

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF LOUISA

COMMONWEALTH OF VIRGINIA,  
Plaintiff,

v.

[REDACTED],  
Defendant.

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[REDACTED]

Def Mot. [REDACTED] Addendum

ADDENDUM TO DEFENDANT'S MOTION TO CONDUCT TRIAL IN A  
COURTROOM THAT DOES NOT CONTAIN CONFEDERATE SYMBOLS,  
MEMORIALS AND ICONOGRAPHY

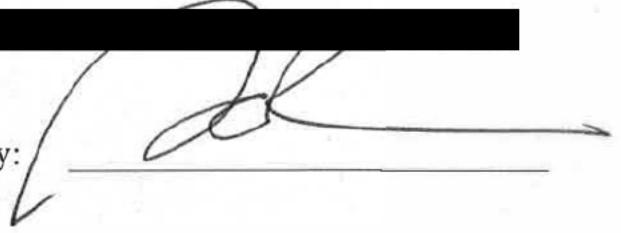
[REDACTED], by counsel, submits the sworn affidavits of [REDACTED], Attachment 1, and J. [REDACTED], Attachment 2, as an addendum to and in support of defendant's Motion To Conduct Trial In A Courtroom That Does Not Contain Confederate Symbols, Memorials And Iconography as requested by the Court on November 8, 2018. Both [REDACTED] and [REDACTED] remain available to testify at the pleasure of the Court.

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Respectfully submitted,

[REDACTED]

By: \_\_\_\_\_



Douglas A. Ramseur  
Capital Defender

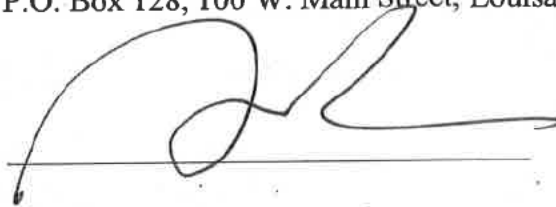
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**CERTIFICATE**

The undersigned hereby certifies that, on this 20<sup>th</sup> day of December, 2018, a true and correct copy of the forgoing Motion was hand delivered to Russell E. McGuire, Commonwealth's Attorney, Louisa County, P.O. Box 128, 100 W. Main Street, Louisa, Virginia 23093.

A handwritten signature in black ink, appearing to be "M. Engle", is written over a horizontal line.

Attachment 1

Sworn Affidavit of [REDACTED]

1. I am [REDACTED]
2. I hold a M.A. in art history from the University of Virginia and a Ph.D. in art history also from the University of Virginia. I also have an MBA in Arts Management/Finance from SUNY Binghamton.
3. I was formerly the curator of collections and exhibitions and curator of contemporary art at the University of Virginia Art Museum from 2004 to 2010. I have taught graduate and undergraduate courses in African American, contemporary, and art theory.
4. I was a member of Charlottesville's Blue Ribbon Commission on Race and Monuments.
5. I am currently the Executive Director of the Jefferson School African America Heritage Center and a researcher in the McIntire Department of Art at the University of Virginia. I am Co-Chair of the President's Commission on Segregation at UVA, a member on the monument and community engagement committee for the University of Virginia's President's Commission on Slavery, and a member of the African American Advisory Committee of the Thomas Jefferson Foundation. I was a member of Charlottesville's Blue Ribbon Commission on Race, Memorials and Public Spaces.
6. Had I been called to testify under oath on November 8, 2018 before the Louisa County Circuit Court, the substance and basis of my testimony would have been:

The large painting of Robert E. Lee that hangs in the Louisa County Circuit Court courtroom was painted by an artist named Duncan Smith. Near the turn of the 20<sup>th</sup> Century, Smith had ties to the University of Virginia and was instrumental in the creation and installation of the Robert E. Lee statue in what is now Market Street Park in Charlottesville. The painting itself is a depiction of Lee in a Confederate general's

uniform at the height of the Civil War in 1863, after Lee had assumed command of the Army of Northern Virginia.

At the time it was commissioned, Smith would have been considered a portraitist of choice in the area. Today however, Smith is relegated as a minor artist who does not figure into the cannon of art history in any meaningful way.

