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Statement by Rep. James P. Moran
on Legislation (S. 480)
Granting Federal Recognition to Six Virginia Tribes

June 21st 2006
before the
Senate Committee on Indian Affairs

Good morning and thank you, Mr. Chairman and Members of this Committee.

I appreciate your willingness to hold this hearing and providing me with an opportunity to help tell the story of six of Virginia's Native American tribes. This is certainly not the first time this story has been told. Nor is it the first time I or my fellow panel of witnesses have been before this committee to plead our case that Virginia's historic tribes should be recognized by the federal government.

Like most Native Americans, the Virginia tribes first welcomed western settlers, but quickly became subdued, pushed off their land, and, up through much of the 20th Century, denied full rights as U.S. citizens. Despite their devastating loss of land and population, the Virginia Indians successfully overcame years of racial discrimination that denied them equal opportunities to pursue their education and preserve their cultural identity. That story of survival doesn't encompass decades, it spans centuries of racial hostility and coercive state and state-sanctioned actions.

Their story, however is unique in two ways:

First, unlike most tribes that resisted encroachment and obtained federal recognition when they signed peace treaties with the federal government, Virginia's six tribes signed their peace treaties with the Kings of England. Most notable among these was the Treaty of 1677 between these tribes and Charles the II. This treaty has been recognized by the State every year for the past 328 years when the Governor accepts tribute from the tribes in a ceremony now celebrated at the State Capitol. I understand it is the longest celebrated treaty in the United States.

In the intervening years between 1677 and the birth of this nation, however, these tribes were dispossessed of most of their land and were too weak pose a threat. They were, therefore, never in a position to negotiate and receive recognition from our nascent federal government. This summer the English government will reaffirm its recognition of this treaty with the modern Virginia tribes. But as we approach the 400th anniversary of Jamestown, these same tribes, who ensured the survival of this first English permanent settlement in the new world, have yet to be recognized by the U.S. federal government.

Second, and this point speaks to the reason why Congress must act to recognize the Virginia tribes, they experienced what has been called a “paper genocide” persecuted by the Commonwealth of Virginia. At the time when the federal government granted Native Americans the right to vote, Virginia’s elected officials were embracing the eugenics movement and began adopting racially hostile laws targeted at those classes of people who did not fit into the dominant white society. These actions culminated with the enactment of the Racial Integrity Act of 1924. This act empowered zealots, like Walter Plecker, a state official, to destroy records and reclassify in Orwellian fashion all non-whites as “colored.” It targeted Native Americans and sought to deny them their identity. To call yourself a “Native American” in Virginia was to risk a jail sentence of up to one year. The law remained in effect until it was struck down in the federal courts in 1967.

For up to 50 years, state officials waged a war to destroy all public and many private records that affirmed the existence of Native Americans in Virginia. Historians have affirmed that there is no other state that compares 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 costly, subject to unreasonable delays, and lacks dignity. Virginia’s legacy of paper genocide only 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 these tribes.

It wasn’t until 1997 when my colleague, then Governor George Allen, signed legislation directing state agencies to correct state records that had deliberately been altered to list Virginia Indians on official state documents as “colored.” The law allows living members of the tribes to correct records, but the law cannot correct the damage done to past generations. Two years later, 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, I and my Virginia Senators, have introduced legislation to recognize the Virginia tribes.

Mr. Chairman, there is no doubt that the Chicahomony, the Eastern Chicahomony, the Monacan, the Nansomod, the Rappahannock and the Upper Mattaponi tribes exist. These tribes have existed on a continuous basis since before the first western European settlers stepped foot in America; and, they are here with us today. Helen Roundtree, who will testify today on the second panel, has spent her career verifying their history and their existence. Her publications are well known and regarded. Her expertise on Virginia tribes cannot be matched at the BIA.

I know there is great resistance from Congress to grant any Native American tribe federal recognition. And, I can appreciate how the issue of gambling and its economic and moral dimensions have influenced many Members’ perspectives on tribal recognition issues. I think the circumstances and situation these tribes have endured and the legacy they still confront today, however, outweigh these concerns. We have made significant compromises to give the State the option to say “no” to a gaming compact.

Congress has the power to recognize these tribes. It has exercised this power in the past, and it should exercise this power again with respect to these six tribes. I and my Senate colleagues, George Allen and John Warner, stand ready to work with you and this committee to make it happen.

Thank you.