

Provinse, John H. (Acting Commissioner of Indian Affairs), 4-21-1950, Letter to Dan Kootschongeva. Copy from Indian Law Resource Center website, Hopi Report, Exhibit 42. (http://www.indianlaw.org/en/hopi_report)



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

FILE COPY
SURNAME:
Tribal Delegation

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Through: James D. Crawford

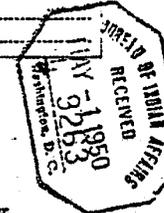
Supt., Hopi Agency

Mr. Dan Kootschonewa

Hotevilla, Arizona

Dear Mr. Kootschonewa:

APR 21 1950



When we talked together recently you asked that I supply a written statement covering the question of the legality of the Hopi Tribal Council which has recently been reorganized. I am happy to do this.

Let me first say that members of my staff have carefully read the minutes of the meetings held on January 27, February 9 and March 1, and on the basis of the information obtained from these minutes a final decision has not been made at this time as to the legality of the actions taken. I desire, however, to clarify three points for you.

1. The Hopi Constitution did not go out of existence although the Tribal Council ceased to function after 1943. A constitution is created by the people. The people have the power to destroy it, not the Tribal Council. The people, if they desire to do so, may destroy the constitution by the same process they used to bring it into existence, namely, by voting to do away with it and adopting a new one. Since the Hopi people did not vote to terminate the existence of their Constitution it remains in force.

2. The Hopi people who created the constitution always retain the power to bring it back into force after years of non-use. This could be accomplished by electing village delegates to the Tribal Council under a method prescribed by Article V, Section 3, of the Constitution; if these delegates have been duly elected, and if the village delegates are sufficient to constitute a quorum, the Tribal Council will then have been reactivated. The Hopi Constitution will then control the conduct of the Council.

3. Any meetings called under the authority of the Hopi Constitution would have to conform to the provisions contained in the Constitution with respect to giving notice, announcing the purpose of the meetings, and other requirements. If the people wish to hold a special meeting they may do so without conforming to the Constitu-

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EXHIBIT 42 a

Filed by L. B. L.

tion. See Article III, Section 2, of the Constitution which provides that all members of the Tribe shall be free to meet together. Any action taken at such a meeting would not constitute the exercise of constitutional power. However, the duly elected Hopi Council could, if it so desired, adopt the actions of the special meeting as its own. This could be accomplished by the passage of an appropriate resolution of the Council.

There are then several questions to be answered before a final decision is made as to the legality of the reactivation of the Hopi Tribal Council. Among these questions are whether the meeting of January 27 was called under the terms of the Hopi Constitution or was called by the Hopi people in an effort to resume activity under the Hopi Constitution, whether delegates have been duly elected from the villages, and whether sufficient delegates have been elected to constitute a quorum.

Since our information on these and other points is not complete, I have written for further information. Upon receipt of all the facts this Office will then make a final decision. A copy of this letter is being sent to Superintendent Crawford and he will keep you advised.

Sincerely yours,

(Sgd.) JOHN H. PROVINSE

~~Acting~~ Commissioner

Copy for: Allan G. Harper, Area Director

Window Rock Area Office

McNickle:csw 4/19/50

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EXHIBIT 42b