

Gene Leroy Hart: The Case

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On Friday, June 1, Cherokee Nation employees Jeff Mclemore, Dan Garber and Gwen LeMaster conducted an interview for the Cherokee Advocate with Gene Leroy Hart and his attorneys Garvin Isaacs and Gary Pitchlynn in the visitors' center at the Oklahoma State Penitentiary at McAlester. There was no way for the six persons in that paneled conference room to anticipate that this was to be the first and only exclusive interview Hart would ever grant. He permitted the interview because he felt the publication of his story through the tribal newspaper would allow him to speak to his people without the risk of having his words distorted or sensationalized by the non-Indian media. As he stated in an earlier personal letter to LeMaster, "...rarely, if ever does it appear in print just the way something was said. That's my main reason for ignoring the media. After giving it a lot of thought and talking with my attorney, I have decided to give an interview, if anyone is interested, but only to the Cherokee Advocate, no others. I feel that our people should have an opportunity to hear me say something and I also think that I owe them that much."

Three days following his meeting with the Cherokee Advocate, Gene Hart collapsed and died after suffering a massive heart attack. Upon receiving the news of his death, certain members of the team of prosecutors who unsuccessfully attempted to persuade a jury to convict Hart of the June, 1977 murders of three Girl Scouts near Locust Grove, strongly intimidated to the press that Hart's ultimate fate had been decided by a "higher authority" than a court of law. These kinds of statements were apparently intended to persuade the public that Hart was guilty of those crimes after all, in spite of an overwhelming lack of evidence and despite the fact that a jury of his peers found him not guilty. It would appear that those members of the prosecution team felt it should be relatively easy to convict Hart of those crimes now that he is dead and can no longer defend himself. Unknown to them, however, the Cherokee Advocate's interview had been held at McAlester on June 1 which, in effect, allows Gene Hart to respond to their remarks and to tell, for the first time, his side of the story. Here is what Gene Hart said on that day:

By Jeff P. Mclemore, Editor
Dan Garber, Assistant Editor,
Gwen LeMaster, Tribal Planner

Hart: This was my idea to do this. I feel like the media as a whole did pretty well try to do their best to try to get me convicted. And, our people need to know, and I want to talk to them through the paper. I figure it's the best way to do it. More of them will know, I can't write to all of them, but I can reach all of them, or most of them, through the paper.

Advocate: After a warrant was issued for your arrest in connection with the Girl Scout murders, you eluded law enforcement officers for about ten months. How much can you tell us about your whereabouts during the period?

Hart: For the ten-month period of time? Well, what time I wasn't with... (turning to Isaacs and Pitchlynn)... Think I ought to go into that?

Pitchlynn: If it's not going to involve some other people.

Hart: Well, it would involve others. I wouldn't want to offer any names that might hurt other people.

Advocate: I think Gene, what we're asking is, were you alone or with friends and family? Living out in the woods in caves...

Hart: Oh yeah. Well, I watched this on television and it was kind of comical in a sense. It was serious, but the law enforcement people knew that there wasn't anybody out there. From what I saw on TV, I just don't see how anybody could travel from one place to another as fast as I supposedly was traveling from one area to another. I was seen in probably a thousand different places.

Advocate: But you were staying with friends?

Hart: Usually in some type of housing?

Hart: Oh yeah, yeah.

Advocate: Did you ever leave the state?

Hart: (Turning to Isaacs and Pitchlynn) Have those federal charges been dropped?

Pitchlynn: Not officially.

Hart: There is still a federal charge for interstate flight. I've never been arraigned on it.

longer I stayed away, the better off I am. I'll just stay out of their way and, surely, they will solve it sooner or later."

Advocate: Was that your logic for not turning yourself in?

Hart: Oh yeah, plus the fact that I had something like 305 years to serve in the state penitentiary, which is not something I looked forward to. But the main thing is, I thought sooner or later they'd solve it. They should have been able to, and they still could if they wanted to, I think.

Advocate: Prior to that period, when you were at large following your escape, it seemed to have been common knowledge that you were in the area. What's your explanation of why you weren't picked up?

Hart: (Laughter) Well, we've been over that before. (Gesturing toward his attorneys). It is pretty common knowledge, probably, that I visited with my relatives and friends in that area at one time or another. It's either that I'm super-smart, or the law enforcement in that area is super-dumb. It has to be one or the other, and I really don't feel like I'm that smart, so there you are. (Laughter).

Advocate: Virtually every news report published or broadcast in connection with you identified you as a "fullblood Cherokee". What was your reaction to that?

Hart: Well, the only reaction I have... I looked at it for what it was. It was just the media, and it sounds better than just the name. It seems to sound better and looks better in print. That's the only thing I can really see... for purposes of identification. That would be another reason, probably, why it was broadcast in this manner.

Advocate: But, in your opinion, did it have any relationship to the case? The fact that you are a fullblood?

Hart: I don't think so. I don't believe it did. I don't believe it had any relevance. I like to think that it didn't, but you know, it may have been in the eyes of the public, which I'm not aware of because I don't read newspapers or watch TV. So, in their eyes, maybe, but in mine I see no relevance.

Advocate: During the manhunt, did you fear if you had been caught that your life would have been in jeopardy? Did you fear for your life?

Hart: That's a touchy question to answer and I'll answer it like this: If I had been arrested by law enforcement agencies, say, the Mayes County Sheriff's Office or the deputy, that we wouldn't be here now having an interview. And, one reason that there was no harm ever brought to me... no harm came to me during... because I was arrested by the OSBI (Oklahoma State Bureau of Investigation). For this very simple reason: I was a trophy you know... it was just that simple. And they're a del agency of the Governor himself. So, it made them look so much better for me to be in good health, uninjured and with agents all around me.

(There was a pause in the interview as a trustee came into the conference room and poured hot coffee for everyone).

Hart: At the time of my arrest, the agents... there were a number of them there... eight, nine or ten... something like that. I don't remember how many... they had to make sure that they took a picture of me with the agents around me as souvenir pictures... in the yard while they placed me in the car. One of them takes a picture and then he gets to do it awhile. Another one takes a picture and they just change places.

Advocate: What were you doing at this time? Just standing there?

Hart: No, I'm handcuffed. And Agent (Larry) Bowles has me by the arm and another one on this side (indicating his opposite arm). I don't remember all the agents that were there.

But that's all they were... just souvenir pictures. There's no doubt about that. They weren't used for identification at all. As a matter of fact, they weren't even sure who they had until we got to the OSBI office in Tahlequah.

Advocate: Did you get the feeling it was like a big game hunt and you were the game?

Hart: That's exactly what it amounted to. I was the elusive white animal. White... uh... elephant, I guess, that couldn't be found. To them it was more of a political catch than a real arrest, in my opinion. It was I know that organization. And I know that's what it was. Somebody they can parade around in front of the TV cameras, make statements about. To my way of thinking, that's what it was and I know that's how they feel about it even though they might deny it, but it's still true. I know it's true.

Advocate: That leads me into the events of the day of the arrest. I'm sure that day probably stands out in your mind.

Hart: Yes.

Advocate: Can you tell us what you recall about your activities were earlier that day, and then the events surrounding the arrest itself?

Hart: Well, I usually got up pretty early. Woke up about the same time that I usually woke up, which was somewhere in the neighborhood of 5 o'clock. And, uh, we'd have breakfast... coffee. During the day, mostly, if there was nothing else to do, I'd either read or... and just about every day I'd work out with a set of weights I had. And, that was pretty much my activity during the day. I didn't go anywhere... other than outside... on that day. It was just like any other day. But I had seen the van that was used in the arrest) previous to them running in the house. I seen (sic) it something like probably an hour, hour and a half before the arrest took place. I seen (sic) it down under the hill. I did see the van. And, uh, I got out of the house. I left the house. I was standing in the timber and the van was parked under the hill there... five or ten minutes... and then it left. And at that time... I didn't know it... but what had happened, they had gone up the hill, let the agents out and parked down there and left. And, uh, I went back into the house. Shortly thereafter, they had the house surrounded. When they came into the house with a shotgun something like two and a half, three feet from my head, you know, I just... I surrendered (laughter). And, this happened... oh, it was just so quick!

Advocate: What were you doing at the time? Do you recall?

