

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

Faculty Publications, UNL Libraries

Libraries at University of Nebraska-Lincoln

October 2005

American Indian Treaties in the State Courts: A Guide to Treaty Citations from Opinions of the State Court Systems

Charles D. Bernholz

University of Nebraska-Lincoln, cbernholz2@unl.edu

Robert J. Weiner Jr.

Syracuse University College of Law, rjweiner@law.syr.edu

Follow this and additional works at: <https://digitalcommons.unl.edu/librarianscience>

 Part of the [Library and Information Science Commons](#)

Bernholz, Charles D. and Weiner, Robert J. Jr., "American Indian Treaties in the State Courts: A Guide to Treaty Citations from Opinions of the State Court Systems" (2005). *Faculty Publications, UNL Libraries*. 13.

<https://digitalcommons.unl.edu/librarianscience/13>

This Article is brought to you for free and open access by the Libraries at University of Nebraska-Lincoln at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Faculty Publications, UNL Libraries by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.



American Indian treaties in the State Courts: A guide to treaty citations from opinions of the State Court systems

Charles D. Bernholz^{a,*}, Robert J. Weiner Jr.^{b,1}

^a*Love Memorial Library, University of Nebraska, Lincoln, NE 68588, USA*

^b*H. Douglas Barclay Law Library, Syracuse University College of Law, Syracuse, NY 13244, USA*

Available online 14 July 2005

In five other guides, the 375 recognized American Indian treaties created between the tribes and the federal government were partitioned into three categories: those instruments that have been cited in the opinions of the United States Supreme Court;¹ those treaties that have appeared before only a lower level of the federal court system, i.e., below the Supreme Court² or—as a special subset—before the Courts of Claims;³ and those contracts that have never been referenced in the opinions of any federal court.⁴

However, some of these obligatory documents, created between these sovereign entities, have been cited within proceedings at the State Court level, and it is this specific ensemble of cases that is presented in this guide.⁵

Early in the history of the United States, difficulties arose for States in their expectations of authority. *Worcester v. Georgia*⁶ demonstrated that the State of Georgia had no authority within Cherokee tribal territory, and since then—with only a few deviations—the United States Supreme Court has affirmed this principle of sovereignty separation.

In some situations, the degree of insulation from any potential State interference was assured to tribes in federal treaty negotiations.⁷ Nevertheless, over time, evolving federal Indian policy created an atmosphere that led to the creation of reservations and to the allotment program. The separation of tribes from non-Indian populations was reduced through this latter process, and the creation of new States from the Territories led to further questions regarding States'

* Corresponding author. Fax: +1 402 472 5131.

E-mail addresses: cbernholz2@unl.edu (C.D. Bernholz), rjweiner@law.syr.edu (R.J. Weiner).

¹ Fax: +1 315 443 9567.

authority. *The Kansas Indians*⁸ case before the United States Supreme Court argued that the integration of Indians into the general population as a by-product of land allotment sales to Whites meant that State law should apply to *all* residents of the counties involved. The Court rejected this argument.⁹ It did so again in a similar taxation case involving three Seneca reservations in New York State.¹⁰ *McClanahan v. Arizona State Tax Commission*¹¹ reiterated—a century later—the Court’s position on this “tradition of sovereignty:” preemption of State laws within Indian lands adheres to a federal policy of tribal sovereignty.

Other tribal-State concerns included issues regarding freedom from slavery (*Gregory v. Baugh*, Virginia)¹² and freedom of religion in American Indian traditions (*State v. Big Sheep*, Montana, and *State v. Brave Heart*, South Dakota).¹³ While many cases involved conflicts over treaty parameters and cultural traditions, *Montoya v. Bolack* (New Mexico)¹⁴ was decided in favor of American Indians who claimed the right to vote in state elections.

The *Metlakatla Indian Community v. Egan*¹⁵ suit concerned the use by Alaska natives of salmon fish traps that violated State law. The Secretary of the Interior had authorized the use of fish traps by the Metlakatians,¹⁶ as part of federal actions that initially had conveyed to them the use of the Annette Islands in southeastern Alaska. The appellants claimed that “the Alaska constitution and statutes prohibiting fish traps [were] not applicable to them because, in adopting the constitution, the people of Alaska disclaimed right or title in or jurisdiction over Indian fishing rights and that the Alaska Statehood Act reserved absolute jurisdiction and control over Indian fishing rights to the United States.”¹⁷ The Supreme Court of Alaska determined that the federal government had not provided the Metlakatians with any permanent rights via treaty, and that, even if there had been some federal protections, these provisions did not transfer upon Alaska attaining statehood. This judgment was vacated when it was subsequently established, in the United States Supreme Court, that the Secretary of the Interior was authorized to permit the use of fish traps by the Metlakatians (*Metlakatla Indian Community v. Egan*).¹⁸

The concerns are almost limitless, from traditional matters like water rights (*Byers v. We-wa-ne*, Oregon)¹⁹ and trespass (*Strawberry Valley Cattle Co. v. Chipman*, Utah)²⁰ to modern issues such as the *Indian Child Welfare Act* (*In re Baby Boy D*, Oklahoma),²¹ gambling (*State ex rel. May v. Seneca-Cayuga Tribe*, Oklahoma),²² and traffic violations (*State v. Webster*, Wisconsin).²³ Controversy over gathering rights²⁴ has always been particularly intense, and the recent reliance upon treaty parameters in *Minnesota v. Mille Lacs Band of Chippewa Indians*²⁵ is a demonstration of the contemporary usefulness and validity of these instruments.²⁶

A number of cases demonstrate ongoing gathering rights conflicts at the State, as opposed to the federal, level. These actions concern hunting and fishing issues, but also extend to other related areas such as the harvesting of wild rice found in *State v. Keezer* (Minnesota).²⁷ While contributing to the federal versus State jurisdictional debate, the tension between federal treaties protecting such tribal gathering rights and state conservation protections often frames the conflict.

For example, [Table 1](#) contains six gathering rights cases, all argued before the Supreme Court of Idaho between 1943 and 1985, which refer to eleven federal treaties.²⁸ These proceedings provide insight into the difficulties attached to these inquiries.

Table 1

Indian treaties, listed by Department of State ratified treaty number, which have been referenced in the opinions of State Courts

Ratified treaty number	Signatory tribe(s)	Treaty signing date	Kappler page number	Statutes at large	Case title	Citation	Court
1	Cayuga; Mohawk; Oneida; Onondaga; Seneca; Mahican	14 September 1722	<i>EAIT</i> 9, 103; <i>NY</i> 5, 657	–	Gregory v. Baugh (1827)	25 Va. 611	Sup. Ct., Va.
3	Cayuga; Mohawk; Oneida; Onondaga; Seneca; Tuscarora	4 July 1744	<i>EAIT</i> 2, 77; <i>Franklin</i> 41	–	In re Baby Boy D (1985)	742 P.2d 1059	Sup. Ct., Okla.
7	Cayuga; Mohawk; Oneida; Onondaga; Seneca; Tuscarora; Shawnee; Delaware; Mingo	5 November 1768	<i>EAIT</i> 10, 541; <i>NY</i> 8, 111	–	Commonwealth v. Coxe (1800)	4 U.S. 170	Sup. Ct., Pa.
7		5 November 1768	<i>EAIT</i> 10, 541; <i>NY</i> 8, 111	–	Poor v. McClure (1874)	77 Pa. 214	Sup. Ct., Pa.
9	Cayuga; Mohawk; Oneida; Onondaga; Seneca; Tuscarora	22 October 1784	5	7 Stat. 15	People ex rel. Cayuga Nation of Indians v. Commissioners of Land Office (1911)	74 Misc. 154	Sup. Ct., N.Y.

9		22 October 1784	5	7 Stat. 15	People ex rel. Cayuga Nation of Indians v. Commissioners of Land Office (1912)	152 A.D. 543	App. Div., N.Y.
9		22 October 1784	5	7 Stat. 15	Andrews v. State (1948)	192 Misc. 429	Ct. Cl., N.Y.
9		22 October 1784	5	7 Stat. 15	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
9		22 October 1784	5	7 Stat. 15	New York State Department of Taxation and Finance v. Bramhall (1997)	235 A.D.2d 75	Sup. Ct., N.Y.
10	Wyandot; Delaware; Chippewa; Ottawa	21 January 1785	6	7 Stat. 16	Brown v. Babbitt Ford (1977)	117 Ariz. 192	Ct. App., Ariz.
11	Cherokee	28 November 1785	8	7 Stat. 18	J & M Aircraft Mobile T Hangars, Inc. v. Johnson County Airport Authority (2004)	269 Ga. App. 800	Ct. App., Ga.
15	Wyandot; Delaware; Ottawa; Chippewa; Potawatomi; Sac	9 January 1789	18	7 Stat. 28	Lewis v. Sac and Fox Tribe of Oklahoma Housing Authority (1994)	896 P.2d 503	Sup. Ct., Okla.
16	Cayuga; Mohawk; Oneida; Onondaga; Seneca; Tuscarora	9 January 1789	23	7 Stat. 33	People ex rel. Cayuga Nation of Indians v. Commissioners of Land Office (1912)	152 A.D. 543	App. Div., N.Y.

Table 1 (continued)

16		9 January 1789	23	7 Stat. 33	Andrews v. State (1948)	192 Misc. 429	Ct. Cl., N.Y.
16		9 January 1789	23	7 Stat. 33	New York State Department of Taxation and Finance v. Bramhall (1997)	235 A.D.2d 75	Sup. Ct., N.Y.
21	Cayuga; Mohawk; Oneida; Onondaga; Seneca; Tuscarora	11 November 1794	34	7 Stat. 44	Shongo v. Miller (1899)	45 A.D. 339	App. Div., N.Y.
21		11 November 1794	34	7 Stat. 44	Sharp v. Lancaster (1909)	23 Okla. 349	Sup. Ct., Okla.
21		11 November 1794	34	7 Stat. 44	People ex rel. Cayuga Nation of Indians v. Commissioners of Land Office (1912)	152 A.D. 543	App. Div., N.Y.
21		11 November 1794	34	7 Stat. 44	Woodin v. Seeley (1931)	141 Misc. 207	County Ct., N.Y. Chautauqua
21		11 November 1794	34	7 Stat. 44	People ex rel. Ray v. Martin (1945)	294 N.Y. 61	Ct. App., N.Y.
21		11 November 1794	34	7 Stat. 44	Andrews v. State (1948)	192 Misc. 429	Ct. Cl., N.Y.
21		11 November 1794	34	7 Stat. 44	Fischer v. Tebo (1959)	9 A.D.2d 470	App. Div., N.Y.
21		11 November 1794	34	7 Stat. 44	Pierce v. State Tax Commission (1968)	29 A.D.2d 124	Ct. App., N.Y.

21		11 November 1794	34	7 Stat. 44	People v. Edwards (1980)	104 Misc.2d305	Sup. Ct., N.Y.
21		11 November 1794	34	7 Stat. 44	People v. Gunton (1993)	198 A.D.2d 890	App. Div., N.Y.
21		11 November 1794	34	7 Stat. 44	New York State Department of Taxation and Finance v. Bramhall (1997)	235 A.D.2d 75	Sup. Ct., N.Y.
23	Wyandot; Delaware; Shawnee; Ottawa; Chippewa; Potawatomi; Miami; Eel River; Wea; Kickapoo; Piankashaw; Kaskaskia	3 August 1795	39	7 Stat. 49	Lemieux v. Agate Land Co. (1927)	214 N.W. 454	Sup. Ct., Ohio
23		3 August 1795	39	7 Stat. 49	Hernik v. Director of Highways (1959)	160 N.E.2d 249	Sup. Ct., N.Y.
23		3 August 1795	39	7 Stat. 49	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Minn.
23		3 August 1795	39	7 Stat. 49	State v. Keezer (1980)	292 N.W.2d 714	Sup. Ct., Mich.
24	Seven Nations of Canada	31 May 1796	45	7 Stat. 55	St. Regis Tribe of Mohawk Indians v. State (1956)	4 Misc.2d 110	Ct. Cl., N.Y.
24		31 May 1796	45	7 Stat. 55	St. Regis Tribe of Mohawk Indians v. State (1957)	5 A.D.2d 117	App. Div., N.Y.

