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The "Other" Treaties: Comments on Deloria and DeMallie's *Documents of American Indian Diplomacy*

Charles D. Bernholz

ABSTRACT. Professor Nancy Carol Carter has illuminated the need for law librarians to become more aware of materials relating to American Indians, and for them to formulate additions to their collections that will facilitate more complete investigations of this "third sovereign." The publication of Deloria and DeMallie's *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979* has added a considerable resource to her suggested materials. This article assesses their chapter entitled "Chronological List of Ratified or Valid and Operable Treaties," and examines their proposed additions to the list of recognized treaties between the federal government and the Indian Nations. *[Article copies available for a fee from The Haworth Document Delivery Service: 1-800-HAWORTH. E-mail address: <docdelivery@haworthpress.com> Website: <http://www.HaworthPress.com> © 2005 by The Haworth Press, Inc. All rights reserved.]*

KEYWORDS. American Indians, treaties, legal library collection development

In a series of three publications, Professor Nancy Carol Carter[1] has brought forward a compilation of materials required for any legal li-

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brary's American Indian collection. She began the first paper by discussing treaties and their text sources. Carter cited Charles J. Kappler's *Indian Affairs: Laws and Treaties*[2] as a significant asset, but since that time, this suite of legal materials has become available on the World Wide Web through a digital collection created at the Oklahoma State University.[3] This availability has increased the opportunities for investigators to quickly examine and assess almost any recognized instrument. It has also expanded the researcher's ability "to confirm the treaty's continuing validity, study the circumstances surrounding the treaty negotiations, trace the tribal and federal courses of conduct under a treaty and find all administrative, executive or judicial interpretations of treaty terms."[4] The application of law within tribal jurisdiction was discussed in her second article, and in her introductory paragraph, she noted that "[w]ith more Indian tribes being recognized and with the reinvigoration of tribal governments and tribal courts, an increasing number of citizens and lawyers will be encountering the third American sovereign."[5] In her third note she remarks, "Many judges, lawyers, law professors, and even law librarians are unaware or uninformed about the legal status and governmental powers of the nation's third sovereign,"[6] and also declares that "[t]reaties are the one source that may be claimed as primary law by both a tribal government and the federal government."[7]

The publication in 1999 of Deloria and DeMallie's *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775-1979* adds significantly to the sources cited by Carter as necessary for a well-rounded legal collection. It has revived interest in the documents drawn between the Indian Nations and the United States. One of the many benefits of this two volume, fifteen hundred-page work is a better understanding of the evolution of the mechanisms of negotiation, and of the rich array of documents that elucidates the discussions between the parties to these instruments.

Deloria and DeMallie noted the difficulty in "locating an accurate or official list of Indian treaties. Different sources provide different lists, and no single source has a complete list of documents or an accurate count of them."[8] Yet, over the years, Kappler's compilation of the final texts of recognized treaties has been generally accepted as the main source for these documents.[9]

Kappler was an attorney who represented various Indian tribes during his career. At the turn of the twentieth century, he served as the Clerk to the Senate Committee on Indian Affairs when he produced his collected work.

Deloria and DeMallie contend that "there are numerous inconsistencies in Kappler's arrangement regarding which treaties are, or should be, listed as officially ratified,"[10] and they suggested that "one can only conclude that the list of treaties in Kappler's represents those documents on file at the Bureau of Indian Affairs when Charles Kappler and his clerks began their work. It appears that they simply took several filing drawers filled with documents to the printer."[11] Deloria and DeMallie's goal was to supplement Kappler's list to provide a more comprehensive inventory based on their research to identify "valid obligations of the United States."[12]

Another compilation–*Kappler Revisited: An Index and Bibliographic Guide to American Indian Treaties* (henceforth *Kappler Revisited*)[13]–used the Department of State ratified treaty numbering system[14] to identify the recognized suite of treaties. *Kappler Revisited* also addressed several shortfalls of Kappler's collection, including the absence of the first seven recognized treaties with the tribes, and the use of truncated treaty titles. The task was to overcome these weaknesses with relevant resource information for these seven instruments, and with an expansion of Kappler's signatory lists of the various multilateral treaty titles, to identify and include *all* tribes that participated in each treaty. In addition, *Kappler Revisited* integrated these 375 treaties with nine other important American Indian resources. It was also an effort to expand the degree of accessibility by tribe name to those treaties to which a tribe was a signatory, to cross-reference that tribe to the array of reference materials, and to provide a link to its historical, cultural, and social data.

The first seven treaties were pre-Revolutionary War ones that were included in *Kappler Revisited* to complete the ratified treaty number series. Although Deloria and DeMallie chose to exclude these seven items from their collation, they devoted a special section (pp. 201-202) to them.[15] In their Chapter 5 on "valid" treaties (pp. 181-208), they also utilized the ratified treaty numbering system as a starting point for an expanded list of potential treaties. This augmented selection meant that treaties that appeared elsewhere, or treaties that were ratified but then forgotten, or treaties that just did not acquire a ratified treaty number could be brought to light and assessed as obligations.

This article provides data, from many of the social, cultural, and historical resources used in *Kappler Revisited*, for the additional potential treaties identified in Deloria and DeMallie's work, and it comments upon proposals by these authors for the assignment of particular documents within their sequence. In this way, their "Chronological List of Ratified or Valid and Operable Treaties" (pp. 181-201) and the Tables

presented in *Kappler Revisited* may be used to improve access to these materials. One of the notable benefits of *Documents of American Indian Diplomacy* is that the texts of the new, suggested additional treaties are provided.

In general, there are forty-six treaties in–or absent from–Deloria and DeMallie's presentation that must be integrated with the *Kappler Revisited* list. These treaties fall into three general classes.

- Eight special treaties. The first seven ratified treaty numbers assigned by the Department of State were for pre-Revolutionary War instruments negotiated by the British, and the eighth item in this list pertains to the *Treaty of Fort Laramie, 1851* that was never formally promulgated by the President. These eight are noted in Appendix I.
- Twenty-one additional treaties that meet the requirements of treaty obligations. For example, five of Deloria and DeMallie's first six documents, between 1775 and 1778, predate the first treaty in Kappler's compilation, the *Treaty with the Delawares, 1778*.[16] See Appendix II for a discussion of these twenty-one items.
- Seventeen problem entries have some technical shortfall. These treaties are those that do not have a ratified treaty number, or that do not have a Kappler designation, or that have multiple identifiers that may be misleading. These problems are elaborated in Appendix III.

From among these three classes, the second one–the "new" or "additional" treaties–will generate perhaps the most interest, because these documents offer further examples of the negotiations between the Indian tribes and the United States government. This would be especially so for the eight, unratified Willamette Valley Treaties of 1851,[17] because these transactions demonstrate the considerable pressure that was exerted upon the tribes in Oregon following the 1848 boundary agreement signed by Great Britain and the United States. As Ruby and Brown noted, the Superintendent of Indian Affairs in this Territory, Anson Dart, "would effect with headmen representing 320 Indians the cession to the United States of . . . a tract of more than three million acres–at a cost of $91,300 payable in annuities over a ten-year period."[18] The texts of these eight documents are noteworthy in that they are buried along with other treaty materials in the Senate's Confidential Executive Documents, a generally unavailable collection of materials.

All together, the Tables enumerate these forty-six treaties, in the format presented in *Kappler Revisited*. The seven pre-Revolutionary War treaties, missing from the Deloria and DeMallie lists, are assigned here their appropriate ratified treaty number, i.e., ratified treaty number 1 through 7.