Having personally been in the courtroom, the intentionality of the portrait's placement and prominence is striking. Whether versed in the dialect of art history or not, people are unconsciously trained in and understand the meaning endowed on symbols by how and where they are placed within a space. The significance and centrality of the Lee portrait as a symbol is communicated in the same custom as triptych altar pieces in churches and cathedrals. While the centerpiece and those flanking on either side are all meant to be revered, they are in no way meant to be revered equally. The larger symbol in the center of a triptych altar pieces, just like the Lee portrait, is communicated as being sacrosanct. The cornice built around the top of the portrait communicates a sense of permanence because the work becomes part of the architecture.

The Lee portrait is also placed directly across from not just the judge, but also the seal of Virginia. This creates a conversation between the two pieces in the same way that churches are often designed with a large stained glass window opposite the altar. The symbolism created is that of a conversation where the language is that of romanticizing the Commonwealth, its native son, and the leadership of the Confederacy in the Civil War.

The significance of the message communicated through symbols and artwork is also determined by the function of the spaces and contexts they occupy. A courtroom has

power because of the gravity of the acts occurring within it, the perception of law and order, and the control courts exercise over peoples' lives. This power of the space is then endowed onto the symbols chosen to adorn it.

The Lee portrait sent a clear message to anyone who entered the courtroom at the time it was hung in 1908 and continues to communicate with courtroom participants today. Fully understanding the message the portrait sent at the time it was hung requires understanding that the language of the day was white supremacy. An African American walking into the courtroom and seeing the Lee portrait shortly after the Virginia Constitution was rewritten for the expressed purpose of disenfranchising African Americans could not have missed the message of established and enduring white supremacy and being powerless to do anything about it. This message would have been amplified even further from the reiterative effect of having passed by the Confederate monument on the way into the courthouse and others throughout the state. In a time when literacy was far from universal, the Lee portrait conveyed that message of white supremacy without the need for words.

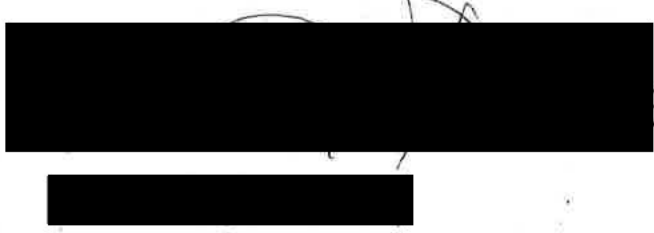
Had the portrait been hung in the 1950's or 1960's, when many other Confederate monuments and tributes were created, the message of white supremacy would have been just as unmistakable. Just imagining a full length painting of Robert E. Lee in a Confederate uniform being commissioned and hung in a courtroom in 2018 brings to bear both the power of the symbol and the message of white supremacy it still conveys. It would be viewed as an aggressive act.

The power of the Lee portrait as a symbol does not just communicate with African Americans. The United Daughters of the Confederacy, whose Louisa County

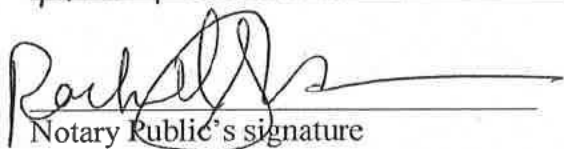
founding charter hangs below Lee, were active and effective in perpetuating the Lost Cause and its white supremacist theme through textbooks and the teaching of history in Virginia. The placement of the charter just below the figure of Lee again reiterates the connection between image, ideology and spatial decorum. Consequently taken all together they form a tableau that communicates an affirmation of the revisionist white supremacist history to people of every race that enter the courtroom.

The small portrait of John Mercer Langston has no significance in balancing out the powerful message conveyed by the Lee portrait. Where the Lee portrait was obviously designed and divined to occupy and dominate its place of prominence in perpetuity, the relative size and eminence of Langston's pales in comparison.

7. I swear and affirm that, to the best of my knowledge and belief, all the information herein is true and correct.



City/County of Charlottesville  
Commonwealth of Virginia  
The foregoing instrument was subscribed and sworn  
before me this 5 day of December, 2018 by

Rachel Shannon  
  
Notary Public's signature

Notary registration number: 7698153  
My commission expires: 6/30/2020



Attachment 2



Sworn Affidavit of [REDACTED]