(continued on next page)

Table 1 (continued)

24		31 May 1796	45	7 Stat. 55	St. Regis Tribe of Mohawk Indians v. State (1958)	5 N.Y.2d 24	Sup. Ct., N.Y.
24		31 May 1796	45	7 Stat. 55	Fischer v. Tebo (1959)	9 A.D.2d 470	App. Div., N.Y.
27	Seneca	15 September 1797	1027	7 Stat. 601; <i>American State Papers: Indian Affairs</i> 1, 627	State v. Tulee (1941)	7 Wash.2d 124	Sup. Ct., Wash.
27		15 September 1797	1027	7 Stat. 601; <i>American State Papers: Indian Affairs</i> 1, 627	Wood v. City of Salamanca (1942)	289 N.Y. 279	Sup. Ct., N.Y.
27		15 September 1797	1027	7 Stat. 601; <i>American State Papers: Indian Affairs</i> 1, 627	Department of Game v. Puyallup Tribe, Inc. (1967)	70 Wash.2d 245	Sup. Ct., Wash.
31	Choctaw	17 December 1801	56	7 Stat. 66	Brown v. Babbitt Ford (1977)	117 Ariz. 192	Ct. App., Ariz.
45	Wyandot; Ottawa; Chippewa; Munsee; Delaware; Shawnee; Potawatomi	4 July 1805	77	7 Stat. 87	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
54	Ottawa; Chippewa; Wyandot; Potawatomi	17 November 1807	92	7 Stat. 105	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
56	Chippewa; Ottawa; Potawatomi; Wyandot; Shawnee	25 November 1808	99	7 Stat. 112	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.

60	Wyandot; Delaware; Shawnee; Seneca; Miami; Potawatomi; Ottawa: Blanchard's Fork; Kickapoo	22 July 1814	105	7 Stat. 118	Hernik v. Director of Highways (1959)	160 N.E.2d 249	Sup. Ct., Ohio
86	Menominee	30 March 1817	138	7 Stat. 153	Sturdevant v. State (1977)	76 Wis.2d 247	Sup. Ct., Wis.
90	Wyandot; Seneca; Delaware; Shawnee; Potawatomi; Ottawa; Chippewa	29 September 1817	145	7 Stat. 160	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
90		29 September 1817	145	7 Stat. 160	Children of Chippewa, Ottawa and Potawatomi Tribes v. Regents of University of Michigan (1981)	104 Mich. App. 482	Ct. App., Mich.
90		29 September 1817	145	7 Stat. 160	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
96	Quapaw	24 August 1818	160	7 Stat. 176	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
109	Chippewa	24 September 1819	185	7 Stat. 203	Francis v. Francis (1904)	136 Mich. 288	Sup. Ct., Mich.

(continued on next page)

Table 1 (continued)

109		24 September 1819	185	7 Stat. 203	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
110	Chippewa	16 June 1820	187	7 Stat. 206	Spaulding v. Chandler (1890)	84 Mich. 140	Sup. Ct., Mich.
110		16 June 1820	187	7 Stat. 206	People v. Le Blanc (1974)	55 Mich. App. 684	Ct. App., Mich.
115	Choctaw	18 October 1820	191	7 Stat. 210	Ned v. Countiss (1922)	84 Okla. 138	Sup. Ct., Okla.
116	Creek	8 January 1821	195	7 Stat. 215	Minter v. State (1924)	158 Ga. 127	Sup. Ct., Ga.
117	Ottawa; Chippewa; Potawatomi	29 August 1821	198	7 Stat. 218	Steeple v. Downing (1879)	60 Ind. 478	Sup. Ct., Ind.
117		29 August 1821	198	7 Stat. 218	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
123	Quapaw	15 November 1824	210	7 Stat. 232	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
123.1	Quapaw	13 May 1833	395	7 Stat. 424	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
125	Creek	12 February 1825	214	7 Stat. 237	J & M Aircraft Mobile T Hangars, Inc. v. Johnson County Airport Authority (2004)	269 Ga. App. 800	Ct. App., Ga.
127	Kansa	3 June 1825	222	7 Stat. 244	Stevens v. Smith (1864)	2 Kan. 243	Sup. Ct., Kan.
127		3 June 1825	222	7 Stat. 244	Brown v. Belmarde (1864)	3 Kan. 41	Sup. Ct., Kan.
127		3 June 1825	222	7 Stat. 244	Brader v. James (1916)	49 Okla. 734	Sup. Ct., Okla.

139	Sioux; Chippewa; Sac and Fox; Menominee; Iowa; Winnebago; Ottawa; Potawatomi	19 August 1825	250	7 Stat. 272	State v. Keezer (1980)	292 N.W.2d 714	Sup. Ct., Minn.
139		19 August 1825	250	7 Stat. 272	State v. Lowe (1982)	109 Wis.2d 633	Ct. App., Wis.
144	Creek	24 January 1826	264	7 Stat. 286	Minter v. State (1924)	158 Ga. 127	Sup. Ct., Ga.
146	Potawatomi	16 October 1826	273	7 Stat. 295	Ashley v. Eberts (1864)	22 Ind. 55	Sup. Ct., Ind.
152	Cherokee: Western	6 May 1828	288	7 Stat. 311	Strawberry Valley Cattle Co. v. Chipman (1896)	13 Utah 454	Sup. Ct., Utah
152		6 May 1828	288	7 Stat. 311	Vickery v. Yahola Sand and Gravel Co. (1932)	158 Okla. 120	Sup. Ct., Okla.
152		6 May 1828	288	7 Stat. 311	Aladdin Petroleum Corp. v. State ex rel. Commis- sioners of Land Office (1948)	200 Okla. 134	Sup. Ct., Okla.
152		6 May 1828	288	7 Stat. 311	State v. McCoy (1963)	63 Wash.2d 421	Sup. Ct., Mich.

(continued on next page)

Table 1 (continued)

152.1	Cherokee; Western	14 February 1833	385	7 Stat. 414	Aladdin Petroleum Corp. v. State ex rel. Commis- sioners of Land Office (1948)	200 Okla. 134	Sup. Ct., Okla.
152.1		14 February 1833	385	7 Stat. 414	Vickery v. Yahola Sand and Gravel Co. (1932)	158 Okla. 120	Sup. Ct., Okla.
154	Potawatomi	20 September 1828	294	7 Stat. 317	People v. Gebhard (1908)	151 Mich. 192	Sup. Ct., Mich.
155	Chippewa; Ottawa; Potawatomi	29 July 1829	297	7 Stat. 320	Lomax v. Pickering (1897)	165 Ill. 431	Sup. Ct., Ill.
155		29 July 1829	297	7 Stat. 320	People v. Gebhard (1908)	151 Mich. 192	Sup. Ct., Mich.
160	Choctaw	27 September 1830	310	7 Stat. 333	Godfrey v. Iowa Land and Trust Co. (1908)	95 P. 792	Sup. Ct., Okla.
160		27 September 1830	310	7 Stat. 333	Ned v. Countiss (1922)	84 Okla. 138	Sup. Ct., Okla.
160		27 September 1830	310	7 Stat. 333	Taylor v. Johnson (1923)	92 Okla. 145	Sup. Ct., Okla.
160		27 September 1830	310	7 Stat. 333	Sampson v. Stapleton (1916)	55 Okla. 547	Sup. Ct., Okla.
160		27 September 1830	310	7 Stat. 333	Wrigley v. McCoy (1917)	73 Okla. 161	Sup. Ct., Okla.
160		27 September 1830	310	7 Stat. 333	Ex parte Nowabbi (1936)	60 Okla. Crim. 111	Ct. Crim. App., Okla.
160		27 September 1830	310	7 Stat. 333	Tubby v. State (1976)	327 So.2d 272	Sup. Ct., Miss.
160		27 September 1830	310	7 Stat. 333	Wildcatt v. Smith (1984)	311 N.C. 397	Ct. App., N.C.

161	Menominee	8 February 1831	319	7 Stat. 342	Sturdevant v. State (1977)	76 Wis.2d 247	Sup. Ct., Wis.
162	Seneca	28 February 1831	325	7 Stat. 348	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
162		28 February 1831	325	7 Stat. 348	Hanes v. State (1998)	973 P.2d 330	Ct. Crim. App., Okla.
163	Seneca: Mixed; Shawnee	20 July 1831	327	7 Stat. 351	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
163		20 July 1831	327	7 Stat. 351	Hanes v. State (1998)	973 P.2d 330	Ct. Crim. App., Okla.
164	Shawnee	8 August 1831	331	7 Stat. 355	In re Oyler (1994)	256 Kan. 589	Sup. Ct., Kan.
164		8 August 1831	331	7 Stat. 355	Pettit v. Pettit (1858)	32 Ala. 288	Sup. Ct., Ala.
173	Chickasaw	20 October 1832	356	7 Stat. 381	Turney v. Marion County Bd. Of Education (1985)	481 So. 2d 770	Sup. Ct., Miss.
179	Menominee	27 October 1832	377	7 Stat. 405	State v. Davids (1995)	194 Wis. 2d 386	Sup. Ct., Wis.
181	Seneca; Seneca: Mixed; Shawnee	29 December 1832	383	7 Stat. 411	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
181		29 December 1832	383	7 Stat. 411	Hanes v. State (1998)	973 P.2d 330	Ct. Crim. App., Okla.

(continued on next page)

Table 1 (continued)

182	Cherokee; Western	14 February 1833	385	7 Stat. 414	Aladdin Petroleum Corp. v. State ex rel. Commis- sioners of Land Office (1948)	200 Okla. 134	Sup. Ct., Okla.
182		14 February 1833	385	7 Stat. 414	Vickery v. Yahola Sand and Gravel Co. (1932)	158 Okla. 120	Sup. Ct., Okla.
183	Creek	14 February 1833	388	7 Stat. 417	Barnett v. Way (1911)	29 Okla. 780	Sup. Ct., Okla.
186	Quapaw	13 May 1833	395	7 Stat. 424	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
191	Chickasaw	24 May 1834	418	7 Stat. 450	Neilson v. Alberty (1913)	36 Okla. 490	Sup. Ct., Okla.
198	Comanche; Wichita; Cherokee; Muskogee; Choctaw; Osage; Seneca; Quapaw	24 August 1835	435	7 Stat. 474	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.
199	Cherokee	29 December 1835	439	7 Stat. 478	Ephraim v. Garlick (1872)	10 Kan. 280	Sup. Ct., Kan.
199		29 December 1835	439	7 Stat. 478	Strawberry Valley Cattle Co. v. Chipman (1896)	13 Utah 454	Sup. Ct., Utah
199		29 December 1835	439	7 Stat. 478	Vickery v. Yahola Sand and Gravel Co. (1932)	158 Okla. 120	Sup. Ct., Okla.

199		29 December 1835	439	7 Stat. 478	Aladdin Petroleum Corp. v. State ex rel. Commissioners of Land Office (1948)	200 Okla. 134	Sup. Ct., Okla.
199		29 December 1835	439	7 Stat. 478	Wildcatt v. Smith (1984)	311 N.C. 397	Ct. App., N.C.
199		29 December 1835	439	7 Stat. 478	Jackson County by Child Support Enforcement Agency v. Swayney (1987)	319 N.C. 52	Sup. Ct., N.C.
199		29 December 1835	439	7 Stat. 478	J & M Aircraft Mobile T Hangars, Inc. v. Johnson County Airport Authority (2004)	269 Ga. App. 800	Sup. Ct., Okla.
201	Ottawa; Chippewa	28 March 1836	450	7 Stat. 491	People v. Le Blanc (1974)	55 Mich. App. 684	Ct. App., Mich.
201		28 March 1836	450	7 Stat. 491	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
201		28 March 1836	450	7 Stat. 491	In re Wilson (1981)	30 Cal.3d 21	Sup. Ct., Cal.
201		28 March 1836	450	7 Stat. 491	Attorney General v. Hermes (1983)	127 Mich. App. 777	Ct. App., Mich.
201		28 March 1836	450	7 Stat. 491	In re Petition to Adopt T.I.S. (1991)	224 Ill. App.3d 475	App. Ct., Ill.
211	Iowa; Sac: Missouri; Fox: Missouri	17 September 1836	468	7 Stat. 511	Hecker v. Bleish (1927)	3 S.W.2d 1008	Sup. Ct., Mo.
220	Choctaw; Chickasaw	17 January 1837	486	11 Stat. 573	Godfrey v. Iowa Land and Trust Co. (1908)	95 P. 792	Sup. Ct., Okla.
222	Kiowa; Kataka; Tawakoni	26 May 1837	489	7 Stat. 533	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.

