

IN THE HOUSE OF REPRESENTATIVES
106TH CONGRESS, 2ND SESSION
July 27, 2000

Mr. Moran of Virginia introduced the following bill; which was referred to the Committee on Resources

H. R. 5073
A BILL

To extend Federal recognition to the Chickahominy Tribe, the Chickahominy Indian Tribe-- Eastern Division, the Mattaponi Tribe, the Upper Mattaponi Tribe, the Pamunkey Tribe, the Rappahannock Tribe, Inc., the Monacan Tribe, and the Nansemond Tribe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``**Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2000**''.

....

TITLE V-- PAMUNKEY TRIBE

SEC. 501. FINDINGS.

Congress makes the following findings:

(1) The Pamunkey Indian Tribe and the Pamunkey Indian people have been identified from historical times until the present on a substantially continuous basis as ``American Indians," by anthropologists, historians, and other scholars.

(2) The data show that the Pamunkey Tribe has been continuously identified as an American Indian tribe since earliest contact. The Federal Government has repeatedly recognized the Tribe and its members in Federal censuses, reports, memos and letters, and legislation. The Colony and Commonwealth of Virginia have identified the Tribe since the early 1600's.

(3) The Tribe maintained a close relationship with the Colony, which provided land for the Tribe and its trustees, and sought to protect the Tribe from settlers. The Commonwealth of Virginia took over the same responsibility and repeatedly recognized the independence of the Pamunkey Tribe, its rights and sovereignty on its land, and sought through legislation to continue the protection of that land base.

(4) The year 1646 was a major turning point in the political and social history of the Pamunkey Tribe. In that year the Powhatan signed a treaty with the English. The treaty made with the Pamunkey Chief and other Powhatan subjects required the payment of an annual tribute of 20 beaver skins by the Tribe to the English.

(5) Throughout the struggles of the Powhatan Indians with the English in the

17th century, the Pamunkeys were never dislodged from their aboriginal territories. In 1649, their Chief Tottopotomoy received title to 5,000 acres for the Tribe as a result of the treaty of 1646. Problems with settlers on the Pamunkey lands led the Virginia Assembly to act on their removal in 1653.

(6) In 1658, the Tribe was again secured in the land it had and . . . those English which are lately gone to seat near the Pamunkies, and Chicominyes, on the north side of the Pamunkie river, shall be recalled . . ." (Laws of the Colonial and State Government 1832). The same law protected the rights of the Tribes to hunt, but limited their range.

(7) The Pamunkey Tribe suffered grievously during Bacon's Rebellion, although it was in no way involved in the events which gave excuse for the attacks. Early in 1676, Bacon and his supporters threatened the Pamunkeys, causing them to flee their village; their deserted lands were then declared available for settlement. In June of the same year the tribal leader Cockacoeske was called to Richmond and ordered to provide guides for the militia. Rountree describes the meeting with the Governor's council: (Available upon request.)

(8) On May 29, 1677, the tribes, including Pamunkey, which had not warred against the English, signed the Treaty of Middle Plantation. Signing for the Pamunkey, Cockacoeske and her son, Captain John West. According to the treaty, the signers acknowledged that they were subjects of the King. The Tribe continued possession of its reservation, but was required to pay an annual tribute of 20 beaver skins and 3 arrows. The Pamunkey leader was to act as the responsible authority for all, and the English were prohibited from settling within 3 miles of the reservation.

(9) In 1792, the Pamunkey Tribe took its claims to Pamunkey Neck to the House of Burgesses, where the claims were examined by Robert Beverley. No action was taken on the claim. The land ownership system of Virginia was a confusion of conflicting claims that led the colony, in 1662, to impose a system of land processioning. This required that every 4 years the property boundaries of every parcel be remarked. The law was modified in 1705 and 1710 to make its enforcement easier. The Pamunkey were well aware of the law and its import.

(10) In 1715, Queen Ann of the Pamunkeys, in behalf of herself and her nation, protested to Governor Spotswood against the settlers going beyond the bounds of land the Pamunkey had sold. The petition stated that no notice of survey had been given to them. This seemed to them manifestly unjust, since when other people possession (sic) their bound (as we are informed is customary once in four years) yor Petitioners never had no notice of the same, or ever was warned to any processioning."

(11) Rountree sums up the Tribe's problems and efforts as follows:
``Pamunkey land holdings were still considerable in 1706, though not all English claims had been cleared as yet. English claimants kept appearing, and in spite of Pamunkey protests about encroachments, many of the claims exhibited in Williamsburg were often found to be good, since they dated from 1702-1704, a period in which many legal land transfers were made in Pamunkey Neck."

(12) By 1715, when Queen Ann complained of English buyers not notifying the Tribe of surveys to be made, and of surveying more land than they had bought, the Tribe made up its collective mind to sell no more land to anyone; it would only make leases. But problems continued with Englishmen claiming land and clearing too much. In 1718, the matter was finally turned over to the King William County court,

whose records are no longer extant. In 1723, 1 last purchase of land, originally made in 1687, was ratified by the Assembly at the Pamunkeys' request. Meanwhile, the Pamunkeys had more trouble with an English neighbor who hindered their hunting; in 1717, the colonial council ordered him to desist. (Rountree 199:163-164).

