

IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

FREDERICK W. PAYNE, *et al.*,)
)
 Plaintiffs,)
)
 v.)
) Case No. CL17-145
 CITY OF CHARLOTTESVILLE,)
 VIRGINIA, *et al.*,)
)
 Defendants.)
)
 _____)

**SHOWING UP FOR RACIAL JUSTICE ACTION, INC.’S *AMICUS CURIAE*
BRIEF IN SUPPORT OF DEFENDANTS’ DEMURRER TO THE COMPLAINT**

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*For the Court’s convenience, courtesy copies of these documents are attached hereto as **Exhibit B**.

IDENTITY AND INTERESTS OF AMICUS CURIAE

Showing Up for Racial Justice Action, Inc. (“SURJ Action”) is a grassroots nonprofit organization committed to ending policies and practices that uphold white supremacy. With 180 chapters across the United States, SURJ Action primarily organizes in white communities through bold advocacy, community-driven direct action, and strategic electoral engagement. Within the Commonwealth of Virginia, SURJ Action includes chapters in Charlottesville, Richmond, Northern Virginia, and the New River Valley.

As an organization devoted to building a racially just society and challenging institutionalized racial discrimination and intimidation, SURJ Action has a strong interest in the above-captioned dispute regarding, among other things, the decision by the democratically elected Charlottesville City Council to remove the statue of Robert E. Lee (the “Lee Statue”) from a public park. As detailed herein, although Plaintiffs allege that the Lee Statue is a memorial “of the War Between the States” and to veterans of that war (Complaint ¶ 22), those characterizations are not accurate; in truth, since its inception the Lee Statue has been both a symbol of an ahistorical “Lost Cause” ideology and a troublingly effective tool in displacing Charlottesville’s African American and minority communities. For this reason, the Charlottesville chapter of SURJ Action—which consists of over 400 members who are residents of Charlottesville and the surrounding area—has recently been engaged in public education and advocacy campaigns with respect to the Lee Statue, such as organizing hundreds of local residents to contact city officials and attend meetings of the Charlottesville Blue Ribbon Commission on Race, Memorials, and Public Spaces.

Having reviewed the prior briefing and the Court’s decision regarding Plaintiffs’ motion for a temporary injunction, SURJ Action respectfully requests that the Court reconsider and reverse its preliminary conclusions that: (1) Virginia Code § 15.2-1812 applies retroactively to

preclude the removal of the Lee Statue, which was erected several decades before that statute's enactment; and (2) the Lee Statue is "a war memorial or a monument to a veteran of war" that would be encompassed by § 15.2-1812. (May 2, 2017 Temporary Injunction Hearing Transcript ("TI Tr.") at 13:22-23.) SURJ Action believes that its knowledge and expertise regarding the historical context of the Lee Statue and the legal issues at bar may be helpful to the Court.

ARGUMENT

I. VIRGINIA CODE § 15.2-1812 CANNOT BE APPLIED RETROACTIVELY

As the Court recognized at the temporary injunction hearing, a dispositive issue in this case is whether the restrictions on local governments imposed by § 15.2-1812 can apply retroactively and thus prevent removal of the Lee Statue, which was erected 73 years before the statute's enactment in 1997.¹ For the following reasons, it would constitute legal error to conclude that the statute applies anything other than prospectively.

A. Fundamental Principles Of Statutory Interpretation Provide That Section 15.2-1812 Cannot Be Applied Retroactively Because The Statute Lacks Clear And Express Language To That Effect

It is well established that Virginia statutes may be given retroactive effect "only when legislative intent that a statute be so applied is stated in clear, explicit, and unequivocal terms." Foster v. Smithfield Packing, Co., 390 S.E.2d 511, 513 (Va. Ct. App. 1990). Put another way, a presumption applies to all statutes that they may only apply prospectively, and that presumption may only be overcome by conclusive and express statutory language to the contrary. See id.; Berner v. Mills, 579 S.E.2d 159, 161 (Va. 2003) (discussing "fundamental principles of statutory

¹ SURJ Action does not understand any party to be advocating for the direct application of Section 2742 of the Code of 1919, the predecessor to § 15.2-1812 in effect when the Lee Statue was erected and unveiled. And with good reason: that statute applied to "the circuit court of any county" and did not apply to cities such as Charlottesville. Virginia Code § 2742 (1919).

construction that retroactive laws are not favored, and that a statute is always construed to operate prospectively unless a contrary legislative intent is manifest”). Accordingly, *even if a statute is ambiguous with respect to retroactivity*, courts are bound to construe that statute as applying only prospectively. See Taylor v. Commonwealth, 604 S.E.2d 103, 106 (Va. Ct. App. 2004) (explaining that “[e]very reasonable doubt is resolved against a retroactive operation” unless “the words of a statute . . . are so clear, strong and imperative that no other meaning can be annexed to them”) (quoting Shilling v. Commonwealth, 359 S.E.2d 311, 315, (1987))).

It was therefore beyond the scope of this Court’s task when, at the temporary injunction hearing, it drew conclusions about “what would be in the mind of the General Assembly” based on the existence of “thousands of these monuments” at the time § 15.2-1812 was enacted. (TI Tr. at 16:15-17:5.) As the foregoing authorities make clear, the Court’s analysis should start and end with the plain statutory text. Even if the Court’s instincts regarding what the General Assembly was “thinking” in 1997 (id. 17:1-5) were somehow proven correct, that is of no consequence if the legislature did not express those thoughts clearly, explicitly, and unequivocally in the statute itself. The mere implication of retroactivity does not suffice.

Properly confined to the narrower inquiry, the issue in this case is easily resolved: the statute cannot be construed to have retroactive effect. Nowhere in the text of § 15.2-1812 is there any explicit statement regarding retroactivity. The statute empowers localities to “authorize and permit” the erection of monuments and memorials and, “*if such are erected*, it shall be unlawful for the authorities of the locality, or any other person or persons, to disturb or interfere with any monuments or memorials *so erected*.” Virginia Code § 15.2-1812 (emphasis added). However much Plaintiffs may argue that the most logical reading of this language would encompass pre-1997 memorials, they cannot change the fact that the statute itself is silent on that

issue, and the language is, at most, ambiguous on the issue of retroactivity.² See JSR Mech., Inc. v. Aireco Supply, Inc., 786 S.E.2d 144, 147 (Va. 2016) (explaining that a statute is ambiguous when, *inter alia*, “the text can be understood in more than one way or refers to two or more things simultaneously” (citation omitted)). Indeed, the fact that this Court and the Circuit Court in the Danville case have reach opposite conclusions on this issue is a compelling demonstration that reasonable minds may differ on the proper interpretation of the statutory text. See Heritage Pres. Ass’n, Inc. v. City of Danville, No. CL15000500-00 (Va. Cir. Ct. Dec. 7, 2015).

Although not directly relevant to the facial inquiry at hand, recent actions and statements from the General Assembly further confirm that retroactivity is not clearly set forth in § 15.2-1812. SURJ Action is aware of no legislative history at or around the time of the passage of the statute that speaks directly to that issue; comments in the 1997 recodification report to the General Assembly (which contained the recommendation that ultimately enacted § 15.2-1812) reference an expansion to encompass “localities” but make no mention of retroactive application. See Report of the Virginia Code Commission on the Recodification of Title 15.1 of the Code of Virginia to the Governor and the General Assembly of Virginia, Senate Doc. No. 5 (1997), p. vi. Moreover, the pertinent statutory language was unchanged by amendments in 1998, 2005, and 2010. Va. Code Ann. § 15.2-1812, chs. 752, 390 & 860;³ see Foster, 390 S.E.2d at 513 (noting

² Plaintiffs’ lengthy and strained arguments regarding various changes in the statutory language reflect that their argument is solely one about the *implication* of the text. For example, in its April 27, 2017 “Dillon Rule” brief, Plaintiffs recount the history of all of the predecessor statutes, and argue (hyperbolically and incorrectly) that “the ‘hurry up’ language allowing immediate appropriations” in the 1910 iteration and the “change from the future tense to the present indicative” in 1988 necessarily eliminate all doubt regarding retroactivity. (Pls.’ Apr. 27, 2017 Br. at 4 n.2, 6 n.3.) Such arguments would be unnecessary if § 15.2-1812 was clear on its face.

³ Va. H.B. 845 (1998), *available at* <http://lis.virginia.gov/cgi-bin/legp604.exe?981+ful+CHAP0752>; Va. H.B. 2012 (2005), *available at* <http://lis.virginia.gov/cgi-bin/legp604.exe?051+ful+CHAP0390>; Va. H.B. 1226 (2010),

(cont’d)

that the legislature’s “failure to express an intention to make a statute retroactive evinces a lack of such intention” to do so).

Most tellingly, in 2016, the General Assembly passed Virginia House Bill No. 587 (“H.B. 587”), which—had it not been vetoed—would have deleted “if such are erected” from § 15.2-1812 and added a clause expressly applying the statute “to all monuments and memorials, regardless of when erected.” H.B. 587 (2016), *available at* <https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+HB587ER+pdf>. In advocating for H.B. 587, its proponents in the legislature recognized that the current language is unclear. For example, during floor debate, State Senator Bill Stanley explained: “What this bill does is *clarify* that that provision shall be applicable to all such monuments and memorials regardless of when they were built.” Richmond Sunlight, Virginia General Assembly Tracker, *Memorials and monuments; protection of all memorials, etc.*, (emphasis added), *video and transcript available at* <https://www.richmondsunlight.com/bill/2016/hb587/>. Delegate Charles Poindexter, who first introduced the bill, wrote that “[m]y bill *clarifies* that the intent of the law is to protect monuments and memorials erected prior to 1998.” See Charles Poindexter, *Poindexter Report Week #2*, Enterprise, Jan. 29, 2016 (emphasis added), <https://theenterprise.net/the-poindexter-report-week-2/>.

In sum, § 15.2-1812 does not by its terms clearly provide that it may be applied to monuments and memorials erected prior to the statute’s enactment. This alone requires dismissal of Plaintiffs’ claim that the statute applies to the decades-old Lee Statue.

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available at <http://lis.virginia.gov/cgi-bin/legp604.exe?101+ful+CHAP0860>.

B. In The Absence Of Clear and Express Statutory Language, The Court Should Avoid Interpreting § 15.2-1812 As Applying Retroactively Because The Statute Drastically Limits A Basic And Critical Government Function

Further counseling against applying § 15.2-1812 retroactively in the absence of clear and express statutory language is the fact that the provision has a drastic impact on local government, forever compelling cities and counties to display monuments irrespective of their constituents' democratic processes and preferences. Permanently hamstringing localities in this manner would have a profound effect on what the United States Supreme Court, in Pleasant Grove City, Utah v. Summum (“Summum”), has recognized as a government’s basic “right to ‘speak for itself’” and “select the views that it wants to express.” 555 U.S. 460, 467-68 (2009) (quoting Bd. of Regents of Univ. of Wis. Sys. v. Southworth, 529 U.S. 217, 229 (2000)).⁴ Indeed, this “sweeping override of local [government] authority” was at the very heart of the Governor’s veto of H.B. 587. See H.B. 587, Governor’s Veto (2016), available at <https://lis.virginia.gov/cgi-bin/legp604.exe?161+amd+HB587AG>. It therefore behooves this Court—with its stated appreciation for “separation of powers” (TI Tr. at 12:6-18)—to defer to the political branches of the Virginia government, and err on the side of caution in determining whether § 15.2-1812 severely limits local choice with respect to thousands of preexisting monuments. See, e.g., United States v. Shelton Corp., 647 F. Supp. 264, 267 (W.D. Va. 1986) (refusing to enforce regulation where retroactive application “would produce an inordinately harsh result”), aff’d, 829 F.2d 1336 (4th Cir. 1987).

