



## INTERIOR BOARD OF INDIAN APPEALS

Estate of William Youpee

22 IBIA 248 (08/25/1992)

Judicial review of this case:

Statute held unconstitutional, *Youpee v. Babbitt*, 857 F.Supp. 760 (D. Mont. 1994)

Affirmed, 67 F.3d 194 (9th Cir. 1995)

Affirmed, 519 U.S. 234 (1997)

Related Board case:

28 IBIA 200



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

ESTATE OF WILLIAM YUPEE : Order Dismissing Appeal  
:   
: Docket No. IBIA 92-190  
:   
: August 25, 1992

Appellants Marvin K. Youpee, Cary G. Youpee, Allen F. Youpee, Helen Youpee-Ricker, and Williamette Y. Brussard seek review of a June 22, 1992, order denying rehearing issued in the Estate of William Youpee, IP TC 176R 91, by Administrative Law Judge Vernon J. Rausch. By order dated July 21, 1992, the Board of Indian Appeals (Board) gave appellants an opportunity to show cause why the appeal should not be dismissed for lack of jurisdiction. The order stated:

[I]t appears that appellants may seek a determination that section 207 of the Indian Land Consolidation Act, as amended, 25 U.S.C. § 2206 (1988), is unconstitutional.

The Board lacks jurisdiction to declare an act of Congress unconstitutional. Estate of Shonie Curley, 17 IBIA 115 (1989) \* \* \* [I]f the only issue appellants intend to raise on appeal relates to the constitutionality of section 207, the Board would have to dismiss the appeal.

Appellants are given until August 7, 1992, in which to inform the Board whether they intend to raise any issues in addition to the constitutionality of section 207. If they do intend to raise other issues, this appeal will be processed in the normal manner. However, if appellants do not intend to raise other issues, the appeal will be dismissed and appellants can, if they so desire, proceed immediately to Federal court.

Appellants have not responded to the order to show cause. Accordingly, the Board assumes that the constitutionality of section 207 was the only issue they intended to raise. As previously stated, the Board lacks authority to declare an act of Congress unconstitutional. Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is dismissed.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge