

**TESTIMONY OF DR. JACK CAMPISI BEFORE  
THE U.S. SENATE COMMITTEE ON INDIAN AFFAIRS ON S.420**

**September 17, 2003**

I hold a doctorate in anthropology, have dedicated my career to research in tribal communities, and teach these subjects as an adjunct professor at Wellesley College. Between 1982 and 1988, I conducted a number of studies for the Lumbee Tribe of North Carolina. Each of these included fieldwork in the community for periods of time varying from a week to three weeks. In all, I spent more than twenty weeks in Robeson County carrying out a variety of research projects. Besides being responsible for synthesizing the thousands of pages of documentation collected during the ten years it took to carry out the archival research, and for designing and carrying out the community research, I had the honor of writing the petition that was submitted on December 17, 1987, to the Branch of Acknowledgment and Research. Specifically, I drafted the Historical Narrative section, and researched and wrote the sections dealing with community and political continuity. Subsequent to the completion of the petition, I continued research with the Lumbee Tribe, most recently in 2002. The material that follows is based on my twenty years' research on the Tribe's history and community.

Over the course of the past twenty-five years, I have worked on 28 tribal petitions for federal acknowledgment. None has exceeded the Lumbee petition in documentation and no group has exhibited more evidence of community cohesion and political continuity than the Lumbee Tribe. It is my professional opinion that the Lumbee Tribe meets the criteria for recognition. I will outline below the

main arguments and evidence in support of this conclusion.

### **An Overview of Lumbee Tribal History**

That there was a separate and continuous Indian community in Robeson County during the ante-bellum period is clear from state court and federal census records. Although generally classified as free non-whites during the post-Revolutionary War years, the Lumbees appear to have been treated more generously than free blacks, being allowed to vote without challenge and to own property. However, in the 1830s two seemingly unrelated actions — one by the national government and the other by the State of North Carolina -- converged, with disastrous impact on the Indians of the state. In 1830, Congress passed legislation providing for the removal of all Indian tribes east of the Mississippi River to land set aside in the "Indian Territory" in Oklahoma. Tribes such as the Cherokee and Creek were forced to leave. In the climate of removal, it did not benefit a tribe to overtly manifest its identity. Lumbees, like other Indians in the state, held their land in severally, but often without patents. Thus, they were in a precarious position.

Added to the problem of tribal survival was the steadily worsening relationship between whites and "people of color" in North Carolina following Nat Turner's uprising in 1831. In 1835, the state passed a constitutional amendment denying tribal members rights they had previously enjoyed. Many refused to abide by the changes and some were charged with violations. One case, in particular, went far toward recognizing the Lumbees as Indians. In 1857, a William Chavers was arrested and charged as "a free person of color" with carrying a shotgun, a violation of state law. He was convicted, but promptly appealed, claiming that the law only restricted free Negroes, not

persons of color. The appeals court reversed the lower court, finding that "Free persons of color may be, then, for all we can see, persons colored by Indian blood, or persons descended from Negro ancestors beyond the fourth degree." The following year, in 1859, in another case involving a Lumbee, the appeals court held that forcing an individual to display himself before a jury was tantamount to compelling him to furnish evidence against himself.

These cases generally resulted in the Lumbees establishing a special status under the law as Indians, one outside the limitations placed on others who were classified as "free persons of color."

The federal census records are by far the best source of evidence concerning the Lumbee community. It is clear from the names of the heads of households that the area of Robeson County around Drowning Creek, renamed the Lumber River in 1809 by the state legislature, was occupied almost exclusively by tribal members. Based on the 1850 census (the first census to provide the names of the individual's resident in each household), it is possible to describe the residency patterns of the Lumbee community. Thus, there can be no doubt that there was an Indian community present along Drowning Creek from the mid-1700s, separate from other communities in the area. It is also certain that this community had a well-established leadership structure and that it managed its affairs with relative autonomy.

The oldest Lumbee community that can be continuously documented was called Long Swamp, now called Prospect and located within the core area in Pembroke and Smith townships. It is also located right in the heart of the so-called old field of the Cheraw, documented in land records between 1737 and 1739. The earliest census records show the presence in this community of an extended Locklear family continuously since 1790. Members of this extended family appeared among the tribal

leaders, both by descent and marriage, who petitioned Congress for federal recognition in 1888.

