

Statement by Rep. James P. Moran
on the
“Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act”

March 18, 2009

Mr. Chairman, thank you and thank you Members of the Natural Resources Committee who have been particularly sensitive during your service here in Congress to the needs of Native Americans and Virginia’s Indian people.

The Virginia Indians who are here with me in this hearing room and their friends and relatives who could not make today’s trip to the Capitol are not myths or legends. They are the blood descendants of a proud people who populated the Mid-Atlantic and were part of the Powhatan Confederacy. They were the first to greet the English in 1607 and ensure their survival for the first few years of their settlement at Jamestown. And, they have continued to exist as a people and as tribes ever since.

Two years ago, this nation celebrated the 400th anniversary of the settlement of Jamestown. But while the anniversary brought greater notoriety to the Virginia Indians, it was not a celebration for the descendants of Pocahontas, for they have yet to be recognized by our federal government. Unlike most Native American tribes that were officially recognized when they signed peace treaties with the federal government, Virginia’s six Native American tribes made their peace with the Kings of England. Most notable among these was the Treaty of 1677 between these tribes and King Charles II. This treaty has been recognized by the Commonwealth of Virginia every year at Thanksgiving when the Governor accepts tribute from the tribes in a ceremony now celebrated at the State Capitol. Last November, I had the honor of attending the 331st ceremony affirming that treaty. I understand the event marks the longest celebrated treaty in the United States.

The history of Virginia tribes is unique in two important ways that are relevant to why they are here today. The first explains why the Virginia tribes were never recognized by the federal government; the second explains why congressional action is needed. First, by the time the federal government was established in 1789, the Virginia tribes were in no position to seek recognition. They had already lost control of their land, withdrawn into isolated communities, and the state had stripped them of most of their rights. Lacking even the rights granted by the English Kings, much less our own Bill of Rights, the tribes found that federal recognition was nowhere within their reach.

The second unique circumstance for the Virginia tribes is what they experienced at the hands of the state government during the first half of the 20th Century. It has been called a

“paper genocide.” At a time when the federal government granted Native Americans the right to vote, Virginia’s elected officials adopted racially hostile laws targeted at those classes of people who did not fit into the dominant white society. The fact that some of Virginia’s ruling elite claimed to be blood descendants of Pocahontas in their view meant that no one else in Virginia could make a claim they were Native American and a descendent of Pocahontas’ people. To do so would mean that Virginia’s ruling elite were what they decreed all non-whites to be: part of “the inferior Negroid race.”

With great hypocrisy, Virginia’s ruling elite pushed policies that culminated with the enactment of the Racial Integrity Act of 1924. This act directed state officials to destroy or alter all public records that might affirm the existence of Native Americans. One state official, Walter Plecker, an avowed white supremacist, spent his career as Director of the State Office of Vital Records sacking state and local courthouse records and reclassifying in Orwellian fashion other documents to make sure all non-whites were recorded as “colored.”

The law targeted Native Americans with a vengeance, denying Native Americans in Virginia their identity. To call oneself a “Native American” in Virginia was to risk a jail sentence of up to one year. In defiance of the law, members of Virginia’s tribes traveled out of state to obtain marriage licenses or to serve their country in wartime. The law remained in effect until it was struck down in federal court in 1967. In the period between 1924 and 1967, state officials waged a war to destroy all public and many private records that confirmed the existence of Native Americans in Virginia. Historians have affirmed that no other states’ efforts compare to Virginia’s efforts to eradicate its citizens’ Indian identity.

All of Virginia’s state-recognized tribes have filed petitions with the Bureau of Acknowledgment seeking federal recognition. But it is a very heavy burden the Virginia tribes will have to overcome, and one fraught with complications that officials from the bureau have acknowledged may never be resolved in their lifetime. The acknowledgment process is already expensive, subject to unreasonable delays, and lacking in dignity. Virginia’s “paper genocide” further complicates these tribes’ quest for federal recognition, making it difficult to furnish corroborating state and official documents and aggravating the injustice already visited upon them.

It wasn’t until 1997, when then Governor George Allen signed legislation directing state agencies to correct state records, that the tribes were given the opportunity to correct official state documents that had deliberately been altered to list them as “colored.” The law allows living members of the tribes to correct their records, but the law cannot correct the damage done to past generations or to recover documents that were purposely destroyed during the “Plecker Era.”

In 1999, the Virginia General Assembly adopted a resolution calling upon Congress to enact legislation recognizing the Virginia tribes. I am pleased to have honored that request, and beginning in 2000 and in subsequent sessions, Virginia’s Senators and I have introduced legislation to recognize the Virginia tribes.

There is no doubt that the Chickahominy, the Eastern Chickahominy, the Monacan, the

Nansemond, the Rappahannock, and the Upper Mattaponi tribes exist. These tribes have existed on a continuous basis since before the first European settlers stepped foot in America. They are here with us today.

I know there is resistance in Congress to granting any Native American tribe federal recognition. And I can appreciate how the issue of gambling and its economic and moral dimensions has influenced many Members' perspectives on tribal recognition issues. The six Virginia tribes are not seeking federal legislation so that they can build casinos. They find this assertion offensive to their moral beliefs. They are seeking federal recognition, because it is an urgent matter of justice, and because elder members of their tribes, who were denied a public education and the economic opportunities available to most Americans, are suffering and should be entitled to the federal health and housing assistance available to federally recognized tribes.

To underscore this point, the legislation I introduced includes language approved last session by the House of Representatives that would prevent the tribes from engaging in gaming on their federal land, even if everyone else in Virginia were allowed to engage in Class III casino-type gaming.

In the name of decency, fairness, and humanity, the Virginia tribes deserve federal recognition. It is long overdue and would bring closure to the centuries of injustice Virginia's Indians have endured.

Again, I appreciate your leadership and responsiveness in scheduling this hearing, and I would be pleased to respond to any questions.

Thank you.

**Cosponsors of legislation introduced by the Rep. Jim Moran
recognizing six Virginia tribes**

The Honorable Nick J. Rahall II

The Honorable Robert Wittman

The Honorable Gerald A. Connolly

The Honorable Raul Grijalva

The Honorable Tom Periello

The Honorable Bobby Scott

The Honorable Neil Abercrombie