

TWENTIETH ANNIVERSARY EDITION *with a new preface & afterword*

# WRITTEN IN STONE

PUBLIC MONUMENTS IN CHANGING SOCIETIES



SANFORD LEVINSON

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**Written in Stone**

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p u b l i c   p l a n e t   b o o k s

Twentieth Anniversary Edition *with New Preface and Afterword*

# Written in Stone

*Public Monuments in Changing Societies*

Sanford Levinson

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Cover art: A statue of Confederate general Robert E. Lee is removed Friday,  
May 19, 2017, from Lee Circle in New Orleans. AP Photo/Scott Threlkeld.

*To my friends,*

*Akhil Reed Amar*

*Jack M. Balkin*

*Philip Bobbitt*

*Betty Sue Flowers*

*Randall Kennedy*

*Robert Post*

*Richard Rabinowitz*

*Fred Schauer*

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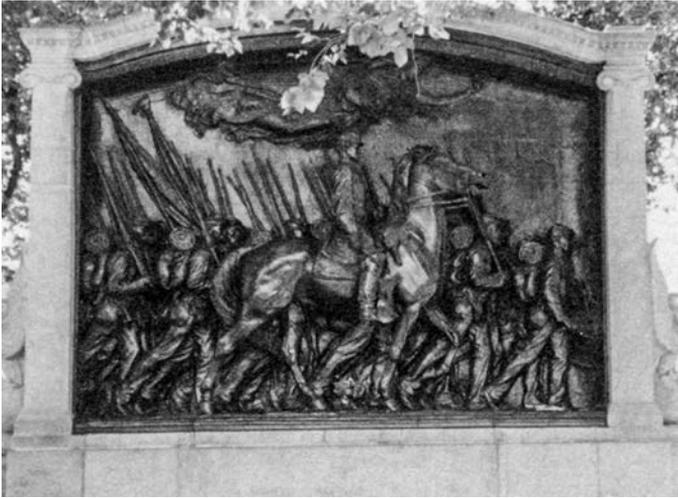
## Introduction

Their monument sticks like a fishbone  
in the city's throat. Robert Lowell,  
"For the Union Dead"

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Robert Lowell wrote these lines about the monument located at the northeast corner of the Boston Common directly across the street from the Massachusetts State House. It memorializes the Massachusetts Fifty-fourth Regiment, the first black regiment organized in a free state. It is usually called the "Shaw monument," after its central figure, Robert Gould Shaw, the white commander of the regiment, who was killed along with many of his comrades in the assault they led against Fort Wagner, South Carolina, in 1863. (Their story was the basis of the movie *Glory*.) Anyone familiar with the tangled history of race relations in Boston can well appreciate the power of Lowell's simile.

Lowell could, however, just as easily be writing about many monuments in many cities and countries. Indeed, I will discuss public monuments in locales ranging from Moscow to Mana-



The monument to Colonel Robert Gould Shaw,  
Boston Common.

gua, Albania to Zimbabwe, not to mention a variety of American locales. In all of these places, one finds politics roiled in controversies attached to deciding who within a particular society should be counted as a hero worth honoring with the erection of a monument or the naming of a public space. Although as an American I am most interested in, and most of the pages below are devoted to, examples from the United States, I begin in Budapest, Hungary, with the fascinating tale of the Millennium Monument found there. Its vicissitudes wonderfully illustrate the central themes of this book; beginning in Budapest also underscores the ubiquity of the issues considered in this book.

The 1881 proposal of the monument, ostensibly to celebrate the millennium of Hungary's founding, was rooted, as is almost

always the case with such campaigns by self-conscious politicians, in the political exigencies of the moment. As Hungarian historian András Gero aptly notes, it was also to function as a step in “an unprecedented drive towards modernization and the development of national consciousness, the main objectives of Budapest in its golden age.”<sup>1</sup> To be sure, the monument that was actually erected in the first decade of the twentieth century included statues of Hungarian national heroes going back to the conquest that established Hungary and the reign of Christianity-establishing King Stephen, who in 1001 accepted his crown from the Pope. Moreover, the archangel Gabriel had his own freestanding statue in the middle of the monument (and rising high above the other two sections) to signify the importance of Christianity to Hungarian national identity. Yet, if Hungarian identity was depicted as beginning in the mists of the millennial past, it also was inscribed in a specific narrative

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The Millennium Monument, Budapest, Hungary (1997).

with what its sponsors no doubt deemed a wonderfully happy ending: Hungarian membership in the Austro-Hungarian Empire under the rule of the distinctly non-Hungarian Emperor Franz Joseph. Had Bill Clinton been a nineteenth-century denizen of Budapest, one easily imagines him supporting the monument as a “bridge to the twentieth century” symbolizing the marvelous promise of ever greater imperial accomplishments. Thus Budapest citizens could observe statues of various Habsburgs, including Franz Joseph himself, sharing space with angels and other national heroes all incorporated into a satisfying story of national identity and historical progress.

The Austro-Hungarian Empire (and Franz Joseph) did not, of course, survive World War I. Indeed, when reading of the ambitious plans for the Millennium Monument, it is difficult to avoid thinking of Robert Musil’s merciless satire of 1913 Vienna, *A Man Without Qualities*, in which hapless characters devote themselves to planning a great celebration of Franz Joseph’s extended reign. (His reign had begun in 1848, the year of crushed rebellions and other hopes for transformative change, which perhaps reinforced the illusion that the tides of history could in fact be controlled.) The power of Musil’s great postwar novel in part derives from the reader’s knowledge of how the story will actually turn out, a knowledge denied the happily complacent haute bourgeoisie and governmental officials who inhabit the book. Apropos the specific theme of monuments, one might well note Musil’s own mordant observation that “the most important [quality of monuments] is somewhat contradictory: what strikes one most about monuments is that one doesn’t notice them. There is nothing in the world as invisible

as monuments.”<sup>2</sup> Musil well captures the combination of hubris and pathos in the attempt by the monumentalizing generation to speak to and, ultimately, control the consciousness of their successors. All monuments are efforts, in their own way, to stop time. As Nietzsche put it, in his observations “On the Utility and Liability of History for Life,” a “monumental” view of the past, a particular kind of consciousness instantiated in the physical stone of monuments, represents “a belief in the coherence and continuity of what is great in all ages, it is a protest against the change of generations and against transitoriness.”<sup>3</sup> History, of course, moves relentlessly to mock any such beliefs.

