

Support (From) Your Local Sheriff

John Adams said there must be “a force of law and justice” to prevent either federal tyranny or anarchy. Local sheriffs and police were meant to provide that force.

by *Helen Chenoweth-Hage*

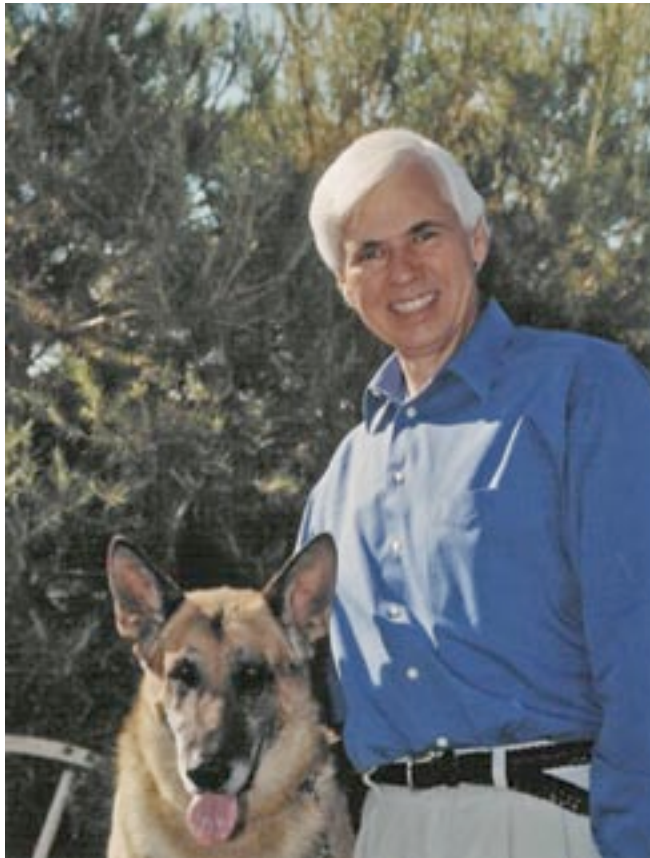
After the Revolutionary War and the subsequent creation of the U.S. Constitution, certain safeguards to protect our newly acquired liberties were established. Among these was the requirement that all government officials, including the military and law enforcement, swear an oath of loyalty — not to the President or the governor or the legislative assembly or any judge, but to the Constitution itself, which was the great bulwark of our liberty.

— Former Sheriff Richard Mack
Graham County, Arizona

The office of sheriff was instituted under Anglo-Saxon law in England to create a neutral authority which could lawfully stop the seizure and confiscation of property until notice and hearing were extended to the injured party. This is called due process. Ironically, the major impetus behind the creation of the sheriff's office was abuse by the king in seizing private property without notice and hearing. Today, in the western United States, it is the U.S. government taking the place of the king, taking private property without due process of law. And the importance of the office of county sheriff has never been more pronounced than at present in the western United States.

By way of background, in 2002, the United States Court of Federal Claims had just issued its *Final Opinion and Finding of Fact* in the case of Nye County rancher Wayne Hage, my husband. The dispute

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Sheriff Tony DeMeo of Nye County, Nevada, has let federal officials know that they too, must obey the law. Sheriff DeMeo is shown above with his trusted police dog, K-9 Diesel.

was over the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) laying claim to Hage's water rights and forage, which had been acquired by his predecessors-in-interest under the prior appropriation water doctrine and old Spanish-Mexican land settlement law that Congress had confirmed by the Act of July 26, 1866, commonly known as the Original Mining Law. The court ruled that Hage's ownership of vested water rights, which had been established long before the BLM and U.S. Forest Service even existed, gave him title to the fee lands where those waters arose. The court further ruled that Hage did not need a grazing permit to validate his rights. It also held that his fee

title includes water and forage rights as well as the right to use and maintain ditches, roads and other range improvements. The ruling was a major victory not only for the Hages, but for all ranchers and property owners. Based on the court's decision, Hage again began grazing his cattle on his property.

The reaction of the agencies to the 2002 court ruling in *Hage* was typical of those who have grown accustomed to operating in the atmosphere where they do not have to fear a “force of law and justice.” They simply ignored the Court ruling. The BLM responded by saying fee lands were a myth. The USFS responded by saying, “We just continue to operate as though that decision doesn't exist.” Obviously, the agencies had no fear of the local sheriff intervening.

Back Off, BLM!

In the summer of 2004, the BLM state director, Robert Abby, contacted Sheriff Tony

DeMeo and informed him that he was going to use his BLM law-enforcement personnel to serve a citation on Hage for exercising his property rights. Normally, the state director would not even bother to talk to a sheriff, but word was already out that DeMeo was different. Hence the contact.

DeMeo informed Abby that the BLM didn't have law enforcement authority. DeMeo offered to serve any court orders on Hage for the BLM like the sheriff's department would do for anyone else. Abby indicated he could not get a court order. DeMeo replied, “That should answer your question.” Not to be deterred, Abby then began to threaten some type of strong-arm raid against Hage and some other ranch-

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ers. Abby suggested that in short order he could have as many as 50 armed agents from the National Park Service on hand to carry out raids on the ranches. Around these parts, especially, that is not viewed as an idle threat. Many other law-abiding, tax-paying, peaceful citizens have experienced similar military-style “SWAT” raids on their homes and property by various agencies over the years.

