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## Reforming High School American History Curricula: What Publicized Student Intolerance Can Teach Policymakers

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## Articles

# Reforming High School American History Curricula: What Publicized Student Intolerance Can Teach Policymakers

Douglas E. Abrams\*

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## I. INTRODUCTION

The descent from local celebration to national embarrassment happened overnight to the Phillipsburg (N.J.) High School varsity wrestling team. A day after the Stateliners capped an undefeated season by capturing a state championship on February 16, 2014,<sup>1</sup> a photograph surfaced on social media showing seven white team members posing with a dark-colored wrestling dummy that was hanged from the ceiling with a noose around its neck.<sup>2</sup> The life-size, black wrestling dummy wore the T-shirt of perennial rival Paulsboro (N.J.) High School, another wrestling powerhouse located in a city where about one-third of the residents are black (Phillipsburg, by contrast, is about 85% white).<sup>3</sup> One Phillipsburg student wrestler saluted the camera while standing behind the dummy, another pointed at the hanging dummy while holding a paddle, and two more students wore hoodies that came to a point at the top, reminiscent of the Ku Klux Klan.<sup>4</sup>

Students at McAdory High School (McCalla, Ala.) created a similar stir on a Friday night just three months earlier. Before a second-round football playoff game against the Pinson Valley (Ala.) High School Indians on November 15, 2013, McAdory cheerleaders and students held a bust-through banner reading, “Hey Indians, get ready to leave in a TRAIL OF TEARS Round 2.”<sup>5</sup>

The same night as the McAdory incident, Dyersburg (Tenn.) High School students, on the sidelines and in the stands, unfurled their own large “Trail of Tears” banner at a football playoff game against the North Side (Jackson, Tenn.) High School Indians.<sup>6</sup> Photographs of both

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<sup>1</sup> Don Benevento, *State To Probe Wrestler Photo*, COURIER-POST (Cherry Hill, N.J.), Feb. 20, 2014, at A1; *High School Wrestling Team Sparks Outrage Over Racist Photo of Them Lynching ‘Black’ Dummy*, MAILONLINE (Feb. 18, 2014, 6:25 PM), <http://www.dailymail.co.uk/news/article-2562508/High-school-wrestling-team-fire-taking-racist-photo-just-one-day-winning-New-Jersey-state-championships.html>, <<http://perma.cc/HG4Z-EDEE>>.

<sup>2</sup> Philip Caulfield, *New Jersey Wrestlers Scratched from Upcoming State Tournament in Wake of Controversial Noose Photo*, N.Y. DAILY NEWS (Feb. 20, 2014, 3:00 PM), <http://www.nydailynews.com/news/national/new-jersey-wrestlers-scratched-upcoming-tournament-wake-controversial-noose-photo-article-1.1621411>, <<http://perma.cc/BVS7-4DK2>>.

<sup>3</sup> Benevento, *supra* note 1.

<sup>4</sup> See Christopher Silvestri, *No Charges for Wrestlers in ‘Lynching’ Photo*, COURIER-POST (Cherry Hill, N.J.), Apr. 18, 2014, at A6 (explaining that the county prosecutor’s office and local police found no criminal wrongdoing by the students).

<sup>5</sup> See McAdory High School apologizes for Trail of Tears sign, FOX 6 WBRC (Nov. 25, 2013, 1:59 PM), <http://www.myfoxal.com/story/24001310/mcadory-high-school-apologizes-for-trail-of-tears-sign>, <<http://perma.cc/Y9NE-LV6H>> (showing McAdory photograph); see also Robert Carter, *Time for a History Lesson: McAdory, JefCoEd Apologize for ‘Trail of Tears’ Banner at Pinson Valley Game*, N. JEFFERSON NEWS (Gardendale, Ala.), Nov. 18, 2013 (noting that Pinson Valley also uses a student dressed as a Native American to serve as its mascot).

<sup>6</sup> Brandon Shields, *‘Trail of Tears’ Sign Draws Ire*, JACKSON SUN (Tenn.), Nov., 22, 2013, at B1; see also Cameron Smith, *Another School Used a ‘Trail of Tears’ Banner Against a Foe Called the*

football banners quickly reached social media for wide dissemination.<sup>7</sup>

Chatter on social media speculated about whether racism motivated the students at the three high schools or whether the students failed to appreciate the historical significance of the wounds that their publicized taunting opened.<sup>8</sup> In a written apology read by their lawyer at a press conference, the seven Phillipsburg wrestlers insisted that their actions “were not premeditated, but rather were spontaneous gestures without any forethought”;<sup>9</sup> the seven insisted that they “did not intend to disparage anyone.”<sup>10</sup> Not convinced, one skeptical columnist assailed their posed photograph as “obviously a well-planned, thought-out attack.”<sup>11</sup>

Whatever impulses drove the students at the three high schools, the back-and-forth on social media overlooked a more constructive point about public education that warrants attention from state and local policymakers. The three incidents lend persuasive support to prominent figures who see shortcomings in the way the nation’s history—particularly incidents that cause general discomfort today—is taught in many public high schools under state standards and curricula.

Ignorance of American history is one plausible explanation for the Phillipsburg, McAdory, and Dyersburg incidents, and I would hope that it is the actual explanation for those incidents. I hope that the students would not have belittled lynching or the Trail of Tears if their high school history classes had taught them that the first was a form of domestic terrorism fueled by mob rule for decades and that the second

*Indians*, YAHOO! PREP RALLY BLOG (Nov. 22, 2013, 9:03 AM), <http://sports.yahoo.com/blogs/prep-rally/another-school-used-trail-tears-banner-against-foe-140317410.html>, <<http://perma.cc/47XC-3DSK>> (showing Dyersburg photograph). Such incidents are not confined to the high school level. Before a nationally-televised game between the Oklahoma State University Cowboys and the Florida State Seminoles, OSU students displayed a banner reading, “Send ‘em home #trail of tears #go pokes.” John Helsley et al., *OSU Football Notebook: ‘Trail of Tears’ Sign Causes Stir, Apology*, DAILY OKLAHOMAN, Aug. 31, 2014, at B3. The OSU administration apologized for “the insensitive sign . . . and . . . requested that it be removed”; the Cherokee Nation’s Principal Chief responded that “[s]ince these students clearly don’t understand the gravity of these events, this should be viewed as a teaching moment for these young people. *Id.*; see also *Student Apologizes for Offensive Banner*, STILLWATER NEWS PRESS (Okla.), Sept. 3, 2014 (setting forth the apology by student who displayed the banner with his friends).