Hart: I had just finished working out. I was getting ready to wash up. And, uh, all I remember... I went to shut the back door and by the time I got back into the front room, they were already there. One of them was. And I was taken outside. I asked the agent if I could put on my pants. I had on a pair of shorts. And he said, "no". I was placed on the ground. At this time the agents asked, "who are you? What's your name? What's your name?" You know, they kept... a bunch of them kept asking me this. That's why I know they didn't know who they had. They didn't even know where they were. The first press release (said) that I was arrested in Adair County and it was in Cherokee County. That tells you right there that they didn't know where they were.

Advocate: Did you tell them your name?

Hart: I never said a word to them. A few choice words that I usually use, but other than that, no. I never did acknowledge receiving my Miranda warning rights. They asked me where they were and I said, "I don't know." They said, "How far is it to Highway 100?" I said, "I don't know." They didn't know where they were. I'm not joking. They didn't know where they were. And, uh, I had a basic knowledge of where I was, but I really didn't didn't know where I was, I know which way... direction they came in because we went from there south to Highway 100 and to 82 Highway back to Tahlequah. They had to come in from the northerly direction, otherwise they would have known which way to go. They didn't. We got back to the Tahlequah office. The agent that seemed to be in charge called Oklahoma City. I heard him. He said, "Let's let the Governor release it first." Maybe he was calling his boss. He said, "Let's let the Governor release it to the press first." They done (sic) this long before they called Sheriff Weaver in. Sheriff Weaver had nothing to do with it up until they had phoned everybody else and the Governor was going to release it to the media. That's how it was. He denied making the call, but I heard the phone call. They had a tape recorder sitting in there just like this one right here (pointing to a cassette recorder on the table), trying to record something that I might have said or was going to say. When I spotted it, I said, "I guess you know you can't use that tape?" And, I don't know whether it was a tape recorder or a transmitter. I think it was a transmitter. Isaacs: Probably.

Hart: Because an agent came in from another room after I said that in just a couple of minutes. He was mad and picked it up and cut it off. So, I think it was a transmitter or something like that. They were... most of them were pretty nice. They treated me right. And the ones that were really totally honest, they didn't call, did they (to Isaacs)?

Isaacs: No. Never did. We called them at the preliminary hearing.

Hart: We called them at the preliminary hearing, but the ones that were totally and completely honest weren't called by the State or the prosecution at the trial. In my opinion, only the ones that they could tell what to say, or would say whatever they were told to say, were the ones that were called.

Isaacs: One that would say something they think is incriminating.

the Vanishing Fingerprint

Advocate

Hart: That is the only...that's the only ones that they did call. Out of all the agents that were there, they called two or three. And from there (returning to the story of his capture), they called the Sheriff. They couldn't find the Sheriff that evening. They finally got ahold of one of the deputies, and he came down there. He claims to have known me right off. He might have. I don't know whether he did or not. And then the Sheriff arrived. That's when they decided to...well, first, the agents had to put on their blue uniforms...the blue coveralls. Then they strapped the guns on there and they untied me and put the leg irons on me and the waist chains before they put me out where I could be seen outside the building in Tallequah.

Advocate: You were just handcuffed up to that time?
Hart: Yeah. And then after I went downstairs, and before the public could see me...by then they had been made aware that I had been arrested and the press was already there. And, uh, they put me in the car and brought me down here (McAlester) and parked the car. There was plenty of room right here in front of...directly in front of the tower at the main gate. But they parked the car out here by the... by the entrance gate and it takes...it's a long walk from there and I had to walk right down the highway, the street out there. Instead of the sidewalk. So they could all get in front of the cameras, you know. And I had a longer distance to walk. They had plenty of room to park out here, but they chose to park way up at the end so I'd have a lot further to walk with the leg irons on and all the TV cameras and news media. And that's all it was. It was just a show. I know that. Now everybody knows it.

Advocate: After your arraignment and the case began to get rolling and Mr. (S.M.) Falls came into the picture, did you have any reaction to that, or did it make any difference?
Hart: Well, it's like I told Garvin at first. I said, "I'd rather beat that man as anybody I know." Which we did do. The man doesn't like me personally. And I knew that. It's... that's a result of an incident that happened 'way back ten, eleven years ago and the man just doesn't like me personally. And, that's fine with me. He doesn't have to like me. I don't care whether he does or not. But, you know, this, to him, I feel like, was a personal vendetta for him. Maybe some political gain because it was such a highly-publicized case. And, surely somebody's going to gain politically if they win. But first you must win. That's about what it amounted to. Oh, there was so much politics involved from start to finish. Wise wants to run for Attorney General; the Sheriff wants to be re-elected; the Judge wants to be re-elected; the Judge in Denver. And I don't know what Falls wanted. I feel like he might have wanted to be a Senator or a United States Senator or the Governor... one or the other. An I told Garvin that from the start. That I felt like the man was wanting something from the start. Otherwise he had no reason to be involved, other than the fact he doesn't like me. But other than that... But I just didn't realize the amount of publicity that was involved with this. I was isolated from it...pretty much so. And in a sense, I wanted to be. That way...I'm capable of thinking straight without letting sentiment enter into my thinking...by staying away from it. I might get upset at somebody or if I start sympathizing with so and so, then I didn't want that to enter into the case. As far as I was concerned, I just wanted to deal with the case direct.

Advocate: Did you ever feel at any time that there was a turning point in the trial, or did you feel confident from the beginning?
Hart: The very first day I met Garvin Isaacs, Gary Pritchlynn and Duke Wheeler. I said, "There is no way that they (the prosecution) can get a conviction." And we maintained that from start to finish. As far as the turning point in the trial itself, I can't really see one. Just so many things fell into place that we anticipated would fall into place. It went according to our plan. We just...we anticipated that the prosecution would come with a lot more strength than they had. We were ready for more strength. It was a surprise that they rested when they did without showing any more. And that was the only real surprise. Advocate: You probably got that indication in the preliminary hearing, didn't you?
Hart: By all rights, had it been any state but the State of Oklahoma and had it been any case without as much publicity, it would have been dismissed.

Isaacs: If that had been a burglary case, the demurrer would have been sustained and everybody would have packed up their gear and gone home.

Pitchlynn: If there was a turning point, the turning point was when we got this case to the jury.
Hart: That's...when we started selecting the jury, and we did get a good, fair, open-minded jury that wanted to see everything.

Isaacs: They were twelve good citizens. Every one of them.
Pitchlynn: They weren't running for office. Advocate: But there were no Indians on the jury?
Isaacs: Well now, I suspect that two or three of those people were part Indian.
Hart: There was some Indian blood. Maybe a quarter, maybe a half. But that's not really what we wanted in a jury. We don't care if that juror is purple as long as he's fair and open-minded. That's all we ask. That's all we wanted from the start was fairness...which we did not receive at the hands of the court or the prosecution or the OSBI. And their giving us the reports like they were ordered by the court? They chose to ignore the court order, which was nothing new. They do what they want to do. They always have. With them being the pet agency of the Governor himself... now this is direct...if he needs anything, he calls OSBI and they couldn't investigate a dogfight. They enjoy a certain amount of immunity just by that virtue. Just by being the pet agency because nobody tends to stand up and fight like we did. We fought the people. We fought them legally. And, the very last day of testimony during the trial we got three reports. (To Isaacs) Was it three reports?
Isaacs: Yeah! We got them the last day after they had been ordered to give them to us a year ago April.

Pitchlynn: We were still getting them right up to the trial.
Hart: We got something like, what? About 25 or 30 during the course of the trial itself. Isaacs: It would have stacked up about like that (indicating a four or five-inch stack with his fingers.)
Pitchlynn: We get no satisfaction from the Judge on that.
Isaacs: What about old Dr. John McCloud? He gets up on the witness stand and testifies... denies that he compared samples of "made the sperm comparisons with anybody else. And Falls gets up, on re-direct after I've crossed (cross examined) him about two or three hours and said, "Did you compare them to anybody else?" "Yes, I did," McCloud says, and then he pulls out the reports. And I mean these are technical reports.
Hart: He denied having any technical reports at all relating to that...to the sperm comparison. He turns right around and what he did, Mr. McCloud let the cat out of the bag, didn't he (to Isaacs and Pitchlynn)?
Isaacs: Yes he did!
Hart: He accidentally let it slip. And it turns out that, sure! They have made comparisons. And he's got them with him, hasn't he (again to Isaacs)?
Isaacs: Yeah!

