



Hon. Frank Pommersheim

Associate Justice, Rosebud Sioux Supreme Court

by Hon. Charles Abourezk



Charles Abourezk is the current chief justice of the Rosebud Sioux Tribe Supreme Court, retired chief judge of the Oglala Sioux Tribal Court, and retired justice of the Oglala Sioux Nation Supreme Court. He is a documentary filmmaker and former trial lawyer. © 2022 Charles Abourezk. All rights reserved.

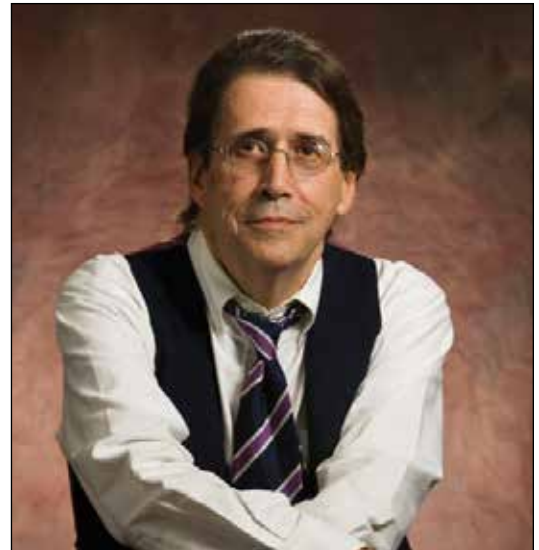
The 1960s and 1970s were a different time in America, tending toward inclusiveness and empathy. President Lyndon Johnson and the Congress initiated the War on Poverty, which included programs that perpetuated the idea that young Americans should reach out to the world and to our own forgotten and often poverty-stricken citizens in our inner cities, rural America, and Indian reservations around the country through the Volunteers in Service to America (VISTA), the Peace Corps, and other programs.

Many young Americans heeded the call to join this effort, just as the Vietnam war was escalating, which also caused a mobilization of Americans opposed to the war and seeking to play a more constructive role in the United States and the world.

A young Frank Pommersheim was the embodiment of the political and empathetic spirit of these times. After law school, Justice Pommersheim made a commitment to move to Alaska, where he became a VISTA attorney in a small community that was largely populated by American Indians and Alaska Natives. Although hearing from a fundamentalist minister upon his arrival that the Indigenous people there were “fundamentally evil,” Justice Pommersheim plunged into the culture and society during his time in Alaska. He worked closely with the Indigenous community, and developed many friendships, finding an “incredible warmth and generosity.”

Justice Pommersheim was quite drawn to what he learned about the culture there, and to the social structure of the Native community. When he learned of an opening with the tribally operated college on the Rosebud Sioux Indian Reservation, he and his wife, Anne Dunham, moved there and lived on the reservation in South Dakota for 10 years. He had never owned a car in his life, but he and Anne bought a Chevy Nova and drove with their belongings from New York City to South Dakota.

He first worked for Sinte Gleska University, one of the first tribally operated colleges in the nation, as a legal advisor and professor. After seven years with Sinte Gleska, he went to work for the legal services office on the reservation, later becoming director of the statewide legal services program. He wrote two books



while there, including *Broken Ground and Flowing Waters* and *Reservation Street Law*, co-written with the previous legal services director, Anita Remerowski. This was the beginning of a long and prominent career as an author and expert in the field of federal Indian law. This unexpected career grew from his profound experiences in Alaska and Rosebud.

“There was just this openness and generosity I found in both Alaska and Rosebud,” Justice Pommersheim said. “It was so different from both the stereotypes of Indians I had heard, and very different from the places where I grew up.”

“As I learned in Rosebud, everything is based upon relationships, which is a beautiful way to organize society. The Lakota concept of making a relative [the *hunka* adoption ceremony] is a beautiful recognition of the extension of relationship building,” said Justice Pommersheim. “This often doesn’t exist in western tradition.”

Expanding on the generosity he found on the reservation, Justice Pommersheim also reflected on the idea of the giving away of gifts at important moments in one’s life, rather than receiving gifts. “This concept is a much more inclusive, non-selfish and generous way to be. It had a powerful influence on me,” Justice Pommersheim said.