1. I am [REDACTED]
2. I did my graduate work in American history at the University of Virginia and was a documentary editor for the Virginia Independence Bicentennial Commission from 1974 to 1982 and a historian and senior editor at the Library of Virginia from 1982 to 2010. I am also a founding editor of the Library of Virginia's *Dictionary of Virginia Biography* project, and a co-founder of the annual Virginia Forum. I co-edited with Robert L. Scribner volumes 3–7 of *Revolutionary Virginia, The Road to Independence: A Documentary Record*, 7 volumes (Charlottesville: University Press of Virginia, 1977–1983), and edited *The Order Book and Related Papers of the Common Hall of the Borough of Norfolk, Virginia, 1736–1798* (Richmond: Virginia State Library, 1979). I am the author of *The Grandees of Government: The Origins and Persistence of Undemocratic Politics in Virginia* (Charlottesville: University of Virginia Press, 2013), *Daydreams and Nightmares: A Virginia Family Faces Secession and War* (Charlottesville: University of Virginia Press, 2015), *A Saga of the New South: Race, Law, and Public Debt in Virginia* (Charlottesville, 2016), and with Warren M. Billings, ed., *“Esteemed Bookes of Lawe” and the Legal Culture of Early Virginia* (Charlottesville: University of Virginia Press, 2017). I have contributed entries on more than a hundred Virginians to the *Dictionary of Virginia Biography*, *American National Biography*, *Oxford Dictionary of National Biography*, Virginia Humanities' online *Encyclopedia Virginia*, and other reference works and have written essays on aspects of Virginia history as chapters in several collections and published numerous articles in the *Virginia Magazine of History and Biography*, *Virginia Cavalcade*, *South Atlantic*

*Quarterly, Magazine of Virginia Genealogy, Georgia Journal of Southern Legal History, Documentary Editing, and the American Journal of Legal History, as well as for the Library of Virginia's Out of the Box Blog. My books *Virginians and Their Histories* and *Gerrymanders and the Protection of Slavery, White Supremacy, and Minority Rule in Virginia* will be published in 2019.*

3. Had I been called to testify under oath on November 8, 2018 before the Louisa County Circuit Court, the substance and basis of my testimony would have been:

Peoples' perceptions of the American Civil War and interpretations of Confederate iconography have changed noticeably since the construction of the Louisa County Courthouse and dedication of the monument in 1905 and the installation three years later of the portrait of Robert E. Lee in the courtroom. It is important to remember that peoples' perceptions of the American Civil War and interpretations of the Confederacy had also changed before that time.

The first revisions of the historical narrative began soon after the end of the Civil War as part of a regional phenomenon known as the Lost Cause. Confederate veterans and their families promoted an interpretation of the war as a valiant struggle to preserve states' rights and not as a war to destroy the Union or to preserve slavery. As the courthouse monument in Louisa County indicates, they and their descendants took pride in the bravery of Confederate soldiers and solemnly commemorated their loss. What the people who erected those monuments included in the inscription and what they left out taught a lesson about their meaning of the war.

That selective interpretation of the Civil War and its aftermath served several

important purposes, one of which was to help former Confederates or Confederate sympathizers reconcile themselves to the outcome of the war. It focused attention on the sacrifices of white Southerners and what they had lost as a consequence of the war. It minimized the importance of slavery as a cause of the war, it exonerated the soldiers from a taint of treason, and it offered an explanation and placed the blame on other people. The Lost Cause interpretation excluded slavery from the causes of the war and the abolition of slavery from the consequences. It also represented the freed people as untrustworthy and easily corrupted, and it demonized northern reformers and condemned them for imposing military rule on the civilian people of the South and for destroying all that was best in the old South.

The end of slavery for half a million Virginia men, women, and children and the preservation of the Union were certainly the most important consequences of the Civil War, but Lost Cause advocates seldom mentioned either, and almost nobody in any state of the former Confederacy erected a monument to the end of slavery or to the bravery and sacrifices of the thousands of Southern men who volunteered to fight for their freedom and for the Union in the United States Colored Troops.

For decades, well into the twentieth century, advocates of the Lost Cause interpretation of the Civil War promoted their agenda by writing books, holding reunions, making speeches, erecting monuments, and even policing textbooks on American and Virginia history. A great many people participated in that enterprise, including members of such organizations as the Southern Historical Society, the Sons of Confederate Veterans, the Daughters of the Confederacy, the Daughters of the American Revolution, and the Association for the Preservation of Virginia Antiquities, which is now

Preservation Virginia.<sup>1</sup>

After the deaths in the middle of the twentieth century of most of the historians and writers who grew up uncritically and unsuspectingly accepting that version of the past, a very large body of excellent scholarship has demonstrated that that interpretation of the past cannot be squared with the facts. Individually and collectively those books and essays fatally undermine parts or all of the Lost Cause revision of history. Almost no modern scholarship endorses the central themes of that interpretation.