Recognizing that their interpretation of § 15.2-1812 would have this extraordinary impact despite the absence of an unambiguous directive from the Commonwealth, Plaintiffs submitted

⁴ This right is, of course, subject to critical limitations not pertinent here, such as the requirement to “comport with the Establishment Clause.” Id. at 468.

an entire brief seeking to minimize the import of Summum. See “Plaintiff’s [sic] Brief: Summum,” filed May 1, 2017 (“May 1 Br.”).) But Plaintiffs’ arguments do not withstand scrutiny.

Plaintiffs contend that removing the Lee Statue would constitute “proscribed viewpoint censorship” (id. at 2) because the statue is a form of private speech in a public forum. This position, however, was expressly rejected in Summum, as the Supreme Court recognized that “[p]ermanent monuments displayed on public property typically represent government speech”—*not* private speech subject to First Amendment scrutiny—even in the case of “privately financed and donated monuments that the government accepts and displays to the public on government land.”⁵ Summum, 555 U.S. at 470-71, 485 (citation omitted); see id. at 467 (explaining that the First Amendment “does not regulate government speech”); Vista-Graphics, Inc. v. Va. Dep’t of Transp., No. 16-1404, 2017 WL 1175656, at *3 (4th Cir. Mar. 29, 2017) (“The Free Speech Clause of the First Amendment applies only to the government’s regulation of private speech, and not to the government’s own expressive conduct.”).

Plaintiffs next contend that Summum is not controlling because it concerned *acceptance* of a privately donated monument rather than *removal* of one. (See May 1 Br. at 3.) This is a distinction without a difference. Whether a monument is accepted or removed, the government’s action is part and parcel of its “selective receptivity”—*i.e.*, its fundamental ability to “effectively control[]’ the messages sent by the monuments in the Park.” Summum, 555 U.S. at 471, 473 (quoting Johanns v. Livestock Mktg. Ass’n, 544 U.S. 550, 560-61 (2005)). For that

⁵ The Court recognized only “limited circumstances in which the [public] forum doctrine might properly be applied to a permanent monument,” such as “if a town created a monument on which all of its residents . . . could place the name of a person to be honored or some other private message.” Id. at 480. Such an exception has no applicability here.

reason, courts “have routinely rejected First Amendment claims brought against government officials who have chosen to remove art works.” Newton v. LePage, 700 F.3d 595, 603 (1st Cir. 2012). Indeed, the Eastern District of Louisiana addressed this precise issue with respect to a challenge to the removal of a Robert E. Lee statue by the City of New Orleans, and concluded that, pursuant to Summum, “the removal of the monuments is a form of government speech.” Monumental Task Comm., Inc. v. Foxx, 157 F. Supp. 3d 573, 594 (E.D. La. 2016).⁶

Finally, Plaintiffs argue that the Dillon Rule deprives Charlottesville of any “authority to speak in the way Defendants would have it” because that rule limits localities only to “those powers and rights the General Assembly explicitly grants them.” (May 1 Br. at 8.) That, too, is inaccurate. The sole authority on which Plaintiffs rely, Sinclair v. New Cingular Wireless PCS, explains that the powers of local governing bodies also extend to powers that are “necessarily or fairly implied from expressly granted powers, and those that are essential and indispensable.” 727 S.E.2d 40, 44 (2012). And U.S. Supreme Court jurisprudence removes any doubt that the ability to engage in government speech—as the City of Charlottesville is doing here—is essential and indispensable. In Summum, the Court noted that “it is not easy to imagine how government could function if it lacked this freedom [to select the views that it wants to express],” 555 U.S. at

⁶ Plaintiffs’ attempt to analogize the decision to remove the Lee Statue to the propaganda of Joseph Goebbels (See May 1 Br. at 7) is as fallacious as it is offensive. Among myriad other features of the Nazi regime that obviously are not present here, the totalitarian government suppressed private and dissenting speech through violence and intimidation, and exercised total control over film, radio, theater, and the press. U.S. Holocaust Mem’l Museum, *Ministry of Public Propaganda and Public Enlightenment*, <https://www.ushmm.org/wlc/en/article.php?ModuleId=10008224> (last visited July 9, 2017). Contrary to Plaintiffs’ hyperbolic claims, nothing about the deliberate decision of the Charlottesville City Council to remove the Lee Statue constitutes local government “outshouting its citizens” or “speaking over them.” (May 1 Br. at 7.) As recent demonstrations at the site of the Lee Statue by white supremacist groups have amply demonstrated (see infra at Part II.B.3), the freedom of private citizens to express themselves—even with noxious and hateful messages—remains as vigorous as ever.

468, and earlier this year, the Supreme Court noted that “imposing a requirement of viewpoint-neutrality on government speech would be paralyzing.” Matal v. Tam, 137 S. Ct. 1744, 1757 (2017). Accordingly, the Dillon Rule is inapplicable to the City’s removal of the Lee Statue.

II. IRRESPECTIVE OF WHETHER SECTION 15.2-1812 HAS RETROACTIVE APPLICATION, THE STATUTE DOES NOT APPLY HERE BECAUSE THE LEE STATUE IS NOT A MEMORIAL TO A WAR OR WAR VETERANS

A. The Statute Concerns Monuments And Memorials That Honor Veterans

The unambiguous concern of § 15.2-1812 is to commemorate wars or conflicts, and more specifically the veterans thereof. The statute is titled “Memorials for war veterans,” and references monuments and memorials erected by a locality “for any war or conflict, or for any engagement of such war or conflict.” Virginia Code § 15.2-1812. In 1999 and 2000, the Virginia General Assembly reiterated the statute’s applicability to installations that honor wars and war veterans. See 1999 Va. Acts Ch. 625 (characterizing § 15.2-1812 as concerning “any monument or memorial for war veterans”); Virginia Code § 15.2-1812.1(A) (passed in 2000, concerning monuments, markers, and memorials “for war veterans”). Analyzing the statute’s “plain language,” the Virginia Attorney General concluded that § 15.2-1812 “is limited to monuments for any war or conflict and for veterans of those wars and conflicts,” noting further:

The importance of honoring all of our veterans, especially those who have given their lives and paid the ultimate sacrifices for us, our country and our freedoms, cannot be overstated. These brave men and women deserve our full support, and the General Assembly has chosen to extend certain protections to *monuments honoring their service*.

Opinion of Attorney General, No. 15-050 (Aug. 6, 2015) (emphasis added).

This Court also already has recognized this defining purpose of the statute, astutely referencing monuments and memorials regarding veterans of the Vietnam War. As the Court noted, the importance of those memorials was that they addressed a “disgraceful[]” problem that “[t]here wasn’t a whole lot of honor bestowed on those veterans immediately, because many

people disagreed with the ends of war.” (TI Tr. at 14:24, 15:6-9.) The purpose of § 15.2-1812, then, is to “stop” the removal of memorials that appropriately bestow honor on such veterans even if “the winds of popular opinion [about a war] change,” and ensure that the sacrifices of those individuals are forever recognized. (*Id.* at 15:11-21.) The Vietnam Veterans Memorial in Washington D.C., for example, does just that, literally listing the names of the individuals killed or missing in action during that conflict. See National Park Service, *Vietnam Veterans’ Memorial*, Wash. D.C., www.nps.gov/vive/index.htm (last visited July 9, 2017).

B. There Is No Basis To Find That The Lee Statue Commemorates The War Between The States Or Honors Veterans Of That War

The Lee Statue is quite different from the Vietnam Veterans Memorial, and there is no indication that it was intended to commemorate or honor the War Between the States or the service of the veterans who served in that conflict. Certainly there is no evidence or non-conclusory allegation in the Complaint suggesting otherwise. For example, the Lee Statue does not bear any inscription indicating that it commemorates the War Between the States or veterans of that war, or references the sacrifices of those individuals.⁷ No names of veterans or generic depictions of soldiers are included in the statue’s design. On the contrary, the only inscription on the pedestal of the Lee Statue is his own name and the years of his birth and death.

Moreover, the documentary evidence attached to the Complaint makes clear that the purpose of the Lee Statue was *not* to honor veterans: the July 1918 deed in which Goodloe McIntire donated the land that became Lee Park provides only that the donation and erection of

⁷ This is not to say that the addition of such an inscription or signage nearly a century later would necessarily bring the Lee Statue within the scope of § 15.2-1812. For example, in Danville, the presence of an inscription that “reflect[ed] the intent of some individuals to recall the heroic deeds and the sacrifices made by those individuals” on the historical building at issue was insufficient to trigger the statute because that inscription was “largely unadvertised” and “panache.” (Danville, Nov. 9, 2015 Tr. at 8:11-9:21.)

the Lee Statue was done “as a memorial to his parents, the late George M. McIntire and Catherine J. McIntire, said property to be used as a park.” (Complaint Ex. C.)

SURJ Action recognizes that the Court, in granting the temporary injunction, considered it virtually self-evident that the Lee Statue is covered by § 15.2-1812—or at least that negative reactions to the Lee Statue confirms its status as a “war memorial”:

[B]ut the very reason that [the Lee Statue’s] presence upset some people is that it is clearly a war memorial or a monument to a veteran of war. I mean, that’s why people are upset about it. People had even made comments, and today we talked about the artwork and the sculpture, but the horse, everybody said it’s a war horse, it’s the horse they rode in battle.

(TI Tr. at 13:20-14:3.) We respectfully suggest that the Court’s analysis rested on some incorrect assumptions, and therefore request that the Court reconsider its position.

1. *The Lee Statue Manifestly Purports to Honor Robert E. Lee, Not The War Between The States or Veterans of that War*

As an initial matter, the mere fact that the Lee Statue depicts a particularly prominent Confederate military figure (mounted on a “war horse”) is insufficient to render the Lee Statue a monument or memorial to the War Between the States or veterans of that war, much less “clearly” do so. Even putting aside the stated intent of Mr. McIntire to honor his parents, in the absence of any other indicia of a broader message, it cannot simply be assumed that the statue is anything beyond a tribute to Robert E. Lee as an individual icon.

Had the Lee Statue been erected for the broader purpose of memorializing veterans of the war, the artist and those that authorized the monument could have readily crafted that message. Contrast, for example, a statue of Robert E. Lee erected in 1917 at the Gettysburg battle site, which is fronted by a sculpture of other Virginia soldiers and an inscription stating “Virginia to her sons at Gettysburg”:



Unlike the Lee Statue in Charlottesville, the depiction of Robert E. Lee in Gettysburg is a component of a clear and broad message commemorating Virginian veterans.⁸

Even the way that this Court described the Lee Statue at the temporary injunction hearing highlights that the memorial honors Robert E. Lee as an individual. Discussing the strong backlash against the statue’s removal, the Court’s first instinct was to focus on the fact that the statue:

honors a *man* who was looked up to and revered by so many, and made a difficult choice to side with his state . . . and a more difficult decision to surrender his

⁸ Memorials to conflicts or veterans of those conflicts frequently call out their broader message expressly. As but one example, the Marine Corps War Memorial in Washington, D.C. (“Iwo Jima”) is inscribed, “In Honor And Memory Of The Men Of The United States Marine Corps Who Have Given Their Lives To Their Country Since 10 November 1775.” See Iwo Jima, www.nps.gov/gwmp/learn/historyculture/usmcwarmemorial.htm (last visited July 9, 2017).

troops at the end of the war instead of continuing to fight. And *he* was an example to all, almost without dispute, of grace and submission in defeat.

(TI Tr. at 7:23-8:5 (emphasis added).)

