

## Bristoe Station Battlefield Receives Landmark Status

By Deborah Fitts

Civil War preservationists have won twin successes for Bristoe Station battlefield in northern Virginia, which was recently listed both as a state historic landmark and as a site deemed eligible for inclusion in the National Register of Historic Places.

"We have been working our heads off for two years" for this result, says a triumphant Annie Snyder of the Save the Battlefield Coalition.

The Coalition was instrumental in pushing for the designations despite opposition from both landowners and Prince William County officials.

The seven-member state Board of Historic Resources voted unanimously April 17 to add the 1162-acre Bristoe Battlefield District, near modern-day Bristow, to the state Landmarks Register.

The action followed by two months a federal declaration making the site eligible for listing on the National Register.

The battlefield, southwest of Manassas, was the site of a failed attack Oct. 14, 1863, by Confederate corps commander A.P. Hill, who was attempting to outflank the Union army as it retreated northward under Gen. George G. Meade.

According to historian John Salmon of the Virginia Department of Historic Resources, Hill launched a reckless attack under the impression he had cut off the Union 2nd Corps. Federal reinforcements eventually won the day, bringing the battle to a close with about 1900 casualties altogether.

Hill's "rather bitter defeat teaches the lesson of doing proper recon-

naissance," Salmon says.

The battlefield is only the ninth to be listed as a state landmark. Aside from Brandy Station, which was listed in February (also as the result of instigation by preservationists), all the others on the list are either National Park Service fields (Appomattox Court House, City Point, Fredericksburg-Spotsylvania, Manassas, Petersburg and Richmond) or a state park, Saylor's Creek.

Both Brandy Station and Bristoe Station battlefields are in private hands.

Like Brandy Station today, Bristoe Station is the proposed site of a major industrial park, on 256 acres owned by Washington-based developers. However, recent financial troubles have apparently cast the park's future in doubt.

Bristoe was nominated for landmark status in 1989, but the proposal was dropped due to fierce opposition by landowners. Last June, however, the Coalition requested a further review.

When the state board responded, it concluded the site met the criteria for National Register status. (The board not only maintains the landmarks register but administers the federal National Register program; the eligibility criteria are the same for both.)

Being deemed eligible for the National Register confers the same protections as being on the Register: the site is shielded from the adverse impact of any project involving federal funds.

However, the state landmark designation is "honorific only" and has no legal impact on the property rights of landowners, says Margaret

Peters, spokesman for the Virginia Department of Historic Resources. Still, Bristoe Station landowners opposed it.

Peters says apparently they fear the designation will degrade property values by discouraging development. It is true, she says, that in making the designation, the state board hopes the county "will follow along behind us and identify (the battlefield) as historic on their county master plan," in hopes of protecting it.

The Coalition pressed for recognition for Bristoe Station, according to Snyder, because "Otherwise it would just be completely forgotten." There are no monuments or memorials on the battlefield.

But Snyder also wanted to protect the estimated 200 unmarked graves on the field. "Lee said, bury them where they died, and they did," she says. In their research, the Coalition has found nothing to indicate the bodies were ever removed.

Salmon acknowledges that Virginia has many other significant battlefields besides the nine listed as landmarks. The 1500 landmarks on the register are mostly structures, historic districts and archaeological sites.

"Our main concentration over the years has been on the built environment," Salmon explains. "Only in recent years have we been turning our attention to battlefields.

"People have assumed that what's important was already protected [by the National Park System], whereas in fact many, many sites are unprotected or are protected only by the desires of the property owner."

## 1992 SESSION

LD3507432

## SENATE BILL NO. 514

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws

on February 24, 1992)

(Patron Prior to Substitute—Senator Colgan)

A BILL to amend and reenact §§ 10.1-2202, 10.1-2203, 10.1-2204 and 10.1-2205 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 10.1-2206.1 and 10.1-2206.2; and to repeal § 10.1-2206 of the Code of Virginia, relating to historic resources of the Commonwealth and requiring the Department of Historic Resources to reevaluate certain historic district designations.

