

The American Founding and the Culture Wars

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In March, 2003, led by Marguerite Talley-Hughes, three teachers at Thomas Jefferson Elementary School in Berkeley, California spearheaded an effort to change the name of the school where they taught. Teachers at the school, the petition sent to the school board calling for change argued, had become “increasingly uncomfortable to work at a site whose name honors a slaveholder.”¹ Jefferson’s wealth, political power, and prominence in American history were secured, Talley-Hughes argued, “because he owned slaves, not in spite of that fact.” Jefferson used the “threat of physical violence” to elicit forced labor from slaves. He also advertised rewards for the capture of his runaway slaves, ordered slaves flogged, and sold them away from their families. Furthermore, Jefferson could not be exonerated as “a man of his time.” Numerous men and women of Jefferson’s generation opposed slavery and some took extraordinary efforts to end the practice. “With that information,” Talley-Hughes argued, “we do not need to rely on contemporary ethics and morality to find Jefferson lacking in the integrity and courage which generally define a hero.”²

¹ Cindy Peng, “School Mulls Moral Dilemma in Deciding Whether to Change Name,” *The Daily Californian*, May 5, 2005 @ <http://www.dailycal.org/sharticle.php?id=18617>.

² Marquerite Talley-Hughes, “Thomas Jefferson: A Man of His Time?,” *Berkeley Daily Planet*, March 9, 2004 @ <http://www.berkeleydailyplanet.com/article.cfm?archiveDate=03-09-04&storyID=18442>.

The teachers' petition set off a divisive debate in the school and the local community that gained national attention and swept through the conservative blogosphere. In the Berkeley community, opponents of the name change charged their opponents with creating conflict in the once peaceful and unified school district and protested that they were being labeled racists for supporting Jefferson.³ For their part, proponents of the name change told of threatening emails and broken friendships.⁴

In the blogosphere, several conservatives offered serious reasons for retaining Jefferson's name. Jefferson's public record on slavery, one commentator insisted, established his credentials as an *opponent* of slavery. A complex and multi-faceted man like Jefferson, several opponents of the name change contended, should not be judged by the singular fact that he was a slaveholder. Others pointed out that Bishop George Berkeley had bought slaves to work his Rhode Island plantation during his short stay in America.⁵ Although the bloggers who made this observation failed to connect the dots, the implication of their point was that the citizens of Berkeley had better be prepared to

³ J. Douglas Allen Taylor, "Board Vetoes Jefferson School Name Change," *Berkeley Daily Planet*, June 24, 2005

@<http://www.berkeleydailyplanet.com/article.cfm?archiveDate=06-24-05=216>. For verification that opponents of the name change were labeled racists see also Elliot Cohen, "Commentary: Berkeley Strays From Democratic Path," *Berkeley Daily Planet*, July 12, 2005@<http://www.berkeleydailyplanet.com/article.cfm?archiveDate=07-12-05=21832>.

⁴ *Ibid.*

⁵ For some of the conservative bloggers' commentary see <http://www.freerepublic.com/focus/f-news/1415149/posts>, June 2, 2005; "Wordsmith from Nantucket," "The Little Known History of Slavery, Part Three," Saturday, February 24, 2007@ http://hammeringsparkfromtheanvil.blogspot.com/2007/02/little-known-history-of-slavery-part_24.html. See also the particularly intelligent and informed commentary by Rob Browning, a local Berkeley resident and former editor of the Berkeley's Mark Twain papers. Browning, "Commentary: Jefferson School: What's the Rush?," *The Berkeley Daily Planet* June 14, 2005@ <http://www.berkeleydailyplanet.com/article.cfm?archiveDate=06-14-05&storyID=21617>. For verification that Bishop Berkeley had owned slaves see "The First Scholarship Fund"@ <http://www.yaleslavery.org/Endowments/e2schol.html>.

also rename the city and its most prominent university if being named after a slave-owner was now the standard for change.

Still other conservative bloggers simply could not contain their contempt or temper their ridicule. The alternative name changes suggested by bloggers included “George Jefferson Elementary School” (after the character played by Sherman Hemsley on the 1970s and 80s situation comedy “The Jefferson’s”) and “Tupac Elementary,” which the blogger suggested should be affiliated with “C-Murder Middle School,” and “50-cent High School.” Two other bloggers suggested that the school should be named after Alexander Hamilton. “Hamilton was, in fact, born in the West Indies,” the first suggested sarcastically. “So, he’s, like, totally multicultural and stuff...” “Heck,” a second added, “he was even born a bastard, so that should be another point in his favor.” “Jefferson was your typical French-loving slave-owning rich politician who claimed to be a man of the people,” another blogger quipped. “Very much like our modern Democrats like Corzine, Kerry, Soros, etc.” One conservative blogger spoke for most of the others when he said, “Given that it is a school in Berkeley. I’d bet Jefferson wouldn’t mind [having his name removed].”⁶

Back in Berkeley, the teachers’ petition set in motion a procedure that took over two years to complete. Under policies established by the local school board, twenty percent of the students, parents, faculty, and staff of the school first had to request a name change. If this was achieved, then a list would be drawn up and a vote would be taken to

⁶ Blogger comments can be found at <http://www.freerepublic.com/focus/f-news/1415149/posts>, March 22, 2005 and <http://www.freerepublic.com/focus/f-news/1415149/posts>, June 02, 2005.

select a name that would challenge Jefferson in a run-off election. If the challenger won, the school board then had to vote on whether or not to approve the name change.⁷

A petition signed by twenty percent of the students, parents, and teachers was easily secured. A list of proposed alternative names was then drawn up – based on suggestions by parents and one student. This list included, among others, Ralph Bunche (the United Nations diplomat and first black to win the Nobel Peace Prize) Sojourner Truth (the former slave who became a leading abolitionist and woman’s rights advocate), Cesar Chavez (the Hispanic founder of the National Farm Workers Association), Rose (the name of the street where the school was located), Ohlone (the original native American tribe who had first settled the land surrounding Berkeley), and Sequoia (after three prominent Sequoia trees on the school’s grounds). Following district policy, a vote was then taken in which Jefferson school parents, staff members, and students (some as young as five years old) chose Sequoia as the most worthy name to be pitted against Jefferson in a run off election.⁸

In the run off election, these same groups opted 239 to 177 to rename the school after the three Sequoia trees on the grounds. This victory, however, was short-lived as only a week later the Berkeley school board voted 3 to 2 to keep Jefferson as the school’s name. This decision was announced in an emotional meeting in which students wept; the

⁷ Matthew Artz, “Renaming Vote Stirs School,” *Berkeley Daily Planet*, February 3, 2004@<http://www.berkeleydailyplanet.com/article.cfm?archiveDate=02-03-04&storyID=18197>.

⁸ Cindy Peng, “Community Votes to Drop Jefferson, Rename School,” June 2, 2005 *The Daily Californian*, @<http://dailycal.org/printable.php?id=18791>; Patrick Hoge, “Berkeley School to vote on renaming Jefferson Elementary, President’s slave holdings perturb families, teachers,” March 22, 2005@<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/03/22/BAGIIBSTMA1.DTL>; Kristin Bender, “Jefferson Stays as name for School,” June 24, 2005 @http://findarticles.com/p/articles/mi_qn4176/is_20050624/ai_n15838645

school board member who cast the deciding vote for Jefferson apologized for disappointing many; and several proponents of the change cried foul play at the board's administrative decision to overturn the majority vote of the students, teachers, and students. Most dramatically, immediately after hearing the decision, advocates of the name change stood and sang the civil rights song "We Shall Overcome" only to be told by at least one opponent of the name change to "Get Over It."⁹

Although dismissed as frivolous and treated comically by many distant from the dispute, the debate over removing Jefferson's name from the Berkeley elementary school was deeply serious to its participants. Equally important, it has been parroted across the country in the last decade in numerous specific efforts to change the names of schools named after slaveholders and in a variety of other disputes that have placed the American Founders at the center of the culture wars.¹⁰ These disputes - over for example whether Thomas Jefferson sired Sally-Hemmings's children and how their relationship should be presented to the public at Monticello, claims for the influence of Native American ideas in the formation of the American Constitution, and most recently if slave-servant's quarters at the excavation site of Robert Morris House in Philadelphia should be identified and how slavery should be displayed at Independence National Historical Park - raise specific questions about when and how we should evaluate and possibly change our

⁹ Taylor, "Board Vetoes Jefferson School Name Change."

¹⁰ The News Hour reports that there are about 450 schools named after George Washington alone and hundreds more named after other American presidents and Founders who owned slaves. Perhaps the most dramatic effort to rename schools has come in New Orleans. In 1992, the Orleans Parish School Board adopted a specific policy calling for the renaming of all schools named after former slave holders. Since the adoption of that policy, twenty two schools have been renamed. "Re-assessing Civic Symbols," November 25, 1997, *Online News Hour* @ http://www.pbs.org/newshour/bb/race_relations/july-dec97/schools_11-25.html.

civic symbols and more general ones about the politics of historical memory and the role of the Founders in American political culture.

In this presentation, I want to take a broader view of these disputes by first dropping back and asking what I believe are the most foundational questions and issues that they raise. First, I want to examine the question, why have the American Founders come to have such weight in contemporary political discourse in the United States and why are they so polarizing today? Second, I will examine the cycle of celebration and condemnation about the Founders that results from the significance that they have in our political culture and from the functions that they and their ideas play. Popular debates in the culture wars are influenced by and mirror scholarly debates, especially on issues about the moral responsibility of the American Founders for slavery, the inequality of women, and the treatment of Native Americans.