The same table column names have been used in this discussion as were used in *Kappler Revisited*, with four adjustments. Due to a paucity of data for these new suggested treaties, the three *Kappler Revisited* columns presenting data from Royce,[19] from Martin,[20] and for the microfilm reel number reference from the *Ratified Indian Treaties, 1722-1869* list have been eliminated. In this presentation, an additional column–the "Treaty tag" one–has been added. The present columns consist of:

- Treaty tag–an identifier to note the treaties in the Tables, with the provision that the seven pre-Revolutionary War treaties have been given an alphabetical label because they are not included in Deloria and DeMallie's "Chronological List of Ratified or Valid and Operable Treaties";
- Ratified treaty number–the number assigned by the Department of State to each treaty.[21] The fictitious "999" ratified treaty number is used for the never formally promulgated *Treaty of Fort Laramie with the Sioux, etc., 1851*;[22]
- Signatory tribe(s)–the names of the participating tribe(s);
- Treaty signing date–the signing date of the treaty, according to Kappler's data or to the alternative source;
- Kappler page number–the treaty page number in volume 2 of Kappler's *Indian Affairs: Laws and Treaties*. There is one additional Kappler entry–for the *Treaty with the Chickasaw*, *1794*–from his fifth volume and that is identified in this column as "Vol. 5." For non-Kappler materials, an alternative source is provided;
- *Statutes at Large*–the citation for the treaty in *Statutes at Large*;
- Swanton–the page number of the tribe's description in *The Indian Tribes of North America*;[23]
- HNAI–the volume and the page number for the tribe in the *Handbook of North American Indians*;[24]
- DIT–the page number for the relevant entry in the *Dictionary of Indian Tribes of the Americas*;[25]
- NATC–the page number for the tribe entry in *Native America in the Twentieth Century: An Encyclopedia*;[26] and

- Gale–the appropriate volume and page citation in *The Gale Encyclopedia of Native American Tribes*.[27]

Appendix IV details typographical corrections for a few entries in the "Chronological List of Ratified or Valid and Operable Treaties."

CONCLUSIONS

Deloria and DeMallie's publication is a very complex one. The authors have spent considerable effort to locate this mass of documents and, in the process, they have exposed the rich history of the negotiations between various factions and the Indian Nations. Taken together, this "collection is designed to supplement volume 2 of Kappler's *Indian Affairs, Laws and Treaties* by presenting the remaining diplomatic documents signed by Indian tribes and other political entities and by private individuals and groups."[28]

In combination with this declaration, it is important to keep in mind that this article ventures only into their Chapter 5, the "Chronological List of Ratified or Valid and Operable Treaties." There are 15 other categories of relevant historical information collected in these two volumes. The focus in this note has been on the relationship of their suggestions to the contents of the single Kappler treaties volume, with an eye to discern possible documents that would add depth to the accepted Department of State ratified treaty series.

Finally, while Deloria and DeMallie suggest that "[b]oth scholars and students have a difficult time locating an accurate or official list of Indian treaties,"[29] the *Ratified Indian Treaties, 1722-1869* collection identifies those documents that were acknowledged and that were allocated ratified treaty numbers by the Department of State. These, along with the *Treaty of Fort Laramie, 1851* that the Court of Claims determined is also a valid instrument,[30] *are* the valid treaties between the federal government and the tribes. These materials in fact compose the "official list of Indian treaties." Nevertheless, this restriction does not diminish the importance of identifying as many specimens as possible of proceedings with the tribes. Other chapters within *Documents of American Indian Diplomacy* speak, for example, of treaties that were negotiated but then never ratified by the government, or of similar documents that were adjusted in Washington but later rejected when presented to the tribes for final approval. These resources are all windows upon the evolution of the interactions among these sovereigns. They

serve as a guide to additional items between the first recognized treaty of 1722 and the last one in 1868. Moreover, they answer in many ways why there was–and why there remains–so much confusion with regard to the tribes.

These volumes will help to expedite an understanding of many of these issues. As well, the addition of this work to the collections of legal libraries will make more complete their American Indian resources, and so will lead to the possibility for law librarians and their patrons "to enhance their understanding of this primary law."[31]

NOTES

1. Nancy C. Carter, "American Indian Law: Research and Sources," 4 Leg. Ref. Serv. Q. 5 (Winter 1984/1985); "American Indian Tribal Governments, Law, and Courts" 18 Leg. Ref. Serv. Q. 7 (no. 2, 2000); and "American Indians and Law Libraries: Acknowledging the Third Sovereign," 94 L. Lib. J. 7 (2002).

2. Charles J. Kappler, *Indian Affairs: Laws and Treaties*, 5 vols. (Government Printing Office 1904-1941).

3. Charles D. Bernholz and Suzanne L. Holcombe, "The Charles J. Kappler *Indian Affairs: Laws and Treaties* Internet Site at the Oklahoma State University," 29 *Library Collections, Acquisitions, and Technical Services* 82 (2005). Images of the pages, and the text, of Kappler's publication may be seen at http://digital.library.okstate.edu/kappler/.

4. Carter, "American Indian Law: Research and Sources," at 9.

5. Carter, "American Indian Tribal Governments, Law, and Courts," at 7.

6. Carter, "American Indians and Law Libraries: Acknowledging the Third Sovereign," at 7.

7. Carter, "American Indians and Law Libraries: Acknowledging the Third Sovereign," at 15.

8. Vine Deloria and Raymond J. DeMallie, *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions*, *1775-1979* at 181 (University of Oklahoma Press 1999).

9. Kappler, *Indian Affairs: Laws and Treaties: vol. 2, Treaties* (Government Printing Office 1904).

10. Deloria and DeMallie at 181.

11. *Id*. at 3.

12. *Id*. at 182.

13. Charles D. Bernholz, *Kappler Revisited: An Index and Bibliographic Guide to American Indian Treaties* (Epoch Books 2003).

14. *Ratified Indian Treaties*, *1722-1869* (National Archives and Records Service 1966).

15. Appendix I indicates that ratified treaty number 7, the *Treaty of Fort Stanwix*, or *The Grant from the Six Nations to the King and Agreement of Boundary Line–Six Nations, Shawnee, Delaware, Mingoes of Ohio*, was dated 1768. The authors selected June 1775 as the beginning date for document inclusion. See Deloria and DeMallie at 4.

16. 2 Kappler at 3-5.

17. Deloria and DeMallie at 205-207. Legislation–over sixty years later–provided final appropriations for compensation to members of these tribes (see p. 206).

18. Robert H. Ruby and John A. Brown, *The Chinook Indians: Traders of the Lower Columbia River* at 225 (University of Oklahoma Press 1976). See their chapter, "Tansey Point and Beyond" (pp. 215-231), for a full discussion of these negotiations. See also, Stephen Dow Beckham, "History of Western Oregon Since 1846," in 7 *Handbook of North American Indians, Northwest Coast* at 188 (William C. Sturtevant and Wayne Suttles, eds., Smithsonian Institution 1990); and, Robert H. Ruby and John A. Brown, *A Guide to the Indian Tribes of the Pacific Northwest* (University of Oklahoma Press 1986) for descriptions of the individual tribes.

19. Charles C. Royce, "Indian Land Cessions in the United States," in Part 2 of *18th Annual Report of the Bureau of American Ethnology to the Secretary of the Smithsonian Institution, 1896-97* at 521-997. House of Representatives, 56th Congress, 1st Session. House Document No. 736, Serial Set 4015 (Government Printing Office 1899).

20. John H. Martin, *List of Documents Concerning the Negotiation of Ratified Indian Treaties*, *1801-1869* (National Archives 1949).

21. *Ratified Indian Treaties, 1722-1869*.

22. 2 Kappler at 594-596.

23. John R. Swanton, *The Indian Tribes of North America* (Smithsonian Institution 1952).

24. William C. Sturtevant, *Handbook of North American Indians* (Smithsonian Institution 1978-).

25. *Dictionary of Indian Tribes of the Americas*, 3 vols. (2nd ed., American Indian Publishers 1993).

26. Mary B. Davis, Joan Berman, Mary E. Graham, and Lisa A. Mitten, *Native America in the Twentieth Century: An Encyclopedia* (Garland Publishing 1994).

27. Sharon Malinowski and Anna Sheets, *The Gale Encyclopedia of Native American Tribes*, 4 vols. (Gale 1998).

28. Deloria and DeMallie at 5.

29. Deloria and DeMallie at 181.

30. Deloria and DeMallie report that "[b]etween State Department treaties 259 and 260 is a file on the famous 1851 treaty at Fort Laramie, which has often been described as the largest and most important of the treaties with the western Great Plains and mountain tribes. The State Department, although having this file on this treaty, did not give it a number, even though it is placed in the proper numerical sequence in the files" (p. 203).

31. Carter, "American Indians and Law Libraries: Acknowledging the Third Sovereign" at 8.

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APPENDIX I

Eight Special Treaties

Deloria and DeMallie omitted the seven pre-Revolutionary War treaties, and provided a rationale for this decision (pp. 201-202). These seven treaties are listed here, as documents A through G.

The eighth item in this group (item H) pertains to the never formally promulgated *Treaty of Fort Laramie, 1851*, which is included and given a special, fictitious ratified treaty number of 999 in the *Kappler Revisited* tables and in the Table here. The Court of Claims determined that it is a valid treaty,[1] and its signatory list has been expanded to include the names of all participants. As with the other Kappler treaties, the first page of the text in Kappler's is provided for this instrument, i.e., page 594 within volume 2.

