

The Moral of Virginia: On Her Majesties' Solemn Obligations to the Virginia Indian Nations

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Attending the theme of this conference—"Religion: The Politics of Peace and Conflict"—it may be duly noted that a central tenet of religion has always been morality. Certainly the morality of war weighs heavily today upon our collective societies as they presently engage the pursuits of empire abroad. Least we forget such questionable morality has long guided the imperial ventures of Western societies. Indeed, nowhere in the world are these impositions of selective morally more prominently manifest than in the occupation, conquest and colonialization of the Americas.¹ Acknowledging that modern America—the USA—is itself the imperial offspring of colonial occupation and conquest, there is ample reason to question her moral credibility in the modern world. For more than two hundred years, the United States of America has officially ignored and, though her colonial inheritance, abused the surviving aboriginal population of present-day Virginia. As a country born of recalcitrant rebels, it might be expected that the USA would fail to acknowledge the Native peoples who treated with the original British colonials at Jamestown some four hundred years ago. Notwithstanding this adolescent behaviour, there remains solemn treaty engagement between the Natives of Virginia and the Lords of the British Isles on behalf of Her Majesties' government.² To the extent that those treaties retain force in today's world is a measure of moral investigation that weighs upon the theme of this conference.

On May 13, 2007, Her Majesty Queen Elizabeth II journeyed to Jamestown, where she presided over the commemoration of the first permanent British colony in North America. It was a celebration of four hundred years of Anglo-American occupation of Tsenacomoco and Monascan—the aboriginal homelands of the Powhatan Confederacy and the Monacan Alliance—known today as Virginia. On hand to greet the Queen, there were tribal leaders from each of the eight state recognized Indian nations. Having survived four hundred years of colonial occupation, these Virginia Indian Nations met the Queen with dignity and sovereign equality. Observing the commemorative protocol, there were no protests or claims made against the Queen.

Notwithstanding the spirit of this occasion, the United States government failed to grant federal recognition to the surviving Virginia Indian Nations. Following nearly two hundred years of British colonialism in Virginia, the American Revolution gave birth to the United States of America; however, it did not divest the Anglo-American obligation born of solemn treaties made between Her Majesty's government and the Virginia Indian Nations.

¹ Vest, "Weeds from the Under World: The Conquest of Tsenacomoco and Monascan" in *Eating Fire, Tasting Blood: Breaking the Great Silence of the American Indian Holocaust*, edited by MariJo Moore (New York: Thunder's Mouth Press / Avalon, 2006) 146-169, wherein I have discussed the character of this colonial impact upon the Virginia Indians.

² There are three primary Treaties involving Virginia Indians and Great Britain, these include: Treaty with the Necotowance, Oct. 5, 1646, reprinted in William Waller Henning, *The Statutes at Large; Being a Collection of all the Laws of Virginia, from the First session of the Legislature, in the year 1619*, Vol. I, at 322-326 (1823) 4, 5 including the tribes of the Powhatan Confederacy; The Treaty at Middle Plantation with Tributary Indians After Bacon's Rebellion, May 29, 1677, reprinted in *Early American Indian Documents, 1607-1789, Virginia Treaties, 1607-1722*, at 82-87 (Alden T. Vaughan & W. Stitt Robinson eds., 1983) 3, 4, 5 including all Virginia Indian Nations – Powhatan Confederacy, Saponi- Monacan Alliance, and the Nottoway-Meherrin Peoples; and The Treaty of Peace between Virginia and the Saponies, Stuckanoes, Occaneechees, and Totteros, February 27, 1713 [14] Colonial Office 5/ 1316 Library of Congress transcripts, 619-627 including the Saponi-Monacan Alliance.