Hart: He has them! He just happened to have them, you know. And the law says that whatever he is using as a reference in the courtroom we're entitled to. Isn't that right (to Isaacs)?
Isaacs: Right. His notes.
Advocate: But the Judge didn't consider this? No contempt citations at all! In a sense, no response. And Mr. Falls tries to get around it by relating to the contents of the technical reports. And that wasn't the issue at all. He was trying to skirt the issue.
Isaacs: Well, first he said we had them, Gene.
Hart: Yeah, he did. He said we've got them all.

Isaacs: He said, "They've got a copy of those reports." He said that in front of the jury. He said, "They've got a copy of those reports," and he knows it.
Hart: He tries to skirt the issue. It wasn't what was in the report. It was the report itself. It doesn't make any difference what's in the report! We are entitled to those reports and an order was issued by the court more than once, wasn't it (to Isaacs)?
Isaacs: Well, I'll tell you something else. That would have helped us in cross examination with old Dr. McCloud, because he made the inconsistent statements and he used inconsistent basis for his conclusions. When you compare the report he made about Gene and the report he made about those other guys...

Hart: Also, it deals with what? Percentages?
Isaacs: Statistical evidence.
Hart: Statistical evidence is no good. It shouldn't have been allowed to begin with...his testimony.
Isaacs: We're objecting like crazy to the bench.
Pitchlynn: To no avail.
Hart: What was really, really bad was... in Tulsa County, Falls does what he wants to



in a courtroom. Alright, he comes down here and...pretty well ran the court. It was an uphill fight from the start! The very first day. And, uh, we had to fight for everything we got. And we were lucky to get what we did get. Which was an open-minded jury. They scratched for evidence. Like, uh, the pictures that were introduced...autopsy pictures. It is incredible that a Judge would let that in when it had no probative value whatever. And, after we had stipulated to the examination of Dr. Hofman, they still let the autopsy pictures in. And, it's purely prejudicial. It's used to inflame the minds of the jurors. That's the only purpose of it and that was the intent of those pictures.

Isaacs: I'll tell you something I think, Gene. I think the jury got mad at them for doing it.
Pitchlynn: You know, if they had had a murder weapon that they were going to try to identify through those pictures, it makes a little more sense. But they had no weapon, no nothing. No use of those pictures other than just to try to inflame the emotions of the jury.
Hart: They didn't even introduce a weapon. Isaacs: We stipulated the cause of death, the time of death, the autopsy reports...which is a verbal description of everything that happened.

Hart: They had to have pictures. We were just lucky they didn't get to introduce all sixty-three or sixty-four.
Isaacs: Yeah. We were objecting like hell to them introducing all of them and I think he let in, how many? Three? Four?
Hart: Yeah, something like that. Plus color slides.
Isaacs: Slides on a projector in a courtroom. Had those, you know.
Hart: That's why I say it was an uphill battle from the start.
Advocate: But you don't feel that the addition of Indian people on the jury would have been an asset?

Hart: Asset? No, I really don't think so. Certainly, I would like to have had a Cherokee or a Choctaw or whatever on the jury, but there was none.

Isaacs: You know, there's a new case in California. The People against Wheeler, and it says race-based pre-emptory challenge is unconstitutional denial of a fair cross-section of the community and as luck would have it, the Pennsylvania courts had picked up on it.
Hart: We cited that.
Isaacs: We cited it and gave it to the Judge.
Hart: He acted like it didn't exist.
Isaacs: He said, "Well, that's very interesting."

Hart: That's exactly what he said. Those were his exact words.
Advocate: What was your reaction when Judge Whistler decided to leave Pete Weaver in the courtroom, even though he was going to be testifying?
Hart: Well, that's discretionary when you ask for the ruling. It's discretionary with the court. But he abused it grossly by the prosecution getting up and asking that my folks be taken from the courtroom. And every one of my relatives were removed from the courtroom. But the prosecution witnesses...some of them...were left in the courtroom. They said it was for security reasons. When you get into security, Pete Weaver is not the best I think the Oklahoma Highway Patrol could have done an adequate job providing security. There were plenty of them there. There was enough. And, uh, I think that all he wanted to do was make sure that he said the right thing when it came time for him to testify. That's the only reason I can see that he was in the courtroom.
Pitchlynn: Don't get the wrong idea about what he said about Indians on the jury. We wanted them on there.
Hart: Yeah! Sure!
CON t. on page 12

Hart

Con't. from page 11

Pitchlynn: We couldn't get Indians on the jury. We realized that, according to statistics, it was virtually impossible.

Isaacs: There was one guy that was of Indian descent. Remember that banking guy (to Hart and Pitchlynn)?

Hart and Pitchlynn: Yes, Uh-huh.

Isaacs: I wouldn't have taken him in a million years, would you (to Hart)?

Hart: No sir. Never! We'd have taken a pre-emptory challenge on that man.

Isaacs: We would have struck him in a New York minute!

Hart: If he hadn't been disqualified by the court, we would have had to use a pre-emptory challenge on him, and we would have used it. And he was an Indian. But the man had a preconceived opinion already.

Isaacs: Yeah, and I think it was one of those deals where he was kind of like the judge. You know, the judge was an Indian and the judge was bound and determined to show everybody that he was fair.

Pitchlynn: No, we would have been glad to have had twelve Indians on there, but because of the pre-emptories, it wasn't going to happen. So, we couldn't concentrate on getting a cultural approach to the jury. We had to simply go for a jury that we felt would be fair and open-minded. And we were going to have to depend on things like geographies and other tools that are used to pick a jury.

Hart: The jurors were well-picked because we knew basically the ones that we wanted when they walked into the courtroom. We had enough information on every juror to determine whether we wanted that juror or not. The best that I have ever seen. People wondered why...the press wondered why...we didn't talk at all. But, if you invite comment, you may not be entitled to individual voir dire.

Isaacs: If you invite the publicity, you waive any objection...

Hart: And that was why we didn't say anything.

Isaacs: That was our tactic from day one. We agreed on it and stuck by it.

Hart: Until we had a jury. And then that was when...

Isaacs: Gene had his interview (referring to the televised news conference at Pryor).

Hart: And my attorneys were free to talk, but only when we got a jury. You're not entitled to it otherwise, and it's so important, individual voir dire is, because each juror is examined separately. The other jurors can't listen for the answers and be ready for any question. And that is important. I imagine there is (sic) even a lot of attorneys that don't realize how important that is. That is very important.

Advocate: Can you think back and recall what your initial reaction was when they returned a not guilty verdict?

Hart: Relief. Relief in the sense that I felt like the world had been lifted from my shoulders. And relief in knowing that it was all over...all three at one time...all over. I didn't have to go through it two more times. Just knowing that it was all over and justice had been served. As far as I'm concerned justice had been served. The jury voted right, there is no question in my mind but what they voted right. I entered a plea of not guilty the day that I was arraigned, and on the last day of the trial the jury found me not guilty.

Advocate: As a member of a minority group do you see any special significance to the outcome of the trial?

Hart: Yes, I think I do. When they arrested me, I know what the thinking was in that part of the country. As far as (being) a minority, which is Indian, they're probably in the majority, but they are still called minority. But the thinking seems to be, "this is just some dumb ol' Indian here and we'll do what we want with him" and I was under the impression



"It finally dawned on them after I'd been there a while, that this man is not going to give up."

day for public drunk. They plead guilty and pay a \$20 fine and get out of jail the next day. It's conducive to teach minorities to plead out and get out of jail, plead out, get out of jail. They get that built inside and that's all they know how to do.

Hart: And then, sooner or later, he gets arrested on a felony charge...same process. **Pitchlynn:** And then he's got a number. The judge sees you and he sees you, and pretty soon he's got to do something. That's what happens to minorities. They get in jail numerous times for lesser offenses, but the first time they get caught for something more serious—whether they do it or not—they get so they plead out. He's going down, and he's going down hard because they've seen his face and they're tired of looking at him.

Advocate: Gene, you alluded to this, I think, on the television interview, but if you had a sustaining philosophy during this whole thing, could you tell us what it was? What kept you together?

Hart: Knowing the fact that I'm innocent. And there's no way in the world that I'm going to plead to anything when I know for certain that I am innocent. And my nature of not giving up I mean, it's just a part of me to be like this. I won't give up. Not when I know I'm in the right, or when I feel like I'm in the right. And, I felt like, "I'm not going to let these people do this to me!" And I didn't let them do it, even though they did try. I tried pretty hard. I just wasn't going to let it happen.

Advocate: You also made a brief reference in that (televised) interview to your association with the Keetowahs and your religious beliefs. Did this also play a role in sustaining you?

