

July 13, 2020

Michael R. McAlevey
Rector
Washington and Lee University
204 W. Washington Street
Lexington, VA 24450

William C. Dudley
President
Washington and Lee University
204 W. Washington Street
Lexington, VA 24450

Dear Rector McAlevey and President Dudley:

The undersigned are Emeritus Trustees of Washington and Lee University and are writing this letter in response to demands by some in the University community that Robert E. Lee be removed from the institution's name. After the tragic death of George Floyd, some members of the faculty began circulating a petition seeking the removal of Lee's name, which we understand was approved by a significant majority of the faculty. And, Professor Toni Locy recently penned an article in *The Nation* urging the University to let Lee "go."¹

The University's name is not a new issue. In fact, in 2019 and again in February 2020, the Board of Trustees considered and rejected calls for the University to distance itself from Lee, reiterating its "abiding conviction that the university is rightly named for two men who made transformative contributions to this institution and to education in the United States." It is unclear what has changed in the intervening months that would cause the Board to reach a contrary conclusion now.

¹ Toni Locy, "Letting Go of Robert E. Lee at Washington and Lee University," *The Nation* (June 25, 2020), available at <https://www.thenation.com/article/society/robert-lee-washington-statue/>.

Nevertheless, we support the Board's decision to appoint a special committee of current Trustees to examine Washington and Lee University's name and issues related to diversity and inclusion. These are important matters that the Board should consider on its own terms and in its own time. It would be irresponsible for the Board to make decisions that may fundamentally impact the institution in knee-jerk response to the latest news cycle.

The University has changed dramatically over the years – changes in which the signatories to this letter were actively involved. In each instance – whether involving coeducation, the Greek system, upper-class housing, or revitalization of the law school – the Board was guided by an overarching goal: preserving and enhancing Washington and Lee University as one of the nation's top educational institutions while maintaining the core values that have been integral to the institution's success. The net effect of these changes has been to attract a stronger and more diverse student body and faculty with higher aspirations and achievements.

When it comes to the University's name – and, consistent with the University's motto, “not unmindful of the future” – the Board should follow the same approach. Specifically, it should require those advocating for a change to demonstrate that removing Lee is necessary to enhance the institution and otherwise advance its mission. In the absence of such a demonstration, the Board should affirm clearly and unequivocally that Washington and Lee University's name will remain Washington and Lee University.

Apart from the institution's name, we also recommend that the Board take additional steps regarding these issues. First, it should confirm that naming decisions will not be not taken lightly and will be guided by facts, not based on some sense of institutional guilt or desire for historical atonement. Second, the Board should direct the administration and faculty to assume a leadership role in developing new and creative initiatives to attract and retain students and faculty of color and to address racial equality and inclusion in the community. Third, the Board should reaffirm the University's commitment to educate students, the faculty, and the public about its namesakes, both their contributions as well as their shortcomings. This letter addresses each of these recommendations.

The Legacy of Robert E. Lee

Lee's legacy – similar to the history of our country – is complicated. Some view Lee only through the prism of a man who led the Confederate army “to keep millions of black people enslaved.”²

But the University does not recognize Lee for his role as military leader of the Confederacy – a decision it has publicly and repeatedly condemned. To paraphrase a recent *Wall Street Journal* column, Washington and Lee University was named to commemorate “particular achievements of imperfect people,” and not “in a spirit of blind idolatry.”³

Like Washington, the University recognizes Lee for his contributions to advancing the institution's educational mission. During his five years as president, Lee transformed a dilapidated regional “nineteenth-century classical academy” into the national modern university that thrives today.⁴

Lee's educational contributions are well documented but frequently overlooked. According to historian Elizabeth Brown Pryor, Lee “developed an innovative approach” to educational reform “with far-reaching applications.”⁵ While honoring the tradition of Latin, Greek, and classical literature, Lee expanded offerings in modern languages (French, German, Spanish, and Italian), applied mathematics, and practical sciences, and paved the way for a law school.⁶ Under Lee's leadership, the institution offered a course in international law, which was almost 50 years “before it was offered in some large universities”; introduced business courses “more than a decade before the Wharton School of Commerce was started at the University of Pennsylvania ...”; and proposed “press

² Toni Locy, “Letting Go of Robert E. Lee at Washington and Lee University.”

³ Jeffrey Collins, “Stop the Vandals, Then Rethink the Monuments,” *The Wall Street Journal* (June 26, 2020), available at https://www.wsj.com/articles/stop-the-vandals-then-rethink-the-monuments-11593210991?mod=opinion_lead_pos9.

