

"LAID CLAIMS"

MASS MEETING

APRIL 8, 1961

The meeting was called to order by Chairman of the Colville Business Council, Harvey Moses. Council members present were: Steve Cleveland, Vice-Chairman of the Colville Business Council; Nellie Rinn, Secretary of the Colville Business Council; Lucy Covington, Ed Gorr, Dan Finley, Bill Picard, Barney Rickard, Lorraine Miciastek, Ambrose Adolph, Shirley Palmer and Tribal Attorney Mr. Lyle Keith of Spokane, Washington.

Mr. Moses read the Agenda: 1. Invocation. 2. Purpose of the meeting: a. To consider bills pending in Congress providing for division of proceeds of judgment in Indian Claims Commission, Docket No. 175-A, between the Nez Perce Tribe and the Colville Confederated Tribes. b. To consider legislation required by the provisions of Section 2 of bills referred to in 2a. above. 3. General report on status of claims still pending. 4. Consideration of bills referred to in 2 above. 5. Other business.

Secretary Rinn reads Bill, H.R. 3898. This is a bill to authorize the use of funds arising from a judgment in favor of the Nez Perce Tribe of Indians, and for other purposes. "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the funds on deposit in the Treasury of the United States to the credit of the Nez Perce Tribe that were appropriated to pay a judgment by the Indian Claims Commission in Docket 175-A, and the funds that may be deposited in the Treasury of the United States to the credit of the Nez Perce Tribe to pay any judgments arising out of proceedings presently pending before the Indian Claims Commission in Dockets 175 and 180-A, and the interest thereon, after payment of attorney fees and expenses shall be divided by crediting \$6,5854

per centum of such funds to the account of the Nez Perce Tribe of Idaho and 13.4146 per centum to the account of the Confederated Tribes of the Colville Reservation. These funds may thereafter be advanced or expended for any purpose that is authorized by the respective tribal governing bodies and approved by the Secretary of the Interior. Any part of such funds that may be distributed in per capita to the members of the Tribes shall not be subject to Federal or State Income Tax.

Sec. 2. The credit to the account of the Confederated Tribes of the Colville Reservation authorized by this Act, insofar as the judgment in Docket 175-A is concerned, shall not be made until the Confederated Tribes of the Colville Reservation submit to the Secretary of the Interior assurances satisfactory to him that the Confederated Tribes have agreed that any judgment against the United States that has been or may be recovered by one or more of the constituent groups thereof, including the judgment in Docket 181, will be deposited to the credit of the Confederated Tribes. The credit to the account of the Nez Perce Tribe of Idaho authorized by this Act, insofar as the judgment in Docket 175-A is concerned, shall not be made until the Nez Perce Tribe of Idaho submits to the Secretary of the Interior assurances satisfactory to him that Indians who have resigned from the Nez Perce Tribe of Idaho and have joined another Tribe under conditions that do not permit them to share in the benefits of any claims judgment recovered by that Tribe shall be given the opportunity to rejoin the Nez Perce Tribe of Idaho if they wish to do so. The credits to the accounts of the Confederated Tribes of the Colville Reservation and the Nez Perce Tribe of Idaho that are authorized by this Act, insofar as any judgment in Docket 175 and 180-A is concerned, shall not be made until the governing body of the Confederated Tribes of the Colville Reservation and the Tribal governing body of the Nez Perce Tribe of Idaho have submitted to the

Secretary of the Interior resolutions satisfactory to him which agree to a division of the judgment in accordance with the percentage figures specified in Section I of this Act.

LYLE KEITH: At this point, I would like to give you a little background which would be understandable to the percentage figures that are referred to in the bill. Senator Church introduced the bill as a Senate Bill. And that Bill has passed the Senate and the House Committee and given the number H.R. 3898. I had a letter the other day from Dick Shifter, who is one of the Nez Perce Attorneys, dated March 31, 1961. This bill will be passed and approved if it has not already been approved. The machinery of this bill, going back to the first paragraph, arises out of the fact that this goes back into ancient history. Because of the history of the Joseph Band on this Reservation, your Claims Attorneys Cobb and Weissbrodt and myself filed claims on behalf of the Nez Perce back in 1949. There is one claim in particular that the Wilkinson Firm did not file on behalf of the basic Nez Perce band, namely Docket 180, which involves the claim against the government for permitting the trespass by the whites on the Nez Perce for the purpose of taking off of many millions of dollars worth of gold, during the years of the 1860s, following the first treaty between the Nez Perce and the Government. We filed claims on behalf of the Joseph Nez Perces in a representative capacity arising out of each of the three treaties to which we were parties, prior to 1872. We finally got together several years ago, your Council and the Nez Perce Council, and decided to consolidate our efforts, so under that arrangement, this Tribe put up a portion of the expenses of prosecuting the several claims arising out of the treaties which had been entered into prior to the time the Joseph Band had been settled on this Reservation and by that agreement, the Wilkinson Firm prosecuted the 175-A claim which is referred to