Members of this extended family were also among those who were tested by physical anthropologist Carl Seltzer in 1936 for blood quantum. This includes Duncan Locklear and Henry Locklear, whose pictures are attached. The Tribe's attorney, Arlinda Locklear, is also descended from this extended family.

From 1860 on, there is abundant evidence of tribal activity. During the Civil War the Lumbee Indians were prohibited from serving in the Confederate Army and were, instead, conscripted into labor gangs and assigned to build the fortifications at the mouth of the Cape Fear River to protect the city of Wilmington. The conditions were harsh and the treatment brutal. Many Lumbee men escaped and returned home where they hid out in the swamps of Robeson County. Besides Lumbees, the swamps provided a refuge for Union soldiers who had escaped from nearby Confederate camps. Because of their treatment by the Confederacy, and more particularly the Home Guard, the Lumbees gave assistance and protection to the Union soldiers. As the number of Lumbees and Union soldiers "laying out" increased, so did the burden of feeding them. With so many men in hiding or conscripted, there were few to do the farm work. Gradually, the attitude of the Lumbees changed from a passive one to one marked by belligerence. In short order, a band emerged, led by the sons of Allen Lowrie.

Matters came to a head in 1864 when members of the Allen Lowrie family and the local authorities came into armed conflict and a number of individuals on both sides were killed. In March of 1865, the Home Guard captured Allen Lowrie and his son, William, and after holding them for a short time, executed them in a field near the father's house. This was followed by a virtual reign of terror during which the Home Guard tortured members of the Lowrie family and their kinsmen in order to

learn the whereabouts of the band. With the death of his father and brother, Henry Berry Lowrie, who was barely twenty years old, took over the leadership of the band. For the next decade, led by Henry Berry Lowrie, and with community support and protection, the band fought against local authorities who sought by a variety of means to oppress the Indian population in Robeson County. The Lowrie Band led a struggle that ended only after the disappearance of its leader in 1872, and the capture and death of the last of the band members in 1874. Henry Berry Lowrie remains a folk hero to the Lumbee Indians and his story is told every year in an outdoor drama called Strike at the Wind.

By the 1870s, the Lumbees were openly acknowledged to be Indians. While the Lowrie Band was carrying out its defense, others in the tribe were taking equally effective actions to assert their independence. Lumbees were denied access to the white schools in the county and they refused to attend the schools for blacks. This impasse was broken in 1885, when the Lumbees were formally recognized by the State of North Carolina as an Indian tribe and permitted to establish a school system for the children of tribal members only. Tribal members exercised complete control over who could attend the schools. Each Lumbee settlement had a school committee that determined eligibility. In order to be eligible, an individual had to prove Lumbee ancestry back through the fourth generation; that is, back to the 1770's. Because of the rigorous manner in which these rules were enforced in the nineteenth century, school enrollment provides an accurate basis for determining present-day membership.

In 1887, tribal members petitioned the state legislature, requesting the establishment of a normal school to train Indian teachers for the Tribe's schools. Permission was granted, tribal members raised the funds, and along with some state assistance, the normal school began training teachers for the

expanding Lumbee school system. That normal school has been in operation continually since, evolving into Pembroke State University and, recently, the University of North Carolina at Pembroke.

In 1888, the Tribe petitioned Congress for educational assistance. The request was sent by the House Committee on Indian Affairs to the Commissioner of Indian Affairs, but no action was taken for nearly two years. Finally, in 1890, Commissioner Morgan responded to the Tribe, telling them that, "So long as the immediate wards of the Government are so insufficiently provided for, I do not see how I can consistently render any assistance to the Croatans or any other civilized tribes." There is no doubt that the government's rejection of assistance was based solely on economic considerations; the commissioner implying that if sufficient funds had been available, services would have been provided to tribes he referred to as "civilized."