These acrimonious debates are often contested between two groups that I will call respectively “trashers” and “vindicators.” “Trashers” view the Founders as the unapologetic source of America’s original sins, especially slavery, unequal treatment of women, and the cultural genocide that accompanied Indian removal. Some “trashers” never get beyond *ad hominen* denunciations – such as calling Jefferson a “slaveholding racist” and a “hypocrite” - while others develop complex and intricate arguments about why Jefferson and the Founders fail the test of moral greatness. Many trashers also present this view of the Founders as part of a broader multi-cultural critique or even the creation of a liberation historiography that has since the 1960s sought to revolutionize the study of American history and the study of the Founding in particular.

“Vindicators,” in contrast, view themselves as guardians of Founders’ reputation. Defending the Founders, these scholars often suggest, requires getting our facts straight and establishing the right standard for judgment. Once we do our homework and adopt the proper standards, we will realize that the Founders were on the right side of history. We will also be in position, these scholars suggest, to dismiss criticism of the Founders as the result of effete, “politically correct” multiculturalism. Both trashing and vindicating are, in some sense, self-appointed roles. The scholars who adopt these roles have in mind a particular mission that they hope to achieve in their scholarship – and that mission is not simply to understand their historical subjects.

Fortunately, the best scholarship on the American Founding and at least some public discussion of the Founders’ place in our political discourse takes place that doesn’t fall into either of these camps. This scholarship, I believe, provides some clues on how we might move toward more fair and responsible judgments about the moral responsibility of the American Founders, develop a more complex understanding of their legacy, and thus achieve a more mature relationship with the Founders. The final set of questions that I wish to broach today, then, is, what does some of the best scholarship on the American Founding teach us about how we should judge the moral responsibility of the Founders? Can we break this cycle of celebration and condemnation and achieve a more complex and subtle interpretation of the Founders’ legacy? Can we infuse complex, sensible, and sensitive judgments into our political culture and political conversations?

At the expense of exposing my hand too early, I am, to borrow a formulation by the brilliant Jeffersonian scholar Peter Onuf, “deeply conflicted” with the Founders, their legacy, their central place in American political discourse, and thus also with how

specifically to resolve many of these concrete conflicts in the culture wars. And, like Onuf, I would also ask, how could one not be deeply conflicted with the Founders?¹¹ The Founders accomplishments were many. Most importantly, they articulated, adopted, and refined the best political principles that have been formulated in the history of political thought and gave them institutional form in a political system that also has a strong claim to being the best ever devised. In many areas, they were progressive for their own time and some made important efforts to address the injustices they faced, especially slavery. Thus, many of the criticisms lodged against them are misplaced and, in some cases, outright wrong. To remove them from our civic symbols and to teach only what they did not accomplish, not only diminishes what they achieved and what they set in motion, it robs us of central dimensions of our cultural identity and leaves us without important resources for thinking through some of our most difficult problems.

Unlike many in this room, however, I consider the Founders' legacy to have been substantially mixed and I am also increasingly alert to the limitations of a political discourse bounded so heavily by its origins. If we let our respect for the Founders turn into obsequiousness, we risk losing sight of the very real progress that has been made in a number of areas – including our understanding of democracy – since they lived. My main point in this presentation, then, is that we need a complex – even ambivalent - interpretation of the Founding and subtle judgments of the Founders and their legacy. We need such interpretations and we need them reflected in our civic symbols not only because they were complex men and cannot be truly understood in any other way, but

¹¹ Peter Onuf, *Jefferson's Empire: The Language of American Nationhood* (Charlottesville: University Press of Virginia, 2000), 3.

because, it seems, how Americans understand and judge the Founders *profoundly* and *inseparably* affects how we understand ourselves.

Three caveats are necessary here before I begin. First, my answers to each of these specific questions are preliminary. This is very much a work in progress, but it is where my scholarship on the historiography of the American Founding has led. These specific questions emerged as I examined the avalanche of Neo-Progressive interpretations and multi-culturalism critiques of the Founders and the Founding that have emerged since the 1960s and saw the concerns embedded in these interpretations played out in the culture wars. But in a broader sense these questions concern foundational issues about the nature and sources of the Founders' authority and the content and viability of their legacy that is the core subject of both my books. Second, I am certainly *not* claiming to have solved the riddle of Thomas Jefferson and slavery, to be able to explain how the man who penned the phrase "all men are created equal" and did so much to see that this proposition became our standard of political right reconciled this proposition with being a slave owner. Recounting some of the points in the extremely complex and divisive debate over Jefferson and slavery is unavoidable, but my primary goal is not to defend any specific interpretation of Jefferson. Third, unless pressed, I am not going to say much about how my suggestions cash out on any of the specific disputes of the culture wars. I am not going to talk for example about curriculum or how the Founders should be presented in our civic symbols. My goal instead is to suggest a different approach and attitude from which, I believe, a better conversation about how the Founders and their legacy can be presented in our civic symbols.

The Centrality of the American Founding in American Political Culture

The American Founding stands at the center of our historical and political consciousness. I doubt if anyone in this audience needs convincing of this proposition, but if you do, then walk into any bookstore and browse the recent biographies and studies of the Founders that line the most traveled shelves. Five major studies of Benjamin Franklin alone have appeared since 2000.¹² Studies by David McCullough on John Adams, Ron Chernow on Alexander Hamilton, and Joseph Ellis on the Thomas Jefferson and George Washington have, among other studies of the Founders, been published with substantial initial printing runs by major publishing houses, not university press.¹³ Joseph Ellis' recent book on George Washington - *His Excellency: George Washington* - had an initial printing of 360,000 copies.¹⁴

The attention that the American Founders receive is also evident in the publication projects of the writings and letters of the major Founders and the debates surrounding the ratification process. These publicly- funded projects have proven to be

¹² H W Brands, *Benjamin Franklin: The Original American* (New York: Doubleday, 2000); Edmund Morgan, *Benjamin Franklin* (New Haven: Yale University Press, 2002); Walter Isaacson, *Benjamin Franklin: an American Life* (New York: Simon & Schuster, 2003); Gordon Wood, *The Americanization of Benjamin Franklin* (New York: The Penguin Press, 2004); Stacy Schiff, *A Great Improvisation: Franklin, France, and the Birth of America* (New York: Henry Holt, 2005). Fred Anderson reports that from January 1st to September 21st, 2006 at least thirty-six books about published or reprinted about the "big six" of the American Founders – Washington, Franklin, Adams, Hamilton, Jefferson, and Madison. See Anderson, "The Lost Founders," *The New York Review of Books*, 53, September 21, 2006 @ <http://www.nybooks.com/articles/19295>.

¹³ David McCullough, *John Adams* (New York: Simon & Schuster, 2001); Ron Chernow, *Alexander Hamilton* (New York: The Penguin Press, 2004); Joseph Ellis, *American Sphinx: The Character of Thomas Jefferson* (New York: Vintage Books, 1998, 1996); Ellis, *His Excellency George Washington* (New York: Alfred A. Knopf, 2004). See also Ellis, *Founding Brothers: The Revolutionary Generation* (New York: Vintage Books, 2000); John Ferling, *Setting the World Ablaze: Washington, Adams, Jefferson, and the American Revolution* (New York: Oxford University Press, 2000); Gore Vidal, *Inventing a Nation: Washington, Adams, Jefferson* (New Haven: Yale University Press, 2003).

¹⁴ Anne Matthews, "Leading Men: Authorities on the Revolutionary era say how the Founding Fathers became cultural heroes," *American Scholar* 74 (Spring, 2005), 126.

massive and enduring undertakings. One sympathizes with Harold Syrett, the editor of *The Papers of Alexander Hamilton*, who once quipped that he had considered dedicating the project to “Aaron Burr who made *completion* of this task possible.”¹⁵ The editing project here at Princeton (and at Monticello) that is producing the definitive edition of the papers of Thomas Jefferson has been going on for over 60 years and has produced 38 thick volumes based on over 70,000 photocopied documents. These documents are being edited with the most exacting standards including detailed notes for almost all entries and commentary included with important letters and documents. Moreover, the volumes are comprehensive. They include not only the thousands of letters Jefferson penned and received, but literally everything that he wrote (including his famous meteorological tables and the numerous lists that he made). Still, the latest volume only takes Jefferson’s life up to 1801 and it is now estimated that the project will include over 75 volumes. In the end, this remarkable commitment to preserving the legacy of Jefferson may mean that we spend more time editing his papers than he did living his life.¹⁶ (Incidentally, every prediction about how many volumes the Jefferson Papers would include and how long it would take to finish have woefully underestimated the size and scope of the project.)

Finally, and perhaps most famously, when contemplating the place of the American Founders in the American consciousness, consider the display of the “Charters of Freedom” at the National Archives. There, original copies of the Constitution, the

¹⁵ Syrett quoted in Ralph Ketcham, *James Madison: A Biography* (New York: The Macmillan Company, 1974).

¹⁶ See the editorial comments at the homepage of The Papers of Thomas Jefferson@<http://www.princeton.edu/~tjpapers/>. See also Mark F. Bernstein, “History, letter by letter,” *Princeton Alumni Weekly*, May 14, 2003@http://www.princeton.edu/~paw/archive_new/PAW02-03/15-0514/features1.html.

Declaration of Independence, and the Bill of Rights are arranged like religious icons and enshrined in massive bronze bullet proof glass cases filled with inert helium gas to prevent their deterioration. At night, they are lowered into a concrete vault 22 feet deep and weighing 55 tons. The people of Washington D.C. are unlikely to survive nuclear attack, but our founding documents would.¹⁷

Contrast this with how the British display the Magna Charta in the British Library. That display is located in a rather obscure room in the corner of a larger collection. It is quite modest, and essentially historical in orientation. There are of course legitimate reasons that we choose to display the United States Constitution with more prominence and symbolism than the British display one of their founding documents. Only three provisions of the Magna Charta remain in legal force. Moreover, the British have a common law tradition composed of a multitude of documents written over a long period of time and thus cannot display their fundamental law easily in one place. We have a single written Constitution and most of the original Constitution still has the status of fundamental law. Even with these differences acknowledged, however, the Magna Charta is a foundational document of English liberty and the British display it with none of the quasi-religious dimensions that inform how we display our Founding documents.

