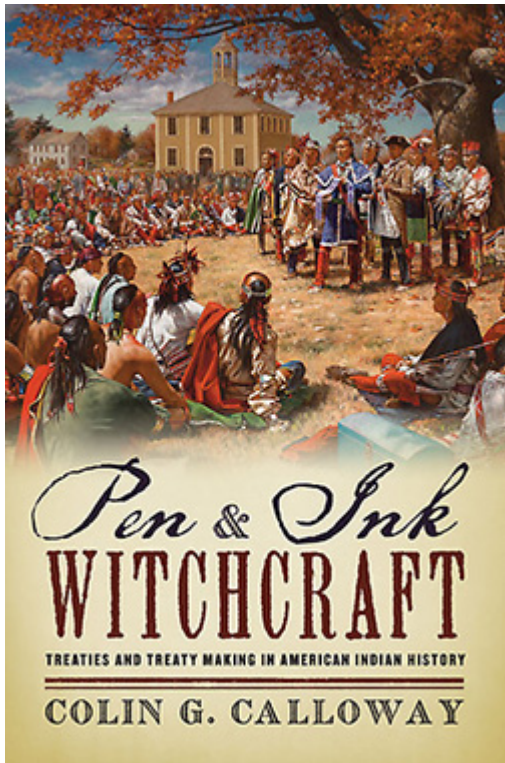


# Indian Treaties Redux



In 1791, Ottawa war leader Egushawa remarked that he would rather fight an American army than be prisoner to their Indian treaties, which he derided as “pen and ink witch-craft, which they can make speak things we never intended, or had any idea of, even an hundred years hence.” Egushawa’s prophetic words reflect the basic premise of Colin G. Calloway’s new book, in which he argues that treaties were the “primary instruments” by which indigenous peoples were deprived of their lands, autonomy, and sovereignty, more so than by simple violence and warfare (2). In fact, Calloway crafts an entire narrative of Native American history from the eighteenth to twenty-first centuries predicated on the negotiation of Indian treaties between indigenous peoples and Euro-Americans. Through this narrative, he asserts treaties provide “a barometer of Indian-white relations in North America,” which demonstrates the “shifts in power, changing attitudes about the place of Indian peoples in American society, and contested ideas about indigenous rights in a modern constitutional democracy” (3).

While skeptics may cringe at the thought of orienting Native American history around treaty-making due to its potential connotations of the archaic “Indian-white relations,” Calloway presents several compelling reasons for why treaties offer a unique analytical lens into the interactions between Native peoples and Euro-Americans. First and foremost, Calloway depicts Indian treaties as “foundational documents in the nation’s history, alongside sacred texts like the Declaration of Independence and the Constitution,” which “are open to interpretation by subsequent generations” (xi). As Calloway illustrates,

indigenous peoples today still grapple with the repercussions of treaties negotiated in the eighteenth and nineteenth centuries, which are continually reinterpreted and contested by tribal, state, and federal courts. Yet as Calloway proves, Native peoples adapted to, subverted, and even co-opted these treaties and their judicial interpretations to assert indigenous sovereignty, self-determination, and economic independence today despite federal lethargy and hostility from non-Native communities. Simply put, Calloway supplies historical context for how treaties evolved from informal negotiations in the colonial past to the official “law of the land” that now defines the political and judicial relationship between Native peoples and the United States (241).



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Calloway also states that Indian treaties and the process of treaty-making encapsulate the broader themes that resonate throughout Native American history, such as dispossession and resistance, indigenous agency and voice, non-Indian cultural attitudes toward Indians, and the evolution of modern Indian jurisprudence. Calloway’s book follows these themes throughout its three-part structure, which offers pairs of chapters on treaty-making in colonial America, the removal era, and the mid- to late-nineteenth century in the American west and on the Great Plains. In colonial America, Native peoples like the Iroquois still wielded great power in their interactions with Euro-Americans and asserted their own interests in treaty negotiations. As a consequence of such Indian power, Euro-Americans saw Native polities as sovereign entities and used treaties primarily as a way to resolve “issues of trade, war, peace ... and criminal jurisdiction” with such autonomous groups (84). However, incessant Euro-American encroachments on Native lands, indigenous resistance and violent responses to settler invasions, and the inability to create fixed boundary lines combined to produce treaties like the one negotiated at Fort Stanwix in 1768 that became solely instruments of dispossession.