<sup>7</sup> Shields, *supra* note 6 (noting that one photograph was on a page officially linked to the Dyersburg football program).

<sup>8</sup> Emily Cummins, *Controversy Over Phillipsburg Wrestlers Debated in Social Media*, THE WARREN REP., [http://www.nj.com/warrenreporter/index.ssf/2014/02/poll\\_phillipsburg\\_photo\\_debate.html](http://www.nj.com/warrenreporter/index.ssf/2014/02/poll_phillipsburg_photo_debate.html), <<http://perma.cc/3XEX-WBT6>> (Feb. 20, 2014); Greg Tufaro, *Controversial Photo Shocks Scholastic Wrestling Community*, ASBURY PARK PRESS (N.J.), Feb. 18, 2014.

<sup>9</sup> *Phillipsburg High School Wrestlers Release Statement* (Feb. 21, 2014), <http://www.scribd.com/doc/208271315/Phillipsburg-High-School-wrestlers-release-statement>, <<http://perma.cc/47JJ-XP46>>.

<sup>10</sup> *Id.*

<sup>11</sup> Kevin Minnick, *Wrestling Photo Has Shameful Overtones*, COURIER-POST (Cherry Hill, N.J.), Feb. 22, 2014, at A1.

was a government-sanctioned death march forced on several thousand helpless Native Americans after wholesale land theft.<sup>12</sup>

“We’re raising young people who are, by and large, historically illiterate,”<sup>13</sup> says David McCullough, the dean of American historians after winning two Pulitzer Prizes and the Presidential Medal of Freedom, the nation’s highest civilian award.<sup>14</sup> The author of such masterpieces as *Truman*, *John Adams*, and *1776*,<sup>15</sup> McCullough places the blame squarely where it belongs, on “all of us who are educators, parents, and writers.”<sup>16</sup> “We must not blame our children, or our grandchildren, for not knowing what they haven’t been taught.”<sup>17</sup>

Research and surveys (explored in Part II) support McCullough’s critique of teaching in American history. Regardless of state curriculum standards or the content of history textbooks available nationally, high schools frequently fail to engage students in frank discussion of discomfiting subjects such as lynching and the Trail of Tears. Lessons undelivered about sensitive aspects of our national heritage affect both athletes and non-athletes, who sit in the same classrooms throughout the academic year. Deficient history curricula can pass more easily under the radar, however, when the effects appear only on individual students’ final examinations, reported aggregate standardized test scores, or the pages of government reports and private surveys unseen by most Americans.

Because of its prominence in communities large and small, however, high school sports commands coverage in the local print and broadcast media, and local rivalries can help unite communities behind a common cause.<sup>18</sup> When interscholastic athletes and their student fans demonstrate inattention to history—as they may have done at the Phillipsburg, McAdory, and Dyersburg high schools—people notice much more easily than when such inattention is demonstrated solely in the classroom.

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<sup>12</sup> See *infra* notes 63–81 and accompanying text.

<sup>13</sup> Brian Bolduc, *Don’t Know Much About History*, WALL ST. J., June 18, 2011 (quoting McCullough); see also David McCullough, *History and Knowing Who We Are*, 58 AM. HERITAGE, Winter 2008 (“Today, the new generation of young Americans are like a field of cut flowers, by-and-large historically illiterate. This does not bode well for our future.”)

<sup>14</sup> *David McCullough: America’s Greatest Historian*, SIMON & SCHUSTER, <http://pages.simonandschuster.com/davidmccullough/abouttheauthor>, <<http://perma.cc/AHM8-RR2M>>.

<sup>15</sup> *Id.*

<sup>16</sup> McCullough, *supra* note 13.

<sup>17</sup> William Jewell College, Achievement Day, Achieve Summer 2007, <http://www.jewell.edu/gen/media/achieve/summer2007/achievementPulitzerPrizeWinningAuthor.html>, <<http://perma.cc/8LKC-ZRZW>>.

<sup>18</sup> See, e.g., Julie Garcia, *Calhoun Coach Shocked By Realignment to Houston-Area District*, VICTORIA ADVOC. (Tex.), Feb. 3, 2014 (quoting an area attorney, decrying the loss of “historic rivalries,” that the “thing that brings us together is high school football. We’re a really tight-knit community.”).

Public notice can generate special opportunities to invigorate local high school American history classes with renewed depth and candor. Officials at all three high schools recognized that in daily interactions with children, wise parents and teachers embrace “teachable moments,” the label frequently given to opportunities to draw positive lessons from negative events.<sup>19</sup> In much the same way, educators themselves can learn positive lessons from publicized negative incidents in which students resort to racial and ethnic taunts.<sup>20</sup>

Educators’ quickest official reflex to public embarrassment may be to dismiss these incidents as random occurrences that warrant discipline of individual students. Also available, however, is a more constructive response (advocated in Part III) that officials at the Phillipsburg, McAdory, and Dyersburg high schools each belatedly embraced. Officials can recognize that high schools shortchange students—not only when they give American History instruction short shrift generally, but also when instruction ignores or glosses over incidents such as lynching or the Trail of Tears, which might appear unsettling to today’s national sensibilities.

This is not to say that high school history classes can shoulder the entire burden of educating students about unsettling aspects of our national past. Students’ reactions to race or ethnicity stem, partly at least, from family upbringing or from social influences that remain largely or entirely impervious to classroom historical inquiry.