The source abbreviations are derived from the bibliographic citations in the footnotes and are used in the Table to denote these materials. The treaty tags–A through H–identify the treaty entry in the Table:

A. **Treaty #1**: *The Great Treaty of 1722 Between the Five Nations, the Mahicans, and the Colonies of New York, Virginia, and Pennsylvania*.[2] Source: *EAID* 9 and *NY* 5.
B. **Treaty #2**: *Deed in Trust from Three of the Five Nations of Indians to the King, 1726*.[3] Source: *EAID* 9 and *NY* 5.
C. **Treaty #3**: *A Treaty Held at the Town of Lancaster, By the Honourable the Lieutenant-Governor of the Province, and the Honourable the Commissioners for the Province of Virginia and Maryland, with the Indians of the Six Nations in June, 1744*.[4] Source: *EAID* 2 and *Franklin*.
D. **Treaty #4**: *Treaty of Logstown, 1752*.[5] Source: *EAID* 5 and *VMHB*.
E. **Treaty #5**: *The Albany Congress, and Treaty of 1754*.[6] Source: *EAID* 10 and *NY* 6.
F. **Treaty #6**: *At a Conference Held By The Honourable Brigadier General Moncton with the Western Nations of Indians, at the Camp before Pittsburgh, 12th Day of August 1760*.[7] Source: *EAID* 3 and *PA* 3.
G. **Treaty #7**: *Treaty of Fort Stanwix*, or *The Grant from the Six Nations to the King and Agreement of Boundary Line–Six Nations, Shawnee, Delaware, Mingoes of Ohio, 1768*.[8] Source: *EAID* 10 and *NY* 8.
H. **Treaty #999**: *Treaty with the Sioux, Crow, Mandan, Arikara, Cheyenne, Arapaho, Gros Ventre, and Assiniboine, 1851*.[9] Source: Kappler.

TABLE 1. Eight Special Indian Treaties, Listed by Department of State Ratified Treaty Number, that Supplement Deloria and DeMallie's Collection

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
A	1	Five Nations and Mahican	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	–	–	–	–	–
A	1	Cayuga	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	33	XV-500	241	94	I-25
A	1	Mohawk	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	33	XV-466	394	353	I-146
A	1	Oneida	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	33	XV-481	707	407	I-199
A	1	Onondaga	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	33	XV-491	710	408	I-205
A	1	Seneca	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	33	XV-505	814	580	I-279
A	1	Mahican	14-Sep-1722	*EAID* 9, 103; *NY* 5, 657	–	41	XV-198	–	619	I-101
B	2	Cayuga; Onondaga; Seneca	14-Sep-1726	*EAID* 9, 178; *NY* 5, 800	–	–	–	–	–	–
B	2	Cayuga	14-Sep-1726	*EAID* 9, 178; *NY* 5, 800	–	33	XV-500	241	94	I-25
B	2	Onondaga	14-Sep-1726	*EAID* 9, 178; *NY* 5, 800	–	33	XV-491	710	408	I-205
B	2	Seneca	14-Sep-1726	*EAID* 9, 178; *NY* 5, 800	–	33	XV-505	814	580	I-279

C	3	Six Nations	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	–	–	–	–	–
C	3	Cayuga	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	33	XV-500	241	94	I-25
C	3	Mohawk	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	33	XV-466	394	353	I-146
C	3	Oneida	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	33	XV-481	707	407	I-199
C	3	Onondaga	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	33	XV-491	710	408	I-205
C	3	Seneca	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	33	XV-505	814	580	I-279
C	3	Tuscarora	4-Jul-1744	*EAID* 2, 77; *Franklin* 41	–	33	XV-518	920	663	I-307
D	4	Six Nations	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	–	–	–	–	–
D	4	Cayuga	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	33	XV-500	241	94	I-25
D	4	Mohawk	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	33	XV-466	394	353	I-146
D	4	Oneida	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	33	XV-481	707	407	I-199
D	4	Onondaga	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	33	XV-491	710	408	I-205
D	4	Seneca	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	33	XV-505	814	580	I-279
D	4	Tuscarora	13-Jun-1752	*EAID* 5, 133; *VMHB* 154	–	33	XV-518	920	663	I-307
E	5	Six Nations	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	–	–	–	–	–

TABLE 1 (continued)

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
E	5	Cayuga	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	33	XV-500	241	94	I-25
E	5	Mohawk	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	33	XV-466	394	353	I-146
E	5	Oneida	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	33	XV-481	707	407	I-199
E	5	Onondaga	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	33	XV-491	710	408	I-205
E	5	Seneca	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	33	XV-505	814	580	I-279
E	5	Tuscarora	8-Jul-1754	*EAID* 10, 14; *NY* 6, 853	–	33	XV-518	920	663	I-307
F	6	Six Nations	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	–	–	–	–	–
F	6	Cayuga	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	33	XV-500	241	94	I-25
F	6	Mohawk	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	33	XV-466	394	353	I-146
F	6	Oneida	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	33	XV-481	707	407	I-199
F	6	Onondaga	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	33	XV-491	710	408	I-205
F	6	Seneca	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	33	XV-505	814	580	I-279

F	6	Tuscarora	12-Aug-1760	*EAID* 3, 554; *PA* 3, 744	–	33	XV-518	920	663	I-307
G	7	Six Nations; Shawnee; Delaware; Mingo	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	–	–	–	–	–
G	7	Cayuga	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	33	XV-500	241	94	I-25
G	7	Mohawk	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	33	XV-466	394	353	I-146
G	7	Oneida	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	33	XV-481	707	407	I-199
G	7	Onondaga	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	33	XV-491	710	408	I-205
G	7	Seneca	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	33	XV-505	814	580	I-279
G	7	Tuscarora	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	33	XV-518	920	663	I-307
G	7	Shawnee	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	225	XV-622	826	584	I-285
G	7	Delaware	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	48	XV-213	366	169	I-38
G	7	Mingo	5-Nov-1768	*EAID* 10, 541; *NY* 8, 111	–	–	XV-443	167	–	I-300
H	999	Sioux; Cheyenne; Arapaho; Crow; Assiniboin; Gros Ventres; Mandan; Arikara	17-Sep-1851	594	11 Stat. 749	–	–	–	–	–

TABLE 1 (continued)

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
H	999	Sioux	17-Sep-1851	594	11 Stat. 749	280	XIII-718	359	600	–
H	999	Cheyenne	17-Sep-1851	594	11 Stat. 749	278	XIII-863	265	100	III-221
H	999	Arapaho	17-Sep-1851	594	11 Stat. 749	384	XIII-840	76	48	III-192
H	999	Crow	17-Sep-1851	594	11 Stat. 749	390	XIII-695	354	152	III-236
H	999	Assiniboin	17-Sep-1851	594	11 Stat. 749	387	XIII-572	107	62	III-202
H	999	Gros Ventres	17-Sep-1851	594	11 Stat. 749	389	XIII-677	429	226	III-253
H	999	Mandan	17-Sep-1851	594	11 Stat. 749	276	XIII-329	591	70	III-297
H	999	Arikara	17-Sep-1851	594	11 Stat. 749	273	XIII-365	100	70	II-197

APPENDIX II

Twenty-One Additional Treaties That Meet the Requirements
of Treaty Obligations

This subset identifies the twenty-one "new" treaties introduced by Deloria and DeMallie. They concluded that the negotiations expressed in these documents met the requirements of treaty obligations, and that these instruments should be added to the list of almost four hundred treaties recognized today by the Department of State.

Six new items were placed in their "Chronological List of Ratified or Valid and Operable Treaties" (p. 183) prior to those with assigned Department of State ratified treaty numbers and with ordinal indicators from the Kappler 1904 compilation. Sources to these documents, as provided by Deloria and DeMallie, are given for five of the six treaties. The *Treaty with the Passamaquoddy, Penobscot, and Malecite, 1777* is a special case.[10]

1. *Treaty with the Six Nations, Delaware, and Shawnee, 1775.*[11]
2. *Treaty with the Seneca, Cayuga, Nanticoke, and Conoy, 1776.*[12]
3. *Treaty with the Passamaquoddy, Penobscot, and Malecite, 1777.*[13]
4. *Treaty with the Winnebago, 1778.*[14]
5. *Treaty with the Fox, 1778.*[15]
6. *Treaty with the Cherokee, 1779.*[16]

For the remaining fifteen treaties in this section, the Table citations identify each treaty's page numbers in *Documents of American Indian Diplomacy*, as well as the original source citation that the authors used. These negotiations included tribes ranging from the East coast to the Pacific Northwest coast.