Hart: Well, the spirits always play a role in anything an Indian does, whether it be going to court, or mowing the yard, or whether he is out picking wild onions, or getting game for the table. I believe that. I've always felt like that.

Advocate: Are you a Keetowah?

Hart: I like to think I am, but you know, it's a matter (of)...do they accept me? Hopefully they do. But I believe in the religious society.

Advocate: Has the outcome of the trial affected your life's goals?

Hart: I still want to be free. That is the main goal. Secondary is probably an education like I wanted. Any education of some type...formal education. I feel that this is something I would enjoy doing. But I'm undecided what it would be. Right now I lean toward the paralegal field. I think I would like that real well. Anything to do with the law. With my dealing with the law in the past year, I do know something about it. You know, I don't know all there is to know...nobody does. But I think that would be a field that I would like...paralegal. And I would take a course if they had it, but they don't have it. I work in the law library, but we don't have a course.

Advocate: What do you do in the law library?

Hart: Well, I'm more or less in the learning stages now. It's mostly criminal law. We file direct appeals, post-conviction appeals to the federal court with briefs. We prepare briefs, read transcripts, find trial error and maybe constitutional error that we can attack a case on. And we do some civil work, not much, but we do some. Mostly, it's filing lawsuits against the administration or the State of Oklahoma. That's a small percentage of what we do—civil work.

Advocate: There has been some reference to you as a "folk-hero", especially to the Indian people. Do you have any feeling about that?

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Hart: I don't like to be looked upon like that. I'm no different than anybody else, except I'm in the penitentiary. That's all. I prefer not to be seen or known in that light. That's not the image of me...that's just not me. I don't want to be a hero. I have no desire to be a hero. I can't help the way people look on me, but that's not my desire. Mainly, I just want to be left alone.

Advocate: Of course, as we all know, the Tribal Council adopted a resolution to provide some financial support for your legal defense. What was your reaction to that. How did you feel about that?

Hart: Oh, I was thankful. That was the very meal of our defense fund. If it wasn't for that, we'd have probably been in a very, very bad spot financially because we had no funds, other than what money they could raise through benefits and fund-raising dinners and such. I'm thankful to all the members of the Council and the Chief, even though he abstained from voting. I'll thank him and the people... the Cherokee people that did support me financially, morally and spiritually. I can't thank them enough. There is no way I could put into words exactly how I do feel. I will be grateful the rest of my life.

Advocate: Do you feel that a white man would have gotten that same kind of support from his peer group?

Hart: I don't know. That's something I've never thought about and I just can't answer that.

Advocate: I know you've probably received a great deal of correspondence. Can you tell us about the different kinds of correspondence you have received?

Hart: Supportive. Mostly spiritual in nature. Religious people, religious organizations and from individuals that just wanted to know who I was and would be willing to answer them if they wrote. And I try to answer all correspondence. You're probably making reference to hate mail. I don't get hate mail. I've never gotten hate mail...it's surprising. (To Isaacs) I don't think you've gotten any, have you?

Isaacs: I've never received a hate letter, as such. It was a disappointment... this lady was disappointed in the judicial system. Maybe she thought I was guilty. I don't know. She didn't ever say. It's such a disappointment, she said, in the judicial system...

Isaacs: To let it drag on, isn't that what she said?

Hart: Yeah, to let it drag on and then to find you not guilty. And I don't know if that was a slur toward me or toward the judicial system. It wasn't clear at all. She was unhappy with something...maybe even her husband... Isaacs: Some of those letters that Gene got from those grade school kids...some of them are just...they're out of sight! Some of the best letters I ever read in my life. They're really good!

Advocate: While on the subject of children, the conversation evolved into a discussion of the children that were involved in testimony during the Girl Scout murder trial.

Hart: ...that happens a lot. One of the times that one of the children was pretty upset, the OSBI...the agent...goes up there and when there was nobody at home but the child and talks to the child while the parents are gone. That's a no-no because the power of suggestion from an adult to a child is great. And the mother was upset, and rightly so, because

Con't. on page 13

of that. The agent had no business going there when nobody was home but the little kid. We made it a practice to never talk to a witness or a potential witness without the parents being there and with their consent. That's very unfair. But then again, like I said they do what they want to do and they always have.

Advocate: You touched on this earlier, but do you think you were treated fairly by the media during the trial?

Hart: (Long pause.) I'll put it like this: As a whole, no. Collectively, I think some of them...and I say some, just a few of them...did have accurate and unbiased reporting. Some of them did, not all of them. The majority

of them? I would say no. They reported whatever sounded best to the reading public or the viewing public. And that, uh, the power of the press is tremendous, to me. And that was so bad...or, I think it was bad...the public has a tendency to accept as being fact what they hear or what they see as being fact, when in reality, it may not be a fact at all. It may be an out and out lie. But they may accept it as a fact and look upon it as being a fact when it is not. And that's what I don't like. That's why I refused to talk to them. I owe the media absolutely nothing. So, that's the main reason that I called (you)...is because I owe them nothing. I have no intentions of talking to them.

Advocate: Do you feel bitter about it...the whole incident?

Hart: I guess I have a right to...

Isaacs: You have every right in the world to feel bitter.

Hart: ...But I really don't. Maybe there is some resentment. Some people have shown their true colors. They're showing the world what they themselves are. But, feel bitter? No. Not really. Resentment. Resentment there.

Advocate: Do you feel that the prosecution owes you anything?

Hart: No, and I don't feel like I owe the prosecution anything!

(Laughter)

Hart: No, I don't owe the prosecution, I don't owe anybody anything, except some of the bills we owe. (Fear than that, no.)

(More laughter)

Advocate: You asked for permission to make a statement to the jury during the trial and you were denied. Can you tell us what your statement was going to be?

Hart: I was just going to thank the jurors. That's all I was going to do. I wanted to, and I wanted to shake each one of their hands. I don't know why it was denied. I see no reason for the denial. That was all I wanted to do. Thank the jury.

Advocate: Can you tell us what your plans are in relation to the earlier cases involving you?

Hart: Oh, we're still going to fight it. We haven't given up yet. Not by a long shot. We're going to fight. There's no telling how long it's going to take, but...

Isaacs: We've got a legitimate basis for an appeal for the convictions for burglary in Tulsa County...

Hart: We'll have to do a post conviction for that. I've already gone direct appeal.

Advocate: What is your time schedule?

Hart: Quite a bit. You mean the time schedule? A certain amount of time? No, no. Not on the post conviction appeal.

Advocate: Do you plan to do something within the next few months or weeks?

Hart: Oh, yeah.

Isaacs: We already have. We've got this lawsuit filed in federal court against Weaver and Wise and that's what we're working on right now, if we can get that thing to a jury. The Law says the prosecutors are immune from suits from citizens charged with crimes. The sheriffs are immune from lawsuits from citizens because their executive function of enforcing the law is paramount consideration to our society and, therefore, they should not be intimidated by the threat of a civil lawsuit. Our argument is that Weaver and Wise were outside the scope of their authority as elected officials in some of the acts they performed. We're going after them!

Hart: Did you notice during and after the trial the amount of perjury that went on? And there's not been one single perjury charge filed. Not one!

Isaacs: Except against our witness.

Hart: Against our witness, who sits up there and tells the truth!

Isaacs: We've told the OSBI that. And, by the way, we got those reports a little late. And they also had an account of the confession this guy made in the Kansas State Penitentiary. They had that. That's not exculpatory evidence.

Hart: As I understand it, under the laws of the State of Oklahoma, there has to be two inconsistent statements made under oath to constitute perjury. The lady only testified once. And Sheriff Weaver said her testimony was inconsistent with the evidence that they had. Why that evidence didn't testify! You can't cross-examine evidence!

Isaacs: Yeah, and she told the OSBI that. She told the Mayes County Sheriff that in a letter...

Hart: In a letter...telephone calls. In my opinion, she and her son should have never been filed on.

Isaacs: Well, they put an \$8,000 bond on her to try to keep her in jail and then Bud Welch made the bond for them. We're in hopes we can raise enough money to pay the premium on those bonds.

Hart: But this lady has nothing to gain, but to see justice done, and she doesn't have any idea who I am. She doesn't know me and I don't know who she is. She had nothing to gain. All she wanted was to tell the truth and the lady told the truth, and her sons all passed polygraphs. They were placed on polygraphs and they all passed. So we know they were telling the truth.

Isaacs: I didn't have any doubt about it after she described the flashlight to me over the telephone without her ever having...