in this bill which resulted in a judgment for the \$4,000,000 in favor of the Nez Perce Tribe. After the entry of that judgment, it became important to find a way in which the funds could be divided between the Nez Percés of the Colville Reservation and the Nez Percés on the Lapwai. So the committees from the two councils met several times and went over the census rolls and determined what number of Nez Percés were enrolled at Lapwai and what number were enrolled on the Colville Rolls. The people on both Councils worked very hard, and came up with the figure of percentage of 86.5854 for the Nez Perce of Idaho and 13.4146 per centum for the Nez Percés on the Colville Reservation. That is the explanation of the first portion of the bill. The explanation of the second section of the bill is that after we determine what percentage would go to the Nez Percés of Idaho and what percentage to the Colville Confederated Tribes, how those funds would be used after the judgment was entered. The money has been appropriated and is drawing interest of 4% and will until Congress passes on a bill which sets up the mechanics by which the proceeds will be used by the two Tribes. The same thing is followed through for the judgment on the million dollar claim awarded to the Colville Confederated Tribes a year ago. That money has been appropriated and is drawing interest of 4%, but until there is a way set up and approved by Congress for the use of those funds, you own them but you do not have the usage or the benefit of them. Section 2 of the bill says that "The credit to the account of the Confederated Tribes of the Colville Reservation authorized by this Act, insofar as the judgment in Docket 175-A is concerned, shall not be made until the Confederated Tribes of the Colville Reservation submit to the Secretary of the Interior assurances satisfactory to him that the Confederated Tribes have agreed that any judgment against the United States that has been or may be recovered by one or more of the constituent groups thereof, including the

judgment in Docket 181, will be deposited to the Credit of the Confederated Tribes. That ties in with Docket 181, the million dollar judgment that I mentioned before. Docket 181 was the land claim case, the case of the Colville, Nespelem-San Poil, Okanogan, Lake and Methow. The individual judgments were given to these five bands. As you know, those bands have not been organized bands for many years. Your tribal Chiefs have passed away. The only organization for the conduct of your business has been through the Colville Confederated Tribes. There is no way, barring some further legislation which would be very complex and difficult, that you could make a distribution to the Lake, Colvilles, San Poil-Nespelem, the Okanogan, the Methow, because these groups have ceased to exist. You have been merged together by the adoption of your Constitution in 1937. You have been merged into the Colville Confederated Tribes of the Colville Reservation, since the adoption of your Constitution and By-Laws. After its approval by the Secretary, you have not had a tribal organization in your several bands which make up your Colville Confederated Tribes.

I will read some from the Report of Claims Attorneys to the Confederated Tribes of the Colville Reservation. "This is a report of the Claims Attorneys with respect to the progress which has been made, and the present status of the claims cases which are being prosecuted on behalf of the Colville Confederated Tribes.

We understand that the members of the Colville Confederated Tribes have under consideration at the present time certain proposed bills which provide for the disposition of judgment funds which have been awarded in certain cases which have already been completed, as well as the future disposition of judgment funds which may be awarded in other cases presently being litigated. It is hoped that the information supplied in this report will be of assistance to

the members of the Colville Confederated Tribes in considering these proposed bills. As we have previously reported to you, various claims cases have been filed on behalf of the Confederated Tribes of the Colville Reservation as a whole; and also other claims have been filed on behalf of the descendants of each of the constituent tribes and groups which make up the Colville Confederated Tribes. These constituent tribes and groups for which claims have been filed include the Colville, the Lake, the San Poil-Wespelem, the Okanogan, the Methow, the Moses group (including the Columbia, the Wenatchee, the Chelan and the Entiat), the Joseph Band of Nez Perce and the Palus.

The large amount of funds which has been needed to pay for expenses in litigating all those claim cases has come out of the treasury of the Colville Confederated Tribes. Some of these cases have required, and will require in the future, the expenditure of much larger sums of money than other cases. Whenever the Claims Attorneys have found it necessary to expend money in order to prosecute the claims, and in order to improve the chances of winning the claims or winning larger amounts, the Business Committee of the Confederated Tribes of the Colville Reservation has furnished whatever money was needed, without any distinction as to whether it was a Lake claim, or an Okanogan claim, or a Palus claim, or a Joseph Band claim, or an Entiat claim, or a claim of any other tribal group which is part of the Colville Confederated Tribes.

