawn a 'moral bee' on the past. To do otherwise would not change the facts. It was Tecumseh who said that whole nations have vanished "as the snow before a summer sun."²⁸ And, it is so.

When Jimmy Carter was asked how long his family had lived on their farm in Georgia, he replied: "Ever since the Indians went away." The Indians "went away?" The Georgia Indians did not "went away." They were driven off their lands on what is known as "The Trail of Tears." As many as six to eight thousand Indians died on that one trek. Indians in Wisconsin did not go away, either. Nor did those in Arizona, California, Kansas, Massachusetts, New York, or Virginia.²⁹

Genocide is a twentieth-century word for a tragedy as old as mankind. The term, coined only in our century, describes the decimation of a people, of a nation. One of the nice things about getting older is that you have said a lot of what you think, so I want to return to what I argued in *Genocide-At-Law*, as part of the Langston Hughes Lectures.³⁰ The term genocide did not exist in the early nineteenth century when the French observer Alexis de Tocqueville recorded the atrocities directed at the native peoples of the Americas. As de Tocqueville concluded, in *Democracy in America*, the styles of extermination varied between the Spanish and the Americans of the United States:

CAUST} (detailing population decline of estimated 72 million-plus American Indians in Western Hemisphere in 1492).

²⁸ THORNTON. INDIAN HOLOCAUST, *supra* note 27 (face page).

²⁹ See Russell Thornton, *The Demography of the Trail of Tears: A New Estimate of Cherokee Population Losses*, in *CHEROKEE REMOVAL: BEFORE AND AFTER* 75, 75-76 (William L. Anderson ed., 1991) (noting revised estimates of losses).

³⁰ See Rennard Strickland, *Genocide-At-Law: An Historic and Contemporary View of the Native American Experience*, 34 *KAN. L. REV.* 713 (1986). The argument of the essay is that the law was used as a tool of extermination, as illustrated by a Georgia law which placed Indians beyond the protection of the law, or as a tool of culturecide or geographical relocation which produced death. *Id.* at 720-21. Note the use of the Courts of Indian Offense and the outlawing of the Sun Dance and the lottery as devices to redistribute lands. *Id.* at 728.

The Spaniards pursued the Indians with bloodhounds, like wild beasts; they sacked the New World like a city taken by storm, with no discernment or compassion; but destruction must cease at last and frenzy has a limit. . . . The conduct of the Americans of the United States towards the aborigines is characterized, on the other hand, by a singular attachment to the formalities of law. . . .

The Spaniards were unable to exterminate the Indian race by those unparalleled atrocities which brand them with indelible shame, nor did they succeed even in wholly depriving it of its rights; but the Americans of the United States have accomplished this twofold purpose with singular felicity, tranquilly, legally, philanthropically, without shedding blood, and without violating a single great principle of morality in the eyes of the world. It is impossible to destroy men with more respect for the laws of humanity.³¹

As a lawyer I regret that this holocaust was, too often, a "genocide-at-law." Based upon my thirty-five years of study of the documents of conquest, I share de Tocqueville's view that it would be impossible to destroy men with more respect. As Angie Debo, America's most perceptive historian of Indian policy, explains: "[b]ecause of the magnitude of the plunder and the rapidity of the spoilation . . . [s]uch treatment of an independent people by a great imperial power [should] have aroused international condemnation . . . but the Indians . . . were spoiled . . . under the forms of existing law."³²

Felix Cohen, the father of modern Indian law, writing at a time when the genocidal tragedies of the Second World War were still fresh in the collective conscience of western man, warned:

The Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians . . . reflects the rise and fall in our democratic faith.³³

³¹ DE TOCQUEVILLE. *supra* note 7, at 354-55.

³² ANGIE DEBO. *AND STILL WATERS RUN: THE BETRAYAL OF THE FIVE CIVILIZED TRIBES* ix-x (1940).

³³ Felix Cohen, *The Erosion of Indian Rights, 1950-53: A Case Study in Bureaucracy*, 62 *YALE L.J.* 349, 390 (1953).