More broadly, although all countries honor certain historical figures, events, and documents, we don't simply celebrate the Founders and make them a central part of our civic culture and symbolism. As Gordon Wood has pointed out, what is truly exceptional about how Americans treat our Founders is that we ask them questions: what would James Madison or George Washington have thought about x (fill in the blank)? This

¹⁷ See Pauline Maier's discussion of this display in Maier, *American Scripture: Making the Declaration of Independence* (New York: Alfred A. Knopf, 1997), ix-xv.

includes topics that they could not possibly have thought about directly – at least on our terms. In contrast, to borrow Wood’s observation, public debates in England are not concerned with what either of the two William Pitts would have said or done.¹⁸

How Can the Centrality of the American Founders be Explained?

So what accounts for the special status that the Founders have in our society and our political discourse? The first and perhaps most frequently given reason why the Founders are central might be encapsulated in the phrase, “A mongrel nation needs a founding moment.”¹⁹ One persistent dimension of “American exceptionalism” is the unique way that Americans construct our identity and our civil religion. Unlike the citizens of other nations, the identity of Americans does not flow from common origins or a shared ethnicity. To be an American means centrally to hold certain fundamental beliefs, especially those crystallized by Thomas Jefferson in the preamble to the Declaration of Independence. Americans profess a creed rather than point to a lineage. Since our identity flows from the ideas that compose that creed, it makes sense that we would strain every nerve to understand the historical circumstances surrounding the creation of those ideas and the historical figures who formulated them. Furthermore, as Rutgers historian Jan Lewis has noted, unlike other nations who have experienced major revolutions – particularly Russia, Britain, and France – the identity of the people in these nations was already substantially formed before their revolutions and was not

¹⁸ Gordon S. Wood, “Founders & Keepers,” *The New York Review of Books* 52, July 14, 2005@ <http://www.nybooks.com/articles/18119>.

¹⁹ I draw this line of reasoning from a presentation that Peter Onuf gave at “The 1st Annual Gainesville Jefferson Symposium,” February 10-12, 2006, University of Florida, Orthopedic and Sports Medicine Institute, Gainesville, Florida. This symposium was directed by Tom Dowd and Peter Onuf.

fundamentally altered by them. In contrast, the United States was, in Lewis' words, "created, literally, by the Revolution, and that era is the touchstone for American identity."²⁰

A nation that gains so much of its identity from ideas generated by a particular group of individuals and particular historical events (especially the American Revolution and the Constitutional Convention) must also be held together by these ideas and individuals— hence the importance of the Founders and even more the Declaration of Independence in our civil religion. However distant they seem to us and however much they infuriate some, the Founders remain – to most Americans - symbols of national unity that temper the tensions that necessarily accompany cultural diversity and historical change. Even more importantly, the Declaration of Independence, as Ralph Barton Perry, has put it, is viewed by Americans "as constituting the mutual bond of American nationality."²¹ "We have memorized it as school-children," Michael Zuckert writes, "we have read it and listened to it on public holidays, we have looked to it when seeking to understand ourselves, taken refuge in it when seeking to justify ourselves, and argued about its meaning and applications when facing divisive political questions."²²

A second – and more academic - explanation for why we afford the ideas of the Founding generation such a large part in our political discourse has to do with the substance of the intellectual traditions that have dominated American political thought. During the 1970s and 1980s, historians and American political theorists engaged in a

²⁰ Anne Matthews, "Leading Men."

²¹ Quoted in Michael Zuckert, *The Natural Rights Republic: Studies in the Foundation of the American Political Tradition* (Notre Dame, IN: University of Notre Dame Press, 1996).

²² *Ibid.*, 14.

protracted debate – the liberalism versus republicanism debate - that produced voluminous scholarship on the intellectual origins of the American republic. That now exhausted debate, I would suggest, established three intellectual traditions of political thought as central to the American Founding: republicanism, liberalism, and Protestant Christianity. What is relevant for my discussion here is that each of these traditions contains within it an appeal for the importance of an original act of founding. The Lockean liberal tradition suggests the existence of an original contract that serves as the basis for legitimacy. Republicanism calls for a "return to first principles" as a means of cleansing reform. Protestant Christianity encourages a view of the Founding as a lost Eden and American history as a story of the fall. Informed by these traditions, Neo-Lockeans, contemporary republican communitarians, and many Christians are naturally inclined to search for truth in the act of creation and to phrase reform as restoration, not a search for something new or different.

A third explanation for the ubiquity and persistence of the Founders in the United States is that the terms of our political discourse have not changed substantially since the Founding. Once we get past words like "desideratum" and "opprobrium," we read the Founders with a familiarity not afforded by Hegel and Heidegger. With the Founders, we have reflected about the meaning and implications of the proposition that "all men are created equal," pondered the tensions between liberty and equality, and struggled over how to reconcile the protection of individual rights with majority rule. Abraham Lincoln was doubtlessly exaggerating when he famously said "I have never had a feeling politically that did not spring from the sentiments embodied in the Declaration of

Independence."²³ But even Lincoln's exaggerations were shrewd. And in this he wasn't only pointing to the centrality of the Declaration in his own political thinking, but recognizing that many of his listeners also accepted the importance of founding principles in setting the terms in which political discourse takes place – and should take place - in the United States.

A fourth explanation for why the Founders play such a large part in our political discourse has to do with most Americans' understanding of the character of history itself. Unlike historians from many other nations, Americans trumpet the importance of individual actors and their actions. With the exception of a relatively small cohort of academic historians, Americans rarely portray American history as a story of the sweep of broad and impersonal historical forces. We are less interested in the cumulative effect of millions of minute acts by the many than we are in bold efforts of the few. We believe with Carlyle against Tolstoy that great men and great ideas have great effects. Our understanding of history is romantic rather than tragic.²⁴ This view bears immediately on the Founders whom Americans characterize as men who exercised sheer will in the creation of a new society.

Finally, the Founders – always revered by many Americans - have increasingly come to play such a large part in our political discourse in part because of a constellation of recent events and because the United States has become a much more conservative

²³ Abraham Lincoln, "Address in Independence Hall," February 22, [1861](http://showcase.netins.net/web/creative/lincoln/speeches/philadel.htm)
@<http://showcase.netins.net/web/creative/lincoln/speeches/philadel.htm>.

²⁴ Gordon Wood, "Looking for Heroes," February 18, 1982, *New York Review of Books* @ <http://www.nybooks.com/articles/6725>.

nation over the last half-century.²⁵ The fall of communism has heightened the reputation of the American experiment and thus those who began it. Subsequently, the attacks of 9-11 have led us to think seriously about who we are as a nation, which in turn, many have argued, requires that we think about our origins. Finally, conservatives have maintained that their ideas and policies spring from the nation's founding principles. In particular, the relationship between the Founders' reputations and conservative issues and policies is highlighted in the ascendancy of a jurisprudence of original intent, but it is also vividly evident in concerns for the character of leaders and in the tendency of conservatives to explain the virtues of the American political system as a product of its original design and its problems as a movement away from that design.

“Trashers” Versus “Vindicators”: The Struggle for the Soul of the Founding

The centrality of the Founders in our political discourse and the considerable veneration that they evoke among many Americans has several favorable consequences. As just suggested, veneration for the Founders, profound respect for the Constitution, and consensus about the importance of the ideas of the Declaration of Independence are vital sources of American identity and cultural unity. Veneration for the Founders and the Constitution has also, as James Madison predicted, enhanced the stability of our constitution and our political system – an achievement that should not be taken lightly or for granted.²⁶

²⁵ See Jean Yarbrough and Richard E. Morgan, “Why the Founding is Back in Fashion,” *City Journal*, (Autumn, 1999) @ http://www.city-journal.org/html/9_4_urbanities-why_the_foundin.html; and the comments by Robert George in Matthews, “Leading Men.”

²⁶ See *The Federalist* No. 49, *The Federalist Papers* Jacob Cooke ed., (Middletown, Connecticut: Wesleyan University Press, 1961), 340.

Significance and, oddly enough, even celebration, however, are rarely the parents of consensus and no one should be surprised that the significance and veneration of the Founders has other – less favorable – consequences. Among these other consequences are the extreme difficulty of constitutional reform, the abundance of selective and facile appropriations of the Founders’ names and ideas in our political debates, and most importantly for our purposes, the cycle of celebration and condemnation that is vividly illustrated in the culture wars. How can a cycle of condemnation and celebration come from veneration? Here, what Peter Onuf has recently said about the struggles surrounding Jefferson’s reputation is key and applies to all of the Founders: “the apotheosis of Jefferson [and the other Founders] has generated its dialectical opposite, a persistent, powerful impulse to demolish his exalted image and pull the great man off his pedestal.”²⁷ Similarly, the function that the Founders and their ideas play as bonds of unity and sources of identity and the integration of a celebratory Founding narrative into our civil religion spurs a counter-narrative from those who cannot easily accept the congratulatory story. In this regard, consider the simple genius of Malcolm X’s ringing announcement that “We didn’t land on Plymouth Rock. Plymouth Rock landed on us.” What is this if not a statement about the inability of blacks to easily accept the story of American history as an unfolding of liberty?