In short, the fact that Robert E. Lee was “a veteran of war” does not mean that his likeness necessarily signifies all of the wars in which he was involved or his fellow veterans in those wars.⁹ In truth, the Lee Statue no more symbolizes or memorializes all veterans of the War Between the States than the Lincoln Memorial in Washington, D.C. symbolizes or memorializes every U.S. President.

2. *The Statutory Analysis Must Focus on the Purpose and Intent of the Lee Statue Rather Than the Reaction of the Public*

In determining that the Lee Statue is a war memorial because “that’s why people are upset about it,” the Court focused on public reaction rather than the aforementioned intent behind erecting the statue in the first place. But the question of whether § 15.2-1812 applies to a particular monument is inextricably tied to the issue of government intent, as the statute concerns only those monuments and memorials that a locality “may . . . authorize and permit . . . *for any war or conflict.*” Virginia Code § 15.2-1812 (emphasis added). It is therefore the act of the local government in authorizing or permitting a monument for the purpose of commemorating a war and/or veterans that triggers the statute (and thus imposes any restrictions on that locality) in the first place, *not* the fact that a subset of the public may interpret the monument as communicating that message.

Indeed, where (as here) an intent to commemorate veterans is ambiguous at best, relying

⁹ No one contends that the Lee Statue honors veterans of the Mexican-American War even though Robert E. Lee also distinguished himself in that conflict. See Virginia Historical Society, *Lee and Grant: Before the War*, <http://www.vahistorical.org/collections-and-resources/virginia-history-explorer/lee-and-grant/war> (last visited July 9, 2017).

on the “reaction” of a pluralistic audience is fraught with peril for the Court. At a minimum, such an analysis would inject great uncertainty and inconsistency in jurisprudence; in prior briefing, both Plaintiffs and Defendants have recognized that seeking to determine a principal or defining “message” of the Lee Statue would be exceedingly difficult, if not impossible. (See Defs.’ Mem. in Opp’n to Temp. Inj., Apr. 27, 2017, at 13; May 1 Br. at 5-6.) But more troublingly, it would be virtually impossible for the Court to avoid imposing its own artistic viewpoint on such a controversial issue, in contravention of the Court’s appropriate observation that this case is “not about whether I think the statue should or should not be moved.” (TI Tr. at 8:23-24.) As Justice Oliver Wendell Holmes explained, “it would be a dangerous undertaking for persons trained only to the law to constitute themselves final judges of the worth of [a work], outside the narrowest and most obvious limits.” Bleistein v. Donaldson Lithographing Co., 188 U.S. 239, 251 (1903). How is this Court to neutrally adjudge the true “meaning” of the Lee Statue based on public perception when the public is so deeply divided on that issue?

Accordingly, the more prudent and predictable course in determining whether the Lee Statue (or any memorial) is covered by § 15.2-1812 is to look to the intent of the local authorities as reflected through their public statements and actions at the time of the statue’s creation.

3. *In Any Event, the Opposition to The Lee Statue Is Not Because It Is “A War Memorial or A Monument to A Veteran of War”*

Even if audience reaction was dispositive of the question whether the Lee Statue is a memorial within the scope of § 15.2-1812, the Court may not fully appreciate “why people are upset about it.” (TI Tr. at 13:23-24.) That the statue may honor the sacrifices of veterans of a controversial war is not a prevailing concern for groups such as SURJ Action that seek removal of the monument. In fact, much of the negative reaction is because the Lee Statue is *not*, and has never been, about recognizing those sacrifices at all; rather, the statue has been an instrument to

further the pernicious goal of promoting white supremacy and the so-called Confederate “Lost Cause”—the whitewashing and glorification of the antebellum South and the goals of the Confederacy. See generally Gary W. Gallagher & Alan T. Nolan, *The Myth of the Lost Cause and Civil War History* 11, 14 (2000). That movement was eloquently described in a speech earlier this year by the Mayor of New Orleans upon that city’s removal of its own Robert E. Lee statue:

[T]he Robert E. Lee, Jefferson Davis, and P.G.T. Beauregard statues were not erected just to honor these men, but as part of the movement which became known as The Cult of the Lost Cause. This ‘cult’ had one goal — through monuments and through other means — to rewrite history to hide the truth, which is that the Confederacy was on the wrong side of humanity.

* * *

These monuments purposefully celebrate a fictional, sanitized Confederacy; ignoring the death, ignoring the enslavement, and the terror that it actually stood for. After the Civil War, these statues were a part of that terrorism as much as a burning cross on someone’s lawn; they were erected purposefully to send a strong message to all who walked in their shadows about who was still in charge in this city.

Mitch Landrieu, Speech concerning removal of Confederate Monument, May 19, 2017, *transcript available at* <http://www.esquire.com/news-politics/a55218/new-orleans-mayor-speech-confederate-monuments/>.

The historical context of the Lee Statue places it squarely within the early 20th century “Lost Cause” movement. The unveiling of the statue in May 1924 by Confederate groups coincided with a massive Southern revival of the Ku Klux Klan, culminating in its famous march in Washington, D.C. the following year. See Southern Poverty Law Center, *Ku Klux Klan*, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/ku-klux-klan> (last visited July 5, 2017); <http://mallhistory.org/items/show/175>. In Charlottesville and the surrounding area, the Ku Klux Klan’s activities became increasingly prominent during the weeks leading up to and

immediately following the dedication of the Lee Statue, including speeches, a parade, cross burnings, and the bombing of an African American church. See Blue Ribbon Commission on Race, Memorials, and Public Spaces: Report to City Council (Dec. 19, 2016) (“BRC Report”), Appendix C, pp. 50-54.¹⁰ A June 4, 1924 news article reporting on one cross burning noted that “it is evident that the hooded order is quite active here, and it is stated that the membership of the local organization is being rapidly recruited.” Id. at p. 53.

And now the matter has come full circle, as the Ku Klux Klan and other white nationalist groups have held or announced rallies (complete with torch wielding) to protest the statue’s removal. See Andrew Blake, *Klan rally scheduled for Charlottesville next month spurs religious leaders to take Action*, Wash. Times, June 10, 2017, available at <http://www.washingtontimes.com/news/2017/jun/10/klan-rally-scheduled-charlottesville-next-month-sp/>; Laura Vozzella, *White nationalist Richard Spencer leads torch-bearing protestors defending Lee statue*, Wash. Post, May 14, 2017, available at https://www.washingtonpost.com/local/virginia-politics/alt-rights-richard-spencer-leads-torch-bearing-protesters-defending-lee-statue/2017/05/14/766aaa56-38ac-11e7-9e48-c4f199710b69_story.html?utm_term=.04deb0caad33.

In complete accord with Mayor Landrieu’s description of “Lost Cause” monuments, the historical record reveals that the “[t]he Lee and Jackson¹¹ statues embodied the Lost Cause interpretation of the Civil War”, and were erected for the very purpose of reinforcing white

¹⁰ Copies of the cited pages of the BRC Report and of the linked primary source documents are attached hereto as **Exhibit A**. The complete BRC Report is available at <http://www.charlottesville.org/home/showdocument?id=49037>.

¹¹ The statue of General Stonewall Jackson in what is now known as Justice Park (formerly known as Jackson Park), also at issue in this case.

supremacy and intimidating African American community members. See BRC Report at p.7. The Lee Statue was placed near an African American neighborhood in Charlottesville called Vinegar Hill, while the Jackson statue “lies atop what was once a majority-black area known as McKee Row,” which land “the Albemarle County Board of Supervisors confiscated . . . from its black residents” in 1914. See Sophie Abramowitz, Eva Lattner & Gillet Rosenblitt, *Tools of Displacement: How Charlottesville, Virginia’s confederate statues helped decimate the city’s historically successful black communities*, (June 23, 2017), available at http://www.slate.com/articles/news_and_politics/history/2017/06/how_charlottesville_s_confederate_statues_helped_decimate_the_city_s_historically.html. The Jackson statue flanks the Albemarle County courthouse and faces south, sending an ominous message to minorities that would seek justice within those halls. Id.

Unfortunately, the Lee Statue served its segregation and gentrification purpose with great efficiency. As noted in the BRC Report, “[a]lthough a public park, the landscape surrounding the Lee Sculpture retained a reputation as a segregated ‘whites only’ space for decades.” BRC Report at 7. The Vinegar Hill neighborhood went into decline, and was razed a few decades later. *Abramowitz et al., supra.*

In sum, we must not be quick to assume that the Lee Statue or various other tributes to the Confederacy have been built in order to honor war veterans, or that opponents find such tributes offensive for that reason. On the contrary, it is the very use of Confederate iconography to further the false “Lost Cause” narrative and perpetuate the harmful legacy of Jim Crow that ultimately *prevents* the community from collectively and authentically honoring the sacrifices of Confederate veterans—through accurately teaching the full, complex, and often contradictory context of the world they lived in, the war they fought, and the lives they led.

CONCLUSION

For the reasons set forth above, SURJ Action respectfully submits that this Court should grant Defendants' Demurrer to the Complaint.

Respectfully submitted, this 10th day of July, 2017



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Showing Up for Racial Justice Action, Inc.*

Exhibit A

Excerpts from the Charlottesville Blue Ribbon Commission on Race, Memorials,
and Public Spaces: Report to City Council (December 19, 2016)

CITY OF CHARLOTTESVILLE

Blue Ribbon Commission on Race, Memorials, and Public Spaces

Report to City Council
December 19, 2016

RECOMMENDATIONS

Lee Park and Robert E. Lee Sculpture

Background

Philanthropist Paul Goodloe McIntire donated the Robert E. Lee sculpture to the city of Charlottesville in 1924. The sculpture was the second of four given by McIntire to the city and University between the years 1919 and 1924; the others include the Jackson, Lewis and Clark, and Clark sculptures. Lee Park, a formal urban square, was also one of five public parks that McIntire gave to the city. The sculpture, a heroic-sized sculpture of Lee and his horse, Traveler, is located in the center of the park. Conceived by sculptor Henry Shrady, the initial models for the sculpture exhibited a strong vitality and conceptual tension. After Shrady's untimely death, Italian artist Leo Lentelli completed the bronze sculpture, although in a manner that did not fulfill the original vision or meaning of the work. Shrady and Lentelli were both members of the National Sculpture Society, and were prolific and highly-regarded artists. The sculpture is significant as a work of art for its association with the late City Beautiful movement, and is listed on the Virginia Landmarks Register and the National Register of Historic Places as part of a Multiple Property Listing with the other McIntire-donated artwork (*Four Monumental Figural Outdoor Sculptures in Charlottesville, VA*).

The Lee and Jackson statues embodied the Lost Cause interpretation of the Civil War, which romanticized the Confederate past and suppressed the horrors of slavery and slavery's role as the fundamental cause of the war while affirming the enduring role of white supremacy. The Lost Cause interpretation was a key element in the ideological justification of the disfranchisement of African American voters and the segregation of African Americans in virtually all walks of life, including employment, education, housing, healthcare, and public accommodations.

Reflecting many of the racist attitudes of the Jim Crow-era south, an unveiling ceremony for the

sculpture was organized by local chapters of the Confederate Veterans, Sons of Confederate Veterans, and United Daughters of the Confederacy. Although a public park, the landscape surrounding the Lee sculpture retained a reputation as a segregated "whites only" space for decades, consistent with McIntire's terms of deed for other racially segregated parks he donated to the city.

In March 2016 city council received a petition to remove the Lee sculpture from the park and to rename the park in recognition of the sculpture's troubling symbolism in the city.

Options Considered

As the statues now stand, there is nothing that indicates any challenge to the values of the Lost Cause and white supremacy that they represented when they were erected and that they continue to represent to many people today. This commission suggests that the Lee and Jackson statues belong in no public space unless their history as symbols of white supremacy is revealed and their respective parks transformed in ways that promote freedom and equity in our community.