Treaties “increased dramatically in number and frequency” in Calloway’s second era of treaty-making between 1783-1838 as the United States used these documents to stake American claims to indigenous lands, deny any notions of Native American sovereignty, and complement international treaties with European powers that recognized the United States as a legitimate nation (113). In this process of defining the fledgling nation through treaties at home and abroad, the federal government deliberately excluded Native peoples from the new polity and created a vicious cycle of “recurrent dispossession of Indians as the United States pushed steadily westward” (114). This was nowhere more evident than in the Treaty of New Echota in 1835, which not only implemented

and justified Indian removal, but also created crippling factionalism among the Cherokees and undermined Cherokee efforts to assert sovereignty in their political and legislative battles against the federal government.

Calloway further demonstrates that the continued use of the Indian treaty in the American West during the mid- to late-nineteenth century heralded the reservation and assimilation eras for Native Americans. At first, he illustrates how the indigenous peoples of the West like the Comanche, Lakota, Kiowas, and other groups in the southwest, Pacific Northwest, and Great Plains resisted federal efforts to pacify and relocate indigenous peoples on reservations. Despite such resistance, the federal government forced these Native polities to accept treaties of dispossession at sword-point, followed afterward by confinement to reservations and a coercive policy of assimilation to integrate indigenous peoples into American society and eradicate Native identity and culture. As Calloway concludes, assimilation rendered treaties obsolete as the United States abrogated any and all concessions to Indian power codified in those documents, instead turning Indians into Americans. Yet, contrary to this intent, indigenous communities not only survived as distinct peoples into the twentieth century, but turned treaties against the United States. Particularly during the mid- to late-twentieth century, political activists, Native rights organizations, tribal governments, and other Native Americans rallied around the treaties their ancestors had negotiated with Euro-Americans since the eighteenth century as part of a widespread effort by "Indian people in modern America [to] insist that the United States keep its word" encoded in those treaties (239). Through a Native resuscitation of treaties, Calloway determines that these documents evolved from a tool to pacify, segregate, and assimilate indigenous peoples to become a weapon for Native groups to assert the sovereignty denied to them by the United States since the turn of the nineteenth century.

To complement his narrative, Calloway provides case studies of a particular treaty during each era of treaty-making, specifically Fort Stanwix (1768), New Echota (1835), and Medicine Lodge (1867). As companion chapters to each period of treaty-making, these case studies exemplify the broader themes in Native American history for each era and illustrate how the negotiations that produced such treaties were highly complex and contingent affairs that deflate any sense of "the inevitable march of [American] empire" (6). According to Calloway, he wants to shift the "focus [to] the treaty negotiations as much as on the outcomes of those negotiations," for "each treaty had its own story and its own cast of characters" who determined what unfolded at those conferences (6-7). Therefore, his narrative is littered with Native actors and voices like the Iroquois headman Conoghquieson, Cherokee leaders John Ridge and John Ross, and Kiowa warriors like Satanta and Satank, who influenced treaty negotiations and vacillated between strategies of violence and accommodation to confront Euro-American demands. As Calloway concludes, it was these individuals and their efforts in treaty councils in the eighteenth and nineteenth centuries that produced a definitive set of treaty rights that provided modern Native activists with the tools to articulate alternative and innovative

understandings of indigenous autonomy and sovereignty encoded within Indian treaties.

However, the trouble with Calloway's book is that by reconceptualizing a narrative of Native American history through Indian treaties and treaty-making, he is often forced to sacrifice complexity and diversity for brevity's sake. Calloway admittedly confesses his story is centered "in the colonial Northeast, in the early national South, and on the Great Plains...[to] signpost the story of Indian relations and nation building in this country" (10). Calloway therefore deploys examples that are more illustrative of the points he is trying to make, which are hardly representative of the experiences of the great diversity of Native peoples who confronted Euro-American empires and negotiated treaties. For instance, Calloway uses the most familiar indigenous polity, the Iroquois Confederacy, in the colonial era to discuss themes of Native power and intra-Native conflict during treaty negotiations, as well as the transformation of treaties from contracts of peace to tools of dispossession. Yet when compared with Native peoples like the New England "Mission" Indians or Catawbas in the Piedmont region who were resettled on reservation-like lands as early as the eighteenth century, the Iroquois experience is far from representative. Similarly, the many peoples of the southeast like the Creeks, Choctaws, and Chickasaws confronted, subverted, and collaborated in treaty-making in far different ways than the Iroquois. In particular, southeastern indigenous peoples performed different diplomatic customs, ceremonies, and rituals with Euro-Americans during treaty councils, which are overlooked by Calloway in favor of Iroquoian ones, again likely for the sake of simplification. Despite this distraction, though, Calloway's work is an insightful and revelatory look at the long and convoluted history of Indian treaties and treaty-making, which is made all the more relevant by the ongoing debates and conflicts over Indian treaty rights today.

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