Most important, with the political stakes so high, few political pundits and embarrassingly few academics search for complex frameworks that provide us with subtle self- understandings of the Founders that can serve as the foundation for mature and qualified judgments of them. Stated bluntly, the Founders have become too

²⁷ Peter Onuf, 4.

politically important for us to think about them impartially and ambiguously and to develop a deep and mature understanding of their legacy. Instead, as academics, activists, and politicians struggle to associate themselves with these men or conversely to knock them off their pedestal, we are asked either to have a fawning celebration for the Founders or to hold them in contempt.

This scarcity of mature analysis and discussion on questions of moral responsibility and the Founders can, I believe, be traced to - or was at least given its modern form by - the strategy that Charles Beard and the Progressive historians chose to adopt in order to challenge the hegemony of the celebratory and "juristic" interpretations of the American Founding and the Constitution. Much 19th century historical writing on the Founders was hagiographic - it sought to celebrate the Founders, not critically evaluate them. Much of it was also premised on the belief that the Constitution embodied objective principles of justice and was a reflection of the will of the whole people, not a single class or interest. Beard and his allies took aim at this body of scholarship, this way of thinking about the founding, and at the Constitution itself by suggesting first that the Founders' ideas were not a sincere reflection of their motives. Ideas, the Progressives insisted, were projected rationalizations of underlying interests, while economic factors were "primordial or fundamental."²⁸ Scholars should therefore try to "penetrate the pageant of politics to the economic interests behind the scenes."²⁹ Exposing the "reality" of the formation and ratification of the Constitution, in turn, served as a means of paving

²⁸ Beard, "Introduction to the 1935 Edition," in *An Economic Interpretation of the Constitution*, new introduction by Forrest McDonald (New York: The Free Press, 1986, 1913), xlviii.

²⁹ Beard, "That Noble Dream," *The American Historical Review* 41 (October, 1935): 75.

the way to constitutional reform. Progressivism, in its most blunt form, was thus akin to muckraking. Its unembarrassed and obvious concern was for reform, not for historical truth. But it countered historical writing that had been equally unembarrassed with myth making, national self-congratulation, and defense of the status quo. Since this exchange, one signature technique of trashers is to discover the “real” motives behind the Founders’ actions. Perhaps what is most interesting here, however, is what the Progressives and earlier historians shared and that future generations have inherited from them, namely the belief that - for good or ill – “the Founders did it” and that we must raze them if we seek reform and praise them if we want to preserve.

At this point, I propose to gain a better understanding of the structure of argumentation, the assumptions, and the limitations underlying critiques and defenses of the American Founders by examining an example of “trashing,” a second of “vindicating,” and a couple that point us in the direction of the complexity and ambivalence of the Founders’ legacy. In the interest of clarity, I will stick to the issue of the Founders and slavery, though of course vitriolic disputes also exist about the culpability of Jefferson and all of the Founders with regard to women, Native Americans, and the Founders’ impact on the development of democracy in the United States.

Among the trashers, the most sophisticated and influential is Paul Finkelman, now the President William McKinley Distinguished Professor of Law and Public Policy, and Senior Fellow in the Government Law Center at Albany Law School. In many cases, it appears that it is Finkelman’s scholarship that has been appropriated by critics of Jefferson and the Founders like the Berkeley school teacher Marguerite Talley-Hughes. Broadly speaking, Finkelman provides an unrelenting and unforgiving attack on Thomas

Jefferson for the “giant chasm between his words and his deeds.”³⁰ Many defenders of Jefferson have set forth what Finkelman calls the “myth of the antislavery Jefferson.”³¹ These scholars have pointed to numerous condemnations Jefferson made against the institutions of slavery and the slave trade and several proposals that he offered to abolish or confine it. These include: 1) Jefferson’s support during his earliest service in the Virginia legislature for a bill to allow slaveholders to voluntarily free their slaves 2) his attempt as a young lawyer to win the freedom of a man of mixed blood who was held in bondage 3) his admonitions against King George III – edited out of the Declaration of Independence by the Continental Congress - for waging “cruel war against human nature itself” and “violating its most sacred rights of life and liberty” by perpetuating the African slave trade and preventing any attempt by the Virginia legislature to prohibit or restrain it 4) his call for manumission in *Notes on the State of Virginia*, 5) his draft constitution for the state of Virginia where he included a provision which banned the importation of slaves and the continuation of slavery after the 31 December, 1800, 6) his proposal to prevent slavery from being introduced into the states created out of the Northwest territory, and 7) the bill that he proposed, supported, and signed into law outlawing the African slave trade while he was President in 1808.

Finkelman, however, concludes that “there is little substance to the antislavery Jefferson.”³² When Jefferson is judged against the intellectual, political, and cultural leaders of his age, he suggests, Jefferson fails the test. And this, according to Finkelman, is the only proper standard to judge Jefferson against since he is an American icon

³⁰ Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson* (Armonk, New York: M.E Sharpe, 2nd edition, 2001).

³¹ *Ibid.*, 139.

³² *Ibid.*, 137.

emblazoned on our coins, stamps, and monuments, not an ordinary man to be judged by ordinary standards. A lawyer by training, Finkelman indicts Jefferson based upon his treatment of his slaves, his writings on race, and his moral leadership – or rather lack of moral leadership – in effecting a scheme of emancipation. As a slave owner, according to Finkelman, Jefferson thought of and used his slaves as “forms of capital” when he needed money to satisfy his insatiable appetite for fine things, “which to judge from his lifelong behavior, was far more important than the natural rights of his slaves.”³³ He also hunted slaves down when they escaped, had “no qualms” about separating families, increased the number of slaves that he owned over his lifetime, and worked steadily to increase the productivity of their labor and their value as property.³⁴ Obtuse to the denial of their liberty, he displayed instead, Finkelman maintains, a “self-deluding inability to see slaves as human beings.”³⁵

More broadly, “Jefferson’s negrophobia was profound.”³⁶ He desperately feared miscegenation and race warfare and invented pseudo-scientific explanations to explain black inferiority even when confronted with examples of black imagination, excellence, and intelligence. These scientifically baseless views of blacks “undermined the concept of human equality in the early republic.”³⁷ Furthermore, Jefferson simply never believed that blacks could exercise political rights because, he concluded, they were unequal in

³³ *Ibid.*, 131-132.

³⁴ *Ibid.*, 131.

³⁵ *Ibid.*, 141.

³⁶ *Ibid.*, 134. Finkelman has made even the more remarkable statement that “in some ways, Thomas Jefferson invented racism in America.” “Interview with Paul Finkelman” @ <http://www.pbs.org/jefferson/archives/interviews/Finkelman.htm>.

³⁷ Finkelman, *Slavery and the Founders*, 135.

both body and mind. Thus, Jefferson never envisioned free blacks living equally alongside whites in a republican society.

As a public leader, the author of the Declaration of Independence was far less progressive than most of his contemporaries. He advocated, according to Finkelman, “harsh, almost barbaric, criminal punishments for slaves or free blacks,” proposed legislation to make free blacks outlaws in Virginia, and proposed expelling mixed race children from the state.³⁸ John and Henry Laurens, Robert Carter, John and Jonathan Pleasants, Joseph Mayo, John Randolph of Roanoke, Edward Coles, and of course George Washington freed their slaves. Jefferson, in contrast, freed only eight of his slaves during his lifetime and failed to free almost 200 others at his death. These eight slaves, Finkelman calculates, were less than two percent of the total number that he owned in his lifetime.³⁹ All were his relatives and only one was female. Indeed, far from making the sacrifices necessary to release his own slaves or advancing a workable plan of national emancipation, Jefferson advised his peers against releasing their slaves and consistently dodged the question of slavery. The time was never ripe for Jefferson to address the problem of slavery, according to Finkelman. For Jefferson, this was someone else’s responsibility.

What does Finkelman make of the string of condemnations that Jefferson made against slavery and the slave trade and his efforts to abolish or confine both? Jefferson’s pronouncements against slavery and the slave trade do not interest or impress Finkelman. Jefferson’s admonitions against the King for foisting the slave trade on the colonies, he suggests, were largely polemical and without credibility. In general, when Jefferson could

³⁸ *Ibid.*, 130.

³⁹ *Ibid.*, 134, 130.

be prodded to address the issue of slavery, he was duplicitous. To opponents of slavery, he could sound like an abolitionist; but to slave owners he offered advice and succor. Whatever the reasons for his ambiguity, Finkelman argues, he was ultimately unwilling to make the sacrifices – including curbing his spending habits – to free his own slaves or to take any political risks to make good on his calls for emancipation.

When he turns to Jefferson's specific efforts against slavery, Finkelman is equally unforgiving. Jefferson's efforts, Finkelman argues, were either fabricated by Jefferson, undertaken for selfish motives, inconsequential, or not really anti-slavery at all. For example, Jefferson's support as a young legislator for a bill allowing for the voluntary manumission of slaves, according to Finkelman, was not really an anti-slavery measure and would not have freed a single slave. It was instead an effort to protect slave owners' property rights by allowing them to dispose freely of their slaves. Jefferson's support during his Presidency for ending the African slave trade on the date in which that became constitutional was also not important. "It is likely that the trade would have been ended in 1808," Finkelman speculates, "if almost any of the early national leaders had been president"⁴⁰ Besides, opposition to the slave trade did not necessarily signify opposition to slavery. Many slaveowners supported the ban on the African slave trade to preserve the market value of their slaves by limiting their number. Jefferson also favored the ban on the slave trade, Finkelman speculates, because he did not want the black population in the United States to increase. Finally, Finkelman concludes that Jefferson's proposal to prevent slavery from being introduced into the states created out of the Northwest Territory could not have been successful. Jefferson's plan, Finkelman observes, allowed

⁴⁰ *Ibid.*, 150-151.

slaves to be brought into that territory – already heavily populated with slaves - for sixteen additional years before it placed a ban on slavery. Slavery would have then have been too deeply entrenched to eradicate.