The commission therefore considered multiple options, including removal entirely from public view. After months of presentations, public comment, and discussion, two primary options for the Lee sculpture emerged as the best ways of meeting our charge. These included 1) moving the sculpture to McIntire Park and confronting its history there in a new context; or 2) confronting the sculpture in place by redesigning/transforming Lee Park. The work for either option may be accomplished through a design competition, the commission of new public art, or a standard request for proposal (RFP) process. The commission did not identify specific park designs, treatment for the sculpture, new art, or new interpretive narratives as a part of the option development process. Instead the commission identified a list of basic concepts, parameters, opportunities, and

1917–1924: A Timeline

The McIntire Statues and Charlottesville's African American Community

**Based on Contemporary Reports
From *The Daily Progress***

CONTENTS

- 1893–1916 Virginia Constitutional Convention / Confederate Monuments
- 1917 War, Lynch Mobs & Race Riots / Rallies & Red Cross
R. E. Lee and Lewis and Clark Statues Commissioned
- 1918 NAACP / WWI: Shoulder to Shoulder / Spanish Influenza / Armistice
- 1919 Fourth of July Homecoming Celebration / Red Summer
Stonewall Jackson and George Rogers Clark Statues Commissioned
Lewis and Clark Statue Unveiled
- 1920 Prohibition / Inter-Racial Committee / Nineteenth Amendment
- 1921 *Charlottesville Messenger* & "The New Negro" / KKK / Elections
Stonewall Jackson and George Rogers Clark Statues Unveiled
- 1922 KKK at Sheriff's Funeral / Luray Convention / UVA Klan No. 5
- 1923 Bond Issue on Jefferson School Improvements / Rev. C. M. Long & the Struggle for a High School / J. A. C. Team Football
- 1924 Lee–Jackson Day / Birth of A Nation / Elks' Minstrel Show Linen Drive / Racial Integrity & Eugenics / KKK Parade & Cross Burnings
R. E. Lee Statue unveiled
- 1925–1926 More KKK Parades & Cross Burnings / KKK at Belmont Revival McIntire Park & Washington Park

* National events in the timeline are marked with an asterisk.

Events concerning the McIntire statues in the timeline are italicized in gray.

April 25, 1924 C. I. Hoy, a national lecturer for the Ku Klux Klan, lectured at the courthouse in April and again in June.

“Klan Speaker Here Last Night”

Daily Progress, April 26, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2589938/view#openLayer/uva-lib:2589939/1657/3566/3/1/0>

“Klan Speaker Well Received”

Daily Progress, June 9, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590289/view#openLayer/uva-lib:2590290/3005/2741/3/1/0>

May 3, 1924 *The R. E. Lee statue was placed in Lee Park.*

“Lee Statue on the Way”

Daily Progress, April 17, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2589848/view#openLayer/uva-lib:2589849/4885.5/4998/2/1/0>

Robert E. Lee Sculpture 104-0264, National Register of Historic Places

<http://tinyurl.com/gq9kaph>

“Lee Monument Placed Today”

Daily Progress, Thursday May 3, 1924

Page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590001/view#openLayer/uva-lib:2590002/3082/3763/3/1/0>

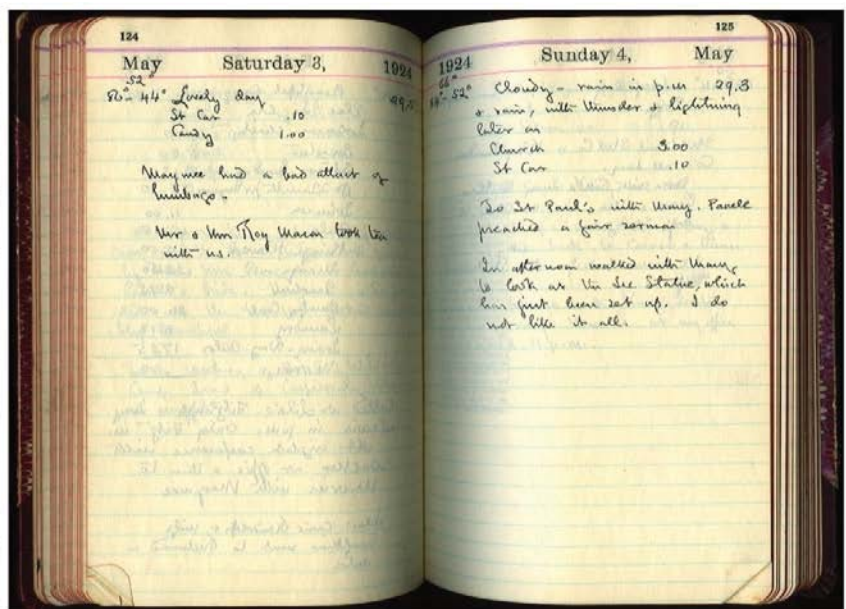
May 4, 1924 *Judge R. T. W. Duke, who was to be master of ceremonies at the unveiling of the Lee statue, wrote in his diary on Sunday, May 4: “In afternoon walked with Mary to look at the Lee Statue, which has just been set up. I do not like it all.”*

Richard Thomas Walker Duke, Jr., prominent Albemarle County, Virginia, jurist and civic leader.

Duke Family Papers in the Small Special Collections Library at the University of Virginia

http://static.lib.virginia.edu/rmds/duke/diaries/1924/source/0074_p124_125.html

<http://small.library.virginia.edu/collections/featured/duke-family-papers/diaries/>



JUDGE R. T. W. DUKE & HIS DIARY (Special Collections, University of Virginia Library)

May 14, 1924 The University of Virginia Anglo-Saxon Club announced a lecture by Ernest Sevier Cox, who with John Powell founded the Anglo-Saxon Clubs of America and pushed the Virginia General Assembly to pass the Racial Integrity Act and later, in 1926, the Massenburg Bill.

“University News”

[Announcing Ernest S. Cox lecture at Madison Hall]

Daily Progress, May 14, 1924, page 2

<http://search.lib.virginia.edu/catalog/uva-lib:2590085/view#openLayer/uva-lib:2590087/5570.5/2053/4/1/0>

“Earnest Sevier Cox (1880–1966)”

Encyclopedia Virginia

http://www.encyclopediavirginia.org/Cox_Earnest_Sevier_1880-1966

May 16, 1924 On Friday night the KKK burned a large cross on Patterson’s Mountain (near Monticello—now called Montalto or Brown’s Mountain) for two hours. The *Daily Progress* reported that many people saw it and that it was thought to be “a demonstration by the Ku Klux Klan in connection with their program for today.”

“Cross Burned on Patterson’s Mountain”

Daily Progress, Saturday May 17, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590109/view#openLayer/uva-lib:2590110/4654.5/4386.5/3/1/0>

May 17, 1924 On Saturday night the white robed KKK paraded to music by the Crozet Band, from Belmont down through Main Street to Midway and back again. The *Daily Progress* reported that thousands of people “lined the sidewalks of Main Street from the C. & O. Station to the foot of Vinegar Hill.”

“Klan Parade Drew Big Crowd”

Daily Progress, Monday May 19, 1924, page 1

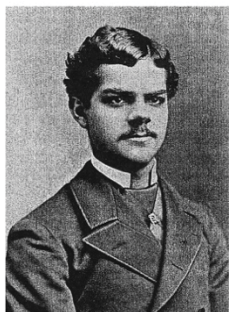
<http://search.lib.virginia.edu/catalog/uva-lib:2590120/view#openLayer/uva-lib:2590121/3732.5/1708/3/1/0>

This was probably the parade that Suzanne Cook Martin was remembering when she recalled a particular visit with her grandfather John West. He was born into slavery in Charlottesville in 1850 and became a prosperous barber here, with many white clients. He owned a home at 313 West Main, right at Midway:

“Another time he told all of us grandchildren to quickly get into the house and stay there. He went out to the front gate of the house and watched a parade of Ku Klux Klan men, completely covered in white sheets, as they marched down West Main Street. Afterwards he came in and said, ‘I recognized every single one of them!’ He was their barber and knew them all by their shoes!”

Tenth Anniversary Cookbook, page 70

African American Genealogy Group of Charlottesville and Albemarle County, Virginia, June, 2005



JOHN WEST (1850-1927)



HOLSINGER PHOTOGRAPH OF MIDWAY, MARCH 7, 1917 (Special Collections, University of Virginia Library)

May 17–22, 1924 *The week of the Lee statue unveiling and Confederate Veterans of Virginia reunion*

Attention, Sons of Vets!

Daily Progress, Thursday May 15, 1924, page 1

(R. T. W. Duke Camp Sons of Confederate Veterans)

<http://search.lib.virginia.edu/catalog/uva-lib:2590098/view#openLayer/uva-lib:2590099/3560.5/2127.5/4/1/0>

“Lee Statue Work of Art”

Daily Progress, Saturday May 17, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590109/view#openLayer/uva-lib:2590110/5327/927/3/1/1>

“Stage Is Set for Reunion”

Daily Progress, Monday May 19, 1924, page 1

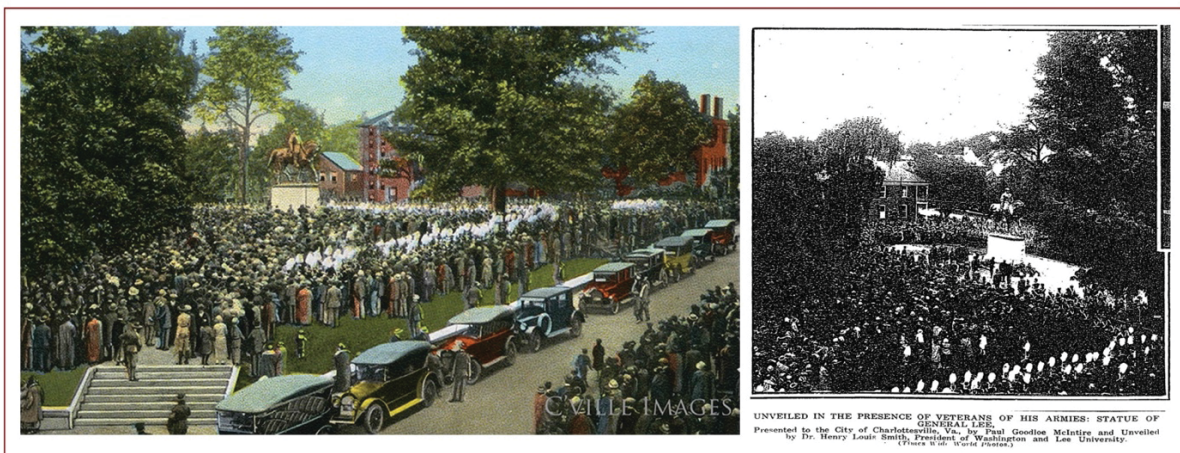
<http://search.lib.virginia.edu/catalog/uva-lib:2590120/view#openLayer/uva-lib:2590121/4422.5/3562/1/1/0>

“Grand Camp Opens Session”

Daily Progress, Tuesday May 20, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590129/view#openLayer/uva-lib:2590130/4349.5/3751.5/1/1/0>

May 21, 1924 *Robert E. Lee Statue unveiled.*



from Dave Norris Postcard Collection at C'ville Images

from New York Times, June 1, 1924

"Lee Statue Is Unveiled"

Daily Progress, Wednesday May 21, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590142/view#openLayer/uva-lib:2590143/4358.5/3403.5/1/1/0>

Proceedings of the 37th Annual Reunion of the Virginia Division of the Grand Camp U. C. V. and of the 29th Reunion of the Sons of Confederate Veterans

<http://tinyurl.com/hr6u9mc>

May 21, 1924 Diary of R. T. W. Duke, Jr.

