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A compilation of suggested primary documents that could be used with the new Oregon required Indian Nations curriculum.

1. Papal documents called Papal Bulls from the mid-1450s granting Portugal license to conquer and convert in the Canary Islands and the African continent.
2. 1492 Spanish charters and instructions to Columbus (to claim any new lands discovered for King Ferdinand and Queen Isabella).
3. Pope Alexander VI's papal bulls, *Inter caetera divinae* and *Inter caetera II*, May 1493, granting Portugal and Spain rights to conquer and convert the non-Christian world and to take title to the "discovered" lands. The Pope divided the world with a line 100 leagues west of the Azores and authorized Spain to "discover" west of the line and granted Portugal the same right east of the line. (The 1493 Bull "Inter caetera divinae" dividing the New Continents and granting Americas to Spain, May 4, 1493, Church and State Through the Centuries 153-57 (Sidney Z. Ehler & John B. Morrall, trans. & eds 1967). To find lands "which have not been found by any one else before and in which several people live peacefully")
4. The 1494 Treaty of Tordesillas between Spain and Portugal which moved the Pope's line westward to 370 leagues west of the Cape Verde Islands so that Portugal could "discover" and possess part of the Brazilian land mass in South America.
5. Spanish documents establishing the *encomienda* system which justified enslaving the Indians by reference to Spain's papal grant.
6. Documents from 1512-1530s of the Spanish debates on the formal basis of Spain's right to conquer and rule in the Indies and the development of the Discovery Doctrine. Including the writings of Franciscus de Victoria and Bartolome de Las Casas who argued that natives had natural rights Spain had to honor, that the Papal bulls did not pass title to the lands to Spain, but that Indians had duties under the Law of Nations to allow the Spanish to travel in their lands, take profits from their lands, and preach the gospel. If the natives prevented the Spanish from exercising these rights, the Spanish could "defend" themselves and wage a "lawful" and "just" war on the natives. Franciscus de Victoria, *De Indis et de Iure Belli Relectiones*, 128 (E. Nys ed., J. Bate trans. 1917).
7. The *Requerimiento* which was developed from these debates and used from 1513-1556. It was required to be read to natives so they could accept Christianity and Spanish authority before the Spanish attacked them in a "just war" to cause their conversion. It informed Indians that God had given charge of the human race to the Pope and that he had donated their lands to the Spanish King and Queen. Getches at 47. Indians could take time to consider, but they had to accept the Church and Pope as their ruler and the Spanish King and Queen. If they did not or maliciously delayed, then the Spanish would

forcefully enter the country and make war on the natives. Reprinted in *The Spanish Tradition in America* 58-60 (Charles Gibson ed. 1968).

8. Robert Gray, Puritan preacher, 1609 "A Good Speed to Virginia." The Bible provided justification for English war on heathen natives in Virginia. Man commits a sin when he allows earth to remain "in the hands of beasts and brutish savages." He alleged Indians did not own particular parcels of land but just generally resided there as nomads with no thoughts of personal property. (This is untrue of most Indians cultures who lived in settled villages and tended crops.)

9. Henry VII's 1497 charter to John Cabot to explore and conquer the New World, similar to ones Columbus was given, to "Seek out, discover, and find whatsoever isles, countries, regions or provinces of the heathen and infidels whatsoever they be, and in what part of the world soever they be, which before this time have been unknown to all Christians" Reprinted in *Documents of American History* 5-6 (Henry S. Commager ed. 8th ed. 1968). England was Catholic then and the King was afraid of excommunication for violating the 1493 Papal Bulls given to Spain and Portugal regarding exploration of the New World.

10. Elizabeth I charters (e.g. to Humphrey Gilbert in 1578 and in 1584 to Walter Raleigh) to colonize Virginia and find "heathen and barbarous lands . . . not actually possessed of any Christian prince or people . . . to have, hold, occupy and enjoy" Her charters were modeled after her grandfather's Henry VII charters to Cabot. 22. Documents showing the Doctrine of Discovery in her colonizing wars over the "wild" Irish tribes.

11. King James I charters in 1606 to the Virginia Company to colonize Virginia and propagate the christian religion and bring the infidels and savages to human civility. Reprinted in *Documents of American History* 8-12 (Henry S. Commager ed. 8th ed. 1968).

12. Colonial and state laws regarding Indian title and what countries' laws would apply to sales of land, such as Virginia laws 1619-

13. Maryland laws 1647-

14. John Locke's unratified constitution for the Carolina colony taking Indian property.

15. King George III's Royal Proclamation of 1763 preventing colonists and colonies from buying or even entering Indian lands, which were defined as all lands west of the crest of the Allegheny and Applachia Mountains.