It is hard to imagine a more striking contrast than that between Finkelman's account and the treatment of slavery and the Founding given by University of Dallas Professor Thomas G. West- the author of *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America* and the quintessential vindicator.⁴¹ In particular, West seeks to vindicate Jefferson and the Founders by challenging misperceptions that are contained within three common charges against the Founders, by arguing that the original Constitution was not a proslavery document, and by establishing that prudential considerations made the immediate end of slavery and the bestowal of immediate full citizenship on slaves impossible. The three common charges that West challenges are that the Founders did not really believe that “all men are created equal” or, put differently, that they excluded slaves from that proposition. They, in other words, claimed that slavery was right in principle. The second is that they truly believed in human equality, but did not understand it. This charge suggests that the Founders did not realize the implications of their commitment to equality. The third is that, although they believed in human equality and understood its true meaning, they openly betrayed their own principles when they failed to abolish slavery.

In challenging these charges, West first provides numerous quotes that, he contends, establish that the Founding generation believed that all individuals – including blacks and women – were born free and possessed of inalienable rights and thus that

⁴¹ Thomas G. West, *Vindicating the Founders: Race, Sex, Class, and Justice in the Origins of America* (Lanham: Rowman & Littlefield Publishers, Inc., 1997).

slavery was wrong. To be sure, West acknowledges, blacks and women were denied basic liberties and privileges, but this does not mean that the Founders denied that they had the same natural right to human liberty as white men. This charge confuses inalienable rights that are possessed by everyone with legal rights that are bestowed on those who are favored by the law.

Furthermore, contrary to the second charge, the Founders, according to West, came to fully understand what their principles meant by the end of the American Revolution. As Americans came to base their arguments on the natural rights of all men rather than simply the rights of Englishmen and set forth arguments that anyone who was taxed without his consent was a slave, West argues, they came to realize that slavery was unjust. After all, “slavery by definition ‘takes the property of another without his consent.’”⁴² Indeed, according to West, the American Revolution produced protests that were “the first in history to condemn slavery as an inherently unjust institution on the ground that all human beings are born free.”⁴³ Thus, far from being unaware of the full implications of their beliefs in natural equality and inalienable rights, the Founders understood that the logic of the Revolution was incompatible with slavery, “condemned it in the strongest terms,” and “refused to flinch before the stark contradiction between slavery and the principles of their country.”⁴⁴ Finally, in addressing the third charge – that the Founders’ violated their own principles because they failed to abolish slavery – West points to numerous advances that the Founding generation made toward slavery. The Founders, he argues,

⁴² *Ibid.*, 7.

⁴³ *Ibid.*, 8.

⁴⁴ *Ibid.*, 10.

limited and eventually outlawed the importation of slaves from abroad; they abolished slavery in a majority of the original states; they forbade the expansion of slavery into areas where it had not been previously permitted; they made laws regulating slavery more humane; individual owners in most states freed slaves in large numbers.⁴⁵

When he turns to defending the Constitution against the charge that it was a pro-slavery document, West speculates that "there was little that opponents of slavery could have done about slavery at the Convention unless they were willing to risk breaking up the union."⁴⁶ Breaking up the union would have, in turn, entrenched the slave system in the South and prevented Northern opposition from influencing the course of slavery. Preserving the union required compromises with some delegates at the Constitutional Convention who "demanded major concessions to slavery" and to "some extent" got them in the form of the three fifths clause, the 1808 slave trade provision, and the fugitive slave clause.⁴⁷

Nevertheless, these provision, West hastens to add, were "by no means as proslavery as they have often been said to be."⁴⁸ The three-fifths clause gave greater representation to southern slave holding interests, but it did not mean that the Framers thought of blacks as three-fifths of a person. The 1808 slave trade provision protected the slave trade for twenty years after the ratification of the Constitution, but was a "grudging temporary concession" and after 1808, Congress was free to abolish the slave trade.⁴⁹ Furthermore, because in 1787 many of the Founders did not realize that the indigenous slave population would rapidly increase even without the addition of imported slaves,

⁴⁵ *Ibid.*, 14.

⁴⁶ *Ibid.*, 15.

⁴⁷ *Ibid.*, 14.

⁴⁸ *Ibid.*, 16.

⁴⁹ *Ibid.*, 17.

many of them believed that this provision would put slavery on the road to extinction. Finally, although the fugitive slave clause “might seem unambiguously proslavery” it deliberately avoids the use of the word “slavery” and was “meant to show no approval of slavery.”⁵⁰

The final dimension of West’s “vindication” of the Founders involves a defense of their moral reasoning about why slavery could not be immediately ended and slaves granted full rights of citizenship. “The American Founders,” West argues, “understood political morality not in terms of right intentions but rather in terms of just results. For them, moral principles give us the goal or end, but prudence (sensible judgment) must determine the means.”⁵¹ Although slavery was a “terrible injustice” and eventually understood to be irreconcilable with the principles of the Declaration of Independence, the Founders believed that it could not be immediately ended without “the abolition of government by consent.”⁵² They also, according to West, believed that the abolishment of slavery would eventually come with the progress of liberty. Believing that union would be lost and that progress was on the horizon, the Founders, according to West, asked, “Why press it, especially when *real* victories for liberty – for example, the Constitution and the union that it established – might otherwise be endangered?”⁵³ Furthermore, West asserts, the Founders’ fears of race war and their contentions that blacks had been rendered unfit to exercise full citizenship were not unwarranted or

⁵⁰ *Ibid.*, 17.

⁵¹ *Ibid.*, 20.

⁵² *Ibid.*, 20.

⁵³ *Ibid.*, 30. My emphasis. West surely does not mean to say that emancipation would not have been a “real” victory for liberty as compared to union and the Constitution. He seems to mean that the victories of liberty and union were already achieved but were tenuous and that they would have been risked with abolition.

simply based upon prejudice. These fears and conclusions were instead based upon “*observed* differences in conduct” between whites and blacks that were “widely acknowledged” by everyone, including blacks.⁵⁴ Finally, West argues that the Founders’ strategy of colonizing African Americans was not a violation of the principle of human equality in the Declaration of Independence and might not have been either impractical or cruel – at least not when contrasted with the cost of the Civil War. The principle of human equality in the Declaration of Independence establishes that “all human beings have a right to liberty. But a right to liberty does not include a right to live in the country of one’s choice, without the consent of those already citizens in that place.”⁵⁵

Together, the scholarship of Finkelman and West illustrates at once the polarization that occurs with questions about the moral responsibility and legacy of the Founders as it exposes the limitations of efforts to either trash or vindicate the Founders. For his part, Finkelman provides telling judgments against many of the actions that Jefferson took in his private life. In selling slaves, splitting apart slave families, and punishing and pursuing runaway slaves, Jefferson acted as a typical (i.e. inhumane) slave owner. Finkelman, like other scholars, has also established infamous role as one of the early champions, if not the founder, of an American school of scientific racism.

Finkelman’s account is charged with interpretive excesses and unduly harsh judgments. At times, Finkelman rejects outright – but without any real proof - Jefferson’s role in anti-slavery measures and impugns his stated motives for his actions. When Jefferson’s role in an action or the integrity of his motive cannot be questioned, Finkelman switches the terms of his judgment and suggests instead Jefferson’s proposals

⁵⁴ *Ibid.*, 27, 28.

⁵⁵ *Ibid.*, 29-30.

were impractical, ineffective, or not really about slavery at all. Whatever he does, Jefferson is wrong. .

Finkelman's is least judicious in his examination of Jefferson's public record where he mischaracterizes Jefferson's efforts or fails to acknowledge their impact. For example, contrary to what Finkelman suggests, ending the slave trade in 1808 was indeed an important accomplishment, and one for which Jefferson deserves considerable credit. Jefferson helped to summon and organize the political forces necessary for its passage by calling for the end of the slave trade in his 1806 annual message and then eventually signed this bill into law. Jefferson's motives may not have been unambiguous. He may have sought to end the slave trade because he sought to guarantee the value of his slaves, because he sought to limit the number of blacks who were on the continent, or because he believed that the slave trade was extremely inhumane and that ending it would eventually help to end slavery. It is most likely that these considerations and others merged. But whatever Jefferson's motives, the humane effects of ending the slave trade in 1808 cannot be denied. Nor can it be denied that Jefferson knew that his position would infuriate many and thus took considerable political risk to achieve this goal.