Despite that, in current debates, some people are fond of citing late nineteenth-century writers and the memoirs of such Confederates as Jefferson Davis and Alexander Hamilton Stephens which state that the Civil War was not fought to preserve slavery but to preserve states' rights. However, Davis, Stephens, and a great many other influential men wrote and said in public during the winter of 1860–1861 that secession was necessary solely for the maintenance of slavery. Bluntly put, they changed their stories after they lost, after slavery was abolished, and after defense of slavery was discredited.

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<sup>1</sup> A concise summary of the Lost Cause in Virginia is in Caroline E. Janney, "The Lost Cause" Virginia Humanities *Encyclopedia Virginia* (2009); some of the leading scholarship on the Lost Cause is Gaines M. Foster, *Ghosts of the Confederacy: Defeat, the Lost Cause, and the Emergence of the New South, 1865 to 1913* (New York: Oxford University Press, 1987); James Michael Lindgren, *Preserving the Old Dominion: Historic Preservation and Virginia Traditionalism* (Charlottesville: University Press of Virginia, 1993); Gary W. Gallagher and Alan T. Nolan, eds., *The Myth of the Lost Cause and Civil War History* (Bloomington, Ind.: Indiana University Press, 2000); Fred Arthur Bailey, "Free Speech and the Lost Cause in the Old Dominion," *Virginia Magazine of History and Biography* 103 (1995): 237–266; David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, Mass.: Harvard University Press, 2001); Karen L. Cox, *Dixie's Daughters: The United Daughters of the Confederacy and the Preservation of Confederate Culture* (Gainesville: University Press of Florida, 2003); Jane Turner Censer, *The Reconstruction of White Southern Womanhood, 1865–1895* (Baton Rouge: Louisiana State University Press, 2003); William A. Blair, *Cities of the Dead: Contesting the Memory of the Civil War in the South, 1865–1914* (Chapel Hill: University of North Carolina Press, 2004); W. Fitzhugh Brundage, *The Southern Past: A Clash of Race and Memory* (Cambridge, Mass.: Harvard University Press, 2005); John M. Coski, *The Confederate Battle Flag: America's Most Embattled Emblem* (Cambridge, Mass.: Harvard University Press, 2005); Caroline E. Janney, *Burying the Dead but not the Past: Ladies Memorial Associations and the Lost Cause* (Chapel Hill: University of North Carolina Press, 2008); Timothy S. Sedore, *An Illustrated Guide to Virginia's Confederate Monuments* (Carbondale, Ill.: Southern Illinois University Press, 2011); Caroline E. Janney, *Remembering the Civil War: Reunion and the Limits of Reconciliation* (Chapel Hill: University of North Carolina Press, 2013).

Events of the years after the Civil War help explain how and why people interpreted events of the 1860s as they did. The outcome of the Civil War, the abolition of slavery, and the federal government's unprecedented role in supervising state and local governments during the period called Reconstruction were all controversial and imposed hardships on many influential white Virginians. Among the most controversial was the requirement Congress imposed on the states of the former Confederacy in 1867 that they all adopt new constitutions, that African Americans be allowed to vote for members of constitutional conventions and to serve in them if elected, and that the new constitutions permit African American suffrage and guarantee full citizenship rights to African Americans, most of whom had been enslaved until 1865 and most of whom could neither read nor write.

Most white Virginians appear to have been appalled, and in the aftermath of the 1860s and 1870s they clearly exaggerated rumors of corruption and black domination of white society and government. In fact, Virginia's government suffered from very little corruption (less than in many urbanized northern states), and African Americans and people born in other states or countries never dominated governments at any levels in Virginia during those years.<sup>2</sup>