Indeed, treaties were made in 1646 with the Powhatan Confederacy, 1676 with the collective Virginia tribes—including Powhatan, Monacan, and Nottaway Indians, in 1713 with the Saponi-Monacan, and again in the 1720's with these same people. Despite the American Revolution, an Anglo-American fiduciary obligation to the Virginia Indian Nations remains in force as per the aforementioned treaties. Having a fiduciary relationship with Great Britain prior to the American Revolution, the Virginia Indian Nations have never abrogated their treaty rights. As Virginia Indian land was never taken by conquest but secured through treaty, it is incumbent upon Anglo-American governments to reconcile their fiduciary obligations to the surviving Indian Nations. While the legal claim to these treaties is grounded in history and the continuity of the surviving tribal legacy, there remains a moral claim which I propose to explore with this paper.

In large measure, Britain based its colonial claim to “discovery” upon erroneous assumptions grounded in Western theology. There is the well-known Papal Donation of 1493 upon which colonial occupation was decreed in lands where no Christian Prince ruled.³ In fact, the earliest British Charter of “discovery”—granted to Sir Walter Raleigh by Her Majesty Queen Elizabeth I—directly imposes this religious caveat as a ground for colonial occupation in the Americas.⁴ Rationalizing their misbegotten notions of superiority over the indigenous peoples of the Americas, the British, among other imperial Europeans devised the fiction of savagery—that is the Savagism Dogma.⁵ Natives were erroneously associated with beasts, denied their rationality and civil accomplishment.⁶ In general, the opinion among European intellectuals of the time disagreed whether “salvages” could be civilized at all. However, they were imposing their standards of civilization upon the Natives and ignoring the inherent civilized manifestations of Native societies. In denying the inherent character of Native civilizations, the imperial European philosophers freed themselves and their societies of moral obligation and guilt. In fact, they legitimized the doctrine of colonialism and enslavement within the Aristotelian rationale of natural born slavery—where those who supposedly could not govern themselves required governance by others fit to do so.⁷ In centuries to follow, these erroneous claims to Native “savagery,” were further rationalized in the illusionary notion of primitive society theory that dominated early anthropology.⁸ Subsequent manifestations of oppression emerged with the ill-informed notion of eugenics.⁹ Collectively these misbegotten ideals—savagism dogma, primitive society theory, eugenics—have conspired to create the genocide of American Indians and other indigenous peoples of the world.

Notwithstanding these imperial notions as applied to Virginia Indians, the British entered into treaties with the respective Native peoples there. Accordingly, treaties are

³ From Paul Gottschalk, *The Earliest Diplomatic Documents on America: The Papal Bulls of 1493 and the Treaty of Tordesillas Reproduced and Translated*, Berlin, 1927.

⁴ Queen Elizabeth I, Charter to Sir Walter Raleigh, issued 1578.

⁵ Roy Harvey Pearce, *Savagism and Civilization: A Study of the Indian and the American Mind* (Berkeley: University of California Press, 1953, 1988); and Bernard Sheehan, *Savagism and Civility: Indians and Englishmen in Colonial Virginia* (Cambridge: Cambridge University Press, 1980) and Robert F. Berkhofer, *The White Man's Indian: Images of the American Indian from Columbus to the Present* (New York: Vintage Books, 1979).

⁶ The notion of a bestial man is explored in Richard Bernheimer, *Wild Men in the Middle Ages: A Study in Art, Sentiment, and Demonology* (Cambridge, MA: Harvard University Press, 1952); as for application to American Indians, see Pearce, *Savagism and Civilization*; Sheehan, *Savagism and Civility*; and Berkhofer, *White Man's Indian*.

⁷ Lewis Hanke, *Aristotle and the American Indians: A Study of Race Prejudice in the Modern World* (Bloomington: Indiana University Press, 1959) 2.

⁸ Adam Kuper, *The Invention of Primitive Society: Transformation of an Illusion* (New York: Routledge, 1988).