The Lumbees made frequent attempts over the course of the next fifty years to receive assistance from the United States. In 1899, Congressman John D. Bellamy introduced legislation to provide educational assistance for the Croatan Indians (as the Lumbees were then called). Again, in 1910 and 1911, legislation was introduced in Congress to change the Tribe's name and to establish ". . . a school for the Indians of Robeson County, North Carolina." To secure information on the Tribe, the Indian Office sent Charles F. Pierce, Supervisor of Indian Schools, to investigate. He reported favorably on the Tribe, finding ". . . a large majority as being at least three-fourths Indian." He described them as being law abiding and industrious and "crazy on the subject of education." Pierce had no doubt that the Lumbees were Indians, or that they were a tribe. Nor did he doubt that federal educational assistance would be beneficial. He opposed the legislation because, in his words, "[a]t the present time it is the avowed policy of the government to require states having an Indian population to

assume the burden and responsibility for their education, so far as is possible." After lengthy deliberations, the bill passed the Senate, but not the House, because the chairman of the House committee felt that the Lumbees were eligible to attend the various Indian boarding schools.

The Tribe continued its efforts to secure federal educational assistance, and in 1914, sent a delegation to Congress. Another investigation was carried out by the Indian Office at the direction of the Senate. Among other things, Special Indian Agent, O.M. McPherson found that the Tribe had developed an extensive system of schools and a complex political organization to represent its interests. He noted that the Lumbees were eligible to attend federal Indian schools, but doubted that these schools would meet their needs. His recommendation was that if Congress saw fit to establish a school, it should be one emphasizing agricultural and mechanical skills. Again, Congress took no action. Parenthetically, it should be noted that during this period tribal activity was generally at a low level across the United States. Not so for the Lumbees, who actively involved their congressmen in their efforts to achieve federal recognition.

During the 1930s, the Tribe renewed its efforts to achieve federal recognition. In 1934, the Bureau of Indian Affairs asked the eminent anthropologist at the Bureau of American Ethnology John Reed Swanton for his professional opinion on the Lumbees. Swanton was emphatic concerning their Indian ancestry, specifying a Cheraw and other eastern Siouan tribes as their ancestry. A later report by Indian Agent Fred Baker (1935), who had visited the Lumbee community, gave further support that they constituted a tribe. Baker discussed a resettlement project with the Tribe in which the government would acquire land for the Lumbees' support, an alternative to the share-cropping and credit system then the predominant means of Lumbee livelihood. Baker reported to Congress:

It may be said without exaggeration that the plan of the government meets with practically the unanimous support of all of the Indians. I do not recall having heard a dissenting voice. They seemed to regard the advent of the United States government into their affairs as the dawn of a new day; a new hope and a new vision... I find that the sense of racial solidarity is growing stronger and that the members of this tribe are cooperating more and more with each other with the object in view of promoting the mutual benefit of all the members. It is clear to my mind that sooner or later government action will have to be taken in the name of justice and humanity to aid them.

However, the Bureau of Indian affairs did not support recognition of the Tribe, despite four studies that all found the Lumbee to be Indian. The apparent reasons were the size of the tribe and the costs to the government.

Following the First World War, the Lumbees renewed their efforts, both in the state and with Congress, to improve their educational system. At the state level, they were able to get an appropriation of \$75,000 for capital improvements at the Indian Normal School. The issue of the Tribe's name had become a concern, and tribal leaders sought legislation in Congress to recognize the name adopted by the state legislature – The Cherokee Indians of Robeson and Adjoining Counties in North Carolina. Such a bill was introduced in the Senate in 1924, and at first received favorable support from the Secretary of the Interior, although Commissioner of Indian Affairs Charles H. Burke opposed the legislation. The Secretary later dropped his support and the bill died.

The efforts to obtain congressional recognition were resumed in 1932. Senator Josiah W. Bailey submitted a bill designating the Indians of Robeson and adjoining counties as "Cherokee Indians," but this effort also failed. The following year another bill was proposed, this time designating the Tribe as the "Cheraw Indians," at the suggestion of Dr. Swanton. This name caused a split in the Tribe, with those tribal members led by Joe Brooks favoring it, while others,

led by D.F. Lowry opposing it, fearing it would jeopardize the Tribe's control over its schools. Because of the split in the Tribe, the effort failed.

