

NATIONAL NEWS

APPEALS PROCESS TO BE PUBLISHED SOON

A final rule that will send most appeals of Bureau of Indian Affairs administrative actions directly to the Interior Board of Indian Appeals (IBIA) will be published soon in the Federal Register. The final rule follows by more than a year the publication of the proposed rule offering the public an opportunity to comment. Comments were received from Indian tribes, tribal attorneys, government solicitors and Bureau officials and were considered in preparing the final rule. Most appeals from the decisions rendered by area directors will go directly to IBIA. Decisions made by the Assistant Secretary for Indian Affairs will continue to be final for the Department unless the Assistant Secretary provides otherwise in the decision.

GAMING BILL SIGNED

"It's not a perfect bill, but it puts to rest the question of whether Indian tribes can engage in gaming without being regulated," Interior's Assistant Secretary for Indian Affairs Ross Swimmer said when the President signed into law, S. 555, the Indian Gaming Regulatory Act, P.L. 100-497. "While we did not support the legislation in its present form, I told the U.S. Senate last year that it is essential that the Congress enact legislation which provides adequate authorities for the regulation of gaming.... in order to protect the tribes and the gaming customers. The Departments of Interior and Justice asked the Committee to amend its bill, but we were unable to convince the Committee to make the changes we sought. However, I still believe strongly that legislation is needed and P.L. 100-497 is better than no law at all," Swimmer said. "Without it, tribes faced the possibility of Congress totally outlawing gaming on Indian reservations," he said.

Swimmer said the bill provides for minimum regulation of class II gaming (bingo and lotto); legitimizes the tribes' right to engage in Class III gaming (all other forms of gaming allowed by states) by requiring those states that permit such gaming to enter into "compacts" with tribes; and provides for close examination of third party contracts entered into by the tribes for operation of their games. "The Bureau of Indian Affairs will continue to exercise its responsibility of approving such contracts, and other existing authorities in connection with gaming until the newly created three-member National Indian Gaming Commission is organized and prescribes regulations," Swimmer said.

Indian Bank Bill

President Reagan vetoed legislation that would have created the Indian Development Finance Corporation designed to provide development capital to Indian businesses that meet certain criteria. His veto message of November 2 said in part that "the bill would have created an expansive and unnecessary new bureaucracy and duplicated currently existing programs. It would not have addressed the underlying problems of economic development in Indian Country. Finally, the legislation places the Government at risk of substantial financial loss and does not provide sufficient authority for governmental oversight of the financial activities that could result in such loss." President Reagan said that instead of creating a new institution to deliver additional capital, "I believe that we need to better utilize existing sources of capital, including such Federal programs as the Indian Financing Act."

The President signed P.L. 100-442, which increased the ceiling on guaranteed loans for Indian businesses under the Indian Financing Act from \$200 million to \$500 million, raised the limitation on loan guarantees to individual Indian and Indian economic enterprises from \$350,000 to \$500,000, and provided other means for reservation economic development. "Sufficient authority, therefore, exists to carry out the activities envisioned in the bank bill," he said. He continued, "I would also emphasize that (the bill), with its further proliferation of Federal credit programs, is contrary to this Administration's long-standing and ongoing efforts to manage more effectively Federal credit programs."

FOCUS ON INDIANS BURIED AT CONGRESSIONAL CEMETERY

Deputy Assistant Secretary William P. Ragsdale presented opening remarks in ceremonies October 29, 1988 honoring the Indians buried in the District of Columbia's Congressional Cemetery. The annual fall festival by the Congressional Cemetery Association focused on Indians buried there. Tribal representatives and descendants were invited to attend the ceremonies, and many did so. The event included speeches, Indian music, and other events including participation by the Vietnam Era Veterans Inter-Tribal Association color guard accompanied by drums and singers.

Located at 1801 E Street, SE, in Washington, D.C., the cemetery was established in 1807 as the Washington Parish Burial Ground and was later selected by the Congress as a final resting place for many of the Nation's honored statesmen and citizens. The original name of the site gradually gave way to "Congressional Cemetery" as it is known

today. During the 1800's Indian delegates, often accompanied by their families, visited Washington on tribal government business. Their deaths, which occurred from time to time, resulted in dignified, often impressive, funerals at the cemetery. There are some 27 American Indians known interred there. The largest number are from the Cherokee tribe and others are from the Apache, Chippewa, Choctaw, Creek, Kiowa, Nes Perce, Pawnee, Sac & Fox, Sioux, and Winnegabo tribes. The Indian burials covered a span of years from 1824 to 1896 with Taza, son of Cochise, being the last buried there.

FISHING INCOME NOT SUBJECT TO INCOME TAX

Boulder, Colorado: On November 10 President Reagan signed into law a tax bill that reaffirms Native Americans' rights to exercise treaty fishing rights without being subject to state or federal income taxes. "It's a significant victory for Native American people -- one that's been a long-time coming," said John E. Ecohawk, Executive Director of the Native American Rights Fund. "Now, finally, hundreds of individuals can exercise their rights to fish without fear of losing their homes and fishing boats to the Internal Revenue Service for failure to pay taxes they don't owe."

The provision specifying the exemption was included in the bill entitled Technical Corrections to the Tax Reform Act that was the first bill to be approved in the final hours before Congress adjourned on October 22nd. The legislation was needed to solve a protracted dispute with the Internal Revenue Service which, for the past eight years, has been harassing Native Americans over taxes the federal agency determined were owed on treaty fishing income.

NARF represented individual treaty fishers, the Bay Mills Indian Community and the Chippewa Indians, and the Grand Traverse Band of Ottawa and Chippewa Indians. These Tribes fish in the Great Lakes under treaty fishing rights reserved in the 19th Century treaties which predate the establishment of income taxes.

NARF has filed three law suits in U.S. Tax Court and the federal district court of Michigan on behalf of fishermen challenging the IRS, but the cases were put on hold pending the outcome of federal legislation. Directly at stake in those cases was over \$10,000 in federal taxes, plus substantial interest and penalties for nonpayment. "While the immediate relief for these families is certainly great," Ecohawk said, "we can do little to help the families who were forced to sell their homes. Our biggest challenge now is to be sure the new law is implemented expeditiously, i.e., that collections cease, that refunds are processed in a timely manner, the good credit of fishers is restored, and to explain the meaning of the bill to the Tribes so that they can receive the full benefit of the protection of the law."