Because of the great amount of work involved, and because there are many other Tribes in the United States who are pressing their claims and the Docket of the Indian Claims Commission is accordingly very crowded, it has not been possible for the Claims Attorneys to work on and complete all the claim cases of the Colville Confederated Tribes at the same time. Therefore, considering the status of the preparation of the Government attorneys in these cases and

the Commission's docket crowded with Indian cases, the Claims Attorneys, having in mind also trial strategy and the best interests of the members of the Colville Confederated Tribes as a whole, have made quicker progress in some cases than in others. This does not mean that the claims cases that have already been completed are any better or involve larger recoveries than the cases that remain to be completed. On the contrary, in the opinion of the Claims Attorneys, some of the cases which are still being prosecuted involve much larger claims and have the potentiality of much larger recoveries than those that have been completed.

We are of the opinion that each of the claim cases in which one or more of the constituent tribes of the Colville Confederated Tribes has an interest and which are still being prosecuted, are meritorious cases. However, we believe it would be unwise, indeed foolish, for anyone to try now to put a value on each of these pending cases and to speculate as to how each of the constituent tribes would come out in the end if the recoveries were kept separate. We suggest also that there is another reason why it would be unwise and foolhardy to speculate as to how the descendants of each of the constituent tribes would come out in the end, if the recoveries of each were kept separate, this reason being the uncertainty as to the number of persons who would be able to qualify as descendants of members of any particular constituent tribe, because of the intermarriages between members of the different tribes and for other reasons.

In the remaining part of this report, we comment on each of the claims cases which have been filed on behalf of the Confederated Tribes of the Colville Reservation as a whole, and on behalf of each of the constituent tribes.

ALEX COVINGTON interprets in Colville dialect.

1. The Colville, Lake, San Poil-Hespelem, Okanogan and Methow Tribes

First, we mention the group of claims cases filed for the Colville, Lake, San Poil-Hespelem, Okanogan and Methow Tribes. These claims were filed in Dockets Nos. 181, 181A, 181B and 181C. Of these, only one, namely Docket No. 181, has been completed.

The Commission decided, in Docket No. 181, that the total amount of land originally owned by all of these tribes together (excluding all of the July 2, 1872 Reservation lands) was approximately 1,700,000 acres, and the final aggregate award made by the Commission for the taking of these lands, after offsets, was \$1,000,000.

In addition, as noted above, these tribes (the Colville, the Lake, the San Poil-Hespelem, the Okanogan and the Methow) have other claims in Docket Nos. 181A, 181B and 181C which are still being prosecuted.

The claims of the Colville, the Lake, the San Poil-Hespelem, the Okanogan, and the Methow which are set forth in Docket Nos. 181A, 181B and 181C, and which have not yet gone to trial, are as follows:

- a. In Docket No. 181A: a claim is made for the failure of the Government to pay compensation to these tribes, when the Government moved the Moses Band and the Joseph Band on the Reservation lands belonging to these tribes, without making any payment to these tribes.
- b. In Docket No. 181B: a claim is made for additional payment with respect to the northern part (about 1,500,000 acres) of the July 2, 1872 Reservation lands which the United States took away from these Tribes in 1892 without making fair payment for the lands.
- c. In Docket No. 181C: a number of claims are made, including a claim for payment for the interest which these tribes had in common hunting

grounds located in the plains on the east side of the Rocky Mountains at the bestwaters of the Missouri River; arising out of injuries to and depletion of fishing grounds of these tribes; and a claim for damages for trespasses by white persons on the lands of these tribes.

HELEN TOULOU: Kewa, Washington. This here that you are talking about July 2, 1872. We understand that we are prosecuting that reservation that was set aside on July 2, 1872, because that reservation that we are living on now. That original claim was the one that was set aside April 9, 1872. Which one are we prosecuting? Can you tell me?

LYLE KEITH: The claims that we are talking about right here are 181 and 175-A. They don't have anything to do with the reservation at the time it was set up either in April or July, 1872. There are some claims, you will see as we go through this report, which relate to the organization of the original reservation in April and July, 1872. The claim of the Lakes, Colvilles, San Poil-Nespelem, Okanogan and Methow is 181, in which we have a million dollar judgment. We will be compensated for the lands which were taken away from those constituent bands by the entry of the Executive Order by using the July Executive Order and of course, there was a greater take by using that rather than the April Executive Order, because the people were deprived of all the lands lying outside of the lands defined by the July Executive Order. Those lands are what we used for the value in Docket 181. Some of the other claims have a greater relationship than 181 with the two Executive Orders because they relate to the lands which were outside of the reservation at the time of the July Executive Order.