With the passage of the Indian Reorganization Act, Brooks and his supporters attempted to organize the Tribe under a federal charter. Because the Tribe did not possess a land base, it was advised by Assistant Solicitor Felix Cohen to organize under the half-blood provision of the act. Cohen urged that the Tribe apply for land and a charter under the name of the "Siouan Indian Community of Lumber River." Brooks immediately submitted a proposal that mirrored Cohen's recommendations. Over the course of the next two years, the two projects of establishing recognition under the IRA and receiving land through the Bureau of Indian Affairs proceeded, when suddenly, in 1936, the land acquisition proposal was shifted from the BIA to the Rural Resettlement Administration, and the land that was to be purchased solely for Lumbee use, was opened to non-Indians. After a lengthy struggle, Brooks was able to have a part of the land set aside for tribal members, and incorporated under the name of the Red Banks Mutual Association.

The Tribe was no more successful in achieving recognition under the IRA. The BIA formed a commission of three to investigate the blood quantum of the Lumbees. In 1936, Dr. Carl C. Seltzer, an anthropologist and member of the commission, visited Robeson County on two occasions and took physical data on 209 Indians applying for recognition as one-half or more Indian blood. He found that twenty-two met the criteria. They were certified by the Secretary of the Interior. What made Seltzer's work so ludicrous was that in several cases he identified full siblings in different ways, one meeting the blood quantum requirement and the other not.

It was not until after the second World War that the Lumbees again tried to achieve federal

recognition of their status as an Indian tribe. The issue of their name continued to cause them problems so, in 1952, the Lumbee leadership conducted a referendum on the name. Of 2,144 tribal members who voted, all but 35 favored the use of the name “Lumbee,” derived from the Lumber River upon which they had always dwelled. Armed with this overwhelming support, the leader of the movement, D.F. Lowry, asked the state legislature to adopt the change. The legislature approved the name change in 1953. The Lumbee Tribe then took its case to Congress, which in 1956 passed the Lumbee Bill.

There can be no doubt that for more than 200 years the Lumbees have been continuously and repeatedly recognized as American Indians. This was made explicit by the state in the 1880's and by the federal government from at least the beginning of the twentieth century on. Federal and state officials have, on numerous occasions, reviewed the evidence and at no time have they questioned the fact that the Tribe consisted of people of Indian descent. Federal reluctance to acknowledge the Tribe centered on questions involving the extension of services. It was unfortunate that each effort by the Lumbees to clarify their federal status and to receive services coincided with federal Indian policy shifts away from the trust relationship: the General Allotment Act in 1887; the Citizenship Act of 1924, and the termination policy of the 1950s. The exception, the Indian Reorganization Act, which could have provided a means to recognition, was subverted by bad anthropology and bureaucratic indolence.

### **Recent Lumbee History**

Since the passage of the Lumbee Act, the Tribe has faced a steady string of problems, beginning with an attempt by the Ku Klux Klan to intimidate tribal members in 1958. The Tribe's reaction to this threat was a spontaneous gathering that drove the klansmen from the field and broke up their rally, a confrontation that focused national attention for a time on the Lumbee community. The

tribal members have exerted their influence in other ways. In the 1960's they organized voter registration drives that made their influence felt on local politics, electing members of the Tribe to state, county, and local public offices. When the local school authorities attempted to integrate only the black and Indian schools in the county, tribal members staged sit-ins and filed lawsuits to prevent the loss of tribal control over the schools. It must be understood that the school system was and is a key and integral part of tribal identity, and any threat to the tribe's control would be resisted. And resisted it was!

While the Tribe was struggling to maintain its schools, it was actively opposing the so-called "double voting" system, which allowed whites in the towns (which had separate school districts to vote with whites in the county, who were in the minority, to maintain white control over the county school system. The students in the county school system were predominantly Indian and black. Tribal leaders took the case to federal court, and after losing at the district court, won a reversal at the court of appeals, thus ending double voting.