Deloria and DeMallie identified five ratified treaties (p. 204) that do not appear in the Department of State ratified treaty number list. The third document, as the *Treaty with the Sioux, 1805*, is the only one that appears in Kappler's collection.

7. *Treaty with the Oneida, 1802.*[17]
8. *Treaty with the Seneca, 1802.*[18]
9. *Convention with the Sioux Nation, 1805.*[19]
10. *Treaty with the Cherokee, 1807.*[20]
11. *Agreement Between the Seneca and Troup, Ogden, and Roger, 1826.*[21]

In addition to these, the eight Willamette Valley Treaties of 1851 offer a special category. The selected treaties listed here are the sole remaining ones from a suite of 19 documents signed that year in the Oregon Territory. Deloria and DeMallie included these treaties as viable obligations, because Congress later acknowledged through compensation the existence of these negotiations.

The source of these 19 treaties is a series of Senate Confidential Executive Documents from the 32nd Congress, 1st Session, with each document given its own number.[22] The full array runs between document number 40 and 58. As will be noted in the citations for the following eight treaties, these specific Willamette document numbers run from 46 through 54, except for number 51. Deloria and DeMallie discussed only those 13 of these 19 treaties consummated by Anson Dart that were later confirmed through financial compensation: the eight noted here and the remaining five treaties that were never exercised in this matter. Another negotiations team carrying on treaty writing during the same period, under the direction of John P. Gaines, produced the six other treaty documents for number 40 through 45.

Deloria and DeMallie allocate eight of the 19 Oregon Territory treaties produced in 1851 to their operable treaties chapter. They included, in their chapter 17 entitled "Unratified Treaties and Agreements between Indian Nations and the United States" (pp. 1237-1473), additional instruments that failed to receive appropriate action. Among the 230+ pages of materials in this chapter are the eleven inactive treaties from this period of negotiations in the Pacific Northwest that include the five Dart instruments that went unacknowledged and all six from the Gaines conferences. Those eleven are contained here[23] for completeness, while the eight selected treaties are itemized below. The footnotes have the highly descriptive instrument titles, but the Table citations for the eight-item subset point only to the individual starting page numbers of the document texts in *Documents of American Indian Diplomacy*:[24]

12. *Treaty with the Clatsop, 1851.*[25]
13. *Treaty with the Naalem band of Tillamook, 1851.*[26]
14. *Treaty with the Lower band of Tillamook, 1851.*[27]
15. *Treaty with the Nuc-quee-clah-we-muck, 1851.*[28]
16. *Treaty with the Waukikum band of Chinook, 1851.*[29]
17. *Treaty with the Kathlamet band of Chinook, 1851.*[30]
18. *Treaty with the Wheelappa band of Chinook, 1851.*[31]
19. *Treaty with the Lower band of Chinook, 1851.*[32]

Two treaties from the Deloria and DeMallie selection remain.

The 1856 treaty with the Sioux may be found in a House of Representatives Executive Document, the *Council with the Sioux Indians at Fort Pierre*.[33] An abbreviation for this document–*CSIFP*–and its initial Deloria and DeMallie page number are entered in the Table for this transaction. Deloria and DeMallie note that this was an interesting example of the basis for continuing negotiations carried on between the federal government and the Sioux Nations. In the Table, the tribe names have been derived from the treaty's text. Seven of the nine principal chiefs who agreed to this instrument took part in the *Treaty with the Sioux-Brulé, Oglala, Miniconjou, Yanktonai, Hunkpapa, Blackfeet, Cuthead, Two Kettle, Sans Arcs, and Santee–and Arapaho, 1868.*[34]

For the treaty with the Hupa and the other California tribes, the Table reference "*ARCIA* 1864, 279-280" indicates the pages in the 1864 Annual Report of the Commissioner of Indian Affairs that is contained in the 1865 "Message of the President of the United States,"[35] and is presented in addition to the starting page number in *Documents of American Indian Diplomacy*:

20. *Agreement with the Sioux, 1856.*[36]
21. *Treaty with the Hupa, South Fork, Redwood, and Grouse Creek Indians, 1864.*[37]

TABLE 2. Twenty-One Additional Treaties, Listed by Department of State Ratified Treaty Number, that Meet Deloria and DeMallie's Requirements of Treaty Obligations

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
1	–	Six Nations, Delaware and Shawnee	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	–	–	–	–	–
1	–	Cayuga	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	33	XV-500	241	94	I-25
1	–	Mohawk	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	33	XV-466	394	353	I-146
1	–	Oneida	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	33	XV-481	707	407	I-199
1	–	Onondaga	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	33	XV-491	710	408	I-205
1	–	Seneca	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	33	XV-505	814	580	I-279
1	–	Tuscarora	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	33	XV-518	920	663	I-307
1	–	Delaware	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	48	XV-213	366	169	I-38

TABLE 2 (continued)

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
1	–	Shawnee	Sep-Oct 1775	*Revolution on the Upper Ohio* 25	–	225	XV-622	826	584	I-285
2	–	Seneca, Cayuga, Nanticoke, and Conoy	28-Feb - 1 Mar-1776	*The Nanticoke Indians* 261	–	–	–	–	–	–
2	–	Seneca	28-Feb - 1 Mar-1776	*The Nanticoke Indians* 261	–	33	XV-505	814	580	I-279
2	–	Cayuga	28-Feb - 1 Mar-1776	*The Nanticoke Indians* 261	–	33	XV-500	241	94	I-25
2	–	Nanticoke	28-Feb - 1 Mar-1776	*The Nanticoke Indians* 261	–	59	XV-240	–	369	I-168
2	–	Conoy	28-Feb - 1 Mar-1776	*The Nanticoke Indians* 261	–	57	XV-240	338	–	I-249
3	–	Passamaquoddy, Penobscot, and Malecite	23-Jun-1777	–	–	–	–	–	–	–
3	–	Passamaquoddy	23-Jun-1777	–	–	15	XV-123	742	435	I-223
3	–	Penobscot	23-Jun-1777	–	–	16	XV-137	–	441	I-234
3	–	Malecite	23-Jun-1777	–	–	578	XV-123	–	328	I-106
4	–	Winnebago	22-Aug-1778	*George Rogers Clark Papers* 2, 65	–	258	XV-690	956	694	I-330
5	–	Fox	26-Aug-1778	*George Rogers Clark Papers* 2, 65	–	250	XV-636	400	563	I-51

6	–	Cherokee	22-Jul-1779	*Frontier Advance on the Upper Ohio* 397	–	215	XIV-337	260	95	I-380
7	–	Oneida	1-Jun-1802	*NY Assembly* 256	–	33	XV-481	707	407	I-199
8	–	Seneca	20-Aug-1802	*NY Assembly* 214	–	33	XV-505	814	580	I-279
9	–	Sioux Nation	23-Sep-1805	1031	–	233	XV-398	964	700	I-336
10	–	Cherokee	2-Dec-1807	*American State Papers: Indian Affairs* 1, 753	–	215	XIV-337	260	95	I-380
11	–	Seneca	31-Aug-1826	*NY Assembly* 144	–	33	XV-505	814	580	I-279
12	–	Clatsop	5-Aug-1851	*DAID* 218	–	458	VII-533	315	107	IV-281
13	–	Naalem band of Tillamook	6-Aug-1852	*DAID* 219	–	471	VII-560	–	634	IV-505
14	–	Lower band of Tillamook	7-Aug-1853	*DAID* 221	–	471	VII-560	–	634	IV-505
15	–	Nuc-quee-clah-we-muck	7-Aug-1854	*DAID* 222	–	–	–	–	–	–
16	–	Waukikum band of Chinook	8-Aug-1855	*DAID* 223	–	417	VII-533	285	107	IV-280
17	–	Kathlamet band of Chinook	9-Aug-1856	*DAID* 224	–	417	VII-533	285	107	–
18	–	Wheelappa band of Chinook	9-Aug-1857	*DAID* 226	–	417	VII-533	285	107	–
19	–	Lower band of Chinook	9-Aug-1858	*DAID* 227	–	417	VII-533	285	107	IV-276

TABLE 2 (continued)