Before the Phillipsburg wrestlers generated headlines, however, classroom give-and-take (discussed in Part IV) might have stimulated the students to inspect gruesome photographs of lynchings that are readily available on the Internet with a simple Google search and a mouse click.<sup>21</sup> At all three high schools, classroom discussion might have

<sup>19</sup> See, e.g., Phil Anastasia, *Paulsboro Takes High Road in Photo Controversy*, PHILA. INQUIRER, Feb. 21, 2014, at C13 (quoting Paulsboro principal and wrestling coach Paul Morina: “[T]his is a teachable moment not just for Paulsboro kids but for all kids. Everybody can learn from this.”); Benevento, *supra* note 1 (quoting Paulsboro school superintendent: “We’re taking this to be a teachable moment in Paulsboro”); *High School Forced to Apologize For Insulting Indian Football Opponents With ‘Trail of Tears’ Sign Made By Cheerleaders*, MAILONLINE, Nov. 19, 2013, <http://www.dailymail.co.uk/news/article-2510070/High-school-apologizes-insulting-Indian-opponents-sign.html>, <<http://perma.cc/3WNE-3QM5>> (quoting Jefferson County (Ala.) school superintendent: “We can use this unfortunate [McAdory] event as an important teachable moment”).

<sup>20</sup> See, e.g., *Fury Erupts Over Racially-Charged Tweets After Westchester High School Basketball Game*, CBS NEW YORK (Mar. 5, 2014, 11:02 PM), <http://newyork.cbslocal.com/2014/03/05/fury-erupts-over-racially-charged-tweets-after-westchester-high-school-basketball-game>, <<http://perma.cc/4LCD-57KN>> (discussing racial tweets on Twitter by Mahopac (N.Y.) High School students after the boys basketball team lost a semifinal playoff game to Mount Vernon, whose roster included black players); *We’re Too Good To Put Up With Racist Vitriol*, ROCHESTER DEMOCRAT & CHRON. (N.Y.), Feb. 11, 2013 (discussing fans who chanted anti-immigrant slurs against Florida high school basketball team, which included Hispanic players who were born in the U.S.).

<sup>21</sup> See, e.g., WITHOUT SANCTUARY, <http://withoutsanctuary.org/main.html>, <<http://perma.cc/M2PZ-ZUAM>> (showing photographs of lynchings).

equipped students with an inner sense about when taunting crosses a reasonable line between adolescent banter and racial or ethnic slurs because, as historian James W. Loewen advises, “[t]he past supplies models for our behavior.”<sup>22</sup>

## II. LESSONS FROM THE PAST

### A. Systemic Deficiencies in American History Education

Liberal and conservative organizations that have researched the issue are united in their assessments that state-mandated American history instruction in public school classrooms generally remains “dismal.”<sup>23</sup> The Southern Poverty Law Center, for example, says that by virtually “ignor[ing] our civil rights history,”<sup>24</sup> schools are “failing in [the nation’s] responsibility to educate its citizens to be agents of change.”<sup>25</sup> The Thomas B. Fordham Institute finds that “U.S. history standards across the land are alarmingly weak. . . . No wonder so many Americans know so little about our nation’s past. Yet this subject is essential to an educated citizenry.”<sup>26</sup>

Surveys chronicle this evident systemic failure and weakness. In 2010, the U.S. Department of Education’s National Assessment of Educational Progress reaffirmed that students perform worse in civics and American history than in any other academic subjects.<sup>27</sup> According to the *Wall Street Journal*, only 12% of high school seniors had a solid understanding of American history and only 2% understood the importance of *Brown v. Board of Education*,<sup>28</sup> the U.S. Supreme Court’s landmark 1954 school desegregation decision that fundamentally

<sup>22</sup> JAMES W. LOEWEN, *TEACHING WHAT REALLY HAPPENED: HOW TO AVOID THE TYRANNY OF TEXTBOOKS & GET STUDENTS EXCITED ABOUT DOING HISTORY* 12 (2010).

<sup>23</sup> *Fordham Institute: State History Standards ‘Dismal’*, TRAIL OF THE TRAIL (May 9, 2014), <http://trailofthetrail.blogspot.com/2011/02/fordham-institute-state-history.html#!/2011/02/fordham-institute-state-history.html>, <<http://perma.cc/JK6B-L8X2>>.

<sup>24</sup> SOUTHERN POVERTY LAW CENTER, *TEACHING THE MOVEMENT: THE STATE OF CIVIL RIGHTS EDUCATION IN THE UNITED STATES* 2011 6 (2011).

<sup>25</sup> *Id.* at 7; see also, e.g., *Q&A with Ralph Nader*, C-SPAN (Apr. 25, 2014), <http://www.c-span.org/video/?318980-1/qa-ralph-nader>, <<http://perma.cc/N46K-2FLU>> (stating that young people today know “even less history than 20, 30, 40 years ago”).

<sup>26</sup> *Fordham Institute: State History Standards ‘Dismal’*, *supra* note 23 (quoting President of the Fordham Inst., Chester E. Finn, Jr.).

<sup>27</sup> NAT’L CTR. FOR EDUC. STATISTICS, U.S. DEP’T OF EDUC., *THE NATION’S REPORT CARD: U.S. HISTORY* 2010 (2011), available at <http://nces.ed.gov/nationsreportcard/pdf/main2010/2011468.pdf>, <<http://perma.cc/FC9F-CKQM>>.

<sup>28</sup> Bolduc, *supra* note 13.

changed American life.<sup>29</sup>

Concerns about the quality and content of American history instruction in public schools are nothing new. Historian Kenneth C. Davis, for example, discusses a 1987 survey which found that a third of high school juniors “couldn’t identify the Declaration of Independence as the document that marked the formal separation of the thirteen colonies from Great Britain. Only 32 percent . . . could place the American Civil War in the correct half century.”<sup>30</sup> Lack of student knowledge, of course, does not necessarily mean that schools overlooked these facts or the analysis they generate, but such low percentages seem difficult to square with any semblance of robust American history curricula.