Hart: Without her seeing it. I thought she was a crackpot.

Hart: We ran across a lot of people like that. **Pitchlynn:** She chases us around here for a couple or three months before we ever stopped and took the time to look at this. We thought it was just another one of those (crackpots).

Isaacs: She got mad at me one time. I was just about to hang up on her and she got mad and hung up and then she called back about two hours later and said, "Now I'm going to tell you about that flashlight." She got to talking about that flashlight, and I said, "you had better come to Oklahoma City and pay me a visit."

Hart: Before she had a chance to testify, she had to go into hiding, didn't she (to Isaacs)?

Isaacs: Yeah.

Hart: Because the OSBI was looking for her bad after they released the information about her knowing something about the flashlight, they looked for her hot and heavy and they couldn't find her because she had to go into hiding. And, there is not a doubt in my mind that her testimony would have changed had they had the opportunity to talk to her first.

going to say so-and-so done this (sic) or so-and-so done that (sic) unless I can prove it. I'm not going to lay the blame on anybody unless I can prove it. And, if I can't prove it, I'm not going to say a word.

Isaacs: Yeah, we've got a hunch, you know. **Hart:** We know almost for certain who did it, but we can't prove it. It's best at this time just not to say anything until maybe we can come up with a witness that can verify what we feel to be the truth. Then and only then will we say who we think it was.

Pitchlynn: Chances are there is going to be more than one person up the creek.

Hart: You bet. There will be a bunch.

Advocate: What was your reaction when Pete Weaver, after the verdict came back, said as far as he was concerned, the case was closed, and he wasn't going to pursue a further investigation?

Hart: That right there shows you, or shows anybody the animosity and hatred that man has for me. That's all that shows. It shows that he wants me. He doesn't care whether he solves this case or not. He wants me. **Advocate:** Why does he hate you?

Hart: I mean...I have embarrassed him to no end. Escaping twice from his maximum security jail...what he says to be a maximum security jail. Twice I escaped from there. First time, it was two days after I was there. And it makes it worse, the man can't catch me. Knowing that I may be in the area and he can't catch me. He can't even catch a cold. That's how stupid he is.

Isaacs: He's a proud man...a proud man. **Hart:** It hit him in his ego, that's what it did. It hit him in his ego.

Isaacs: I was driving down the Will Rogers Turnpike one day...did I ever tell you about this (to Hart and Pitchlynn)...two truckers on there?

Hart: Oh...yeah.

Isaacs: One of them comes on his CB and says, "There's the Pryor exit." You know, where the Claremore exit is? The other one comes back and says, "Yeah, that's where they got that escape-proof jail." The other one says, "I know one man they couldn't hold."

Advocate: You have indicated in your earlier press conference at Pryor that you are a heavy

Hart: Yeah. I know that and that really does bother me because I think of my Son I have a 15 years old, and I think of him when I hear about stuff like that. And it's hard to relate to the "Jungsters, you know, through the media. They see for themselves...they have seen what can happen to somebody that breaks the law or leads a life of crime. And, I am a perfect example of that. Here I am. I'm in the penitentiary. It's nothing to be proud of. There's nobody in here that is proud of being here. Nobody here. If they are, they don't belong in here, they belong in Vinita. That's where they belong—a mental institution. Because nobody has any pride in here as far as being a criminal (goes). There are good criminals in here...there are bad criminals in here. There are good thieves in here. But it doesn't make any difference how good you are, you are going to be caught. So don't even do anything to start with. You won't be caught if you're not doing anything. And you're not going to have to go through the mental and physical abuse of jail, or courts, maybe, or probation if you get it, or maybe you'll come down here if you're convicted and sent down here. There is just so much...I think I could talk about something like that all day long...talking to young people.

I wouldn't wish this place on my worst enemy, and I imagine I have some. That's how I feel. Any youngster...they have no idea. I don't believe they could even imagine this place when they are breaking the law out there. When they are doing something wrong, they have no idea what they are getting into. They think, "Well, I'm young. They're going to put me on probation, or they're going to give me a deferred sentence or a suspended sentence." That's not always the case. Sooner or later, someone is going to get tired of fooling with that sixteen or seventeen year old. They are going to certify that youngster as an adult and that youngster is coming down here. And the Indian children, because that's who we are really talking about, they have a passive nature as a whole and they tend to let things be done to them that others wouldn't allow to happen. But, regardless, if they are smoking dope, you know, I won't say they can't smoke it...it's not for me to pass judgment upon anybody. What I say is, whatever you do, if you're going to do it, be cool about it. An don't get caught, if that is all you're doing. When you start dealing in it, it's different. Then you are going to get caught. The law of averages says you're going to get caught at least once. You may get by with it 150 times, and on that 151st, you're going to do time.

But the major problem, as I understand it, with young people is drugs of some form. Maybe not just marijuana or hash or whatever they smoke...it's taking the pills, experimenting with drugs. All youngsters are going to experiment with some form of drug, or even just plain old cigarettes. But I can tell them here and now that there is nothing there. Now, I don't mess with the stuff. I never have messed with it. Now, I smoked it once just out of curiosity to see what it was like, and it was right here in the penitentiary where I smoked it. All it done (sic) for me was make me sick, and since then I have never touched it again, and that was ten years ago. I have never touched it again. I don't drink. You can have a lot of fun...you don't have to booze up or get drunk until you don't know what you're doing to have a nice time. I never had to do it. Just enjoy being young and being in school. Because that—school—is probably the most amount of fun you will have in your set amount of years...in your entire life. It should be enjoyed. Enjoy being young! Enjoy being in school! Because once you're out, you're probably going to have to work the rest of your life. And who enjoys working?

Enjoy being young and going to school. It may seem like a drag. It did to me. But, later on, even a year or two after you are out, you realize how much fun you did have when you were in school. So, stay there if you can. If you can't, there are vocations to get into...a lot of different courses and schools. And, with just a little bit of effort, a person can do just about what he wants. If the effort and desire are there.

But I would suggest that they stay away from it (drugs). It will get you nowhere but here... (raps table with his knuckles)...right here in the penitentiary. Eventually...it may take twenty years...but this is where you are going to wind up. It's just a matter of time. I don't care how smart you are...how good a criminal you are...you're going to be in the penitentiary sooner or later. You can't get around it. That's one of the laws of nature. The law of averages will get you.

Advocate: Do you feel there is a disproportionate number of minorities here in prison? If you

can't, on page 14

"...feel bitter? No. Not really. Resentment. Resentment there."

reader. What do you read?

Hart: Just about anything that catches my interest. If it catches my interest, I'll read just about anything. Now that I'm heavy into law, I read quite a lot of law. Cases. Case law is what I like to read. Something I feel would be beneficial in a case maybe I'm working on... maybe someone else is working on. I'm reading that right now. But I've always liked reading that. Every case is different, entirely different.

Advocate: For lighter reading, do you prefer fiction or non-fiction?

Hart: Oh, I like both if they are well-written. Depends upon the writer. Some writers are good and some don't have any business taking pen in hand. I like all kinds. I like the news-magazines...Time, U.S. News, Newsweek... something like that. I like the new Saturday Evening Post that has come out. I have read that one already. The format I like real well. It's better than the old one. Smaller magazine, but it's better quality.

Advocate: I know you have some artistic talent. Do you also write?

Hart: No. I haven't ever attempted to write.

Advocate: If you were the warden, what would be the first major improvement you would make here at the prison?

Hart: Boy, that is a...there is (sic) so many improvements that could be made that it's hard to say, I'd put more faith and confidence in the inmates here because just a little bit of trust will go a long, long way in this place. Because in here all a man has is his word... that's all he has left. If he gives you his word that he is going to do this or going to do that, they should accept it. But they don't. They probably never will. Just a little more trust, I would say. And there is (sic) a few employees here that they could do without. But, there's a bad apples in every barrel, so that's nothing new.

Advocate: Do you see much drug abuse here?

Hart: (Long pause) To say I see it...would be saying something that I shouldn't say. Let me say that I know...I am aware of drugs... being in here. Whether there is a drug problem or not, I don't know. But, I know they are here. Everyone knows they are here.

Advocate: Do you see evidence of it?

Hart: Of course I see it. **Advocate:** There was a television show on night before last and the purpose was for young delinquents to talk to men who were in prison. If you were to make a statement to young Cherokee delinquents about being in prison, what would you say? There are a lot of kids...we have a very high delinquency rate.