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
20	–	Sioux: Two Kettle; Lower Yankton; Hunkpapa; Blackfeet; Miniconjou; Sans Arcs; Lower Yanktonai; Upper Yanktonai; Brule	5-Mar-1856	*DAID* 229; *CSFIP*	–	–	–	–	–	–
20	–	Sioux: Two Kettle	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-718	–	600	III-287
20	–	Sioux: Lower Yanktonai	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-777	977	600	III-307
20	–	Sioux: Hunkpapa	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-718	466	600	III-287
20	–	Sioux: Blackfeet	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-718	170	600	III-211
20	–	Sioux: Miniconjou	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-718	359	600	III-287
20	–	Sioux: Sans Arcs	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-718	359	600	III-287
20	–	Sioux: Lower Yanktonai	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-777	978	600	III-307
20	–	Sioux: Upper Yanktonai	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-777	978	600	III-307

20	–	Sioux: Brule	5-Mar-1856	*DAID* 229; *CSFIP*	–	280	XIII-756	173	600	III-287
21	–	Hupa, South Fork, Redwood, and Grouse Creek	6-Aug-1864	*DAID* 231; *ARCIA* 1864, 279-280	–	–	–	–	–	–
21	–	Hupa	6-Aug-1864	*DAID* 231; *ARCIA* 1864, 279-280	–	492	VIII-164	467	248	IV-75
21	–	South Fork	6-Aug-1864	*DAID* 231; *ARCIA* 1864, 279-280	–	–	VIII-164	–	–	IV-75
21	–	Redwood	6-Aug-1864	*DAID* 231; *ARCIA* 1864, 279-280	–	519	VIII-164	–	–	IV-203
21	–	Grouse Creek	6-Aug-1864	*DAID* 231; *ARCIA* 1864, 279-280	–	–	VIII-164	–	–	–

APPENDIX III

Seventeen Problem Entries Have Some Technical Shortfall

This segment identifies 17 problem entries that have some technical shortfall. They are listed by their Department of State ratified treaty number, as they are in *Kappler Revisited.* These treaties are usually those that appear in the treaty list (pp. 183-201) and either do not have a ratified treaty number or a Kappler designation, or that have multiple identifiers that might cause confusion. Several documents are treated as special cases by Deloria and DeMallie.

Beginning with the sixth entry in their "Chronological List of Ratified or Valid and Operable Treaties" (pp. 181-201), Deloria and DeMallie identify these documents with a "State" and a "K" or Kappler number. These two notations are, respectively, to the Department of State's ratified treaty number and to the ordinal sequence number in Kappler's 1904 volume 2.

For their entries identified by ratified treaty number 18 and 19 (p. 183), it appears that the first treaty is a valid one, but that the second one is misidentified. The first–the *Treaty with the Cherokee, 1791*–is indicated on the unpublished roll list for the National Archive's microfilm publication number 668,[38] but number 19 is indicated as the *5 Nations Agreement* instead of Deloria and DeMallie's suggestion of the *Treaty with the Cherokee* in 1792 (see Table treaty tag #22). In *Kappler Revisited*, ratified treaty number 19 has been assigned to the *5 Nations Agreement*, as suggested by the National Archive microfilm, and the second 1792 *Treaty with the Cherokee* used by Deloria and DeMallie was attached as a supplement–at 18.1–to ratified treaty 18, using the style in *Kappler Revisited* for linking supplemental documents to treaties.[39]

Their *Treaty with the Chickasaw, 1794* (p. 183; treaty tag #23) was assigned neither a ratified treaty number nor a Kappler sequence number. The authors included it in their special section of additional valid treaty suggestions (p. 217). It was listed in Kappler's, although in an unratified treaty section away from the acknowledged treaties.[40] Its unratified status virtually guaranteed the lack of a ratified treaty, or a Kappler, number.

The next nine instruments have, in the Deloria and DeMallie list, either no Kappler number, no ratified treaty number, multiple Kappler numbers, or are pairs of treaties with different ratified treaty numbers but the same Kappler number.

Their ratified treaty number 27 (*Treaty with the Seneca, 1797*; treaty tag #24) and 28 (*Treaty with the Oneida, 1798*; treaty tag #25) on page 184 are identified similarly in *Kappler Revisited.* There is no Kappler reference provided for either. In *Documents of American Indian Diplomacy*, Deloria and DeMallie provide a reference to the *American State Papers: Indian Affairs* for the first treaty,[41] and a reference to a report presented to the New York Assembly for the second instrument.[42] The table entry in *Kappler Revisited* for the first treaty includes a Kappler reference[43] to accompany the same *American State Papers* one reported by these authors. For the latter treaty, an alternative *American State Papers* entry is offered.[44]

The authors included a pair of treaties that have different ratified treaty numbers, but the same Kappler sequence number. They are the *Treaty with the Sauk and Fox, 1804* and the *Treaty with the Wyandot, Ottawa, Delaware, and Shawnee, 1805* (p. 185; treaty tag #26 and 27). These two treaties were entered in the table of *Kappler Revisited* at the identical ratified treaty numbers, but Kappler does *not* have material on ratified treaty number 44. The fact that the Deloria and DeMallie citation for ratified treaty number 44 is to the *American State Papers* would suggest that this "K-33" is a spurious Kappler sequence number.

The *Treaty with the Delaware, Potawatomi, Miami, and Eel River, 1809* (p. 185; treaty tag #28) and the *Treaty with the Creek, 1821* (p. 188; treaty tag #29) have each been assigned two Kappler numbers. Each of the second citations–to Kappler's page 103 of volume 2 in the first treaty, and to his page 197 in the second–have been added as supplemental documents through decimal additions to their respective ratified treaty number–57 and 116–in the *Kappler Revisited* table.

No ratified treaty numbers were assigned by the authors to the entries for the *Treaty with the Menominee, 1831* (p. 190; treaty tag #30), the *Treaty with the Chickasaw Nation, 1832* (p. 191; treaty tag #31), and the *Treaty with the Chippewa, 1837* (p. 194; treaty tag #32). In a manner similar to the double Kappler citations above, these three treaties were assigned as supplementals in the *Kappler Revisited* compilation to ratified treaty number 161, 173, and 219, respectively.

In an example of the use of standardized treaties, Deloria and DeMallie reported a problem with a pair of treaties consummated on 20 October 1865 at Fort Sully in the Dakota Territory. They report that the texts of ratified treaty number 347 and 348–the *Treaty with the Hunkpapa Sioux, 1865*, and the *Treaty with the Yanktonais Sioux, 1865* (p. 200; treaty tag #33 and 34)–actually identify the participation of the other band. On examination, Article 6 of the first document contains the phrase "the chiefs and headmen of the said Yanktonai band of Dakota or Sioux Indians," while the latter treaty contains the same phrase with the name "Onkpahpah" for the participating band.[45] The *Statutes at Large* entries for these treaties–14 *Stat.* 739 for *Hunkpapa Sioux* and 14 *Stat.* 735 for *Yanktonais Sioux*–do not contain these errors and suggest rather that

during the publication of Kappler's collection only the sixth Article and the signature sections of these two instruments were exchanged. All other tribal name references in either treaty are correct.

Finally, there are four special railroad treaties–ratified treaty number 314, 317, 318, and 321–which Deloria and DeMallie eliminated from their list because: "[t]hese documents reek with the possibility of misrepresentation and fraud because it was never the practice for the United States to hold a treaty for the primary benefit of a private citizen or corporation."[46] These are, respectively, the *Treaty with the Delaware, 1860*; the *Treaty with the Delaware, 1861*; the *Treaty with the Potawatomi, 1861*; and the *Treaty with the Kickapoo, 1862* (treaty tag #35 through 38). Since the *Kappler Revisited* compilation was based on the Department of State ratified treaty number sequence, these four treaties appear in that monograph at those designated locations.