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-2202, 10.1-2203, 10.1-2204 and 10.1-2205 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-2206.1 and 10.1-2206.2 as follows:

§ 10.1-2202. Powers and duties of the Director.—In addition to the powers and duties conferred upon the Director elsewhere and in order to encourage, stimulate, and support the identification, evaluation, protection, preservation, and rehabilitation of the Commonwealth's significant historic, architectural, archaeological, and cultural resources; in order to establish and maintain a permanent record of those resources; and in order to foster a greater appreciation of these resources among the citizens of the Commonwealth, the Director shall have the following powers and duties which may be delegated by the Director:

1. To employ such personnel as may be required to carry out those duties conferred by law;

2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including but not limited to contracts with private nonprofit organizations, the United States, other state agencies and political subdivisions of the Commonwealth;

3. To perform acts necessary or convenient to carry out the duties conferred by law;

4. To promulgate regulations, in accordance with the Virginia Administrative Process Act (§ 9-6.14:1 et seq.) and not inconsistent with the National Historic Preservation Act (P.L. 89-665) and its attendant regulations, as are necessary to carry out all responsibilities incumbent upon the State Historic Preservation Officer, including at a minimum criteria and procedures for submitting nominations of properties to the National Park Service for inclusion in the National Register of Historic Places or for designation as National Historic Landmarks;

5. To conduct a broad survey and to maintain an inventory of buildings, structures, districts, objects, and sites of historic, architectural, archaeological, or cultural interest which constitute the tangible remains of the Commonwealth's cultural, political, economic, military, or social history;

6. To publish lists of properties designated as landmarks by the Board, to inspect designated properties from time to time, and periodically publish a complete register of designated properties setting forth appropriate information concerning those properties;

7. With the consent of the landowners, to provide appropriately designed markers for designated buildings, structures, districts, objects and sites;

8. To acquire and to administer designated landmarks and sites, or easements or interests therein;

9. To aid and to encourage counties, cities and towns to establish historic zoning districts for designated landmarks and to adopt regulations for the preservation of historical, architectural, or archaeological values;

10. To provide technical advice and assistance to individuals, groups and governments conducting historic preservation programs and regularly to seek advice from the same on the effectiveness of Department programs;



1 highway historical markers approved by the Board of Historic Resources on or along the  
2 highway or street closest to the location which is intended to be identified by the marker;

3 ~~11.~~ 12. To develop a procedure for the certification of historic districts and structures  
4 within the historic districts for federal income tax purposes;

5 ~~12.~~ 13. To aid and to encourage counties, cities, and towns in the establishment of  
6 educational programs and materials for school use on the importance of Virginia's historic,  
7 architectural, archaeological, and cultural resources; and

8 ~~13.~~ 14. To conduct a program of archaeological research with the assistance of the  
9 State Archaeologist which includes excavation of significant sites, acquisition and  
10 maintenance of artifact collections for the purposes of study and display, and dissemination  
11 of data and information derived from the study of sites and collections.

12 § 10.1-2203. Board of Historic Resources membership; appointment; terms.—A. The  
13 Virginia Historic Landmarks Board within the executive branch of state government is  
14 continued as the Board of Historic Resources and shall consist of seven members. The  
15 members of the Board shall initially be appointed for terms of office as follows: two for a  
16 one-year term, two for a two-year term, two for a three-year term, and one for a four-year  
17 term. Appointments thereafter shall be made for four-year terms, except appointments to  
18 fill vacancies occurring other than by expiration of term, which shall be filled for the  
19 unexpired term.

20 B. In making appointments to the Board, the Governor shall consult with agencies and  
21 organizations in Virginia that have as their principal interest the study of Virginia's history  
22 and the preservation of Virginia's historic, architectural, archaeological, and cultural  
23 resources. *The Governor shall also consult appropriate agencies and organizations that*  
24 *represent business and property interests that may be affected by actions of the Board.*

25 § 10.1-2204. Duties of Board of Historic Resources.— A. The Board of Historic  
26 Resources shall:

27 1. Designate historic landmarks, buildings, structures, districts, objects and sites which  
28 constitute the principal historical, architectural and archaeological sites which are of local,  
29 statewide or national significance and withdraw designation ~~for failure to retain the~~  
30 ~~characteristics which led to designation~~ *either upon a determination by the Board that the*  
31 *property has failed to retain those characteristics for which it was designated or upon*  
32 *presentation of new or additional information proving to the satisfaction of the Board that*  
33 *the designation had been based on error of fact;*

34 2. Establish and endorse appropriate historic preservation practices for the care and  
35 management of designated landmarks;

36 3. Approve the proposed text and authorize the manufacture of highway historical  
37 markers;

38 4. Acquire by purchase or gift designated landmarks and sites, or easements or interests  
39 therein; and

40 5. Review the programs and services of the Department of Historic Resources, including  
41 annual plans and make recommendations to the Director and the Governor concerning the  
42 effectiveness of those programs and services.