⁹ J. David Smith, *The Eugenic Assault on America: Scenes in Red, White, and Black* (Fairfax, VA: George Mason University Press, 1992) which focuses upon the eugenics movement as applied to Virginia Indians.

binding legal documents that must be honored so long a party can make claim against the original partner. As the Virginia Indian Nations have never abrogated these treaties, the legal force of these documents remains incumbent upon Anglo-American governmental institutions. Returning to the moral dimension of the Virginia Indian treaties, we may turn to an ethical analysis of the matter. In doing so, I would suggest that we are obliged to engage the deontological framework supplied by Kantian ethics when assessing the aboriginal title and subsequent imperial occupation. Kant's ethical imperative rests upon the notion of intrinsic value whereby the other is capable of asserting its value in and of itself. When the "other" can assert this claim—make it know to another—he or she is deemed to have intrinsic value and be a moral agent worthy of personhood. As a result, moral treatment is incumbent upon all dealings with such persons.¹⁰

As stated earlier, the imperial powers of Europe engaged in "discovery" and colonialism based upon erroneous assumptions of Native savagery. These acts of occupation were mistakenly rationalized through continued occupation based upon the illusion of primitive society and the mis-begotten notion of eugenics. By such imperial standards, colonialists denied personhood to Natives. Moreover, very little was given to understand Native rationality and civil life, necessary to determine the Kantian moral imperative that subsequently emerged in European philosophy. To this extent, I seek to briefly explore Native perceptions of Europeans as a means of understanding and explicating intrinsic value among these indigenous peoples. In doing so, I will turn to an account recorded by Captain John Smith in an encounter with a Virginia Indian—Amorololeck of the Monacan Alliance. Taken captive by Smith in 1607 during an invasion of Monascan—the Monacan homeland—Amorololeck was questioned concerning his knowledge of the English. In responding, he informed Smith that they "came from under the world to take their world from them."¹¹ Accordingly, permit me to suggest that with this remark, there is a Kantian moral imperative asserting personhood. That we may understand Amorololeck's words as he engages Smith with an intrinsic claim of Native sovereignty, we are obliged to examine and understand the nature of his reason.

Amorololeck addressed Smith from an organic based world view that had not embraced literary abstraction. In fact, his rational paradigm was grounded in *oralcy*—a tradition using the oral transmission of knowledge as based upon mimetic logic. Unlike the Aristotelian logos, there is no syllogistic reason in *oralcy*. However, it is not without logic, in *oralcy*, moreover, reasoning is accomplished via analogy and the use of comparative likeness in equating categories of kind with organic referents and inherent virtues. It is a mode of discourse rich with simile, metaphor, and metered periodicity such as that of the poetic tradition.¹²

Returning to Amorololeck's words let me again suggest there is a discourse of Native sovereignty in his comment to Smith. Employing an agricultural metaphor – "came from under the earth..."—he likens the English to undesirable plant invaders—*weeds*—who if unchecked will choke out valued garden plants—manifest as Natives in his world view. Accordingly, in his mimesis, Amorololeck labels the English as invaders threatening the existence of his people. He, therefore, asserts the intrinsic value of his people necessary to

¹⁰ Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Oxford, Oxford University Press, 2002).

¹¹ John Smith, *The General Historie of Virginia, New England, and the Summer Isles, 1624*. In *The Complete Works of Captain John Smith (1580-1631)*. Edited by Philip I. Barbour, 3 vols. (Chapel Hill, University of North Carolina Press, 1986) 199-200. See also Helen C. Rountree, *Pocahontas, Powhatan, Opechancanough: Three Lives Changed by Jamestown* (Charlottesville: University of Virginia Press, 2005) 120-121.