TABLE 3. Seventeen Indian Treaties from Deloria and DeMallie's Collation, Listed by Department of State, Ratified Treaty Number, that Have Some Technical Shortfall or Problem

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
22	18	Cherokee	2-Jul-1791	29	7 Stat. 39	215	XIV-337	260	95	I-380
22	18.1	Cherokee	17-Feb-1792	32	7 Stat. 42	215	XIV-337	260	95	I-380
23	–	Chickasaw	15-Jul-1794	Vol 5, 709	-	177	XIV-478	276	104	I-390
24	27	Seneca	15-Sep-1797	1027	7 Stat. 601; *American State Papers: Indian Affairs* 1, 627	33	XV-505	814	580	I-279
25	28	Oneida	1-Jun-1798	*American State Papers: Indian Affairs* 1, 641; *NY Assembly* 249	–	33	XV-481	707	407	I-199
26	43	Sac and Fox	3-Nov-1804	74	7 Stat. 84	–	–	–	–	–
26	43	Sac	3-Nov-1804	74	7 Stat. 84	256	XV-648	803	563	I-271
26	43	Fox	3-Nov-1804	74	7 Stat. 84	250	XV-636	400	563	I-51
27	44	Wyandot; Ottawa; Chippewa; Munsee; Delaware; Shawnee; Potawatomi	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	–	–	–	–	–

27	44	Wyandot	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	233	XV-398	964	700	I-336
27	44	Ottawa	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	244	XV-772	724	413	I-209
27	44	Chippewa	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	260	XV-743	288	395	I-187
27	44	Munsee	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	–	XV-236	366	619	I-162
27	44	Delaware	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	48	XV-213	366	169	I-38
27	44	Shawnee	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	225	XV-622	826	584	I-285
27	44	Potawatomi	4-Jul-1805	77	*American State Papers: Indian Affairs* 1, 696	247	XV-725	772	464	I-256

TABLE 3 (continued)

Treaty tag	Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	*Statutes at Large*	Swanton	HNAI	DIT	NATC	Gale
28	57	Delaware; Potawatomi; Miami; Eel River	30-Sep-1809	101	7 Stat. 113	–	–	–	–	–
28	57	Delaware	30-Sep-1809	101	7 Stat. 113	48	XV-213	366	169	I-38
28	57	Potawatomi	30-Sep-1809	101	7 Stat. 113	247	XV-725	772	464	I-256
28	57	Miami	30-Sep-1809	101	7 Stat. 113	237	XV-681	626	337	I-128
28	57	Eel River	30-Sep-1809	101	7 Stat. 113	237	XV-681	626	337	I-128
28	57.1	Delaware; Potawatomi; Miami; Eel River	30-Sep-1809	103	7 Stat. 115	–	–	–	–	–
28	57.1	Delaware	30-Sep-1809	103	7 Stat. 115	48	XV-213	366	169	I-38
28	57.1	Potawatomi	30-Sep-1809	103	7 Stat. 115	247	XV-725	772	464	I-256
28	57.1	Miami	30-Sep-1809	103	7 Stat. 115	237	XV-681	626	337	I-128
28	57.1	Eel River	30-Sep-1809	103	7 Stat. 115	237	XV-681	626	337	I-128
29	116	Creek	8-Jan-1821	195	7 Stat. 215	107	XIV-373	351	150	I-416
29	116.1	Creek	8-Jan-1821	197	7 Stat. 217	107	XIV-373	351	150	I-416
30	161	Menominee	8-Feb-1831	319	7 Stat. 342	254	XV-708	620	329	I-122
30	161.1	Menominee	17-Feb-1831	323	7 Stat. 346	254	XV-708	620	329	I-122

31	173	Chickasaw	20-Oct-1832	356	7 Stat. 381	177	XIV-478	276	104	I-390
31	173.1	Chickasaw	22-Oct-1832	362	7 Stat. 388	177	XIV-478	276	104	I-390
32	219	Chippewa: Saginaw	14-Jan-1837	482	7 Stat. 528	260	XV-743	288	395	I-187
32	219.1	Chippewa: Saginaw	20-Dec-1837	501	7 Stat. 547	260	XV-743	288	395	I-187
33	347	Sioux: Hunkpapa	20-Oct-1865	901	14 Stat. 739	280	XIII-718	466	600	III-287
34	348	Sioux: Yanktonai	20-Oct-1865	903	14 Stat. 735	280	XIII-777	978	600	III-307
35	314	Delaware	30-May-1860	803	12 Stat. 1129	48	XV-213	366	169	I-38
36	317	Delaware	2-Jul-1861	814	12 Stat. 1177	48	XV-213	366	169	I-38
37	318	Potawatomi	15-Nov-1861	824	12 Stat. 1191	247	XV-725	772	464	I-256
38	321	Kickapoo	28-Jun-1862	835	13 Stat. 623	252	XV-656	545	287	I-88

APPENDIX IV

Typographical Corrections, By Page Number

- Page 183:
  - *Treaty with the Chickasaw, 1786*–the correct year is 1786, not 1785.
  - *Treaty with the Shawnee, 1786*–on page 16, not page 14, of volume 2 of Kappler's *Indian Affairs: Laws and Treaties*.
  - *Treaty with the Chickasaw, 1794*–on page 709 of volume 5 of Kappler's *Indian Affairs: Laws and Treaties*,[47] instead of page 710 in volume 4.
- Page 188:
  - *Treaty with the Osage, 1822*–the correct year is 1822, not 1821.
- Page 199:
  - *Treaty with the Western Shoshone, 1863*–the correct date is 1 October, not 30 July.
- Page 200:
  - *Treaty with the Hunkpapa Sioux, 1865*–on page 901, not page 896, of volume 2 of Kappler's *Indian Affairs: Laws and Treaties*.
  - *Treaty with Confederated Tribes of Middle Oregon, 1865*–the correct year is 1865, not 1866.

NOTES

1. *Moore v. United States*, 32 Ct. Cl. 593 (1897) and *Roy v. United States*, 45 Ct. Cl. 177 (1910).

2. Alden T. Vaughan and Barbara Graymont, 9 *Early American Indian Documents: Treaties and Laws, 1607-1789, New York and New Jersey Treaties*, *1714-1753* at 103-127 (University Publications of America 1996); and, Edmund Bailey O'Callaghan, 5 *Documents Relative to the Colonial History of the State of New York* at 657-681 (Weed, Parsons, and Co. 1855).

3. Vaughan and Graymont, 9 *Early American Indian Documents: Treaties and Laws*, *1607-1789*, *New York and New Jersey Treaties*, *1714-1753* at 178-179; and, O'Callaghan, 5 *Documents Relative to the Colonial History of the State of New York* at 800-801.

4. Alden T. Vaughan and Donald H. Kent, 2 *Early American Indian Documents: Treaties and Laws, 1607-1789, Pennsylvania Treaties*, *1737-1756* at 77-110 (University Publications of America 1984); and, Carl Van Doren and Julian P. Boyd, *Indian Treaties Printed by Benjamin Franklin*, *1736-1762* at 41-79 (The Historical Society of Pennsylvania 1938).

5. Alden T. Vaughan and W. Stitt Robinson, 5 *Early American Indian Documents: Treaties and Laws*, *1607-1789*, *Virginia Treaties*, *1723-1775* at 133-146 (University Publications of America 1983); and, "The Treaty of Logg's Town, 1752," 13 *Virginia Magazine of History and Biography* 154 (1905).

6. Alden T. Vaughan and Barbara Graymont, 10 *Early American Indian Documents: Treaties and Laws, 1607-1789, New York and New Jersey Treaties, 1754-1775* at 14-57 (University Publications of America 2001); and, O'Callaghan, 6 *Documents Relative to the Colonial History of the State of New York* at 853-892 (Weed, Parsons, and Co. 1855).

7. Alden T. Vaughan and Alison Duncan Hirsch, 3 *Early American Indian Documents: Treaties and Laws, 1607-1789, Pennsylvania Treaties*, *1756-1775* at 554-561 (University Publications of America 2004); and, Samuel Hazard, 3 *Pennsylvania Archives* at 744-751 (1st Series) (Joseph Severns 1852).

8. Vaughan and Graymont, 10 *Early American Indian Documents: Treaties and Laws*, *1607-1789, New York and New Jersey Treaties*, *1754-1775* at 541-566; and, O'Callaghan, 8 *Documents Relative to the Colonial History of the State of New York* at 111-137 (Weed, Parsons, and Co. 1857).

9. 2 Kappler at 594-596.