2. The Moses Band, including the Columbia, the Wenatchee, the Entiat and the Chelan:

Next, we mention the claims of the Moses Band, including the Columbia, the Wenatchee, the Entiat, and the Chelan. The claims of these tribes are contained in Docket No. 224 (also Docket No. 161). The trial to determine how much land each of these four tribes owned has already been completed. The Claims Attorneys say that the proof shows that these tribes altogether owned more than 5 million acres of land, and that all of this land was taken away by the United States without making any payment to these Tribes for their lands. The amount of land involved in this case, Docket No. 224, involving the Columbia, Wenatchee, Chelan, and Entiat is greater than was involved in Docket No. 161 in the case of the Colville, Lake, San Poil-Kespelen, Okanogan and Methow Tribes, because in the case of the tribes in Docket No. 161 not all of their land was taken away because a Reservation was set aside for the Tribes in July 1872; whereas in the case of Docket No. 224, as you know, all the original homelands of the Columbia, Wenatchee, Chelan, and Entiat was taken away and no part of these original homelands is today reservation land.

The trial has been had on the interlocutory phase on this. The evidence is there. There is no evidence as to how many acres of land that we are entitled to be compensated for. After that decision comes down and they find out how much land has been taken, the next step in the proceedings is the trial on valuation. We then get experts to testify to the value of the lands at the time that they were taken away from these bands.

STEVE CLEVELAND interprets in Moses dialect.

ALEX COVINGTON interprets in Colville dialect.

3. The Palus:

Next, we mention the claims of the Palus. The claims of the Palus with respect to their original homelands in the Southeastern part of Washington are set forth in one Docket, namely Docket No. 222. The most important claim of the Palus is the claim for fair payment for their land. The trial with respect to the ownership of this land was completed in December of 1960, and the Claims Attorneys are now completing their proposed findings and brief which will soon be filed. In this case, the Claims Attorneys believe that the proof shows that the Palus owned approximately 1,000,000 acres of land, and that the Palus have never received any payment for this land. Claim is being made in this case for fair payment for all this land, because all of it was taken away and no part of this land was ever set aside as a reservation for the Palus.

4. The Joseph Band:

Next we mention the group of claims of the Joseph Band of the Nez Perce Indians. These claims are filed in five Dockets, namely; 175, 175A, 179, 180A and 186. One of these claims has been completed and the money is on deposit in the Treasury of the United States. This is the claim in Docket No. 175A. Another one of these claims has been completed before the Indian Claims Commission, but the Government attorneys have taken an appeal to the U.S. Court of Claims and the Claims Attorneys have taken a cross-appeal. This is the claim in Docket No. 180A. The other three claims have not yet gone to trial.

In three of these five Dockets, the claims belong to all the Nez Perce and they are large claims. If the proposed bills are approved by the Colville

Confederated Tribes, and the Bills are then enacted into law by Congress, the Colville Confederated Tribes will receive a 13.4% share of the moneys awarded in these cases, because of the interest of the Joseph Band in these claims.

The claims of the Joseph Band of Nez Perce Indians are as follows:

a. Docket 173A. This is the claim of the Nez Perce for fair payment for the reservation lands which were ceded to the Government by the Nez Perces in 1863 for less than 6 cents an acre. This claim has been completed, and the amount of money which has been won in this case is \$4,157,605. As has been stated because of the interest of the Joseph Band in this claim, if the Colville Confederated Tribes approve the proposed bills and Congress enacts the bills into law, the Colville Confederated Tribes will receive a 13.41% share of the total recovery in this case, after payment of attorneys' fees and expenses.

b. Docket No. 180A. This is the claim of the Nez Perce for payment for the unlawful taking of the gold by white men from the Nez Perce Reservation. This case has been completed before the Indian Claims Commission, which awarded the Nez Perces a recovery of \$3,000,000 in this case. However, the Government has taken an appeal to the U.S. Court of Claims. Also, the Claims Attorneys have filed a cross-appeal claiming an amount much larger than \$3,000,000; incidentally, that amount is in the neighborhood of \$20,000,000 which we are claiming rather than the \$3,000,000 awarded by the Indian Claims Commission. If the appeal is decided in favor of the Nez Perces, then because of the interest of the Joseph Band in this claim, the Colville Confederated Tribes will also receive 13.41% of this final recovery, if the proposed bills are approved by the Colville Confederated Tribes and are enacted into law by Congress. The appeal by the Government attorneys to be heard by the Court of Claims and the cross-appeal by the Claims Attorneys

is scheduled for the first week of May of this year. Firstly; if we lose the appeal and the government loses the appeal, the \$3,000,000 will go out the window. Both of us can't win.

c. Docket No. 175 (formerly Docket No. 180).