Davis reserved his harshest criticism for the way secondary schools treat uncomfortable aspects of our national history, such as lynching and the Trail of Tears. “There has always been a tendency to hide the less savory moments from our past,” he argues.<sup>31</sup> Additionally he says:

Many of us also learned about the past from textbooks that served up the past as if it were a Hollywood costume drama. In schoolbooks of an earlier era, . . . [s]lavery also got the glossy make-over—it was merely the misguided practice of the rebellious folks down South until the “progressives” of the North showed them the light. American Indians were portrayed in textbooks in the same way they were in Hollywood Westerns.<sup>32</sup>

## B. Today’s American History Textbooks

Textbook selection, the foundation of classroom study, begins at the state level. In American history and other subjects, most states allow local school districts to choose their own textbooks, provided that the books chosen include coverage that meets state standards.<sup>33</sup> In twenty states (so-called “adoption states”), however, the state board of education selects textbooks to be used throughout the state.<sup>34</sup> Texas and California, the nation’s two largest textbook purchasers, are both among the twenty adoption states.<sup>35</sup>

<sup>29</sup> See generally *Brown*, 347 U.S. 483 (1954).

<sup>30</sup> KENNETH C. DAVIS, *DON’T KNOW MUCH ABOUT HISTORY* xviii (anniversary ed. 2011).

<sup>31</sup> *Id.* at xix.

<sup>32</sup> *Id.*

<sup>33</sup> Richard Fausset, *Alarm Over Textbooks From Texas*, L.A. TIMES, Mar. 23, 2010, at A6.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*; see also, e.g., Valerie Strauss, *The Answer Sheet*, WASH. POST, Apr. 5, 2010, at B2 (quoting

The Texas State Board of Education revamped statewide public school American history curricular standards in 2010. In its state-by-state rankings, the Fordham Institute gave Texas a grade of “D” for mandating “a politicized distortion of history . . . offering misrepresentations at every turn.”<sup>36</sup> In particular, the state “distorts or suppresses less triumphal or more nuanced aspects of our past that the Board found politically unacceptable”<sup>37</sup>:

Native peoples are missing until brief references to nineteenth-century events. Slavery, too, is largely missing. Sectionalism and states’ rights are listed *before* slavery as causes of the Civil War, while the issue of slavery in the territories—the actual trigger for the sectional crisis—is never mentioned at all. During and after Reconstruction, there is no mention of the Black Codes, the Ku Klux Klan, or sharecropping; the term “Jim Crow” never appears. Incredibly, racial segregation is only mentioned in a passing reference to the 1948 integration of the armed forces.<sup>38</sup>

Because Texas is one of the nation’s largest purchasers of school textbooks, selections made by its state board of education have traditionally had a disproportionate effect on the content of textbooks used throughout the nation.<sup>39</sup> Observers disagree about whether the Lone Star State’s effect on content and coverage has diminished somewhat in recent years because technology may permit national publishers to tailor books to meet the expectations of individual states.<sup>40</sup> Pulitzer Prize-winning Civil War historian James McPherson concludes, however, that Texas “puts pressure on national textbook publishers because it is such a large market.”<sup>41</sup>

David McCullough finds that, like the high school American

Pulitzer Prize-winning Civil War historian James McPherson: Texas state board of education “prescribes the acceptable texts for every public school in the state.”)

<sup>36</sup> SHELDON M. STERN & JEREMY A. STERN, THOMAS B. FORDHAM INST., *THE STATE OF STATE U.S. HISTORY STANDARDS 2011* 141 (2011).

<sup>37</sup> *Id.* at 142.

<sup>38</sup> *Id.*; see also *Texas Takes Last Pass at Social Studies Textbooks*, TEXAS TRIBUNE, OCT. 24, 2014, <http://www.texastribune.org/2014/10/24/texas-takes-last-pass-social-studies-textbooks/>, <<http://perma.cc/Y9B3-CEJ4>> (quoting chairwoman of history department at the University of Texas at Austin that the “omissions of fact” in a state textbook up for approval indicates policymakers “don’t want students to dwell on unpleasant aspects of the past” but that students “know we live in a hyperpartisan society today, that there are real debates about all kinds of things”).

<sup>39</sup> Fausset, *supra* note 33.

<sup>40</sup> See, e.g., Russell Shorto, *Founding Father?*, N.Y. TIMES, Feb. 14, 2010, at 32 (“[W]hile technology is changing things, textbooks—printed or online—are still the backbone of education.”); see also, e.g., Fausset, *supra* note 33 (quoting a book publishing industry trade association executive that “publishers have grown accustomed to regularly printing different textbooks to conform to different states’ needs”).

<sup>41</sup> Valerie Strauss, *The Answer Sheet*, WASH. POST, Apr. 5, 2010, at B2 (quoting McPherson).

history textbooks that Davis described from his upbringing, many 21st century textbooks still serve up “politically correct mush,”<sup>42</sup> often born of sensitivity and fear of controversy about national embarrassments such as lynching and the Trail of Tears. Loewen says that “[n]ot one high school textbook on American history includes a lynching photo.”<sup>43</sup> Such a photo might have made searing impressions on the Phillipsburg wrestlers and spared them public embarrassment and public apology for a posed photograph that they later insisted was “spontaneous . . . without any forethought.”<sup>44</sup>

The tenor and content of American history textbooks have changed since the early 1990s,<sup>45</sup> though the extent and wisdom of the changes remain matters for debate. The American Textbook Council asserts that in the name of multiculturalism, American history textbooks approved for use in the nation’s high school classrooms began emphasizing “many historical injustices heaped on minorities, women, and immigrants,” including “lessons mourning for the past’s many victims”<sup>46</sup>:

The old master narratives in yesteryear’s textbooks -- faith in progress and patriotic pride -- have vanished, too rosy and innocent in view. What has replaced them is too often a nation that has repeatedly fallen short of its ideals, led by a patriarchy that deserves censure for its past treatment of female, non-white, and Native Americans, for trade in black human labor, and for its exploitation of the wilderness landscape and of immigrants. Young readers will encounter minority heroism and suffering. They may learn about a nation’s shameful past, learning about events in such a way as to undercut civic confidence and trust. They may hear lurid tales of Western rapacity, genocide and cruelty. . . . They may conclude . . . that the nation’s record is indelibly tainted from the start.<sup>47</sup>

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<sup>42</sup> William Jewell College, *supra* note 17; *see also* Brian Bolduc, *supra* note 13 (quoting McCullough: “so politically correct as to be comic”).