“Perhaps the biggest lesson I learned was reciprocity,” Justice Pommersheim said. “Relationships are not a one-way deal, there has to be reciprocity.” He recalled when Anne and he lived on the reservation, she was the librarian at the St. Francis Indian School. She told him that teachers would often complain that the students would not warm up to them or open themselves up to the teachers.

Later, he mentioned this in discussion and was told by a friend, “students don’t get close because the teachers come for a while and then soon leave, not staying long or reciprocating with the students warming up to them. That struck me. One doesn’t just extend oneself and then leave.” Justice Pommersheim suggests this cultural and social concept of reciprocity was an influence upon his later career choices.

After leaving the Rosebud Reservation, Justice Pommersheim was accepted into the Kennedy School of Government at Harvard, where he obtained a master’s in public administration. Once again, faced with the choice of moving on to something else or returning to South Dakota, which is home to nine Indian tribes, Justice Pommersheim learned of an available faculty position at the University of South Dakota School of Law. He interviewed and immediately began teaching Indian law and Indian jurisdiction, among other courses. Although finding it difficult at first to find his comfort level as a law professor, he remained at that law school until last year, when he fully retired.

During his teaching career at the law school, Justice Pommersheim continued his relationships with Indian tribes, mostly in South Dakota, serving as an appellate justice on several tribal supreme courts, both in South Dakota and in places like the Mississippi Band of Choctaw Indians and the Saginaw-Chippewa Reservation in Michigan. Several of the cases decided with other justices ended up in the U.S. Supreme Court. Justice Pommersheim presently continues his role as an associate justice on the Rosebud Sioux Tribe’s Supreme Court and as chief justice for the Cheyenne River Sioux Tribal Court of Appeals.

Early in his law school teaching, Justice Pommersheim began to hear from his students at the law school that, despite living in South Dakota all their lives, most had never had any experiences going to Indian reservations. This was concerning to him. He developed a program at the law school that allowed him to undertake an annual field trip, where he traveled with his Indian law students to the Rosebud Sioux Tribal Court to meet people there; watch court proceedings; and discuss the experiences of tribal judges, prosecutors, defense lawyers, and others working in the system. Typically, the tribal court provided a meal and spent a lot of time with the students.

“It’s a wonderful way to allow people to see and experience a whole different world from the stereotypes that often develop about Indian reservations,” Justice Pommersheim said.

Justice Pommersheim continued to publish while the University of South Dakota School of Law, including his book *Braid of Feathers: American Indian Law and Contemporary Tribal Life* and more than 40 law review articles mostly on the subject of federal Indian law. His newest book is *Tribal Justice: 25 Years as a Tribal Appellate Justice*, which was published in 2015.

Justice Pommersheim is also a poet. He has published poetry and continues to self-publish poems he sends to friends. Since retirement, he has taken up welding and bird watching with his wife.

“For me, I have to be doing something meaningful, something I love and enjoy,” Justice Pommersheim said. “It turned out the Rosebud Reservation was a good choice for us.” What lessons has he learned from his accidental life and career choices? “There are many Lakota values, but the three I was most taken by were courage, generosity, and humility,” Justice Pommersheim said. “They were very powerful for me. It is just a good way to be and live one’s life.”

Justice Pommersheim has returned repeatedly to these themes of reciprocity and solidarity throughout his writing and his jurisprudence. In his book *Braid of Feathers*, Justice Pommersheim reflected on solidarity in a life that has clearly been changed by his experiences in Indian Country and his resulting choices.

The ultimate goal is therefore not to undo difference but rather to create solidarity—a quality whose chief source is the imaginative ability “to see strange people as fellow sufferers.” Such efforts flow not from mere academic inquiry but from work of the heart and mind.

Such reflection is an accumulation gathered from Justice Pommersheim’s years as a tribal justice, his literary and spiritual thought, his marriage and family life, and his relationships within and outside of Indian Country. Perhaps most importantly, Justice Pommersheim’s richly fascinating life began to take form as a result of a policy period in American history when we urged our own citizens to interact with the world because there was a belief in our society that such experience would be a benefit to all who came into contact with each other, and that some sort of innovation and social invention might follow from such an investment of our youth giving and receiving from the communities they served.

Looking back, Justice Pommersheim reflected on his beginnings, his deep involvement with Indigenous people and their thought and philosophy, and where he is today in his twilight years. “It’s not like I chose a life, but a certain life chose me, and I am grateful for that.” ☉