

BULL RUN CIVIL WAR ROUND TABLE (BRCWRT) INFORMATION PAPER

CIVIL WAR MONUMENTS, MEMORIALS AND STATUES

The status and treatment of Confederate statues emerged as an issue in many states and localities after the 2015 Charleston, SC shooting. More recently the August 2017 violence in Charlottesville brought the issue closer to home and generated significant media coverage, discussion and opinion pieces. This information paper is intended to provide Bull Run Civil War Round Table members information on the history, context, statutory provisions and other relevant considerations in order to better understand issues surrounding the status and treatment of Civil War monuments, memorials and statues in the Commonwealth of Virginia.

Background

According to Virginia's Department of Historic Resources (DHR), there are 168 war memorials recorded in the Virginia Cultural Resources information System (VCRIS) maintained by DHR. Of those, 136 pertain to Confederate participants in the Civil War. In his 2011 book *An Illustrated Guide to Virginia's Confederate Monuments*, author Timothy S. Sedore documented 360 Confederate monuments, memorials, statues and markers in Virginia.

The majority of these monuments, memorials and statues were erected during the period from 1890 to 1920. Many were erected by local communities to honor that community's veterans and their sacrifices, and some were erected to honor specific individuals (e.g., Richmond's Monument Avenue statues). Many were publicly funded, and many were privately funded by groups including the Ladies Memorial Associations, the United Daughters of the Confederacy (UDC) and the United Confederate Veterans (UCV). Some are considered exceptional sculptures with intrinsic value as works of art, and are recorded as such in the Virginia Landmarks Register (VLR).

Historians note that many of these monuments and statues were erected during a time when racial segregation laws were in force. The 1896 United States Supreme Court decision *Plessey versus Ferguson* upheld state racial segregation laws for public facilities under the doctrine of "separate but equal", which remained standard doctrine in U.S. law until its repudiation in the 1954 Supreme Court decision *Brown v. Board of Education*. In this context, some historians are of the opinion that the monuments and statues erected on public spaces were likely intended to intimidate African-Americans in the community.

In Virginia, two statutes govern the erection of monuments or memorials for any war or conflict – Code of Virginia Sec. 2742 (1904) and § 15.2-1812 - Memorials for war veterans (1950, with several amendments) (see Enclosure 1). During their 2016 session Virginia's General Assembly passed HB 587, which amended § 15.2-1812 to *apply to all such memorials and monuments regardless of when erected* (the intent of this amendment was to clarify the statute ensuring the 1998 amendment making it *unlawful for the authorities of the locality, or any other person or persons, to disturb or interfere with any monuments or memorials so erected* applied equally to such monuments or memorials erected prior to 1998). Governor McAuliffe vetoed HB 587.

Subsequent to his veto, Governor McAuliffe directed the Virginia Director of Natural Resources to convene a diverse work group to consider the issues that arose during the debate over HB 587, and to pull together resources and best practices to help willing localities foster a constructive dialogue about their monuments. The *Monuments Work Group* completed its work and submitted its report and recommendations for community engagement in November 2016.

<https://naturalresources.virginia.gov/media/8888/report-of-governor-mcauliffes-monuments-work-group-final.pdf>

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Monuments Work Group Recommendations:

Civic Engagement Breakout Group

1. Start from the same page; include an educational component
2. Ensure that all stakeholder groups are represented
3. Ensure the process is conducive to conversation
4. Reach out to other communities, professional facilitators, and other resources

Qualifications and Options Breakout Group

5. Monuments should be preserved – at least somewhere
6. Signage can provide context and reveal previously untold stories
7. Reflect the diversity of Virginia through monuments
8. Take advantage of existing resources and expertise

Consensus Work Group Opinion – *Decisions regarding the appropriate treatment of monuments rest within the communities that house them.*

In light of recent controversies concerning attempts to modify or remove statues from public grounds, some jurisdictions and some nationally recognized historians have recommended adding signage to existing monuments, memorials and statues to provide appropriate context and foster better understanding.

In August 2017 the National Park Service (NPS) issued its guidance regarding the Civil War monuments, markers and plaques maintained by the NPS. This guidance (Enclosure 2) provides, in part, that “...Unless directed by legislation, it is the policy of the National Park Service that these works and their inscriptions will not be altered, relocated, obscured, or removed, even when they are deemed inaccurate or incompatible with prevailing present-day values. The Director of the National Park Service may make an exception to this policy.....”

Conclusions

American and Civil War history is complex, multi-faceted and sometimes messy – Civil War monuments, memorials and statues are a part of that history. They represent a significant period in United States history - a period and history that should continue to be studied and remembered. Civil War monuments, memorials and statues should be maintained, protected and preserved, and readily accessible to the general public.

One should not attempt to judge actions taken more than a century ago by current societal norms and values. Judgments and decisions concerning any Civil War monument, memorial or statue, should be made based on original accounts and documentation, and facts. Each Civil War monument, memorial and statue has its own unique history – each should be considered in light of that history.