<sup>43</sup> LOEWEN, *supra* note 22, at 16.

<sup>44</sup> *Phillipsburg High School Wrestlers Release Statement*, *supra* note 9.

<sup>45</sup> GILBERT T. SEWALL, *HISTORY TEXTBOOKS AT THE NEW CENTURY 6* (2000); *see also, e.g.*, RAY ALLEN BILLINGTON ET AL., *THE HISTORIAN’S CONTRIBUTION TO ANGLO-AMERICAN MISUNDERSTANDING: REPORT OF A COMMITTEE ON NATIONAL BIAS IN ANGLO-AMERICAN HISTORY TEXTBOOKS 1–93* (1966) (voicing concern that in junior high school history textbooks, “authors seem impelled to repeat discredited myths and enshrine outworn folktales. These writers, in some cases outstanding historians famed for their careful research, must know that they are dealing in untruths and half-truths, for they are competent scholars abreast of modern historical findings”; such an author “is either knuckling under pressure from a publisher to please superpatriotic groups or, more probably, has irresponsibly let someone else choose his title for him”).

<sup>46</sup> SEWALL, *supra* note 45, at 3.

<sup>47</sup> *Id.* at 28.

Loewen counters that today's American history textbooks remain infected with what a 1966 report by eminent historians called "nationalistic bias."<sup>48</sup> He says that despite greater sensitivity to multiculturalism, today's textbooks still seek to "inspire the children with patriotism, . . . tell the truth optimistically, . . . [and] speak chiefly of success."<sup>49</sup> To "get across the claim that Americans have always been exceptionally good," approved high school American history textbooks still "leave out the bad parts,"<sup>50</sup> even when omission means to "hide or distort."<sup>51</sup>

Loewen finds today's American history textbooks marked by a consistent story line:

"As a nation, we started out great, and we've been getting better ever since—pretty much automatically. This notion of perpetual progress legitimizes ignoring anything bad Americans ever did, because in the end it turned out all right. . . . In this view, progress is what doomed the American Indian, for example, not bad things 'we' (non-Indians) did."<sup>52</sup>

### C. Local Delivery of American History Education

Regardless of textbook content and statewide influence, high school American history instruction depends heavily on dialog actually delivered in local classrooms. This dependence recalls dictum from Thomas P. (Tip) O'Neill, former Speaker of the U.S. House of Representatives, who famously said that "all politics is local."<sup>53</sup> He meant that national decision making in Washington, D.C. surely influences voters, but that local happenings can influence voters even more by directly affecting their daily lives. All (or at least, much) high

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<sup>48</sup> BILLINGTON ET AL., *supra* note 45, at 1–14.

<sup>49</sup> JAMES W. LOEWEN, *LIES MY TEACHER TOLD ME* 265–66 (1995) (quoting the American Legion's 1925 declaration of the "ideal textbook").

<sup>50</sup> LOEWEN, *supra* note 22, at 14.

<sup>51</sup> *Id.* at 15.

<sup>52</sup> *Id.* at 78. Loewen had his own introduction into efforts to "hide or distort" portions of American history when he published a "more accurate textbook of state history" in Mississippi. *Id.* at 4. Although the textbook, *MISSISSIPPI: CONFLICT AND CHANGE*, was lauded, the Mississippi State Textbook Board rejected it, in part, because a board member suggested a lynching photo it contained was "going to cause a race riot in the classroom." *Id.* at 4–5. Loewen sued in federal court, and the case, *Loewen v. Turnipseed*, 505 F. Supp. 512 (N.D. Miss. 1980), became one of the American Library Association's "notable First Amendment court cases" when the state was ordered to adopt his book for the standard period and supply it to any requesting school district. *Id.* at 5–6.

<sup>53</sup> TIP O'NEILL, *ALL POLITICS IS LOCAL AND OTHER RULES OF THE GAME* (1994); TIP O'NEILL & WILLIAM NOVACK, *MAN OF THE HOUSE* 26 (1987).

school history instruction is also local, dependent on the content of classroom instruction that lies largely beyond the direct supervision not only of textbook editors but also often of state education departments or governing boards.

Even where history textbooks and state curricular standards pay closer attention to multiculturalism, questions remain about how effectively this attention reaches down into high school classrooms, where some teachers and administrators may sense pressures to sanitize or avoid particular topics that might trigger complaints,<sup>54</sup> protests, and even efforts at book banning.<sup>55</sup> Where teacher performance is measured by student outcomes on standardized tests, “teaching to the test” may displace classroom attention that might otherwise be devoted to critical analysis, including the place of civility and citizenship in community life.<sup>56</sup>

A 2004 survey of current and recent high school students, conducted for the Pew Charitable Trusts, asked respondents to select one or two themes that their teachers had emphasized most in their middle school and high school government, civics, and American history classes. 57 The largest group of the students, at 45%, cited “the Constitution or the US system of government and how it works.”<sup>58</sup> Runners-up for most-emphasized were “great American heroes and the virtues of the American system of government” (30%); “wars and military battles” (25%); and “problems facing the country today”

<sup>54</sup> LOEWEN, *supra* note 22, at 30–32 (suggesting that teachers usually “worry needlessly” because “[i]n practice most teachers have substantial freedom”).

