

TESTIMONY OF
JOSEPH RUPNICK, CHAIRMAN
PRAIRIE BAND POTAWATOMI NATION

BEFORE
THE KANSAS JOINT COMMITTEE ON STATE – TRIBAL RELATIONS

SEPT. 11, 2024

Good afternoon, Chair Carpenter, and distinguished members of the committee. My name is Joseph Rupnick and I serve as the Chairman of the Prairie Band Potawatomi Nation. I am a veteran of the United States Calvary and I represent approximately 4,500 Potawatomi people most of whom live on our reservation in Kansas defined by our 1846 Treaty with the United States government.

I am honored to be with you today to share my thoughts on “Tribal State relations,”. Originally, our people owned and resided on lands in northern Illinois, but we were subject to removal treaties in 1829 and 1833 that relinquished most of our land. Our 1846 treaty established a 900 square mile reservation for us in Kansas, but development pressure, the federal government’s land allotment policies and outright theft resulted in most of our land being lost to non-Indians. Just a few

decades ago, our Nation owned less than 5% of the land originally promised to us.

Today, lands within our Reservation are heavily “checkerboarded” – meaning that there are mixed parcels of land within the Reservation owned by our Nation, individual Nation citizens, and non-Indians. And because the status of the land differs based on ownership, so too does the jurisdiction and taxing authority of the tribal, federal, state, and county governments. Frankly, what the government has done to us and our lands has been to create a damn mess.

This mess is compounded by the fact that that the lands that we have retained are considered to be “trust lands” – that, is – lands owned by and under the jurisdiction of the federal government. In my view, the idea of “trust land” is not normal and should be fixed to recognize that our Nation is the owner of our lands within our treaty-defined reservations and subject to our primary jurisdiction. The federal government’s role should be to protect our lands against sale and external taxation and regulation, not management and interference with our tribal government’s land use decisions.

Perhaps I should start at the beginning to get a better understanding of our concerns as it relates to the state.

The U.S. government recognized American Indian tribes as independent nations and came to policy agreements with them via treaties. You may agree with me or not but in reality, Tribes legitimized the U.S. Government. When we accepted treaties and currency, we recognized them as a government.

When the framers drafted the constitution, they understood the importance and in Article VI- United States Constitution it reads;

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land”. Lately, people only cite portions of the constitution only when it fits their narrative.

Also, in Section 8 of the Constitution states that "Congress shall have the power to regulate Commerce with foreign nations and among the several states, and with the Indian tribes".

This determined that Indian tribes were separate from the federal or state governments and that the states did not have power to regulate commerce with the tribes, much less regulate the tribes.

Then in 1846 Treaty or Council Bluff Treaty, we purchased a 30 x 30 square mile reservation in what is present day Kansas. We started occupying said reservation in 1847.

In 1854 the Kansas – Nebraska Act was introduced and it states; Provided further, That nothing in this act contained shall construed to impair the rights of person or property now pertaining the Indians in said Territory' so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial line or jurisdiction of any State or Territory; but all such territory shall excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska. or to affect the authority of the government of the United States make any regulations respecting such

Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed.

Then after about four tries Kansas finally adopts a constitution and in the initial submission, there is only one reference to tribes. That section is under the Ordinance section and Section 1. Kansas will not interfere with the title of the United States to such lands, nor with any regulation of congress in relation thereto

Section 1 Schools

Sections numbered sixteen and thirty-six in each township in the state, including Indian reservations and trust lands, shall be granted to the state for the exclusive use of common schools; and when either of said sections, or any part thereof, has been disposed of, other lands of equal value, as nearly contiguous thereto as possible, shall be substituted therefor.

There is no other mention of Tribes since most was already covered under federal law in the Kansas Nebraska Act.

Then came the Act for the Admission of Kansas Into the Union, and again the same language from Kansas -Nebraska as was used in the admission as which was approved on 29th January 1861.

Today we are living in a Post McGirt and with that recent Supreme Court decision it was noted that Congress had failed to disestablish the Indian reservations and thus those lands should be treated as "Indian country". Gorsuch wrote, "Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word.

The testimony I offer today highlights why Tribal State relations are so important and why we as Tribal Nations do what we can to hold the federal government accountable to the trust responsibility and their Treaty obligations.

Currently, we have filed suit against a county official for overstepping their authority, which happens more times than I care to count. We have tried to seek representation on a water district only to be told the rules have changed. We have utilities encroaching on our lands

with no formal agreements. We have county officials trying to have federal legislation passed to fill their budget shortfall at our expense. We have been paying taxes to the same with no services provided for more years than I can count. Laws are passed in this capital with no mention of Tribes or the effect it may have on them, ie.. sports betting.

In conclusion, I want to thank you again Mr Chair and committee members for the opportunity to testify today. The official policy has been to support tribal sovereignty and self-determination. More must be done to make this a reality to support tribal self-sufficiency.

I am glad to take any questions that you may have.