(continued on next page)

Table 1 (continued)

223	Chippewa	29 July 1837	491	7 Stat. 536	State v. Johnson (1933)	212 Wis. 301	Sup. Ct., Wis.
223		29 July 1837	491	7 Stat. 536	State v. Keezer (1980)	292 N.W.2d 714	Sup. Ct., Minn.
223		29 July 1837	491	7 Stat. 536	State v. Lowe (1982)	109 Wis.2d 633	Ct. App., Wis.
223		29 July 1837	491	7 Stat. 536	Anderson v. Wisconsin Department of Revenue (1992)	169 Wis.2d 255	Sup. Ct., Wis.
224	Sioux: Mdewakanton	29 September 1837	493	7 Stat. 538	State v. Keezer (1980)	292 N.W.2d 714	Sup. Ct., Minn.
230	Cayuga; Mohawk: St. Regis; Oneida; Onondaga; Seneca; Tuscarora	15 January 1838	502	7 Stat. 550	Hatch v. Luckman (1909)	155 A.D. 765	Sup. Ct., N.Y.
230		15 January 1838	502	7 Stat. 550	Andrews v. State (1948)	192 Misc. 429	Ct. Cl., N.Y.
230		15 January 1838	502	7 Stat. 550	Snyder v. Wetzler (1993)	193 A.D.2d 329	Sup. Ct., N.Y.
238	Stockbridge; Munsee	3 September 1839	529	7 Stat. 580; 11 Stat. 577	State v. Davids (1994)	182 Wis.2d 186	Ct. App., Wis.
238		3 September 1839	529	7 Stat. 580; 11 Stat. 577	State v. Davids (1995)	194 Wis.2d 386	Sup. Ct., Wis.
240	Wyandot	17 March 1842	534	11 Stat. 581	McAlpin v. Henshaw (1870)	6 Kan. 176	Sup. Ct., Kan.
241	Seneca	20 May 1842	537	7 Stat. 586	Hatch v. Luckman (1909)	155 A.D. 765	Sup. Ct., N.Y.
241		20 May 1842	537	7 Stat. 586	Snyder v. Wetzler (1993)	193 A.D.2d 329	Sup. Ct., N.Y.
241		20 May 1842	537	7 Stat. 586	New York State Department of Taxation and Finance v. Bramhall (1997)	235 A.D.2d 75	Sup. Ct., N.Y.

242	Chippewa; Mississippi Chippewa; Lake Superior	4 October 1842	542	7 Stat. 591	State v. Morrin (1908)	136 Wis. 552	Sup. Ct., Wis.
242		4 October 1842	542	7 Stat. 591	Lemieux v. Agate Land Co. (1927)	214 N.W. 454	Sup. Ct., Wis.
242		4 October 1842	542	7 Stat. 591	State v. Johnson (1933)	212 Wis. 301	Sup. Ct., Wis.
242		4 October 1842	542	7 Stat. 591	State v. Lowe (1982)	109 Wis. 2d 633	Ct. App., Wis.
242		4 October 1842	542	7 Stat. 591	Anderson v. Wisconsin Department of Revenue (1992)	169 Wis. 2d 255	Sup. Ct., Wis.
247	Potawatomi; Chippewa; Ottawa	5 June 1846	557	9 Stat. 853	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.
253	Menominee	18 October 1848	572	9 Stat. 952	State v. Tucker (1941)	237 Wis. 310	Sup. Ct., Wis.
253		18 October 1848	572	9 Stat. 952	State v. Sanapaw (1963)	21 Wis. 2d 377	Sup. Ct., Wis.
253		18 October 1848	572	9 Stat. 952	State v. Webster (1983)	114 Wis. 2d 418	Sup. Ct., Wis.
253.1	Menominee	12 May 1854	626	10 Stat. 1064	State v. Tucker (1941)	237 Wis. 310	Sup. Ct., Wis.
253.1		12 May 1854	626	10 Stat. 1064	State v. Sanapaw (1963)	21 Wis. 2d 377	Sup. Ct., Wis.
253.1		12 May 1854	626	10 Stat. 1064	People v. Jondreau (1971)	384 Mich. 539	Sup. Ct., Mich.
253.1		12 May 1854	626	10 Stat. 1064	State v. Webster (1983)	114 Wis. 2d 418	Sup. Ct., Wis.
254	Stockbridge	24 November 1848	574	9 Stat. 955	State v. Davids (1995)	194 Wis. 2d 386	Sup. Ct., Wis.
255	Navajo	9 September 1849	583	9 Stat. 974	Begay v. Miller (1950)	70 Ariz. 380	Sup. Ct., Ariz.

(continued on next page)

Table 1 (continued)

255		9 September 1849	583	9 Stat. 974	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.
259	Sioux: Mdwakanton and Wahpekute	5 August 1851	591	10 Stat. 954	Sharon v. Wooldrick (1872)	18 Minn. 354	Sup. Ct., Minn.
261	Apache	1 July 1852	598	10 Stat. 979	Chino v. Chino (1977)	90 N.M. 203	Sup. Ct., N.M.
261		1 July 1852	598	10 Stat. 979	United States v. Superior Court (1985)	144 Ariz. 265	Sup. Ct., Ariz.
261		1 July 1852	598	10 Stat. 979	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.
266	Omaha	16 March 1854	611	10 Stat. 1043	State v. Nimrod (1912)	30 S.D. 239	Sup. Ct., S.D.
266		16 March 1854	611	10 Stat. 1043	Snohomish County v. Seattle Disposal Co. (1967)	70 Wash.2d 668	Sup. Ct., Wash.
268	Shawnee	10 May 1854	618	10 Stat. 1053	Blue-Jacket v. Commissioners of Johnson County (1865)	3 Kan. 299	Sup. Ct., Kan.
268		10 May 1854	618	10 Stat. 1053	McAlpin v. Henshaw (1870)	6 Kan. 176	Sup. Ct., Kan.
268		10 May 1854	618	10 Stat. 1053	Hale v. Wilder (1871)	8 Kan. 545	Sup. Ct., Kan.
268		10 May 1854	618	10 Stat. 1053	Brown v. Steele (1880)	23 Kan. 672	Sup. Ct., Kan.
268		10 May 1854	618	10 Stat. 1053	State v. O'Laughlin (1882)	29 Kan. 20	Sup. Ct., Kan.
268		10 May 1854	618	10 Stat. 1053	O'Brien v. Bugbee (1891)	46 Kan. 1	Sup. Ct., Kan.

268		10 May 1854	618	10 Stat. 1053	Hannon v. Taylor (1896)	57 Kan. 1	Sup. Ct., Kan.
269	Menominee	12 May 1854	626	10 Stat. 1064	State v. Tucker (1941)	237 Wis. 310	Sup. Ct., Wis.
269		12 May 1854	626	10 Stat. 1064	State v. Sanapaw (1963)	21 Wis.2d 377	Sup. Ct., Wis.
269		12 May 1854	626	10 Stat. 1064	People v. Jondreau (1971)	384 Mich. 539	Sup. Ct., Mich.
269		12 May 1854	626	10 Stat. 1064	State v. Webster (1983)	114 Wis.2d 418	Sup. Ct., Wis.
274	Miami	5 June 1854	641	10 Stat. 1093	Miami County Com'rs v. Wan-zop-pe-che (1865)	3 Kan. 364	Sup. Ct., Kan.
275	Chippewa: Mississippi Chippewa: Lake Superior	30 September 1854	648	10 Stat. 1109	State v. Morrin (1908)	136 Wis. 552	Sup. Ct., Wis.
275		30 September 1854	648	10 Stat. 1109	Laveirge v. Davis (1926)	206 N.W. 939	Sup. Ct., Minn.
275		30 September 1854	648	10 Stat. 1109	McGeehan v. Ashland County (1927)	192 Wis. 177	Sup. Ct., Wis.
275		30 September 1854	648	10 Stat. 1109	Lemieux v. Agate Land Co. (1927)	214 N.W. 454	Sup. Ct., Wis.
275		30 September 1854	648	10 Stat. 1109	State v. Johnson (1933)	212 Wis. 301	Sup. Ct., Wis.
275		30 September 1854	648	10 Stat. 1109	State v. Gurnoe (1972)	53 Wis.2d 390	Sup. Ct., Wis.
275		30 September 1854	648	10 Stat. 1109	People v. Jondreau (1971)	384 Mich. 539	Sup. Ct., Mich.
275		30 September 1854	648	10 Stat. 1109	State v. Whitebird (1982)	110 Wis.2d 250	Ct. App., Wis.
275		30 September 1854	648	10 Stat. 1109	State v. Lemieux (1983)	110 Wis.2d 158	Sup. Ct., Wis.
275		30 September 1854	648	10 Stat. 1109	State v. Newago (1986)	134 Wis.2d 420	Ct. App., Wis.

(continued on next page)

Table 1 (continued)

275		30 September 1854	648	10 Stat. 1109	Anderson v. Wisconsin Department of Revenue (1992)	169 Wis.2d 255	Sup. Ct., Wis.
276	Choctaw; Chickasaw	4 November 1854	652	10 Stat. 1116	Sharp v. Lancaster (1909)	23 Okla. 349	Sup. Ct., Okla.
281	Nisqually; Puyallup; Steilacoom; Squaxin; Homamish; Stehchass; Tapeeksin; Squiaitl; Sahewamish	26 December 1854	661	10 Stat. 1132	Page v. Pierce County (1901)	25 Wash. 6	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	State v. Satiacum (1957)	50 Wash.2d 513	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	Department of Game v. Puyallup Tribe, Inc. (1967)	70 Wash.2d 245	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	State v. Tinno (1972)	94 Idaho 759	Sup. Ct., Idaho
281		26 December 1854	661	10 Stat. 1132	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	Department of Game v. Puyallup Tribe, Inc. (1976)	86 Wash.2d 664	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	Washington State Commercial Passenger Fishing Vessel Assoc. v. Tollefson (1977)	89 Wash.2d 276	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	Puget Sound Gillnetters Assoc. v. Moos (1977)	88 Wash.2d 677	Sup. Ct., Wash.

281		26 December 1854	661	10 Stat. 1132	Puget Sound Gillnet- ters Assoc. v. Moos (1979)	92 Wash.2d 939	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	State v. Courville (1983)	36 Wash. App. 615	Ct. App., Wash.
281		26 December 1854	661	10 Stat. 1132	State v. Stritmatter (1984)	102 Wash.2d 516	Sup. Ct., Wash.
281		26 December 1854	661	10 Stat. 1132	State v. Squally (1997)	132 Wash.2d 333	Sup. Ct., Wash.
283	Duwamish; Suquamish; Stkehlmish; Sammamish; Smulkamish; Skopamish; Stkamish; Snoqualmie; Skykomish; Kwehtlamamish; Staktalijamish; Stillaguamish; Snohomish; Skagit; Kikiallus; Swinomish; Squinamish; Sauk-Suiattle; Nuwhaha; Nookachamps; Mesekwegwils; Chobaabish	22 January 1855	669	12 Stat. 927	Jackson v. Thompson (1905)	38 Wash. 282	Sup. Ct., Wash.
283		22 January 1855	669	12 Stat. 927	Ex parte Nowabbi (1936)	60 Okla. Crim. 111	Ct. Crim. App., Okla.

(continued on next page)

Table 1 (continued)

283	22 January 1855	669	12 Stat. 927	State v. McCoy (1963)	63 Wash.2d 421	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	Snohomish County v. Seattle Disposal Co. (1967)	70 Wash.2d 668	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	State v. Moses (1967)	70 Wash.2d 282	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	Department of Game v. Puyallup Tribe, Inc. (1967)	70 Wash.2d 245	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	State v. Moses (1971)	79 Wash.2d 104	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	Chief Seattle Properties, Inc. v. Kitsap County (1975)	86 Wash.2d 7	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	Department of Game v. Puyallup Tribe, Inc. (1976)	86 Wash.2d 664	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	Puget Sound Gillnetters Assoc. v. Moos (1979)	92 Wash.2d 939	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	State v. Courville (1983)	36 Wash. App. 615	Ct. App., Wash.
283	22 January 1855	669	12 Stat. 927	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.
283	22 January 1855	669	12 Stat. 927	State v. Schmuck (1993)	121 Wash.2d 373	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	State v. Buchanan (1997)	87 Wash. App. 189	Ct. App., Wash.
283	22 January 1855	669	12 Stat. 927	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.
283	22 January 1855	669	12 Stat. 927	State v. Moses (2001)	104 Wash. App. 153	Ct. App., Wash.