This is the case involving the part of the original homelands of the Nez Perce Tribe which the Tribe ceded to the United States in 1855. This is a large claim, but it has not yet gone to trial. In this case, just as in Docket Nos. 175A and 180A, because of the interest of the Joseph Band in the claim, if the proposed bills go through, the Colville Confederated Tribes will receive 13.41% of the monies recovered.

d. Docket No. 179. This is the claim of the Joseph Band for its fair share of certain monies which were paid under certain treaties and agreements to the rest of the Nez Perce Tribe but which were paid to the Joseph Band of Nez Percés.

e. Docket No. 186. In this case, claim is made for damages for the unlawful expulsion of the Joseph Band from its homeland and for the unlawful imprisonment of the members of the Joseph Band; also certain additional claims are made based on theories which are alternative to the theories of the claims in Docket Nos. 175, 175A and 180A.

Now with respect to the land claims of the Nez Percés, the Joseph Band, of course, shares in the treaty which was negotiated with the Nez Perce Band to the removal of the Joseph Band from the Nez Perce Reservation. There were two treaties...1861 and 1855, and I think 1863 is one that occurred prior to the settlement of the Joseph Band on this reservation. There is one later treaty which the Joseph Band will have no interest in which was entered into in 1891 or 1892.

5. The Confederated Tribes of the Colville Reservation as a Whole.

These are also certain claims which have been filed on behalf of the Confederated Tribes of the Colville Reservation, as a whole. These claims are set forth in Docket Nos. 178 and 177.

a. Docket No. 178: In this case a claim was made in behalf of all the Indians of the Colville Reservation for a complete accounting by the United States of all its handling and dealing with the property, monies and income of the Colville Confederated Tribes. Starting nearly 100 years ago, the Government took over control of the property, funds and revenue belonging to the Colville Confederated Tribes. The funds and income arose from land cessions and sales and from revenue and interest from the property and funds of the Tribes and also from other sources. The Government over the years, made disbursements from these funds for a variety of purposes. In this Docket No. 178, a claim is made for a full and complete accounting by the United States of all the handling of the property, funds and income of the Colville Confederated Tribes from earliest time to the present day.

The U.S. General Accounting Office for a number of years has been working on this accounting. The Claims Attorneys have been promised that they will receive this accounting report from the General Accounting Officer very soon. Then, the Claims Attorneys will study and investigate this report and will then proceed with this claim. Incidentally, it has been Lefty Weissbrodt and Dave Cobb's opinion for several years that this accounting claims money will be one of the bigger claims which the Colvilles have. They can't make an accurate judgment and I share their feelings. We can't make a dollar value of it until we get the accounting from the General Accounting Office but we are all convinced that there have been many expenditures and cessions of your property without the payment of value to the Tribe for those properties and

without proper accounting for the monies which have been disbursed without your authorization, and in our opinion, without any benefit to you. We feel this may be one of the better if not the best claim in the whole group. The very nature or the difficulty of the thing is the accounting. It has to take its place down in the end of the list because we can't start working on it until we get the government's interpretation of what they have done with the money and then it will require extensive investigation to determine that there were improper expenditures and uses of property during the period covered during this accounting action.

b. Docket No. 177. By a law passed in 1902, Congress authorized the sale of surplus reservation lands of the Colville Confederated Tribes. In this case, claim is made that, in connection with certain of the sales of surplus tracts, improper and unlawful acts were committed which injured the Colville Confederated Tribes.

At this point, Mr. Harvey Moses introduces Mr. Stanley Poch, Administrative Officer of the Colville Indian Agency. Mr. Poch is the Superintendent's representative.

ALEX COVINGTON interprets in Colville dialect.

JOHN B. CLEVELAND interprets in Moses dialect.

ELIJAH WILLIAMS interprets in Nez Perce dialect.

GEORGE NAWASKIE interprets in Yakim dialect.

T. B. CHARLEY of Mallot, Washington: I have been elected to represent the Methow Tribe. We have our first meeting concerning this deal that we are having here today about 9 years ago. Now 2 years ago, we finally come to the decision that we, as far as the Methows are concerned, we will put our share in the common pot.

HARVEY MOSES: We have another bill here. This will concern the Colvilles, San Poil-Nespelem, Okanogan, Methow Tribes. Our Attorney will give us the information on this bill.