At about the same time, tribal leaders became involved in an issue with high symbolic value to the Tribe. In 1972, the Board of Trustees of Pembroke State University decided to demolish the main building on the campus and replace it with another structure. Very quickly, a group formed to "Save Old Main." The group waged a statewide and national campaign to save the building, and just at the point when it seemed that they would be victorious, the building was burned to the ground. The Tribe overcame this blow and campaigned hard for the reconstruction of Old Main, which they eventually accomplished. The building was completed in 1975 and is now the site of the University of North Carolina at Pembroke's Native American Resource Center.

Since the end of World War II, the Tribe has grown in stature and influence. It was a primary mover in the establishment of North Carolina Commission of Indian Affairs, an organization that has become a model for state Indian commissions. The Lumbees have played an instrumental role in county affairs, where they have represented a moderating influence.

### **The Lumbee Community Today**

The Lumbees are held together by the same mechanisms and values that have kept them together for the past one hundred years or more, mechanisms and values that are typically Indian. First and foremost is the family, which serves as the center of Lumbee social activities. There is continual and widespread visiting among adults, particularly in the homes of parents and grandparents. Often, children live near their parents on land that was part of the family homestead. Members of families speak to and visit each other on an almost daily basis.

The knowledge that the average Lumbee has of his or her kin is truly astounding. It is very common for individuals to be able to trace their parents' genealogies back five or more generations. Not only are individuals able to name their grandparents, great grandparents, great great grandparents etc., but often they can name the siblings of their ancestors, the spouses of their ancestors' siblings, relate where they lived in Robeson County, the church they attended, and the names of their offspring. It is common for an individual to name two or three hundred individuals as members of the immediate family. Every year there are family reunions that attract members from all over the country. They vary in size from small gatherings of a few hundred close kin to reunions involving a thousand or more persons.

This kinship pattern is well illustrated by the mapping of all Lumbee heads of household based

upon the 1850 federal census that I prepared for the Tribe's petition for federal acknowledgment. I identified 168 households headed by Lumbees in 1850. These heads of household are the ancestors of present day Lumbees and include descendants of the Locklear extended family documented on the old Cheraw field in 1790. The households were clustered in what is the core area today of the Lumbee Tribe; in some areas, such as the Prospect community, the area was almost exclusively Lumbee. The households showed an extremely high rate of in-marriage, resulting in complex and multiple kinship and marriage ties among the members – a pattern that continues today as discussed below.

The same kinship pattern is reflected in the list of tribal leaders who appeared on the 1887 petition to the state and the 1888 petition to the Congress. When these individuals' relationships, both marital and kin, are mapped, it again reveals a remarkably tight community. There are multiple ties, as shown by the chart submitted by the Tribe with its petition for federal acknowledgment. Thus, the high rates of marriage and geographic concentration of tribal members shown today, as discussed below, were evident in 1790 and 1850.

Religion also serves to maintain the social boundaries of the Lumbee Tribe. By social boundaries, I mean that there are membership rules, special beliefs and values, a unique history, and a system of political authority and decision-making that marks the Lumbees as a separate community. There are more than 130 Lumbee Indian churches in Robeson County, and with one or two exceptions, each has a Lumbee minister. Church membership crosses family lines and settlement areas, thus drawing together different sectors of the Tribe.

For the Lumbees, church is more than a religious experience; it is one of their most important social activities. It involves many of them on a daily basis. The churches have Sunday schools, youth

organizations, senior citizens' programs, Bible study programs, and chorus practices, to mention but a few of the activities available. It is common for members of the same household to attend different churches, and this behavior further acts to bring the tribal membership together.

An additional and important activity of the churches is to hold an annual "homecoming" during the fall. The event is well advertised and individuals come from great distances to attend.

Homecomings are held on Sundays after church service and are open to all Lumbees. Families and friends gather in a church's fellowship hall and share a leisurely meal together. Commonly, there are several hundred tribal members in attendance. Homecomings are informal gatherings which offer opportunities for members of a family from different congregations to join with other families.

The family and the churches also provide the main avenues for political participation. In studying the Lumbee community, it is clear that leadership over the years has tended to surface in the same families from generation to generation, something like a system of inherited leadership. These leaders have gained prominence through their participation in the educational system and as church leaders. In the past, many of the Tribe's most dynamic leaders were ministers and teachers. Today, there are other avenues for the demonstration of leadership qualities, but family, education and religious values still command attention.