283		22 January 1855	669	12 Stat. 927	Landau v. San Juan County (2001)	105 Wash. App. 1015	Ct. App., Wash.
284	Clallam; Skokomish; Chemakum	26 January 1855	674	12 Stat. 933	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
284		26 January 1855	674	12 Stat. 933	Department of Game v. Puyallup Tribe, Inc. (1976)	86 Wash.2d 664	Sup. Ct., Wash.
284		26 January 1855	674	12 Stat. 933	Puget Sound Gillnetters Assoc. v. Moos (1979)	92 Wash.2d 939	Sup. Ct., Wash.
284		26 January 1855	674	12 Stat. 933	State v. Miller (1984)	102 Wash.2d 678	Sup. Ct., Wash.
285	Wyandot	31 January 1855	677	10 Stat. 1159	Summers v. Spybuck (1863)	1 Kan. 394	Sup. Ct., Kan.
285		31 January 1855	677	10 Stat. 1159	Walker v. Armstrong (1863)	2 Kan. 198	Sup. Ct., Kan.
285		31 January 1855	677	10 Stat. 1159	Frederick v. Gray (1874)	12 Kan. 518	Sup. Ct., Kan.
285		31 January 1855	677	10 Stat. 1159	Rider v. Helms (1915)	48 Okla. 610	Sup. Ct., Okla.
286	Makah	31 January 1855	682	12 Stat. 939	Neah Bay Fish Co. v. Krummel (1940)	3 Wash.2d 570	Sup. Ct., Wash.
286		31 January 1855	682	12 Stat. 939	Department of Game v. Puyallup Tribe, Inc. (1967)	70 Wash.2d 245	Sup. Ct., Wash.
286		31 January 1855	682	12 Stat. 939	Makah Indian Tribe v. Clallam County (1968)	73 Wash.2d 677	Sup. Ct., Wash.
286		31 January 1855	682	12 Stat. 939	Makah Indian Tribe v. State (1969)	76 Wash.2d 485	Sup. Ct., Wash.
286		31 January 1855	682	12 Stat. 939	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.

(continued on next page)

Table 1 (continued)

286		31 January 1855	682	12 Stat. 939	Puget Sound Gillnetters Assoc. v. Moos (1979)	92 Wash.2d 939	Sup. Ct., Wash.
286		31 January 1855	682	12 Stat. 939	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.
287	Chippewa: Mississippi, Pillager and Lake Winnibigoshish	22 February 1855	685	10 Stat. 1165	White v. Wright (1901)	83 Minn. 222	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	Bem-way-bin-ness v. Eshelby (1902)	87 Minn. 108	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	Nicholson v. Congdon (1905)	95 Minn. 188	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	Vachon v. Nichols-Chisholm Lumber Co. (1914)	126 Minn. 303	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	Kipp v. Love (1915)	151 N.W. 201	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	Minneapolis Brewing Co. v. Village of Bagley (1919)	142 Minn. 16	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	Courtright v. City of Detroit (1931)	183 N.W. 346	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	State v. Cloud (1930)	179 Minn. 180	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	State v. Bush (1935)	195 Minn. 413	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	State v. Jackson (1944)	218 Minn. 429	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	State v. Forge (1977)	262 N.W.2d 341	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	State v. Clark (1979)	282 N.W.2d 902	Sup. Ct., Minn.
287		22 February 1855	685	10 Stat. 1165	State v. Keezer (1980)	292 N.W.2d 714	Sup. Ct., Minn.

289	Walla Walla; Cayuse; Umatilla	9 June 1855	694	12 Stat. 945	Mosgrove v. Harper (1898)	33 Ore. 252	Sup. Ct., Or.
289		9 June 1855	694	12 Stat. 945	Kalyton v. Kalyton (1903)	45 Or. 116	Sup. Ct., Or.
289		9 June 1855	694	12 Stat. 945	Byers v. We-wa-ne (1917)	86 Ore. 617	Sup. Ct., Or.
289		9 June 1855	694	12 Stat. 945	Merrill v. Bishop (1955)	74 Wyo. 298	Sup. Ct., Wyo.
289		9 June 1855	694	12 Stat. 945	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
289		9 June 1855	694	12 Stat. 945	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
289		9 June 1855	694	12 Stat. 945	Department of Game v. Puyallup Tribe, Inc. (1976)	86 Wash.2d 664	Sup. Ct., Wash.
289		9 June 1855	694	12 Stat. 945	Roman Catholic Bishop v. Department of Revenue (1981)	9 Or. Tax 122	Tax Ct., Or.
289		9 June 1855	694	12 Stat. 945	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.
290	Yakima; Palouse; Pisquouse; Wenatchee; Klikitat; Klinquit; Kowwassayee; Liyawas; Skin; Wishram; Shyiks; Ochechotes; Kahmiltpah; Seapcat	9 June 1855	698	12 Stat. 951	Hough v. Taylor (1920)	110 Wash. 361	Sup. Ct., Wash.

Table 1 (continued)

290	9 June 1855	698	12 Stat. 951	State v. Wallahee (1927)	143 Wash. 117	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	State v. Tulee (1941)	7 Wash.2d 124	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	Seufert Bros. Co. v. Hoptowit (1951)	193 Or. 317	Sup. Ct., Or.
290	9 June 1855	698	12 Stat. 951	State v. McClure (1954)	127 Mont. 534	Sup. Ct., Mont.
290	9 June 1855	698	12 Stat. 951	State ex rel. Clark v. Hogan (1956)	49 Wash.2d 457	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	State v. Satiacum (1957)	50 Wash.2d 513	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	In re Colwash (1960)	57 Wash.2d 196	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	State v. James (1967)	72 Wash.2d 746	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	People v. Jondreau (1971)	384 Mich. 539	Sup. Ct., Mich.
290	9 June 1855	698	12 Stat. 951	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	State v. Chambers (1973)	81 Wash.2d 929	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
290	9 June 1855	698	12 Stat. 951	Department of Game v. Puyallup Tribe, Inc. (1976)	86 Wash.2d 664	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	Puget Sound Gillnetters Assoc. v. Moos (1979)	92 Wash.2d 939	Sup. Ct., Wash.
290	9 June 1855	698	12 Stat. 951	State v. Smith (1981)	51 Ore. App. 223	Ct. App., Or.
290	9 June 1855	698	12 Stat. 951	Wildcatt v. Smith (1984)	311 N.C. 397	Ct. App., N.C.

290		9 June 1855	698	12 Stat. 951	State v. Jim (1986)	81 Ore. App. 177	Ct. App., Or.
290		9 June 1855	698	12 Stat. 951	State v. Sohappy (1988)	110 Wash.2d 907	Sup. Ct., Wash.
290		9 June 1855	698	12 Stat. 951	In re Application of Otter Tail Power Co. (1990)	451 N.W.2d 95	Sup. Ct., N.D.
290		9 June 1855	698	12 Stat. 951	Surface Waters of the Yakima River Drainage Basin v. Yakima Reservation Irrigation District (1993)	121 Wash.2d 257	Sup. Ct., Wash.
290		9 June 1855	698	12 Stat. 951	Columbia Gorge Audobon Society v. Klickitat County (1999)	98 Wash. App. 618	Ct. App., Wash.
290		9 June 1855	698	12 Stat. 951	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.
291	Nez Perce	11 June 1855	702	12 Stat. 957	Neah Bay Fish Co. v. Krummel (1940)	3 Wash.2d 570	Sup. Ct., Wash.
291		11 June 1855	702	12 Stat. 957	State v. McConville (1943)	65 Idaho 46	Sup. Ct., Idaho
291		11 June 1855	702	12 Stat. 957	State v. Arthur (1953)	74 Idaho 251	Sup. Ct., Idaho
291		11 June 1855	702	12 Stat. 957	State v. Powaukee (1956)	78 Idaho 257	Sup. Ct., Idaho
291		11 June 1855	702	12 Stat. 957	People v. Jondreau (1971)	384 Mich. 539	Sup. Ct., Mich.
291		11 June 1855	702	12 Stat. 957	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
291		11 June 1855	702	12 Stat. 957	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
291		11 June 1855	702	12 Stat. 957	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.

(continued on next page)

Table 1 (continued)

291.1	Nez Perce	9 June 1863	843	14 Stat. 647	State v. McConville (1943)	65 Idaho 46	Sup. Ct., Idaho
291.1		9 June 1863	843	14 Stat. 647	State v. Arthur (1953)	74 Idaho 251	Sup. Ct., Idaho
292	Choctaw; Chickasaw	22 June 1855	706	11 Stat. 611	Anthony v. Veatch (1950)	189 Or. 462	Sup. Ct., Or.
292		22 June 1855	706	11 Stat. 611	Wortham v. Walker (1939)	133 Tex. 255	Sup. Ct., Tex.
293	Walla Walla; Wasco	25 June 1855	714	12 Stat. 963	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
293		25 June 1855	714	12 Stat. 963	State v. Smith (1980)	1980 Ore. App. LEXIS 4332	Ct. App., Or.
293		25 June 1855	714	12 Stat. 963	State v. Smith (1981)	51 Ore. App. 223	Ct. App., Or.
293		25 June 1855	714	12 Stat. 963	State v. Jim (1986)	81 Ore. App. 177	Ct. App., Or.
293		25 June 1855	714	12 Stat. 963	State v. Jim (2002)	178 Ore. App. 553	Ct. App., Or.
293.1	Walla Walla; Wasco Quinault; Quileute	15 November 1865	908	14 Stat. 751	Miles v. Veatch (1950)	189 Ore. 506	Sup. Ct., Or.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	Pioneer Packing Co. v. Winslow (1930)	159 Wash. 655	Sup. Ct., Wash.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	State v. Bertrand (1963)	61 Wash.2d 333	Sup. Ct., Wash.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	Department of Game v. Puyallup Tribe, Inc. (1972)	80 Wash.2d 561	Sup. Ct., Wash.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
294		1 July 1855, 25 January 1856	719	12 Stat. 971	Department of Game v. Puyallup Tribe, Inc. (1976)	86 Wash.2d 664	Sup. Ct., Wash.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	Puget Sound Gillnetters Assoc. v. Moos (1979)	92 Wash.2d 939	Sup. Ct., Wash.

294		1 July 1855, 25 January 1856	719	12 Stat. 971	State v. Goodell (1979)	38 Ore. App. 511	Ct. App., Or.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	State v. Cutler (1985)	109 Idaho 448	Sup. Ct., Idaho
294		1 July 1855, 25 January 1856	719	12 Stat. 971	Anderson and Middleton Lumber Co. v. Quinault Indian Nation (1996)	130 Wash.2d 862	Sup. Ct., Wash.
294		1 July 1855, 25 January 1856	719	12 Stat. 971	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.
295	Flathead; Kutenai; Upper Pend d'Oreille	16 July 1855	722	12 Stat. 975	State ex rel. Irvine v. District Court (1951)	125 Mont. 398	Sup. Ct., Mont.
295		16 July 1855	722	12 Stat. 975	State v. Pichette (1951)	125 Mont. 327	Sup. Ct., Mont.
295		16 July 1855	722	12 Stat. 975	State v. McClure (1954)	127 Mont. 534	Sup. Ct., Mont.
295		16 July 1855	722	12 Stat. 975	In re Irvine (1962)	140 Mont. 617	Sup. Ct., Mont.
295		16 July 1855	722	12 Stat. 975	State v. Coffee (1976)	97 Idaho 905	Sup. Ct., Idaho
295		16 July 1855	722	12 Stat. 975	State v. Stasso (1977)	172 Mont. 242	Sup. Ct., Mont.
295		16 July 1855	722	12 Stat. 975	State v. Horseman (1993)	263 Mont. 87	Sup. Ct., Mont.
295		16 July 1855	722	12 Stat. 975	State v. Buchanan (1999)	138 Wash.2d 186	Sup. Ct., Wash.
295		16 July 1855	722	12 Stat. 975	State v. Shook (2002)	313 Mont. 347	Sup. Ct., Mont.
296	Ottawa; Chippewa	31 July 1855	725	11 Stat. 621	People v. Le Blanc (1974)	55 Mich. App. 684	Ct. App., Mich.
296		31 July 1855	725	11 Stat. 621	People v. Le Blanc (1976)	399 Mich. 31	Sup. Ct., Mich.
296		31 July 1855	725	11 Stat. 621	Attorney General v. Hermes (1983)	127 Mich. App. 777	Ct. App., Mich.