¹²As for the methodology inherent to this approach to oral tradition, see Vest, "Myth, Metaphor and Meaning in 'The Boy Who Could Not Understand': A Study of Seneca Auto-Criticism," *American Indian Culture and Research Journal*, 30:4 (2006) 41-62.

claim the Kantian moral imperative and threshold of moral personhood. Amorololeck's words give moral standing to the Virginia Indians by asserting the sovereignty of their domain. In effect, he informs Smith—"we know who you are and what you are that you are invaders of our sovereign domain." As a result, the Virginia Indians met the English with a reciprocal claim to moral obligation within the framework of Kant's deontological ethics. In consequence, British treaties with the Virginia Indian Nations are grounded within a moral foundation that proscribes reciprocal ethical obligations in the justice of legal engagement.

The intrinsic claim of the Virginia Native Nations is, however, shrouded in the American Revolution. Having usurped Great Britain, the United States of America failed to acknowledge the fiduciary obligations of the Anglo-Indian treaties by which colonialism was permitted in Virginia. Although the 1787 Treaty of Paris, concluding American–Anglo hostilities, failed to stipulate legal obligations to Native Americans, there remain implicit fiduciary responsibilities incumbent upon both the United States and Great Britain who originally treated with the Virginia Indians. By analogy, the Iroquois Nations and other northeast region tribes likewise held fiduciary rights through British treaties. Responsibility for the treaties of these tribal notions was subsequently assumed by the USA, as colonial New York and other northeast colonies became states in the emergent American Republic.¹³ Conversely the state of Virginia never ceded its colonial obligations to the American federal government. As a result, the fiduciary obligations to the Virginia Indian Nations was diminished and deterred during the imperial scuffle. Without acknowledgment of the Anglo-Indian treaties, the post-revolutionary USA, however, has no legitimate claim to the aboriginal domain held by these tribes. Much of present-day Virginia, therefore, is contested territory with the USA having no legal title. In fact, the architect of the U.S. Capital deposited a document in the Library of Congress affirming that the nation's governmental center was constructed on Monacan Indian land. In fact, this tribal domain was never transferred to the United States.¹⁴

Sceptics might inquire as to the historic aboriginal continuity of the Virginia Indian Nations. In response, there is a complex racial history grounded in apartheid social norms applied to Virginia Indians from colonial times into the Twentieth Century when the Civil Rights Movement freed southern Indians from this discrimination. Essentially there were two phases of this three hundred year plus apartheid social structure where Indians constituted something of a third race in a bi-racial society. In the colonial phase, Indians were subject to slavery and segregation within the "colored" population—one could not be defined as American Indian under the auspices of this system.¹⁵

Writing in 1785 Thomas Jefferson commented, "An inhuman practice once prevailed in this country of making slaves of the Indians."¹⁶ In a manuscript note, Jefferson, furthermore, declared: "This practice commenced with the Spaniards with the first discovery of America."¹⁷ While Jefferson took no further notice of this institutional slavery as applied

¹³ See for example, Francis Jennings, *The Ambiguous Iroquois Empire: The Covenant Chain Confederation of Indian Tribes with English Colonies from Its Beginnings to the Lancaster Treaty of 1744*, Vol. 25 (New York: Norton, 1984); Laurence Hauptman, *They Made Many Promises: the American Indian Experience, 1524 to the Present* (Wheeling, IL: Harlan Davidson, 2002); and *Iroquois Land Claims*, edited by Christopher Vecsey and William A. Starna (Syracuse, NY: Syracuse University Press, 1988); among many sources.

¹⁴ Steve Adkins, *Virginia's Clouded Title: The Unsundered Lands of the Monacan Confederacy* (2006) manuscript in author's possession. Adkins is a real estate title expert working in northern Virginia.

¹⁵ See Vest, "Weeds from the Under World," 158-163.

¹⁶ Thomas Jefferson, *Notes on the State of Virginia* [1785]. Edited and with an Introduction & Notes by William Peden (Chapel Hill: University of North Carolina Press, 1982) 61.

¹⁷ Jefferson, *Notes on Virginia*, 61, fn. 89 where editor POeden references "Ms. Note by TJ. See Herrera, Amer. Vesp., Ed. Note. Antononio de Herrera y Toresillas (1559-1625), Spanish Historian, author of *Historia General de los Hechos de los Castellanos en las Islas y Tierra Firme del Mar Oceano* (Madrid, 1601-15, 4 vols.).

to American Indians, there is a well established precedence of history that included his beloved state of Virginia.