Decisions regarding the monuments, memorials and statues should rest with the communities in which they are located, subject to applicable law(s), procedures and processes, and without unsolicited involvement of external groups or individuals. Relevant legal considerations in Virginia include:

- Application of Sec 2742 and § 15.2-1812 of the Code of Virginia (Enclosure 1)
- Some monuments, memorials and statues are subject to individual acts of the General Assembly
- Some monuments, memorials and statues are subject to terms and conditions contained in instruments transferring ownership of the monument to the locality or local

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governmental entity, or restrictions imposed as a result of subsequent actions of the locality

- Some monuments, memorials and statues are located on private property

2 Enclosures:

1 – Applicable Virginia Statutes

2 – National Park Service Guidance – National Park Service and Civil War Monuments

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Enclosure 1: Applicable Virginia Statutes

Code of Virginia

Sec. 2742. Circuit court and board of supervisors of any county may authorize and permit the erection of a Confederate monument at the county seat thereof. — The circuit court of any county may, with the concurrence of the board of supervisors of such county entered of record, authorize and permit the erection of a Confederate monument upon the public square of such county at the county seat thereof. And if the same shall be so erected it shall not be lawful thereafter for the authorities of said county, or any other person or persons whatever, to disturb or interfere with any monument so erected, or to prevent the citizens of said county from taking all proper measures and exercising all proper means for the protection, preservation and care of same.

And if the boards of supervisors may appropriate a sufficient sum or sums of money out of its funds of any such county to complete or aid in the erection of a monument to the Confederate soldiers of such county upon the public square thereof, or elsewhere at the county seat; and they are also authorized to make a special levy to raise the money necessary for the completion of any such monument, or the erection of a monument to such Confederate soldiers, or to supplement the funds already raised or that may be hereafter raised by private persons, or by Confederate veterans, or other organizations, for the purpose of building such monuments; and they are also authorized and empowered to appropriate from time to time, out of any funds of such county, a sufficient sum or sums of money to permanently care for, protect and preserve the Confederate monument erected upon the public square of any such county, and to expend the same therefor as other county funds are expended. (1904, p. 62' 1910, p.21)

§ 15.2-1812. Memorials for war veterans.

A locality may, within the geographical limits of the locality, authorize and permit the erection of monuments or memorials for any war or conflict, or for any engagement of such war or conflict, to include the following monuments or memorials: Algonquin (1622), French and Indian (1754-1763), Revolutionary (1775-1783), War of 1812 (1812-1815), Mexican (1846-1848), Confederate or Union monuments or memorials of the War Between the States (1861-1865), Spanish-American (1898), World War I (1917-1918), World War II (1941-1945), Korean (1950-1953), Vietnam (1965-1973), Operation Desert Shield-Desert Storm (1990-1991), Global War on Terrorism (2000-), Operation Enduring Freedom (2001-), and Operation Iraqi Freedom (2003-). 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, or to prevent its citizens from taking proper measures and exercising proper means for the protection, preservation and care of same. For purposes of this section, "disturb or interfere with" includes removal of, damaging or defacing monuments or memorials, or, in the case of the War Between the States, the placement of Union markings or monuments on previously designated Confederate memorials or the placement of Confederate markings or monuments on previously designated Union memorials.

The governing body may appropriate a sufficient sum of money out of its funds to complete or aid in the erection of monuments or memorials to the veterans of such wars. The governing body may

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also make a special levy to raise the money necessary for the erection or completion of any such monuments or memorials, or to supplement the funds already raised or that may be raised by private persons, Veterans of Foreign Wars, the American Legion or other organizations. It may also appropriate, out of any funds of such locality, a sufficient sum of money to permanently care for, protect and preserve such monuments or memorials and may expend the same thereafter as other funds are expended.

Code 1950, § 15-696; 1962, c. 623, § 15.1-270; 1982, c. 19; 1988, c. 284; 1997, c. 587; 1998, c. 752; 2005, c. 390; 2010, c. 860.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

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Enclosure 2: National Park Service Guidance –National Park Service and Civil War Monuments

August 2017

National Park Service Guidance

National Park Service and Civil War Monuments:

Across the country, the National Park Service maintains and interprets monuments, markers, and plaques that commemorate and memorialize those who fought during the Civil War. These memorials represent an important, if controversial, chapter in our Nation's history. The National Park Service is committed to preserving these memorials while simultaneously educating visitors holistically about the actions, motivations, and causes of the soldiers and states they commemorate. A hallmark of American progress is our ability to learn from our history.

Many commemorative works including monuments and markers were specifically authorized by Congress. In other cases, a monument may have preceded the establishment of a park, and thus could be considered a protected park resource and value. In either of these situations, legislation could be required to remove the monument, and the NPS may need to comply with Section 106 of the National Historic Preservation Act and the National Environmental Policy Act before removing a statue/memorial.

Still other monuments, while lacking legislative authorization, may have existed in parks long enough to qualify as historic features. A key aspect of their historical interest is that they reflect the knowledge, attitudes, and tastes of the people who designed and placed them. Unless directed by legislation, it is the policy of the National Park Service that these works and their inscriptions will not be altered, relocated, obscured, or removed, even when they are deemed inaccurate or incompatible with prevailing present-day values. The Director of the National Park Service may make an exception to this policy.

The NPS will continue to provide historical context and interpretation for all of our sites and monuments in order to reflect a fuller view of past events and the values under which they occurred.