“Unveiling of Genl Lee’s statue at 3 p.m. I presided and Ashby Jones made one of the best addresses I think I ever heard. Smith of Washington & Lee presented the Statue: Alderman accepted it & it was unveiled by Mary Walker Lee Genl Lee’s great grand-daughter—a very sweet little child. Large crowd & everything passed off delightfully.” Richard Thomas Walker Duke, Jr., prominent Albemarle County, Virginia, jurist and civic leader.

Duke Family Papers in the Small Special Collections Library at the University of Virginia

http://static.lib.virginia.edu/rmds/duke/diaries/1924/source/0084_p142_143.html

<http://small.library.virginia.edu/collections/featured/duke-family-papers/diaries/>

“Veterans Cheer Lee Descendant”

Daily Progress, May 22, 1924, page 1

“The most dramatic moment in a day of moving scenes was when Judge R. T. W. Duke, master of the ceremonies incident to the unveiling of the Shrad-y-Lentelli equestrian statue of General Robert E. Lee, took three-year-old Mary Walker Lee from her father’s arms and, standing her on the speaker’s table, said: ‘I want to introduce to you the great granddaughter of the greatest man who ever lived.’”

<http://search.lib.virginia.edu/catalog/uva-lib:2590151/view#openLayer/uva-lib:2590152/5370.5/2454/3/1/0>

May 23, 1924 Williams’ World-Famous Singers appeared in concert at First Baptist Church at 7th and Main.

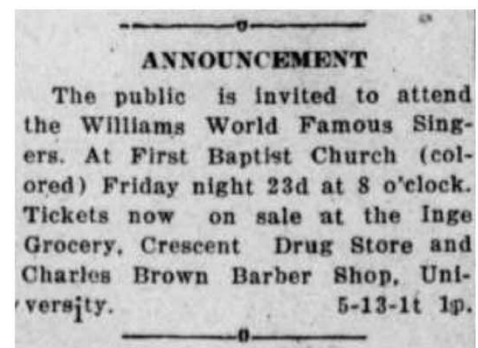
“Announcement”

Daily Progress, May 13, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590076/view#openLayer/uva-lib:2590077/1720/1405.5/4/1/0>



Williams' World-Famous Singers
In Concert at
First Baptist Church



THE DAILY PROGRESS
May 13, 1924
Page 1

June 2–4, 1924 In the first week of June the Ku Klux Klan held demonstrations and burned crosses at Crozet, Keswick, Scottsville, and “on an eminence on the Pantops property to the left of the road to Keswick.” The *Daily Progress* reported that “it is evident that the hooded order is quite active here, and it is stated that the membership of the local organization is being rapidly recruited.”

“Klan Burns Crosses at Several Places”

Daily Progress, June 2, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590230/view#openLayer/uva-lib:2590231/4978/1196.5/4/1/0>

“Flaming Cross Seen Last Night”

Daily Progress, June 4, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590247/view#openLayer/uva-lib:2590248/3823/4552/4/1/0>

June 21, 1924 The Ku Klux Klan set off “heavy explosions from three bombs,” then burned a large cross at around 10 o’clock Saturday night “near the colored church just west of Mechum’s River.” (The church was probably Mt. Salem Gospel Church which celebrated its 121st anniversary in 2014). The *Daily Progress* reported that “fifty klansmen, only about six of them masked” were nearby, and that “the good citizens of that part of the county” approved of the Ku Klux Klan’s action that night.

“Klan Burns Cross Near Mechums River”

Daily Progress, June 23, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590407/view#openLayer/uva-lib:2590408/5128/3823.5/4/1/0>

August 23–30, 1924 Ku Klux Klan members paid visits to the South Plains Presbyterian Church in Keswick and to the Fife Chapel on 9th St SW, leaving “a purse containing a substantial sum of money” at each place.

“Klan Visits Keswick Church”

Daily Progress, August 23, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590912/view#openLayer/uva-lib:2590913/1119.5/4242.5/4/1/0>

“Klan Visits Fife Chapel”

Daily Progress, August 30, 1924, page 1

<http://search.lib.virginia.edu/catalog/uva-lib:2590968/view#openLayer/uva-lib:2590969/2591.5/1111.5/4/1/0>

KLAN BURNS CROSSES AT SEVERAL PLACES

Members of the Ku Klux Klan in several sections of Albemarle County have held demonstrations recently when crosses have been burned at night.

Within the past week or ten days the demonstrations have occurred at Crozet, Keswick and Scottsville. It is learned on good authority that a celebration will be staged here next Saturday night when a prominent speaker will appear.

THE DAILY PROGRESS
June 2, 1924
Page 1

FLAMING CROSS SEEN LAST NIGHT

The sound of an explosion at some point just east of the city and the flaming up of a fiery cross attracted the attention of many persons shortly after 9 o'clock last night.

Hundreds of people sought vantage points to observe the demonstration, which is credited to the Ku Klux Klan, and the cross blazed brightly for several hours. The location of the cross was on an eminence on the "humps" property to the left of the road to Keswick, and many people approached the spot as closely as possible in automobiles.

From the frequency of demonstrations in this community it is evident that the hooded order is quite active here, and it is stated that the membership of the local organization is being rapidly recruited. It is rumored that there will be public speaking, under the auspices of the Klan, at the courthouse at 8 o'clock Saturday night, when a gifted speaker will make an address on "Americanism."

THE DAILY PROGRESS
June 4, 1924
Page 1

KLAN BURNS CROSS NEAR MECHUMS RIVER

A demonstration by the Ku Klux Klan, which may have some influence in the community in which it was staged, was set up about 10 o'clock Saturday night near the colored church just west of Mechum's River.

Preceded by heavy explosions from three bombs in single order, a large cross began to blaze up, and it was instantly understood that the hooded knights were in that locality. In fact, it may be safely stated that fifty Klansmen were nearby, only about six of whom were masked.

This action is commended by the people of the Mechum River-Crozet section of the county, and the good citizens of that part of the county are determined that the lawlessness and immorality practiced at these places shall be broken up quickly.

THE DAILY PROGRESS
June 23, 1924
Page 1

KLAN VISITS KESWICK CHURCH

At the close of the service at South Plains Presbyterian church at Keswick last night, which was the final service of a series of revival meetings in progress there, ten members of the Ku Klux Klan made their appearance, and deposited a purse containing a substantial sum of money.

THE DAILY PROGRESS
August 23, 1924
Page 1

KLAN VISITS FIFE CHAPEL

At the beginning of the service at Fife Chapel last night, which was the regular Friday night service, nineteen members of the Knights of the Ku Klux Klan made their appearance and deposited a purse containing a substantial sum of money.

THE DAILY PROGRESS
August 30, 1924
Page 1

Daily Progress, April 26, 1924

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Virginia, got decision over A. B. Kline, Marine Corps, in three rounds.

**KLAN SPEAKER
HERE LAST NIGHT**

Mr. C. I. Hoy, an attorney of St. Louis, and a national lecturer for the Ku Klux Klan addressed a small audience in the court house last night.

The meeting was open to the public but it had not been advertised or sufficiently well announced, else, in all probability, there would have been a large crowd on account of the unusual interest which attaches to the affairs of the organization.

Mr. Hoy told of the growth of the organization in spite of adverse criticism of its operations, and defended it against attacks from certain quarters in his address which lasted nearly two hours.

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Daily Progress, May 16 1924

the Rev. James M. Wallace.

**Cross Burned on
Patterson's Mountain**

Many people observed last night a large cross burning on Patterson's Mountain near the city. The cross burned for about two hours, between 9 and 11 o'clock.

The burning of the cross is supposed to have been part of a demonstration by the Ku Klux Klan in connection with their program for today which includes a parade on Main Street at 8.30 tonight and speaking afterward on the circus lot in Belmont.

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KLAN PARADE DREW BIG CROWD

Thousands lined the sidewalks of Main Street from the C. & O. Station to the foot of Vinegar Hall, while hundreds sought vantage points at elevated places, and many others occupied automobiles Saturday night in eagerness to see the parade of the Ku Klux Klan.

Indeed, the crowd equaled those usually seen here to witness the parade of the large circuses, and the congestion of traffic in the principal business district was serious for nearly two hours. Monticello Road was also crowded.

The parade was scheduled for 8.30 o'clock, but due to unassailable circumstances, the procession did not reach Main Street until 9.30, and yet the immense throng of spectators waited to see the first demonstration by the local klansmen. The procession was not a very long one, as many of the local members did not participate in the affair, and yet the march of the white robed figures was impressive, and directed attention to the presence of the organization in the community.

The Klansmen assembled on the circus lot in Belmont, after which they marched to music by the Crozet Band to Main Street, thence westward to Midway Park, and returned by the same routes.

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KLAN BURNS CROSSES AT SEVERAL PLACES

Members of the Ku Klux Klan in several sections of Albemarle County have held demonstrations recently when crosses have been burned at night.

Within the past week or ten days the demonstrations have occurred at Crozet, Keswick and Scottsville. It is learned on good authority that a celebration will be staged here next Saturday night when a prominent speaker will appear.

BRASS STAR IN HONOR OF JUVENILE

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FLAMING CROSS SEEN LAST NIGHT

The sound of an explosion at some point just east of the city and the flaming up of a fiery cross attracted the attention of many persons shortly after 9 o'clock last night.

Hundreds of people sought vantage points to observe the demonstration, which is credited to the Ku Klux Klan, and the cross blazed brightly for several hours. The location of the cross was on an eminence on the Montops property to the left of the road to Keswick, and many people approached the spot as closely as possible in automobiles.

From the frequency of demonstrations in this community it is evident that the hooded order is quite active here, and it is stated that the membership of the local organization is being rapidly recruited. It is rumored that there will be public speaking, under the auspices of the Klan, at the courthouse at 8 o'clock Saturday night, when a gifted speaker will make an address on "Americanism."

VISITORS FROM ALEXANDRIA

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KLAN SPEAKER WELL RECEIVED

A crowd that filled the courthouse on Saturday night heard Mr. C. J. Hoy an attorney of St. Louis and national speaker for the Ku Klux Klan, on the subject of "Americanism."

The meeting was presided over by the Rev. H. P. Russell, of Richmond, who made a very fitting introduction of the principal speaker.

Mr. Hoy set forth the position of the Klan towards numerous phases of American life, and touched upon the effect of immigration on the social life of this country.

The speech was well received, and a rising vote indicated that practically every one of his hearers endorsed the statements he made.

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**KLAN BURNS CROSS
NEAR MECHUMS RIVER**

A demonstration by the Ku Klux Klan, which may have some influence in the community in which it was staged, was set up about 10 o'clock Saturday night near the colored church just west of Mechum's River.

Preceded by heavy explosions from three bombs in single order, a large cross began to blaze up, and it was instantly understood that the hooded knights were in that locality. In fact, it may be safely stated that fifty Klansmen were nearby, only about six of whom were masked.

This action is commended by the people of the Mechum River-Crozet section of the county, and the good citizens of that part of the county are determined that the lawlessness and immorality practiced at these places shall be broken up quickly.

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Exhibit B

Courtesy Copies of Selected Electronic Secondary Sources

(in the order they appear in the Table of Authorities)

Andrew Blake, Klan rally scheduled for Charlottesville next month spurs religious leaders to take Action, Washington Times, June 10, 2017, available at <http://www.washingtontimes.com/news/2017/jun/10/klan-rally-scheduled-charlottesville-next-month-sp/>

Klan rally scheduled for Charlottesville next month spurs religious leaders to take action



In this Saturday, April 23, 2016 file photo, Loyal White Knights Grand Dragon Will Quigg of Anaheim, Calif., center, shouts to protestors during a "White Pride" rally, in Rome, Ga. (AP Photo/Mike Stewart) more >

By Andrew Blake - The Washington Times - Saturday, June 10, 2017

Religious leaders are plotting an event of their own in response to a Klan Rally expected next month in Charlottesville, Virginia, local media reported Friday.