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I want to talk about the future—as well as the past—of the next 500 years of the post-Columbian world—the next Quintecenary. If, as most of us believe, “the past is prologue” or, as the Supreme Court tells us, “the backdrop”³⁴ against which Indian law must be considered, then there is one quintecennial fact truly worthy of celebration. Put quite simply: Historically, *the Indian survived!* The Indian survived the first 500 years of the so-called “Columbian Exchange.” In fact, from barely 200,000 native peoples in 1890, their numbers have risen to 2 million plus in 1990, and more than half of these are under 20 years of age. As my colleague Tom Hagan wrote: “There is no longer any question that a hundred or two hundred years from now there will be Indian people, living as Indians.”³⁵ *This is worth celebrating!* Indian tribes, Indian tribal governments and Indian people are alive and well.

As to the future—the Indian future—Browning Pipestem, our Osage-Otto Indian law colleague, sees the future as a union of Felix Cohen and Black Elk. Last fall, he told my Indian Law class that he was not as pessimistic as I, that he knew the Indian future would be bright because Black Elk, in his vision, saw the tree of life which seemed so long to be dead or dying come alive, reborn, filled with singing birds. Pipestem, in a stroke of ironic Indian understatement, suggested that those birds just might be Cohen’s canaries—freed from the poisonous gas of our sick society—nesting in the tree of liberty.

But survival is never easy. Make no mistake about it. The remaining Indian resources are still the target of world-wide Columbian exploiters. Today, Indian tribal land constitutes 52 million acres in the contiguous United States and 40 million acres in Alaska. Tribes still own at least 10% of the nation’s coal, and perhaps 20% of the oil and uranium, plus vast copper and iron deposits, commercial timber, and “first call” on considerable water and fishing resources. The exploiters are still out there. This is why I believe that to insure a survivable future, we must acknowledge

³⁴ *Oliphant v. The Suquamish Indian Tribe*, 435 U.S. 191, 206 (1978).

³⁵ Hagan based this conclusion not only upon his extensive scholarly research in libraries, but upon his years of working with native peoples in upstate New York and later in Oklahoma. It is not just the numbers that speak of survival, it is the lifeway as well!

the tragic past.³⁶

Enough of the past. Enough of the present. Let us look to the future. It is my thesis that history suggests that if mankind is to survive on this planet, the next Columbian Exchange—the pattern for the next 500 years—must be rooted in the pre-Columbian ethic of the Native American. The second quincentenary belongs to the Indian.

The continuation of the past—the conqueror's exploitation of the earth—most dramatically demonstrated by the theft of Indian resources, the genocidal holocaust of native peoples, and the wanton disregard of the natural laws of conservation—can mean only one thing. No one, Indian or non-Indian, will survive on this earth. We must go back, back before Columbus, if we are to go forward.

We must ask ourselves about the reverse of 1492—the conquest of the conquerors by the ideals of the invaded, the vanquished. What does the Native American experience have to tell other Americans about the future, about his future and all our futures?

For the Columbian Quincentenary, the Heard Museum mounted a traveling exhibition of Indian paintings called *Shared Visions*.³⁷ The title was selected because the curators believed that the survival experience of the Native American can have tremendous value to the rest of the world as we move into the twenty-first century. The kinds of changes that swept away many of the material aspects of Indian culture are analogous to those sweeping across the world today. We are, as Alexander Solzhenitsyn asserted, at a cataclysmic phase in the history of civilization. It is every bit as dramatic and sweeping as that ushered in when the Admiral of the Sea set forth on a journey of discovery for Spain's Catholic Majesties. Perhaps, as the great Kee-Too-Wah leader, Redbird Smith, proclaimed: "There is a great purpose for our Indian people. The Great Spirit has not put us through these trials

³⁶ For elaboration of this statistical data and citations thereto, see generally Rennard Strickland, *Indian Law and the Miner's Canary: The Signs of Poison Gas, The Fiftieth Cleveland-Marshall Fund Lecture*, 39 CLEV. ST. L. REV. 483 (1991).

³⁷ See generally RENNARD STRICKLAND & MARGARET ARCHELETA, *SHARED VISIONS: NATIVE AMERICAN PAINTING AND SCULPTURE* (1991).