Although Jefferson's observations may have been a matter of selective perception characteristic of his times, the failure of subsequent writers to give consideration to this history is less forgivable. As oppressed minorities, particularly African-Americans began to struggle for their civil rights and overthrew the apartheid segregation in the south; little thought was given to the historical survivance of American Indian populations in the region. After all, in the minds of most Americans, those southern Indians had been removed to the west and those remaining were at best thought to be "tri-racial isolates" having no "real" Indian heritage. Reflecting, however, Jefferson's observation of more than a century before, ethno-historian Irving Hallowell wrote in 1963, "In the colonial period of our history some Indians shared the status of slaves with Negroes."¹⁸

There are several accounts of Indian enslavement in Virginia. For instance, as the "Old Dominion" began asserting its colonial institutions in the early 1600's, the practice of educating Indian children at the College of William and Mary later became a ruse for officials to sell the children as slaves.¹⁹ Following the 1644 Powhatan uprising and the Treaty of October 1646, Indian prisoners were kept by the English and made into servants.²⁰ Despite an act of 1660 in Virginia that "Indians [were] not to be sold as slaves,"²¹ it later became legal during Bacon's Rebellion to enslave tributary Indians who had committed acts such as fighting, or who were deemed hostile by the English.²² In fact, following May 1676 attack upon the Occaneechi (a Monacan Alliance tribe), the Virginia General Assembly passed laws "declaring all Indians who deserted their towns or harboured hostile Indians to be enemies, and any Indians captured in 'war' were to be slaves."²³ By 1682 the Virginia Assembly "declared all servants who were not Christians at time of purchase, as well as all Indians sold by 'neighboring Indians or any other' people, to be slaves."²⁴ This account of the enslavement of Virginia Indians are not exhaustive, however, it is sufficiently manifest herein to justify the first stage of Colonial apartheid as practiced against Virginia Natives.

Following the American Revolution, the Virginia General Assembly passed a law in 1823 stating, "Be it enacted and declared, and it is hereby enacted and declared, That the child of an Indian and the child, or great-grandchild of a Negro shall be deemed, accounted, held and taken to be a mulatto."²⁵ In this pre-Civil War period, anyone declared black or mulatto was subjected to sever civil deprivations, including enslavement. Later, with the Virginia Racial Integrity Law of 1924, the state continued to acknowledge only two races – white and black. This law reads in part: "It shall be unlawful for any white person in this State to marry save a white person, or a person with no other admixture of blood than white or American Indian. For the purpose of this act, the term 'white person' shall apply only to the person who has no trace whatsoever of any blood other than Caucasian; but persons who

¹⁸ A. Irving Hallowell, "American Indians, White and Black: The Phenomenon of Transculturalization," *Current Anthropology*, 4(1963) 522.

¹⁹ Helen C. Rountree, *Pocahontas's People: The Powhatan Indians of Virginia Through Four Centuries* (Norman: University of Oklahoma Press, 1990), 168.

²⁰ *Ibid*, 87.

²¹ Charles C. Royce, *Indian Land Cessions in the United States*, Smithsonian Institution, Bureau of American Ethnology, Annual Report, 1896-97, pt. 2 (Washington, D.C.: U.S. Government Printing Office, 1899), 567.

²² Rountree, *Pocahontas's People*, 139. Enslavement of Indians by the English is further discussed by Almon Wheeler Lauber, *Indian Slavery in Colonial Times within the Present Limits of the United States* [1913] (New York: AMS Press, 1969) 105-107.

²³ Rountree, *Pocahontas's People*, 97-98.

²⁴ *Ibid*, 139.