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The humiliating defeat of Franz Joseph’s Dual Monarchy generated the emergence of an independent (albeit territorially reduced) Hungary. Nothing would ever be the same, including the Millennium Monument. In 1919 events took what Gero describes as “a radical turn . . . as the proletariat assumed power.” Among other things, this led to a revisioning of the Habsburgs, who “were now presented as agents of feudal-capitalist oppression.” Far from the statues becoming, as Musil suggests, “invisible,” they were all too apparent, generating the same discomfort as a “fishbone in the throat.” Of course, the thing to do when so afflicted is to remove the offender. The monument was thus stripped of its statues of members of the Habsburg dynasty, and the particular “statue of Franz Joseph directly associated with the regime that had lost the war was smashed to pieces.” For better or worse, the radicals were rather quickly replaced by counterrevolutionaries who installed a monarchy whose legitimacy was based on the Dual Monarchy. Not surprisingly, “the Habsburgs resumed their place of honour” on the monu-

ment. Moreover, the site of the Millennium Monument also was designated as the proper place to put up a “heroes memorial.” The specific heroes who were being commemorated were those thousands of Hungarians who had lost their lives fighting in World War I, altogether unsuccessfully, to “maintain the borders which had been in existence for 1,000 years. . . . Ironically, the memorial was thus dedicated to the soldiers of a war in which they had lost everything they had been fighting for.” Like many other societies, the Hungarians proved themselves thoroughly capable of organizing their public psyche around a “lost cause.” The site of the monument and memorial became “an inseparable part of the capital and a national landmark,” re-named Heroes Square in 1932.

Once more fate intervened in Hungary’s destiny, as Hungary made yet another disastrously wrong choice in political and military allies. The aftermath of World War II swept away the conservative regime that had cast its lot with Nazi Germany; Hungary came within the Soviet Union’s sphere of influence, and a Communist regime came to power. Once again the monument reflected new political realities, as the Habsburg statues and reliefs were taken down and assigned, almost literally, to what Trotsky unforgettably dismissed as “the dustbin of history.” In their place were statues of Istvan Bocskay, a seventeenth-century insurrectionist against the Habsburgs, together with reliefs of “his soldiers fighting imperial mercenaries.” Substituting for the statue of Franz Joseph was one of Lajos Kossuth, the leader of the 1848–49 revolt against the Habsburgs.

Although Gero suggests that the Communists “would gladly have wiped the monument, with its archangel and kings, from

the face of the earth,” they did not do so. After all, they too could use it for their own ideological purposes of forging a new Hungarian consciousness, not to mention that they were unwilling to pay the potential political costs of destroying what had become a central public symbol of the Hungarian nation. Still, a “monument [that] was intended to condense the whole of Hungarian history into a single, complex symbol” with a unified narrative building toward Franz Joseph and his Dual Monarchy has instead, in “the different forms” it has taken, “faithfully mirrored all the historical and political changes which have taken place in the course of its lifetime.”

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One might well have mixed reactions to this tale of a faraway monument in a society about which most of us know little and with which few of us have any emotional identification. Is it a somber tragedy or a Central-European high comedy emphasizing the ironies (and roundelays) of history? No doubt it is both, though readers will undoubtedly differ on which aspects of its history merit tears or laughter.

The fate of the Millennium Monument and its heroes memorial is a perfect illustration of the central topic of this book, which is how those with political power within a given society organize public space to convey (and thus to teach the public) desired political lessons. Changes in political regime sometimes awesome, as from Habsburg monarchy to Communist dictatorship and then from Communism to (some version of) liberal democracy often bring with them changes in the organization of public space. States always promote privileged narratives of the national experience and thus attempt to form a particular kind of national consciousness, yet it is obvious that there is

rarely a placid consensus from which the state may draw. In particular, organizers of the new regime must decide which, if any, of the heroes of the old regime deserve to continue occupying public space. And the new regime will always be concerned if these heroes might serve as potential symbols of resistance for adherents among the population who must, at least from the perspective of the newcomers, ultimately acquiesce to the new order.

8 As one might well expect, many of the best examples of these issues are presented in the aftermath of Communism in Europe. Some of the most enduring memories of my only visit, in 1989, to Moscow involve the public statuary, posters, and flags that dominated the urban landscape. My family found our hotel, for example, by reference to a giant statue of Lenin that hovered over the square where it was located. Many of the people I spoke to about the great changes then sweeping what was still called the Soviet Union found it almost impossible to envision that these statues would ever disappear. Such a possibility would have signified changes even more portentous than those already coursing through Gorbachev's Soviet Union. My last memory of the Soviet Union is the statue of Lenin in front of the Finland Station in what was then called Leningrad. Given that Lenin had made his fateful return to Russia in 1917 at that very station, that statue in that venue generated a special resonance and helped to constitute the psychic reality that was the Union of Soviet Socialist Republics. It should go without saying that it was truly unimaginable in 1989 that the flag displaying the hammer and sickle would have disappeared within three years.