16. Articles of Confederation, art. IX (1781) attempting to keep the states from buying Indian lands.

17. Gen. George Washington's Sept. 7, 1783 letter calling Indians "The Savage as the Wolf" and predicting that they would disappear before the advance of the American frontier just as the wolves and animals did.
18. The Northwest Ordinance of 1787 that promised to protect Indian property and rights unless the U.S. has to invade in "just and lawful wars." ("Just wars" idea straight out of de Victoria and Spanish Discovery theory of 1536 and English ideas from the late 1550s & early 1600s.) (Applied to the Oregon Country by Congress in 1848.)
19. U.S. Constitution provisions: Interstate and Indian Commerce Clause of the U.S. Constitution taking all power over Indian commerce into the central government's hands. (Just like the Royal Proclamation of 1763 and the Articles of Confederation had tried to do.) And the Treaty & congressional representation clauses and their application to tribes and Indians.
20. U.S. legislative enforcement of the Discovery Doctrine. July 1790. Now codified at 25 U.S.C. s 177. No person or state can buy Indian or tribal lands without the permission of the U.S. (Just like the Royal Proclamation of 1763 and the Articles of Confederation had tried to do.)
21. Jefferson's June 20, 1803 letter of instructions to Lewis showing the primary objectives of dealing commercially with tribes and Indians.
22. The Louisiana purchase Treaty with France. (It contains a provision on how the U.S. is to treat Indians/tribes- in contrast with the provision regarding treatment of the French/Spanish inhabitants of the Territory). (Maybe the U.S. Treaty of Guadalupe Hidalgo with Mexico to compare how it required the U.S. to treat natives.)
23. Jefferson's Jan. 22, 1804 letter of instruction to Lewis and how his mission was to take U.S. sovereignty to the tribes now that the U.S. had purchased Louisiana; "Being now become sovereigns of the country, without however any diminution of the Indian rights of occupancy" That simple sentence is a very good definition of how Chief Justice Marshall defines Discovery in *Johnson v. McIntosh* in 1823.
24. Thomas Jefferson's 1803 letter to Gov. William Henry Harrison that everyone knew that all Indians would have to be removed west of the Mississippi River one day; his 1808 letter to Congress that the U.S. should start buying the land west of the Mississippi from the "native proprietors".
25. *Johnson v. McIntosh*, 21 U.S. 543 (1823). The Supreme Court adopts the Doctrine of Discovery as the federal law under which this country was settled. Discovery and Conquest. It limits Indian real property rights because tribes cannot sell to whomever they wish for whatever amount they can get. They can only sell to the U.S. when they are ready to sell. Until then, they hold the valuable property rights of use, occupancy, and development. Tribes also lost some sovereign powers because the U.S. gained power over tribes in that Indian tribes can only deal with the United States and no other country.

Hence, what the U.S. bought from France in the 1803 Louisiana Purchase treaty was not the land, because the U.S. spent the next one hundred years entering treaties with tribes and buying the land and paying 20 times more to tribes than what we paid France. Instead, the U.S. bought the power of Discovery, the position as the discoverer, and became the sole country that tribes could deal with diplomatically and the only possible buyer of their lands. In property law this is called a right of preemption or perhaps an exclusive option.

26. The Removal Act, 4 Stat. 411-12. One result of the Discovery Doctrine was the Removal Era of Federal Indian Policy that officially commenced in 1830. This Act led to the Trail of Tears and the removal of all Indians west of the Mississippi just as Jefferson planned. I would include the Act, maybe some legislative history showing Congress' understanding of its authority. This was the genesis of the Manifest Destiny idea, although that phrase was not used until the 1840s I believe. All presidents after Jefferson supported removal.

27. *Cherokee Nation v. Georgia* (1831) (tribes are the wards of their guardian, the U.S. and Indian nations are not international nations, but "domestic, dependent nations").

28. *Worcester v. Georgia* (1832) (Georgia law cannot apply in Indian country; the Cherokee and all Indian nations are governments that possess their natural rights).

29. The 14th Amendment (1868) (Indians still were not U.S. citizens).

30. *Elk v. Wilkins* (1885) (Indians were not made U.S. citizens by the 14th Amendment).

31. Indian Citizenship Act of 1924, 8 U.S.C. ?? (all Indians were made U.S. citizens).

32. Several Indian/US treaties showing the establishment of reservations, tribal trade restrictions, and the protective status of tribes under the U.S. authority.