Even more, Finkelman's credits Jefferson not a wit with the influence of his early public statements against slavery and – most importantly – for articulating the clearest statement of the principle of legitimacy underlying the American regime, the proposition that “all men are created equal.” This – the most famous statement in the Declaration of Independence and indeed American history - highlighted the illegitimacy of slavery. Stated flatly, more than any of the Founders, Jefferson insured the circulation of this principle of political right that helped educate his fellow Americans in the immorality and

illegitimacy of slavery. Finkelman thus ignores one of the ways in which Jefferson may have been *more* admirable than his predecessors who freed their slaves, including even George Washington. Unlike Washington, Jefferson took several important public antislavery stances early in his political career and, as Sean Wilentz has observed, “propounded throughout his life an egalitarian politics that Washington eschewed.”⁵⁶

Jefferson thus served as an inspiration to generations of abolitionists and proponents of racial and gender equality, including Fredrick Douglass, Abraham Lincoln, Elizabeth Cady Stanton, and Martin Luther King, Jr. These men and women cited Jefferson’s democratic creed to contrast America’s ideas with its realities. “Who,” Wilentz asks provocatively,

finally is more admirable: a political leader (like Jefferson) who was against slavery early in his career, consistently expressed egalitarian ideas, but then fell short of those ideals by trimming his sails over the issue in politics and failing to free his slaves; or a political leaders who never professed egalitarian ideals, kept his new anti-slavery opinions confined to his private correspondence, and then finally, but only at his death, arranged to free his slaves?”⁵⁷

Certainly, Wilentz hastens to add, slaves at Mount Vernon and Monticello would have favored Washington’s plan for private emancipation to Jefferson’s hypocrisy. As Wilentz suggests, however, the answer is not obvious if we consider the nation at large and its future. “Sometimes the public hypocrite,” Wilentz observes, “can have a far more auspicious influence on history than a private convert.”⁵⁸

Likewise, West’s account has several strengths but ultimately fails on multiple levels. West clearly establishes that the Founders believed that blacks were human and

⁵⁶ Sean Wilentz, “The Details of Greatness: American Historians versus American Founders,” *New Republic* (29 March 2004), 31.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

possessed with a natural right to liberty and that none of the leading Founders provided explicit justifications for slavery, but rather viewed it as an entrenched abuse that could not be easily or immediately eradicated. He also points to many of the accomplishments of the Founding generation in abolishing slavery in the North and providing some restrictions on its spread.⁵⁹ Finally, he lays waste to several inaccurate propositions that are commonly circulated such as the belief that the three-fifths clause meant that the Founders believed that blacks were three-fifths of a human being.

Still, throughout his book, West suggests that to vindicate the Founders we need only get our facts straight – to counter the misperceptions and inaccuracies that elite, leftist scholarship has sought to imbed in the public consciousness. But West’s account is roughly as “fair and balanced” as Fox News. Here is West’s only account of Jefferson’s views on the abilities of blacks set forth under the heading “Were the Founders Prejudiced against Blacks?”

More important, in his *Notes on the State of Virginia* Jefferson makes clear that the inferiority question is irrelevant to natural rights. Based on his observations of slaves, he argues, “as a suspicion only,” that blacks “are inferior in the faculties of reason and imagination.” He admits that this opinion “must be hazarded with great diffidence,” for Jefferson knows that “the conditions of life,” not their

⁵⁹ For the best formulation of this argument see William W. Freehling, “The Founding Fathers and Slavery,” *American Historical Review* 77 (February, 1972): 81-93. Freehling, however, later considerably revised this interpretation in “The Founding Fathers, Conditional Anti-slavery, and the Nonradicalism of the American Revolution” in *The Reintegration of American History: Slavery and the Civil War* (New York: Oxford University Press, 1994): 253-274. For another view that the Founders were “bifocal” i.e., that they extended a “shamefaced recognition” to the institution of slavery in the Constitution but ultimately believed that over time slavery would disappear see also Don E. Fehrenbacher with Ward M. McAfee, *The Slaveholding Republic: An Account of the United States Government’s Relations to Slavery* (New York: Oxford University Press, 2001), especially 1-47, page 10 for the phrase “shamefaced recognition.” The phrase “bifocal” to describe the Founders’ view of slavery and the Constitution is from Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York: Oxford University Press, 2001), 27.

nature, is at least partly responsible for their lesser accomplishments. In spite of his “suspicion,” Jefferson was able to write on the subject of slavery, later in the same book, “I tremble for my country when I reflect that God is just: that his justice cannot sleep forever.”⁶⁰

Anyone who has read Jefferson’s infamous speculations on the differences between whites and blacks in *Notes on the State of Virginia* can immediately spot how skewed this interpretation is. First, Jefferson’s refusal to deny that blacks have natural rights whatever their abilities does nothing to establish the plausibility or defensibility of his comments about black’s capabilities or, as West implies, to mitigate their edge. Acknowledging that blacks had equal rights does not grant that they had equal abilities. Similarly, Jefferson’s statements about the injustices of slavery do not mean that he was not prejudiced. Many prejudiced men and women believed that slavery was unjust. Second, despite West’s efforts to minimize Jefferson’s reliance on nature to explain the differences between blacks and whites, Jefferson speaks of the “real distinctions which nature has made” and suggests that at least some differences are “fixed in nature.”

Third, the differences that Jefferson identified between blacks and whites did not stop at his suggestion that blacks are inferior in the faculties of reason and imagination. Instead, Jefferson stated flatly that blacks are less beautiful and less able to display emotion than whites. The relative lack of beauty of blacks, according to Jefferson, is acknowledged by blacks and illustrated in their preferences. In perhaps his most infamous statement, Jefferson argued, that the black man preferred white woman as uniformly as the Orangutan favored the black woman over its own species. Blacks, Jefferson continued, have a “very strong and disagreeable odor.” They are at least as brave as whites, but this proceeds from a want of forethought - which prevents them from

⁶⁰ West, *Vindicating the Founders*, 8.

seeing a danger until it be present. Once presented with danger, however, they do not handle it as well as whites. Blacks' understanding of love, according to Jefferson, is more akin to lust than a "tender delicate mixture of sentiment and sensation." Their understanding of love is more a desire than a "tender delicate mixture of sentiment and sensation." They live lives of "sensation more than reflection."

When he turns to a consideration of the intellectual capabilities of blacks, Jefferson not only concludes that they are inferior in reason and imagination, but expresses what would come to be among the most deplorable of stereotypes. Blacks, Jefferson maintained, "could scarcely be found capable of tracing and comprehending the investigations of Euclid"; they are "dull, tasteless, and anomalous" in imagination and incapable of uttering "a thought above the level of plain narration." But in music, he concludes, "they are more generally gifted than the whites with accurate ears for tune and time...."⁶¹ Was Thomas Jefferson prejudiced against blacks? How can anyone reasonably argue that he was not? Perhaps the better question is, why do West and so many other scholars try to obfuscate Jefferson's beliefs about race and to ignore this dimension of his thinking?

Similar problems arise when West turns to defending the Constitution against the proposition that it was a pro-slavery document. Throughout his analysis, West defends the American Founders by contending that they "understood political morality not in terms of right intentions but rather in terms of just results."⁶² Such an approach is pivotal to West's argument that the Founders' failure to abolish slavery was governed by

⁶¹ For these quotes and Jefferson's account of black inferiority from *Notes on the State of Virginia* see <http://www.pbs.org/wgbh/aia/part3/3h490t.html>.

⁶² West, *Vindicating the Founding*, 20.

prudential considerations about the consequences of immediate abolition. Nevertheless, in dealing with the question of whether the Constitution was pro-slavery, West ignores the *results* of the three-fifths clause, the 1808 slave trade provision, and the fugitive slave clause. Although a number of intricate issues are involved in determining whether or not the Constitution was pro-slavery or even to determine what that means, there are some uncontested conclusions about the results of these provisions. One of the undisputed results of the three-fifths clause was to give Southern slave-holding substantially greater power in Congress than they would have otherwise had. The historian Leonard Richards writes:

In the sixty-two years between Washington's election and the Compromise of 1850, for example, slaveholders controlled the presidency for fifty years, the Speaker's chair for forty-one years, and the chairmanship of House Ways and Means for forty-two years. The only men to be reelected president - Washington, Jefferson, Madison, Monroe, and Jackson - were all slaveholders. The men who sat in the Speaker's chair the longest - Henry Clay, Andrew Stevenson, and Nathaniel Macon - were slaveholders. Eighteen out of thirty-one Supreme Court Justices were Slaveholders."⁶³

A second result of the 3-5ths clause was to give Southern states an incentive to increase their slave populations. After all, every slave that could be bred or bought meant more seats in Congress. The result of the 1808 slave trade provision was to protect the slave trade from federal intervention for at least twenty years. This clause did not protect the slave trade for new states admitted into the union and it did not prevent *states* from banning the trade, but neither did it guarantee that the national government would ban the slave trade in 1808. Akhil Reed Amar writes:

Section 9 began its list of constitutional don'ts by guaranteeing that willing states (read: the Carolinas and Georgia) could continue to import foreign slaves until

⁶³ Leonard Richards, *The Slave Power: the Free North and Southern Domination, 1780-1860* (Baton Rouge: Louisiana State University Press, 2000), 9.

1808 (and forever count them under the three-fifths clause), despite Congress's otherwise plenary power to bar or tax foreign imports. The Deep South thus had a twenty-year window through which to hoard more slaves, with all the protections of a strong national government behind the importers and none of the risks of national prohibition to which all other importers were subject. With this special exemption, the Constitution risked a huge expansion of American slaveholding and blinked the horrors of the international slave trade, with its fresh enslavement of freeborn Africans and its hellish middle passage across the Atlantic.⁶⁴

And most importantly, the slave trade flourished as a result of the twenty year protection provided by this clause. Peter Kolchin reports that "labor-hungry planters in the lower South imported tens of thousands of Africans; indeed, more slaves entered the United States between 1787 and 1807 than during any other two decades in history."⁶⁵ Finally, whatever circumlocutions were written into the fugitive slave clause, its effect was to treat slaves as property to be returned to their owners.

Most broadly, how strong a vindication of the Founders has West provided? How rich and meaningful were the Founders' conceptions of the concepts included in the Declaration of Independence if they were compatible with subordination and colonization? All that West's analysis really establishes is that the Founders recognized that slaves had an *abstract* right to natural liberty, but were only willing to recognize that right if slaves were transported outside of the United States. Similarly, West's account does not defend the Constitution against the charge that it was, in significant ways, pro-slavery; it merely suggests that a proslavery constitution was necessary under these conditions of 1787.

Breaking the Cycle of Celebration and Condemnation

⁶⁴ Akhil Reed Amar, *The Constitution: A Biography* (New York: Random House, 2005), 120.

⁶⁵ Peter Kolchin, *American Slavery, 1619-1877* (New York: Hill and Wang, 1993, 2003), 79.

