



7-23-1956

## Letter from Wesley D'Ewart to Martin Cross Regarding Tribal Council Election, July 23, 1956

Wesley D'Ewart

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### Recommended Citation

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Fort Berthold  
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United States Senate

MEMORANDUM

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
THE SECRETARY  
WASHINGTON 25, D. C.

Copies sent to  
Jackson Ripley  
B.J. Youngblood  
Carl Whitman

July 31  
+ Aug 13

JUL 23 1956

Through: Area Director, Aberdeen

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election to amend the Fort Berthold

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vote in such elections must present themselves in person at the polls. Even though an overwhelming majority of those voting were in favor of the constitutional amendments which have been submitted to Secretarial elections, this restriction against absentee balloting in such elections resulted in the amendments failing of adoption because 30 percent of the qualified voters did not participate in the elections as required by the Act of June 15, 1935 (49 Stat. 378).

On March 19, 1956, the Commissioner of Indian Affairs again asked that the Solicitor re-examine the Fort Berthold Tribal Constitution, the statute under which it was adopted, and the Departmental rules and regulations issued pursuant to the statute with a view to reconsidering the interpretation which had been made with respect to the eligibility of nonresident tribal members to participate in Secretarial elections as opposed to tribal elections.

I am happy to advise that on June 20, 1956, the Solicitor rendered the enclosed opinion (M-36350) with respect to the holding of Secretarial elections for the adoption of proposed amendments to the Fort Berthold Tribal Constitution. The Solicitor held that the Departmental rules under which the constitution and bylaws of the Three Affiliated Tribes was adopted permitted the use of absentee ballots for nonresident voters and that the same practice should be

*Fort Berthold*

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON 25, D. C.

JUL 23 1956

Through: Area Director, Aberdeen

My dear Mr. Chairman:

I have your letter of June 22 in which you urge that a date be set for the holding of an election to amend the Fort Berthold Tribal Constitution.

This Department for some time has been concerned over the difficulty which has been experienced at Fort Berthold in efforts to effect proposed amendments to the Fort Berthold Tribal Constitution and the election of councilmen. These difficulties were due largely to the interpretation which had been placed on Article IV, Section 2 of the Fort Berthold Tribal Constitution to the effect that absentee balloting is not permissible in Secretarial elections called to amend the tribal constitution, and that tribal members to be eligible to vote in such elections must present themselves in person at the polls. Even though an overwhelming majority of those voting were in favor of the constitutional amendments which have been submitted to Secretarial elections, this restriction against absentee balloting in such elections resulted in the amendments failing of adoption because 30 percent of the qualified voters did not participate in the elections as required by the Act of June 15, 1935 (49 Stat. 378).

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recognized in connection with elections to pass upon amendments to the tribal constitution. Consequently, I have today approved an election order submitting to a vote of the tribal membership the enclosed proposed amendment to the Fort Berthold Tribal Council, which if adopted, will redefine the communities within the present reservation boundaries and which will provide for absentee balloting not only in Secretarial elections but in all tribal elections.

The election order directs the Superintendent of the Fort Berthold Agency to hold the election in accordance with the rules and regulations for holding elections under the Indian Reorganization Act. Part 9 of those regulations has been modified to permit the Superintendent to hold the election over a two-day period should he deem it necessary, the first day of the election to be not less than 30 days nor more than 60 days from the date of the election order.

I am hopeful that the proposed amendment will be adopted in the election and that the tribal election for councilmen which is to be held subsequent to the approval of the amendment by this Department will resolve the tribal election problems now at Fort Berthold.

Sincerely yours,

(Sgd) Wesley A. D'Ewart

Assistant Secretary of the Interior

Chairman

Fort Berthold Tribal Business Council

Enclosure

Copy to: ✓ Hon. William Langer, United States Senate