The importance of the role played by the Lumbee churches in the political life of the Tribe cannot be overstated. During the 1990s, it was the leadership from the churches that initiated and sustained the process for preparing a tribal constitution. The delegates to the constitutional convention were selected by the churches and represented every segment of the tribe. After nearly ten years of meetings, negotiations, court actions, and re-drafts, the constitution was presented to the tribal

members for their approval. On November 6, 2001, the tribal members voted on the constitution. Eighty-five [85] percent of those voting voted in favor of adoption. The approved constitution is recognized by the State of North Carolina, and it is the Tribe's governing document.

## **Lumbee Tribe of North Carolina and The Federal Acknowledgment Regulations**

The United States Department of the Interior regulations (25 CFR Part 83) for “Establishing That an American Indian Group Exists as an Indian Tribe” has seven mandatory criteria. They are:

- (a) identification as an American Indian entity on a substantially continuous basis since 1900;
- (b) a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present;
- (c) the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present;
- (d) a copy of the group's present governing document including its membership criteria;
- (e) the petitioner's membership consists of individuals who descend from a historical Indian tribe which combined and functioned as a single autonomous political entity;
- (f) the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe;
- (g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

The 1956 Lumbee Act forbids the federal relationship, making the Tribe ineligible for the administrative process. Were the Tribe eligible for the process, the historical record summarized above demonstrates that the Tribe satisfies all other criteria for acknowledgment.

### **Criterion (a) Identification as an Indian entity**

This criterion can be met by showing evidence of federal, state, or county relationships, or identification by historians or social scientists, in books or newspapers, or by relationships with other tribes or national, regional or state Indian organizations. There are repeated and numerous identifications of the Lumbee Tribe as an Indian entity since 1900, as shown in the summary of the Tribe's efforts to obtain federal recognition above. There can be no serious question that the Lumbee Tribe can and has demonstrated this criterion.

### **Criterion (b) Community**

This criterion provides a number of ways to demonstrate community, foremost among these are rates of marriage and residency patterns. The regulations provide that an Indian group has conclusively demonstrated this criterion by proof that 50 percent or more of its members reside in a geographical area composed exclusively or almost exclusively of tribal members, or that at least 50 percent of its members are married to other tribal members. These are the so-called high evidence standards. The Lumbee members meet both of these standards, thereby proving community conclusively.

To determine the residency and marriage rates for the contemporary period, a 1 percent systematic sample was drawn from the membership files in December 2002. Of the 543 files drawn, 29 were found to contain the name of deceased individuals, or were missing from the files, leaving a balance of 514 files. This corresponds closely with the number of active members (52,850) as reported to the Lumbee Tribal Council in December 2002.

The residency pattern of the Lumbee Tribal members is divided into three categories: core area where the tribal members live in either exclusively or nearly exclusively geographical areas; those living somewhere in North Carolina; and those living elsewhere. Included in the first category are the

following communities in Robeson County: Pembroke, Maxton, Rowland, Lumberton, Fairmont, St. Paul's, and Red Springs. Within these communities are areas that are exclusively (or nearly so) occupied by Lumbees. These areas are reflected on the attached map.

The data show that of the 511 for whom there was residency data, 330 (64.6%) live in the core area. One hundred and two (30%) live in the States of North Carolina, and the 79 (15.4) live elsewhere, almost all of them in the United States. This means that, even without other data on community, the Lumbee Tribe of North Carolina meets the high evidence standard of criterion (b) for the contemporary period. It also satisfies criterion (c) - political - for the same period. Based on census and other data, it is certain that the Tribe would meet the same high standard for the preceding periods, going back well into the nineteenth century, or as far as there are data available.