<sup>55</sup> FRANCES FITZGERALD, *AMERICA REVISED* 30 (1980) (“The word ‘controversial,’ is . . . deeply feared by textbook publishers. . . . What a textbook reflects is thus a compromise, an America sculpted and sanded down by the pressures of diverse constituents and interest groups. . . . History textbooks for elementary and secondary schools. . . are essentially nationalistic histories . . . written not to explore but to instruct—to tell children what their elders want them to know about their country.”); *see also, e.g., Don’t Blame Harper Lee*, Editorial, *ADVOC.* (Baton Rouge, La.), Oct. 22, 2013, at B8 (criticizing school board’s ban on “*To Kill a Mockingbird*”); Dothan Eagle Editorial Bd., *Editorial: Banned Books Week*, *DOTHAN EAGLE (ALA.)*, Sept. 27, 2013, [http://www.dothanegle.com/news/editorials/editorial-banned-books-week/article\\_468aebc8-278c-11e3-9e62-0019bb30f31a.html](http://www.dothanegle.com/news/editorials/editorial-banned-books-week/article_468aebc8-278c-11e3-9e62-0019bb30f31a.html), <<http://perma.cc/M3HV-ZSVC>> (“[C]hallenges and bans continue, with more than 11,300 books challenged since 1982, according to the American Library Association. . . . The concepts of freedom and liberty, alongside the words ‘banned books,’ create a marked contradiction to our nation’s philosophical underpinnings. Perhaps a better approach for those who take issue with important works over content they find objectionable would be to more closely guide their children and young teenagers in their reading choices, and inform themselves about the content of particular works beforehand.”)

<sup>56</sup> William J. Reese, *The First Race to the Top*, *N.Y. TIMES*, Apr. 21, 2013, at SR8 (asserting that “[t]esting yields essential, valuable knowledge about school performance, but its exaggerated use distorts teaching and ignores the broader purpose of education,” including “teaching norms of civility and good citizenship.”)

<sup>57</sup> Press Release, Pew Charitable Trusts, *US Gov’t and History Classes Emphasize Fundamentals, Heroes, and Virtues* (Mar. 10, 2004).

<sup>58</sup> *Id.*

(11%).<sup>59</sup> The theme in last place, trailing all other discrete themes, was “racism and other forms of injustice in the American system,” whose response rate registered only 9%.<sup>60</sup>

### III. REACTING LOCALLY TO STUDENT INTOLERANCE

Deficiencies in local delivery of American history curricula quickly became evident at Phillipsburg, McAdory, and Dyersburg High Schools. Officials apologized for the wrestling and football photographs and disavowed their messages.<sup>61</sup> The Phillipsburg school district announced that it was “taking steps to educate the entire student body as to the culture and expectations” of the district.<sup>62</sup> The Paulsboro school superintendent whose wrestling team was the target of the racially-charged noose photo, said that the incident “provides the opportunity in our U.S. history classes and other classes [to] . . . talk about” lynching.<sup>63</sup> Publicity about McAdory’s football bust-through banner led the high school’s principal to request social studies teachers in all grades to present a special unit about the Trail of Tears.<sup>64</sup> Dyersburg’s principal promised to “educate [students] through our social studies department. . . . We’ve taught [students] this week that [the Trail of Tears] was a sad event in the history for Native Americans and in our country’s history that resulted in the deaths of thousands of people.”<sup>65</sup>

Officials at the three high schools demonstrated empathy for past victims, recognition of present sensibilities, and appreciation for civility and citizenship. The schools’ American history classes, however, should have been teaching students about lynching and the Trail of Tears all along, and not beginning only that particular week.<sup>66</sup>

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<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Angelo Fichera, *Paulsboro Ends Wrestling Rivalry Over Racially Charged Photo*, PHILA. INQUIRER, May 3, 2014, at B1; FOX 6 WBRC, *McAdory High School Apologizes for Trail of Tears Sign* (Nov. 25, 2013), <http://www.wsfa.com/story/24001310/mcadory-high-school-apologizes-for-trail-of-tears-sign>, <<http://perma.cc/DWG6-UXX7>>.

<sup>62</sup> Angelo Fichera & Rita Giordano, *Wrestling Team Without Half Its Members After Controversial Photo*, PHILA. INQUIRER, Feb. 21, 2014, at B1.

<sup>63</sup> Benevento, *supra* note 1 (quoting Paulsboro school superintendent).

<sup>64</sup> *High School Forced to Apologize*, *supra* note 19.

<sup>65</sup> Shields, *supra* note 6 (quoting Dyersburg principal).

<sup>66</sup> See, e.g., Jen Chung, *NJ State Officials Investigating Students’ Disturbing ‘Lynching’ Photo*, GOTHAMIST, Feb. 20, 2014 (“[I]f ignorance is a basis for the students to claim innocence of racism, it’s a strong indictment of what they are being taught—and not being taught—up there in Phillipsburg.”); Bob Ingle, *Never Forget Our Inhumanity to Native Americans*, ASBURY PARK PRESS (N.J.), Nov. 29, 2013 (“Having a month each year to study and appreciate what Native Americans—and all minorities—have meant to our nation is a good thing. But having the true history, the real story of their struggles, contributions and horrific atrocities suffered be a permanent

## A. Lynching

Forthright classroom discussion about lynching would have taught the Phillipsburg wrestlers that nearly 3,500 African Americans (and some whites)<sup>67</sup> were summarily hanged, shot, mutilated,<sup>68</sup> castrated,<sup>69</sup> or burned at the stake,<sup>70</sup> by vigilantes between 1882 and 1968,<sup>71</sup> mostly from 1882 to 1920,<sup>72</sup> and mostly in the South.<sup>73</sup> Crowds often gathered approvingly to watch victims dangle and suffocate, and onlookers, including children, would sometimes cut off body parts as souvenirs,<sup>74</sup> or willingly pose for photographs in front of the mutilated body.<sup>75</sup> “Often . . . the mob posed for the camera. They showed no fear of being identified because they knew no white jury would convict them.”<sup>76</sup>

Each day of their lives, black men, women, and children left home knowing that their survival might depend on the whims of a lawless mob and a rope.<sup>77</sup> Most of the black victims were guilty of nothing other than appearing to upset the Jim Crow racial caste system or looking at a white person, particularly a white woman, the wrong way.<sup>78</sup> No lynching victim was guilty of anything that warranted summary unpunished private execution in a nation otherwise committed to due process and to “Equal Justice Under Law,” the credo that adorns the entrance of the Supreme Court Building in Washington, D.C.<sup>79</sup> “Lynching . . . has always had a special power to make us want to look the other way,” says one historian.<sup>80</sup> The extralegal executions were “grisly and inhumane acts of cruelty” whose “victims were chosen for their race and put to

part of U.S. history taught in our education system is way better.”)

