

109TH CONGRESS
2^D SESSION

H. R. 5130

To extend Federal recognition to the Rappahannock Tribe, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2006

Mrs. JO ANN DAVIS of Virginia introduced the following bill; which was referred to the Committee on Resources

A BILL

To extend Federal recognition to the Rappahannock Tribe, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds the following:

5 (1) During the initial months after Virginia was
6 settled, the Rappahannocks had 3 encounters with
7 Captain John Smith. The first occurred when the
8 Rappahannock weroance (headman) traveled to
9 Quiyocohannock (a principal town across the James
10 River from Jamestown) where he met with the Eng-

1 lishman to determine if Smith had been the “great
2 man” who had previously sailed into the Rappahan-
3 nock River, killed a Rappahannock weroance, and
4 kidnapped Rappahannock people. He determined
5 that Smith was too short to be that “great man”.
6 On a second meeting, during John Smith’s captivity
7 (December 16, 1607 until January 8, 1608), Smith
8 was taken to the Rappahannock principal village to
9 show the people that Smith was not the great man.
10 A third meeting took place during Smith’s explo-
11 ration of the Chesapeake Bay (July 1608 until Sep-
12 tember 1608), when Smith was prevailed upon to
13 make peace between the Rappahannock and the
14 Moraughtacund Indians. The Moraughtacunds had
15 stolen 3 women from the Rappahannock King. In
16 the settlement, Smith had the 2 tribes meet on the
17 spot of their first fight. When it was established that
18 both sides wanted peace, Smith told the Rappahan-
19 nock King to select which of the 3 women he want-
20 ed; the Moraughtacund King got second choice;
21 Mosco, a Wigheocomoco (on the Potomac River)
22 guide, was given the third woman.

23 (2) In 1645, Captain William Claiborne tried
24 unsuccessfully to establish treaty relations with the
25 Rappahannocks. The Rappahannocks had not par-

1 participated in the Pamunkey-led uprising in 1644, and
2 the English wanted to “treat with the
3 Rappahannocks or any other Indians not in amity
4 with Opechancanough, concerning serving the county
5 against the Pamunkeys”.

6 (3) In April 1651, the Rappahannocks conveyed
7 their first tract of land to an English settler, Colonel
8 Morre Fauntleroy. The deed was signed by
9 Accopatough, weroance of the Rappahannock Indi-
10 ans.

11 (4) In September 1653, Lancaster County
12 signed a treaty with Rappahannock Indians. The
13 terms of the treaty gave Rappahannocks the rights
14 of the Englishmen in the county court, and it tried
15 to make the Rappahannock more accountable to
16 English law.

17 (5) In September 1653, Lancaster County de-
18 fined and marked the bounds of its Indian settle-
19 ments. According to the Lancaster clerk of court,
20 “the tribe called the great Rappahannocks lived on
21 the Rappahannock Creek just across the river above
22 Tappahannock”.

23 (6) In September 1656, (Old) Rappahannock
24 County (modern-day Richmond and Essex Counties)
25 signed a treaty with Rappahannock Indians. The

1 treaty mirrored the Lancaster County treaty from
2 1653, and added 2 points: Rappahannocks were to
3 be rewarded, in Roanoke, for returning English fugi-
4 tives and the English encouraged the
5 Rappahannocks to send their children to live among
6 the English as servants, who the English promised
7 would be treated well.

8 (7) In 1658, the Virginia assembly revised a
9 1652 Act stating that “there be no grants of land
10 to any Englishman whatsoever de futuro until the
11 Indians be first served with the proportion of 50
12 acres of land for each bowman”.

13 (8) In 1669, the colony conducted a census of
14 Virginia Indians. At that time, the majority of the
15 Rappahannocks were residing at their hunting vil-
16 lage on the north side of the Mattaponi River. At
17 the time of the visit, census takers were counting
18 only the tribes along the rivers. This explains the
19 low number of 30 Rappahannock bowmen counted
20 on the river. The Rappahannocks used this hunting
21 village on the north side of the Mattaponi River as
22 their primary residence until they were removed in
23 1684.