²⁵ William Waller Henning, *The Statutes at Large* (Philadelphia: Thomas De Silver, 1823) IV: 252.

have one-sixteenth or less of the blood of an American Indian....”²⁶ The product of Dr. W.A. Plecker, register of the State Bureau of Vital Statistics, this statute outlawed Indians in Virginia. Plecker had decided that no Native Americans remained in Virginia and he determined to legislate those claiming to be Indians out of existence. He systematically altered Indian birth, death, and marriage certificates to read “colored” or “Negro.” His topology grew out of a mis-guided eugenics movement. Thus, at this time in Virginia no one could claim a Native American racial heritage, and if they attempted to do so they were labelled mulatto or black by the state.²⁷

Addressing the apartheid history of Virginia and the south is never an easy matter. On the one hand, one seeks to identify the racist’s indicators, such as the term mulatto, as a means of affirming Native ancestors, while on the other hand, one must be sensitive to the slight of African Americans. As Helen Rountree explains, Natives were forced into the “colored” status, thereby making them a “third race” in a “bi-racial state.”²⁸ Rountree, moreover, writes: “People of dark complexion claimed that their ‘suspicious’ ancestor had been an Indian, sufficiently far back, and they were then classed as whites. Plecker and his associates were outraged at this; it did not seem to occur to them that the menial jobs and second rate schools and hospitals set aside for “colored” people were enough to make anybody pass for white who could.”²⁹ As chief of the state’s vital statistics bureau, Plecker was methodical when classifying Indians. He drew, furthermore, upon the 1823 racial code classifications to discredit Indian descendants under the authority of the 1924 Racial Integrity Act that he pushed through the Virginia legislature. As Rountree explains, “If the Indians category was a way station to whiteness, it had to be eliminated, or at least discredited. This meant proving that all people in Virginia who claimed to be Indian were actually of African ancestry and therefore colored.”³⁰ During this apartheid segregation era, no one could openly claim a Native American tribal/racial/ethnic heritage under color of Virginia law least they be disenfranchised of their constitutional liberties and civil rights. These racial integrity laws constituted a eugenics movement that attracted Adolph Hitler, who studied Plecker’s writings and methods when formulating the “final solution” in Nazi Germany. They remained in force until 1969, when they were repealed by the United States Supreme Court ruling in *Loving v. Virginia*.³¹ Common throughout the south for over three centuries,³² these laws

²⁶ “The Virginia Racial Integrity Law,” No. 5, *Acts and Resolutions of the General Assembly of the State Of Virginia* (Richmond: Davis Bottom, Superintendent of Public Printers, 1924) 535.

²⁷ Peter W. Houck, M.D., *Indian Island in Amherst County* (Lynchburg: Lynchburg Historical Research Co., 1984) 72-73; see also Paul T. Murray, “Who is an Indian? Who is a Negro? Virginia Indians in the World War II Draft,” *The Virginia Magazine of History and Biography*, 95: 2 (1991), 215-231; and Susan Greenbaum, “What’s in a label? Identity Problems of Southern Indian Tribes,” *The Journal of Ethnic Studies*, 19:2 (1991), 107-126. For a thorough discussion of this matter see Smith, *Eugenic Assault on America*.

²⁸ Helen C. Rountree, “The Indians of Virginia: A Third Race in a Biracial State” in *Southeastern Indians Since the Removal Era*. Edited by Walter L. Williams (Athens: The University of Georgia Press, 1979) 27-48.

²⁹ *Ibid.*, 41.

³⁰ *Ibid.*

³¹ *Loving v. Virginia*, 388 U. S. ! (1967); see also Lombardo, “Miscegenation, Eugenics, and Racism: Historical Footnotes to *Loving v. Virginia*,” *University of California, Davis Law Journal*, 21 (1988), 421 for a discussion of these circumstances in Virginia history.