A second type of high evidence has to do with intratribal marriage. Using the same sample, there were 276 records that provided information on the age and marital status of individuals. Of these, 49 were younger than 16, the age selected as marriageable. Another 23 were identified as single, leaving 204 with known marriage partners. Of this number 143 (70%) were married to another Lumbee tribal member. Sixty-one were married to a nontribal member (59) or to a member of another tribe (2). Once again, the Lumbee Tribe of North Carolina meets the standard of high evidence for the contemporary period under criterion (b) and also criterion (c) for the same period. As with residency, based on census and other data, it is certain that the Tribe would meet the same high standard for the preceding periods, going back well into the nineteenth century, or as far as there are data available.

In addition, the Lumbee Tribe of North Carolina organized, ran, and largely financed its own school system and teacher's training college for nearly one hundred years. It has had and continues to

have a complex network of churches that exclusively or nearly exclusively serve the tribal members. Many of these churches are tied together by three organizations - the Burnt Swamp Baptist Association (60 churches), the North Carolina Conference of the Methodist Church (12 churches), and the Lumber River Holiness Methodist Conference (9 churches.) The others are non-affiliated. Presently, there are in excess of 130 churches in Robeson County exclusively serving the Lumbee people and their spouses.

These facts demonstrate the Lumbees have existed from historical times to the present as a community.

### **Criterion (c) Political**

The regulations provide that, if community is proven by high evidence as exhibited by the Lumbee community, this is considered conclusive proof of political authority as well. The strength of the Lumbee Tribe's political leadership is also demonstrated by Lumbee history.

The Lumbee history is one of continual resistance to outside domination, beginning in the eighteenth century. In 1754, the ancestors of the Lumbees were described as a community of 50 families living on Drowning Creek, "mixt Crew [or breed] a lawless people." In 1773, they were identified as "A List of the Mob Railously Assembled together in Bladen County." In the 1830s, Lumbees opposed the laws limiting their freedoms, and in the Civil War and Reconstruction years, under the leadership of Henry Berry Lowrie, they actively opposed, first the Confederate government, and later the United States.

Following Reconstruction, in the 1880s, the Lumbee leadership sought and gained state recognition (1885) and the establishment of a separate school system, a school system that they ran through locally elected school boards. In 1887, 67 ancestors of the Tribe petitioned the North Carolina

legislature to establish a separate teacher training school for the Lumbees.

During the twentieth century, tribal leaders repeatedly petitioned the Congress for federal recognition. Finally, in 1956, after an active campaign by tribal leaders, a tribal referendum adopting the name Lumbee, and the passage of state legislation in 1953 adopting the Lumbee name for the Tribe recognized in earlier state legislation, the United States Congress passed legislation in 1956 recognizing “the Indians in Robeson and adjoining counties of North Carolina . . . as Lumbee Indians of North Carolina.” These efforts to achieve state and federal recognition, along with the control of the schools and teacher's college, demonstrate the presence of a strong leadership in the Lumbee community.

From the 1960s on, the Lumbee leadership sought to maintain control over their schools and college, and when that was no longer possible, to share political power in Robeson County. They instituted lawsuits to abolish double voting, fought to save the college's main administration building, and when that burned down, to have it rebuilt, and elect Lumbee leaders to county positions. The Tribe submitted a petition for federal recognition under 25 CFR 83. Finally, beginning in 1993, the Tribe began the process that eventually led in 2002 to the present constitution and tribal government. The process started with funds from a Methodist Church grant, the delegates were chosen from the participating churches, and the process was deeply influenced by church leaders. The results were overwhelming endorsed by the tribal population in two referenda - 1994 and 2001.

The evidence presented here in summary form demonstrates that the Lumbee Tribe of North Carolina has had a continuous political leadership from sustained contact and would meet criterion (c).

**Criterion (d) Governance**

This criterion requires that a petitioner submit either a statement describing its system of governance or its governing document. By the adoption of a tribal constitution, one that has been recognized by the State of North Carolina, the Tribe clearly demonstrates this criterion.