Isaacs: We had a witness the newspapers didn't even report about. I didn't hear anybody talking about it that wasn't at the trial. She told us she bought the battery for the flashlight at the Wal-Mart store in Okmulgee. Now, that was the thing that really...I said, "Wait a minute! This woman knows something about this battery, okay? We go down to the Wal-Mart store in Okmulgee and ask, "Do you know this woman?" "Yeah, she comes in here all the time," they said.

Hart: She had bought it. The battery in the flashlight. During the trial, he (unidentified) took the battery out and it had a tag on it that said Wal-Mart and the price of the battery. To me there is no doubt in my mind that this belonged to the lady. There's no doubt. And that mysterious fingerprint that happened to be on that flashlight. According to the State's experts, it's an identifiable fingerprint, but it's not mine. And the disappearing fingerprints from the bodies themselves...

Isaacs: Oh, man!

Hart: And numerous areas, you know, where items that were found that supposedly had fingerprints on them, but, boy! They disappeared all of a sudden. **Isaacs:** We call this the Case of the Vanishing Fingerprints. **Hart:** The vanishing evidence.

Pitchlynn: Go back and read all those articles back when the case first started. Sid Wise making all these statements about evidence Sheriff Weaver got. As it turned out, they had a real, real good case until they caught Gene. That was probably the worst thing they could do, was to catch him.

Hart: I'll tell you, they could run their mouths as much as they wanted to when I was out on escape, but once I was caught, they had to produce and they couldn't do it.

Isaacs: That's right. Couldn't do anything. That's when they started planting evidence.

Hart: Well, let me tell you, now, talk about a gross miscarriage of justice...or, better yet, abuse of power on the part of the officials who took the pictures from here and placed them here gesturing with his hands)...who-ever done (sic) it.

Isaacs: I think it was the guy who got the \$8,000 for turning you in, is who I think it was. Now, who would stand to benefit more? If I'm not mistaken, if Gene had been convicted, that guy would have gotten \$42,000. **Hart:** Another \$42,000.

Advocate: Do you know who that was?

Hart: Yeah.

Isaacs: Do you?

(Laughter)

Hart: I do. I know who it was, but I'm not

Hart

Con't. from page 13

have observed that, what do you feel is the reason for it?

Hart: The percentage of Indians is very low. Something like five or six percent. Very low percentage. It's not that high.

Advocate: How about blacks?

Hart: Pretty close to half, I would say. They are trying to keep this...federal court order (which) said it must be about half and half.

Advocate: So that percentage is not too far off here?

Hart: It's not, really. In all jobs and stuff it has to be just about half and half. And I fit in right where they say. When I came in here to the ICC (Institutional Corrections Committee) meeting to be classified for a job and a cell change, and I asked what percentage were Indians, they said, "Very low." They said it is so low that they don't consider them in the racial (census). And I asked, "Do they think that we don't exist?" That's the impression I got. They act like we don't even exist. But they said, "No, it wasn't that." It was just that the percentage is so low that we are just classed as white when they put us on a job.

Advocate: Do you feel your life is in any danger here in prison?

Hart: Everybody's life is in danger. In any prison...not only this one...but out here in front of this building, or in the Arkansas State Penitentiary...everybody's life is always in danger. You never know. Somebody may get himself on a bad rap, or you might run across a mental case that has a knife (and) decides he wants to be known as a tough guy, and goes out and kills somebody. Everybody is in that position. You watch constantly. You watch everybody.

Advocate: You know there are still some people who think you are guilty.

Hart: Well, you know, I can answer that by saying that this is the United States of America. This is not Russia. We can believe what we want to believe. Anybody can believe what they want, and they can express their beliefs. There's always going to be people who feel that way and are going to say, "Yeah, the man got off because he had him a damn, good lawyer!" Some people say that. I know that. I understand that and I can see their

opportunity. If presented with the opportunity, sure...they'd do it.

Advocate: If you were to be considered for parole, do you think you would get a fair hearing?

Hart: I don't know whether I would get a fair hearing, but I would expect a fair hearing. No different than anybody else's. I wouldn't want to be treated any different. I'd go up just like anybody else. I would like to think...and I would expect...that I would. Whether or not I got it is something else. I can't answer that.

Advocate: Have you considered what you would do with your life if you were to receive a parole?

Hart: Oh, yeah. I've considered that every day. That's something that I never let out of my mind...even for a day. It's always on my mind. I just never express my thoughts in that sense. But, I think about it constantly. Sure I want out. Everybody in the penitentiary wants out, I would guess. I want out to do what I would like to do, which would be...I need more education, and feel like I am learning enough in the law library here. Eventually, I'll learn more and more. It's not that I have to learn more. I want to learn more and I'm going to. And, I'd be just that much more ahead if I were out. Right now I'm taking...uh, I'm not taking a course...it's just a first-year college book on math. I have it in my cell. I borrowed it from the librarian here...and English composition...English grammar. They were my worst subjects in school. It's just something to do other than my work, and I feel like it will eventually help me in some sense. But I can't just lay idle and do nothing and expect the world to come to me, because it doesn't work like that. I try to improve myself as much as I can.

Advocate: What do you think your contribution to your people can be now?

Hart: I don't see in what way I could, other than what I have said previously. Just fight and don't give up, you know. And don't let these people do this or that to you. Just don't let it happen because there is (sic) ways to stop it. There is a line that can be drawn and you can say, "Hey, don't step over this line. You don't do this to me." But most

point of view. But those are the ones...they don't go over that transcript. They didn't sit in that courtroom. They didn't see the evidence that was being introduced and how it was being introduced. They didn't hear the things that was (sic) said. They didn't follow the case from start to finish, and they are only rendering a judgement on the verdict. That's all they are doing.

Isaacs: You didn't know unless you are there.

Hart: If you're not there for every single minute of the proceedings, you don't know.

Nobody knows.

Advocate: But, do you feel that your life is in any eminent danger here in prison because of that trial?

Hart: No...hasn't been. The biggest...the, ah...I can't say the biggest...the worst critics in the world are right here in the penitentiary. And they don't prejudice, and they don't assume guilt for conviction, that's charged. But after the conviction, then it's different. Then it is different.

Advocate: That is what I was curious about.

Whether or not you feel threatened in prison.

Hart: No, never. Not even once. Oh, there are people here who don't like me, sure, but that has always been the case. I'm not going to be liked by everybody, and I'm not going to go out here and like everybody, either.

No, I fought it and I won. Against all odds.

I fought it and beat them. These people (inmates) know what happens. They've been through this stuff before. They know. They know exactly what's coming the next day.

When they see something in trial court...what has happened that day...they know what's going to be coming the next day, because they have been through all that. That's why they know. That's why they don't prejudice.

And that's why they know that when we present our case, we must have something.

It's just like we weaved it like a web and every time they got right to the center, they stepped into it every time. And we'd weave another web, and they'd step into it again. They done (sic) that throughout the trial. I mean, everything that we laid, they stepped right in it. We knew they would. (If you) lay the foundation, and they have to.

Advocate: How about on the outside?

Hart: I don't know. I don't see any reason why it should be. Other than a few choice people like...law enforcement agents. I'll probably. They'd shoot me down and say,

"The man had a gun" or something, whether I had one or not. That's immaterial. It wouldn't make a bit of difference. I feel that I know...I know some that would do that if given the

Advocate: When you refer to work, specifically what do you mean?

Hart: Work: Well they are pretty lax in that all we do is draw up petitions for people, or we show people how to do it. We show people how to research a case if they want to research their own case. Inmates...other inmates...come up to the law library, and they want to know what case is here...what case is there...which one of these will apply...do you Shepardize it, or do whatever...and you get the cases that apply to what questions they ask. There are certain cases that apply to them. They may have six or eight questions they think have merit. So we go down through there and we give them the cases that may apply.

Advocate: Do you prepare a written report on this?

Hart: No, they do their own typing and they draw up their own petitions. Sometimes we do it for them. Sometimes, but not always. I do some, like I say, I don't do that many because right now I don't want to get really involved in a case where a man's got a life sentence or maybe two or three sentences, and jeopardize his case by not doing it right. If it's going to be done, it should be done right...before it's even presented to the court, otherwise, you're fighting a losing battle. You're hurting the man. He's going to be mad at you because you told him this or such and such, and it didn't turn out like that. There are a few law clerks here that are really outstanding.

Advocate: Is that your title? Law clerk?

Hart: Yeah.

Advocate: So, you're in a kind of semi-advisory, or counseling capacity?