⁴ Emory M. Thomas, *Robert E. Lee*, 377 (1995).

⁵ Elizabeth Brown Pryor, *Reading the Man: A Portrait of Robert E. Lee Through His Private Letters*, 437 (2007).

⁶ *Robert E. Lee*, at 400; Jonathan Horn, *The Man Who Would Not Be Washington: Robert E. Lee's Civil War and His Decision That Changed American History*, 240 (2015).

scholarships,” which was “the first mention in the world’s history of a school of journalism”⁷

Lee took a college with approximately 40 students and increased enrollment to more than 400, “hailing from twenty-two states,” even managing “to scrape together funds for those lacking tuition. Within a year, Lee had also attracted enough money to begin paying the college debts. By the end of his five years as president, donors like Cyrus McCormick and George Peabody had given the school so much support that its endowment was double the prewar size.”⁸

Lee also laid the groundwork for personal responsibility and integrity that remain the University’s hallmarks. Consistent with Lee’s belief that “every student should be allowed to pursue the study of his choice,” the college instituted “one of the first elective systems in the country.”⁹ And, as noted on the University’s website, “Lee also endorsed a lasting tradition of student self-governance, putting the students in charge of the honor system that the faculty had previously overseen” – a principle that “remains part of the foundation for a campus culture that fosters honor, integrity, and civility.”

Professor Locy’s accusations that W&L “bears responsibility for the miseducation of thousands of students through its deification” of Lee and “continues to pretend that Lee was more than he was” are difficult to fathom. Such accusations cannot be reconciled with the University’s commitment – stated plainly on its website – to teach “history fully and honestly,” which includes understanding “both the contributions and failings of those for whom our institution is named.” And, the University “unequivocally denounce[s] the motivations behind the Confederate cause that Lee chose to defend as well as the views of individuals and groups who employ Confederate imagery to promote an agenda of white supremacy, racism, and xenophobia.” These are not mere platitudes, as evidenced by the affirmative steps the University has taken to prevent Confederate veteran groups from using the campus to promote their cause.

⁷ Charles Bracelen Flood, *Lee: The Last Years*, 205 (1981).

⁸ *Reading the Man*, at 437.

⁹ *The Man Who Would Not Be Washington*, at 240.

But to the extent Professor Locy had concerns about the University's portrayal of Lee's contributions, one reasonably would have expected that a faculty member with more than a decade of service would have raised those concerns long before now. And, it would have been considerably more productive had Professor Locy raised those concerns in discussions with the administration than in an article for *The Nation*.

Regardless, historians have long recognized the importance of Lee's post-war efforts. For example, as historian Jonathan Horn has noted: "For four years, boys who might otherwise have enrolled in classes had enlisted in his army. Duty had required [Lee] to arm them for battle; now it demanded that he equip them for peace."¹⁰ Even historian Elizabeth Brown Pryor, author of *Reading the Man* upon which Professor Locy's article relies, albeit loosely, observed that, while "Lee lived an all too human existence, fraught with dilemmas and decisions that would challenge the sturdiest of souls," he "came closest to real greatness in the enlightened decisions he took to foster peace and rebuild the South in the early aftermath of the war."¹¹

The University's history – good and bad – is a story worth telling. And, in telling that story, the University should ensure that students, faculty, and the public understand that the institution bears Lee's name in recognition of his post-war decisions that transformed the University and helped rebuild a war-torn country. Those decisions are as enlightened today as they were more than 150 years ago.

What Data Support the Theory That the University's Name is a Barrier to Student and Faculty Recruitment or That Removing Lee Would Overcome That Barrier?

Some advocating for removing Lee from the University's name theorize that Lee adversely impacts the ability to attract and retain minority students and faculty. For example, Professor Locy's article posits that, "[u]ntil it frees itself of Lee, the university will never achieve its stated goals of diversity and inclusion"

¹⁰ *The Man Who Would Not Be Washington*, at 230.

¹¹ *Reading the Man*, at 470, 473.

because Washington and Lee can “overcome its inability to recruit and retain African American students and faculty” only “by removing Lee’s name.”

If this theory were true, we would be understandably concerned. But where is the evidence that supports it? And how can this theory be reconciled with the fact that students and faculty of color increasingly are choosing W&L, notwithstanding its name?