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<sup>2</sup> Richard Lee Morton, *The Negro in Virginia Politics, 1865-1902* (Charlottesville, University of Virginia, 1919; with reprint editions in 1973 and 1980); W. E. B. Du Bois, *Black Reconstruction: An Essay Toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860-1880* (New York: Harcourt, Brace, and Co., 1935); Luther Porter Jackson, *Negro Office-Holders in Virginia, 1865-1895* (Norfolk: Guide Quality Press, 1946); William Thomas Alderson, "The Influence of Military Rule and the Freedmen's Bureau on Reconstruction in Virginia, 1865-1870" (PhD, Vanderbilt University, 1952); Charles Wynes, *Race Relations in Virginia, 1870-1902* (Charlottesville, University of Virginia Press, 1961); James L. McDonough, "John Schofield as Military Director of Reconstruction in Virginia," *Civil War History* 15 (1969): 237-256; Jack P. Maddex, *The Virginia Conservatives, 1867-1879: A Study in Reconstruction Politics* (Chapel Hill: University of North Carolina Press, 1970); Joseph P. Harahan, "Politics, Political Parties, and Voter Participation in Tidewater Virginia during Reconstruction, 1865-1900" (PhD, University of Michigan, 1973); Richard Nelson Current, *Those Terrible Carpetbaggers* (New York: Oxford University Press, 1988); Richard G. Lowe, *Republicans and Reconstruction in Virginia, 1858-70* (Charlottesville: University Press of Virginia, 1991); Eric Foner,

One exception has sometimes been cited, the Readjuster Party victories in legislative and statewide races in 1879 and 1881 after the period commonly referred to as Reconstruction was over. The very short-lived Readjuster Party formed in 1879 to unite Democrats and Republicans, white men and African American men, and farmers and working-class people to refinance the public debt left over from before the Civil War. The General Assembly's prior refinancing in 1871 bankrupted the state and starved the treasury of money needed for the popular new public school system.

The Readjusters proposed to reduce the rate of interest and the amount of principal to be paid in order to divert tax revenue from debt service to the schools. The biracial party, which both black and white voters supported, was never under the control of African Americans, as some opponents charged. White leaders of the party never allowed them to attain important roles in the party. The party disintegrated in the face of a white supremacist campaign and lost its majorities in the General Assembly in 1883 and all its statewide offices in 1885.<sup>3</sup>

The prominence of African American voters and some African American legislators during that brief period was the source of a legend that had little truth in it, that the aim of the Readjusters was black domination of Virginia and radical rule under the

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*America's Reconstruction: People and Politics after the Civil War* (New York: Harper, 1995); Brent Tarter, "African Americans and Politics in Virginia, 1865–1902" *Virginia Humanities Encyclopedia Virginia* (2015); Brent Tarter, "The First Military District," *Virginia Humanities Encyclopedia Virginia* (2015).

<sup>3</sup> Carl N. Degler, *The Other South: Southern Dissenters in the Nineteenth Century* (New York, 1974), 264–315; James Tice Moore, *Two Paths to the New South: The Virginia Debt Controversy, 1879–1883* (Lexington, Ky.: University Press of Kentucky, 1974); Jane Dailey, *Before Jim Crow: The Politics of Race in Postemancipation Virginia* (Chapel Hill: University of North Carolina Press, 2000); Stephen Hahn, *A Nation under our Feet: Black Political Struggles in the Rural South, from Slavery to the Great Migration* (Cambridge, Mass.: Harvard University Press, 2003), esp. 367–384, 400–411; Brent Tarter, *A Saga of the New South: Race, Law and Public Debt in Virginia* (Charlottesville: University of Virginia Press, 2016).

domination of radical Republican members of Congress. Charles Chilton Pearson's 1917 book *The Readjuster Movement in Virginia*, the first history of the movement, characterized some Readjusters as short-sighted or inept and in some instances corrupt because he relied too much on William L. Royall's 1897 *History of the Virginia Debt Controversy: The Negro's Vicious Influence in Politics*. Royall's book was much more partisan propaganda and racist polemic than what it pretended to be, a legal history of the debt controversy.<sup>4</sup> None of the modern scholarship on the Readjusters confirms any of Royall's or Pearson's assertions about the "vicious influence" of African Americans in the party or the state.

What was sometimes vicious, though, was not actions of African Americans, but the actions of intolerant white supremacists who victimized them. The latter years of the nineteenth century and the first years of the twentieth century witnessed the largest number of lynchings, the vast majority of them of African American men by lawless white mobs, who were almost never prosecuted. At least two lynchings occurred in Louisa County and several others in neighboring counties.<sup>5</sup> At the same time, state laws allowed prison officials to hire out prisoners to private contractors or farmers who worked them almost the same as hired out slaves had been worked before the Civil War. State laws allowed law enforcement officials to seize unemployed people and force them to work for private employers or on public works projects, in some instances wearing a

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<sup>4</sup> Charles Chilton Pearson, *The Readjuster Movement in Virginia* (New Haven, Conn.: Yale University Press, 1917); William L. Royall, *History of the Virginia Debt Controversy: The Negro's Vicious Influence in Politics* (Richmond: G. M. West, 1897).