Hart: Some people will come to me and say, "How would I do this, or how would I proceed with this court, or how do I do this, or what kind of writ do I draw up? Do I draw up a mandamus, or a habeas corpus, or whatever, or a post-conviction?" And we tell them how to proceed. It's really not that complicated.

We've got forms for just about everything. Some of them, we have to type up our own form, but it's good...it's interesting. It's something that I like.

Advocate: What about your evening activities, after you get off work?

Hart: Well, in the evening, usually, I answer my mail and sometimes I may do some exercises in my cell. Sometimes I will take the evening off from four o'clock on and when I do that, I go to the yard until about seven-thirty...fifteen 'til eight...when they run everybody back in. I go out and work with weights and do exercises. And then I come back in and answer my mail. I usually wash 'up real good before I go to bed because you get dirty out there. It's dusty. And, sometimes I'll read again after I lay down, if I'm not real sleepy, I'll find something to do. It might be just a magazine or an article that I want to see or maybe a little law clipping or something that I've missed and want to see. Other than that, my time is occupied every waking moment that I have...my time is occupied by something. I'm not idle, even a little bit. I am constantly busy and the day goes by fast...it goes by real fast.

Advocate: If there is any one thing...any activity...that you miss most while you're in here, what would it be?

Hart: Not any one particular activity, I don't think. Probably it would be a number of things. I like to fish. I like to hunt. And I like to loaf, too. (Laughter) It's hard to pin down, because there is (sic) a lot of things I'd like to do. Sometimes I'd like to go for a drive or a nice walk, or just...things like that. You're limited in here because you never have total privacy. Never. Even when you're in the cell, you don't have total privacy, because there are people yelling around me and people walking up and down the run, and the officers here. Never do you have total privacy. I can't think of one instance where a man would have total privacy. Even the death row inmates don't have total privacy. They are in a cell just like everybody else, but they are in the cell constantly. They let them out about fifteen minutes a day for exercise. They really enjoy it, and I think it's really a good deal. It helps morale, you know. It's a good policy.

Advocate: Do you have any formal, direct communication between prisoners and the administration, like a grievance procedure?

Hart: Oh, yeah, we have a grievance procedure here. You file a grievance, you make it out, you file it with your case manager...every cell house has a case manager...there's a review committee. They go over it, sometimes defeat it if you're charged, or whatever. It's pretty fair, if you have a legitimate grievance.

Advocate: Have there been any improvements here at the penitentiary?

Hart: There have been good improvements

and there have been some (whereby) the privileges were lost, like the entire yard now. Used to they'd show two a weekend, one on Saturday and one on Sunday. Different movies, you know. One on each holiday and they had a canteen on the yard where a man could buy him a hot plate, or a steak plate, or whatever he wanted. Sandwiches, hamburgers, or whatever he wanted...a newspaper window, cigarette window, coke window, ice cream or pastry, or whatever you wanted...a groceries window. And, we've lost that. The riot destroyed that. It done (sic) away with that.

Advocate: Were you here during the riot? Didn't transfer me from there to here, because there has been (sic) a lot of changes because of that. They are more security conscious now than they were before. But before that, the inmates pretty well took care of their own business. They took care of it. I mean, the administration was here, but they took care of their own problems. Now you never see officers walking on the yard with the convicts. Never on the same yard with the convicts. It used to be, they'd mingle...just walk around.

But they don't do that now because...I'm assuming that, should another riot happen they don't want that officer taken hostage.

A lot of people (here) don't even realize that the officers don't walk around out there. It's never dampled on them the reason why.

Advocate: Have you read some of the reports and investigations of riots in other prisons?

Hart: No. There's always a reason for it...for a riot. Anytime there is a riot, there is a reason behind it. Otherwise, there wouldn't be a riot.

Usually there is a certain time of year that they almost always happen...usually in the summer...in the warm weather. A couple of reasons that I know being that the hot weather tends to get tempers up...people get irritated real easy. And, too, they know they are going to be out of the building, so the weather won't affect them. They can stay out of the building as long as they have to. They're not affected by weather.

Advocate: Do you have any kind of an open statement or anything you would like to say to the Cherokee people?

Hart: Well, I'd like to thank them for all their financial, spiritual and moral support. I think this is the only way I can thank all of them. There's not that much more that I can think of, other than I thank all of them. Thank each and everyone of them. I might like to be able to do that right now. But, that's what I would like to do. And I really do thank them for that.

Pitchlynn: Gene, we talked earlier and you were also going to say that you think they ought to register and vote.

Hart: Oh, yeah! I was going to mention that a while ago. I don't believe people realize the power of the vote...a single vote. And they should...everyone of them, if they are old enough to get out and register and vote, regardless of who they vote for. Somebody they like, or, if they don't like them, vote for somebody else. Everyone should register and vote. They just don't know how strong they are as a whole. Get all the Indian people together...they are a powerful group!

Advocate: You are speaking now of tribal elections?

Hart: No, no, no. I'm speaking of all elections. I'm talking about national, local or state elections...all elections. They should register and vote. They just don't know how powerful they can be as a group. That's what...that would be one thing: To get out and register. Vote for the one you like. But, don't go out there and register and not vote. Register. Get out there and vote. That vote means a lot. It's only one vote, but five votes or one vote can win an election. That would be one of the most important things that I would suggest to tribal members or anybody, as far as that goes. Vote! Obviously, they are going to elect who they want, as far as tribal elections, but in that...all elections...cast that vote. Cast that ballot for somebody. There may be a member of the tribe might want to run for elective office other than on the Council. And right there, they have enough power...they could vote that person into office, if they wanted to. If they'll register to vote and do it. That is one single, important...one of the most important things is to vote. I strongly suggest...all of them if they are able, to vote.

Pitchlynn: You might see a few more of them on the jury, too.

Hart: That's right! They would automatically be put on the jury if they register.

Advocate: Can you think of anything else that you wanted to tell that we didn't get to talk about?

Hart: There have been good improvements

"There's always going to be people who...are going to say, 'Yeah, the man got off because he had him a damn good lawyer!'"

Con't. from page 14

Hart: Well, how many...does this (the Cherokee Advocate) get read by a lot of people? (Hart was provided a brief explanation of the Cherokee Advocate's circulation and readership.)

Hart: The reason I asked is because last night in a group meeting...we have a meeting of Indians here...and now, all we do...all they do is sing, and I don't know how, see? But, I go and listen. And we are learning each other's songs...tribal songs...ceremonial songs...and the guys said...I told them I was going to talk to you all today. They said, "Why don't you mention the fact that we would like the public made aware of our plight to try to get some public recognition, and maybe get some administrative recognition of our desire to have maybe a cultural group started. And, we would appreciate all the support...public support we can get on something like this.

Advocate: What are some things the Cherokees could do on the outside to help?

Hart: Well, there is (sic) a number of things. If nothing else, just to write to the administration, saying that these people have the right to meet in religious ceremonies...which we do have. Stuff like that...a cultural group. You know, some people will paint or draw, or some arts and crafts...they do something like that. And we have that right...sometimes...sometimes. They try to cut it short...on the amount of time we can meet. Like we meet once a week now, and last night we got something like, maybe, an hour. We'd like to have, maybe, about two hours...or even more often, as far as that goes. And be able to have people come in from outside to see us or talk to us...speak with us. It's stuff like that we need.

Advocate: Is it a formal Indian group?

Hart: Well, it is a loose-knit group in the sense that we do have a spokesman for the group. But the members are sometimes arrested...charges in here or something like that. And there's (sic) a few members who are always present and there are stragglers (who) come in one meeting, or just attend two meetings. But there was (sic) twenty-five last night, and that was probably one of the best groups we've had. It's usually in the neighborhood of twenty-five or less.

Advocate: So, you have a drum?

Hart: Well, it's just an old homemade one that they made. It is made out of naughtyde and a bucket or something, but it works. It sounds good. It sounds real good. And, we have shakers.

Advocate: You have shakers?

Hart: It's a salt shaker. The sound is real good. And they sing the stomp dance songs, and there are some in the group that are Plains Indians, and they sing their own tribal songs.

Advocate: Do you know Cherokee stomp dance?

Hart: No, I don't.

Advocate: Are they allowed to dance?

Hart: Well, we do when there is (sic) no officers around. We get the visiting room and we scout all the tables back and we dance some.

Pitchlynn: There's been a long-standing battle for a long time now...the blacks have their religious-cultural gatherings...and all the Baptists, Methodists and Presbyterians can't do their thing.