<sup>67</sup> *Lynchings: By State and Race, 1882–1968*, Statistics from Tuskegee Institute Archives, <http://law2.umkc.edu/faculty/projects/ftrials/shipp/lynchingsstate.html>, <<http://perma.cc/GST5-KUJU>>.

<sup>68</sup> PHILIP DRAY, AT THE HANDS OF PERSONS UNKNOWN: THE LYNCHING OF BLACK AMERICA 17–18, 81 (2002).

<sup>69</sup> *Id.* at 81.

<sup>70</sup> *Id.* at 78, 81.

<sup>71</sup> *Lynchings: By State and Race, 1882–1968*, *supra* note 67.

<sup>72</sup> See generally MICHAEL J. PFEIFER, ROUGH JUSTICE: LYNCHING AND AMERICAN SOCIETY, 1874–1947, at Appendix (2004) (“Confirmed Lynchings and Near-Lynchings, 1874–1947”).

<sup>73</sup> See *id.* at 13–14 (showing statistics); *Lynchings: By State and Race, 1882–1968*, *supra* note 67 (showing statistics).

<sup>74</sup> DRAY, *supra* note 68, at 17–18, 81.

<sup>75</sup> LOEWEN, *supra* note 22, at 6 (showing lynching photo).

<sup>76</sup> *Id.*

<sup>77</sup> See DRAY, *supra* note 68, at xi (“Regardless of any statistics, it is a living memory to most black Americans that their forebears were lynched and routinely subjected to violence and intimidation, and that they lived in almost constant fear of seeing a loved one lynched or of being targeted themselves.”).

<sup>78</sup> *Id.* at x.

<sup>79</sup> *Id.* at 18.

<sup>80</sup> *Id.* at xii.

death in specific defiance of reasonable values of fairness or decency.”<sup>81</sup>

## B. The Trail of Tears

With forthright classroom discussion, McAdory and Dyersburg students would have learned that shortly after Congress passed the Indian Removal Act of 1830, federal authorities began forcibly removing more than 100,000 Cherokees and members of other Native American tribes from their homes in the southeastern United States, land that whites coveted.<sup>82</sup> Acting on presidential orders throughout the 1830s, culminating in 1838–1839, federal authorities placed the Indians in internment camps, confiscated their homes and property, and then forced them to brave the elements for hundreds of miles, marching with little but the clothes on their backs to what is now Oklahoma.<sup>83</sup> Some 15,000 men, women, and children died of starvation and disease while their American commanders watched.<sup>84</sup>

After seeing combat in the Civil War, a Georgia soldier shared this personal perspective about the Trail of Tears: “I fought through the civil war and have seen men shot to pieces and slaughtered by thousands, but the Cherokee removal was the cruelest work I ever knew.”<sup>85</sup>

## IV. TEACHABLE MOMENTS FOR EDUCATIONAL POLICYMAKERS

The nationally publicized Phillipsburg, McAdory, and Dyersburg incidents are themselves now history, waiting for administrators and classroom teachers at these and other high schools to teach themselves about how to teach American history to their students. For educators and students in a nation proud of its heritage, the ripest lesson is that states

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<sup>81</sup> *Id.*

<sup>82</sup> GLORIA JAHODA, *THE TRAIL OF TEARS: THE STORY OF THE AMERICAN INDIAN REMOVALS 1813–1855* (1975); Elizabeth Prine Pauls, *Trail of Tears*, *ENCYCLOPEDIA BRITANNICA* (last updated Jul. 18, 2014), <http://www.britannica.com/EBchecked/topic/602008/Trail-of-Tears>, <<http://perma.cc/J2KA-MBXU>>.

<sup>83</sup> *Id.*

<sup>84</sup> See, e.g., DAVIS, *supra* note 30, at 168–70 (“The tidy word given this policy [by the U.S. government] was ‘removal,’ suggesting a sanitary resolution of a messy problem, an early nineteenth-century equivalent of the Third Reich’s ‘final solution.’ The Indians called it the Trail of Tears.”); Pauls, *supra* note 82 (noting that approximately 100,000 indigenous people were forced to move west—with tribal and military records suggesting some 15,000 deaths—while “[b]ureaucratic ineptitude and corruption caused many [in one tribe] to die from exposure, malnutrition, exhaustion, and disease while traveling.”).

<sup>85</sup> RONALD N. SATZ, *AMERICAN INDIAN POLICY IN THE JACKSONIAN ERA* 101 (1975).

should not shrink from high school classroom instruction that encourages frank student dialogue about troublesome aspects of the past.<sup>86</sup>

Other nations, including Russia and Japan, have faced condemnation from Americans and others for alleged systemic whitewashing of the history they teach young people. Russia has been challenged for trying to recast Soviet history.<sup>87</sup> Japan has been challenged for avoiding treatment of such World War II atrocities as the rape of Korean “comfort women;” the treatment of prisoners of war at Bataan and other places; and the wholesale plunder of Koreans, Chinese, and others throughout the Pacific.<sup>88</sup>

In the United States, the recent Phillipsburg, McAdory, and Dyersburg “teachable moments” should encourage high schools to reject similar systemic avoidance because grappling with uncomfortable recollections can strengthen national resolve to pursue a better future. “[A]ny healthy democracy,” explains historian Gordon S. Wood, “has to have a certain amount of self-criticism, and that often takes the form . . . of writing critically about the past.”<sup>89</sup>