(continued on next page)

Table 1 (continued)

297	Chippewa: Sault Ste. Marie	2 August 1855	732	11 Stat. 631	People v. Le Blanc (1974)	55 Mich. App. 684	Ct. App., Mich.
299	Blackfeet: Piegan and Blood; Gros Ventre; Flathead; Upper Pend d'Oreille; Kutenai; Nez Perce	17 October 1855	736	11 Stat. 657	Santa Rita Oil and Gas Co. v. State Board of Equalization (1936)	101 Mont. 268	Sup. Ct., Mont.
299		17 October 1855	736	11 Stat. 657	State v. Horseman (1993)	263 Mont. 87	Sup. Ct., Mont.
299		17 October 1855	736	11 Stat. 657	State ex rel. Martinez v. Lewis (1993)	116 N.M. 194	Ct. App., N.M.
301	Stockbridge; Munsee	5 February 1856	742	11 Stat. 663	State v. Davids (1994)	182 Wis.2d 186	Ct. App., Wis.
301		5 February 1856	742	11 Stat. 663	State v. Davids (1995)	194 Wis.2d 386	Sup. Ct., Wis.
302	Menominee	11 February 1856	755	11 Stat. 679	State v. Tucker (1941)	237 Wis. 310	Sup. Ct., Wis.
302		11 February 1856	755	11 Stat. 679	Sturdevant v. State (1977)	76 Wis.2d 247	Sup. Ct., Wis.
302		11 February 1856	755	11 Stat. 679	State v. Webster (1983)	114 Wis.2d 418	Sup. Ct., Wis.
302		11 February 1856	755	11 Stat. 679	State v. Davids (1994)	182 Wis.2d 186	Ct. App., Wis.
302		11 February 1856	755	11 Stat. 679	State v. Davids (1995)	194 Wis.2d 386	Sup. Ct., Wis.
305	Seneca: Tonawanda	5 November 1857	767	11 Stat. 735, 12 Stat. 991	Hatch v. Luckman (1909)	155 A.D. 765	Sup. Ct., N.Y.
307	Sioux: Yankton	19 April 1858	776	11 Stat. 743	Wood v. Jameson (1964)	81 S.D. 12	Sup. Ct., S.D.
307		19 April 1858	776	11 Stat. 743	State v. Williamson (1973)	87 S.D. 512	Sup. Ct., S.D.
307		19 April 1858	776	11 Stat. 743	State v. Thompson (1984)	355 N.W.2d 349	Sup. Ct., S.D.

307		19 April 1858	776	11 Stat. 743	State v. Greger (1997)	559 N.W.2d 854	Sup. Ct., S.D.
312	Sac and Fox	1 October 1859	796	15 Stat. 467	Pennock v. Monroe (1870)	5 Kan. 578	Sup. Ct., Kan.
313	Kansa	5 October 1859	800	12 Stat. 1111	Grinter v. Kansas Pacific Railway Co. (1880)	23 Kan. 642	Sup. Ct., Kan.
313		5 October 1859	800	12 Stat. 1111	Webster v. Cooke (1880)	23 Kan. 637	Sup. Ct., Kan.
314	Delaware	30 May 1860	803	12 Stat. 1129	Grinter v. Kansas Pacific Railway Co. (1880)	24 Kan. 642	Sup. Ct., Kan.
318	Potawatomi	15 November 1861	824	12 Stat. 1191	Maynes v. Veale (1878)	20 Kan. 374	Sup. Ct., Kan.
318		15 November 1861	824	12 Stat. 1191	Veale v. Maynes (1879)	23 Kan. 1	Sup. Ct., Kan.
318		15 November 1861	824	12 Stat. 1191	In re Kaul (1997)	261 Kan. 755	Sup. Ct., Kan.
318		15 November 1861	824	12 Stat. 1191	In re Kaul (2000)	269 Kan. 181	Sup. Ct., Kan.
320	Ottawa: Blanchard's Fork; Ottawa: Roche de Boeuf	24 June 1862	830	12 Stat. 1237	McCullagh v. Allen (1872)	10 Kan. 150	Sup. Ct., Kan.
320		24 June 1862	830	12 Stat. 1237	Campbell v. Paramore (1877)	17 Kan. 639	Sup. Ct., Kan.
320		24 June 1862	830	12 Stat. 1237	Wiggin v. King (1886)	35 Kan. 410	Sup. Ct., Kan.
320		24 June 1862	830	12 Stat. 1237	Board of Commissioners of Miami County v. Godfroy (1901)	27 Ind. App. 610	Ct. App., Ind.
320		24 June 1862	830	12 Stat. 1237	Stevens v. Elliott (1911)	30 Okla. 41	Sup. Ct., Okla.

(continued on next page)

Table 1 (continued)

321	Kickapoo	28 June 1862	835	13 Stat. 623	Parker v. Winsor (1870)	5 Kan. 362	Sup. Ct., Kan.
321		28 June 1862	835	13 Stat. 623	Central Branch Union Pacific Railroad Co. v. Wilcox (1875)	14 Kan. 259	Sup. Ct., Kan.
321		28 June 1862	835	13 Stat. 623	Briggs v. McClain (1890)	43 Kan. 653	Sup. Ct., Kan.
321		28 June 1862	835	13 Stat. 623	Stevens v. Elliott (1911)	30 Okla. 41	Sup. Ct., Okla.
321		28 June 1862	835	13 Stat. 623	State v. Big Sheep (1926)	75 Mont. 219	Sup. Ct., Mont.
322	Chippewa: Mississippi, Pillager and Lake Winnibigoshish	11 March 1863	839	12 Stat. 1249	White v. Wright (1901)	83 Minn. 222	Sup. Ct., Minn.
322		11 March 1863	839	12 Stat. 1249	State v. Forge (1977)	262 N.W.2d 341	Sup. Ct., Minn.
323	Nez Perce	9 June 1863	843	14 Stat. 647	State v. McConville (1943)	65 Idaho 46	Sup. Ct., Idaho
323		9 June 1863	843	14 Stat. 647	State v. Arthur (1953)	74 Idaho 251	Sup. Ct., Idaho
327	Chippewa: Red Lake and Pembina	2 October 1863	853	13 Stat. 667	State v. Holthusen (1962)	261 Minn. 536	Sup. Ct., Minn.
327		2 October 1863	853	13 Stat. 667	Topash v. Commissioner of Revenue (1980)	291 N.W.2d 679	Sup. Ct., Minn.
327.1	Chippewa: Red Lake and Pembina	12 April 1864	861	13 Stat. 689	Topash v. Commissioner of Revenue (1980)	291 N.W.2d 679	Sup. Ct., Minn.
330	Chippewa: Red Lake and Pembina	12 April 1864	861	13 Stat. 689	Topash v. Commissioner of Revenue (1980)	291 N.W.2d 679	Sup. Ct., Minn.

331	Chippewa: Mississippi, Pillager and Lake Winnibigoshish	7 May 1864	862	13 Stat. 693	Vachon v. Nichols-Chisholm Lumber Co. (1914)	126 Minn. 303	Sup. Ct., Minn.
331		7 May 1864	862	13 Stat. 693	State v. Forge (1977)	262 N.W.2d 341	Sup. Ct., Minn.
331		7 May 1864	862	13 Stat. 693	State v. Clark (1979)	282 N.W.2d 902	Sup. Ct., Minn.
332	Klamath; Modoc; Paiute: Yahooskin	14 October 1864	865	16 Stat. 707	Anderson v. Britton (1957)	212 Ore. 1	Sup. Ct., Or.
332		14 October 1864	865	16 Stat. 707	State v. Bojorcas (1973)	14 Ore. App. 538	Ct. App., Or.
332		14 October 1864	865	16 Stat. 707	Markley v. Department of Revenue (2002)	2002 Ore. Tax LEXIS 32	Tax Ct., Or.
334	Omaha	6 March 1865	872	14 Stat. 667	Brader v. James (1916)	49 Okla. 734	Sup. Ct., Okla.
334		6 March 1865	872	14 Stat. 667	Highrock v. Gavin (1920)	43 S.D. 315	Sup. Ct., S.D.
338	Osage: Grand and Little	29 September 1865	878	14 Stat. 687	Lownsberry v. Rakestraw (1875)	14 Kan. 151	Sup. Ct., Kan.
338		29 September 1865	878	14 Stat. 687	Jarvis v. Campbell (1880)	23 Kan. 370	Sup. Ct., Kan.
338		29 September 1865	878	14 Stat. 687	Baker v. Newland (1881)	25 Kan. 25	Sup. Ct., Kan.
338		29 September 1865	878	14 Stat. 687	Missouri, Kansas and Texas Railway Co. v. Watson (1906)	74 Kan. 494	Sup. Ct., Kan.
351	Walla Walla; Wasco	15 November 1865	908	14 Stat 751	Miles v. Veatch (1950)	189 Ore. 506	Sup. Ct., Or.
353	Potawatomi	29 March 1866	916	14 Stat. 763	Board of Commissioners of Miami County v. Godfroy (1901)	27 Ind. App. 610	Ct. App., Ind.

(continued on next page)

Table 1 (continued)

355	Choctaw; Chickasaw	28 April 1866	918	14 Stat. 769	Allen v. Trimmer (1914)	45 Okla. 83	Sup. Ct., Okla.
356	Creek	14 June 1866	931	14 Stat. 785	Bruner v. Oswald (1919)	72 Okla. 42	Sup. Ct., Okla.
356		14 June 1866	931	14 Stat. 785	Board of Com'rs of Okfuskee County v. Hutton (1919)	72 Okla. 223	Sup. Ct., Okla.
356		14 June 1866	931	14 Stat. 785	Noble v. Oklahoma City (1935)	172 Okla. 182	Sup. Ct., Okla.
357	Delaware	4 July 1866	937	14 Stat. 793	White v. Starbuck (1913)	41 Okla. 50	Sup. Ct., Okla.
358	Cherokee	19 July 1866	942	14 Stat. 799	Robinson v. Owen (1911)	30 Okla. 484	Sup. Ct., Okla.
358		19 July 1866	942	14 Stat. 799	In re McDade's Estate (1923)	95 Okla. 120	Sup. Ct., Okla.
358					Aladdin Petroleum Corp. v. State ex rel. Commissioners of Land Office (1948)	200 Okla. 134	Sup. Ct., Okla.
358		19 July 1866	942	14 Stat. 799	C.M.G. v. State (1979)	594 P.2d 798	Ct. Crim. App., Okla.
360	Sioux: Sisseton and Wahpeton	19 February 1867	956	15 Stat. 505	State v. Lohnes (1955)	69 N.W.2d 508	Sup. Ct., N.D.
360		19 February 1867	956	15 Stat. 505	In re De Marrias (1958)	77 S.D. 294	Sup. Ct., S.D.
360		19 February 1867	956	15 Stat. 505	De Coteau v. District County Court (1973)	87 S.D. 555	Sup. Ct., S.D.
360		19 February 1867	956	15 Stat. 505	In re Application of Otter Tail Power Co. (1990)	451 N.W.2d 95	Sup. Ct., N.D.

361	Seneca; Seneca: Mixed; Shawnee; Quapaw; Peoria; Kaskaskia; Wea; Piankashaw; Miami; Ottawa: Blanchard's Fork; Ottawa: Roche de Boeuf; Wyandot	23 February 1867	960	15 Stat. 513	Frederick v. Gray (1874)	12 Kan. 518	Sup. Ct., Kan.
361		23 February 1867	960	15 Stat. 513	Wiggin v. King (1886)	35 Kan. 410	Sup. Ct., Kan.
361		23 February 1867	960	15 Stat. 513	State ex rel. May v. Seneca-Cayuga Tribe (1985)	711 P.2d 77	Sup. Ct., Okla.
361		23 February 1867	960	15 Stat. 513	Hanes v. State (1998)	973 P.2d 330	Ct. Crim. App., Okla.
362	Potawatomi	27 February 1867	970	15 Stat. 531	Maynes v. Veale (1878)	20 Kan. 374	Sup. Ct., Kan.
362		27 February 1867	970	15 Stat. 531	In re Kaul (1997)	261 Kan. 755	Sup. Ct., Kan.
363	Chippewa: Mississippi	19 March 1867	974	16 Stat. 719	Vachon v. Nichols-Chisholm Lumber Co. (1914)	126 Minn. 303	Sup. Ct., Minn.
363		19 March 1867	974	16 Stat. 719	Sanders v. Morrison (1923)	155 Minn. 82	Sup. Ct., Minn.
363		19 March 1867	974	16 Stat. 719	State v. Cloud (1930)	179 Minn. 180	Sup. Ct., Minn.
363		19 March 1867	974	16 Stat. 719	State v. Bush (1935)	195 Minn. 413	Sup. Ct., Minn.
363		19 March 1867	974	16 Stat. 719	State v. Forge (1977)	262 N.W.2d 341	Sup. Ct., Minn.
363		19 March 1867	974	16 Stat. 719	State v. Clark (1979)	282 N.W.2d 902	Sup. Ct., Minn.

