

March 28, 1963

*Int-
Indians*

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Mr. Lawrence Tomah, Jr.
Route 1
Walters, Oklahoma

Dear Mr. Tomah:

Further reference is made to your letter regarding the legality of a meeting of the Kiowa, Comanche, and Apache General Council held at Apache on January 19, 1963.

I am enclosing for your information a copy of a letter from the Bureau of Indian Affairs to the Area Director at Anadarko in which this issue is discussed and explained.

With best regards and good wishes, I am

Sincerely yours,

Enclosure



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

Tribal Operations

March 21, 1963

Mr. Will J. Pitner

Area Director, Anadarko

Dear Mr. Pitner:

We have carefully studied your letter of January 24, and the enclosures, as they pertain to the General Council meeting of the Kiowa, Comanche and Apache Tribes held on January 19.

There are several questions that have been raised concerning this meeting and the circumstances surrounding it. First, can the Business Committee cancel a duly called General Council meeting less than 24 hours before that meeting is to be held? The constitution of the three tribes is silent on the subject of cancellation. It might be said that if the Business Committee had the authority to convene a General Council it also had the authority to cancel it. However, this authority must be exercised reasonably, and carries with it the responsibility and duty of giving adequate and sufficient notice of its exercise. This requires that notice of cancellation be given openly and widely, sufficient to come to the attention of at least a majority of those eligible to respond to the call. By admission of all the tribal representatives recently in Washington, such was not done when the Business Committee attempted to cancel the meeting which had been called for January 19. The announcement of the meeting was given widespread circulation through the radio and newspapers, whereas the cancellation notice was circulated only by word of mouth with less than 24 hours remaining. The insufficiency of the notice of the attempted cancellation, and, therefore, its ineffectiveness, is clearly evidenced by the fact that 125 members of the tribes, many of whom traveled long distances in bitterly cold weather, came to attend the meeting in response to the call, and very apparently had no prior notice that it was not to be held at the appointed hour. Inasmuch as Article VI, Section 3 of the constitution requires that at least 10 days' notice of a General Council meeting must be given to the tribal membership, we are of the opinion that the tribal membership has a right to a cancellation notice given reasonably, timely, and effectively. Such was not the case here.

The second question is whether the General Council was properly convened. Insofar as the procedure for commencing and conducting the meeting is concerned, we see nothing wrong. In the absence of the Business Committee, the members elected a chairman and proceeded in accordance with the agenda set up by the Business Committee.

A third question is whether the General Council had the authority to rescind the constitution and bylaws and to dissolve the Business Committee. We believe that it did. The General Council adopted the constitution and, therefore, has the authority to revoke it. The action to revoke was, in effect, an amending action consistent with item two of the agenda. The revocation of the constitution automatically dissolves the Business Committee, which derives its authority from that document.

In conjunction with rescinding the constitution and bylaws, the General Council requested the Secretary of the Interior or his representative to select a constitutional committee to consider and draft a new constitution. We believe that an important prerequisite for the success of such a committee is that its membership have, insofar as possible, the support of the tribes which can best be assured by having its members selected by the tribes. You should advise the tribes that the Bureau is prepared to consult with them immediately to assist in determining what course of action should now be pursued.

It remains our sincere hope that every effort be made by the tribes to achieve the political stability which the membership deserves. We are willing to assist them achieve this goal and are eager to cooperate with a stable and representative governing body to formulate plans for social and economic development among the tribal members. Many opportunities exist, but the prime requisite for taking advantage of them is sound tribal government which can aid in initiating programs and give reasonable assurances that programs which are developed will not be revoked or rescinded for purely political reasons.

On January 18, 1963, the Area Office of the Bureau of Indian Affairs in Anadarko notified the Business Committee of the Kiowa, Comanche and Apache Tribes that it was not approving an attorney contract submitted by the Business Committee. This action became the subject of an appeal directed to the Central Office on February 4, 1963, by the Chairman of the Business Committee on behalf of attorney Houston

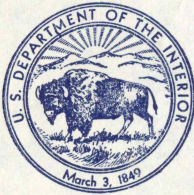
Bus Hill. 25 CFR 71.1(c) states "Any action of the authorized representative of the Secretary of the Interior which approves, disapproves or conditionally approves a contract pursuant to paragraph (a) or (b) of this section shall be final." Therefore, we regard the action taken by the Area Office as final. We note that on January 19 the General Council acted to overrule and veto the previous action of the Business Committee in negotiating an attorney contract with Mr. Hill.

In that we are recognizing as valid the action taken by the General Council on January 19, 1963, no tribal funds held in trust by the United States will be released for any purposes designated subsequent to January 19 by that Business Committee which was dissolved by the General Council of that date.

You are requested to distribute as widely as possible copies of this letter to the members of the Kiowa, Comanche and Apache Tribes. In making our position known, it should be emphasized that the action taken on January 19 and our recognition of it will in no way affect the existing relationship between the Bureau and individual tribal members or the services performed by the Bureau on their behalf.

Sincerely yours,

(Sgd) John. O. Crow
Acting
/Commissioner



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

IN REPLY REFER TO:

Tribal Operations
572-63

MAR 27 1963

Hon. Mike Monroney
United States Senate
Washington 25, D. C.

Dear Senator Monroney:

By letter dated February 5, we stated that we would write further after we had made a thorough study of the January 19 General Council meeting of the Kiowa, Comanche and Apache Tribes and advise you of the conclusions reached by this office.

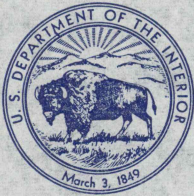
We are enclosing a copy of our letter dated March 21 addressed to the Area Director of our Anadarko Area Office which, we feel, is self-explanatory.

We hope that in the near future the Kiowa, Comanche and Apache Tribes, with whatever assistance we can give them, will have an effective tribal government that will best promote the interests of the tribal members.

Sincerely yours,


 Commissioner

Enclosure



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(Sgd) John O. Crow
Deputy
Commissioner

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