“One of history’s most useful tasks,” adds British writer John Carey, “is to bring home to us how keenly, honestly and painfully, past generations pursued aims that now seem to us wrong or disgraceful.”<sup>90</sup> Learning or teaching about something “wrong or disgraceful” is a sign of strength, and not weakness, because the lessons acknowledge that the

<sup>86</sup> See LOEWEN, *supra* note 22, at 14 (“Our national past is not so bad that teachers must protect students from it. . . . ‘We can afford to present ourselves in the totality of our acts.’”) (quoting historian Paul Gagnon); see also *High Schoolers Protest Conservative Proposal*, CBS NEWS, SEPT. 24, 2014, <http://www.cbsnews.com/news/colorado-high-schoolers-protest-conservative-proposal/>, <<http://perma.cc/HN29-84NR>> (discussing high school students’ protest of local school board proposal that “calls for instructional materials that present positive aspects of the nation and its heritage. It would establish a committee to regularly review texts and course plans, starting with Advanced Placement history, to make sure materials ‘promote citizenship, patriotism, essentials and benefits of the free-market system, respect for authority and respect for individual rights’ and don’t ‘encourage or condone civil disorder, social strife or disregard of the law.’”).

<sup>87</sup> ERIC FONER, WHO OWNS HISTORY? RETHINKING HISTORY IN A CHANGING WORLD 75–87 (2002); see also Ben Hoyle, *Putin Rewrites Russian History*, THE AUSTRALIAN, Nov. 21, 2013, at 9 (“A new history textbook ordered by President Vladimir Putin for every Russian schoolchild has been attacked as a distortion of history. Critics said it appeared to be a fresh attempt to rehabilitate the country’s Soviet past.”).

<sup>88</sup> See, e.g., Editorial, *Politicians and Textbooks*, N.Y. TIMES, Jan. 13, 2014, [http://www.nytimes.com/2014/01/14/opinion/politicians-and-textbooks.html?\\_r=0](http://www.nytimes.com/2014/01/14/opinion/politicians-and-textbooks.html?_r=0), <<http://perma.cc/L9NN-ZD8Q>> (in Japan and South Korea, “dangerous efforts to revise [high school] textbooks threaten to thwart the lessons of history”); FONER, *supra* note 87, at xvi (highlighting demonstrations in Japan to protest new textbooks that “sanitize[d] the country’s aggression in World War II and its maltreatment of occupied peoples such as the Koreans and Chinese”).

<sup>89</sup> *Booknotes: The American Revolution: A History* (C-Span television broadcast Apr. 21, 2002) (interview with Wood), available at <http://www.booknotes.org/Watch/168964-1/Gordon+Wood.aspx>, <<http://perma.cc/545F-7N9N>>.

<sup>90</sup> MARGARET MACMILLAN, DANGEROUS GAMES: THE USES AND ABUSES OF HISTORY 169 (2009) (quoting Carey); see also, e.g., DAVIS, *supra* note 30, at xx (“Every country has its share of nightmarish moments it would like to forget or erase.”).

United States is a better nation today, ascendant when we confront past mistakes without fear or favor.

Historian Dixon Wecter said that “history . . . when honestly used helps enormously to splinter those barriers of prejudice and explode those lies which create hatred between races, sections, and national groups.”<sup>91</sup> “Honest history is the weapon of freedom,”<sup>92</sup> wrote historian Arthur M. Schlesinger, Jr., because “[t]he great strength of history in a free society is its capacity for self-correction.”<sup>93</sup>

The enduring lesson should be that each generation enhances its capacity for self-correction when educators present both past triumphs (of which our nation has plenty) and past tragedies such as lynching and the Trail of Tears.<sup>94</sup> Presentation belongs in high schools because “five-sixths of all Americans never take a course in American history after they leave high school. What our citizens learn there forms the core of what they know of our past.”<sup>95</sup> Fortright classroom exploration might have prodded students at Phillipsburg, McAdory, and Dyersburg High Schools to think twice before publicly festering open wounds in the name of school spirit.

## V. CONCLUSION

In an editorial condemning the Phillipsburg noose photograph, the *South Jersey Times* expressed disbelief: “It’s hard to believe that the [student wrestlers] . . . would not know by the time they’re in high school the ugly history of lynching of black people in America and particularly the South.”<sup>96</sup> The *Times* was wrong. It is not hard at all to believe the level of ignorance of American history—particularly of “ugly history”—among today’s high school students.

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<sup>91</sup> Dixon Wecter, *How to Write History*, in *A SENSE OF HISTORY* 38, 39 (1985); see also *id.* at 40 (“The American record is not flawless, as we all know. . . . But on the whole, from the Founding Fathers on, the American panorama is one that we need not blush to own, one in which we may often take hearty pride.”).

<sup>92</sup> ARTHUR M. SCHLESINGER, JR., *THE DISUNITING OF AMERICA: REFLECTIONS ON A MULTICULTURAL SOCIETY* 52 (1992).

<sup>93</sup> Arthur M. Schlesinger, Jr., Op-Ed., *Folly’s Antidote*, *N.Y. TIMES*, Jan. 1, 2007, <http://www.nytimes.com/2007/01/01/opinion/01schlesinger.html>, <<http://perma.cc/QNE4-GN3F>>.

<sup>94</sup> LOEWEN, *supra* note 22, at 15 (“Telling the truth about the past can help us make it right from here on.”).

<sup>95</sup> *Id.* at 10–11.

<sup>96</sup> South Jersey Times Editorial Board, Editorial, *Racism Or Not, Phillipsburg Wrestling Photo Was Wrong*, *S. JERSEY TIMES*, Feb. 20, 2014, [http://www.nj.com/opinion/index.ssf/2014/02/editorial-racism\\_or\\_not\\_phillipsburg\\_wrestling\\_photo\\_was\\_wrong.html](http://www.nj.com/opinion/index.ssf/2014/02/editorial-racism_or_not_phillipsburg_wrestling_photo_was_wrong.html), <<http://perma.cc/8FZ9-QWBQ>>.