

ED EDMONDSON

2D DISTRICT OF OKLAHOMA

Congress of the United States  
House of Representatives

Washington, D. C.

May 9, 1963

*Int.  
Indians*

Honorable Mike Monroney  
6205 New Senate Office Building  
Washington, D. C.

Dear Senator:

Mr. Philemon Berry left the enclosed copy of  
the Kiowa, Comanche and Apache Tribes appeal at our  
office and asked that you be furnished a copy.

With best wishes,

Sincerely yours,



Jim Jones

For:

ED EDMONDSON, M. C.



An Appeal From the Decision of the Acting Commissioner of Indian Affairs, dated March 21, 1963, Concerning the Kiowa, Comanche and Apache Tribes Constitution & Tribal Government.

The Kiowa, Comanche and Apache Tribal membership took action in a duly called General Council meeting, March 30, 1963 to appeal the decision of Acting Commissioner, John O. Crow, dated March 21, 1963.

This appeal to the Secretary of the Interior was initiated by a voice vote of 359 to 0 and constitutes a legal action of the people involved.

The decision of the people to appeal the action of the Commissioner is based upon the fact that we feel that his action places the tribes and the Bureau of Indian Affairs in jeopardy since certain actions taken were recognized by the Bureau as legal and the tribes as organized was allowed to expend fund belonging to the tribes since 1932.

We call your attention to the fact that the resolution adopted January 19, 1963, was completely out of the scope of the authority of the Constitution and By-Laws of the Kiowa, Comanche and Apache Tribes.

We also call your immediate attention to the fact that the Bureau of Indian Affairs are continuing to expend tribal funds on the Sanitation Program even though they have ruled that the tribe is without a legal governing body.

We remind you that if the action of the Bureau of Indian Affairs is upheld by your office, then all action taken under the Constitution and By-Laws shall then become illegal and the tribal membership shall have grounds to bring suit for damages and cash recovery. We do not wish that such legal steps be taken, but would rather see the tribal Constitution and By-Laws continue as it has during the past 31 years.

BILL OF PARTICULARS

1. The resolution adopted on January 19, 1963, to abolish the Kiowa, Comanche and Apache Tribal Constitution and By-Laws was not a legal document since it was adopted during a meeting that was cancelled by the KCA Business Committee which set it up.

2. The Bureau of Indian Affairs approved of the abolishment of the said Constitution and By-Laws in a letter of March 21, 1963, which was signed by John O. Crow.

We challenge the Bureau's right to dissolve our Constitution and By-Laws and request that all tribal expenditures be stopped immediately until our tribal government is restored.

3. The Bureau of Indian Affairs does not have the authority to abolish the tribal constitution since there is an absence of any clause through which this can be done. The Constitution provides only for amendments to the Constitution and By-Laws.

4. The abolishment of any tribal government is a very serious constitutional question that must be given immediate attention, for if the BIA can take such actions based upon the action of less than 2% of our tribal membership then all tribal governments throughout the country are in jeopardy.

5. The BIA has no authority to rule on any question where the Constitution and By-Laws are silent, but rather it remains within the power of the tribal membership itself to decide.



6. The BIA has recognized the KCA Constitution and By-Laws throughout the past 31 years and the Business Committee has been functioning to meet the needs of the people they represent during this time.

7. Onl a meeting called specifically for the purpose of abolishing the entire Constitution and By-Laws would be valid under the law in the case of any tribal government.

8. The BIA is violating their own orders contained in the letter of March 21, 1963, by continuing to expend tribal funds for certain purposes and this has been brought to their attention on May 1, 1963, by the tribal delegates.

9. On January 9, 1961, the KCA Council met and Allen Quoetone moved to adopt the Roberts Rules of Order to govern the KCA Business Committee actions and business, and the motion was duly seconded and adopted by the KCA Business Council at said meeting. The Roberts Rules of Order provides that the chair or the governing body can declare the assembly adjourned in case of great emergency.

Article 6, Paragraph 37, Page 169, Roberts Rules of Order:

Rescind, Repeal, or Annul. With exceptions noted later, any action or unexecuted part of an order may be rescinded by a majority vote, provided notice has been given at the previous meeting or in the call for this meeting; or it may be rescinded without notice by a two-thirds vote, or by a vote of a majority of the entire membership. The notice may be given when another question is pending, but cannot interrupt a member while speaking. To rescind is identical with the motion to amend something previously adopted, by striking out the entire by-law, rule, resolution, section, or paragraph, and is subject to all the limitations as to notice and vote that may be placed by the rules on similar amendments.