43 B. *For the purposes of this chapter, designation by the Board of Historic Resources*  
44 *shall mean an act of official recognition designed (i) to educate the public to the*  
45 *significance of the designated resource and (ii) to exhort and encourage local governments*  
46 *and property owners to take the designated property's historic, architectural,*  
47 *archaeological, and cultural significance into account in their planning, the local*  
48 *government comprehensive plan, and their decision making. Such designation, itself, shall*  
49 *not regulate the action of local governments or property owners with regard to the*  
50 *designated property.*

51 § 10.1-2205. Board shall promulgate regulations; penalty.—The Board ~~may~~ shall  
52 promulgate regulations necessary to carry out the purposes and provisions of this chapter  
53 ~~its powers and duties, including at a minimum criteria and procedures for the designation~~

1 the National Historic Preservation Act (P.L. 89-665) and its attendant regulations. The  
2 regulations of the Board shall be promulgated in accordance with the Virginia  
3 Administrative Process Act (§ 9-6.14:1 et seq.).

4 A violation of any regulation shall constitute a Class 1 misdemeanor, unless a different  
5 penalty is prescribed by the Code of Virginia.

6 § 10.1-2206.1. Procedure for designating a historic district, landmark, building, structure,  
7 or site; National Register of Historic Places, National Historic Landmarks; historic district  
8 defined.—A. In any county, city, or town where the Board proposes to designate a historic  
9 district, landmark, building, structure, object, or site, or where the Director proposes to  
10 nominate property to the National Park Service for inclusion in the National Register of  
11 Historic Places or for designation as a National Historic Landmark, the Department shall  
12 give written notice of the proposal to the governing body and to the owner, owners, or  
13 the owner's agent, of property proposed to be designated or nominated as a historic  
14 landmark, building, structure, object or site, or to be included in a historic district, and to  
15 the owners, or their agents, of all abutting property and property immediately across the  
16 street or road from the property.

17 B. Prior to the designation or nomination of a historic district, the Department shall  
18 hold a public hearing at the seat of government of the county, city, or town in which the  
19 proposed historic district is located or within the proposed historic district. The public  
20 hearing shall be for the purpose of supplying additional information to the Board and to  
21 the Director. The time and place of such hearing shall be determined in consultation with  
22 a duly authorized representative of the local governing body, and shall be scheduled at a  
23 time and place that will reasonably allow for the attendance of the affected property  
24 owners. The Department shall publish notice of the public hearing once a week for two  
25 successive weeks in a newspaper published or having general circulation in the county,  
26 city, or town. Such notice shall specify the time and place of the public hearing at which  
27 persons affected may appear and present their views, not less than six days nor more  
28 than twenty-one days after the second publication of the notice in such newspaper. In  
29 addition to publishing the notice, the Department shall give written notice of the public  
30 hearing at least five days before such hearing to the owner, owners, or the owner's agent,  
31 of each parcel of real property to be included in the proposed historic district, and to the  
32 owners, or their agents, of all abutting property and property immediately across the  
33 street or road from the included property. Notice required to be given to owners by this  
34 subsection may be given concurrently with the notice required to be given to the owners  
35 by subsection A. The Department shall make and maintain an appropriate record of all  
36 public hearings held pursuant to this section.

37 C. Any written notice required to be given by the Department to any person shall be  
38 deemed to comply with the requirements of this section if sent by first class mail to the  
39 last known address of such person as shown on the current real estate tax assessment  
40 books, provided that a representative of the Department shall make an affidavit that such  
41 mailings have been made.

42 D. The local governing body and property owners shall have thirty days from the date  
43 of the notice required by subsection A, or, in the case of a historic district, thirty days  
44 from the date of the public hearing required by subsection B to provide comments and  
45 recommendations, if any, to the Board and to the Director.