No doubt the reality is far different today, whether in Mos-

cow, Budapest, or many other cities of Eastern Europe. Those who overthrow regimes often take as one of their first tasks the physical destruction of symbols and the latent power possessed by these markers of those whom they have displaced. Kenneth Branagh, in his film version of *Hamlet*, brilliantly evokes this by opening and closing his film with shots of what the screenplay describes as an “immense statue of a military hero,” the murdered King Hamlet. At the film’s beginning, it is as if Hamlet were still reigning, as is true in regard to the consciousness of his son, the Prince of Denmark. At the end of the film, however, the son (along with the murderous usurper) is dead, and soldiers of the Norwegian conqueror Fortinbras “tear at the great statue, hitting it continually with hammers, until with a mighty crash it falls.” As the pieces of the statue fall (in slow motion), they “gradually obliterate the name HAMLET. For ever.” Whatever the truth of the general proposition that “uneasy lies the head that wears the crown,” this is almost certainly true of monumental crowns, especially when faced with an aroused populace who view them as symbols only of their oppressors. Perhaps it was the memory of the transformations of the Millennium Monument that helped contribute to what may be the most permanent Hungarian contribution to political semiotics, the toppling of a statue of Stalin during the ill-fated 1956 revolution.

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Nor is Budapest the only Central European capital that could tell a vivid story about the fate of its statue of Stalin. As the *Rough Guide* to Prague points out, “Prague’s most famous moment is one which no longer exists. The Stalin monument, the largest in the world, was once visible from almost every part of the city: a 30 metre high granite sculpture portraying a pro-

cession of Czechs and Russians being led to Communism by the Pied Piper figure of Stalin.” The sculptor of this gigantic 14,200 ton megalith which took some 600 workers a year-and-a-half to put up “committed suicide shortly before it was unveiled, leaving all his money to a school for blind children, since they, at least, would not have to see his creation.” Unveiled in 1955 on the Communist holiday of May 1st, the monument lasted only seven years until, under “pressure from Moscow” (then ruled by Nikita Khrushchev, who had famously denounced Stalin and his excesses), it was “blown to smithereens by a series of explosions spread over a fortnight in 1962.” “All that remains above ground is the statue’s vast concrete platform,” which apparently is “a favorite spot for skateboarders.” *Sic transit gloria mundi*.

The *New York Times* thus rightly emphasized by placement on page one the moment in August 1991 when, in the aftermath of the aborted coup against the government of Mikhail Gorbachev, a crowd in Moscow toppled the statue of the founder of the Soviet secret police, Felix Dzerzhinsky. The statue had stood for many years in front of the Lubyanka prison, itself the instantiation of the secret police and, therefore, of the worst excesses of Communist tyranny. Lawrence Weschler wrote in the *New Yorker* that “monuments all over the country of fierce icons of the longtime socialist-realist hegemony were being toppled and carted off” and, presumably, destroyed.

Surely, anyone who viewed this as a great moment for the cause of human freedom rejoiced as the symbols of the ideological walls came tumbling down? Well, not exactly. Even some strong anti-Communists confessed to a deep ambivalence at the destruction of these important cultural objects. Thus Weschler

quotes Vitaly Komar, described as “formerly among the ancien régime’s most notorious dissident artists”:

This is a classic old Moscow technique: either worship or destroy. Bolsheviks topple czar monuments, Stalin erases old Bolsheviks, Khrushchev tears down Stalin, Brezhnev tears down Khrushchev, and now this. No difference. Each time it is history, the country’s true past, which is conveniently being obliterated. And usually by the same people! In most cases, there weren’t passionate crowds doing tearing down it was cool hands of officials, by bureaucratic fiat. Same guys who used to order our shows bulldozed now arranging these bulldozings.

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Perhaps it is thinkable that state officials should have used their power to prevent the destruction of these statues or, at the very least, not called in state-owned bulldozers to collaborate with the inflamed populace. It surely seems bizarre, though, to subject Muscovite political authorities to criticism for failing to offer a more vigorous defense of the earlier regime’s tribute to Dzerzhinsky and to the secret police system that he was honored for creating. One wonders if Komar would subject Boris Yeltsin to similar censure for calling in June 1997 for a national referendum on removing Lenin’s embalmed body from Red Square, where, seen by millions of people, it served as a central shrine of the Soviet Union. Yeltsin apparently advocates giving Lenin, some seventy-three years after his death, a decent “Christian burial.” Needless to say, the Communists who continue to dominate the Russian parliament are reported to be vehemently hostile to any such suggestions.

All of this is simply to ask, though, what one ought to think of the toppling of these and other monuments. Writing in April 1996 from Albania, *New York Times* reporter Philip Shenton notes that since the 1985 death of Enver Hoxha, “the brutal, eccentric, isolationist dictator of Albania for more than four decades,” Albanians have done “their best to erase any memory of his crazed dictatorship. Statues of Mr. Hoxha were smashed and photographs burned. . . .” Ought the Albanians have been more respectful of the statues and photographs, at least as a way of acknowledging the past rather than trying to erase or a Freudian might well say, with wonderful double entendre, to “repress” it? Anyone taking this view would presumably admire post-Communist Berlin for maintaining at least some continuity with its past by leaving up on the Alexanderplatz not only statues of Marx and Engels, but also what a travel writer for the *Dallas Morning News* describes as “six stainless-steel obelisks engraved with photos from communist revolutions around the world.” Interestingly enough, the paper captioned a photograph illustrating this story as follows: “Symbols of a failed system still have a place on the Alexanderplatz for now.” One does not know, of course, whether the “for now” reveals the newspaper’s own ambivalence or that of the Berliners themselves. Especially curious is the *News*’ description of a photograph of Erich Honecker, the former leader of what was then East Germany, as “all but scratched away by vandals.” One might wonder if “vandals” is quite the *mot juste* to describe those who might resist the celebration of Honecker on one of Berlin’s main public venues. Just as one person’s “terrorist” is often another’s “freedom fighter,” so might one person’s “vandal” be another’s “cultural liberator.”