(13) In 1748, the Virginia assembly appointed 3 whites to act as tribal trustees to handle a sale of land necessitated by expenses for food, clothing, and medical care. The tribal request was made by 7 men of the Tribe. In 1759, the General Assembly, at the request of the Tribe, put a small tract of land in the control of the trustees, the land to be leased for the benefit of the Tribe.

(14) In 1792, the General Assembly passed legislation making it illegal for whites to purchase Indian land, setting the penalty as a fine and loss of the land, and defending and securing . . . their persons, goods and properties; and whosoever shall defraud or take from their goods, or do hurt or injury to their persons, shall make satisfaction, and be punished for the same according to law, as if the Indian sufferer had been a citizen of this Commonwealth."

(15) Throughout the 18th century and into the 19th century the tribal government of the Pamunkey consisted of an "informal council". As early as 1798, this council established rules for the management of the reservation.

(16) In 1812, the Pamunkey tribal structure had solidified. A petition of that year regarding the leasing of land begins as follows: "We the undersigned headmen and Chiefs of the Pamunkey Tribe of Indian . . ." It is signed by the following individuals: Willis Langston, William Cooper, James Langston, Thomas Cooke, Archibal Langston, Louis Gunn, William Gunn, Gideon Langston, John Sampson, William Sampson, John Mursh, Louis Langston, and Henry Sampson (Petition 1812). An article in a local newspaper, dated September 5, 1818, provides further detail on the political structure of the Tribe.

(17) The government of the Indian town is singular and truly republican. They elect 9 gentlemen of their neighborhood, who act as trustees and attend at the passing of any of their laws. These trustees are not vested with the power of proposing or making laws for the Indian, but only of recording their laws in a book, and objecting to such as seem injurious to the Commonwealth of Virginia. Every Indian, male or female, of the age of 18, has a vote in the election of trustees, and in passing of laws. Like their ancestors, they are governed by a Chief. The name of the present Chief is Willis Langston, a man of a respectable and decent character, and a member of the Baptist Church. (Virginia Herald 1818.)

(18) The laws of the Pamunkey Indian Town written here is September 25, 1887. The following laws made and approved by the Chief and council men, February 18, 1886, for the ruling of the Pamunkey Tribe of Indian. (Available upon request.)

(19) The Indian school on the Pamunkey Reservation was taught during the session of 1909-1910 by Miss Agnes Lumsden and during 1910-1911 by Mrs. Lucie B. Dudley. A good 1-room schoolhouse was erected on the reservation during the fall of 1909, the Indians themselves furnishing the rough lumber and much of the labor. The house is neatly painted, is provided with the latest approved system of heat and ventilation, and has slate blackboards and good furniture. Two acres of ground were secured and the sanitary conveniences were carefully provided for. This school, as well as the schools at the 2 State reformatories are under immediate control and management of the State Board of Education and are supervised by the secretary of the Board. (Virginia School Report 1913:30.)

(20) The Attorney General was asked whether or not the Pamunkey and Mattaponi were exempt from all taxes. He replied: I acknowledge reference to this office of your letter of June 23, 1917, to Mr. H.W. Neale, Commissioner of Revenue of King William County, in which you express opinion that the Tribes of Pamunkey and Mattaponi Indians, were exempt from all taxes, State, local, and otherwise, and requesting me to advise you as to the correctness of your opinion. I am of the opinion that you have correctly construed the law as to these Tribes of Indians, for so long as they follow up their pursuits upon the reservation, they are governed by their own Tribal laws and are subject to taxes by the laws of the Commonwealth of Virginia. As far back as 1658 these Indians' lands were confirmed to them by the Governor, the Council, and the Grand Assemblie of Virginia. (See Indian Colonial and State laws, being E-93, U-58 in the State library.) Upon examination, I find that the legislature of Virginia has frequently appointed trustees to lease the surplus lands of these Tribes and empowered the trustees to prosecute actions against persons trespassing thereon . . . I think it is fair to assume from all of these various acts that the Pamunkey and Mattaponi Indians of Virginia are wards of the State, just as the Indians under guardianship of the United States are wards of the nation. It has been the policy of both State and nation not to subject their wards to taxation."

(21) The Tribe continues to maintain close ties with the county and State officials. The county sheriff will not come on to the reservation to make an arrest or serve a warrant without first contacting the Chief. The Tribe continues to take the annual tribute to the Governor.

(22) At the Federal level, the Congress passed legislation ratifying the agreement settling the land dispute between the Pamunkey Tribe and the Southern Railway Company. While the legislation is neutral on the status of the Tribe, a House committee did find the claims of the Tribe are based in part on the doctrine of aboriginal title and in part on section 2116 of the Revised Statutes of the United States (25 U.S.C. 177), and approved and ratified the settlement (H.R. Report 1980:1-2).