24 (9) In May 1677, the Treaty of Middle Planta-
25 tion was signed with England. The Pamunkey

1 Queen Cockacoeske signed on behalf of the
2 Rappahannocks “who were supposed to be her tribu-
3 taries”. However, before the treaty could be ratified,
4 the Queen of Pamunkey complained to the Virginia
5 Colonial Council “that she was having trouble with
6 Rappahannocks and Chickahominies, supposedly
7 tributaries of hers”.

8 (10) In November 1682, the Virginia Colonial
9 Council established a reservation for the Rappahan-
10 nock Indians of 3,474 acres “about the town where
11 they dwelt”. The Rappahannocks “town” was their
12 hunting village on the north side of the Mattaponi
13 River, where they had lived throughout the 1670’s.
14 The acreage allotment was based on the 1658 Indian
15 land act (seen above), which translated into a bow-
16 man population of 70, or an approximate total Rap-
17 pahannock population of 350.

18 (11) In 1683, following raids by Iroquoian war-
19 riors on both Indian and English Settlements, the
20 Virginia Colonial Council ordered the
21 Rappahannocks to leave their reservation and unite
22 with the Nanzatico Indians at Nanzatico Indian
23 Town, which was located across and 30 miles up the
24 Rappahannock River.

1 (12) Between 1687 and 1699, the
2 Rappahannocks migrated out of Nanzatico, return-
3 ing to the south side of the Rappahannock River at
4 Portobacco Indian Town.

5 (13) In 1706, by order of Essex County, Lieu-
6 tenant Richard Covington “escorted” the
7 Portobaccos and Rappahannocks out of Portobacco
8 Indian Town, out of Essex County, and into King
9 and Queen County where they settled along the
10 ridgeline between the Rappahannock and Mattaponi
11 Rivers, the site of their ancient hunting village and
12 Mattaponi Rivers, the site of their ancient hunting
13 village and 1682 reservation.

14 (14) During the 1760s 3 Rappahannock girls
15 were raised on Thomas Nelson’s “Bleak Hill” Plan-
16 tation in King William County. One girl married a
17 Saunders man, one married a Johnson man, and the
18 third had 2 children, Edmund and Carter Nelson,
19 fathered by Thomas Cary Nelson. In the 19th cen-
20 tury, these Saunders, Johnson, and Nelson families
21 are among the core Rappahannock families from
22 which the modern tribe traces its descent.

23 (15) In 1819 and 1820, Edward Bird, John
24 Bird and his unnamed wife, Carter Nelson, Edmund
25 Nelson, and Carter Spurlock (all Rappahannock an-

1 cestors) were listed on the tax roles of King and
2 Queen County. They are taxed at the county poor
3 rate. Edmund Bird is added to the list in 1821. This
4 is significant documentation because the over-
5 whelming majority of pre-1864 records for King and
6 Queen County were destroyed by fire.

7 (16) Beginning in 1819, and continuing
8 through the 1880s, there was a solid Rappahannock
9 presence in the membership at Upper Essex Baptist
10 Church. This is the first instance of conversion to
11 Christianity by at least some Rappahannocks. Twen-
12 ty-six identifiable and traceable Rappahannock sur-
13 names appear on the pre-1863 membership list; 28
14 were listed on the 1863 membership roster; that
15 number had declined to 12 in 1878 and had risen
16 only slightly to 14 by 1888. One reason for the de-
17 cline: in 1870, a Methodist circuit rider, Joseph
18 Mastin, secured funds to purchase land and con-
19 struct St. Stephens Baptist church for the
20 Rappahannocks living nearby in Caroline County.
21 Mastin documented from 1850 to 1870. St. Ste-
22 phens was the dominant tribal church until the Rap-
23 pahannock Indian Baptist Church was established in
24 1964. At both, the core Rappahannock family names

1 of Bird, Clarke, Fortune, Johnson, Nelson, Parker,
2 and Richardson predominate.

3 (17) During the early 1900s, James Mooney,
4 noted anthropologist, maintained correspondence
5 with the Rappahannocks, surveying them and in-
6 structing them on how to formalize their tribal gov-
7 ernment.

8 (18) In November 1920, Speck visited the
9 Rappahannocks and assisted them in organizing the
10 fight for their sovereign rights. In 1921, the
11 Rappahannocks were granted a charter from the
12 Commonwealth of Virginia formalizing their tribal
13 government. Speck began a professional relationship
14 with the Tribe that would last more than 30 years
15 and document Rappahannock history and traditions
16 as never done before.