(continued on next page)

Table 1 (continued)

363		19 March 1867	974	16 Stat. 719	State v. St. Clair (1997)	560 N.W.2d 732	Ct. App., Minn
364	Kiowa; Comanche	21 October 1867	977	15 Stat. 581	Hoover v. Kiowa Tribe (1998)	957 P.2d 81	Sup. Ct., Okla.
366	Cheyenne; Arapaho	28 October 1867	984	15 Stat. 593	Aladdin Petroleum Corp. v. State ex rel. Commissioners of Land Office (1948)	200 Okla. 134	Sup. Ct., Okla.
367	Ute: Tabeguache, Muache, Capote, Wiminuche, Yampa, Grand River and Uintah	2 March 1868	990	15 Stat. 619	In re General Adjudication of All Rights to Use Water in Big Horn River System (1988)	753 P.2d 76	Sup. Ct., Wyo.
369	Sioux: Brule, Oglala, Miniconjou, Yanktonai, Hunkpapa, Blackfeet, Cuthead, Two Kettle, Sans Arcs and Santee; Arapaho	29 April 1868	998	15 Stat. 635	Anderson v. Brule County (1940)	67 S.D. 308	Sup. Ct., S.D.
369		29 April 1868	998	15 Stat. 635	State v. Molash (1972)	86 S.D. 558	Sup. Ct., S.D.
369		29 April 1868	998	15 Stat. 635	State v. Powless (1978)	265 N.W.2d 143	Sup. Ct., S.D.
369		29 April 1868	998	15 Stat. 635	State v. Brave Heart (1982)	326 N.W.2d 220	Sup. Ct., S.D.
370	Crow	7 May 1868	1008	15 Stat. 649	Higgins v. Brown (1908)	20 Okla. 355	Sup. Ct., Okla.

370		7 May 1868	1008	15 Stat. 649	State v. Big Sheep (1926)	75 Mont. 219	Sup. Ct., Mont.
370		7 May 1868	1008	15 Stat. 649	Anderson v. Spear-Morgan Livestock Co. (1938)	107 Mont. 18	Sup. Ct., Mont.
370		7 May 1868	1008	15 Stat. 649	Neah Bay Fish Co. v. Krummel (1940)	3 Wash.2d 570	Sup. Ct., Wash.
370		7 May 1868	1008	15 Stat. 649	Cook v. Hudson (1940)	110 Mont. 263	Sup. Ct., Mont.
370		7 May 1868	1008	15 Stat. 649	Bennett v. Seattle (1945)	22 Wash.2d 455	Sup. Ct., Wash.
370		7 May 1868	1008	15 Stat. 649	Merrill v. Bishop (1951)	69 Wyo. 45	Sup. Ct., Wyo.
370		7 May 1868	1008	15 Stat. 649	Lewis v. Hanson (1951)	124 Mont. 492	Sup. Ct., Mont.
370		7 May 1868	1008	15 Stat. 649	Wakefield v. Little Light (1975)	276 Md. 333	Ct. App., Md.
370		7 May 1868	1008	15 Stat. 649	In re Little Light (1979)	183 Mont. 52	Sup. Ct., Mont.
370		7 May 1868	1008	15 Stat. 649	State v. Cutler (1985)	109 Idaho 448	Sup. Ct., Idaho
370		7 May 1868	1008	15 Stat. 649	In re General Adjudication of All Rights to Use Water in Big Horn River System (1988)	753 P.2d 76	Sup. Ct., Wyo.
371	Cheyenne: Northern; Arapaho: Northern	10 May 1868	1012	15 Stat. 655	In re General Adjudication of All Rights to Use Water in Big Horn River System (1988)	753 P.2d 76	Sup. Ct., Wyo.
372	Navajo	1 June 1868	1015	15 Stat. 667	Harrison v. Laveen (1948)	67 Ariz. 337	Sup. Ct., Ariz.
372		1 June 1868	1015	15 Stat. 667	Begay v. Miller (1950)	70 Ariz. 380	Sup. Ct., Ariz.

(continued on next page)

Table 1 (continued)

372	1 June 1868	1015	15 Stat. 667	Young v. Felornia (1952)	121 Utah 646	Sup. Ct., Utah
372	1 June 1868	1015	15 Stat. 667	Williams v. Lee (1958)	83 Ariz. 241	Sup. Ct., Ariz.
372	1 June 1868	1015	15 Stat. 667	Montoya v. Bolack (1962)	70 N.M. 196	Sup. Ct., N.M.
372	1 June 1868	1015	15 Stat. 667	Jim v. CIT Financial Services Corp. (1974)	86 N.M. 784	Ct. App., N.M.
372	1 June 1868	1015	15 Stat. 667	Fox v. Bureau of Revenue (1975)	87 N.M. 261	Ct. App., N.M.
372	1 June 1868	1015	15 Stat. 667	Brown v. Babbitt Ford (1977)	117 Ariz. 192	Ct. App., Ariz.
372	1 June 1868	1015	15 Stat. 667	State ex rel. Peterson v. District Court (1980)	617 P.2d 1056	Sup. Ct., Wyo.
372	1 June 1868	1015	15 Stat. 667	Johnson v. Kerr-McGee Oil Industries (1981)	129 Ariz. 393	Ct. App., Ariz.
372	1 June 1868	1015	15 Stat. 667	Blatchford v. Gonzales (1983)	100 N.M. 333	Sup. Ct., N.M.
372	1 June 1868	1015	15 Stat. 667	State v. Flint (1988)	157 Ariz. 227	Ct. App., Ariz.
372	1 June 1868	1015	15 Stat. 667	In re General Adjudication of All Rights to Use Water in Big Horn River System (1988)	753 P.2d 76	Sup. Ct., Wyo.
372	1 June 1868	1015	15 Stat. 667	Texaco, Inc. v. San Juan County (1994)	869 P.2d 942	Sup. Ct., Utah
372	1 June 1868	1015	15 Stat. 667	Begay v. Superior Court (1994)	1994 Ariz. App. LEXIS 179	Ct. App., Ariz.
372	1 June 1868	1015	15 Stat. 667	Maryboy v. Utah State Tax Commission (1995)	904 P.2d 662	Sup. Ct., Utah
372	1 June 1868	1015	15 Stat. 667	State v. Zaman (1996)	187 Ariz. 81	Ct. App., Ariz.

373	Shoshone: Eastern; Bannock	3 July 1868	1020	15 Stat. 673	Hudson Oil Co. v. Board of Commissioners of Fremont County (1935)	52 P.2d 683	Sup. Ct., Wyo.
373		3 July 1868	1020	15 Stat. 673	State v. Tulee (1941)	7 Wash.2d 124	Sup. Ct., Wash.
373		3 July 1868	1020	15 Stat. 673	Merrill v. Bishop (1951)	69 Wyo. 45	Sup. Ct., Wyo.
373		3 July 1868	1020	15 Stat. 673	State v. Arthur (1953)	74 Idaho 251	Sup. Ct., Idaho
373		3 July 1868	1020	15 Stat. 673	Merrill v. Bishop (1955)	74 Wyo. 298	Sup. Ct., Wyo.
373		3 July 1868	1020	15 Stat. 673	Metlakatla Indian Community v. Egan (1961)	362 P.2d 901	Sup. Ct., Alaska
373		3 July 1868	1020	15 Stat. 673	State v. Moss (1970)	471 P.2d 333	Sup. Ct., Wyo.
373		3 July 1868	1020	15 Stat. 673	State v. Tinno (1972)	94 Idaho 759	Sup. Ct., Idaho
373		3 July 1868	1020	15 Stat. 673	State ex rel. Peterson v. District Court (1980)	617 P.2d 1056	Sup. Ct., Wyo.
373		3 July 1868	1020	15 Stat. 673	State v. Cutler (1985)	109 Idaho 448	Sup. Ct., Idaho
373		3 July 1868	1020	15 Stat. 673	In re General Adjudication of All Rights to Use Water in Big Horn River System (1988)	753 P.2d 76	Sup. Ct., Wyo.
373		3 July 1868	1020	15 Stat. 673	In re General Adjudication of All Rights to Use Water in Big Horn River System (1992)	835 P.2d 273	Sup. Ct., Wyo.

(continued on next page)

Table 1 (continued)

373		3 July 1868	1020	15 Stat. 673	Riverton Valley Irrigation District v. Big Horn Canal Association (In re General Adjudication of All Rights to Use Water in the Big Horn River System) (1995)	899 P.2d 848	Sup. Ct., Wyo.
374	Nez Perce	13 August 1868	1024	15 Stat. 693	State v. McConville (1943)	65 Idaho 46	Sup. Ct., Idaho
374		13 August 1868	1024	15 Stat. 693	State v. Arthur (1953)	74 Idaho 251	Sup. Ct., Idaho
999	Sioux; Cheyenne; Arapaho; Crow; Assiniboin; Gros Ventres; Mandan; Arikara	17 September 1851	594	11 Stat. 749	State v. Horseman (1993)	263 Mont. 87	Sup. Ct., Mont.

In *State v. McConville*,²⁹ a Nez Perce man was arrested for fishing without a State fish and game license in a stream that ran originally within the Nez Perce reservation. The defense centered on Article 3 of the *Treaty with the Nez Percés, 1855*,³⁰ that assured the “right of taking fish at all usual and accustomed places in common with citizens of the Territory,” and on two subsequent treaties³¹ that reconfirmed these rights. In citing the United States Supreme Court case *Tulee v. Washington*,³² and the similarity between the 1855 Nez Perce treaty and the one under consideration in *Tulee*,³³ the Supreme Court of Idaho concluded that “the Tulee case is a comprehensive and complete vindication of the right of the Indian to fish without a license by reason of the rights reserved to him, not granted, in the original treaty and by successive treaties reaffirmed, or, at least, not abrogated.”³⁴

A decade later, in *State v. Arthur*,³⁵ a Nez Perce man was charged with killing a deer out of season in a National Forest beyond the boundaries of the reservation but within tribal land ceded in the *Treaty with the Nez Percés, 1855*.³⁶ The question addressed only the entitlement to hunt on these ceded lands. In these proceedings, the Court used the repudiations³⁷ of the conclusion reached in *Ward v. Race Horse*³⁸—i.e., that the Admission Act and the subsequent State Constitution of Wyoming impliedly repealed or abrogated all treaty rights for Indians within that State—to determine that “whatever the original scope of the reserved rights set forth in the Treaty of 1855 may be, they still exist unimpaired by subsequent agreement, treaty, Act of Congress, or the admission of Idaho to statehood.”³⁹ This, in combination with the deduction derived from the treaty council minutes that the National Forest lands under consideration were “open and unclaimed land” in accord with the 1855 treaty specifications, led the Court to declare that the right to hunt on “open and unclaimed land” still existed, regardless of the season. These results were obtained in a similar, out-of-season possession case (*State v. Powaukee*).⁴⁰

*State v. Tinno*⁴¹ considered the taking of salmon by a member of the Shoshone-Bannock Tribe. The process – spear fishing – as well as the taking and the location of the fishing, were all in violation of Idaho State fishing regulations. The respondent’s defense was based upon Article 4 of the *Treaty with the Eastern Band of Shoshoni and Bannock, 1868*,⁴² which promised an unqualified “right to hunt on the unoccupied lands of the United States.”⁴³ The Court concluded that this Article should be read and considered to afford an unqualified fishing right as well. In addition, given the findings in *Tulee v. Washington*⁴⁴ that supported fishing rights even where the pertinent treaty only indicated a qualified access to these resources,⁴⁵ the Court required a clear demonstration of the efficacy of any State program of species preservation that might potentially regulate this treaty fishing right.

In a case of hunting on private lands, an Idaho Kootenai woman claimed an aboriginal right to hunt when charged with both killing deer out of season and killing the animals with the aid of an artificial light (*State v. Coffee*).⁴⁶ The Court concluded that such a right to hunt existed and that the Idaho Kootenai were *not* signatories to the *Treaty with the Flatheads, etc., 1855*.⁴⁷ However, they accepted the Indian Claims Commission’s finding in *Kootenai Tribe or Band of Indians of the State of Idaho v. United States*⁴⁸ that the Idaho Kootenai’s aboriginal title had been extinguished through the Senate ratification process of that treaty, even though the Idaho Kootenai had not participated in that transaction. As a result, the Kootenai “as with the signatory tribes, were left a right to hunt upon open and unclaimed land”⁴⁹ but not upon private land. The motion to dismiss was denied. Justice Donaldson, in lone dissent, proposed that “the

ratification of a treaty that did not purport to affect the Idaho Kootenai⁵⁰ could not extinguish their hunting rights. He inferred, from the absence of any hunting or fishing rights remarks within the 1957 Indian Claims Commission decision to extinguish the tribe's right of possession, that there should have been no effect upon other aboriginal rights—including the right to hunt—since these rights were reserved by the tribe.