The point of all of this is not just that neither Finkelman nor West achieves a balanced interpretation, but rather that neither is in a position to achieve one. Trashers are compelled by their task to ignore important accomplishments by the Founders, emphasize what the Founders left undone, and condemn to clear; vindicators are compelled by their goal to ignore the darkest dimensions of the Founders and apotheosize, apologize, and praise to preserve. Both sides act as opposing lawyers, introducing aggravating and mitigating circumstances and creating the narrative most beneficial to their clients. When these modes of discourse are diffused into the public, still further problems appear. The appeals of trashers become grafted to arrogant assumptions about the moral superiority of the present and to the contemporary delusions that the problems of the Founding era had easy solutions. They also present past injustices as entitlements on the present and evoke anger and feelings in lieu of argument. For their part, vindicators sanitize the American Founding, tell much of the story of subsequent developments as a fall from grace, and also assert their position as the only patriotic one.

Fortunately, however, other more subtle and less politicized positions exist. These interpretations, I believe, provide solid starting points for thinking about the question of moral responsibility and the Founders' complex legacy. Consider the works of Henry Wiencek and Peter Onuf and Ari Helo. Perhaps the best recent study of the confrontation between moral principles on which the republic was founded and the practice of slavery is Henry Wiencek's much celebrated study, *An Imperfect God: George Washington, His Slaves, and the Creation of America*. At its core, *An Imperfect God* is the story of Washington's moral evolution from a slave master who was deeply enmeshed in the slave system and committed many of the atrocities characteristic of his peers into the only

member of the Founding pantheon who set terms for the emancipation of his slaves in his will. Washington's initial position on slavery and his treatment of his slaves, Wiencek observes, was conditioned by innumerable cultural cues, the psychology of mastery, and the economic importance that slavery played in the construction of Washington's plantation empire.

In many ways, Washington was a typical slaveholder. He gave permission for his slaves to be whipped. He frightened the most unruly ones into obedience by threatening to sell them into bondage in the sugar plantations of the West Indies where disease and crippling labor would insure that the rest of their lives were short and agonizing. As a young planter, Washington shipped off at least three slaves to the West Indies. In one of these sales, he even directed a selling agent to barter his slave for an assortment of sweets and liquor.⁶⁶ As Washington surrounded himself with the luxuries commiserate with his position as a plantation master, he nevertheless searched for ways to strain more labor from his slaves and provided them with only the barest necessities. By Washington's own accounts and those of visitors, his slaves were "miserably clothed" and provided with shabby and flimsy housing. Each mother was provided with one blanket for each newborn, but most slaves had to wait years for a blanket to be replaced. Moreover, Washington required them to use these blankets to haul leaves to be used as lining for beds for his livestock.⁶⁷ Most dramatically and unfortunately, Washington, Wiencek discovered, was one of the directors of a lottery that raffled off black children and

⁶⁶ Henry Wiencek, *An Imperfect God: George Washington, His Slaves, and the Creation of America* (New York: Farrar, Straus, and Giroux, 2003), 111, 125-126, 131-133.

⁶⁷ *Ibid.*, 123-125, 349-350.

“wenches” so that he might recover debts owed to him by a man who had gone bankrupt.⁶⁸

What led Washington to change his position, to view slavery as a great moral evil, and to plan - against the wishes of his immediate family - the release of his slaves? What gave him an insight into the humanity of African Americans that so few of his peers were able to achieve? Unlike previous scholars, Wiencek suggests that Washington’s moral transformation was not a deathbed conversion, but rather a long and gradual process that resulted from numerous experiences and had many incremental steps. The first cracks in Washington’s conscience, according to Wiencek, were evident in his decision in 1775 to abandon the practice of splitting up slave families.⁶⁹ During the Revolutionary War, Washington also witnessed many acts of uncommon bravery by African Americans who composed from six to eighteen percent of his troops by the middle of the Revolution and perhaps even more at the end.⁷⁰ Although Washington never accepted plans for the emancipation of slaves to bolster troop numbers, he eventually supported the recruitment of free blacks and even called upon the Rhode Island Regiment, which was made up predominately of blacks, to conduct one of the most important raids in the Revolutionary War.⁷¹ Other experiences that Wiencek suggests were pivotal included Washington’s meetings with Northern blacks such as the black poet Phyllis Wheatley who wrote a poem honoring Washington and eventually met with the General and Washington’s

⁶⁸ *Ibid.*, 178-182.

⁶⁹ *Ibid.*, 185, 188

⁷⁰ *Ibid.*, 191.

⁷¹ *Ibid.*, 190-191, 204-205, 244-247,

friendship with the French the Marquis de Lafayette who detested slavery and once remarked that the French had not allied themselves with the Americans in order to promote the extension of slavery. Such experiences, Wiencek argues, led Washington to believe more strongly than Jefferson that servitude stunted the development of blacks and that they were the intellectual equals of whites.⁷²

Washington's moral evolution, Wiencek establishes, continued in the late 1780s and 1790s as Washington began secretly to plan the emancipation of his own slaves. At this point, Washington, according to Wiencek, had to work in secret because he knew that his family - especially Martha and her children - did not share his antipathy for slavery. The culmination of Washington's moral evolution was his remarkable will. This document not only set terms in uncompromising language for the emancipation of every slave which he legally controlled (he did not control the "dower slaves" that he had inherited as a result of his marriage to Martha), it also provided for funds for Washington's slaves to live and for the education of the young slaves so that they might become self-sustaining free blacks. Washington's decision to release the slaves he controlled, Wiencek hastens to add, had the effect of reducing the labor force at Mount Vernon by almost fifty percent and thus severely diminished the economic viability of his estate.

Perhaps most importantly, Wiencek's analysis of Washington's moral evolution leads him to confront directly the possibility of an alternative history of the end of slavery in the United States and to argue that Washington can be used as a standard against which the other elites of his generation are judged and found wanting. If Washington evolved

⁷² *Ibid.*, 205-214, 220.

from a typical slaveholder to an opponent of slavery, Wiencek asks unapologetically, what prevented his peers from making the same evolution?

The obvious objection to many modern inquiries into the morality of slaveholding is that they apply modern standards of ethics to the people of the past in a way that is manifestly unfair, illogical, and futile. To conduct a just inquiry, we would need an advocate of moral law from that time. In fact we have one. As we have done so many times in the past, we need only look to George Washington. He pronounced his judgment on this era, and upon himself, when he freed his slaves and declared slavery to be repugnant. Of all the great Virginia patriots, only Washington ultimately had the moral courage and the farsightedness to free his slaves.⁷³

Later, Wiencek continues this same line of reasoning:

Slavery wrecks the simple heroic narrative of the Founding. This narrative worked so long as slavery was depicted as part of the refinement and gentility of the eighteenth century. When the harsher aspects of slavery began to be presented we entered the era of the paradox, in which somehow slavery and the campaign for liberty coexisted. Because the founders were considered, a priori, good people, incapable of doing anything manifestly evil, it was surmised that they were blind to slavery's evil. It was deemed inappropriate to impose modern standards on them. But avoiding judgments requires a very careful selection of subject matter, in order to create a narrative that can make sense and the never collides with a moral puzzle. The yearning for pure narrative conquers any wish for an examination of difficult and vexing historical issues. Once we go beyond the state of paradox, which has often become a perpetual suspension of judgment, we enter a dangerous and, some would say, "unhealthful" realm of questioning. Could the Founders have ended slavery then and there? Washington freed his slaves. He did not think emancipation was impossible? Why did the others not follow? Why not judge Washington's peers by Washington's standards?⁷⁴

A second subtle voice that might help us to think through questions about the Founders and moral responsibility is Ari Helo and Peter Onuf. Scholars, Helo and Onuf observe, have been continuously vexed about why Jefferson did not see and directly address the contradiction between slavery and the principles of equal natural rights espoused in the Declaration of Independence, why he was fastened to the obviously

⁷³ *Ibid.*, 135.

⁷⁴ *Ibid.*, 174.

unworkable idea of colonization as a solution to the problem of slavery, and why he did not serve as a moral crusader against the institution and call for a swift and administratively directed end to it. Jefferson, Helo and Onuf point out, never believed that slavery was morally justified. Slavery, Jefferson contended, had been introduced into the colonies as the result of an original breach of natural law by the colonists' forefathers. Furthermore, slavery was an institutionalized state of war. Slaves were not a part of the civic community, but rather a "captive nation, only kept from unleashing vengeance on its oppressors by the institution of slavery."⁷⁵

Why did his recognition of the injustice of slavery not lead Jefferson to call for its immediate end? The answer to this question, Helo and Onuf suggest, lies in Jefferson's understanding of the character of moral progress, his conception of the relationship of rights to civic communities, and his concerns about miscegenation and race war. Following the Scottish moral philosopher Henry Home (Lord Kames), Jefferson, according to Helo and Onuf, rarely thought of moral problems outside a particular civic community and believed that morality was learned by constant practice within the unfolding of history. Jefferson thus believed that slavery could be eliminated only when the majority of Americans had come to see its evils. Such moral progress would take place over time and could not be rushed by a few moral crusaders who sought to speak for the sentiments of the community or to prematurely use government to eliminate it. Instead of publicly admonishing his fellow Virginians to abolish slavery, Jefferson's goal "was to find a practical solution to the slavery problem that would enable Virginians collectively to extricate themselves from the institution, reversing the process of

⁷⁵ Ari Helo and Peter Onuf, "Jefferson, Morality, and the Problem of Slavery," *William and Mary Quarterly* 60 (July 2003), 599.

historical development that had deprived Africans of their freedom, but doing so in a way that would not jeopardize the free institutions that were themselves the products of history.” In other words, Jefferson believed that “everything would be lost ... if he moved too precipitately,” and he was not willing to “risk jeopardizing civic community, and therefore the very possibility of moral action, by alienating fellow citizens who were equally endowed with inalienable rights.”⁷⁶

Furthermore, Jefferson, according to Helo and Onuf, did not believe that slaves were entitled to the recognition of rights or even that their rights were being violated, at least in any jurisprudential sense, by slavery because he did not believe individuals could claim rights until they were united under some government as a people. The inalienable rights in the Declaration of Independence established the transhistorical conditions that must be met by legitimate regimes. Nevertheless, “only by uniting under some government and determining their own destiny as a people, could a group of individuals claim rights and become proper historical subjects.”⁷⁷

The understanding that blacks were not yet a specific people with a claim to rights and conversely the understanding that they were a captive nation capable of igniting into rebellion were central reasons for his call for education and colonization that would establish blacks as a free people in an independent nation. Education was the only way to ensure the success of colonized blacks; colonization was necessary to prevent genocide. Jefferson, Helo and Onuf observe, fully understood that forced colonization would cause intense suffering among black families by separating sons and daughters from their parents, but he also believed that these parents would be willing to endure this suffering

⁷⁶ *Ibid.*, 601.