17 (19) In April 1921, Rappahannock Chief
18 George Nelson asked the Governor of Virginia,
19 Westmoreland Davis, to forward a proclamation to
20 the President of the United States. A list of tribal
21 members and a handwritten copy of the proclama-
22 tion itself were appended. The letter concerned In-
23 dian freedom of speech and assembly nationwide.
24 Chief Nelson testified also before Congress request-
25 ing acknowledgement of the Rappahannocks civil

1 and sovereign rights, quoting Isaiah 40:31; “They
2 that wait upon the Lord shall renew their Strength;
3 they shall mount up with wings as Eagles; They
4 shall run, and not be weary; and they shall walk,
5 and not faint”.

6 (20) In 1922, the Rappahannocks established a
7 formal school at Lloyds, Essex County, Virginia.
8 Prior to that time, Rappahannock children were
9 taught by a tribal member in Central Point, Caroline
10 County, Virginia.

11 (21) In December 1923, Rappahannock Chief
12 George Nelson testified before the United States
13 Congress appealing for a \$50,000 appropriation to
14 establish an Indian school in Virginia.

15 (22) In 1930, the Rappahannocks were engaged
16 in an ongoing dispute with the Commonwealth of
17 Virginia and the United States Census Bureau
18 about their classification in the 1930 Federal cen-
19 sus. In January 1930, Rappahannock Chief Otho S.
20 Nelson wrote to the Chief Statistician of the United
21 States Census Bureau asking that the 218 enrolled
22 Rappahannocks be listed as Indians. In February,
23 Leon Truesdell replied to Nelson saying that “spe-
24 cial instructions” were being given about classifying
25 Indians. That April, Nelson wrote to William M.

1 Steuart at the Census Bureau asking about the enu-
2 merators' failure to classify his people as Indians.
3 Nelson said that enumerators had not asked the
4 question about race when they interviewed his peo-
5 ple. In a follow-up letter to Truesdell, Nelson re-
6 ported that the enumerators were "flatly denying"
7 his people's request to be listed as Indians. Further-
8 more, the race question was completely avoided dur-
9 ing interviews. The Rappahannocks had talked with
10 Caroline and Essex County enumerators, and with
11 John M.W. Green already, without success. Nelson
12 asked Truesdell to list people as Indian if he sent a
13 list of members. The matter was settled by William
14 Steuart who concluded that the Bureaus rule was
15 that people of Indian descent could only be classified
16 as "Indian" if Indian "blood" predominated and
17 "Indian" identity was accepted in the local commu-
18 nity. The Virginia Vital Statistics Bureau classed all
19 nonreservation Indians as "negro", and it failed to
20 see why "an exception should be made" for the
21 Rappahannocks. Therefore, in 1925, the Indian
22 Rights Association took on the Rappahannock case
23 to assist them in fighting for their recognition and
24 rights as an Indian Tribe.

1 (23) During the World War II, the Pamunkeys,
2 Mattaponis, Chickahominies, and Rappahannocks
3 fought the draft boards about their racial identity.
4 The Virginia Vital Statistics Bureau insisted that
5 certain Indian draftees be inducted into Negro units.
6 In the end, 3 Rappahannocks were convicted of vio-
7 lating the Federal draft laws. After spending time in
8 a Federal prison, they were granted conscientious
9 objector status and served out the remainder of the
10 war working in military hospitals.

11 (24) In 1943, Frank Speck noted that there
12 were approximately 25 communities of Indians left
13 in the Eastern United States that were entitled to
14 Indian classification. The Rappahannocks were in-
15 cluded in this group.

16 (25) In the 1940s, Leon Truesdell, Chief Stat-
17 istician, United States Bureau of the Census, listed
18 118 members in the Rappahannock tribe in the In-
19 dian population of Virginia.

20 (26) In April 25, 1940, the United States De-
21 partment of the Interior, Office of Indian Affairs,
22 included the Rappahannocks in their list of Tribes
23 by State and Agency.

24 (27) In 1948, the Smithsonian Institution An-
25 nual Report included an article by William Harlen

1 Gilbert titled, “Surviving Indian Groups of the East-
2 ern United States”. The Rappahannock Tribe was
3 included and described in this article.