The Charlottesville Clergy Collective, a group of more than 50 local religious leaders, met this week in order to begin scheduling an event in advance of a Ku Klux Klan demonstration scheduled for July 8 in downtown Charlottesville, WVIR-TV reported Friday.

"This is just in the talking phase right now about having something that stresses peace, and listening, and dialogue, and depolarization, and taking the tension away from that issue. We want to emphasize the goodness here in Charlottesville," Pastor Liz Emery of New Beginnings Christian Community told the NBC affiliate.

The Loyal White Knights of the KKK, a North Carolina-based Klan affiliate, recently announced plans to assemble outside Charlottesville Circuit Court on July 8 to protest against the City Council's decision to remove a statue of Confederate Army General Robert E. Lee.

"They are trying to erase whites and our great culture right out of the history books," the group wrote on its website.

The Loyal White Knights applied for a permit and would likely be approved, a spokesperson for Charlottesville told The Washington Post this week.

About 100 people are expected to attend the July 8 rally, WSET-TV reported this week. The Charlottesville Clergy Collective, meanwhile, intends to host a rally and other events leading up to the scheduled Klan Rally in response, according to WVIR.

"We're trying to work it out with our various groups in a peaceful way and we do not want confrontation. We do not want any polarization in our community," Pastor Emery told WVIR, echoing Charlottesville Vice-Mayor Wes Bellamy's own recent comments.

"I don't think that we as a community or as a city need to go and have a physical confrontation with them or even get into verbal confrontation with them," Mr. Bellamy said earlier this week. "The best way for us to be able to show that we are against the hateful language or this free speech in which they want to mask it, is for us to ban and rally together."

The Charlottesville Clergy Collective describes itself online as "a group of clergy and interested lay persons who gather regularly to discuss and address the challenge of race relations in the Charlottesville and Albemarle region of Virginia."

"Our mission is to establish, develop, and promote racial unity with the Christian Leadership of the Charlottesville-Albemarle Region through fellowship, partnership and relationship," their website says.

The Loyal White Knights, meanwhile, have been branded a hate group of watchdogs including the Souther Poverty Law Center – a label it disputes on its own website.

"We do not hate any group of people! However, we do hate some things that certain groups are doing to our race and our nation," the group says.

The Loyal White Knights made headlines last year for plotting a victory parade following President Trump's White House win. While the rally ultimately did unfold, an eleventh hour setback caused fewer Klan members to attend than anticipate: Christopher Eugene Barker, the group's "imperial wizard," and "grand dragon" William "Quigg" Hagen, the state leader of the group's California faction, were both arrested that weekend for allegedly stabbing a fellow Klansman hours several hours before their scheduled victory parade.

The Poindexter Report Week #2

By **The Enterprise** - January 29, 2016

For only the second time in the past 48 years, the General Assembly's scheduled meetings and session were canceled for Friday in order for legislators and staff to safely travel home to be with their families during the predicted massive snow storm.

Since the storm did materialize, the pending question for me is will I be able to plow my country road with my trusty old John Deere tractor and blade sufficiently to allow me to attempt to travel back to Richmond on Sunday in order to resume state business on Monday morning.

Friday, January 22, also was the last day to file bills, so last week we were all busy finalizing bills for the deadline and receiving a host of briefings on the economy, anticipated revenue, state agency issues, and spending requests.

House Majority Leader Kirk Cox also laid out our Republican agenda for the session. Some major items included in our agenda include our commitment to improve our economy by encouraging private sector job growth; strong support for education in the budget and for reforms including promoting education choice and flexibility for students and their parents; the promotion of free-market alternatives to increase patient access to affordable healthcare; and, initiatives to help prevent domestic violence against women.

As you follow news from the session this year, you should notice many bills and budget components supporting these themes. For example, the domestic violence agenda was rolled out this week with 10 bills filed. These bills provide tougher penalties on abusers, authorizes concealed carry for up to 45 days to those over 21 and protected by court orders, and strengthens stalking laws.

Bills to create a more free-market system for health care also rolled out, including bills to reform the Certificates of Public Need (COPN) process. Today, under an antiquated law, medical providers must go through a lengthy and costly process to obtain state permission to build a clinic, install medical equipment, provide an additional care capability, and even to build a parking lot. Reforms will create a more free-market system, control costs, and improve access for patients around the state.

My HB263 passed in an Education Subcommittee this week. It is a technical bill that eliminates the 10th House District from membership in the Western Virginia Public Education Consortium. The 10th House District was moved to Loudoun County in the 2011 redistricting, and the code intent for the consortium is for the membership to be western regional legislators and educators.

I have received a large number of emails and phone calls supporting another bill I have filed, HB587. In 1998 legislation was passed to protect Virginia's war-related monuments and memorials from all wars going back to the earliest days of the settling of Virginia. A court ruling last year determined the legislation was unclear as to whether or not the intent of the law was to protect those erected prior to 1998 or only those erected going forward from 1998 since new laws normally go into effect July 1 allowing a bill's passage.

My bill clarifies that the intent of the law is to protect monuments and memorials erected prior to 1998. History is what it is, the good and bad. I find it ridiculous to tear down memorials or monuments to those who served for the cause of their time due to continually shifting political whims today or in the future.

This week, I had the pleasure of meeting in my office with Virginia Tech President Timothy Sands and I also enjoyed meeting with Dr. Edwin Jones, associate dean and director of Extension staff at Virginia Tech's College of Agriculture and Life Sciences.

I also met with Dr. Kenneth Garren, president of Lynchburg College, and was honored to have a photo taken of us beside my framed Lynchburg College Distinguished Alumni of the Year award. The photo of this special occasion is posted on my Facebook page.

To arrange a tour of our Capitol or schedule a meeting with me, please call or email my legislative assistant, William Pace, at (804) 698-1009, DelCPoindexter@house.virginia.gov or write to me at P.O. Box 406, Room 802, Richmond VA 23218. I invite you to follow me on Facebook and check my website at www.votepoindexter.com for updates.

**Charles Poindexter, Poindexter Report Week #2, Enterprise, Jan. 29, 2006,
available at <https://theenterprise.net/the-poindexter-report-week-2/>**

White nationalist Richard Spencer leads torch-bearing protesters defending Lee statue

By [Laura Vozzella](#) May 14

RICHMOND — Self-proclaimed white nationalist Richard Spencer led a large group of demonstrators carrying torches and chanting “You will not replace us” Saturday in Charlottesville, protesting plans to remove a Confederate monument that has played an outsize role in this year’s race for Virginia governor.

“What brings us together is that we are white, we are a people, we will not be replaced,” Spencer said at an afternoon protest, the first of two rallies he led in the town where he once attended the University of Virginia.

At the second rally, dozens of torch-bearing protesters gathered in a city park Saturday evening and chanted “You will not replace us” and “Russia is our friend,” local television footage shows. Spencer was not shown addressing that gathering, but he tweeted a photo of himself standing in the crowd carrying what appeared to be a bamboo tiki torch.

The evening protest was short-lived. About 10 minutes in, an altercation between Spencer’s group and counterprotesters drew police to the scene, and the crowd quickly dispersed, the Charlottesville Daily Progress reported.

Once an obscure Internet figure promoting white identity, Spencer coined the term “alt-right” — referring to a small, far-right movement that seeks a whites-only state — and rose to prominence during Donald Trump’s presidential campaign. Although Trump denounced the alt-right, Spencer’s followers counted his victory as a win for the movement as Trump espoused hard-right stances on undocumented immigrants, Muslims and political correctness.

“You will not replace us. You will not destroy us,” Spencer said at the earlier rally, which he broadcast via Periscope video. “You cannot destroy us. We have awoken. We are here. We are never going away.”

Spencer was in Charlottesville to protest a City Council vote to remove a statue of Confederate Gen. Robert E. Lee. A court injunction has halted the removal for six months.

The statue has become a rallying cry for Corey Stewart, a Republican gubernatorial candidate. Stewart, who is chairman of the Prince William Board of County Supervisors, was chairman of Trump's Virginia campaign until he was fired.

There was no indication that Stewart, who has alienated some supporters with his focus on Confederate symbols, attended either rally. In defending the Confederate battle flag and monuments, Stewart has said he is not promoting symbols of hate but battling "political correctness" and "historical vandalism."

Stewart did not respond to a request for comment Sunday. He kept a relatively low profile on Twitter.

"I want to wish all the mothers a very special Mother's Day today!" he said in one of his few tweets of the day.

The rallies drew condemnation from the other four contenders for governor: former Republican National Committee chairman Ed Gillespie, state Sen. Frank W. Wagner (R-Virginia Beach), and Lt. Gov. Ralph Northam and former congressman Tom Perriello, both Democrats.

All are vying to succeed term-limited Gov. Terry McAuliffe (D).

"The ugly display of divisive rhetoric and intimidation tactics in Charlottesville yesterday . . . does not reflect the thoughtfulness and tolerance I see in my fellow Virginians everywhere I go," Gillespie tweeted.

Wagner, who faces Stewart and Gillespie in the June 13 GOP primary, said via email: "These actions are totally unacceptable. These people are racists. They don't represent Virginia values. I condemn their actions and beliefs. I call on all Virginians who are involved in efforts to advocate for or against Virginia's history to act responsibly and honorably."

Said Northam: "There is no place for hate, fear or intimidation in Virginia. The display in Charlottesville is the last gasp of a disgusting ideology. In this commonwealth, our doors are open, our lights are on and we are welcome to everyone who shares a love for it, no matter who you are or where you're from."

Perriello, who grew up in Charlottesville, tweeted derisively at Spencer after the alt-right leader posted video of the first protest.

"Get your white supremacist hate out of my hometown," Perriello wrote on Twitter.

Spencer replied: "We won, you lost, little Tommy."

"Actually, you lost," Perriello shot back. "In 1865. 150 years later, you're still not over it."

Laura Vozzella covers Virginia politics for The Washington Post. [🐦 Follow @LVozzella](#)

Mitch Landrieu, Speech concerning removal of Confederate Monument, May 19, 2017,
transcript available at <http://www.esquire.com/news-politics/a55218/new-orleans-mayor-speech-confederate-monuments/>



Thank you for coming.

The soul of our beloved City is deeply rooted in a history that has evolved over thousands of years; rooted in a diverse people who have been here together every step of the way – for both good and for ill.

It is a history that holds in its heart the stories of Native Americans: the Choctaw, Houma Nation, the Chitimacha. Of Hernando de Soto, Robert Cavelier, Sieur de La Salle, the Acadians, the Islenos, the enslaved people from Senegambia, Free People of Color, the Haitians, the Germans, both the empires of Francexii and Spain. The Italians, the Irish, the Cubans, the south and central Americans, the Vietnamese and so many more.

You see: New Orleans is truly a city of many nations, a melting pot, a bubbling cauldron of many cultures.

There is no other place quite like it in the world that so eloquently exemplifies the uniquely American motto: e pluribus unum — out of many we are one.

But there are also other truths about our city that we must confront. New Orleans was America's largest slave market: a port where hundreds of thousands of souls were brought, sold and shipped up the Mississippi River to lives of forced labor of misery of rape, of torture.

America was the place where nearly 4,000 of our fellow citizens were lynched, 540 alone in Louisiana; where the courts enshrined 'separate but equal'; where Freedom riders coming to New Orleans were beaten to a bloody pulp.