LYLE KEITE: This bill has not been introduced. You will recall when I went over the earlier bill providing for the Nez Perce and Colvilles, I told you there was a second bill related to it. The language we went over this morning required action by the Colville Confederated Tribes before that bill would be effective as to the Colville Tribe. The bill that I am about to read is a bill which Lefty Weissbrodt and I cleared with the Solicitor's Office in the Department. While we were having a discussion with the Nez Perce Attorneys back in Washington in December, this bill was approved as to form, and if it meets with your approval, I think we will have no trouble getting it introduced and getting prompt action on it. However, I should point out the Nez Perce Bill again. Even if it is not a law yet, it should become a law within the next few days. It would not be effective to free the funds which are to your credit in the United States Treasury now. Speaking of funds, I mean the proceeds of these judgments for the reason that the Solicitor pointed out when we tried to get the Nez Perce Claim settled. We put the proceeds of that judgment into the Treasury to the credit of the Colville Confederated Tribes. The proposed bill would be an assurance that if more judgments are recovered they will also be placed to the credit of the Colville Confederated Tribes. The passage of such a bill would eliminate the hazard of individual bands refusing to permit their judgments to be deposited to the credit of the Confederated Tribes. This feeling is applicable with respect to the million dollars which is in the Treasury coming from Docket 181, which is to the credit of the Lakes, San Poil-Nespelem, Okanogan, Colvilles and Methows. If we put their money into the Treasury of the Colville Confederated Tribes without

legally binding the other Tribes to do the same thing with the proceeds from their claims judgments, then the position is that it would be unfair. There has to be a unity of action on the part of the Tribes or bands before they will let any proceeds of any one judgment go to the credit of the Colville Confederated Tribes or one Tribe.

LYLE KEITH reads: "A bill to authorize the use of funds arising from judgments in favor of any of the Confederated Tribes of the Colville Reservation. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the funds on deposit in the Treasury of the United States to the credit of the Colville Tribe, San Poil-Neepelen Tribe, Okanogan Tribe, Methow Tribe and Lake Tribe (certain constituent groups of the Confederated Tribes of the Colville Reservation) that were appropriated to pay a judgment of the Indian Claims Commission dated March 1, 1960, in docket numbered 181, and the funds which may be deposited in the Treasury of the United States to the credit of the said constituent groups or any other constituent groups of the Confederated Tribes of the Colville Reservation to pay any judgments arising out of proceedings presently pending before the Indian Claims Commission in dockets numbered 161, 179, 181-A, 181-B, 181-C, 186, 222 and 224, and the interest on said judgments, after payment of attorney fees and expenses, shall be credited to the account of the Confederated Tribes of the Colville Reservation, and may be advanced or expended for any purpose that is authorized by the tribal governing body of the Confederated Tribes of the Colville Reservation and approved by the Secretary of the Interior. Any part of such funds that may be distributed in per capita to the members of the Tribes shall not be subject to Federal or State Income Tax."

That is the second bill which you will note includes all of the claims pending before the Indian Claims Commission from which a judgment might be received other than the proceedings pending where we have a joint interest with the Nez Perce Tribe. Those claims are covered in the first bill. On 181 and all other matters there is no sharing of interest with Tribes other than the constituent members of the Confederated Tribes. These two bills are the mechanical way of making the money in the two judgments and in future judgments available to the use of the Tribe for the benefit of its members whether you want per capita payments or whatever you decide to do through the governing body and with the approval of the Secretary of the Interior. The form of this bill is very similar and varies only in minor respects. Because of the way this Tribe varies from most Tribes, the form of this bill is very similar to the bills which have to be enacted by Congress to make available to other tribes the benefits of judgments which they have received from the Indian Claims Commission. This is a little complex and maybe I have not done a very good job of trying to explain it to you. When Congress passed the Indian Claims Commission Act in 1946, which gave the Tribes a period of 5 years in which to file claims and wait from there, they took away most of the defenses that the sovereign has, other than the right to offsets which was limited. After a 5-year period, there could be no further claims filed. I think it is very sound and a well established Congressional policy now and is that they are not going to open the door to any further Indian Claims. There has not been a jurisdictional bill passed since the passage of the Indian Claims Commission Act, and prior to that Act, you had to get a private bill through in order to sue the U.S.

FRANK MOORE, Coulee Dam, Washington: I am wondering about previous meetings concerning this same jurisdictional bill. It was brought to our

attention what they call offsets, which amounts to quite a bit. Much more than we are getting now. We are proposed to go on with this deal to take the rest of the 13 claims. How many new offsets are there and what possibility are these offsets going to have in coming in with any new claims?