For example, according to President Dudley’s June 23, 2020 message to the Washington and Lee community, the number of domestic students of color at W&L has increased by 50 percent since 2016. And, 20 percent of the incoming undergraduate class this fall are domestic students of color. Likewise, according to President Dudley, 45 percent of tenure-track hires at the University over the past four years are faculty of color, and 20 percent are African American. These statistics belie the argument that students and faculty of color reflexively write off Washington and Lee University merely because, in Professor Locy’s words, it is “named after a Confederate general.”

Indeed, it is not intuitive that students select a college based on its naming conventions. Do prospective students really care that William and Mary is named after former monarchs of Great Britain or that Williams College bears the name of a man killed in the French and Indian War? And then there is Yale, one of the country’s finest universities, which is named for Elihu Yale, who did not just own slaves but was a slave trader. These schools attract minority students presumably because students decide to attend college based on a variety of factors – academic, athletic, financial, professional, reputational, social – not because of the person or persons for whom the institution is named.

Furthermore, the universe of qualified minority students and faculty is finite, and these individuals are in high demand. Every college – large and small – is chasing the same group of top-quality students and faculty of color, who have no shortage of academic opportunities. Only so many of these students and faculty are likely to be interested in Washington and Lee in the first place or would choose the University over more prestigious or more financially lucrative institutions. This would be true regardless of the University’s name.

To be sure, the University faces challenges in minority recruiting, most notably its location in a small town in rural Virginia and Lexington's lack of a sizeable minority community. And, unfortunately, at least based on President Dudley's recent message, some students and faculty of color do not experience the same inclusive University community as we know it and have been victims of racial bias on the campus.

We condemn any acts of racism and acknowledge that racial bias can be felt by minorities in ways that are hard for many of us to understand. We fully support efforts to create a tangible feeling of inclusion among all our students, faculty, and staff and are committed to playing a role to ensure racial justice and equality at all levels in the University community. But it is unclear how removing Lee from the institution's name would address these issues in any meaningful manner.

It is imperative that the University build on the important steps taken in the last three years to address diversity and inclusion – steps detailed in President Dudley's June 23, 2020 message. This effort should start with a critical assessment of the University's current strategy, not only from the perspective of achieving minority recruiting objectives but also from the standpoint of ensuring positive minority experiences. It is not enough to bring students and faculty of color to the campus if they do not prosper once there.

The administration and the faculty also should be tasked with developing and implementing creative ways to address racial justice and equality at the University and in the greater Lexington community. Some options worth considering include: (1) establishing an exchange program or strategic alliance with a historically black college; (2) creating a summer program on entrepreneurship for high school students of color; and (3) promoting public-private partnerships to benefit the black community in Lexington. These ideas are not ours but have been suggested by others, and there undoubtedly are countless other solutions worthy of consideration that would be more impactful than changing the University's name.

That said, the Board also should examine whether having Lee in the University's name is a deterrent to attracting students and faculty, regardless of their race or ethnicity. To the extent Lee's name is a factor that students and

faculty consider in selecting an institution of higher learning, the questions that must be answered are: (1) how many students and faculty do not consider the University because of its name; and (2) how many additional students and faculty could the University reasonably expect to attract if the institution did not have Lee in its name?

To answer these questions, the Board should require quantifiable and unambiguous data demonstrating that Lee's name is a material barrier to recruiting students and faculty and, if so, that eliminating this barrier would materially improve the University's recruitment efforts. Absent this demonstration, we do not see what constructive purpose changing the University's name would serve.

What Data Demonstrate That a Name Change Would Help Rather Than Harm the University?

Even assuming removal of Lee from the University's name would significantly benefit its minority recruitment efforts, the Board also must consider the effects of such a decision on the University as a whole. Washington and Lee University is a name synonymous with a quality education and high-achieving students and alumni. For more than a century, Washington and Lee University has successfully cultivated, expanded, and promoted its brand, which is critical to recruiting top students, getting students into top graduate programs, and helping students land top jobs.

Those who advocate for removing Lee from the University's name have not articulated what they believe the University should be called if Lee's name is removed. Washington University? That name is already taken by a university in St. Louis, Missouri. Washington College? That name is already in use by a college in Chestertown, Maryland. And, there is George Washington University in Washington, D.C. Or should the University's name be changed to "W&L" – a name that would stand for nothing? Petitioning professors do not say.

Regardless of what Washington and Lee University may rename itself, the Board must consider whether that new name would improve the University's standing among prospective students, graduate schools, or employers. We are skeptical, regardless of how "woke" the new name may be.