**Criterion (e) Descent from a historical tribe of tribes**

The eighteenth-century records that exist show a Cheraw community precisely where the Lumbees reside today, and they show that this Cheraw community had the same surnames as those common to the modern-day Lumbee community. A 1725 map made by John Herbert showed the tribe between the Pee Dee River and Drowning Creek, now called the Lumber River. In 1737, John Thompson purchased land in the same general area from the Cheraw, and in 1754, Governor Arthur Dobbs of North Carolina identified on "Drowning Creek on the head of Little Pedee 50 families a mixt Crew [or Breed] a lawless people filled the lands without patent or paying quit rents shot a Surveyer for coming to view vacant lands being enclosed by great swamps." A document written in 1771 refers to "the Charraw Settlement" on Drowning Creek, and another document dated 1773 contains a list of names that connect this community to the Cheraw in 1737. Some of the same surnames as today's Lumbee population: Ivey, Sweat, Groom, Locklear, Chavis, Dees, and Grant (see Dr. James H. Merrill letter to Congressman Charlie Rose, October 18, 1989 for further discussion). Thus, the community mentioned in the two references cited in above and the community of Indians described in nineteenth century documents were the same, and were the antecedents of today's Lumbee Tribe.

As to criterion (e), Dr. John R. Swanton, a member of the staff of the Bureau of American Ethnology, a federal government agency, and one of the nation's foremost anthropologists and experts on American Indian tribes, particularly in the southeast, concluded in the early 1930s that the Lumbees

are descended predominantly Cheraw Indians. The Department of the Interior adopted this position in its 1934 statement to Congress on one of the proposed recognition bills, relying on Dr. Swanton's report. This has also been confirmed and supported by scholars such as Dr. William C. Sturtevant, Chief Ethnologist of the Smithsonian Institution and general editor of the Handbook of American Indians, Dr. James Merrell, Professor of History, Vassar College, and a leading authority on the colonial Carolinas, Dr. Raymond Fogelson, Professor of Anthropology, University of Chicago, a leading authority on the Cherokee and Indians of the southeast, and myself.

**Criterion (f) Petitioner's members are not members of any federally recognized tribe**

The members of the Lumbee Tribe of North Carolina are not members of any federally recognized tribe. This can be demonstrated by a review of the Tribe's genealogical data.

**Criterion (g) The petitioner has not been the subject of a federal termination act**

The Solicitor for the Department of the Interior has determined that the 1956 Lumbee Act is an act forbidding the federal relationship.

**Summary**

Typically, Indian tribes petitioning for acknowledgment under the administrative process have most difficulty with criteria (b) and (c), community and political authority respectively. Every tribe that has been denied acknowledgment through the process to date has failed because of the inability to prove these criteria, and perhaps others. As demonstrated above, the Lumbee Tribe's case on these criteria is so strong as to be conclusive. In light of the heavily documented history of the Tribe since

1900, neither can there be any doubt about the Tribe's ability to demonstrate the other criteria.

In the past few years, the Bureau of Indian Affairs has opposed bills to recognize the Lumbee. The Bureau has complained that there is too little data, specifically that a genealogical link between the Cheraw Tribe on Drowning Creek and the present-day Lumbee Tribe on the renamed Lumber River cannot be made, despite the occurrence of shared and uncommon surnames. Of course, the failure of the document society to record the births and deaths of Lumbees over the centuries is no fault of the Tribe; nor does this absence suggest that the Lumbee Tribe is not descended from the Cheraw Tribe. In fact, the Department testified in 1934 that the Tribe was descended from the Cheraw Tribe, based upon the work of the eminent Dr. Swanton. The Department's earlier opinion is also corroborated by the professional opinions of Drs. Sturtevant, Merrill, Fogelson, and Campisi. Thus, the Department's current view should be taken as more intellectual curiosity than serious doubt about the origins of the Tribe. And this new found curiosity should be judged in the context of the Department's long-standing determination to oppose recognition of the Tribe even in the face of its past judgment that the Lumbees truly are an Indian tribe.

The extensive record of the Tribe's history in the eighteenth, nineteenth, and twentieth centuries establish that the Lumbee Indians constitute an Indian tribe as that term is defined in the Department of the Interior's acknowledgment regulations. The Tribe fails only on the last criterion, that is, Congress has prohibited the Department from acting on the Tribe's petition in the 1956 Lumbee Act. Thus, the Congress can act on Senator Dole's bill with full confidence that the Lumbees are, in fact, an Indian tribe.