LYLE KEITH: I think you will recall that when we held a meeting in this same room about the compromise of 181, it was pointed out that the Government had awarded judgments to these 5 bands that we have been naming: the Lakes, San Poil-Nespelem, Okanogan, Colville and the Methows. The U.S. asserted some 7 or 8 hundred thousand dollars in offsets, and our original judgment against the Government was a million and 61 thousand dollars. The compromise of those offsets was for the 61 thousand dollars, making the recovery a million dollars. I think I told you at that time that as far as those 5 bands are concerned, there is no further rights of offsets against the Lakes, San Poil-Nespelem, Okanogan, Methows and Colvilles. I think we also told you at the time we had the meeting on the compromise on 175-A that the settlement of that claim on the basis of the roughly 4 million dollars, after the deduction of offsets, had completely exhausted the claim of the United States against the Nez Perce band for the offsets, and that includes the right of offset against the Joseph Band of the Nez Perces on this Reservation. The U.S. can still assert offset claims against any judgment which any of the bands might get from the actions that might not have been tried yet, and I have no doubt they will assert them, but it is my feeling based on the experience we have had with some of the other cases, that we can probably settle the offset claims if they are preposterous and I think we can fight them if we can't settle them on a basis which will cost you little money, such as what it would cost you if we were to go through the offset proceedings. There is a provision for the offset proceedings in the act.

FRANK MOOSE, Coulee Dam, Washington: Pertaining to this \$1,412 that would come to the Nez Perce Tribe. Has that been cleared of all offsets?

LYLE KEITH: There are no offsets to go against the judgment of the \$4,000,000. Those were compromised. You people here in your General Meeting and the Nez Perces in the General Meeting approved of those offsets.

FRANK MOOSE, Coulee Dam, Washington: If they did, why wasn't it approved as a final vote? Why is this, the necessity of a vote here today?

LYLE KEITH: You will note in the bill H.R. 3898 and its counterpart in the Senate that this is a necessity. The group here today saw that in Section 2 of that bill, the one which has passed the Senate, provides for judgments to the account of the Colville Reservation, and it also provides that the Confederated Tribes of the Colville Reservation, insofar as the judgment in 175-A is concerned, will submit to the Secretary of the Interior assurances as satisfactory to him that the Confederated Tribes of the Colville Reservation have agreed that any judgment against the United States, that has been or may be recovered by any one or more of the constituent groups thereof, including the judgment in Docket 181, will be deposited to the credit of the Confederated Tribes of the Colville Reservation. That is the requirement of this meeting. The money by that act, and this is in keeping with the Solicitor's opinion, is going to be tied up in the Treasury until the Confederated Tribes of the Colville Reservation submit to the Secretary of the Interior assurances of satisfaction to him that the Confederated Tribes agree that any judgment against the United States Government which has been or may be recovered by one or more constituent groups thereof including the judgment in Docket 181 will be deposited to the credit of the Confederated Tribes. This has nothing to do with the settlements.

FRANK MOORE, Coulee Dam, Washington: There was an amount of money spent by the Colville Business Tribe. How much money was that we paid for these claims and these bills?

LYLE KEITH: I do not know. The expenses of the prosecution of the claims has been substantial. I cannot tell you what the cost is, because I have not seen the figures. As far as I know, they have not been tabulated for some time. In fact, most of the expenses go out through vouchers from my Washington associates who do the bulk of the pick and shovel work on this, in research and investigation and preparation of trial. I do not know, as I said before. Maybe some of the members of the Council have some idea.

The passage of these bills today will in no way affect any future claims. It is just a question of whether or not you want your money to lie in the treasury or make it available for your use. It is in the Treasury as a result of 181 and 175-A, between a million and 4 hundred thousand dollars. The money will not be available to the members of the Tribes in per capita payments or for any other purpose until we get unfreezing legislation through Congress. If it is going to affect anything, it will be whether this money is available to you. I will give you my best opinion as to how long it will take to dispose of the balance of the claims. It is not easy because the Indian Claims Commission, which has been understaffed, bears, and the Justice Department, which is also understaffed, defends these claims for the Government. I would guess it would possibly be 4, or 5 or maybe six years before the balance of the claims are finally decided and that guess is on the assumption that none of the future cases would have to be appealed either by the Tribes or the Government. If you have appeals involved, it will take much longer than that.

FRANK MOORE, Coulee Dam, Washington: How is the governing body going to use all of it? Are they going to allocate it among its members?

LYLE KEITH: The correct language is that the governing body may have the right to expend it for any purpose that is authorized by the Tribal governing body of the Colville Reservation and approved by the Secretary of the Interior, so it would take action by the governing body and approval by the Secretary for the money to be used. If you want information on what the members of the governing body would do, you will have to talk to the members of the Business Council on that.