So when people say to me that the monuments in question are history, well what I just described is real history as well, and it is the searing truth.

And it immediately begs the questions: why there are no slave ship monuments, no prominent markers on public land to remember the lynchings or the slave blocks; nothing to remember this long chapter of our lives; the pain, the sacrifice, the shame ... all of it happening on the soil of New Orleans.

So for those self-appointed defenders of history and the monuments, they are eerily silent on what amounts to this historical malfeasance, a lie by omission.

There is a difference between remembrance of history and reverence of it. For America and New Orleans, it has been a long, winding road, marked by great tragedy and great triumph. But we cannot be afraid of our truth.

As President George W. Bush said at the dedication ceremony for the National Museum of African American History & Culture, "A great nation does not hide its history. It faces its flaws

and corrects them."

So today I want to speak about why we chose to remove these four monuments to the Lost Cause of the Confederacy, but also how and why this process can move us towards healing and understanding of each other.

So, let's start with the facts.

The historic record is clear: the Robert E. Lee, Jefferson Davis, and P.G.T. Beauregard statues were not erected just to honor these men, but as part of the movement which became known as The Cult of the Lost Cause. This 'cult' had one goal — through monuments and through other means — to rewrite history to hide the truth, which is that the Confederacy was on the wrong side of humanity.

First erected over 166 years after the founding of our city and 19 years after the end of the Civil War, the monuments that we took down were meant to rebrand the history of our city and the ideals of a defeated Confederacy.

It is self-evident that these men did not fight for the United States of America, They fought against it. They may have been warriors, but in this cause they were not patriots.

These statues are not just stone and metal. They are not just innocent remembrances of a benign history. These monuments purposefully celebrate a fictional, sanitized Confederacy; ignoring the death, ignoring the enslavement, and the terror that it actually stood for.

After the Civil War, these statues were a part of that terrorism as much as a burning cross on someone's lawn; they were erected purposefully to send a strong message to all who walked in their shadows about who was still in charge in this city.

Should you have further doubt about the true goals of the Confederacy, in the very weeks before the war broke out, the Vice President of the Confederacy, Alexander Stephens, made it clear that the Confederate cause was about maintaining slavery and white supremacy.

He said in his now famous 'Cornerstone speech' that the Confederacy's "cornerstone rests upon the great truth, that the negro is not equal to the white man; that slavery — subordination to the superior race — is his natural and normal condition. This, our new government, is the first, in the history of the world, based upon this great physical, philosophical, and moral truth."

Now, with these shocking words still ringing in your ears, I want to try to gently peel from your hands the grip on a false narrative of our history that I think weakens us and make straight a wrong turn we made many years ago so we can more closely connect with integrity to the founding principles of our nation and forge a clearer and straighter path toward a better city and more perfect union.

Last year, President Barack Obama echoed these sentiments about the need to contextualize and remember all of our history. He recalled a piece of stone, a slave auction block engraved with a marker commemorating a single moment in 1830 when Andrew Jackson and Henry Clay stood and spoke from it.

President Obama said, "Consider what this artifact tells us about history ... on a stone where day after day for years, men and women ... bound and bought and sold and bid like cattle on a stone worn down by the tragedy of over a thousand bare feet. For a long time the only thing we considered important, the singular thing we once chose to commemorate as history with a plaque were the unmemorable speeches of two powerful men."

A piece of stone – one stone. Both stories were history. One story told. One story forgotten or maybe even purposefully ignored.

As clear as it is for me today ... for a long time, even though I grew up in one of New Orleans' most diverse neighborhoods, even with my family's long proud history of fighting for civil rights ... I must have passed by those monuments a million times without giving them a second thought.

So I am not judging anybody, I am not judging people. We all take our own journey on race. I just hope people listen like I did when my dear friend Wynton Marsalis helped me see the truth. He asked me to think about all the people who have left New Orleans because of our exclusionary attitudes.

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Another friend asked me to consider these four monuments from the perspective of an African American mother or father trying to explain to their fifth grade daughter who Robert E. Lee is and why he stands atop of our beautiful city. Can you do it?

Can you look into that young girl's eyes and convince her that Robert E. Lee is there to encourage her? Do you think she will feel inspired and hopeful by that story? Do these monuments help her see a future with limitless potential? Have you ever thought that if her potential is limited, yours and mine are too?

We all know the answer to these very simple questions.

When you look into this child's eyes is the moment when the searing truth comes into focus for us. This is the moment when we know what is right and what we must do. We can't walk away from this truth.

And I knew that taking down the monuments was going to be tough, but you elected me to do the right thing, not the easy thing and this is what that looks like. So relocating these Confederate monuments is not about taking something away from someone else. This is not about politics, this is not about blame or retaliation. This is not a naïve quest to solve all our problems at once.

This is, however, about showing the whole world that we as a city and as a people are able to acknowledge, understand, reconcile and, most importantly, choose a better future for ourselves, making straight what has been crooked and making right what was wrong.

Otherwise, we will continue to pay a price with discord, with division, and yes, with violence.

To literally put the confederacy on a pedestal in our most prominent places of honor is an inaccurate recitation of our full past, it is an affront to our present, and it is a bad prescription for our future.

History cannot be changed. It cannot be moved like a statue. What is done is done. The Civil War is over, and the Confederacy lost and we are better for it. Surely we are far enough removed from this dark time to acknowledge that the cause of the Confederacy was wrong.

And in the second decade of the 21st century, asking African Americans — or anyone else — to drive by property that they own; occupied by reverential statues of men who fought to destroy the country and deny that person's humanity seems perverse and absurd.

Centuries-old wounds are still raw because they never healed right in the first place.

Here is the essential truth: we are better together than we are apart. Indivisibility is our essence. Isn't this the gift that the people of New Orleans have given to the world?

We radiate beauty and grace in our food, in our music, in our architecture, in our joy of life, in our celebration of death; in everything that we do. We gave the world this funky thing called jazz; the most uniquely American art form that is developed across the ages from different cultures.

Think about second lines, think about Mardi Gras, think about muffaletta, think about the Saints, gumbo, red beans and rice. By God, just think. All we hold dear is created by throwing everything in the pot; creating, producing something better; everything a product of our historic diversity.

We are proof that out of many we are one — and better for it! Out of many we are one — and we really do love it!

And yet, we still seem to find so many excuses for not doing the right thing. Again, remember President Bush's words, "A great nation does not hide its history. It faces its flaws and corrects them."

We forget, we deny how much we really depend on each other, how much we need each other. We justify our silence and inaction by manufacturing noble causes that marinate in historical denial. We still find a way to say "wait, not so fast."

But like Dr. Martin Luther King Jr. said, "wait has almost always meant never."

We can't wait any longer. We need to change. And we need to change now. No more waiting. This is not just about statues, this is about our attitudes and behavior as well. If we take these statues down and don't change to become a more open and inclusive society this would have all been in vain.

While some have driven by these monuments every day and either revered their beauty or failed to see them at all, many of our neighbors and fellow Americans see them very clearly. Many are painfully aware of the long shadows their presence casts, not only literally but figuratively. And they clearly receive the message that the Confederacy and the cult of the lost cause intended to deliver.

Earlier this week, as the cult of the lost cause statue of P.G.T Beauregard came down, world renowned musician Terence Blanchard stood watch, his wife Robin and their two beautiful daughters at their side.

Terence went to a high school on the edge of City Park named after one of America's greatest heroes and patriots, John F. Kennedy. But to get there he had to pass by this monument to a man who fought to deny him his humanity.

He said, "I've never looked at them as a source of pride ... it's always made me feel as if they were put there by people who don't respect us. This is something I never thought I'd see in my lifetime. It's a sign that the world is changing."

Yes, Terence, it is, and it is long overdue.

Now is the time to send a new message to the next generation of New Orleanians who can follow in Terence and Robin's remarkable footsteps.

A message about the future, about the next 300 years and beyond; let us not miss this opportunity New Orleans and let us help the rest of the country do the same. Because now is the time for choosing. Now is the time to actually make this the City we always should have been, had we gotten it right in the first place.

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We should stop for a moment and ask ourselves — at this point in our history, after Katrina, after Rita, after Ike, after Gustav, after the national recession, after the BP oil catastrophe and after the tornado — if presented with the opportunity to build monuments that told our story or to curate these particular spaces ... would these monuments be what we want the world to see? Is this really our story?

We have not erased history; we are becoming part of the city's history by righting the wrong image these monuments represent and crafting a better, more complete future for all our children and for future generations.

And unlike when these Confederate monuments were first erected as symbols of white supremacy, we now have a chance to create not only new symbols, but to do it together, as one people.

In our blessed land we all come to the table of democracy as equals.

We have to reaffirm our commitment to a future where each citizen is guaranteed the uniquely American gifts of life, liberty and the pursuit of happiness.

That is what really makes America great and today it is more important than ever to hold fast to these values and together say a self-evident truth that out of many we are one. That is why today we reclaim these spaces for the United States of America.

Because we are one nation, not two; indivisible with liberty and justice for all, not some. We all are part of one nation, all pledging allegiance to one flag, the flag of the United States of America. And New Orleanians are in, all of the way.

It is in this union and in this truth that real patriotism is rooted and flourishes.

Instead of revering a 4-year brief historical aberration that was called the Confederacy we can celebrate all 300 years of our rich, diverse history as a place named New Orleans and set the tone for the next 300 years.

After decades of public debate, of anger, of anxiety, of anticipation, of humiliation and of frustration. After public hearings and approvals from three separate community led commissions. After two robust public hearings and a 6-1 vote by the duly elected New Orleans City Council. After review by 13 different federal and state judges. The full weight of the legislative, executive, and judicial branches of government has been brought to bear and the monuments in accordance with the law have been removed.

So now is the time to come together and heal and focus on our larger task. Not only building new symbols, but making this city a beautiful manifestation of what is possible and what we as a people can become.

Let us remember what the once exiled, imprisoned and now universally loved Nelson Mandela and what he said after the fall of apartheid. "If the pain has often been unbearable and the revelations shocking to all of us, it is because they indeed bring us the beginnings of a common understanding of what happened and a steady restoration of the nation's humanity."

So before we part let us again state the truth clearly.

The Confederacy was on the wrong side of history and humanity. It sought to tear apart our nation and subjugate our fellow Americans to slavery. This is the history we should never forget and one that we should never again put on a pedestal to be revered.

As a community, we must recognize the significance of removing New Orleans' Confederate monuments. It is our acknowledgment that now is the time to take stock of, and then move past, a painful part of our history. Anything less would render generations of courageous struggle and soul-searching a truly lost cause.

Anything less would fall short of the immortal words of our greatest President Abraham Lincoln, who with an open heart and clarity of purpose calls on us today to unite as one people when he said:

"With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to do all which may achieve and cherish: a just and lasting peace among ourselves and with all nations."

Thank you.

[H/T: [Pulse](#)]

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Sophie Abramowitz, Eva Lattner & Gillet Rosenblitt, Tools of Displacement: How Charlottesville, Virginia's confederate statues helped decimate the city's historically successful black communities, <http://www.slate.com> (June 23, 2017), http://www.slate.com/articles/news_and_politics/history/2017/06/how_charlottesville_s_confederate_statues_helped_decimate_the_city_s_historically.html

HISTORY THEN, AGAIN.
JUNE 23 2017 3:20 PM

Tools of Displacement

How Charlottesville, Virginia's Confederate statues helped decimate the city's historically successful black communities.

By Sophie Abramowitz, Eva Lattner, and Gillet Rosenblitt



Surrounded by protesters, Corey Stewart speaks with reporters about his opposition to removing a Robert Lee statue from a Charlottesville, Virginia, park.