DeMeo concluded the matter by informing Abby that the BLM was interfering in the sheriff’s jurisdiction. The Hage case was still in litigation and that’s where Abby and his counterparts in the USFS

needed to settle their issues in the Hage matter. So that the situation would be perfectly clear, DeMeo then informed both the BLM and the USFS that they had been told to stay off the Hage ranch and that any complaints about BLM or USFS personnel on the Hage property would result in a citation from the sheriff’s department for trespass. *Finally*, the

agencies and their environmental friends were forced to comply with the proper “force of law and justice.”

Life, Liberty, Property

The founders of this nation were very astute men. Their understanding that property rights are the cornerstone of all civil liberties led them to write a Declaration of Independence, embodying this principle, and a Constitution for the United States of America, which limited the intrusion of the federal government into the property rights of the sovereign citizen.

Perhaps my favorite quote from the

Founders on the subject of property is that uttered by John Adams: “Unless property is as sacred as the laws of God, *and there exists a force of law and justice to protect it*, anarchy and tyranny commence. Property must be sacred or liberty cannot exist.” (Emphasis added.) Adams’ statement deserves some analysis in depth in today’s climate of government seizure and confiscation of private property.

Modern-day critics who are steeped in the socialist concepts of the past century have ridiculed the underlying premise of the Founders that the only purpose for government is to protect property. This principle, however, is absolutely true. It is just as true when applied to a totalitarian form of government as it is to the government of a free society. The difference being this: In a free society, government exists to protect the people’s property from government; and in a totalitarian society, government exists to protect the government’s property from the people. In other words, people either have the right to own property free of government intervention, or the people are the property of the government.



Stewards of the Range

A good life, but hard work: Cattle ranchers like Wayne Hage (left) are finding it more and more difficult to stay in operation and continue providing meat for American tables. Harassment from federal agencies is driving many family ranches out of business.

On the other hand, some advocates of private property rights have criticized Thomas Jefferson for using the phrase “life, liberty, and the pursuit of happiness” in the Declaration of Independence, rather than the phrase “life, liberty, and property.” Some say he just made a mistake or that Jefferson was not really a private property advocate. But here again, the wisdom and astuteness of the Founders shines through. Jefferson and his colleagues realized that a person’s life, liberty, and pursuit of happiness are all forms of property rights. If he had said life, liberty, and property, he would have been redundant. He would also have been wrong.

Ownership, we must remind ourselves, is defined as the control of property rights. It makes no difference if a person has title to something or if he pays taxes on it. If government, or some other entity, can determine how the property is to be used, that entity is the de facto owner. In this once-free nation, where private property rights formed the foundation for the fullest exercise of civil liberties, we find those civil liberties continually restricted and extinguished in direct proportion to the regulatory control exercised by government.

In the rural West, for example, government agencies will go so far as to intimidate local sheriffs and district attorneys, causing civil rights to crumble. A U.S. attorney or other federal official, who himself does not understand the law, often threatens to bring suit against county and state authorities for protecting the property rights of citizens against government seizures. In the six “cow counties” of Nevada alone, actions of the BLM and USFS almost completely divested many citizens of their civil liberties by usurping their property rights, thereby usurping their livelihoods as ranchers. The negative effect of the government’s actions are far-reaching. When the government took the ranchers’ property rights, the government also effectively shut down the businesses which relied on the ranching industry, costing these counties’ economies approximately one billion dollars since 1985.

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Once flourishing towns, the service centers for the devastated livestock industry, now resemble ghost towns. Driving down the main street of the central Nevada town

of Tonopah today, one sees three of every four business establishments boarded up. The numbers of livestock on the range in the Tonopah area have been reduced 75 percent by government agency actions since 1985.

When we look around the West and, for that matter, around the country, virtually all of the injustice of the confiscation of private property could have been avoided simply by a sheriff upholding his duties and exercising his jurisdiction. In the year 2002, Nye County elected a new sheriff, Tony DeMeo. On the face of things, DeMeo appeared wrong for the job. He was from New Jersey. His experience in law enforcement was in the urban areas of the east. His experience was in crime control on the city streets, not western range. He even spoke with a distinct New Jersey accent. However, DeMeo had two things overwhelmingly in his favor. Before running for office, he did his homework on western land and water law. He also acquainted himself thoroughly with the jurisdiction and authority of the sheriff’s office. He was also a man of high principle, not easily compromised by the offer of money or other distractions which so often destroy the good intentions of men. More than one western sheriff in recent years has been brought to heel by the feds, through

the suggestion of an IRS audit or the threat to reveal hidden skeletons in the closet of the sheriff’s past. The government’s strong-arming of citizens could have been stopped by strong sheriffs. Other sheriffs beside DeMeo have proven that fact — Sheriff Arpaio of Maricopa County, Arizona, understands his jurisdiction. Thieves and vandals don’t challenge him even if they do work for the federal government. The same can be said for former Sheriff Keller of Clark County, Nevada, as well as Sheriff Richard Mack of Arizona. Sheriff Gary Amon of Owyhee County, Nevada, was another one whom the BLM and Forest Service learned to respect.

By looking at John Adams’ statement, quoted earlier, the major societal flaw leading this nation down the road to anarchy and tyranny can be seen. Not only did Adams remind us that in a free society, property rights must be sacred, he also added that *unless a force of law and justice exists to protect property rights, anarchy and tyranny will commence*. The country’s citizens and sheriffs should take heed: The day when sheriffs, who truly are sheriffs, outnumber those who are willing to cave to federal intimidation is the day when a force of law and justice will return to the American scene and the threat of anarchy and tyranny will begin to vanish. ■



At home on the range: Wayne Hage (shown here on his Nevada ranch) has won several important court decisions for property rights over the past 13 years. Federal agencies continue to harass him with legal actions and arrest threats.

Stewards of the Range