

May 14, 1963

Mr. Dan M. Gourley
487 Commonwealth Ave.
Boston 15, Massachusetts

Int. Indians

Dear Mr. Gourley:

Re: Prairie Band of the Pottawatomie Tribe,
et al. v. Mage N. Puckkee, et al. (C.A.
10, No. 7243).

Reference is to your letter of April 27, 1963, concerning the above case. The following are the answers to your questions.

1. The case is being argued before the Tenth Circuit Court of Appeals in Denver, Colorado, on May 15, 1963. It will probably be several months after that date before the court issues a decision in the case and as noted in my letter of November 2, 1962, further litigation after that time will be dependent upon the decision made by the court.
2. Mage N. Puckkee is the Chairman of the Business Committee of the Prairie Band.
3. The Prairie Band as recognized by the Department of the Interior is being represented by the Department of Justice and no fee is charged for such representation. We do not know who is paying the lawyer's fee for the persons who have brought the suit.
4. The suit has been brought by Mrs. Minnie Evans (Minnie Weshkeenoo), John P. Wahwassuck, Alfred Curtis Pequano, James P. Wabnosah, William Hale and James Keggamege (James Keg). They are suing in the name of the Prairie Band and one of the

legal questions is whether they are the proper representatives of the Band and have a right to sue in the name of the Band. They are not recognized as having this authority by the Department of the Interior and that is one of the reasons we are representing the persons whom they have sued. The persons against whom they have brought this suit are Mage N. Puckkee, Frank Nioche, James Kabance, John Shoptese, Peter Matchee, Eugene Grinnell and Philip Burns, who are the Business Committee of the Band and recognized by the Department of the Interior as its proper governing body. They have also named the Secretary of the Interior, the Commissioner of Indian Affairs, and the area field representative of the Bureau of Indian Affairs as defendants. Since the Government is trustee of the tribal funds and responsible for their distribution, it cannot make a distribution until the suit is settled. If it did so and the courts later determined that the plaintiffs were correct in their claims in this suit, the distribution might be improper and cause the plaintiffs to attempt to hold the Government responsible.

5. The ground of the plaintiffs' suit is that the judgments of the Indian Claims Commission are to be distributed only to those members of the Prairie Band who can trace their ancestry directly to Indians who were members of the Pottawatomie Tribe as created by the treaties of June 5/17, 1846, 9 Stat. 853, and November 15, 1861, 12 Stat. 1191. Since the Tribe was enlarged at various times after those dates and many present Prairie Band Indians cannot trace their ancestry to the original members of the Tribe, the success of the plaintiffs would mean more money for them and would disqualify many of the present members from participating in the funds.

6. The payment of attorney's fees is controlled by the Congress and the tribes and we have no authority over this matter.

7. As noted in item 3 above, the Department of Justice is representing the Business Committee. The plaintiffs are represented by the law firm of Dickinson, Crow, Skoog and Honeyman, of Topeka, Kansas.

8. This question is answered in item 4, above.

We hope the foregoing answers are satisfactory and of assistance to you.

Sincerely,

RAMSEY CLARK

cc: Honorable A. S. Mike Monroney
United States Senate
Washington, D. C.