10. The Area Field Representative, Mr Robert L. Meshew's letter dated December 26, 1962 states and we quote, "The interpretation as to the validity of actions taken by the Kiowa, Comanche and Apache Business Committee under your present Constitution is a matter that rests solely with the tribes," end quote from the 4th paragraph.

It continues with paragraph 5 and 6 as follows and we quote:

It was also requested that the Area Field Representative declare any action taken by the committee who met on December 18, 1962 null and void for not complying with the Constitution and By-Laws of the Kiowa, Comanche and Apache Tribal Business Committee. 83 Indian Affairs Manual 6.6 D. (5) states, quote, 'Minutes of tribal meetings are not subject to approval by any official of the Bureau and should not be endorsed by the Superintendent, Area Director, or any other official of the government'. Also, 83 Indian Affairs Manual, 6.6 (2) (a) states, quote, 'Government Approval of Tribal Ordinances and Resolutions. Tribal ordinances and resolutions generally do not require the approval of Bureau officials unless: (a) The terms of the tribe's Constitution or charter specify that approval or review is required for the enactment to become effective.'

Your existing Constitution and the above Indian Affairs Manual references contain no provisions that would enable us to directly intervene in the political affairs of the tribes."



PRAYER

The Kiowa, Comanche, and Apache Tribes pray that the Secretary of the Interior overrule the decision of the Acting Commissioner of Indian Affairs in his letter of March 21, 1963, on the basis that there was no legal action of the tribal members involved.

We pray that the Secretary take all necessary steps to restore orderly government within the ranks of the members of the KCA Tribes.

We urge and pray that the Secretary take steps immediately to carry out these steps for the following reasons:

A. We tribal members are confused to the point that relationships between the BIA and the members are slowly worsening to the point where little respect is left for BIA officials.

B. It is not constitutional for the BIA to dissolve a tribal government without the consent of a majority of its membership.

C. The BIA action was not based upon a duly convened meeting of the members of the KCA Tribes, as the meeting was canceled by the Business Committee in a duly called meeting due to extreme weather conditions. This was a legal action on the part of the Business Committee, in fact the Chairman of the Business Committee has the power to cancel any meeting at his own discretion if conditions warrant it.

D. The KCA Constitution and By-Laws has no provision to cause actual dissolving of the governing body, but does contain a provision to amend, therefore 125 tribal members, which constitutes less than 2% of the tribe do not have the authority to dissolve the tribal government.

E. The 125 tribal members who sought to dissolve the tribe's government were aided and abetted by the Area Director, Will J. Pitner. The Area Director has consistently divided the tribal membership of the KCA through various means in order to further his own power over the Indian people.

F. The BIA has violated the letter of the law by stopping all tribal activities. This action has caused the tribes untold amount of loss in funds and human agony.

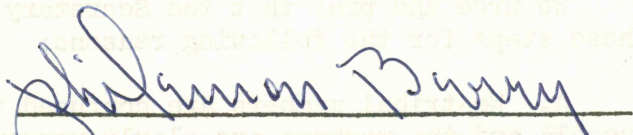
G. This action by the BIA has caused the tribe to lose an industry on the reservation that would have created jobs for 40 people over a period of 5 years to 10 years.

H. The true democratic process was completely violated by the action of the BIA in our case and we know that you, as the Secretary of the Interior, would desire a more orderly approach to the settlement of this important tribal problem that effects 10,000 people.

We pray that you will honor us with a decision in our favor administratively, rather than attempting to make this matter a legal question which could become a long drawn out affair in which both the Bureau and our members of the KCA Tribes will be damaged for sometime to come.

The KCA Constitution is a document that is recognized as one outside of the scope of the Oklahoma Welfare Act of 1934, therefore this Constitution is not truly subject to any legal interpretation, but rather it requires your review administratively.

Respectfully Submitted on behalf of  
the Kiowa, Comanche and Apache Tribes.



Philemon Berry, chairman, KCA General  
Council, March 30, 1963