<sup>5</sup> Brendan Wolfe and Laura K. Baker, "Lynching in Virginia" (Virginia Humanities, 2016). W. Fitzhugh Brundage, *Lynching in the South: Georgia and Virginia, 1880-1930* (Urbana: University of Illinois Press, 1993); Diane M. Sommerville, *Rape and Race in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2004).

ball and chain as if they were convicted criminals.<sup>6</sup>

During the final two decades of the nineteenth century and the first three of the twentieth century, white political leaders rewrote election laws to make it difficult for African Americans to vote and have their votes accurately counted, contrived to keep African Americans out of public office, required strict racial segregation of schools and all public gatherings, enforced residential segregation, and routinely stigmatized African American citizens of the state as second- or third-class residents who were not entitled to the equal protection of the law. Those political leaders engineered the Constitutional Convention of 1901–1902 that disfranchised almost all of the few remaining African American voters.

From that point forward, maintenance of white supremacy, racial segregation, and elite domination of public life were the primary preoccupations of the state's political leaders. Virginia's elite white governing class controlled politics and state government without serious challenges until the middle of the 1960s. This is abundantly documented in a very large scholarly literature with no dissent and very little disagreement even on matters of detail.<sup>7</sup> Most of the monuments to the Confederacy were erected in the decades

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<sup>6</sup> Brent Tarter, "The Vagrancy Act of 1866," *Virginia Humanities Encyclopedia Virginia* (2015).

<sup>7</sup> V. O. Key, *Southern Politics in State and Nation* (New York: A. A. Knopf, 1949); Herman L. Horn, "The Growth and Development of the Democratic Party Since 1890" (PhD, Duke, 1949); Charles E. Wynes, *Race Relations in Virginia, 1870–1902* (Charlottesville: University of Virginia Press, 1961); Andrew Buni, *The Negro in Virginia Politics, 1902–1965* (Charlottesville: University Press of Virginia, 1967); Allen W. Moger, *Virginia: Bourbonism to Byrd, 1870–1925* (Charlottesville: University Press of Virginia, 1968); Raymond H. Pulley, *Old Virginia Restored: An Interpretation of the Progressive Impulse, 1870–1930* (Charlottesville: University Press of Virginia, 1968); J. Harvie Wilkinson, III, *Harry Byrd and the Changing Face of Virginia Politics, 1945–1966* (Charlottesville: University Press of Virginia, 1968); Larry J. Sabato, *The Democratic Party Primary in Virginia: Tantamount to Election no Longer* (Charlottesville: University Press of Virginia, 1977); Ronald L. Heinemann, *Depression and New Deal in Virginia: The Enduring Dominion* (Charlottesville: University Press of Virginia, 1983); Paul T. Murray, "Who is an Indian; Who is a Negro: Virginia Indians in the World War II Draft," *Virginia Magazine of History and Biography* 956 (1987): 215–31; Richard B. Sherman, "The 'Teachings at Hampton Institute': Social Equality, Racial Integrity, and the Virginia Public Assemblage Act of 1926," *Virginia Magazine of History and Biography* 95 (1987): 275–300; Richard B.



from the 1890s through the 1930s, the low point of race relations and the high point of Jim Crow discrimination. The timing was no accident. White supremacists wanted everybody to know who was in charge. That was the message those monuments were explicitly intended to teach.

The campaign to impose the Lost Cause interpretative narrative on the public mind continued well into the twentieth century. The state highway historical marker program, which began in the 1920s, concentrated heavily at first on the military history of the Civil War, so much so that of the markers erected before 1950 about half commemorated Civil War battles in Virginia and glorified the Confederacy. None commemorated the end of slavery or the achievements of any African Americans or American Indians.<sup>8</sup> From 1922 to the 1960s the Virginia State Board of Censors (always three white adults) previewed all movies scheduled to be shown in the state and sometimes prohibited them from being shown or required prior to their being shown that scenes be deleted that the censors deemed indecent or that presented subjects such as race relations and the Civil War in a manner contrary to the received wisdom of the Lost