10. A House Report provides this insight: "When the Revolutionary War broke out, General George Washington requested the assistance of these tribes and, on 23 June 1777, Colonel John Allan, of the Massachusetts militia who was the director of the Federal Government's Eastern Indian Department, negotiated a treaty with these Indians, pursuant to which the Indians were to assist in the Revolutionary War in return for protection of their lands by the United States and provision of supplies in times of need. *This treaty was never ratified by the United States*, although Allan's journals indicate that the Indians played a crucial role in the Revolutionary War" (*Providing for the Settlement of Land Claims of Indians, Indian Nations and Tribes and Bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other Purposes*). House of Representatives, 96th Congress, 2nd Session, House Report No. 96-1353 at 11-12; emphasis added (Government Printing Office 1980)). The treaty date was confirmed by a journal entry made for that day by Allan's aide-de-camp, Lt. Frederic Delesdernier: "Monday June 23, Aukpaque. . . . The above ceremony is a confirmation of the Treaty and agreement between them and Mr. Allan" (Frederic Kidder, *Military Operations in Eastern Maine and Nova Scotia during the Revolution: Chiefly Compiled from the Journals and Letters of Colonel John Allan, with Notes and a Memoir of Col. John Allan* at 105-106 (Kraus Reprint 1971)). Unfortunately, this treaty is now lost, but Allan in 1793 described the instrument's conditions: "It was agreed and concluded that Peace & Friendship be now Established permanent & lasting between the United States & the Several Tribes that such of them as were in the vicinity of the States should immediately withdraw and assist in the defense of the country, which lay within the Jurisdiction of the United States. That any Individual belonging to those tribes whose Situation would not permit them publicly to take an active part were admitted to join with those who did. That those employed should be supported during their service & the widows and children of such as died in the time, to be taken care of till otherwise provided for. That they should be for ever viewed as brothers & children, under the Protection & Fatherly care of the United States & enjoy every right & privilege, according to the difference of setuation in proportion with others. They should enjoy the free exercise of religion agreeable to their profession, a clergyman of that denomination be fur-

nished and a suitable residence be provided for him, on which a place of worship was to be erected. They were to have exclusive right to the beaver hunt, or if not consistent with the rights of others, necessary Steps were to be taken, as to prevent a destruction of the game & other enormities committed by the white hunters, by which conduct a great diminution of that ancient & profitable support has been the Consequences. That in times of difficulty & distress, or by any unforeseen calamity those who live within the Territory of the United States, should be furnished with ammunition for fowling &c in proportion as their necessitys required. That trade was to be so regulated as to prevent imposition, that an agent should constantly reside as near them as possible, to whom they may apply for duress, & to assist in transacting of business among the Inhabitants & such other necessary matter as their situation required" (Kidder, *Military Operations in Eastern Maine and Nova Scotia during the Revolution* at 311-312). This letter was referenced, along with other relevant history, in the 1980 Hearings before the Select Committee on Indian Affairs regarding the proposed settlement of the Maine Indian land claims (see James Wherry, "The History of Maliseets and Micmacs in Aroostook County, Maine: Preliminary Report Number Two, June 1979" at 506-609 in *Proposed Settlement of Maine Indian Land Claims*. 2 *Hearings before the Select Committee on Indian Affairs, United States Senate, 96th Congress, 2nd Session, on S. 2829 to provide for the settlement of the Maine Indian land claims* (Government Printing Office 1980)). It is unfortunate that this is the only treaty in Deloria and DeMallie's "Chronological List of Ratified or Valid and Operable Treaties" for which the text may not be found.

11. Ruben Gold Thwaites and Louise Phelps Kellogg, *The Revolution on the Upper Ohio*, *1775-1777* at 25-27 (Wisconsin Historical Society 1908).

12. Clinton Alfred Weslager, *The Nanticoke Indians: Past and Present* at 261-263 (University of Delaware Press 1983). Two of the participants–the Nanticoke and the Conoy–may be unfamiliar names. This pair though is included in the 1775 list of tribes of the northern and the southern districts of North America ("Instructions to Governor Carleton, 1775" in Adam Shortt and Arthur G. Doughty, *Documents Relating to the Constitutional History of Canada, 1759-1791* at 427 (Public Archives of Canada 1907)), along with another fifty-two tribes. The *Handbook of American Indians North of Mexico* synonym list (Frederick Webb Hodge, *Handbook of American Indians North of Mexico* at 1178 (Rowman and Littlefield 1979)), and the text of this two-volume set, can be used to identify better some of the early Indian contacts. See Feest remarks upon the Nanticoke and their neighbors (Christian F. Feest, "Nanticoke and Neighboring Tribes" in 15 *Handbook of North American Indians*, *Northeast* at 240-252 (William C. Sturtevant and Bruce G. Trigger, eds., Smithsonian Institution 1978)).

13. With specific regard to these tribes, the *Report on Terminated and Nonfederally Recognized Tribes* (*Report on Terminated and Nonfederally Recognized Tribes*. Task Force Ten: Terminated and Nonfederally Recognized Tribes. Final Report to the American Indian Policy Review Commission (Government Printing Office 1976)) contains the findings of the American Indian Policy Review Commission, which began operations in 1975. Its mandate was "to gather facts and other information necessary for the American Indian Policy Review Commission to report to Congress on the status of terminated

and nonfederally recognized Indian tribes, bands, and groups and make any recommendations as required by Public Law 93-580" (p. 3). In the section devoted to the tribes of Maine, the unpublished materials from the Commission's meeting in Boston in April 1976 were cited. The Governor of the larger of two Passamaquoddy reservations gave a brief account of the relationship between the tribe and the federal government. In that statement, he commented that "we have lived in our present location since time immemorial, that *we entered into an unratified treaty with the United States in 1777*" (p. 101; emphasis added). Reference in that statement is also made to "our brothers in the Wabanaki Confederacy," i.e., to the Penobscot, Micmac, Maliseet, Abenaki, and Sokoki tribes (p. 73). See Walker, Buesing, and Conkling for an account of this confederation (Willard Walker, Gregory Buesing, and Robert Conkling, "A Chronological Account of the Wabanaki Confederacy" in *Political Organization of Native North Americans* at 41-84 (Ernest L. Schusky, ed., University Press of America 1980)). Swanton's discussion of the tribes of Maine conveys the history of these groups; Maliseet (or Malisit) is the Micmac term for the Malecite (John R. Swanton, *The Indian Tribes of North America* at 13-17, 578 (Smithsonian Institution 1952)). Thus, the 1777 treaty of the Passamaquoddy, Penobscot, and Malecite tribes, proposed by Deloria and DeMallie, appeared to be a valid contract at least in the minds of the Passamaquoddy at that meeting in Boston, two hundred years later. In chapter 9, "Settlement Acts," the authors note that the land claims for these three groups were addressed in Public Law 96-420, the *Maine Indian Claims Settlement Act of 1980* (Pub. L. No. 96-420; 94 *Stat*. 1785). The act was "[t]o provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes." This was the direct result of the court actions taken by the Passamaquoddy and their claims to land that had been ceded by way of a 1795 *state* treaty, i.e., without the authority of the federal government that was required by the *Trade and Intercourse Act* suite of legislation. In *Joint Tribal Council of the Passamaquoddy Tribe v. Morton* (528 F.2d 370 (1975)), the tribe sued the federal government to recover their lands from the State of Maine. The Court of Appeals found that the *Trade and Intercourse Act of 1790* initiated a trust relationship between the federal government and the tribe, a relationship that the government never terminated. As such, the fiduciary responsibility of the government as trustee required that it file suit against the State of Maine. See Bourque for a complete history of this region (Bruce Joseph Bourque, *Twelve Thousand Years: American Indians in Maine* (University of Nebraska Press 2001)).

14. James Alton James, 3 *George Rogers Clark Papers*, *1771-1781*, *Virginia* at 65 (Illinois State Historical Library 1912).

15. James, 3 *George Rogers Clark Papers* at 66-67.

16. Louise Phelps Kellogg, *Frontier Advance on the Upper Ohio*, *1778-1779* at 397-400 (Wisconsin Historical Society 1916).

17. Deloria and DeMallie at 209-210; and, New York Assembly, *Report of the Special Committee Appointed by the Assembly of 1888 to Investigate the "Indian Problem" of the State*. Report Number 51 at 256-262 (Troy Press 1889).

18. Deloria and DeMallie at 211-212; and, New York Assembly at 214-215.

19. Deloria and DeMallie at 212; and, 2 Kappler at 1031.

20. Deloria and DeMallie at 213; and, 1 *American State Papers: Indian Affairs* at 753-754 (W. S. Hein & Co. 1998).

21. Deloria and DeMallie at 213-216; and, New York Assembly at 144-149.

22. All of these treaty documents are on companion microfiche plate number 32-1-17 to the *CIS Index to U.S. Senate Executive Documents and Reports* (Congressional Information Service, 2 *CIS Index to U.S. Senate Executive Documents and Reports, Covering Documents and Reports Not Printed in the US Serial Set, 1817-1969: Reference Bibliography* at 23 (Congressional Information Service 1987)).