As should be obvious, regimes in transition not only tear

down monuments but build new ones. Thus a recent article about the mayor of Moscow, Yuri Luzhkov, described by the *New York Times* as a Russian Robert Moses in terms of his impact on the Moscow landscape, refers to the “grandiose, \$20 million, 150-foot nautical bronze statue of Peter the Great” that will, upon completion, tower over downtown Moscow, presumably serving at once to efface the former Communist reality and to establish a link with another period of Russian glory. (This overlooks that Peter founded St. Petersburg in part because he detested Moscow.) And May 1996 saw the installation, in the Moscow suburb of Taininskoye, of a monument of Czar Nicholas II, whose coronation had occurred a century earlier (and who was, along with his family, executed by the Communists in 1917). This monument, described by the Associated Press as “Moscow’s only monument to Nicholas II,” was destroyed on April 1, 1997, by a bomb. In condemning the bombing, Prime Minister Victor Chernomyrdin was quoted as saying that “Russia has already lived through the time when churches were blown up in order to assert the Communist vision of the world. Whatever our country went through this is history. We, as Russian citizens, must treat it with respect.” One wonders what “respect” counsels in the case of Lenin’s tomb.

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We must therefore come to terms with the transformation (or lack of same) of the public landscape of such cities as Budapest, Moscow, Tirana, and . . . And what? I use the ellipsis points not only to suggest that examples are legion, but also to refer to an issue linked with the destruction of physical monuments: the naming of public spaces. Consider, for example, whether the absence signified by the ellipses should be filled in with “Lenin-grad” or “St. Petersburg.” And who, if anyone, is authorized to

offer a definitive answer to this question? Some of us are old enough to remember Secretary of State Dean Rusk's insistence on using "Peiping" as the name of the Chinese capital, given that it was the then-unrecognized People's Republic of China that had changed the name to "Peking" (and, later, Beijing). Whatever one thinks of Rusk's specific politics, he can be interpreted as saying that one need not necessarily accept the attempts of victors to reorganize the consciousness of the onlooking world. In any event, "Leningrad," which survived a nine-hundred-day siege by the Nazis during World War II, did not survive the downfall of the Soviet Union; it has disappeared on contemporary maps, imaginatively restored to its pre-1917 rendering as St. Petersburg. (One wonders if Shostakovich's great *Leningrad* Symphony will be similarly renamed, or will Russian youngsters be taught that, as with the morning and the evening star, the apparently different cities of Leningrad and St. Petersburg in fact share a common referent?)

Perhaps we should view the change of name as a censurable act of state-sponsored cultural silencing, the extirpation of seventy-five years of Russian history, a submission to what is often pejoratively described as political correctness. Alternatively, we could instead describe it as the state's recognition of a moment of cultural liberation, the reclaiming of a different cultural heritage that itself had been ruthlessly silenced by those who wished to impose a Communist hegemony over Russian culture. The Communists, after all, had displayed no hesitation in changing St. Petersburg's name when they deemed it ideologically useful. (Indeed, St. Petersburg had, even before the revolution, been changed by the tsar to Petrograd in order to

give it a more Russian feel.) And the decision to name it Leningrad obviously takes on a wholly different valence from one to name it, say, Nevagrad, after the Neva River that flows through the city. It is hard to figure out why Communist mythmakers are entitled to a greater measure of respect, in regard to their politically motivated decisions concerning the naming of public places, than they showed to the mythmakers surrounding Peter the Great. Would anyone seriously protest, for example, the decision of a future non-Communist regime in Vietnam to change the name of what is now Ho Chi Minh City back to Saigon?

Names are important, and the ability to assign a definitive name is a significant power manifested, as significant power often is, in the most apparently banal of ways. As a sometime visitor to Budapest, I can testify to the frustrations that accompany using pre-1989 maps that still have the street names assigned by the Communists; most such streets have reverted to their pre-Communist names found now only on post-1989 (or pre-1945) maps. Street names are surely less dramatic than the names of the cities within which they are located, but no one ought to think that they are treated as matters of dispassionate routine. The kinds of passions linked to naming are well illustrated in contemporary Berlin, where local authorities have proposed renaming the Tempelhof Weg after Marlene Dietrich, described by the *New York Times* as “one of Berlin’s most fabled daughters.”<sup>4</sup> There is, however, opposition to this suggestion, and not only from local businesses who don’t want the expense of having to buy new stationery. Other opposition comes from “older residents of the Schöneberg district [within which Tempelhof Weg is located]” who have “taken to grumbling that

she was a 'non-German' and a 'traitor to the Fatherland' for her repudiation of Nazi Germany." She was no Elizabeth Schwartzkopf or Herbert Karajan, who remained, by all accounts, happily loyal to the Nazi regime; instead, during World War II, "she donned an American uniform as she sang to lift the spirits of Allied troops" preparing to take the war to her homeland. Interestingly enough, the street on which she was actually born is not available for renaming because it was earlier renamed for Julius Leber, a Social Democrat who in 1945 was executed because of his resistance to the Nazis. So Berlin cannot be accused of entirely ignoring resisters (though Alan Cowell, who wrote the *Times* article, notes that no street is named after Willy Brandt, who left Germany for Sweden during World War II, returned afterward and became mayor of Berlin and then Chancellor of the German Federal Republic). Dietrich is different. "She wore a foreign uniform and she never came back," according to a sixty-eight-year-old woman quoted by Cowell: "After 60 years abroad, she should be treated as someone who has betrayed the Fatherland." Perhaps Marlene Dietrich Strasse will become part of the Berlin topography, but that decision will clearly not represent a unified determination that she deserves any such commemoration.

The *Times* had earlier printed a story about Managua, Nicaragua, and the difficulty of finding places there because many new streets, built in the aftermath of the disastrous 1972 earthquake, have not yet been named. This seemingly routine municipal matter was stymied because of great political difficulties:

At the moment, plans call for streets to be given numbers rather than names. In its 11 years in power, the San-

dinista National Liberation Front named many streets for heroes of the left including the one that runs in front of the United States Embassy here, which was called Salvador Allende Boulevard as a reminder to the “American imperialists” of their role in overthrowing Chile’s elected Marxist President in 1973.

After the Sandinistas were voted out of office in 1990, most such streets, including Allende Boulevard, were stripped of their revolutionary designations. One main artery was given Pope John Paul II’s name after his visit here last February, but the authorities appear eager to avoid political problems by limiting themselves to numbers.