Indeed, the University would have to devote substantial marketing resources just to make the public aware of the new name and persuade various constituencies that the institution has not changed other than in name. This would be no easy task. And, the resources needed for rebranding could be so much better deployed to make Washington and Lee University a welcoming community to all.

Furthermore, attempting to promote a new brand based on whatever new name the University may be called would present a never-ending challenge. A decade from now – long after any temporary media buzz the University may enjoy from removing Lee from its name has dissipated – what is the likelihood that a prospective student, graduate school, or employer will have heard of or be familiar with whatever the University may decide to call itself?

The Board of Trustees also must consider the financial effects flowing from any decision to remove Lee from the University's name. Washington and Lee University has flourished in large part due to the generosity of its alumni. They have donated hundreds of millions of dollars to build a modern campus, endow attractive scholarships, fund generous financial aid, and establish competitive faculty compensation. Alumni also give generously of their time in helping students get into graduate schools and secure employment.

Removing Lee from the University's name undoubtedly would cause some alumni to sever their relationship with the institution. Some alumni would feel betrayed by a decision to abandon Lee, while others would resent their diploma being rendered a collector's item. Still other alumni would lose that vital emotional connection to the University because they would no longer view whatever the school may be called in a post-Lee era as their alma mater.

A strained relationship between the University and its alumni inevitably would translate into some alumni reducing or eliminating their gifts to the Annual Fund, declining to participate in the next capital campaign, or foregoing assistance to students seeking to leverage the University's alumni network. Indeed, some alumni may seek a refund of prior gifts if the University's name is changed, contending that their donations were intended to benefit an institution named Washington and Lee University.

Importantly, a substantial decrease in alumni financial support would harm the most economically disadvantaged prospective students, which would undermine the University's diversity efforts. Indeed, one of the top priorities in the University's strategic plan is the implementation of a "need-blind undergraduate admissions" process by which the "strongest applicants, regardless of family financial circumstances" will be admitted. The success of this initiative hinges entirely upon alumni giving.

The percentage of alumni who would rethink their relationship with an institution not named Washington and Lee may be subject to debate. But, is there any example to which proponents of removing Lee's name can point of an institution of Washington and Lee's caliber that has changed its name, let alone flourished thereafter? While the University has gone by other names in other times, branding is significantly more important in the 21st century than in the 18th and 19th centuries. In short, and while the future is inherently uncertain, the Board should decline invitations to remove Lee from the University's name if that change would impact adversely the University and its constituencies.

Where Does it Stop?

If the Board acquiesces to the current call to expunge Lee from the University's name, it should be prepared for calls to rename Lee Chapel and Lee House and to excise every vestige of Lee from the campus, lest someone take offense. Indeed, the Board should expect calls to exhume the remains of Robert E. Lee and his family from Lee Chapel based on Professor Locy's stated view that their bones cause "the building [to] reek[] of the cruelty of slavery, of elitism and racism"

And, it is no surprise that George Washington is now in the crosshairs. According to a recent column in *The Washington Post*, George Washington enslaved 300 people, had false teeth made from the pulled teeth of slaves, and engaged in other abhorrent conduct directed at African Americans.¹² Some in the

¹² Michelle Norris, "George and Martha Washington enslaved 300 people. Let's start with their names," *The Washington Post* (June 26, 2020), available at https://www.washingtonpost.com/opinions/george-and-martha-washington-enslaved-300-people-lets-start-with-their-names/2020/06/26/d3f7c362-b7e7-11ea-a510-55bf26485c93_story.html.

University community contend that these facts should compel the institution to purge itself of Washington as well.¹³

And then there is Cyrus McCormick. He allegedly exploited a family slave in inventing the reaper and endorsed subjugating people of color by supporting the annexation of Santa Domingo into the United States. Even former President Robert E. R. Huntley may be held to account for the public harms from smoking, given his 34 years of service on the Board of Phillip Morris/Altria Group.

In short, erasing parts of the University's history that are uncomfortable is a no-win exercise. Just as renaming Robinson Hall did not quell calls from those favoring historical erasure, removal of Lee from the University's name will not appease this group either.

