

MR. LEWIS: Call Mr. Kuckup.

*Albert*

~~ISAAC~~ KUCKUP was thereupon produced as a witness in behalf of the plaintiff herein and, having first been duly sworn, testified as follows:-

DIRECT EXAMINATION

BY MR. LEWIS:

What is your full name?

A He said "The name I am known of is ~~Isaac~~ *Albert* Kuckup".

Q How old are you, Mr. Kuckup?

A I am about 100 years old.

Q And what is your place of residence and post office address?

A My residence is up here at Tenino Creek and my post office address here, down here at the store. (He means the post office Warm Springs.)

Q Of what band or tribe of Indians are you a descendant?

A I am tribe of Tenino Indian who talk in the Warm Springs language.

Q And what was their ancient home before the Treaty of '55?

A My home was there at the southern banks of the Columbia River just north of Tenino. That is where I lived.

Q Were you and your folks living there at the time of the Treaty of 1855?

A Yes. Yes, Joel Palmer of the government station came there to make treaty with the Indians.

Q Was he a grown man at that time?

A I was about 18 years of age at that time.

Q And did he attend the council?

A I was. Yes, I was present during the council.

Q What position at that time did his father occupy with reference to the tribe?

A My father was one of the Chiefs and the speaker there among his tribe, so he represented us.

Kuckup-d

Q And his father is the Kuckup that is mentioned in the minutes of the council?

A Yes, this is the man.

Q Is his father the Kuckup who signed the treaty?

A Yes, it is my father named Kuckup.

Q Did he at that time know Billy Chinook and the Indians who signed the treaty?

A Yes, and several other Chiefs of Wasco tribe I have known.

Q What was your understanding there at that time as to what land the Indian tribes were to have and hold as a reservation?

MR. RUGG: Just a moment. I object to any <sup>variation</sup> ~~violation~~ of the terms of the treaty. I gathered from Mr. Lewis' opening statements that he was going to allege and make out proof of fraud or something. To that I do not object but this seems to be inadmissible and I object.

MR. LEWIS: These people are without records and as I understand the policy is that the treaty is to be given the interpretation and meaning which they placed upon it at the time and as they understood it at that time.

THE COURT: Go ahead, we will come to that point a little later.

MR. RUGG: I wish to reserve my right.

THE COURT: I reserve the right but it hasn't progressed far enough.

Q What was your understanding there as to what land they were to have as a reservation?

A During Mr. Joel Palmer's time, when he was representing as the government, ~~he~~ <sup>he</sup> told the Indians that he was sent out for the purpose of making treaty with the Indians for their land or country. The Indians answered Mr. Joel Palmer "We do not understand. Why are we going to sell our land and where we going to live?" The first two days was talking over and the Indians still didn't answer just what land they would take.

Mr. Joel Palmer asked the Indians again "Why are you objecting to give up your country, what is your important part that you are depending upon?" Indians then answered Joel Palmer saying "We cannot give our country for we know that our important part is the river, which is now called the Columbia. That is our mother country and if we do give up our country our mother country is gone also. We also have another:- fisheries, game of all kinds and we have berries of all kinds and we have roots of all kinds. That is our food, we cannot give up upon it." Mr. Joel Palmer answered and said that: "My understanding is the government sent me to make treaty with the Indians for a country but not for your food. Food is yours, fish, deer, berries, roots. It is all yours." The government didn't tell me when you make treaty you take the forestry, you take the game and you take the fish, berries and roots within. Joel Palmer says "My understanding is this way:- If I make treaty with you Indians for your country the river and creeks and other streams will be secured for the rights of Indians taking fish, forestry will be secured for the rights of Indians take game, berries, roots. It will be yours." The Indians then says:- "We cannot move from our mother country. We ask, we ask that this place will be our reservation." (He means The Dalles, now known as The Dalles.) Joel Palmer says "No". Joel Palmer says that there is a people who is going to make settlements all over this country and if you are to reside in small portion of land as reservation which you are asking for it is very dangerous for you Indians. You Indians will be molested. He says to Indians "Can you move further south from the river? Can you move further south where there is a quiet country which might be peaceable for Indians to live in, that nothing would molest or disturb?" He further says "But you must understand the Columbia River

is yours, forestry yours, for your food that you want. If you are to select the reservation further south from the Columbia River you have a right-of-way coming out from the place you are now going to select. You are going to have right-of-way down to Columbia River and when you are in need of fish during the season you can come down and get what you want, and have your houses built for a dry net, curing it. That privilege is going to be given to you." He pointed to a man who was present during the counsel, he pointed to a man by name of Mr. **R. R.** Thompson and he says "When you select a land for your land, Mr. Thompson will witness your selection. He will be the man that get your reservation." Then after this council was over, two years afterwards, the Indians began to settle this matter and took some men as delegates to come and select a reservation for their permanent homes.

Q By that time had they examined the present reservation and looked it over carefully?

A You mean two years afterward?

Q Yes, by two years later, had they looked it over carefully?

A You mean before?

Q Yes?

A Yes.

Q Did each of the tribes select delegates to go with Thompson?

A Yes, they did. Each tribe selected delegates?

Q What delegates were selected from the different tribes? What were their names?

A My father was the first man appointed as delegate. There was Kuckup, Simtustus, Locksquissa, Shick-ame, Chiwothnoth.

MR. GALLOWAY: I suggest that you interpreters agree upon a spelling for the record of these names.

THE COURT: Have you any objection to these names being inserted. I think it would be better to insert them later.