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for no purpose. We can show how to do the right thing.”³⁸

Patty Harjo, a Creek Indian, asks the question about the future in a provocative prose narrative. She reveals the heart of the historic Indian answer to the Columbian Question:

[Our] ancestral roots were transplanted to a new land of adjustment, grief, pain and sorrow, to a future unknown . . . a future that seemed only a candle in the darkness, a candle of hope for a new beginning. In this land, . . . all cultures and heritages began moving onward toward the sun.

Now our sun shines bright, our future is growing clear. We hide our grief, pain and fears. We are moving on. We try to grasp the good of our heritage. . . .³⁹

That heritage of which Harjo writes is a road behind and a road ahead. The corn road, the buffalo road, the Jesus road and the peyote road are different, but the spirit with which one follows the road, not the road itself, is the heritage.⁴⁰ Blackbear Bosin, the great Indian artist, came close to capturing the spirit when he said that Indians “respect what has been created and they only want to sing about it . . . not duplicate it as if . . . playing the role of gods.”⁴¹

The agrarian poet John Crowe Ransom, in writing about the European invasion, noted that progress defined as conquest has no end. The result is a substitution of means for ends, a cycle in which one discovery, one new process, one new product, automatically and unquestioningly “progresses” to another. When we fail to exert an ethical judgment among our options we are surrendering to technology our human decisionmaking power—our value-ordering function.⁴²

Appropriately, R.J. Forbes, the Dutch technologist, closes his

³⁸ See Rennard Strickland, *To Do the Right Things: Cherokee Traditions of Justice Under Law*, 17 AM. INDIAN L. REV. 334, 339-340 (1992); see also ALEXANDER SOLZHENITSYN, WARNING TO THE WEST 45 (1976) (Solzhenitsyn warns that “at the present time it is widely accepted among lawyers that law is higher than morality”).

³⁹ Patty Harjo, *Who Am I?*, in THE AMERICAN INDIAN READER 113, 113 (1973).

⁴⁰ RENNARD STRICKLAND, THE INDIANS IN OKLAHOMA 115 (1980) (hereinafter STRICKLAND, INDIANS IN OKLAHOMA).

⁴¹ *Id.* at 116.

⁴² *Id.* at 117.

classic book *The Conquest of Nature* with an American Indian fable. During an eclipse of the sun the stones begin to grind, the mortars and pestles march against their masters, and all things mobilize. Forbes notes, "There is a tendency to catch sight of that same frightening vision" in our times and "to blame our tools for showing malice because our world has gone wrong in so many ways."⁴³

Perhaps from the Indian spirit we can assert our responsibility to demand a rational order in man's relationships. After all, the Indian has the humility to admit that he cannot win an unlimited war on nature. The Columbian concept of progress as salvation, conquest as cure, can no longer go unchallenged. We must have a vision of order. Ultimate goals must be ultimate in a rational sense.

The pre-Columbian Native American philosophy saw a peculiarly strong unity between man and his world. That view continues to this day. Loren Eiseley has written a beautiful explanation of man's relationship to nature which he called *The Hidden Teacher*.⁴⁴ In that essay he describes a "long war of life against its inhospitable environment"⁴⁵—a war in which "nature does not simply represent reality" but which nature teaches about reality.⁴⁶ Eiseley relates the Plains Indian legend of an early people who were poor and naked and did not know how to live. Old Man, their maker said, "go to sleep and get power [and] whatever animals appear in your dream, pray and listen."⁴⁷ That was how, in the Indian thinking, the first people got through the world—by the power of their dreams and the animal helpers.

We know that even today native sovereigns continue to have a different way of looking at the world from the way of those who worship at the altar of territorial conquest and material progress. As Ortega, the Spanish philosopher, noted: "Two men may look from different viewpoints at the same landscape. Yet they do not see the same thing. Their different situations make the landscape

⁴³ R.J. FORBES, *THE CONQUEST OF NATURE* 92 (1968).