Hart: (Pulling a folded paper from his hip pocket) I have something here that says we do have...it is a resolution that was passed by Congress on August 13th of last year. It says...it's called the American Indian Religious Freedom Act which declares, "Henceforth it shall be the policy of the United States to protect and insure for American Indians their inherent right of freedom to believe, express or exercise the traditional religions of the American Indian, Eskimo, Aleut and Native Hawaiians." And this has been signed into law. And I have a copy of it.

What I'm saying is we feel they (the prison administration) are suppressing our rights to conduct religious ceremonies of cultural organizations. They are not coming right out and saying we can't do it. What they do is tell us and say, "We'll think about it," or "We'll do this," or "We'll do that," but we just don't seem to get any action on it.

Advocate: But other groups have this privilege?

Hart: Seem to have, but theirs is different from the Indian culture, because ours is something like beadwork or feathers. And this right here (pointing to document) says we are entitled to this...this resolution says we are entitled to it.

Advocate: Is the resolution referred to by any number?

Hart: Yes. S.J. Resolution 102, Senate of the United States, 95th Congress, first session. Co-sponsored by Bartlett. (It was) December 15th when he decided to co-sponsor this.

It's a part...religion is a part of the Indians, and always has been. This...we feel like this right here entitles us, even though we are in the penitentiary, even though we are locked up...to our freedom of religious choice or religious preference. And here is a memorandum issued by the institution...not by the institution, but by the Department of Corrections Director. This is dated August 4 of 1978. It's effective August the 4th of '78. The subject is the practice of religion. An operations memorandum—which these came out pretty frequently. And this whole thing

deals with religion...all groups. Religion would be Protestant or Islamic, or whatever. (Reading from memorandum) "All institutions shall allow access to clergymen, or spiritual advisors of all faiths represented in the institutional population." It says all faiths. The spiritual advisor doesn't have to be a minister. (Continuing) "The meeting will be open to all inmates who wish to attend and inmates who desire to meet on a group basis for native religious, cultural or spiritual purposes and activities will be permitted to do so on a regular basis pursuant to procedures approved by the warden." We are denied this.

Advocate: That's where the hang-up is? Hart: That's where it's at. They say in Oklahoma City we can do it, but they say here we can't do it. And that's why we need some help from the outside. People to come in here and say, "Hey, let these people do this. This is a part of their life. This is a part of them since the beginning of time. This is a part of their life and you are suppressing their rights. Like long hair...braids and long hair. They don't want you having long hair, and to the Plains Indians especially, that is a part of their tradition. But they won't allow that. They come with some off-the-wall stuff that it's unclean, unsanitary and conducive to having something like...uh...a man might be carrying lice, or something to that effect. I read the denial on this, but that was a different administration. Now this administration has not said that. (Returning to the operations memorandum) "Inmates will be permitted reasonable access to Native American medicine men or spiritual leaders on a group or individual basis for religious purposes."

Advocate: So the medicine men can't get in? Hart: Not to my knowledge. It is very difficult to get in here or any institution.

Advocate: We'll see if we can't get some support for this.

Hart: Well, I think that is what we need...some type of support. If nothing else, people could write letters and say, "Hey, let these people practice their religion!"

Advocate: I think the Cherokee Tribal Council would be interested in this.

"These people have the right to meet in religious ceremonies."

Hart: Well, that is what we need, and there are some inmates in here like last night...this one...he is part Cherokee, about half, I'd guess...but he says, "I would like to know something about my heritage." He said, "I don't know a thing." He said, "I wonder if they could send some kind of literature?"

And I said, "Well, what kind?" And he said, "I don't care. Any kind." You know, he just wants to know something about his ancestors. Where they originated, tribal customs and such, and he doesn't know anything about it. And I told him, "All I can do is say, 'Hey public, send us something!'" Or, just, "Anybody, send us something that we can pass out." Somebody should be able to do it. Hopefully, somebody will...would do something like that.

Advocate: We'll try to help.

Hart: Well, we appreciate it. I know they would. (A discussion ensued concerning the distribution of the interview to other Indian tribal newspapers and copyright privileges accruing to the Cherokee Advocate before Hart summarized the strategy of his defense during the trial.)

Hart: I wasn't disappointed with the way we handled the whole thing as far as the media, and I feel like we handled the whole thing as far as the media, and I feel like we made the right decisions all along. We made the right decisions as far as the trial and procedures, tactics and whatever, and, just like I told Garvin the night the jury was out. When they came back in and asked for questions, he came back over to the jail, and Gary came over, I believed, the next morning or that day, and I said, "Hey!" I said, "I can't complain about my representation." They done (sic) it right. I know how it was supposed to be done, and they done (sic) it right. I had no complaint. I said, "Regardless of how it turns out, I was represented right. You done (sic) your best and I can't ask for any more than that." I feel like my representation...there was nothing wrong with that at all. No, I have not one complaint...

Advocate: We certainly appreciate having this interview.

Hart: Well, it's been nice meeting you...and hopefully, we'll meet again sometime.

Advocate: I hope so. Maybe on the other side.

Isaac: On the other side of the wall.

Hart: Yeah. (Laughs) That's where I want to be.

by C.W. "Dub" West



JOHN THOMPSON ADAIR

JOHN L. SPRINGSTON

JUDGE JOHN THOMPSON ADAIR

John Thompson Adair, son of Walter and Rachel Adair, was born at Painter's Creek near Tulula Falls December 22, 1812. He attended neighborhood schools and at 20 entered Lawrenceville Academy in Georgia. In 1837 he purchased supplies in New Orleans with which he opened a store on the eastern boundary of the Cherokee Nation near Evansville, Arkansas. He married Miss Penelope Mayfield in 1840.

In 1843 he was elected Associate Judge of the Supreme Court of the Cherokee Nation and was re-elected every four years for 30 years. He was sent to Washington in 1853 where he met Sam Houston. During the Civil War he fled to near Rusk, Texas, after having freed his 27 slaves. Upon returning to the Cherokee Nation after the war, he was re-elected Associate Judge of the Supreme Court, a position he held until 1873 when he became Chief Justice of the Supreme Court. He was appointed Superintendent of the Cherokee Female Seminary in 1879 and again in 1889 and 1891. He was elected Chairman of the Court of Citizenship in 1887. He died December 24, 1891.

JOHN L. SPRINGSTON

John L. Springston, the son of Anderson and Sallie Elliot Springston, was born in Tennessee in October of 1845. He was educated in the public schools of Delaware District.

John joined the Third Regiment, Company 1 of the Indian Guards of the Union Army, commanded by Col. M.S. Phillips January 1 1863. He served until May 31, 1863, participating in a number of skirmishes and battles including those of Cabin Creek and Honey Springs.

He was appointed Clerk of the Supreme Court of the Cherokee Nation in 1859 while attending school and served in this capacity in various courts until 1872 when he was elected Sheriff of the Saline District. In 1874 he became the Executive Secretary of Interpreter as well. He was Translator for the "Cherokee Advocate" from 1875 until 1879. During the Bushyhead administration, he again served as Translator for the "Cherokee Advocate" and was Clerk of the Senate, National Interpreter for the administration and for the Special Commission of Citizenship. As an attorney, he appeared before the United States Court at Fort Smith and Washington.

REVEREND JOHN BUTTRICK JONES

John Buttrick Jones, the son of Evan and Elizabeth Lanigan Jones, was born at Valleytown in the old Cherokee Nation December 24, 1824. He came to the Cherokee Nation West with his father in 1839. He attended Baptist Mission, taught by his father, and graduated from the University of Rochester in 1855. He was ordained a minister July 14, 1855 and married Jennie Smith in October of 1855. He then returned to Baptist Mission where he assisted his father.

During the Civil War, John was Chaplain in the Third Regiment of the Indian Home Guards, a Cherokee regiment of the Union Army. He signed the Treaty of Washington July 19, 1866.

John and his father were a dominant force in the political affairs of the Cherokee Nation. The full-bloods especially rallied behind their leadership. The Downing Party, of which they were the leaders, elected every principal chief with the exception of Dennis W. Bushyhead after the Civil War. John was one of the organizers of the Keetoowah Society, which was organized in 1859. The Jones families were admitted to full tribal membership by the National Council in 1859. John moved the Baptist Mission from Breadtown to Tahlequah in 1859 to be near the center of the Cherokee Nation.

John died in Denver, Colorado June 13, 1876 and he as well as his wife were buried in Riverside Cemetery near Denver.