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“This is a society that is still much too polarized and divided to risk a controversy over something like this,” a European diplomat said, “In this country, one person’s hero is another person’s villain, so something as simple as naming a street can become an eminently political act.”

It is important to recognize that history offers us few examples of a clear and unequivocal displacement of one hegemonic regime by another. Historical reality is a far less tidy, and almost infinitely more messy, enterprise than that suggested by many national myths. After all, it is rarely the case that partisans of the displaced regime actually exit from the historical stage. Ironically enough, one of the tidiest examples of transformation was the American Revolution, where the losing loyalists had the good grace to accept exile (or return “home,” as the case may be) in England or in Canada. Almost no active supporters of the discredited regime remained to speak of the

merits of King George and his associates or to demand some public recognition of their contributions to the creation of what would become the United States. This certainly helps to explain why there is no full-scale monument to Benedict Arnold in the United States, even though his skills of generalship, revealed at the Battle of Saratoga prior to his defection to the English cause, contributed mightily to there being a United States at all. (This must be understood in the context of the fact that there apparently is a monument at the site of the battle, but it consists only of the feet of an unnamed general. The cognoscenti know that this is in fact a limited tribute to Arnold.)

Perhaps the most important question is what happens to public space when the political and cultural cleavages within a given society are fully manifested and even, as in some versions of multiculturalism, endorsed. Consider another example involving street-naming, from the United States. The February 15, 1997, *New York Times* included a story, "Another Proposal to Rename a Street Upsets San Franciscans," detailing the debate over a proposal, by Dr. Amos Brown, "the lone black member of the [San Francisco] Board of Supervisors" to rename Fillmore Street after "a local civil rights hero, Dr. Carlton B. Goodlett." Brown, noting that Fillmore Street commemorates President Millard Fillmore, one of whose most noteworthy deeds was signing the Fugitive Slave Act of 1850, said, "Here's a person who worked to keep our forebears in the cruel system of slavery." One can be confident, of course, that San Francisco's desire to honor our oft-ignored thirteenth president had far less to do with his views on slavery than with the fact that one of the other bills he signed, as part of the so-called Compromise of 1850 that staved off civil war for a decade, included California's admission to the

Union (as a free state). And, whatever the origins of Fillmore Street, one can be confident that most contemporaries identify it as the location of Bill Graham's legendary rock venue, the Fillmore, one of the major sources of the counterculture of the 1960s. San Francisco's usually voluble mayor, Willie Brown, said only, "You have to be very careful with the street-naming process."

One doubts that many people care about the fate of memorials to Millard Fillmore. However, this is most certainly not the case with regard to George Washington, "the father of our country." Much public debate ensued, therefore, following the October 27, 1997, decision by the (New) Orleans Parish School Board, which had adopted a policy prohibiting naming schools after "former slave owners or others who did not respect equal opportunity for all," to change the name of the George Washington Elementary School, which will now be known as Dr. Charles Richard Drew Elementary School. Drew was an African American surgeon best known, according to the *New York Times*, "for developing methods to preserve blood plasma and for protesting the United States Army's practice of segregating donated blood by race."<sup>5</sup> Editorials, op-ed essays, and letters to the editor debated the propriety of the New Orleans policy in general and of its application to Washington in particular. I note that far less controversy was stirred, at least nationally, by the decision to remove from a junior high school the name of Confederate general P. G. T. Beauregard and to replace it with the name of Thurgood Marshall.

The point is that though one might well analyze San Francisco or New Orleans as ever-changing societies, one would still hesitate to use the language of "regime change" that comes

more naturally to analysis of Eastern Europe. Instead, the changes involve more the entry of new groups into the ambit of those with genuine political clout, with the consequent necessity of responding to the demands of these groups. As the eminent sociologist Nathan Glazer writes in the revealingly titled *We Are All Multiculturalists Now*, multiculturalism “raises the general question of how we are to understand our nation and its culture. What monuments are we to raise (or raze), what holidays are we to celebrate, how are we to name our schools and our streets?” Ironically enough, the answer to these questions may be easier in localities that undergo sharply delineated regime changes than in countries wrestling with the problems of achieving a truly multicultural identity. Do we, then, have political and legal theories adequate to assess the fate of the Millennium Monument or, far closer to home, to determine who is a suitable candidate for inclusion along Monument Avenue in Richmond, Virginia? If one, for example, offers the contemptuous epithet “Stalinist” to describe the suggestion (discussed at length below) that one destroy a monument to Louisiana racists who attempted to overthrow the biracial Reconstruction government, then why not condemn as “Stalinist” the removal, in Russia and other successor states within the former Communist empire, of statues of Stalin and Lenin from public squares and their replacement with what are thought to be more fitting figures of public honor?

One potential solution is to add new statues without displacing the old. So, for example, a statue of Andrey Sakharov or, for that matter, Aleksandr Solzhenitsyn, could share space with their persecutor Leonid Brezhnev, just as Imre Nagy and Janos

Kadar have graves together in Budapest's Kerepesi Cemetery and rallies commemorating both funerals were held at Heroes Square though it was Kadar who had Nagy, a leader of the 1956 insurrection against the Soviet Union, executed as a traitor. (And, as a matter of fact, it is Nagy who is honored in a moving statue about a block from the Hungarian parliament.) Perhaps the ability to accept such a sharing represents political maturity and acknowledgment of the almost endless complexity of political life, though one might be excused for believing that political language takes on Orwellian aspects when we equally honor insurgents and executioners. In any event, we might be curious about which societies could agree to pay equal homage to ideological opposites and which, on the other hand, choose a more consistent group of honorees.