4 (28) In the late 1940s and early 1950s, the
5 Rappahannocks operated a school at Indian Neck.
6 The State agreed to pay a tribal teacher to teach 10
7 students bused by King and Queen County to Shar-
8 on Indian School in King William County, Virginia.
9 In 1965, Rappahannock students entered Marriott
10 High School (a white public school) by Executive
11 order of the Governor of Virginia. In 1972, the
12 Rappahannocks worked with the Coalition of East-
13 ern Native Americans to fight for Federal recogni-
14 tion. In 1979, the Coalition established a pottery
15 and artisans company, operating with other Virginia
16 tribes. In 1980, the Rappahannocks received funding
17 through the Administration for Native Americans, to
18 develop an economic program for the Tribe.

19 (29) In 1983, the Rappahannocks received
20 State recognition. This Bill acknowledges the perse-
21 verance of our people and their long struggle to
22 maintain their community, tribal culture, and tradi-
23 tions, to take their rightful place in the history of
24 the United States.

1 (30) Thomasina E. Jordan is commended for
2 her tireless effort and work to gain federal recogni-
3 tion for Virginia Indians. Thomasina E. Jordan laid
4 the foundation to make federal recognition a possi-
5 bility. The Virginia Indians stand on her shoulders.

6 **SEC. 2. DEFINITIONS.**

7 For the purposes of this Act—

8 (1) the term “Tribe” means the organization
9 possessing the legal name Rappahannock Tribe, Inc.,
10 only and no other tribe, subtribe, band, or splinter
11 groups representing themselves as Rappahannocks;

12 (2) the term “Secretary” means the Secretary
13 of the Interior; and

14 (3) the term “member” means an enrolled
15 member of the Tribe, as of the date of the enact-
16 ment of this Act, or an individual who has been
17 placed on the membership rolls of the Tribe in ac-
18 cordance with this Act.

19 **SEC. 3. FEDERAL RECOGNITION.**

20 (a) **FEDERAL RECOGNITION.**—Federal recognition is
21 hereby extended to the Tribe. All laws and regulations of
22 the United States of general application to Indians or na-
23 tions, tribes, or bands of Indians, including the Act of
24 June 18, 1934 (25 U.S.C. 461 et seq.) which are not in-

1 consistent with any specific provision of this Act, shall be
2 applicable to the Tribe and its members.

3 (b) FEDERAL SERVICES AND BENEFITS.—

4 (1) IN GENERAL.—The Tribe and its members
5 shall be eligible, on and after the date of the enact-
6 ment of this Act, for all services and benefits pro-
7 vided by the Federal Government to federally recog-
8 nized Indian tribes without regard to the existence
9 of a reservation for the Tribe or the location of the
10 residence of any member on or near any Indian res-
11 ervation.

12 (2) SERVICE AREA.—For purposes of the deliv-
13 ery of Federal services to enrolled members of the
14 Tribe, the Tribe’s service area shall be deemed to be
15 the area comprised of King and Queen, Caroline,
16 and Essex, Spotsylvania, Stafford, and Richmond
17 Counties, Virginia.

18 **SEC. 4. MEMBERSHIP; GOVERNING DOCUMENTS.**

19 The membership roll and governing documents of the
20 Tribe shall be the most recent membership roll and gov-
21 erning documents, respectively, submitted by the Tribe to
22 the Secretary before the date of the enactment of this Act.

23 **SEC. 5. GOVERNING BODY.**

24 The governing body of the Tribe shall be the gov-
25 erning body on the date of the enactment of this Act, or

1 any new governing body selected under the election proce-
2 dures specified in the governing documents of the Tribe.

3 **SEC. 6. RESERVATION OF THE TRIBE.**

4 Notwithstanding any other provision of law, if the
5 Tribe transfers other land within the boundaries of King
6 and Queen County, Essex County, Richmond County,
7 Caroline County, Spotsylvania County, or Stafford Coun-
8 ty, Virginia, to the Secretary, the Secretary shall take
9 such land into trust for the benefit of the Tribe.

10 **SEC. 7. GAMING PROHIBITION.**

11 No land taken into trust for the benefit of the tribe
12 shall be considered Indian lands for the purposes of the
13 Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

14 **SEC. 8. HUNTING, FISHING, TRAPPING, GATHERING, AND**
15 **WATER RIGHTS.**

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

○