⁷⁷ *Ibid.*

in order to ensure that their children were free. Nevertheless, Helo and Onuf suggest, Jefferson was not first concerned with the freedom of slaves, but rather with the freedom of whites from slavery. Jefferson's "primary goal was not to free black people but to free white people from the moral evil of being slaveholders."⁷⁸

Towards a Mature Understanding of the Founders and Their Legacy

Finkelman, West, Wiencek, and Helo and Onuf disagree, in part, about matters of historical fact in their evaluations of the Founders and their legacy. But the accounts of these scholars and the broader debate itself is even more about problems that precede and inform interpretations and cannot themselves be said to be the product of historical investigation alone. Scholars who engage questions about the moral responsibility of the Founders for slavery must engage in a complex set of calculations and must weigh not only what the Founders achieved in addressing the moral evil of slavery against what was left undone, but also which of these – the Founders' accomplishments or failures – to emphasize.

Counterfactual conjectural histories about whether or not slavery could have been ended during the Founding also underlie this debate as do questions about whether the Founders' treatment of their own slaves is more or less important than their public actions against the institutions. Most broadly, different standards govern the judgments that scholars make. Most scholars accept the proposition that on the issue of slavery at least – and this is not necessarily true of the larger issue of the Founders' understanding of race – it is proper to judge the Founders only against historical standards that were present during their day. But as Wiencek's analysis, in particular, makes evident, this

⁷⁸ *Ibid.*

commitment is hardly determinate. Which historical standard are we talking about? The standard set by Washington and Edward Coles who released their slaves or the standards set by more ordinary slave owners who did not?

The accounts of Wiencek, Helo, and Onuf better navigate these difficult interpretative issues, in part, because these scholars stick more closely to the attributes of sound historical methodology. Their accounts are more comprehensive, coherent, and display a richer understanding of context. Still, the more important and relevant attribute of these accounts for our purposes is that they lack the polemical and politicized character of Finkelman and West's interpretations because they proceed from a framework in which the Founders are not put on trial. To be sure, judgments are made and lessons conveyed, but the judgments made and lessons taught are quite different. Wiencek, Helo, and Onuf and see their interpretive strategies as prophylactics against uncomplicated translations of the Founders' ideas into present controversies and unsubstantiated claims about the authority of the Founders. Their studies are also efforts to establish the complexity and ambiguity of the Founders' legacy.

In particular, the accounts of Wiencek, Helo, and Onuf show a profound concern for the broad historical forces that limited the choices of the elite Founders, but also attention to both the difficulty the Founders had in thinking outside of the boundaries of the conventions that they inherited and the possibility that this could be done. These scholars also note that slavery provided cheap labor that made possible the palatial plantations and lavish lifestyles of the elite Founders. Unlike Finkelman and many of the "trashers" that he speaks for in this essay, however, these scholars move beyond the analysis of crude materialistic motives and are not concerned centrally with uncovering

the “real” motives of Jefferson and the Founders in contradistinction from their stated reasons.

At minimum, Wiencek, Helo, and Onuf reconstruct the motives of Jefferson and the Founders through analyses that trace the complex interactions between words and deeds, but also take very seriously the Founders’ own explanations for why they did what they did. This commitment to taking the Founders’ own explanations seriously involves Helo and Onuf in particular in an effort to recreate the moral reasoning of Jefferson *before* passing judgment. Jefferson, Onuf points out, “made sense to himself and he can make more sense to us now if we engage him on his own terms and in his own cultural and moral contexts.”⁷⁹ Ultimately, of course, this commitment to the historical actors’ self-understanding and their modes of moral reasoning does not mean that we have to accept their own accounts or judge them by their modes of moral reasoning. Nevertheless, it does suggest that we ought to at least do our best to recreate their moral horizon before imposing our own.

In addition, the studies of Wiencek, Helo, and Onuf repeatedly emphasize that the Founders inhabited a vastly different world from our own and that translations from the past are difficult and contestable. What Onuf has written here about historians is applicable to all scholars: “The historian’s challenge is to sustain the tension between past and present, to restore our subjects to their own uncertain world while reconnecting it to ours by fresh translations from the increasingly foreign language of a distant time and place.... Historians must struggle to keep past and present apart, not to destroy, but

⁷⁹ Onuf, *The Mind of Thomas Jefferson*, 8.

rather to reinvigorate our cross-generational conversation.”⁸⁰ This understanding, in turn, has several important implications. Too often debates over the moral responsibility of the Founders have featured one group of scholars or activists who suggest that the Founders’ were not progressive enough and did too little to address the injustices of slavery and inequality. They are then countered by another group that suggests that the Founders did quite a lot to address these injustices. Situating Jefferson and the Founders in their own time opens the possibility for recognizing that some of them did quite a lot to counter the injustices of their time (more indeed than the immediate generation that followed them) but that those efforts did not of course prove to be enough to abolish slavery.

Perhaps most importantly, these studies provide an invitation to the ambiguity of the Founders and their legacy purged of either blind veneration or flippant, ahistorical condemnations. *Understanding* the Founding – as opposed to trashing or vindicating it – means that we conceive of it neither as virgin birth nor original sin, neither as a repository of true or first principles nor as a source of shame and guilt, but rather as providing the materials for an intelligent and necessarily perpetual conversation about the substance of our foundations and the implications of Founding legacies. Such an approach is also premised on the belief that narratives of national self-congratulation are neither a firm foundation for the Founders’ reputation nor the proper basis for unity in a diverse nation. Freed from the burden of constructing a sanitized history, we are in a position to confront the Founders in all of their glorious and inglorious ambiguity, as erudite statesmen who were remarkably - but sometimes superficially - eclectic, as “enlightened slave-holders” who pronounced universal equality, as patriarchs who (as

⁸⁰ Onuf, *The Mind of Thomas Jefferson*, 2-3.

Gordon Wood has taught us) exploited revolutionary rhetoric to stir the many to rebellion but then ended up as irascible old men in a democratic culture they had loosed, as at once foreign and familiar, deserving of our most serious consideration, but as having authority over our ideas, actions, and institutions only so far as reason abides. This is the most we owe the Founders and the least we owe ourselves.

With this attitude and approach in mind, return to the question of whether or not Jefferson's name should be removed from our schools. It is tempting to suggest provocatively that it should be and to recast the case for renaming our schools in reverential, if paradoxical, terms as a fulfillment of Jeffersonian principles. After all, Jefferson believed that "the earth belongs to the living" and no one sought more enthusiastically to remake his world. As Joyce Appleby has said, Jefferson's primary legacy was to debunk legacies. Why should his legacy be the only one privileged?

Such a conclusion, while perhaps moderately clever, would nevertheless come at the expense of not being reminded of Jefferson's numerous, contradictory commitments and thus the complexity of the American experience. A better approach would be to unfold the complex case for the complex Jefferson.. We might begin by reminding proponents of the name change of Kant's observation that "out of the crooked timber of humanity no straight thing was ever made" and that imperfect institutions and individuals sometimes deserve our allegiance because there are no other kinds of institutions or individuals. We need schools named after Jefferson, we might add, (which is of course not to say that we do not need some also named after Ralph Bunche and Sojourner Truth), not because we need to minimize or ignore the degree to which he and the Founders were implicated in the institution of slavery, but because we are still striving to

understand the character and consequences of their implication in slavery. More positively, we might also remind them that the standards of equality that they are judging Jefferson against were inspired by Jefferson's writings and that Jefferson made numerous contributions – in the creation of humane criminal laws, religious freedom, widespread education, and participatory democracy- to the Progressive tradition that they speak for. Jefferson, we should argue to the proponents of name change, is so deeply grafted into us that if we purge him from our civic symbols and certainly if we do not teach him at all or teach him only for his failures, we impoverish our self- understanding, our understanding of democracy, and our understanding of the institutions necessary to maintain it. Here, what Richard Brookhiser has recently said of Jefferson applies equally to all of the Founders: if we commit parricide on him, we also commit suicide.⁸¹ Mostly, we would assure those would want to change the school's name that the Jefferson that our school would be named after would be the one with too many accomplishments and dimensions to be trashed by Paul Finkelman, too many warts to be vindicated by Tom West, and too much to teach us to be expelled from school by Marguerite Talley-Hughes.

⁸¹ Richard Brookhiser, "The Founding Yokels: Review of *To Begin the World Anew: The Genius and Ambiguities of the American Founders* by Bernard Bailyn," February 16, 2003, *The New York Times Book Review*, 11.