21

Although most of the examples up to now have been drawn from "foreign" locales, there is certainly no lack of similar controversies in the United States. It is a notorious truth that the United States is home to an ever-more-fractionated population tempted to engage in what has come to be termed "identity politics." And, of course, everyone (or at least everyone so disposed) can play the identity politics game. Indeed, once one becomes aware of the issue, it is almost literally impossible to pick up any issue of a newspaper or magazine without finding examples in our own times and settings. Let me offer four, before moving to the examples that will be the central focus of this book. First, a Connecticut town recently decided to move "an imposing statue of Capt. John Mason" because of protests by American Indians that, far from being a heroic English settler, he is in fact better described as one who had massacred the Pequot

Indians in 1637. As the writer for *The Hartford Courant* noted, the discussion about the fate of the statue is part not only of “a wider historical debate over whether American history, much of it written decades ago by European descendants, accurately reflected the role of Native Americans,” but also a reflection of “the reemergence of the Pequot tribe as a powerful regional influence” in the Connecticut of 1995.

22 The second example comes from the opposite coast. A *New York Times* article, “San Francisco Journal: Century-Old Monument Feels the Clash of History,”<sup>6</sup> tells of the discord provoked by the Pioneer Monument, a “huge granite pedestal topped by a bronze statue [that] has four life-sized groups of sculpture around the base, including one that shows an Indian on the ground, with a friar standing over him who is pointing to heaven and a Spanish vaquero raising a hand in triumph.” The monument was moved from what had become a somewhat seedy area of the city to a place “between the old and new libraries and across a park from the new City Hall.” However, “preservationists objected to moving the statue at all; Indians wanted it junked.” Thus one member of the American Indian Movement Confederation described the monument as “symboliz[ing] the humiliation, degradation, genocide and sorrow inflicted upon this country’s indigenous people by a foreign invader, through religious persecution and ethnic prejudice.” The solution to such objections was a decision by the city’s Art Commission to “install a brass plaque to explain the misfortunes suffered by the indigenous population.” Lest one believe that this offered any easy way out, note that the original draft of the plaque—“With their efforts over in 1834, the missionaries left behind about 56,000 converts and 150,000 dead. Half the original Na-

tive American population had perished during this time from disease, armed attacks and mistreatment”—provoked angry responses both from a Catholic Archbishop of the Archdiocese of San Francisco and the consul general of Spain. Moreover, Kevin Starr, the most distinguished contemporary historian of California’s past, complained that the wording was “a horrible and hateful distortion of the truth,” while yet other commentators suggested that it was in fact too easy on the church. Following extended debate the Art Commission voted to delete “and 150,000 dead” as well as to add a phrase that, in the words of the *New York Times* reporter, “attribut[es] the decline of the Indian population to European contact, taking the onus off the church. The commission also discussed soliciting an additional monument giving the Indian point of view.” I note without additional comment the bland assumption that there is a single “Indian point of view.”

23

Moving to our nation’s capital, we find a wonderful contretemps surrounding the decision by Congress, after some seventy-five years, to place a statue of three female suffragists Susan B. Anthony, Elizabeth Cady Stanton, and Lucretia Mott in the rotunda of the Capitol. The statue had originally been donated to Congress by the National Women’s Party in 1921, in part because all of the statues displayed at the Capitol were of men. It was, however, consigned to the crypt of the Capitol, in part, allegedly, because of aesthetic objections to the sculpture, which, according to the *Washington Post*, had been “deliberately left . . . in an unfinished state to signify that the struggle of women would continue with future generations.” One might think that the final decision to place the work in the rotunda would receive general applause, but this is not the case. The National Po-

litical Congress of Black Women protests that the “statue does not represent the suffragette movement” in its entirety. According to C. Delores Tucker, chair of the congressional black women’s congress, “It’s wrong and we’re going to do everything we can to stop it. We have been left out of history too much and we’re not going to be left out anymore.” The solution, according to the protesters, is to add to the statue a depiction of Sojourner Truth, the black nineteenth-century feminist-abolitionist. This was, incidentally, only one of the “monumental” controversies roiling Washington in the spring of 1997. There was also the fight over how FDR would be depicted in a wheelchair or not, holding his signature cigarette holder or empty-handed in his long-delayed monument, which finally opened in May 1997, as well as a struggle over the placement on the National Mall of a new monument to the veterans of World War II.

Finally, in a June 23, 1996, story aptly titled “Little Bighorn Again Inspires Passion,” the *New York Times* details some of the plans that the new superintendent of the Little Bighorn Battlefield National Monument, Gerard Baker, a Mandan Hidatsa Indian, has for the site. Baker’s desire is to make the site “more user friendly for Indians,” which involves, among other things, supplementing the present monument honoring the U.S. soldiers slain during what used to be known as Custer’s Last Stand with a new monument that would commemorate the fifty Indians who died in the Battle of the Little Bighorn. And he would like to put that monument on Last Stand Hill, just yards from the monument to the U.S. soldiers. The *Times* quotes Bob Wells, an editor of the *Custer Little Bighorn Battlefield Advocate*: “Gerard has a crusade going, the Indianization of the battlefield. He’s gone way overboard. It would be a serious mistake to plant the

Indian Memorial anywhere near the memorial of the Seventh Cavalry. The magnetism and dignity of that monument is that it occupies that hill." To put it mildly, one would be surprised if there is any consensus on what counts as going "overboard" or whether the "Indianization" of the site of one of the few triumphs over the conquering United States Army is necessarily something to be criticized. One should note that Baker also endorsed an Indian celebration of the 120th anniversary of the battle that would include the Indians riding on horses to the gravesite where the two hundred U.S. soldiers are buried and "counting coup" by hitting with a stick the stone obelisk marking the grave. According to the *Times*, "Counting coup was a battle tradition in which warriors proved their skill and courage by striking an enemy with a special stick and returning safely to the tribe." As to this, Wells asks, "What would people say if cavalry re-enactors went to Wounded Knee and touched the monument [to the Sioux dead] with sabers?" Upon being asked whether Baker in effect was supporting the gloating by Indians of their victory at Little Bighorn, Baker said, "That's right. It's about time." I cannot resist noting the wonderful double entendre of this last phrase, for, of course, monuments are quintessentially "about time" and who shall control the meaning assigned to Proustian moments of past time.