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Sherman, "'The Last Stand': The Fight for Racial Integrity in Virginia in the 1920s," *Journal of Southern History* 54 (1988): 69–92; Wythe Holt, *Virginia's Constitutional Convention of 1901–1902* (New York: Garland Publishing, 1990); Ronald L. Heinemann, *Harry Byrd of Virginia* (Charlottesville, 1996); Winnett W. Hagens, "The Politics of Race: The Virginia Redistricting Experience, 1991–1997," in *Race and Redistricting in the 1990s*, ed. Bernard Grofman (New York: Algora Publishing, 1998), 315–19; J. Douglas Smith, *Managing White Supremacy: Race, Politics, and Citizenship in Jim Crow Virginia* (Chapel Hill: University of North Carolina Press, 2002); Pippa Holloway, *Sexuality, Politics, and Social Control in Virginia, 1920–1945* (Chapel Hill: University of North Carolina Press, 2006); Arica L. Coleman, *That the Blood Stay Pure: African Americans, Native Americans, and the Predicament of Race and Identity in Virginia* (Bloomington: Indiana University Press, 2013); Brent Tarter, *The Grandees of Government: The Origins and Persistence of Undemocratic Politics in Virginia* (Charlottesville: University of Virginia, 2013); William P. Hustwit, *James J. Kilpatrick: Salesman for Segregation* (Chapel Hill: University of North Carolina Press, 2013); Julian Maxwell Hayter, *The Dream is Lost: Voting Rights and the Politics of Race in Richmond, Virginia* (Lexington, Ky.: University Press of Kentucky, 2017).

<sup>8</sup> Scott David Arnold, *A Guidebook to Virginia's Historical Markers*, 3d ed. (Charlottesville: University of Virginia Press, 2007).

Cause.<sup>9</sup>

In the 1950s the state government created a State Textbook Commission to make certain that students in the state's public schools learned only that politically correct version of Virginia's history. Politicians on the commission edited and rewrote sections about slavery, the Civil War, Reconstruction, and disfranchisement in ways that taught impressionable young people that slavery was not so bad (one textbook even described slavery as an early version of Social Security), that Abraham Lincoln and northern radicals began the Civil War, that afterward radical Republicans imposed military rule on the civilian people of the South, that they enfranchised ignorant, incompetent, and easily corrupted former slaves, and that in the process the federal government very nearly destroyed the admirable old Southern society of ladies and gentlemen. The textbooks romanticized the old South, ignored widespread violence against African Americans and violations of their constitutionally protected rights (protected by provisions of the Virginia Constitution of 1869 as well as provisions of the Constitution of the United States), and the long campaign to deprive African American men of the right to vote.<sup>10</sup> So did movies and television shows well into the 1970s.<sup>11</sup>

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<sup>9</sup> Melissa Ooten, *Race, Gender, and Film Censorship in Virginia 1922–1965* (Lanham, Md.: Lexington Books, 2015).

<sup>10</sup> R. C. Simonini Jr., ed., *Virginia in History and Tradition: Institute for Southern Culture Lectures at Longwood College, 1957* (Farmville: Longwood College, 1958); Fred R. Eichelman, "A Study of the Virginia History and Government Textbook Controversy, 1948–1972" (PhD, Virginia Tech, 1975); Christopher C. Nehls, "Flag-Waving Wahoos: Confederate Symbols at the University of Virginia, 1941–51," *Virginia Magazine of History and Biography* 110 (2002): 461–488; Adam Wesley Dean, "'Who Controls the Past Controls the Future': The Virginia History Textbook Controversy," *Virginia Magazine of History and Biography* 117 (2009): 318–355; Carol Sheriff, "Virginia's Embattled Textbooks: Lessons (Learned and Not) from the Centennial Era," *Civil War History* 58 (2012): 37–74.

<sup>11</sup> Jack Temple Kirby, *Media-Made Dixie: The South in the American Imagination* (Baton Rouge: Louisiana State University Press, 1978); Edward D. C. Campbell, *The Celluloid South: Hollywood and the Southern Myth* (Knoxville: University of Tennessee Press, 1981).

The Lost Cause interpretation of the Civil War and its aftermath flew in the face of the facts of history and falsified them. Slavery had been absolutely central to the creation of the Confederacy during the winter of 1860–1861. That was evident in virtually all of Virginia’s newspapers at the time, in the private correspondence of Virginians in all parts of the state, and in the extended debates in the Virginia Convention of 1861. It was the only Southern state convention in that year that tried to save the Union rather than leave it.