³² See Charles M. Hudson, *The Catawba Indians* (Athens: The University of Georgia Press, 1970), 69-71 where he identifies the bi-racial problems generated by Black Codes in South Carolina; see also David Duncan Wallace, *South Carolina: A Short History, 1540-1948* (Chapel Hill: University of North Carolina Press, 1951) 569-590, 632; William H. Gilbert, Jr. “Memorandum Concerning the Characteristics of the Larger Mixed-Blood Racial Islands of the Eastern United States,” *Social Forces*, 24 (1946), 438-447; William Harlen Gilbert, Jr., “Surviving Indian Groups of the Eastern United States,” *Annual Report of the Smithsonian Institution* (Washington, D.C.: U. S. Government Printing Office, 1948) 407-438; Brewton Berry, “The Mestizos of South Carolina,” *American Journal of Sociology*, 51 (1945) 34-41; and Berry, *Almost White* (New York: Macmillan Company, 1963).

made it possible to disassociate tribal and Native identity from those surviving American Indians in the region based upon erroneous biracial apartheid and eugenics proscriptions.

Nevertheless, scholars have since affirmed the Native heritage of Virginia Indians using ethnological, historical and genealogical records. For instance, Rountree has addressed the Powhatan tribes,³³ Peter Houck,³⁴ and Vest³⁵ have documented the aboriginal continuity of the Monacan Indian Nation, while Rountree has also given much support affirming the Nottaway peoples. As one might suspect, the apartheid years, nonetheless, severely curtailed our national identity as Natives. However, we as Native peoples did not capitulate our sovereignty and in several instances vigorously asserted it with our treaty rights. In one such case, my father's family moved from atop the Blue Ridge Mountains at *Hico-oto*, Turkey Buzzard Rock or commonly referenced as the Buzzard Rock in English, to Buena Vista in the valley of Virginia. At the time, he was obliged to attend the all white public school where he was assaulted by a gang of boys declaring him to be "bastard issue" — "issue" in this case is a derogatory term akin to the "n" word. On several occasions he was severely beaten, however, when his older brother who never attended school noticed the injuries, he determined to meet the boys and give them the opportunity to fight my father in single combat, which he won in each case, so that the gang never attacked him again. Going on to complete his diploma, he became the first of his immediate family to graduate from high school. As he came of age, he was a two sports athlete receiving a scholarship opportunity for a local university, however, his academic and athletic development was ended when he was called to war following his high school graduation. By completing his studies, he, nevertheless, established a new standard for local Indian people and it became a benchmark as Virginia Natives made claim upon the treaty based promises of education. Therefore, he affirmed a measure of sovereignty while facing apartheid discrimination in 1941 Virginia.

In a second case, our people asserted sovereign treaty rights by continuing traditional usufructory practices within the original tribal domain and as promised by the several treaties. For example, in one case, I recall my father and several tribal "uncles" dip net fishing on the James and Maury Rivers of north central Virginia. As this activity was occurring outside state game and fish laws, a game warden visited our fish camp and prepared to write citations against our traditional fishing practices. Responding to the confrontation, my father and others told the warden to go see Mr. Glasgow in Lexington, who was a local attorney then defending our treaty fishing rights. In this manner, the tribal band

³³ See Rountree, *Pocahontas's People*.

³⁴ See Houck, *Indian Island*.

