

BEFORE THE INDIAN CLAIMS COMMISSION

THE NEZ PERCE TRIBE OF INDIANS,)
)
 Plaintiff,)
)
 v.) Docket No. 175
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

Upon consideration of plaintiff's motion for partial summary judgment filed on September 11, 1970, and defendant's response of September 22, 1970, and plaintiff's reply of October 12, 1970, and the oral arguments held on October 30, 1970, and for the reasons stated in the opinion accompanying this order,

The Commission concludes as a matter of law that:

1. That portion of plaintiff's 1855 reservation previously adjudged by this Commission to be outside plaintiff's aboriginal lands did not constitute consideration for plaintiff's 1855 land cession, nor can its value be set off, as a gratuity, against any judgment plaintiff may recover in this claim.

2. Disbursements made pursuant to both Article 4 and Article 5 of the Treaty of June 11, 1855, constituted consideration for the lands ceded by plaintiff to defendant in that treaty.

IT IS THEREFORE ORDERED that plaintiff's "Motion for Partial Summary Judgment" be and the same is hereby granted in part and denied in part.

Dated at Washington, D. C., this 18th day of February, 1971.


John T. Vance, Commissioner


Margaret A. Pierce, Commissioner


Brantley Blue, Commissioner