To avoid these problems going forward, the Board should adopt a policy to govern renaming decisions – a policy that should recognize Washington and Lee's obligation to ensure that such decisions neither distort the past nor erase history. Yale adopted guidelines on university decisions to remove a historical name from a campus building, space, or structure in 2016.¹⁴ And, just two years ago, W&L's Commission on Institutional History and Community recommended the establishment of specific evaluation criteria for the naming or renaming of buildings or spaces – a recommendation that, to our knowledge, the University has not yet implemented.¹⁵

¹³ Brandon Hasbrouck, "Both namesakes of Washington and Lee University perpetrated racial terror. The school should be renamed," *The Washington Post* (July 4, 2020), available at <https://www.washingtonpost.com/opinions/2020/07/04/both-namesakes-washington-lee-university-perpetrated-racial-terror-school-should-be-renamed/>.

¹⁴ <https://news.yale.edu/2016/12/02/report-outlines-principles-renaming-campus-buildings>.

¹⁵ Report of the Commission on Institutional History and Community, Washington and Lee University, at 41 (May 2, 2018), available at <https://my.wlu.edu/document/report-of-the-commission-on-institutional-history-and-community>.

Conclusion

This moment presents Washington and Lee with an important opportunity to lead on matters of racial diversity. The University is in a unique position to do so consistent with our motto and given its namesakes.

The University should seize this opportunity by developing and implementing creative and meaningful measures to: (1) attract and retain students and faculty of color; and (2) promote racial equality and inclusion on the campus. It also should launch new initiatives to educate students, the faculty, and the public about the contributions of both George Washington and Robert E. Lee as well as their shortcomings.

When considering calls to rename the University, the Board must determine whether removing Lee from the University's name is necessary to preserve and enhance Washington and Lee University as one of the nation's top educational institutions while maintaining the core values that have been integral to the institution's success. Absent that determination, we believe the University's name should remain unchanged.

Sincerely yours,

/s/ Rupert H. Johnson, Jr. '62

/s/ Warren A. Stephens '79

/s/ J. Frank Surface '60

/s/ Bennett L. Ross '83

/s/ Hatton C. V. Smith '73

/s/ William P. Boardman '63, '69L

/s/ Dwight H. Emanuelson, Jr. '84

/s/ C. Royce Hough III '59

/s/ John W. Folsom '73

/s/ Michael D. Armstrong '77

/s/ C. DuBose Ausley '59

/s/ Robert M. Balentine '79

/s/ Chris B. Ball

/s/ Edward L. Bishop III '68

/s/ Thomas B. Branch III '58, '60L

/s/ William E. Brock III '53

/s/ Edwin M. Crawford

/s/ Beverly M. DuBose III '62

/s/ J. Hagood Ellison, Jr. '72

/s/ C. Douglas Fuge '77

/s/ Benjamin S. Gambill, Jr. '67

/s/ Dr. William M. Gottwald '70

/s / R. Allen Haight '84

/s/ Samuel B. Hollis '51

/s/ William R. Johnston '61

/s/ William J. Kimmel III '69

/s/ H. Gordon Leggett, Jr. '54

/s/ J. Hardin Marion '55, '58L

/s/ Donald B. McFall '64, '69L

/s/ Jessine A. Monaghan '79L

/s/ Sarah E. Nash

/s/ W. Buckner Ogilvie, Jr. '64

/s/ William E. Pritchard III '80

/s/ Jerry G. South '54

/s/ Martin E. Stein, Jr. '74

/s/ Joseph H. Davenport III '69

/s/ Dr. Mark R. Eaker '69

/s/ J. Scott Fechnay '69

/s/ James F. Gallivan '51

/s/ William R. Goodell '80L

/s/ Bernard Candler Grigsby II '72

/s/ William B. Hill, Jr. '74, '77L

/s/ Virginia Holton

/s/ Peter C. Keefe '78

/s/ John D. Klinedinst '71, '78L

/s/ William J. Lemon '55, '59L

/s/ J. Stephen Marks III '59

/s/ Marshall B. Miller, Jr. '71

/s/ Vaughn I. Morrissette

/s/ Phillip W. Norwood '69

/s/ Harry J. Phillips, Jr. '72

/s/ Robert E. Sadler, Jr. '67

/s/ Burton B. Staniar '64

/s/ Guy T. Steuart II '53

/s/ Margaret J. Steuart

/s/ Glenn O. Thornhill, Jr. '63

/s/ Charles B. Tomm '68, '75L

/s/ J. Thomas Touchton '60

/s/ M. Theodore Van Leer '51

/s/ Thomas R. Wall, IV '80

/s/ Alston Parker Watt '89

/s/ Dallas H. Wilt '90

/s/ The Honorable Pamela J. White '77L

/s/ John A. Wolf '69, '72L

Cc: Members of the Board of Trustees
Washington and Lee University