

Indian News Notes

Tribal history rewritten

SUPREME COURT RULES THAT ALLOTTEES CAN SUE U.S. FOR FOREST MANAGEMENT:

The United States Supreme Court in a 6-3 decision ruled June 27 that the United States could be sued for monetary damages for the mismanagement of forest lands on the Quinault Indian Reservation. As a consequence, a \$100 million suit filed by the Quinault Tribe and 1,465 owners of allotted lands on the reservation is expected to go to trial. Ordinarily, the United States could claim sovereign immunity to damage suits.

The majority opinion, written by Justice Thurgood Marshall, states that statutes "clearly establish fiduciary obligations of the Government in the management and operation of Indian lands and resources, they can fairly be interpreted as mandating compensation by the Federal Government for damages sustained. Given the existence of a trust relationship, it naturally follows that the Government should be liable in damages. . ."

In a dissenting opinion, Justice Powell, joined by Justice Rehnquist and Justice O'Conner, wrote: "The fact that damages cannot be recovered without the sovereign's consent hardly supports the conclusion that consent has been given. Yet this, in substance, is the Court's reasoning. If it is saying that a remedy is necessary to redress every injury sustained, the doctrine of sovereign immunity will have been drained of all meaning."

Ken Smith, the Assistant Secretary for Indian Affairs, said the court's ruling made it more important that the BIA do a good job in managing Indian resources. "We intend to do that; we want to work closely with tribes and we ask them to work closely with us," he said. "The efficient management of resources is much more important than lawsuits or monetary damages; but if we don't do our job, then the tribe should have the right to seek recourse," he concluded.

SPOKANE TRIBE ANNOUNCES PLANS TO BUILD \$1.5 MILLION BINGO HALL:

The Spokane Tribal Council has announced plans to construct a \$1.5 million bingo hall on trust land south of Chewelah, Washington, John Samuels, tribal chairman, said the tribe expects to begin operations in the new building in mid-1984. He said the tribe has formed a commission to operate the facility. Samuels said the tribe plans to run its bingo parlor in the same manner as those under state jurisdiction, but the tribe will not seek state approval to open the facility.

The site of the proposed facility is land originally given to Indians who were an offshoot of the Spokane Tribe. Known as the Mestqua Allotment, it has been held in trust by the United States. It was acquired by the Spokane Tribe last year.



Spillyay Tymoo photo by Shewczyk

Kah-Nee-Ta activities coordinator Rosemary Charley spends part of her workday updating the history of the reservation for inclusion in packets and as a source of information for guests at the resort.

Up until now the history of the Warm Springs reservation presented with Kah-Nee-Ta convention packets and promotional literature was a mixture of miscellaneous information written in a haphazard way. Because of this Kah-Nee-Ta activities coordinator Rosemary Charley has been assigned the task of rewriting the history.

The previous history according to the Kah-Nee-Ta general manager Garland Brunoe was developed by non-

tribal members with "a little thrown in here and little thrown in there." It was time the history were updated and "put in the right perspective," he explains.

Rather than using the current printed history as a basis for beginning Charley has used other sources in her rewriting of the reservation's history including the McQuinn Strip History, Important Dates on the Reservation and information obtained through the Oregon Historical Society. The task of writing this

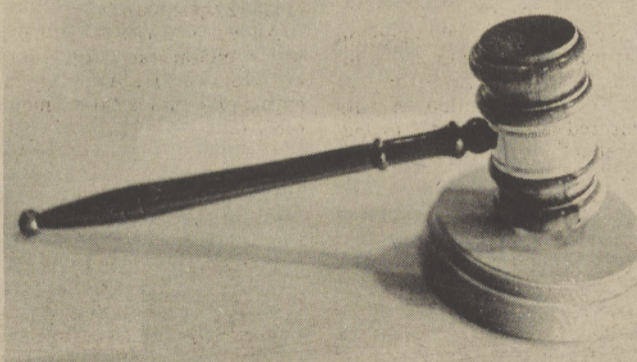
history was no easy matter. Several hours a day were spent from January until recently compiling information and writing it in a quality manner.