Finally, *State v. Cutler*⁵¹ involved the killing of elk on a game management preserve situated on State-owned land. The defendants, all Shoshone-Bannock Tribe members, claimed that the *Treaty with the Eastern Band of Shoshoni and Bannock, 1868*,⁵² reserved their hunting rights. The Court examined the *Arthur, Tinno*, and *Coffee* cases for guidance, as well as the minutes from the Fort Bridger treaty council, to uncover “historical circumstantial evidence”⁵³ for insight into the Indians' understanding during those negotiations that their gathering rights would diminish. Further, the physical attributes of the management area precluded any possible misunderstanding that the area was “unoccupied lands of the United States,” as specified for these hunting rights in Article 4 of the treaty.⁵⁴ As a result, the Court affirmed the conviction. In a dissent similar to that in *Coffee*, two Justices questioned, *inter alia*, the Court's conclusion that the land was not “unoccupied.” The findings in *Tinno* had supported the notion that these lands were “unsettled” and thus an available hunting area. The Justices could find “no qualitative factual distinction which makes a state wildlife area [i.e., the area in *Cutler*] materially different from a national forest [the river location under consideration in *Tinno* was within the Challis National Forest],”⁵⁵ especially since the modifications to the wildlife area that the Court found critical to the “unoccupied” specification are also evidenced in national forests.

These six cases before the Supreme Court of Idaho reveal, over a forty-year period, one among many fundamental areas of difficulty that the tribes and States face. In each of the cases identified in [Table 1](#), treaty parameters were relied upon to address these questions. Frequently, the tribes only have these points of reference available to define the gathering or other rights pledged in these documents.⁵⁶

1. [Table 1](#) and case selection

Those cases from any State Court system that cited any recognized Indian treaty were selected by using each treaty's *Statutes at Large* reference⁵⁷ to identify case entries in the “Federal and State Cases” option of the full *LexisNexis* online database. The Web-based *Westlaw Campus* suite was interrogated for all relevant *Statutes at Large* references as well.⁵⁸ In this manner, [Table 1](#) identifies the 428 citations to these 131 ratified Indian treaties or supplementary treaties found in 246 State Court opinions for the years 1800 (*Commonwealth v. Coxe*)⁵⁹ to 2004 (*J & M Aircraft Mobile T Hangars, Inc. v. Johnson County Airport Authority*).⁶⁰

[Table 1](#) is an aggregate of the following data:

- The ratified treaty number, assigned by the Department of State,⁶¹ of each of the relevant treaties that has been cited in the opinion of any State Court. Supplementary treaties that

affected the parameters of previous instruments are identified by decimal additions to the affected treaty's ratified treaty number.⁶² Table 1 contains six such supplementary treaty examples: 123.1; 152.1, 253.1; 291.1; 293.1, and 327.1.⁶³

- The name(s) of the participating tribe(s), with an expansion of the “etc.” found in the titles of many treaties in Kappler's work into a complete list of parties. For example, ratified treaty number 10 is the *Treaty with the Wyandot, etc., 1785*,⁶⁴ and the entry for this document in Table 1 identifies as signatories the Wyandot as well as the Delaware, Chippewa, and Ottawa.
- The signing date of the treaty, taken from each treaty's entry in volume 2 of Kappler's *Indian Affairs: Laws and Treaties*, or from the listed alternative sources.
- The treaty page number in *Indian Affairs: Laws and Treaties*, or in the alternative resources.
- The *Statutes at Large* citation for the treaty, if any.
- The case title and year of the citing State Court case, arranged chronologically within each treaty.
- The reporter citation for this case.
- The State Court in which the citation appeared. The possible venues include Appellate Court (“App. Ct., Ill.”; $N = 1$); the Appellate Division of a Supreme Court (“App. Div., N.Y.”; $N = 8$); County Court (“County Ct., N.Y. Chautauqua”; $N = 1$); Court of Appeals (e.g., “Ct. App., Ariz.”; $N = 56$); Court of Claims (“Ct. Cl., N.Y.”; $N = 5$); Court of Criminal Appeals (“Ct. Crim. App., Okla.”; $N = 7$); Tax Court (“Tax Ct., Or.”; $N = 2$); or Supreme Court (e.g., “Sup. Ct., Idaho”; $N = 348$).

2. Conclusions

This is a broad collection of cases, encompassing many issues, with proceedings heard in 30 States.⁶⁵ The cited instruments range over the complete ensemble of Department of State recognized treaties, from the very first (ratified treaty number 1: *The Great Treaty of 1722 between the Five Nations, the Mahicans, and the Colonies of New York, Virginia, and Pennsylvania*) to the very last (ratified treaty number 374: the *Treaty with the Nez Percés, 1868*). Each of these States has been required to address within their jurisdictions one or more Indian treaty issues, just as the federal government has had to do within its larger domain. The recurring major issues—as illuminated above by the six gathering rights cases before the Supreme Court of Idaho—take time to solve at the State,⁶⁶ as well as at the federal, level. One index of this activity might be demonstrated by comparing the number of court appearances before similar courts. The quantity of cases listed in Table 1 before the Supreme Court of Oklahoma ($N = 47$) might well be expected from the evolution of Indian Territory⁶⁷ or from the 67 tribes that have resided within Oklahoma.⁶⁸ The Supreme Court of Washington State, however, has heard more suits ($N = 67$) than the Supreme Court of Oklahoma.

Nonetheless, equitable solutions are frequently delayed or never found. Fairbanks,⁶⁹ in his remarks upon the precariousness of treaty rights, noted, “Native American peoples maintain

that their treaties ought to be honored as solemn contracts between nations. The various States, seemingly at the behest of special interest groups, consistently refuse or neglect to honor treaty provisions.⁷⁰ Thus, the State Courts have become an important venue for seeking solutions to sovereignty conflicts. The two centuries of litigation collated here would support such a hypothesis.

Further, these treaty questions are not solely an issue for State governments in the western half of the nation. Absent Minnesota, through which the Mississippi River flows, 12 of the remaining 29 States represented in [Table 1](#) are east of this traditional national dividing line. Thus, treaty issues are the concern of all jurisdictions. Recently, State-tribal cooperative agreements⁷¹ have become a mechanism to address fundamental concerns that have traditionally caused friction between these two sovereigns. Meyers and Smith identify such accords for environmental protection, natural resources, taxation, law enforcement, and delivery of social services. These are precisely where “the litigation mode has not proven the best means to resolve the core uncertainties and distrust between states and tribes.”⁷² Their case study describes one of the major accomplishments of the Colorado Ute Water Rights Agreement. This agreement was “the first Indian water rights settlement passed by Congress that fully addresses how an Indian reserved water right will look and be treated if used off-reservation.”⁷³ Such joint endeavors should more easily address many remaining treaty questions.

Finally, five treaties in [Table 1](#) (ratified treaty numbers 1, 3, 116, 125, and 238) have been cited only in the opinions of State Courts and have never been referenced in a judgment of a federal court. The relevance of these contracts before the State Courts today, however, may be seen in the case, *In re Baby Boy D* (Oklahoma).⁷⁴ In *Baby Boy D*, the council proceedings of ratified treaty number 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*)⁷⁵ were cited as part of a demonstration of Indian rejection of “the insensitive precedent [that] had been cast to destroy Indian culture and tribal cohesiveness by removing Indian children from their families and tribal environments.”⁷⁶ In this suit, a 140-year-old treaty was employed just as three previously uncited treaties were referenced in the United States Supreme Court case of *Minnesota v. Mille Lacs Band of Chippewa Indians*.⁷⁷ Charles J. Wilkinson has noted the Courts’ reliance upon these instruments: he has stated that “[t]he field of Indian law rests mainly on the old treaties and treaty substitutes.”⁷⁸ It is clear from the abundance of cases cited in this article that the Courts of 30 State jurisdictions—just as of the federal level—concur with this assessment. These arenas have been required to reconcile these treaties between the Indian Nations and the federal government within past and contemporary litigation. These State Courts will be called upon again in the future to resolve the contents of these documents.

Acknowledgment

We thank Francis Paul Prucha, S.J., for his constructive comments regarding this article.

Appendix A. Treaties of the Pre-Revolutionary War Period

The first three recognized treaties in [Table 1](#)—ratified treaty numbers 1, 3, and 7—were negotiated by the British before the Revolutionary War but are acknowledged by the Department of State as binding treaties with the tribes. Abbreviations for two specific sources to each of these three treaties are indicated below, and these notations are used in [Table 1](#).

- Treaty #1: *The Great Treaty of 1722 between the Five Nations, the Mahicans, and the Colonies of New York, Virginia, and Pennsylvania*.⁷⁹ Abbreviated in [Table 1](#) as EAID 9, 103 and NY 5, 657.
- 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*.⁸⁰ Abbreviated in [Table 1](#) as EAID 2, 77 and Franklin, 41.
- 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, Mingo of Ohio, 1768*.⁸¹ Abbreviated in [Table 1](#) as EAID 10, 541 and NY 8, 111.

Notes and References

1. Bernholz, C. D. (2004). American Indian treaties and the Supreme Court: A guide to treaty citations from opinions of the United States Supreme Court. *Journal of Government Information*, 30, 318–431.
2. Bernholz, C. D. (in preparation). American Indian treaties and the lower Federal Courts: A guide to treaty citations from opinions of the lower United States Federal Court system.
3. Bernholz, C. D., & Weiner, R. J., Jr. (in preparation). American Indian treaties in the opinions of the Courts of Claims.
4. Bernholz, C. D. (2001). The absent American Indian treaties: A guide to treaties never referenced at the Federal Court level. *Journal of Government Information*, 28, 171–178;
Bernholz, C. D. (2002). The absent American Indian treaties: An update. *Journal of Government Information*, 29, 39–41. In another study, it was found that the Territorial Courts adjudicated questions pertaining to over 50 Indian treaties [Bernholz, C. D. (in preparation). *American Indian treaties in the Territorial Courts: A guide to treaty citations from opinions of the Territorial Court Systems*].
5. Five treaties in [Table 1](#) have been cited only in the opinions of State Courts and have never been referred to in an opinion of a federal court. They are ratified treaty numbers 1 and 3, *The Great Treaty of 1722 between the Five Nations, the Mahicans, and the Colonies of New York, Virginia, and Pennsylvania* (cited in *Gregory v. Baugh*, 25 Va. 611 (1827), Virginia) and *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 (*In re Baby Boy D*, 742 P.2d 1059 (1985), Oklahoma); ratified treaty number 116, the *Treaty with the Creeks, 1821* [*Minter v. State*, 158 Ga. 127 (1924), Georgia]; ratified treaty number 125, the *Treaty with the Creeks, 1825* [*J & M Aircraft Mobile T Hangars, Inc. v. Johnson County Airport Authority*, 269 Ga. App. 800 (2004), Georgia]; and ratified treaty number 238, the *Treaty with the Stockbridge and Munsee, 1839* [*State v. Davids*, 182 Wis.2d 186 (1994) and *State v. Davids*, 194 Wis.2d 386 (1995), Wisconsin]. See the Appendix for sources for the first two treaties. The *Treaty with the Creeks, 1821*, the *Treaty with the Creeks, 1825*, and the *Treaty with the Stockbridge and Munsee, 1839*, appear in Kappler, C. J. (1904). *Indian affairs: Laws and treaties: Vol. 2, treaties*. Washington, DC: Government Printing Office 1904, pp. 195–197, 214–217, and 529–531. Also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/cre0195.htm>; <http://digital.library.okstate.edu/kappler/Vol2/treaties/cre0214.htm>; and <http://digital.library.okstate.edu/kappler/Vol2/treaties/sto0529.htm>, respectively.