46 E. For the purposes of this chapter, a historic district means a geographically definable  
47 area which contains a significant concentration of historic buildings, structures or sites  
48 having a common historical, architectural or cultural heritage, and which contains local  
49 tax parcels having separate owners.

50 F. All regulations promulgated by the Director pursuant to § 10.1-2202 and all  
51 regulations promulgated by the Board pursuant to § 10.1-2205 shall be consistent with the  
52 provisions of this section.

53 § 10.1-2206.2. Consent of owners required for certain designations by the Board.—A.



1 owners of such property proposed for designation shall be given the opportunity to concur  
2 in or object to such designation by the Board. If a majority of the owners of the property  
3 within such area proposed for designation object to such designation, the Board shall take  
4 no formal action to designate the property as historic until such objection is withdrawn.

5 B. For the purposes of this section, majority of owners of the property shall mean a  
6 majority of the number of property owners of or within the proposed property or district.

7 C. Nothing contained herein shall be deemed or construed to affect any local  
8 government charter or ordinance regarding historic districts or historic preservation.

9 2. That the Board shall reconsider its previous designations of any historic district  
10 designated after January 1, 1989, which has not been listed in the National Register of  
11 Historic Places. The Board shall take into account the findings of the study of the  
12 battlefields to be conducted by the Department. The redesignation shall be conducted by  
13 the Board in accordance with the provisions of §§ 10.1-2206.1 and 10.1-2206.2, and shall be  
14 completed prior to July 1, 1993.

15 3. That the Department of Historic Resources shall conduct an evaluation of the Board of  
16 Historic Resources' designation of any historic district designated after January 1, 1989,  
17 which has not been listed in the National Register of Historic Places. In conducting its  
18 evaluation, the Department of Historic Resources shall consult with the boards of  
19 supervisors of the counties or their representatives, and with the owners of the property  
20 located within the designated historic districts. The evaluation shall include:

21 1. An examination of the documentary information that led to the designation and of  
22 any new or additional documentary information presented to the Department, in order to  
23 determine whether either or both of the designations or the boundaries of the historic  
24 districts were based on any error of fact and whether these findings provide grounds for  
25 recommending that the designations be amended or withdrawn;

26 2. An examination of (i) all land uses permitted by existing zoning within the  
27 designated areas, (ii) possible land uses pursuant to any zoning changes currently  
28 contemplated by the counties or indicated by their current master plans, and (iii) all  
29 development proposals made known to the Department of Historic Resources by the  
30 counties or by the property owners;

31 3. An identification of those development proposals that may by necessity or choice be  
32 dependent upon federal funding or licensure, and thus subject to the consultation process  
33 required by Section 106 of the National Historic Preservation Act and, to the extent  
34 practicable, an identification of probable outcomes of that consultation process and of  
35 possible strategies for successful resolution of any disagreements;

36 4. An analysis of the Virginia Department of Transportation's continuing ability to meet  
37 existing transportation needs, as well as those needs created by anticipated development, in  
38 the historic districts;

39 5. An identification of any smaller areas within the designated historic districts that the  
40 Department of Historic Resources believes should be high priority areas for preservation  
41 and an identification of strategies for accomplishing that preservation in a manner that is  
42 fair to current property owners; and

43 6. An analysis of whether either or both of the designations by the Board of Historic  
44 Resources of the battlefields as historic districts, or the determinations of eligibility for the  
45 National Register of Historic Places made by the National Park Service pursuant to the  
46 National Historic Preservation Act, should be amended or withdrawn as the development  
47 identified in item 2 is carried out.

48 4. That the Department of Historic Resources shall consult as necessary with the Virginia  
49 Department of Transportation, the National Park Service, and the U.S. Advisory Council on  
50 Historic Preservation. The Department of Historic Resources shall complete its evaluation  
51 and report its findings to the Governor, the General Assembly, and the boards of  
52 supervisor of the Counties of Prince William and Culpeper by July 1, 1993.

53 5. That § 10.1-2206 of the Code of Virginia is repealed.

1 held invalid by a court of competent jurisdiction, such holding shall not affect the validity  
 2 of the remainder of the provisions or applications of the act which can be given effect  
 3 without the invalid provision or application, and to this end the provisions of this act are  
 4 severable.

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