⁴⁴ See LOREN EISELEY, *The Hidden Teacher*, in *THE UNEXPECTED UNIVERSE* 48 (1964).

⁴⁵ *Id.* at 51.

⁴⁶ *Id.* at 56. Eiseley also noted that "nature is full of traps for the beast that cannot learn." *Id.* at 55.

⁴⁷ *Id.* at 64.

Strangers in a Strange Land

assume two distinct types of organic structure in their eyes."⁴⁸ The last 500 years have been about those different ways of seeing and thinking. In the next 500 we must reverse our thinking or we will not survive to see the thousandth anniversary of Columbus's "discovery."

In closing, I want to turn to the idea of the Indians' role in restructuring the next 500 years. D.H. Lawrence, who came to love America's native people, said that the Indian will again rule America—or rather, their ghosts will. Lawrence believed that the peace America was seeking could be found only from within America itself. America, Lawrence wrote, "is full of grinning, unappeased aboriginal demons . . . ghosts Yet one day the demons . . . must be placated, the ghosts must be appeased, the Spirit of Place atoned for."⁴⁹ Dare I suggest that the Columbian Quintecenary is such a time? I believe it is!

As to the future: As we move into the second 500 years, Indians are watching non-Indian America. All Americans, Indians included, face the crisis of urban clutter, pollution, drugs, homelessness, crime, health care and the environment. Events of the next century will revolutionize the non-Indian society of the "car road" more dramatically than old Indian society was transformed by the "buffalo road." As their fellow citizens contemplate a change of lifestyle, the Indian cannot help but feel a touch of irony. The buffalo road and the life the buffalo symbolized to the Plains Indian, the upstream spawning salmon of the Northwest coastal peoples, the free-roaming deer that sustained the world of the Woodland Tribes, were almost destroyed by the European invaders. Now forces set loose by the conqueror have turned upon the latter, would-be master. Is he so unable to curb his wants that he has created a society that will, in the end, destroy us all? This crisis is, in truth, more than simply an environmental one. Civilization faces a crisis of the spirit, a great conflict in basic human values. I

⁴⁸ See STRICKLAND, *INDIANS IN OKLAHOMA*, *supra* note 40, at 118 (quoting JOSE ORTEGA Y GASSAT. *MODERN THEMES* 89 (1969)).

⁴⁹ D.H. LAWRENCE, *Fenimore Cooper's Leatherstocking Novels*, in *STUDIES IN CLASSIC AMERICAN LITERATURE* 55, 60 (Doubleday & Co. 1953) (1923). For more of D.H. Lawrence's writing on the American Indian, see PHOENIX. *THE POSTHUMOUS PAPERS OF D.H. LAWRENCE* (Edward D. McDonald ed., 1964).

believe our only hope of survival is a reversal of the Columbian Exchange; ideology must triumph—values must prevail over technology.

Survival is a word that describes the spirit of Indian people as diverse as the Oneida, the Lakota, the Kiowa, the Navajo and the Osage. Since 1492, the Indian has learned the lesson of building and rebuilding a civilization, of adapting, of changing, and yet of remaining true to certain basic values regardless of the nature of that change. At the heart of those values is an understanding and appreciation of the timeless: of family, of tribe, of friends, of place, and of season. It is a lesson that the discoverer's civilization—the Columbian descendant—has yet to learn, and perhaps never will. The conqueror is not Indian. The conqueror is not tribal. The conqueror eschews attachment to place and lives in opposition to, not in harmony with, nature. As a result, the eternal values that allowed the Indian to survive have thus far eluded the conqueror.

As a historian, I believe that if there is to be a post-Columbian future—a future for any of us—it will be an Indian future, a pre-Columbian one. We must once again think and plan not just for this generation, or for the next, but as the Iroquoian people remind us, we must plan for the seventh generation. As Patty Harjo wrote, the Indian holds our "candle of hope."⁵⁰ Our great hope of survival is an Indian future for the post-Columbian world: a world in which, this time, axeology—the superior worldview—might hope to compete with, if not triumph over, technology. A new world in which we are not all strangers, passing without care or recognition.

⁵⁰ Harjo, *supra* note 39, at 113.