³⁵ See Vest, "The Buzzard Rock: Saponi-Monacan Traditions from *Hico*, Virginia," *Lynch's Ferry: A Local History Journal*, 5:1 (Spring / Summer 1992), 26-31; Vest, "From Bobtail to Brer Rabbit: Native American Influences upon Uncle Remus," *American Indian Quarterly*, 24:1 (Winter 2000), 19-43; and in supplying direct evidence of the link with Fort Christanna, see Vest, "From Nansemond to Monacan: The Legacy of the Pochick-Nansemond among the Bear Mountain Monacan," *American Indian Quarterly*, 27: 3&4 (Summer & Fall 2003), 781-806; Vest, "The Origins of the Johns Surname: A Monacan Ethnogenesis," *Quarterly Bulletin*, Archeological Society of Virginia, 60:1 (March 2005), 1-14; Vest, "The Lynchburg Tobacco Trade and the 19th Century Monacan Economy: Oral Traditions from the Blue Ridge at Hico -- the Buzzard Rock," *Lynch's Ferry: A Local History Journal*, forthcoming (Spring/Summer 2005) 34-39; Vest, "The Monacan Nation as Lost Tribes: The Origins of the Indians of the Central Blue Ridge Virginia and the Lynchburg Tobacco Trade," *Crossroads: A Southern Culture Annual*, forthcoming (Spring 2005), 38pp.; Vest, "Further Considerations in the Ethnogenesis of the Monacan Indian Nation: The Saponi Origins of Selected Families," *Quarterly Bulletin*, Archeological Society of Virginia, 60:3 (September 2005), 133-149; Vest, "Opechancanough and the Monacans: The Legend of Trader Hughes and Princess Nicketti Reconsidered," *Quarterly Bulletin*, Archeological Society of Virginia, 60:4 (December 2005), 32pp.; see also, Vest, "An Odyssey among the Iroquois: A History of Tutelo Relations in New York," *American Indian Quarterly*, 29: 1 & 2 (July 2005), 32pp.; and "A Tutelo Inquiry: The Ethnohistory of Chief Samuel Johns's Correspondence with Dr. Frank G. Speck," *American Indian Culture and Research Journal*, forthcoming (2005), 42pp.

acted in a sovereign manner necessary to assert reserved treaty rights associated with fishing. Hence, our sovereignty was affirmed through the centuries despite apartheid discrimination.

Following the American Revolution, however, there was never explicit federal acknowledgment of the Virginia Indian Nations. Despite the apartheid policies, Virginia did maintain a selective recognition of two Powhatan tribes out of the present-day nine Indian Nations within the state boundaries. These tribes regularly made tribute at the state house, thereby attending their treaty obligations.³⁶ Nevertheless, as Virginia held onto its colonial tributary Indians, the practice created a constitutionally defined category mistake whereby a state defied the federal constitution in recognizing a tribe as inherited from her colonial past. As defined by the U.S. Constitution, only the federal government has the authority to acknowledge American Indian Nations, however, unlike the Iroquois New York example referenced above, the United States failed to acknowledge the Virginia Indian Nations. However, under the auspices of the 1787 Treaty of Paris, concluding the peace with Great Britain and affirming the American Revolution, the United States was obliged to assume all treaty trust responsibilities formulated by their colonial forebears. Unfortunately to this date, the USA has failed this trust responsibility entailed in the Treaty of Paris. Great Britain, present-day United Kingdom, would, however, seem to have a role to play in challenging this selective failure of the United States to acknowledge the colonial—aboriginal treaties as made with the Virginia Indian Nations. Ultimately it is Britain—who engaged the Virginia Indian Nations with treaties—and she must hold her rebellious offspring—the USA—to a standard of international law and morality. By acknowledging the Virginia Indian Nations as vassals of Her government, together with the treaty obligations owed them, Her Majesty can act to call the rogue USA into account for its non-compliance with the spirit and terms of the Treaty of Paris that ended the American Revolution.

In conclusion, this paper has taken an initial step in calling for British acknowledgment of the several Virginia Indian Nations as set forth in the treaties solemnly agreed to during colonial occupation of the Native domain in present-day Virginia. Furthermore, it calls upon the international community to censure the USA for failing to assume these treaty trust responsibilities with acknowledgement of the Virginia Indian Nations. It is, therefore, necessary and morally incumbent that all concerned revisit the Treaty of Paris, together with the colonial treaties, and hold the USA to her moral and legal obligation in recognition of its fiduciary responsibilities to the Virginia Indian Nations.

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³⁶ Rountree, *Pocahontas's People*.