The history will be given to an elder of the tribe for review along with review by Brunoe before it is authorized for use in promotional literature.

With incongruities corrected and improvements made the rewritten history should give visitors to Kah-Nee-Ta an accurate picture of the reservation and its people.

Crimes Against People...

Law and Order Code clarified for public



Spillyay Tymoo photo by Leno

by Pat Leno

Crimes against people Chapter 305 is the first sub section of the newly written and approved Warm Springs Crimes code of the Law and Order code. This section is self explanatory and it deals with those crimes committed by an Indian against another person, Indian or non-Indian.

In the new code it is much easier to locate the offenses as they are listed in alphabetical order. They appear in the following order: abduction; assault; assault and battery; child abuse; child abuse, obligation to report; contributing to the delinquency of a minor; extortion; forgery;

fraud; negligent wounding; negotiating a bad check and recklessly endangering.

It had been rumored in the community at the time the code was being rewritten that the task force responsible for rewriting the code was adopting Oregon State laws with some minor changes. This proved to be untrue. A closer look at both the new and old code shows the working is very much the same. Several sections of the old code have been incorporated into other sections. There have been some new offenses added to cover areas not covered in the previous criminal code.

One of the major changes has

been the deletion of the phrase, "and upon conviction there of shall be sentenced to jail for a period not to exceed _____ months/days, or pay a fine not to exceed _____ dollars or both. The fine and jail sentence for all offenses upon conviction are up to the discretion of the presiding judge. A limit of \$500 and or six months in jail are the maximum for an offense. The Indian Civil Rights act of 1968 regulate the maximum for dollars and time. In sentencing, the judge will determine what the sentence will be on the merits of each case heard. In the old code the fine and sentence were dictated in each section.

Two newly added sections are Child Abuse (305.135) and Child Abuse, Obligation to Report (305.140) Child abuse is considered as any physical injury to a child other than accidental. This includes injury which the explanation given does not agree with the nature of the injury. Neglect if a child's health and welfare to the point that the safety or well-being can lead to physical or mental harm is also classified as child abuse.

A point covered in the definition is "good health treatment" of a child by spiritual practices that are held to be true are not considered

abuse. These are practices that are held to be true and are not considered abuse. These are practices of traditional Indian beliefs and they are performed for the good of the child. Also covered are the "good faith" discipline of parents, teachers and persons who are responsible for the good of the child and does not constitute abuse when it does not result in harm. Each case will be reviewed and the prosecutor's office will determine from the evidence if the case merits criminal charges against a person, or if the judge should review the case as a civil case of child custody action.

The obligation to report child abuse (305.140) now requires any person whether private citizen, private or public official who has reasonable grounds to believe a child with whom he or she has contact has suffered abuse or any adult with whom he or she has contact has abused a child to report such information to the proper authorities (Warm Springs police department of Mildred Kirk, Youth Services). It is now the responsibility of each citizen to report suspected child abuse.

Persons who do report suspected abuse and do so in "good faith" (acting without any intention of doing evil, ill

will harm, spite or bad) having reasonable grounds for making a report will have immunity from any liability, civil or criminal court actions. Failure to report child abuse is a criminal offense in the code and persons can be prosecuted in court. They can be fined a maximum of \$500 if convicted but they cannot receive a jail sentence.

Privileged communication between psychiatrist, psychologist or attorney and clients or clergyman and parishners is protected. All other privileges do not constitute legal grounds for withholding evidence regarding child abuse.

Two sections that have been deleted are sections 2, assault with a deadly weapon, and 4, assault and battery while armed with a deadly weapon. This does not mean the charges are not covered for they can be interpreted and covered under assault (305.110) and assault and battery (305.115). It was felt that the presiding judge or jury would take into consideration the use of weapons when the case was heard.

In the next issue of the Spillyay Tymoo, Crimes against property and Sex crimes will be reviewed.