25

All regions of the country no doubt offer fit examples for discussion. The rest of this book, however, focuses on the American South. One reason, perhaps, is that it is the region I most call home, having been born and raised in North Carolina and having lived now for eighteen years in Austin, Texas. Beyond this parochial reason, though, is the fact that the issues presented by the South, as a distinctive region of our nation,

have, since the founding of our nation, presented the most exquisite difficulties in terms of establishing a truly coherent national identity. Although both were formally English, one can hardly amalgamate the Puritan “Roundheads” who settled New England with the “Cavaliers” who founded Virginia, let alone the Scotch-Irish who dominated the settlements in the lower South, and the cultural differences between North and South have been a staple of those who would analyze America at least since the nineteenth century. Even if it took until recently to coin the term, “multiculturalism” has long been the reality in the United States. My particular concern is the following: Do we, as a society, have a duty to the past to continue to give pride of sacred place to monuments to our—and what one means by “our” is perhaps the central question of this essay—own “Lost Cause” of the Confederate States of America in spite of altogether persuasive arguments not only that this cause was racist at its core, but also that some of the specific monuments, such as New Orleans’s Liberty Monument, leave nothing to the imagination in terms of their racism?

These are scarcely academic questions, at least in the pejorative sense of treating the academy as the place for idle speculation about things that scarcely concern ordinary Americans. Within a recent week, for example, two of our leading national newspapers published stories illustrating the depth of such issues within the contemporary culture. “A Confederate Flag Vexes America Once Again, As Southerners Battle Each Other Over Heritage,” stated the February 4, 1997, *Wall Street Journal* as it reported on the controversy raging through South Carolina as to whether the Confederate battle flag should be removed from its present place of honor atop the South Carolina capitol,

where it has flown since 1962. (More shall be said below about the importance of that date.) Although Governor David Beasley, who has proposed that the flag come down, is a Republican (as is, of course, Senator Strom Thurmond, who, along with three other Republican former governors, supported Beasley's proposal), the Republican-controlled House of Representatives refused to go along. It settled for submitting the issue to a referendum of South Carolina voters. Interestingly enough, even the so-called "Heritage Act" submitted by the governor would, according to the *Journal*, "protect the names of all streets, monuments and public squares bearing the names 'of our Confederate leaders.'"

27

The *New York Times* in turn placed on its front page a story, "Symbols of Old South Feed a New Bitterness."<sup>7</sup> Though it, too, referred to the South Carolina flag controversy, it noted as well the increasing acrimony over statues to the Confederate war dead. This being America, the *Times* notes that at least one lawsuit has been filed, in Franklin, Tennessee, seeking not only removal of a statue of a Confederate soldier that towers over the town square but also \$44 million in damages. Charles Reagan Wilson, a University of Mississippi historian, is quoted as observing that such battles "really deal with issues of identity and world view and ethnicity. Are we one people or two?" To force white southerners to lower the flag or take down the monuments and, therefore, "to cut that tie with the symbols, with the genealogy, is for them a kind of cultural death." As if directly corroborating this analysis, the *Times* quotes a South Carolina legislator who describes his opponents as demanding nothing less than "cultural genocide."

It is worth noting how much this legislator and his allies are

adopting the language of cultural victimization that one often expects to hear from sources other than Southern white males. In this regard consider some remarkable sentences from Eugene Genovese's recent book, *The Southern Tradition: The Achievement and Limitations of an American Conservatism*. Genovese, one of our leading analysts of American slavery and of Southern culture, who gained fame as an explicitly Marxist historian, confesses at the outset that part of his interest in the specifically conservative aspects of the Southern tradition comes from his dismay at the " 'modernization' that is transforming the South" in which he now lives. While recognizing the beneficial aspects of such changes, including "long overdue if incomplete justice for black people," he is also concerned with the "price" accompanying modernization, which, he says, "includes a neglect of, or contempt for, the history of southern whites, without which some of the more distinct and noble features of American national life must remain incomprehensible." "The northern victory in 1865 silenced a discretely southern interpretation of American history and national identity, and it promoted a contemptuous dismissal of all things southern as nasty, racist, immoral, and intellectually inferior." The language shortly escalates into the assertion that "we are witnessing" nothing less than "a cultural and political atrocity an increasingly successful campaign by the media and an academic elite to strip young white southerners, and arguably black southerners as well, of their heritage, and therefore, their identity." In a brilliant rhetorical move, Genovese completes his preface by quoting from W. E. B. DuBois's essay on Atlanta, in which that most radical of all African American historians, who introduced all of us to the

multiple consciousnesses contained within the deceptive term “American,” nonetheless reminded his readers “that with all the Bad that fell” with the defeat of the Old South, “something was vanquished that deserved to live. . . .”

Given a cultural atmosphere where many worry about the silencing of those who have been the victims of various political movements, it is especially worth noting Genovese’s appropriation of the language of silencing and his lament for the concomitant negation of the political and cultural identities of some of our fellow Americans. He calls for the recognition of the dignity of those who have been silenced and who should, therefore, be allowed to speak their own tongue, however potentially grating the sound. Can one take such claims seriously in the context of those who speak on behalf of the white survivors of the great war of 1861–65 and of the culture formed in part to limit the consequences of the defeat at Appomattox? One wonders how Genovese would respond to recent efforts by University of Mississippi Chancellor Robert C. Khayat to encourage what the *New York Times* has described as “a period of campus-wide self-analysis that could lead to the elimination” of the various Confederate symbols “that are regarded as sacred at this most tradition-bound of Southern universities.” This includes not only the monument, but also the name of the university’s athletic teams, the “Ole Miss Rebels.”

Whether one talks about the meanings of the two world wars for Hungarian identity or, in our own case, the meaning of the struggles of 1861–65 and, of course, what we call that struggle, whether Civil War, War between the States, a War for (or to Suppress) Southern Independence, or an insurrection, is scarcely

an innocent choice; they are essentially contested. Partisans on all sides proclaim, perhaps even accurately, that nothing less than the national culture is at stake, especially insofar as material representations of such events, such as monuments or even street names, or the Jefferson Davis Highway that remains a central connector between Washington, D.C., and Richmond, Virginia are thought to play some role in inculcating particular understandings of society within future generations.