Members of the convention worked on proposals to bring the states that had seceded back into the Union on terms that northern states could accept, but they failed in that objective despite two months of earnest trying. As delegates in the convention repeatedly emphasized, their purpose was to save slavery in Virginia and to save Virginia as a slave state in the Union. Among the most persuasive arguments opponents of secession made in the convention was that if Virginia seceded, slave owners could no longer rely on the Constitution and laws of the United States to recover escaped slaves, and that if secession provoked Civil War, enslaved Virginians would easily be able to free themselves.<sup>12</sup>

Only after the war began in April 1861 did the convention vote 88 to 55 to endorse secession. Delegates made that decision based on the realization that there was going to be a war and that they would have to take part in it, not whether slavery was

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<sup>12</sup> Henry Thomas Shanks, *The Secession Movement in Virginia, 1847–1861* (Richmond: Garrett and Massie, 1934); William W. Freehling, *The Road to Disunion*, 2 vols. (New York: Oxford University Press, 1990–2007); Elizabeth R. Varon, *Disunion: The Coming of the American Civil War, 1789–1859* (Chapel Hill: University of North Carolina Press, 2008). Elizabeth R. Varon, *Disunion: The Coming of the American Civil War, 1789–1859* (Chapel Hill: University of North Carolina Press, 2008); William W. Freehling and Craig M. Simpson, eds., *Showdown in Virginia: The 1861 Convention and the Fate of the Union* (Charlottesville: University of Virginia Press, 2010); *Union or Secession: Virginians Decide* (exhibition at the Library of Virginia, 2010–2011; website at [http://www.virginiamemory.com/exhibitions/union\\_or\\_secession/](http://www.virginiamemory.com/exhibitions/union_or_secession/)).

good or bad or whether secession was a wise or necessary or constitutional method of preserving slavery in Virginia and in the Union.<sup>13</sup> That is why Lost Cause interpreters in Virginia blamed Abraham Lincoln, not slavery, as the cause of the war. In that context, it is easy to see why and how slavery could be made to play a relatively insignificant role in white Virginians' recollections about the war and in the histories, novels, plays, songs, and poems they wrote about it and in the physical appearance of the monuments they later erected to the Confederacy and its generals and soldiers.

African Americans learned from their parents and grandparents a very different version of history than teachers, textbooks, and the Confederate iconography on the landscape taught white Virginians. Indeed, the interpretation of Virginia's and America's history taught in the schools of Virginia differs from what almost all other Americans learned. They did not grow up with the Civil War so conspicuous in their public spaces or become emotionally or intellectually invested in the lessons the Lost Cause taught. Because about 20 percent of all contemporary Virginians were born in some other state or country and because children in the state's public schools have not been taught Lost Cause legends for two or three decades, it is reasonable to assume that a good many people who appear in a courtroom that contains Confederate iconography may feel ill at ease, regardless of their race and regardless of whether they are in the courthouse as attorney, defendant, plaintiff, juror, witness, journalist, or visitor.

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<sup>13</sup> George H. Reesc, ed., *Proceedings of the Virginia State Convention of 1861*, 4 vols. (Richmond: Virginia State Library, 1965); Henry Thomas Shanks, *The Secession Movement in Virginia, 1847–1861* (Richmond: Garrett and Massie, 1934); Daniel W. Crofts, *Reluctant Confederates: Upper South Unionists in the Secession Crisis* (Chapel Hill: University of North Carolina Press, 1989); William G. Shade, *Democratizing the Old Dominion: Virginia and the Second Party System, 1824–1861* (Charlottesville: University Press of Virginia, 1996); William A. Link, *Roots of Secession: Slavery and Politics in Antebellum Virginia* (Chapel Hill: University of North Carolina Press, 2003); Charles B. Dew, *Apostles of Disunion: Southern Secession Commissioners and the Causes of the Civil War* (Charlottesville: University Press of Virginia, 2001; 2d ed., Charlottesville: University of Virginia Press, 2016).

Persons who question the propriety of so much Confederate iconography sometimes get accused to trying to change history and erase part of a shared southern heritage. In fact, you can't change history; history is what happened. What you can change is how you interpret or understand the historical record. People have always done that. And it is misleading to suggest that diluting the effect of the existing Confederate iconography is denying or obliterating a part of a shared southern heritage. The Civil War is part of a shared southern heritage, but the Confederacy is not.

4. I swear and affirm that, to the best of my knowledge and belief, all the information herein is true and correct.

[Redacted signature area]

City/County of Richmond  
Commonwealth of Virginia

The foregoing instrument was subscribed and sworn before me this 5 day of Dec, 2018 by

[Redacted name]

Nancy Joyce Epperly  
Notary Public's signature

Notary registration number: 7509341

My commission expires: 09/30/2019