Fenit Nirappil/Washington Post via Getty Images

Last week, Corey Stewart came within a **hair's breadth** of claiming the Republican nomination for governor of Virginia after having run on a revanchist campaign focused on battling local efforts to rename and remake Confederate monuments and spaces. Even as Stewart's campaign ended, the fight over these monuments in Charlottesville, Virginia, continued. They might soon reach a new fever pitch, and as they do it's worth considering an overlooked piece of history around these statues: Their role in displacements of former black residents.

First as an update, here's where that fight currently stands: Earlier this month, a resolution to rename Charlottesville's two Confederate parks was passed by the Charlottesville City Council unanimously. Lee Park, the home of a controversial Robert E. Lee statue that the council previously voted to remove, will become Emancipation Park, and Jackson Park, the home of a statue of Stonewall Jackson, will become Justice Park. Meanwhile, locals are working on ways to counteract a Ku Klux Klan rally, proposed for July 8, and an alt-right March on Charlottesville headed by Richard Spencer, proposed for Aug. 12, at the site of the Lee statue's eventual removal.

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On May 13, University of Virginia alum and alt-right activist Spencer led a nighttime rally in Lee Park in protest of the council's plan to remove the statue. This protest brought national attention to the battle between local activists and the outside alt-right and white nationalist forces whose actions drew comparisons to the Klan.

What has been missing from this fight, though, is the specific history of Charlottesville's Confederate statues. Intimately tied to Charlottesville's city planning projects and its persistent displacement of black residents, that context is emblematic of the relationship in the South between urban renewal and gentrification, Confederate memorialization and Lost Cause white supremacy, and the **town-and-gown** dichotomy inherent in university communities.

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The statues of Jackson and Lee not only symbolize the violence of the ongoing displacements of gentrification; they also initiated and facilitated these changes when they were first put up. Strategically erecting these symbols of the Confederacy at the edges of or atop black and nonwhite immigrant communities provided Charlottesville's white elite with a means of physically buttressing their ever-fragile hold of white supremacy. To understand this is to understand Charlottesville's demographic population shifts throughout the 20th and 21st centuries and how the statues physically bisect those gentrifying spaces.

Lee's statue was unveiled before thousands of attendees on May 21, 1924, during a two-day gathering of the Sons of the Confederacy at which the city also saw KKK agitation. With the University of Virginia President Edwin Alderman giving the statue's dedication before several Confederate memorial groups, the ceremony represented a partnership between the state university and national organizations of the Confederacy in the monumentalization of the Lost Cause.

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The ideology of the Lost Cause posits that noble and chivalrous Confederate soldiers and leaders fought the Civil War as a conflict over states' rights rather than slavery. According to this mythology, post-emancipation black people misused their freedom and were, thus, inept American citizens. For Lost Cause supporters, this failure of black citizenship proved that white people were of an innately superior race and, following that logic, that slavery was beneficial to all.

While mob violence occurred relatively infrequently in the Shenandoah Valley, lynchings elsewhere in Virginia and the rest of the country were often a reaction to black economic success that counteracted these white supremacist theories. Charlottesville's thriving black neighborhood, Vinegar Hill, was a prime example of one of these successful communities. The Lee statue, which was erected just a few blocks from Vinegar Hill, sent an obvious message to residents: Public space, public institutions, and public success are not for you.

The Jackson statue, meanwhile, was dedicated in Charlottesville's Court Square in 1921 during the year's reunion of the Confederate Veterans and the Daughters of the Confederacy. Depicting Jackson riding his horse into battle, the monument was unveiled from underneath a massive Confederate flag with 5,000 Confederate-nostalgic revelers looking on.

This monument to Jackson lies atop what was once a majority-black area known as McKee Row. In 1914, the Albemarle County Board of Supervisors confiscated the land from its black residents and granted it to the city. The city justified its action by noting its concern about the "rowdy" activity from McKee Row interfering with the Levy Opera showgoers. It also cited concern regarding the presence of young, presumably white, men "slumming" through the McKee Row neighborhood.

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Jeffersonian disciple and journalist James Alexander rendered the connection between "rowdiness" and race explicit in his writings about McKee Row, remembering it as the site of "buildings of importance" that had tragically "declined into forlorn rookery," emblemized through the presence of " 'Colonel Crack,' a demented but harmless Negro." To emphasize its punitive role vis-à-vis the black community, the statue itself was built over the former location of the Charlottesville jail. Panoptic and stern, the statue's function was made clear in its position proximal to the former location of a whipping post.

Jackson Park was Charlottesville's first gentrification project. The installation of Confederate monuments was a critical component of Charlottesville's precrash 1920s period of rapid redevelopment. While there was a surge of Confederate memorialization directly succeeding the end of the Civil War, all of the Confederate monuments in Charlottesville, and many in other Southern cities, were installed in the 1920s as a way to materialize and reinforce Jim Crow within the expanding townscape.

At the turn of the century, Court Square was the subject of these city planning efforts, consisting of significant redevelopment that directly impacted the residents of McKee Row. Directly beside the Jackson monument sits the Albemarle County Courthouse, and yards away stands another statue of an anonymous Confederate soldier that was constructed in 1909. Flanking the Albemarle Courthouse, these statues worked together to mark the ostensibly public and civic space of the courthouse as the ideological property of the Confederacy. Both statues sport a Confederate flag and face south, which long suggested that the courthouse was committed to upholding the values represented by the flag.

Throughout the 20th century, the city of Charlottesville has precipitated multiple waves of urban renewal or gentrification. As James Baldwin put it, these sorts of efforts were actually more like “Negro removal.” The planning projects displaced black residents not only from their homes and communities, but from their businesses, their sources of wealth, and their proximity to institutions of socio-political power.

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Installing Confederate monuments helped to facilitate and buttress these displacements both physically—by razing and demarcating the borders of black neighborhoods—and ideologically—by marking areas of political and financial power as part of the ideology of the Lost Cause. In the decades after the erection of the Lee statue, the best-known casualty in Charlottesville was Vinegar Hill.

A vibrant black neighborhood and business district effectively connecting the downtown mall to the University of Virginia, it was marked as “blighted” and completely razed in an urban renewal project in the mid-1960s. Its sole civic memorial is a small plaque at knee-height, obscured by potted vegetation, at the west end of the downtown mall shopping district. Its message, “Today Vinegar Hill is just a memory,” is a mere salve, while the Lee and Jackson statues are perpetual wounds.

Top Comment

While the meat of the article is correct, the authors should have known that Charlottesville is not in the Shenandoah Valley. [More...](#)

129 Comments

Join In

In February, Showing Up for Racial Justice Charlottesville co-sponsored—along with the Jefferson School African American Heritage Center, Legal Aid Justice Center, NAACP, and the Charlottesville Public Housing Association of Residents—a workshop on gentrification, zoning, and form-based code to equip people with tools to help them fight for fair and just housing. These issues are live ones for Charlottesville, which is facing a modern gentrification fight over Friendship Court, one of Charlottesville’s public and subsidized housing developments at the edge of the downtown shopping center that is currently slated to be torn down and replaced with mixed-income and mixed-use development.

The ongoing whitelash against removal of the Confederate statues doesn’t necessarily reflect the strength of white supremacy today. It is rather a sign of its enormous fragility. It is a sign that those who seek justice can win. Perhaps not all at once and almost certainly not once and for all. Recognizing not just the historic symbolism of these statues, but also their practical effects is a good first step.

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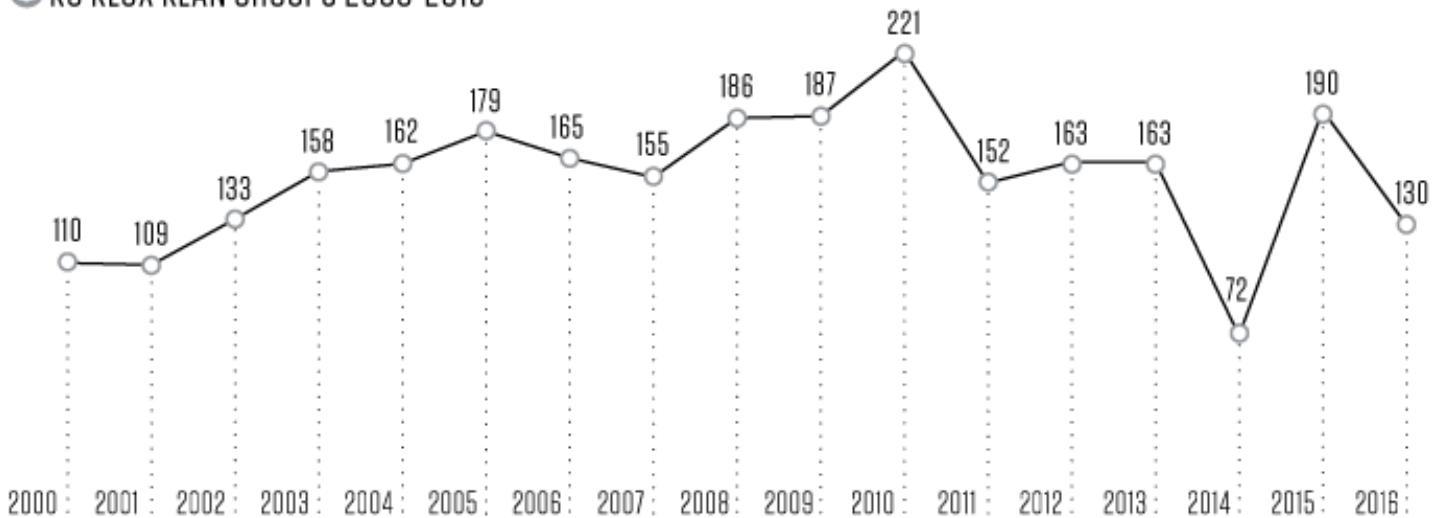
KU KLUX KLAN

The Ku Klux Klan, with its long history of violence, is the most infamous — and oldest — of American hate groups. Although black Americans have typically been the Klan’s primary target, it also has attacked Jews, immigrants, gays and lesbians and, until recently, Catholics.



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KU KLUX KLAN GROUPS 2000-2016



Started during Reconstruction at the end of the Civil War, the Klan quickly mobilized as a vigilante group to intimidate Southern blacks - and any whites who would help them - and to prevent them from enjoying basic civil rights. Outlandish titles (like imperial wizard and exalted cyclops), hooded costumes, violent "night rides," and the notion that the group comprised an "invisible empire" conferred a mystique that only added to the Klan's popularity. Lynchings, tar-and-featherings, rapes and other violent attacks on those challenging white supremacy became a hallmark of the Klan.

After a short but violent period, the "first era" Klan disbanded after Jim Crow laws secured the domination of Southern whites. But the Klan enjoyed a huge revival in the 1920s when it opposed (mainly Catholic and Jewish) immigration. By 1925, when its followers staged a huge Washington, D.C., march, the Klan had as many as 4 million members and, in some states, considerable political power. But a series of sex scandals, internal battles over power and newspaper exposés quickly reduced its influence.

The Klan arose a third time during the 1960s to oppose the civil rights movement and to preserve segregation in the face of unfavorable court rulings. The Klan's bombings, murders and other attacks took a great many lives, including, among others, four young girls killed while preparing for Sunday services at the 16th Street Baptist Church in Birmingham, Ala.

Since the 1970s the Klan has been greatly weakened by internal conflicts, court cases, a seemingly endless series of splits and government infiltration. While some factions have preserved an openly racist and militant approach, others have tried to enter the mainstream, cloaking their racism as mere "civil rights for whites." Today, the Center estimates that there are between 5,000 and 8,000 Klan members, split among dozens of different - and often warring - organizations that use the Klan name.