23. These documents are presented in document number order, as per the designation in the Senate Confidential Executive Documents sequence. The six Gaines treaties are:

1. The *Treaty with the Santiam Band of Kalapuya* (Deloria and DeMallie at 1276-78; and, "Articles of agreement and treaty stipulations, entered into at Champoeg, in the Territory of Oregon, April 16, 1851, between John P. Gaines and others, commissioners on the part of the United States, and the chiefs of the Santiam band of the Callapooya tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 40 at 15-16 (Government Printing Office 1852));
2. The *Treaty with the Twalaty Band of Kalapuya* (Deloria and DeMallie at 1278-80; and, "Articles of agreement and treaty stipulations, entered into at Champoeg, in the Territory of Oregon, April 19, 1851, between Jno. P. Gaines and others, commissioners on the part of the United States, and the chiefs of the Twalaty band of the Callapooya tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 41 at 17-19 (Government Printing Office 1852));
3. The *Treaty with the Luck-A-Mi-Ute Band of Kalapuya* (Deloria and DeMallie at 1280-1282; and, "Articles of agreement and treaty stipulations, entered into at Champoeg, Territory of Oregon, May 2, 1851, between John P. Gaines and others, commissioners on the part of the United States, and the chiefs of the Luck-a-mi-ute band of the Callapooya tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 42 at 21-23 (Government Printing Office 1852));
4. The *Treaty with the Yamhill Band of Kalapuya* (Deloria and DeMallie at 1282-1283; and, "Articles of agreement and treaty stipulations, entered into at Champoeg, in the Territory of Oregon, May 2, 1851, between John P. Gaines and others, commissioners on the part of the United States, and the chiefs of the Yamhill band of the Callapooya tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 43 at 25-27 (Government Printing Office 1852)).
5. The *Treaty with the Principal Band of Molale* (Deloria and DeMallie at 1284-1285; and, "Articles of agreement and treaty stipulations, entered into at Champoeg, in the Territory of Oregon, May 6, 1851, between John P.

Gaines and others, commissioners on the part of the United States, and the chiefs of the principal band of the Moolal-le tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 44 at 29-31 (Government Printing Office 1852)); and,

6. The *Treaty with the Santiam Band of Molale* (Deloria and DeMallie at 1285-1287; and, "Articles of agreement and treaty stipulations, entered into at Champoeg, in the Territory of Oregon, May 7, 1851, between Jno. P. Gaines and others, commissioners on the part of the United States, and the chief of the Santiam band of the Moolal-le tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 45 at 33-35 (Government Printing Office 1852)).

Dart's five documents are:

1. The *Treaty with the Konnaack Band of the Chinook* (Deloria and DeMallie at 1288-1289; and, "Articles of a treaty made and concluded at Tansey Point, near Clatsop Plains, August 8, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Konnaack band of the Chinook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 51 at 47-48 (Government Printing Office 1852));
2. The *Treaty with the Klatskania Band of the Chinook* (Deloria and DeMallie at 1289-1290; and, "Articles of a treaty made and concluded at Tansey Point, near Clatsop Plains, August 9, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Klatskania band of the Chinook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 55 at 55-56 (Government Printing Office 1852));
3. The *Treaty with the Ya-Su-Chah* (Deloria and DeMallie at 1292-1293; and, "Articles of a treaty made and concluded at Port Orford, on the Pacific Ocean, September 20, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Ya-su-chah band of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 56 at 57-58 (Government Printing Office 1862));
4. The *Treaty with the To-To-Tan, You-Quee-Chae, and Qua-Ton-Wah* (Deloria and DeMallie at 1290-1292; and, "Articles of a treaty made and concluded at Port Orford, on the Pacific Ocean, September 20, 1851, between Anson Dart, Indian superintendent, and others, on the part of the United States, and the To-to-tan, You-quee-chae, &c., bands of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 57 at 59-61 (Government Printing Office 1852)); and,
5. The *Treaty with the Clackmas* (Deloria and DeMallie at 1296-1297; and, "Articles of a treaty made and concluded at Oregon City, November 6, 1851, between Anson Dart, superintendent of Indian affairs, on the part of the United States, and the Clackamas tribe of Indians." United States

Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 58 at 63-64 (Government Printing Office 1852)).

24. Beckham has a table (p. 181) entitled "Unratified Treaties, Western Oregon, 1850-1855" that embraces all six of the Senate Confidential Executive Documents for Gaines, but a mixed collection of (and at least one absent from) those for Dart. In addition, negotiation attempts from 1850, 1851, 1853, 1854, and 1855 bring the total to at least twenty unratified treaties for this area over these few years. Beckham also has a second table for seven ratified treaties for the years 1853-1855, i.e., for ratified treaty number 263, 264, 277, 278, 279, 282, and 300 (p. 182).

25. Deloria and DeMallie at 218-219; and, "Articles of a treaty made and concluded at Tansey Point, on the Columbia River, near Clatsop Plains, August 5, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States and the Clatsop tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 46 at 37-38 (Government Printing Office 1852).

26. Deloria and DeMallie at 219-221; and, "Articles of a treaty made and concluded at Tansey Point, on the Columbia River, near Clatsop Plains, August 6, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Naalem band of the Tillamook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 47 at 39-40 (Government Printing Office 1852).

27. Deloria and DeMallie at 221-222; and, "Articles of a treaty made and concluded at Tansey Point, on the Columbia River, near Clatsop Plains, August 7, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Tillamook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 48 at 41-42 (Government Printing Office 1852).

28. Deloria and DeMallie at 222-223; and, "Articles of a treaty made and concluded at Tansey Point, on the Columbia River, near Clatsop Plains, August 7, 1851, between Anson Dart, superintendent of Indian affairs, and others on the part of the United States, and the Wallooskee, only remaining chief of the Nuc-que-clah-we-muck tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 49 at 43-44 (Government Printing Office 1852).

29. Deloria and DeMallie at 223-224; and, "Articles of a treaty made and concluded at Tansey Point, near Clatsop Plains, August 8, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Waukikum band of the Chinook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 50 at 45-46 (Government Printing Office 1852).

30. Deloria and DeMallie at 224-226; and, "Articles of a treaty made and concluded at Tansey Point, near Clatsop Plains, August 9, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Kathlamet band of the Chinook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 52 at 49-50 (Government Printing Office 1852).

31. Deloria and DeMallie at 226-227; and, "Articles of a treaty made and concluded at Tansey Point, near Clatsop Plains, August 9, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Wheelappa band of the Chinook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 53 at 51-52 (Government Printing Office 1852).

32. Deloria and DeMallie at 227-228; and, "Articles of a treaty made and concluded at Tansey Point, near Clatsop Plains, August 9, 1851, between Anson Dart, superintendent of Indian affairs, and others, on the part of the United States, and the Lower band of the Chinook tribe of Indians." United States Senate, 32nd Congress, 1st Session, Senate Confidential Executive Document No. 54 at 53-54 (Government Printing Office 1852).

33. *Council with the Sioux Indians at Fort Pierre*. United States House of Representatives, 34th Congress, 1st Session, House Executive Document No. 130 at 6-8, Serial Set 859 (Government Printing Office 1856).

34. 2 Kappler at 998-1007.

35. *Message of the President of the United States, and accompanying documents, to the two Houses of Congress, at the commencement of the second session of the Thirty-eighth Congress*. United States House of Representatives, 38th Congress, 2nd Session, House Executive Document No. 1 at 279-280, Serial Set 1220 (Government Printing Office 1865).

36. Deloria and DeMallie at 229-230; and, *Council with the Sioux Indians at Fort Pierre*.

37. Deloria and DeMallie at 231-232; and, *Message of the President* at 279-280. The treaty text is also available at 135-136 in the stand-alone volume *Report of the Commissioner of Indian Affairs for the Year 1864* (Government Printing Office 1865).

38. *Roll List for M668*. An unpublished frame list to support the M668, *Ratified Indian Treaties*, *1722-1869* microfilm collection of the National Archives and Records Administration at 2 (National Archives and Records Service, n.d.). I thank Mary Frances Morrow, Reference Archivist at the National Archives and Records Administration, for providing this list.

39. See, "Finding List B, Supplemental Articles and Supplementary Treaties" in *Kappler Revisited* (Bernholz at 64-65) for a brief description of supplemental documents.

40. 5 Kappler at 709.

41. 1 *American State Papers* at 627-628.

42. New York Assembly at 249-252.

43. 2 Kappler at 1027-1030.

44. 1 *American State Papers* at 641.

45. 2 Kappler at 901-902 and 903-904.

46. Deloria and DeMallie at 208.

47. Charles J. Kappler, *Indian Affairs: Laws and Treaties: vol. 5, Laws* (Government Printing Office 1941).