30 One manifestation of this contest concerns the control of “sacred space.”<sup>8</sup> Such space is exemplified for Americans by the National Mall in Washington described by one historian, objecting to the proposed location of a new monument honoring the veterans of World War II, as “the most precious plot of ground in the country . . . our most sacred space,”<sup>9</sup> public cemeteries, state and national capitol grounds, and other ground that is invested with special meaning within the structure of the civil religion that helps to constitute a given social order. Or the space can be more obviously metaphorical, as with the design of flags, the declaration of public holidays, such as Martin Luther King’s birthday, or even the designation of official state songs. As to this last, for example, Virginia has recently retired its state song, “Carry Me Back to Old Virginia.” Composed by James A. Bland, a black minstrel from New York, it is written from the perspective of a Virginia-loving freed slave whose fondest wish, apparently, is to be reunited after his death with his beloved “massa and missis.” Contemporary Virginians have decided that it is time for this evocation of “Old Virginia” to leave the stage, to be replaced, one presumes, by a song more congruent with the social realities of the contemporary commonwealth.

Sacred grounds characteristically serve as venues for public art, including monuments to social heroes. Yet a sometimes bitter reality about life within truly multicultural societies is that the very notion of a unified public is up for grabs. As already suggested, one aspect of multiculturalism is precisely that different cultures are likely to have disparate and even conflicting notions of who counts as heroes or villains. And, as we shall see below, the debate over the fate of the Liberty Monument in New Orleans is now in at least its third decade. The reason why the debate continues, rather than being settled, is precisely that we are a multicultural society wrestling with the question how, if at all, one produces *unum* out of the *pluribus* of American society.

31

The section below offers some reflections on the role of public art within the social order, with specific reference to memorialization of the events of 1861–65. Perhaps because my principal identity is as a constitutional lawyer, I go on to ask if the United States Constitution offers any aid in resolving the sometimes volatile controversies generated by memorialization. I well recognize, though, that whatever one's answer about the importance of specifically legal argument, that no society lives by law alone, and I go on to discuss how we ought to respond to certain complaints even if the law properly does not compel a given resolution.

### **Public Art and the Constitution of Social Meaning**

Art has many functions, only some of which can be reduced to learning to appreciate standard aesthetic criteria of beauty and form. Art is, among other things, both the terrain of, and often

I have already expressed my gratitude to Miriam Angress and the Duke University Press in my preface to this new edition. With regard to this extensive afterword, I want to add my deepest thanks to several people who read it or listened to me present earlier versions. As to the latter, my colleagues at the University of Texas Law School, especially Karen Engle, offered valuable responses at a faculty colloquium. I am also grateful to John Fabian Witt and Bruce Mann for their careful readings of an earlier version and reassurances as to my presentation of their respective reports at Yale and Harvard concerning controversies treated below. My deepest thanks, however, go to my wife Cynthia, who persuaded me that the earlier version, though interesting as a set of free associations, desperately needed reorganization, not to mention the elimination of certain writing tics. She was completely correct!

- 1 Viet Thanh Nguyen, *Nothing Ever Dies* (Cambridge: Harvard University Press, 2016), p. 74.
- 2 [https://www.nytimes.com/2017/05/31/sports/tennis/margaret-court-gay-marriage-australia.html?\\_r=0](https://www.nytimes.com/2017/05/31/sports/tennis/margaret-court-gay-marriage-australia.html?_r=0). Billy Jean King weighed in on this controversy in January 2018, noting that her views had changed from her initial support in 2003, when the arena was given Court's name, to the present. She described Court's comments about gays and lesbians as "really [going] deep in my heart and soul. I was fine until lately

when she said so many derogatory things about my community; I'm a gay woman." See Ben Rothenberg, "Billie Jean King Says Margaret Court Arena's Name Should Change," available at <https://www.nytimes.com/2018/01/12/sports/tennis/billie-jean-king-margaret-court-arena.html>. One doubts that King really means to suggest that one must be a member of the gay or lesbian community in order to be perturbed by continuing to honor Court.

- 3 <https://www.nytimes.com/2017/06/05/world/australia/margaret-court-same-sex-marriage.html>.
- 4 See Sanford Levinson, "Political Change and the 'Creative Destruction' of Public Space," in Franceso Francioni and Martin Scheinin, *Cultural Human Rights* (Leiden, Netherlands: Brill, 2008), p. 341–351.
- 5 James Davison Hunter, *Culture Wars: The Struggle to Define America* (New York: Basic Books, 1991).
- 6 <http://nymag.com/daily/intelligencer/2017/09/can-democracy-survive-tribalism.html>.
- 7 See Sanford Levinson, *An Argument Open to All: Reading the Federalist in the 21st Century* 13 (New Haven: Yale University Press, 2015).
- 8 Mayoral Advisory Commission on City Art, Monuments, and Markers, p. 12, available at <http://www1.nyc.gov/site/monuments/report/commission-report.page>.
- 9 Mayoral Advisory Commission, p. 9.
- 10 Dell Upton, *What Can and Can't Be Said: Race, Uplift, and Monument Building in the Contemporary South* (New Haven: Yale University Press, 2015).
- 11 See Alan Blinder, "What It May Take to Strike a Segregationist's Name From a Georgia Bridge: Hundreds of Girl Scouts," *New York Times*, February 4, 2018, available at <https://www.nytimes.com/2018/02/04/us/savannah-talmadge-bridge-girl-scouts.html>.
- 12 *Walker v. Texas Division, Sons of Confederate Veterans* 576 U.S. (2015).
- 13 See David Goodman, "Boos and Rain Greet de Blasio at Columbus Day Parade," *New York Times*, October 9, 2017, available at [https://www.nytimes.com/2017/10/09/nyregion/mayor-de-blasio-columbus-parade.html?\\_r=0](https://www.nytimes.com/2017/10/09/nyregion/mayor-de-blasio-columbus-parade.html?_r=0).