The last step in the procedure when a judgment has been obtained against the Government in one of these cases before the Indian Claims Commission is that the Government goes to the General Accounting Office and has them prepare a list of the disbursements or benefits to the Tribe which have benefited the tribe and then they furnish them to the Indians' attorneys and they say this is what we are going to contend for as offsets and this has happened in both cases that we have been here. It has happened in all other cases. In many cases, the attorneys have the Indian claims tribe feel that there are a lot of improper items that have been set up on the offset sheet and have talked the government out of some of those and if they are unsuccessful in talking the government out of some of the items, then they will set up another hearing before the Indian Claims Commission on the one sole issue. You have three types of hearings before the Indian Claims Commission. First, you have to determine the issue of liability. If the government is liable, has the government taken something from this Tribe for which it is entitled to compensation? If that answer is yes, the next proceeding before the Commission is the valuation proceeding, in which the only issue before the Commission is the value of what has been improperly taken away from the particular tribe by the government. The third is the offset proceeding if the government and

attorneys for the Tribe cannot agree as to the proper offsets to be appropriated against the judgment.

MRS. HALLENIUS, Omak, Washington: Speaking of compromise, Mr. Keith, does that mean that the Colvilles must sacrifice the Kettle Falls and the vast resources related to the waters in order to allow the other claims to be settled?

LYLE KEITH: No, Mrs. Hallenius. Our claim in Docket No. 178, which I have previously explained, will cover that type of claim.

BILL HILL, Spokane, Washington: I am definitely in favor of a distribution and I think if we get the money to a position where it could be distributed, I don't think it would be much trouble to distribute.

BILL PLATON: I believe it is a wise move to get all the claims money pooled together for the members of the Confederated Tribes of the Colville Reservation and put into the Tribes' account so that every member of the Colville Confederated Tribes living will have an equal share.

ROSE LARSON, Seattle, Washington: If these bills are approved here today, how soon can we get them into Congress?

LYLE KEITH: We can make arrangements to get the introduction both in the House and Senate in the next week or 10 days. I have only one copy of the bill here myself. The Senate 1295 is the bill which is passed the Senate and is now over in the House. The House Committee on Interior and Insular Affairs has approved House Resolution 3898 which is the same thing; so I would suspect, as they usually do, the House would take action on the Senate bill since it is through the one side and it is the same as their own bill.

ELIJAH WILLIAMS: Be it resolved by the general meeting by the members of the Colville Confederated Tribes that the provisions of H.R. 3898 and S-1295, both of which are now pending in the Congress of the United States

relative to judgments in Docket 175-A be approved.

Seconded by Bill Hill of Spokane. Question was called for. A vote was counted by members standing. Pete Lemery and George Friedlander made the count. The vote was unanimous in favor of the motion.

BILL HILL, Spokane, Washington, reads: Be it resolved by the general meeting of the members of the Colville Confederated Tribes that a bill in substance and effect as follows by introduction into the Congress of the United States and enacted into law: That the funds on deposit in the Treasury of the United States to the credit of the Colville Tribe, San Poil-Hespelem Tribe, Okanogan Tribe, Methow Tribe and Lake Tribe (certain constituent groups of the Confederated Tribes of the Colville Reservation), that were appropriated to pay a judgment of the Indian Claims Commission dated March 1, 1960 in Docket No. 181, and the funds which may be deposited in the Treasury of the United States to the credit of the said constituent groups or any other constituent groups of the Confederated Tribes of the Colville Reservation to pay any judgments arising out of the proceedings presently pending before the Indian Claims Commission in Dockets 161, 181-A, 181-B, 181-C, 222 and 224, and the interest on said judgments after payment of attorney fees and expenses, shall be credited to the account of the Confederated Tribes of the Colville Reservation, and may be advanced or expended for any purpose that is authorized by the tribal governing body of the Confederated Tribes of the Colville Reservation and approved by the Secretary of the Interior. Any part of such funds that may be distributed in per capita to the members of the Tribes shall not be subject to Federal or State Income Tax. Seconded by Mr. Pete Lemery. Question was called for a motion carried unanimously.

HARVEY MOSES: As we stated in the offset of the meeting, we will have a discussion for other business. As this closes the business in regards to the Claims, we will go on down to Item 5 on your Agenda, Other Business.

BILL HILL: Since we have now disposed of the matter that the funds are now ready for the distribution, for the guidance of the Council, I will make a motion that this money be appropriated in per capita payments to the members of the Colville Confederated Tribes on an equal basis. Seconded by Mr. Frank Moore. Question was called for and carried unanimously.

LYLE KEITH: I want to congratulate you on your excellent judgment and attitude in taking the action you have taken here today. It would have been very easy for a few people to have shown some selfishness to see if they could get a little money the other way by leaving it in these smaller bands. It's striking how many people came here today and how well they expressed by action their qualifications of good citizenship. I THANK YOU.

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