(23) In 1985, the Tribe sought and received from the Internal Revenue Service recognition of its status as a State for the purposes of the Internal Revenue Code of 1986. This is the same status accorded federally recognized tribes. In a letter from E.L. Kennedy, Chief, Specialty Tax Branch of the Internal Revenue Service, to Chief William H. Miles, Kennedy stated the criteria for granting State status to the Pamunkey Tribe based on the facts submitted by the Pamunkey Tribe. The Tribe is now designated as a State for purposes of section 787(a) of the Internal Revenue Code of 1986, under the Indian Tribal Government Tax Statute Act of 1982 (title II of Public Law 97-473, 96 Stat. 2605, 2607-11, as amended by Public Law 98-21, 97 Stat. 65, 87 (1983-1C.B. 510, 511)).

(24) As of July 1998, the Pamunkey tribal council consisted of 8 members, Chief William P. Miles and 7 council members. The council members were Warren Cook (Vice Chief), Ivy Bradley, Walter Hill, Bobby Gray, Terry Langston, Morton Langston, and Ray Bush. Each is elected for a 4-year term. The election process is a traditional one. The Chief appoints a 3-member nominating committee that has the responsibility of polling all eligible voters to determine who wishes to run for either Chief or councilman. Once the list is readied it is presented at a general tribal council meeting. Each candidate is voted upon separately, and each voter present casts a ``yes" or ``no" vote. Prior to each vote a member of the Tribe passes out to each

voter a kernel of corn and a pea. As an individual's name is presented, each voter deposits either a kernel of corn (yes) or a pea (no) in a hat. The unused seeds are then collected and those cast are counted. The process continues until everybody on the nominating list has been voted upon.

(25) The tribal council continues to exercise control over the reservation, as it has for the past 300 years. The Chief and council members continue to assign land for individual tribal members' use, maintain the tribal properties, communicate the Tribe's interests and concerns to State officials, particularly the Governor, and settle disputes among tribal members when it becomes necessary and is appropriate.

(26) In 1865, a new and modern church was erected by tribal members. The church was and still is affiliated with the Southern Baptist Conference. This is the oldest Indian church in the Commonwealth of Virginia.

SEC. 502. DEFINITIONS.

For the purposes of this title--

(1) the term ``Tribe'' means the Pamunkey Tribe;

(2) the term ``Secretary'' means the Secretary of the Interior; and

(3) the term ``member'' means an enrolled member of the Tribe, as of the date of the enactment of this Act, or an individual who has been placed on the membership rolls of the Tribe in accordance with this Act.

SEC. 503. FEDERAL RECOGNITION.

(a) Federal Recognition.-- Federal recognition is hereby extended to the Tribe. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.) which are not inconsistent with any specific provision of this Act, shall be applicable to the Tribe and its members.

(b) Federal Services and Benefits.--

(1) In general.-- The Tribe and its members shall be eligible, on and after the date of the enactment of this Act, for all future services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to the existence of a reservation for the Tribe or the location of the residence of any member on or near any Indian reservation.

(2) Service area.-- For purposes of the delivery of Federal services to enrolled members of the Tribe, the Tribe's service area shall be deemed to be the area comprised of 1,200 acres on the Pamunkey River located in King William County, Virginia, and surrounded by the Pamunkey River.

SEC. 504. MEMBERSHIP.

Not later than 18 months after the date of the enactment of this Act, the Tribe shall submit to the Secretary a membership roll consisting of all individuals currently enrolled for membership in the Tribe. The qualifications for inclusion on the membership roll of the Tribe shall be determined by the membership clauses in

the Tribe's governing document, in consultation with the Secretary. Upon completion of the roll, the Secretary shall immediately publish notice of such in the Federal Register. The Tribe shall ensure that such roll is maintained and kept current.

SEC. 505. CONSTITUTION AND GOVERNING BODY.

(a) Constitution.--

(1) Adoption.-- Not later than 24 months after the date of the enactment of this Act, the Tribe shall conduct, by secret ballot, an election to adopt a constitution and bylaws for the Tribe.

(2) Interim governing documents.-- Until such time as a new constitution is adopted under paragraph (1), the governing documents in effect on the date of enactment of this Act shall be the interim governing documents for the Tribe.

(b) Officials.--

(1) Election.-- Not later than 6 months after the Tribe adopts a constitution and bylaws pursuant to subsection (a), the Tribe shall conduct elections by secret ballot for the purpose of electing officials for the Tribe as provided in the constitution and bylaws.

(2) Interim government.-- Until such time as the Tribe elects new officials pursuant to paragraph (1), the governing body of the Tribe shall be the governing body in place on the date of the enactment of this Act, or any new governing body selected under the election procedures specified in the interim governing documents of the Tribe.

SEC. 506. RESERVATION OF THE TRIBE.

(a) Land Held in Trust by State.-- Notwithstanding any other provision of law, if the Commonwealth of Virginia transfers to the Secretary any land which is held in trust by that State for the benefit of the Tribe on the date of the enactment of this Act, the Secretary shall take such land into trust for the benefit of the Tribe.

(b) Other Land.-- Notwithstanding any other provision of law, if the Tribe transfers any land within the boundaries of King William County, Virginia, to the Secretary, the Secretary shall take such land into trust for the benefit of the Tribe.

SEC. 507. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.

Nothing in this Act shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and its members....