6. *Worcester v. Georgia*, 31 U.S. 515 (1832).
7. See, for example, Article 5 of the *Treaty with the Cherokees, 1835* (Kappler, p. 442; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/che0439.htm>): “The United States hereby covenant and agree that the lands ceded to the Cherokee nation in the forgoing article shall, in no future time without their consent, be included within the territorial limits or jurisdiction of any State or Territory.”
8. *The Kansas Indians*, 72 U.S. 737 (1867).
9. *The Kansas Indians* case is of interest, because it is composed of three separate actions consolidated before the Court. This suite, which investigated questions of taxation within two counties of Kansas against federal treaty assurances given to the Shawnee, Wea, and Miami tribes, came on appeal from the Supreme Court of Kansas. The opinion from the first of these lower cases—*Blue-Jacket v. Commissioners of Johnson County* (3 Kan. 299, (1865))—is identified in the attached Table 1 and that text cites the *Treaty with the Shawnee, 1854*. See Kappler (pp. 618–626). Also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/sha0618.htm>. Blue Jacket was a Shawnee signatory to the 1854 treaty (Kappler, p. 623).
10. *The New York Indians*, 72 U.S. 761 (1867).
11. *McClanahan v. Arizona State Tax Commission*, 411 U.S. 164 (1973).
12. *Gregory v. Baugh*.
13. *State v. Big Sheep*, 75 Mont. 219 (1926) and *State v. Brave Heart*, 326 N.W.2d 220 (1982).
14. *Montoya v. Bolack*, 70 N.M. 196 (1962).
15. *Metlakatla Indian Community v. Egan*, 362 P.2d 901 (1961).
16. The Metlakatlans are Tsimshian Indians, originally from British Columbia, Dunn, J. A., & Booth, A. (1990). Tsimshian of Metlakatla, Alaska. In W. C. Sturtevant & W. Suttles (Eds.), *Handbook of North American Indians, Vol. 7, Northwest Coast*, (pp. 294–297). Washington, DC: Smithsonian Institution.

17. *Metlakatla Indian Community v. Egan*, p. 908.
18. *Metlakatla Indian Community v. Egan*, 369 U.S. 45 (1962). The legislation to assist the Metlakatla specified that these Islands were “to be held and used by them in common, under such rules and regulations, and subject to such restrictions, as may be prescribed from time to time by the *Secretary of the Interior*” (§ 15, 26 *Stat.* 1095, 1101; emphasis added). See Tiller, V. E. E. (Ed.). (1996). *American Indian Reservations and Trust Areas* (pp. 22–23). Albuquerque, NM: Tiller Research Inc., for a description of the Annette Island Reserve.
19. *Byers v. We-wa-ne*, 86 Ore. 617 (1917).
20. *Strawberry Valley Cattle Co. v. Chipman*, 13 Utah 454 (1896).
21. *In re Baby Boy D.*
22. *State ex rel. May v. Seneca-Cayuga Tribe*, 711 P.2d 77 (1985).
23. *State v. Webster*, 114 Wis.2d 418 (1983).
24. The term “gathering rights” is used in this note as a generic term to identify and include any form of usufructuary right.
25. *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172 (1999).
26. See McClurken, J. M. (2000). *Fish in the lakes, wild rice, and game in abundance: Testimony on behalf of Mille Lacs Ojibwe hunting and fishing rights*. East Lansing, MI: Michigan State University Press, for an interesting collection of testimony regarding this United States Supreme Court case.
27. *State v. Keezer*, 292 N.W.2d 714 (1980).
28. Two cases—*State v. McConville*, 65 Idaho 46 (1943) and *State v. Arthur*, 74 Idaho 251 (1953)—cite a treaty (ratified treaty number 291, the *Treaty with the Nez Perces, 1855*; Kappler, pp. 702–706; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/nez0702.htm>) that was affected by a supplementary treaty (ratified treaty 323, the *Treaty with the Nez Perces, 1863*; pp. 843–848; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/nez0843.htm>) that is identified in Table 1 as ratified treaty number 291.1.
29. *State v. McConville*.
30. See Kappler (pp. 702–706). Also available at <http://digital.library.okstate.edu/kappler/Vol2/treaties/nez0702.htm>
31. These are the *Treaty with the Nez Perces, 1863* (Kappler, pp. 843–848; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/nez0843.htm>), and the *Treaty with the Nez Perces, 1868* (pp. 1024–1025; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/nez1024.htm>).
32. *Tulee v. Washington*, 315 U.S. 681 (1942).
33. The pivotal instrument in *Tulee*, the *Treaty with the Yakima, 1855* (Kappler, pp. 698–702; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/yak0698.htm>), was concluded at the same council site by the same negotiating team led by Isaac I. Stevens, the Governor and Superintendent of Washington Territory, two days earlier than the *Treaty with the Nez Perces, 1855*.
34. *State v. McConville*, p. 50.
35. *State v. Arthur*.

36. See Kappler (pp. 702–706; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/nez0702.htm>).
37. See *United States v. Winans*, 198 U.S. 371 (1905); *Winters v. United States*, 207 U.S. 564 (1908); and *Seufert Bros. Co. v. United States*, 249 U.S. 194 (1919).
38. *Ward v. Race Horse*, 163 U.S. 504 (1896).
39. *State v. Arthur*, pp. 260–261.
40. *State v. Powauke*, 78 Idaho 257 (1956).
41. *State v. Tinno*, 94 Idaho 759 (1972).
42. The text of this instrument is available in Kappler (pp. 1020–1024). Also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/sho1020.htm>
43. See Kappler, p. 1021; emphasis added. Also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/sho1020.htm>
44. *Tulee v. Washington*.
45. See the *Treaty with the Yakima, 1855* (Kappler, pp. 698–702; also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/yak0698.htm>). Article 3 of this treaty qualifies the fishing right by stating that it may be carried out “in common with the citizens of the Territory” (p. 699).
46. *State v. Coffee*, 97 Idaho 905 (1976).
47. The treaty may be found in Kappler (pp. 722–725). Also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/fla0722.htm>
48. *Kootenai Tribe or Band of Indians of the State of Idaho v. United States*, 5 Ind. Cl. Comm. 456 (1957).
49. *State v. Coffee*, p. 913, emphasis added.
50. *State v. Coffee*, p. 916.
51. *State v. Cutler*, 109 Idaho 448 (1985).
52. See Kappler (pp. 1020–1024). Also available at: <http://digital.library.okstate.edu/kappler/Vol2/treaties/sho1020.htm>
53. *State v. Cutler*, p. 453.
54. Kappler, p. 1021.
55. *State v. Cutler*, p. 459.
56. Another suite of eight cases from the State of Washington—*Department of Game v. Puyallup Tribe, Inc.*, 70 Wash.2d 245 (1967); *Department of Game v. Puyallup Tribe, Inc.*, 80 Wash.2d 561 (1972); *Department of Game v. Puyallup Tribe, Inc.*, 86 Wash.2d 664 (1976); *Puget Sound Gillnetters Association v. Moos*, 88 Wash.2d 677 (1977); *Puget Sound Gillnetters Association v. Moos*, 92 Wash.2d 939 (1979); *State v. Satiacum*, 50 Wash.2d 513 (1957); *State v. Moses*, 79 Wash.2d 104 (1971); and *State v. Courville*, 36 Wash. App. 615 (1983)—that collectively cited 9 different treaty documents including a 1797 Seneca instrument for lands within New York State, also portrays the ongoing debates and seemingly disparate decisions. These cases have in common the “right of taking fish at usual and accustomed grounds and stations” that was assured in nine treaties negotiated in 1854 and 1855 by Isaac I. Stevens, the Governor of Washington Territory. Eight out of these nine documents are cited in the opinions of these cases. See Prucha, F. P. (1984). *The Great Father: The United States Government and the American Indians*

- (pp. 402–409). Lincoln, NE: University of Nebraska Press; Prucha, F. P. (1994). *American Indian treaties: The history of a political anomaly* (pp. 250–255). Berkeley, CA: University of California Press, for a discussion of these proceedings.
57. Volumes of *Statutes at Large* are now available on the Library of Congress's *Century of lawmaking for a new nation* page. Available at: <http://memory.loc.gov/ammem/amlaw/lwsl.html>. The texts of all treaties cited in Table 1 are available at this site.
58. This is an expanded process, in comparison to the previous analyses (Bernholz, 2001, 2002, and 2004) that used *Shepard's Federal Statute Citations (Shepard's Federal Statute Citations: Statute Edition Supplement, 1996–2001: Vol. 4* (2001). Colorado Springs, CO: Lexis Publishing; and *Shepard's Federal Statute Citations: Vol. 6* (8th ed.). (1996). Colorado Springs, CO: Shepard's/McGraw-Hill Inc.) as a case identification tool along with the *LexisNexis* resource. *Shepard's* has the advantage of editor-deduced *Statutes at Large* citations for materials contained in opinion texts; in many early cases, the individual treaty *Statutes at Large* reference was not given. This supplemental information is not accessible when searching any database for a specific text target, such as "10 Stat. 1053" for the *Treaty with the Shawnee, 1854*. Thus, case selection in this guide is bound by the completeness of the *LexisNexis* and the *Westlaw* online databases.
59. *Commonwealth v. Coxe*, 4 U.S. 170 (1800).
60. *J & M Aircraft Mobile T Hangars, Inc. v. Johnson County Airport Authority*.
61. See *Ratified Indian Treaties, 1722–1869* (1966). Washington, DC: National Archives and Records Service.
62. Bernholz, C. D. (in preparation). Adjusting American Indian treaties: A guide to supplemental article and supplementary treaty citations from opinions of the United States Federal Court system.
63. The corresponding affecting treaties are ratified treaty numbers 186, 182, 269, 323, 351, and 330, respectively. The 11 court cases are assigned positions in *both* treaty positions within the Table. For example, *State ex rel. May v. Seneca-Cayuga Tribe* is denoted as a case under ratified treaty number 123.1 to show that the Court's opinion cited this 1833 supplementary treaty to the 1824, ratified treaty number 123 document. The case is also placed under ratified treaty number 186, i.e., at its original Department of State ordinal position. The numbers of citations and of opinions were incremented only once for each unique case within these six sets of affected and supplementary treaties.
64. Kappler, pp. 6–8.
65. The full array of States is Alabama, Alaska, Arizona, California, Georgia, Idaho, Illinois, Indiana, Kansas, Maryland, Michigan, Minnesota, Missouri, Mississippi, Montana, New York, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.
66. *State v. Coffee*. The case, regarding hunting on private lands by an Idaho Kootenai woman, proceeded through the local Magistrate (*State v. David*, No. M-2041, Magistrate Court, Boundary County, Idaho. Filed August 21, 1973) and through the District Court of Appeal (*State v. Coffee*, No. M-2041, District Court, Boundary County, Idaho. Filed September 12, 1975) before reaching the Supreme Court of Idaho. The deer were shot in October 1972.

67. Gittinger, R. (1917). *The formation of the State of Oklahoma (1803–1906)*. Berkeley, CA: University of California Press.
68. Wright, M. H. (1986). *A guide to the Indian tribes of Oklahoma*. Norman, OK: University of Oklahoma Press. See her map on p. 16.
69. Fairbanks, R. A. (1995). Native American sovereignty and treaty rights: Are they historical illusions? *American Indian Law Review*, 20, 141–149.
70. Fairbanks, p. 147.
71. Meyers, H., & Smith, C. (2004). *American Indian law deskbook* (3rd ed.) (pp. 500–531). Boulder, CO: University Press of Colorado.
72. Meyer, & Smith, p. 500.
73. Meyer, & Smith, p. 521.
74. *In re Baby Boy D*.
75. Vaughan, A. T., & Kent, D. H. (Eds.). (1984). *Early American Indian documents: Treaties and laws, 1607–1789, vol. 2: Pennsylvania treaties, 1737–1756* (pp. 77–110). Washington, DC: University Publications of America;
Van Doren, C., & Boyd, J. P. (Eds.). (1938). *Indian treaties printed by Benjamin Franklin, 1736–1762* (pp. 41–79). Philadelphia, PA: The Historical Society of Pennsylvania.
76. *In re Baby Boy D*, p. 1072.
77. *Minnesota v. Mille Lacs Band of Chippewa Indians*.
78. Wilkinson, C. F. (1987). *American Indians, time, and the law: Native societies in a modern constitutional democracy* (p. 120). New Haven, CT: Yale University Press.
79. Vaughan, A. T., & Graymont, B. (Eds.). (1996). *Early American Indian documents: Treaties and laws, 1607–1789, vol. 9: New York and New Jersey treaties, 1714–1753* (pp. 103–127);
O’Callaghan, E. B. (Ed.). (1855). *Documents relative to the colonial history of the State of New York, Vol. 5* (pp. 657–681). Albany, NY: Weed, Parsons, and Co.
80. Vaughan & Kent, pp. 77–110;
Van Doren & Boyd, pp. 41–79.
81. Vaughan, A. T., & Graymont, B. (Eds.). (2001). *Early American Indian documents: Treaties and laws, 1607–1789, vol. 10: New York and New Jersey treaties, 1754–1775* (pp. 541–566). Bethesda, MD: University Publications of America;
O’Callaghan, E. B. (Ed.). *Documents relative to the colonial history of the State of New York, vol. 8* (pp. 111–137). Albany, NY: Weed, Parsons, and Co.